



June 25, 2002

Steve Zappe
New Mexico Environment Department
2905 Rodeo Park Drive, Building 1
Santa Fe, NM 87505

Re: Class 1* Permit Modification Request
Removal of Underground Booster Fans

Dear Mr. Zappe,

Nuclear Watch of New Mexico (NWNM) requests that the New Mexico Environment Department (NMED) deny the Class 1* Permit Modification Request (PMR) to remove booster fans. The PMR is neither classified properly nor is it complete.

Under the New Mexico Hazardous Waste Act (20 NMAC 4.1.900, incorporating 40 CFR 270.42(a)(iii)), NMED may reject any Class 1 modification: "Any person may request the Director to review, and the Director may for cause reject, any Class 1 modification."

The modification request states that the basis for the classification is Appendix I to 40 CFR 270.42, A.8: "Changes to remove permit conditions that are no longer applicable (*i.e.*, because the standards upon which they are based are no longer applicable to the facility)."

The standard that the permittees claim have changed and are no longer applicable are the Mining Safety and Health Administration (MSHA) regulations 30 CFR §57.4760(a). These regulations have not changed. The control doors are the justification of why the booster fans may be removed fall under MSHA fire safety requirements. However, the booster fans were placed in the permit not necessarily to comply with MSHA fire safety requirements, but also to assist in Waste Isolation Pilot Plant's (WIPP) ventilation system. With this argument in mind, the permittees claims that the booster fans may be removed because of MSHA is flawed. As the permittees argument is flawed this PMR is not properly a Class 1*. NMED must deny this modification request. If the permittees wish to proceed with the removal of the booster fans they must be required to do so under a Class 2 or Class 3 permit modification request.

In addition to the flawed argument of the permittees, the PMR is submitted without justification as to why they feel obligated to remove the booster fans in the first place. NWNM has attempted to receive information from the Department of Energy related to this permit modification request. We still have not received a response that fulfills our requests. [NWNM received limited information as to the rational of this PMR at a stakeholders meeting, but no documentation has been provided to substantiate that claim, nor is there any in the PMR itself.] Without further justification, it is the opinion of NWNM that NMED should deny this PMR.

Furthermore, NWNM is concerned over WIPP's lack of readiness in the event of a fire. In the MSHA report provided in the PMR (Attachment B) showed that WIPP workers took an extraordinarily long period of time to evacuate and were in violation of the evacuation timeline in 30 CFR Section 57.4760(a) (the first shift took double the amount of time allowed in the regulations and the second shift took even longer). NWNM feels that the permittees should be required to reevaluate their evacuation plan and refine it so that it falls into compliance with the regulations.

In conclusion, NWNM requests that NMED deny this Class 1* Permit Modification Request.

Thank you for your time on this matter.

Sincerely,

Geoff Petrie
Nuclear Watch of New Mexico
551 W. Cordova Rd. #808
Santa Fe, NM 87505