

1

I N D E X

		PAGE
2	TESTIMONY	
3	JEFF NEAL	2
4	BETTY RICHARDS	5
5	VICKY BLACK	8
6	ROBERT NEILL	10
7	JOE EPSTEIN	18
8	ANTHONY HAKL	27
9	RICHARD ANDERSON	35
10	PHIL CARROLL	38
11	CHUCK WIGGINS	39
12	DEE ARMSTRONG	40
13	MIKE SIMPSON	43
14	SENATOR DAN KIDD	47
15	TIM SWEENEY	52
16	JIM McWHINNEY	58
17	TOM QUINTELA	61
18	TOM BEARDEN	63
19	MICHAEL KEARNEY	67
20	ROGER NELSON	71
21	JEROME HOLDERNESS	75
22		
23		
24		
25		

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 P R O C E E D I N G S

2 TUESDAY, JANUARY 6, 1997, 9:00 A.M.

3 MR. WILSON: Good morning. I'm Dick Wilson
4 from EPA. I see a lot of faces from last night, so I'm
5 not going to go through the whole opening statement I
6 did last night with all the background, but I will
7 spend a minute or two for anybody who wasn't here last
8 night on the ground rules.

9 First of all, I would just introduce the other
10 people. Besides me on the panel, Larry Weinstock,
11 Frank Marcinowski and Mary Kruger, all from EPA
12 working on the WIPP issue.

13 We have a -- we'll be here most of the day.
14 If anybody is here who hasn't signed up and wants to
15 make a statement, please let us know, or if you know
16 anybody else around, we do have plenty of time today
17 for folks.

18 We may end up -- because we have, I think,
19 more time than people, we may try and end a little
20 sooner than the 4:00 o'clock time frame we had planned.
21 But we'll see how that goes. We want to make sure
22 everybody who signed up has a chance to talk.

23 The sort of the rules for the hearing -- it's
24 an informal hearing, so people have five minutes if you
25 are an individual, or ten minutes if you are an

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 organization. There's no cross-examination, although
2 panel members may ask a question or two. There's a
3 transcript of the hearing being made. It will be
4 available in two or three weeks.

5 And I think that's about it, so we'll start.

6 The first person on the list is Jeff Neal.

7 Jeff, good morning.

8 MR. NEAL: Hi.

9 My name is Jeff Neal, and I'm a lifelong
10 resident of Carlsbad. There's been three generations
11 of Neals who have lived in the area, and I hope that my
12 future descendants also live here in Carlsbad.

13 Carlsbad has been involved in atomic research
14 all way back to Project Gnome. Project Gnome was
15 defined an alternate energy resource. I can remember
16 sitting in church at 11:00 o'clock and feeling the
17 church shake as it went off. Carlsbad stepped forward
18 then to try to find an alternate energy source and help
19 the atomic energy industry.

20 The WIPP project has been in the planning
21 stage for 22 years. Here again, Carlsbad stepped
22 forward to help the nation, to help the nation solve
23 its low-level transuranic waste problem. The potash
24 industry here in Carlsbad has been helping the nation
25 in supplying fertilizer to farmers for over the last 50

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 years. We have provided fertilizer to help feed the
2 nation and the world. Carlsbad has also provided our
3 nation with entertainment in the natural resource of
4 the Eighth Wonder of the World, Carlsbad Caverns
5 National Park.

6 Carlsbad is known for helping the nation. In
7 World War II the New Mexico National Guard was involved
8 in what was called the Bataan Death March. We as a
9 community know what it means to serve our nation.

10 Here again, Carlsbad has stepped up to the
11 bat to help the nation. WIPP is a national solution to
12 solve a national problem. No other project in the
13 world has gone through such extensive technical and
14 public review. Top scientific and engineering minds
15 have researched this. International, independent, and
16 public oversight groups have scrutinized this project
17 from all angles. This project has set new and
18 extremely demanding standards to demonstrate the
19 compliance to regulations, and it has performed and
20 provided the needed documents.

