

NOTE TO BRADBURNE

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MAR 07 1989

MEMORANDUM TO: John C. Bradburne, Director
Congressional Affairs
Office of Governmental and Public Affairs

FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: TRACKING LEGISLATION ON WIPP LAND WITHDRAWAL

I would appreciate it if your staff would keep the Division of High-Level Waste Management (HLWM) informed on DOE's progress in obtaining a legislative withdrawal of the land for the Waste Isolation Pilot Plant (WIPP) site. The outcome of WIPP withdrawal legislation in Congress is of direct interest to HLWM because it is the earliest available indicator of issues that may have to be addressed in land withdrawals for the eventual licensing of a high-level waste repository under the Nuclear Waste Policy Act, as amended. Section 60.121 of the Commission's repository licensing rule provides that the repository operations area and adjoining controlled area "shall be located in and on lands that are either acquired lands under the jurisdiction and control of DOE, or lands permanently withdrawn and reserved for its use." This section also provides that outside the controlled area, DOE "shall exercise any jurisdiction and control," including withdrawals under the general mining laws, if this is "necessary to prevent adverse human actions that could significantly reduce the geologic repository's ability to achieve isolation." The attached copies of recent news stories about land withdrawal legislation for WIPP suggest some of the difficulties that could arise for the withdrawal process to meet NRC requirements for a licensed repository.

I have asked Bob Browning to keep me currently apprised of developments in this area. Please have your staff provide timely updates on land withdrawal legislation to Bob or Joe Holonich, his designated contact on legislative matters.

ORIGINAL SIGNED BY

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. WIPP-related press clippings

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Congressmen Air Doubts On New Mexico Waste Site

By BRAD BUGGER
Journal Staff Writer

IDAHO FALLS — The Department of Energy and five Western congressmen are pushing to open an experimental repository for low-level nuclear waste in New Mexico by the end of the year.

But Representative David Skaggs of Colorado warned here today that may not be possible, and put the odds on opening the Waste Isolation Pilot Project by the end of the year at "50-50."

Skaggs joined Idaho Congressman Richard Stallings, and New Mexico Reps. Bill Richardson, Steve Schiff and Joe Skeen on a tour of waste storage facilities at the Idaho National Engineering Laboratory today.

Earlier this week they toured the WIPP site near Carlsbad, and late today they were scheduled to fly to the Rocky Flats defense plant in Colorado. Rocky Flats produces much of the low-level waste that is now stored at the INEL on a "temporary basis" until the WIPP facility opens.

One of the main obstacles to opening WIPP has been the failure of Congress to pass a land withdrawal bill transferring WIPP to DOE. Today Stallings said he hopes to have a "consensus bill" to transfer WIPP introduced in the House by early February.

Meanwhile, DOE has proceeded with an administrative land withdrawal process, said Troy Wade, assistant energy secretary for the defense program.

However, Wade said today the administrative process would take a minimum of six months and he said DOE will not transfer the land until Congress has been given an opportunity to pass a land withdrawal bill on its own.

DOE has completed preliminary paperwork and will file for an administrative withdrawal next week, Wade said.

Meanwhile, waste continues to pile up at the Rocky Flats facility since Idaho Gov. Cecil Andrus banned the shipment of any further waste into the state in October. Wade said Rocky Flats, where "triggers" are made for nuclear weapons, still has a few months of storage capacity available. In addition, DOE is now looking for alternative storage space in Colorado, said Wade.

DOE is also trying to meet any conditions set down by Andrus in order for the governor to reconsider

his ban. According to Wade, they include beginning the administrative withdrawal, working with Congress on a legislative withdrawal, and performing a supplemental environmental impact statement on the WIPP project that would consider transportation issues.

But Wade would not conjecture when or if the governor would lift his ban, and said, "That will be the governor's call."

Meanwhile Richardson, the New Mexico Democrat who successfully blocked passage of a land transfer bill last year, said he has not changed his view that the WIPP facility should be certified by the Environmental Protection Agency.

However, he said there may be ways to certify the facility without delaying indefinitely its opening. He also said his opposition alone may not block a withdrawal bill this year.

All five congressmen agreed that even if no consensus withdrawal bill is developed, there will still be some legislation introduced this year.

Pocatello, ID
(Bannock Co.)
Idaho State Journal
(Cir. D. 19,540)
(Cir. S. 20,653)

JAN 12 1989

Wade announces WIPP land withdrawal work done

By **ROCKY BARKER**

Post-Register staff writer
and The Associated Press

The Department of Energy announced today it will file an administrative withdrawal next week to set aside land needed for a nuclear waste repository in New Mexico.

Troy Wade, assistant energy secretary for defense programs, told reporters this morning the paperwork has been completed to take out of public use 10,000 acres of public land surrounding the Waste Isolation Pilot Plant near Carlsbad, N.M.

DOE intends to bury low level, long-lived waste from federal nuclear programs at the site, a 2,150-foot-deep, manmade salt cavern where officials believe the material will remain undisturbed as its radioactivity decays over millions of years.

"It is the department's intention to file it next week," Wade said during a press conference. Wade accompanied five Western congressmen on a tour of the Idaho National Engineering Laboratory this morning.

