



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2044 A Galisteo, P.O. Box 26110
Santa Fe, New Mexico 87502-6110
Telephone (505) 827-1557
Fax (505) 827-1544

 ENTERED



PETER MAGGIORE
SECRETARY

PAUL R. RITZMA
DEPUTY SECRETARY

February 19, 2001

Mr. Harold Johnson, NEPA Compliance Officer
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

RE: NMED COMMENTS ON 2000 WIPP BIENNIAL ENVIRONMENTAL COMPLIANCE REPORT

Dear Mr. Johnson:

The Hazardous Waste Bureau (**HWB**) conducted the New Mexico Environment Department's (**NMED**) review of the 2000 WIPP Biennial Environmental Compliance Report (**BECR**), which addresses compliance issues at WIPP from April 1, 1998 to March 31, 2000. This letter and attachment summarizes NMED's findings upon completion of the review.

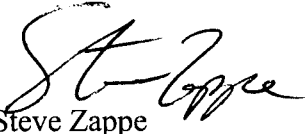
The BECR describes the August 1999 Letter of Violation issued by NMED related to WIPP hazardous waste generation activities and the November 1999 Administrative Compliance Order related to allegations of disposing improperly characterized waste at WIPP. Apart from these two instances, to the best of NMED's knowledge, WIPP was not in violation of any environmental laws and regulations contained in Chapters 25 through 31 of the BECR during the reporting period. However, this statement should not be construed to imply that WIPP actually complied with all other applicable laws and regulations during the reporting period. NMED does not have the information necessary to reach an affirmative conclusion, which can only be supported with extensive inspections and oversight by NMED.

Attached are specific comments on chapters of the BECR that NMED reviewed. NMED offers these comments to correct and improve the information provided in future versions of the BECR. If you have any questions concerning these comments, please contact me at 827-1560, x1013.



Mr. Harold Johnson
February 19, 2001
Page 2

Sincerely,


Steve Zappe
NMED WIPP Project Leader

Attachment

cc: Bill Mackie, NMEMNRD
Nick Stone, EPA Region 6
WIPP File - Red '01

Comments from NMED on the WIPP Biennial Environmental Compliance Report (DOE/WIPP 99-2171), October 2000.

1. Section 1.0 (Introduction), page 2, first bullet states, “On November 30, 1999, NMED issued an Administrative Compliance Order alleging that the MOC [Managing and Operating Contractor] had improperly characterized waste previously disposed of at WIPP.” This statement is incorrect. The Administrative Compliance Order identified both DOE and WID as Respondents to the Order.
2. Section 1.0 (Introduction), page 2 states, “No shipments regulated under the Hazardous Waste Facility Permit were received at WIPP during this BECR reporting period.” NMED notes that WIPP received four shipments from RFETS between March 11 – 31, 2000. These waste containers were subsequently emplaced in Panel 1 under the provisions of Permit Condition IV.B.2.b. While NMED doesn’t view this as a significant issue, NMED believes the statement in the BECR is incorrect.
3. Section 25.1 (Summary of the Law), page 143, second paragraph – based upon information in 40 CFR §272.1601(a), the dates for additional authorization should July 10, 1995 (not April 25, 1995); March 10, 1997; and June 13, 1998. Also, on page 144, end of first paragraph, the dates should be January 2, 1996 (not January 21, 1996); March 10, 1997; and June 13, 1998. NMED identified similar errors in the 1998 BECR.
4. Section 25.1 (Summary of the Law), page 144, last paragraph states, “The state’s Hazardous Waste Management Regulations are applicable to WIPP in two different areas.” The statement should indicate applicability in three different areas, since the BECR proceeds to discuss compliance with generator standards (Section 25.2.2), transporter standards (Section 25.2.3), and TSDF standards (Section 25.2.4).
5. Section 25.2.2.13 (Accumulation of Hazardous Wastes), page 148, last paragraph states, “The CAO and NMED are working to appropriately address the NMED’s concerns [related to managing water from the Exhaust Shaft catch basin].” NMED correspondence dated July 7, 2000 (after the BECR reporting period), addressed this concern by rescinding the related violation identified in the Letter of Violation of August 17, 1999. NMED notes that DOE submitted a copy of relevant correspondence in the BECR transmittal letter to EPA Region 6.
6. Section 25.2.2.17 (Compliance with Emergency Response, Training, and Waste Analysis Plan Requirements), page 151, last paragraph of section dealing with Contingency Plan and Emergency Procedures is an incomplete sentence stating, “Emergency Coordinators are

thoroughly familiar with .” Apparently the phrase “the *WIPP RCRA Contingency Plan*” or equivalent was inadvertently deleted from the text.

7. Section 25.2.2.21 (Labeling of Container as “Hazardous Waste”), page 153, states that NMED issued WIPP a Letter of Violation on August 17, 1999 related to a missing label on a hazardous waste container in a satellite accumulation area. NMED correspondence dated July 7, 2000 (after the BECR reporting period), determined that this violation had been adequately addressed. DOE submitted a copy of this correspondence in the BECR transmittal letter to EPA Region 6.
8. Section 25.2.2.23 (Record Keeping Requirements), page 154, states “... DOE DOC procedures dictate that manifest records will be maintained onsite for five years.” The acronym “DOC” is not defined in the Acronyms and Abbreviations portion of the BECR.
9. Section 25.2.4.8 (General Requirements for Ignitable, Reactive, or Incompatible Wastes), page 160, states, “WIPP is precluded from accepting ignitable, corrosive, or reactive wastes as specified in Module II and Permit Attachment B1 (Waste Analysis Plan) of the Hazardous Waste Facility Permit.” The correct reference is Permit Attachment B, not B1.
10. Section 25.2.5.1 (Compliance with the Hazardous/Mixed Waste Permit Program), page 178, several statements are in error. NMED issued the draft permit in May 1998 and the revised draft permit in November 1998. NMED held only one hearing on the revised draft permit during February and March 1999.
11. Section 25.2.6 (Compliance with Universal Waste Management Regulations), page 179+, should cite 20 NMAC 4.1, §1000 for consistency with other sections.
12. Appendix A, Index of Requirements by Technical Subject Areas – NMED identified several minor typographical errors. On page 281, the citation should be 40 CFR §264 (20 NMAC 4.1, §500) for BECR Section 25.2.4. On page 285, the citation should be 40 CFR §273 (20 NMAC 4.1, §1000) for BECR Section 25.2.6. On page 283, the citation to RCRA §3016 for BECR Section 2.2.1.1 is a repeat from page 280, and should be replaced with references to requirements identified on pages 179 through 181 relating to compliance with Universal Waste Management Regulations, BECR Section 25.2.6.