



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

April 13, 1999

Mr. Cass R. Chappell, Section Chief
U.S. Nuclear Regulatory Commission
Cask Certification Section
One White Flint North
15555 Rockville Pike
NMSS-MS/0-6F18
Rockville, MD 20852-2738

Dear Mr. Chappell:

This letter asks for further clarification of your letter of November 23, 1998, from William Kane, then Director of the Spent Nuclear Fuel Project Office in your Office of Nuclear Material Safety and Safeguards. The November 23, 1998, letter replied to our letter of October 26, 1998, requesting your assistance in providing the Environmental Protection Agency (EPA) objective evidence of the Waste Isolation Pilot Plant's (WIPP) compliance with environmental laws during the two year period beginning April 1, 1996, and ending March 31, 1998.

Your November 23, 1998, letter stated that NRC considers DOE to be in compliance with section 16(a) of the WIPP Land Withdrawal Act, but makes no mention of the Atomic Energy Act. Our view of the WIPP Land Withdrawal Act is that it made portions of the Atomic Energy Act requiring NRC certification of transportation containers applicable to containers for transporting transuranic wastes destined to WIPP. EPA staff has requested that we attempt to obtain a clarifying letter from NRC that specifically renders an opinion on WIPP's compliance with the applicable provisions of the Atomic Energy Act that are subject to the NRC's jurisdiction. Would it be possible to obtain a clarifying letter to satisfy EPA's request?

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If you need additional information, please contact Harold Johnson of my staff at (505)234-7349.

Sincerely,

Michael H. McFadden
Assistant Manager
Office of Regulatory Compliance and Assurance

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