Idaho Gov. Cecil Andrus made the administrative withdrawal one of his conditions for lifting his ban on shipments of long-lived,

low level radioactive waste to Idaho. DOE had been using INEL as a temporary storage site for waste from its Rocky Flats plant in Colorado.

Andrus' ban raised concerns that Rocky Flats would be forced to close, and that national security would be jeopardized. Andrus has said he will decide later this month whether to decide to reopen Idaho's border to Colorado's nuclear waste. He has also demanded a commitment by DOE to remove the buried waste from INEL, along with the waste stored above ground and already destined for WIPP.

Andrus and DOE agreed last month in Salt Lake City that a legislative withdrawal bill of the land near WIPP was a better alternative than an administrative action by DOE.

If the legislation is approved and if DOE completes an updated environmental review of the WIPP program, the facility could open by the end of the year, Wade said.

The congressmen, led by Rep. Richard Stallings, D-Idaho, said they were committed to reaching a consensus on withdrawal legislation. New Mexico Reps. Bill Richardson, Steven Schiff and Joe Skeen joined Rep.

David Skaggs of Colorado and Stallings on the tour.

"It's certainly my goal to have this in the hopper in early February," Stallings said.

But Skaggs said portions of the bill that will pertain to the amount of waste to be accepted annually at WIPP couldn't be inserted until late spring, after DOE studies. Richardson, whose opposition to WIPP bills in 1988 led to Andrus' October nuclear waste ban, said he still has issues that need to be resolved before he can support legislation.

"We still have some differences," he said.

Richardson said he will not support legislation unless DOE gets U.S. Environmental Protection Agency approval for the WIPP site. But the EPA said it will not approve the WIPP site until waste has been sent to the site for initial tests.

"I think they can work that out," Richardson said.

New Mexico lawmakers have demanded that any legislation include \$250 million in funds for road improvements and to make up for the loss of mineral resources. Schiff said the tour of the INEL area where buried waste was poorly handled 20 years ago

Idaho Falls, ID
(Bonneville Co.)
Post-Register
(Clr. D. 21,895)
(Clr. S. 26,108)

JAN 12 1989

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strengthened his resolve to ensure WIPP is safe.

"We don't want to sit here 20 years from now, or have our successors, saying the same thing about WIPP," he said.

The congressmen toured the WIPP underground facility Wednesday and went on today to the Rocky Flats Plant in Colorado, where most of the waste originated.

After meetings in Idaho Falls Wednesday night with DOE officials and INEL contractors, the congressmen were briefed today before an inspection trip to the Radioactive Waste Management Complex.

They were to be shown areas where DOE has been storing nuclear waste above ground, in barrels placed on asphalt pads.

Stallings said the briefing included the results of environmental monitoring at INEL, and the government's options for removing waste from Idaho.

"Up to a few months ago, the other states didn't care what happened because they could just ship their waste to Idaho," said Stallings. "But Andrus closed the border. I think we've gotten the attention of the other states, and I think now they're more

interested in getting this thing (WIPP) operational."

The political fallout resulting from the delay in WIPP's opening has spurred the three states' congressional delegations to try as hard as they can to pass a land withdrawal bill this session. If they can't get it done, the Energy Department probably will do it administratively and not provide the states the highway and safety-training funds they say they need.

None of this was changed as a result of Wednesday's tour. All five congressmen said the problem is regional, and not New Mexico's only.

"I think the importance of this visit is we have linkages between the three states," said Richardson, a Democrat. "I think it's very important that this facility be opened. It's in the national security interest and New Mexico's interest."

Right now, New Mexico and Colorado are feeling the tightest pinch, as Rocky Flats faces closure and New Mexico faces having to pay for highway improvements out of its own pocket if WIPP land is withdrawn administratively.

Press Intelligence, Inc.
WASHINGTON, D.C. 20005

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DENVER, COL.

ROCKY MOUNTAINS NEWS

M-317.55 JAN 16 1989

S-366.003

Denver
Rocky Mts

Nuclear vs. coal

Editor: There were a couple of recent letters to the editor denouncing the use of nuclear power. The main reason given was the problem of waste disposal.

For the same amount of energy produced, coal waste occupies about five million times the volume as does nuclear waste. Indeed, nuclear waste will be radioactive for a very long time. But contained in coal waste are such poisons as arsenic and selenium, which will never go away.

When considering pollution, the greenhouse effect, acid rain and waste disposal, I'll take nuclear energy over coal any day.

DAVID OLSON
Broomfield

Press Intelligence, Inc.
WASHINGTON, D.C. 20005

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JACKSON, TENNESSEE

SUN
JACKSON, TN

EVENING - 31.780

JAN 11 1989

Fuel halt won't delay nuclear plant restart

A temporary halt in fuel reloading at one of three reactors at Browns Ferry Nuclear Plant is not expected to delay restarting the idle Tennessee Valley Authority facility.

The federal utility stopped reloading of Unit 2 at the TVA plant near Athens, Ala., after two days for precautionary reasons, officials said Tuesday.

"We fully expect to be back to reloading fuel before the end of the week," said Craig Beasley, plant spokesman.

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