UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 20 2004

OFFICE OF
AIR AND RADIATION

R. Paul Detwiler, Acting Manager
Carlsbad Field Office
U.S. Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Dear Dr. Detwiler:

The U.S. Environmental Protection Agency (EPA) received the U.S. Department of Energy's (DOE) Compliance Recertification Application (CRA) for the Waste Isolation Pilot Plant (WIPP) on March 26, 2004. In addition, key technical staff from DOE and its contractors presented an overview of the CRA – with an emphasis on areas of change since EPA's initial WIPP certification decision in 1998 – at a meeting with EPA on April 21, 2004. (Copies of presentation materials from this meeting, as well as the full CRA contents, have been placed in EPA's dockets and made available on our WIPP web site.)

We received the CRA in accordance with our regulations at 40 CFR 194.11. In accordance with these provisions of the WIPP Compliance Criteria, EPA's full technical evaluation for recertification (pursuant to Section 8(f)(2) of the WIPP Land Withdrawal Act) shall not begin until the Administrator of EPA has informed the Secretary of DOE, in writing, that EPA has received a complete compliance application. This completeness determination is an administrative step to ensure that the application addresses all the required regulatory elements and provides sufficient information – e.g., discussion of analytical methods and parameters, presentation of results, explanation and justification for conclusions – for EPA to conduct a full technical evaluation. The completeness determination does not reflect any conclusion regarding WIPP's continued compliance with EPA's radioactive waste disposal regulations (40 CFR Part 191, Subparts B and C) or WIPP Compliance Criteria. Our completeness evaluation is conducted according to guidelines described in EPA's WIPP Compliance Application Guidance, Recertification Guidance, and numerous letters to DOE over the past year that describe our priorities for recertification.

Based on our review to date, we have determined that the CRA is not yet complete. The enclosure to this letter describes completeness issues identified in our initial review, and requests additional information necessary for us to proceed with a full technical evaluation of the application. The comments focus on the performance assessment and monitoring portions of the CRA. In the near future, we expect to provide comments related to other portions of the application, and may provide additional comments on the chapters addressed by the enclosure to this letter. The lack of comments on any chapter or topic does not imply that the relevant portion of the CRA is deemed complete. In accordance with Section 194.11, we will notify the Secretary of Energy, in writing, when we determine that a complete application has been received. Prompt and full responses by DOE to our inquiries and information requests are critical for EPA to make a timely determination of completeness.

In addition to comments related to our completeness determination, this letter and others issued during our completeness review may also include potential technical issues that arise during our examination of the application. Some of these comments may address information or analyses beyond those expected to provide a complete application. However, we believe it is in the interest of EPA, DOE, and the public to raise potential technical issues as soon as they are identified. In this way, we can have a full and open discussion of the issues and maximize the time available for DOE to address our questions and concerns.

For example, our preliminary review has raised questions about the technical justification for modeling a low transmissivity field for the Culebra in the southeastern part of the WIPP site. This approach contrasts greatly with the modeling approach used in the original Compliance Certification Application and could directly affect estimated ground water travel times. For these reasons, we anticipate that the use of such a model must be supported either by further analysis and justification of its effects (or lack thereof) on the performance assessment results, or by the presence of empirical data demonstrating the existence of such a low transmissivity field (i.e., monitoring data from a new well drilled in the vicinity). We expect to discuss the implications of this issue and other potential completeness topics at a meeting planned with your staff in Carlsbad for the week of May 24, 2004.

The CRA represents a vast amount of information on the WIPP's design and performance as a disposal system. We appreciate the effort expended on development of the CRA, and particularly DOE's early coordination with us to facilitate CRA review by establishing a clear and useful format and by providing information electronically. In addition, the staff presentations providing an overview of CRA at our April meeting are very useful in clarifying priorities for review of the application. The continuation of such responsiveness and technical

dialogue will be key to compiling complete documentation and allowing EPA to undertake a thorough and defensible technical evaluation. If you have any questions, please contact Betsy Forinash at 202-343-9233.

Sincerely,

Elizabeth Cotsworth, Director
Office of Radiation and Indoor Air

Enclosure

cc: Russ Patterson, DOE/CBFO
Steve Casey, DOE/CBFO
Steve Zappe, NMED
EPA WIPP Team
EPA Docket