21 It is simple. WIPP is designed to permanently
22 and safely dispose of the transuranic waste. They have
23 met the requirements.

24 You know that what really tickles me the
25 most, and all due respect to Bob Neill and the New

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 Mexico Environmental Department is the concerns about
2 the drilling of wells for the immediate future, let's
3 say 50 years. The laws, rules, regulations will
4 restrict the oil industry from drilling in the area.
5 After that, let's says 500 years, there's going to be
6 an alternate energy resource. Natural resources will
7 be depleted. Oil and gas will be useless, so there
8 will be no longer any need to search for this.

9 I guess he hasn't seen the movie Back to the
10 Future.

11 But, more seriously, what really intrigues me
12 most on the backfill is the magnesium oxide to
13 stabilize radionuclides. Now, today this radioactive
14 waste presents risks to about 60 million people who
15 live within 50 miles of the more than 20 storage sites
16 across the U.S. Here is Carlsbad is saying: Yes, put
17 it in my back yard.

18 Wake up everybody. Not anyplace in the world
19 wants it.

20 This salt in this formation has been
21 stabilized for more than 200 million years, and that
22 surely fits into 10,000 year requirement.

23 Thank you.

24 MR. WILSON: Thank you for coming this
25 morning and giving us your testimony.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 Betty Richards. Good morning.

2 MS. RICHARDS: Good morning.

3 MR. WILSON: We need an automatic -- maybe you
4 could just flip it down.

5 No, it's not going to -- it's the tape at the
6 bottom.

7 MS. RICHARDS: You can probably hear me
8 without, I think. Maybe.

9 MR. WILSON: There you go.

10 MS. RICHARDS: There's three kinds of people.
11 People who can count, and people who can't count.

12 What I really want to discuss is what I consider
13 to be the basic 3R's: Rules and regulations, rights, and
14 responsibilities.

15 Everyone goes by many sets of rules. Civic
16 rules, social rules, moral rules, traffic rules, house
17 rules, et cetera. Rules, rules, rules.

18 What rules do you go by? Do you often
19 swallow your own personal rules to go along with the
20 Good-Old-Boy rules?

21 Rules can be changed with the stroke of a
22 pen. A case in point: The WIPP could not comply with
23 the criteria, so they change that criteria to fit the
24 site.

25 What concerns me is that the DOE and the EPA

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 have conspired to give the appearance of compliance
2 with waste disposal rules when it is obvious to many
3 that WIPP fails -- The WIPP fails.

4 Are you going to pass the athlete who can't
5 read so that he can play football?

6 Rules and regulations are written for the
7 rule abiding. Those inclined to circumvent the rules
8 will do so, regardless of any rule enacted.

9 Rights. The Constitution of the United
10 States is unmatched in the world for vesting its
11 citizens with inalienable rights. We have the right of
12 free speech, the right to worship, travel, educate
13 ourselves, and the right of choice, as long as that
14 choice does not injure others. But do we have the
15 right to continue practices that we know will fail?
16 Isn't that the definition of insanity, to keep doing
17 the same thing over and over again and expecting
18 different results?

19 Do we have the right to continue policies
20 that are questionable in their results?

21 WIPP is a glorified ditch. The money that
22 has been spent is an embarrassment. Yet it epitomizes
23 government waste. Pun intended.

24 With every right comes responsibilities, and
25 that brings us to the most important of the 3R's. We

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 are so concerned with our rights in this country that
2 we clearly neglect our responsibilities. Who is going
3 to take responsibility for the WIPP when it becomes
4 obvious that the waste is not contained? Westinghouse?
5 DOE? EPA?

6 Government holds citizens responsible, yet
7 does not hold itself responsible.

8 Example: Our State Transportation Secretary,
9 Pete Rahn, stated in a recent meeting that the
10 transportation route from the south is safer coming
11 through town than by using an existing bypass, yet they
12 are funding a \$15 million bypass for the north end of
13 Carlsbad.

14 Why is it safe to drive the waste through the
15 south end of town and not safe to drive it through the
16 north end of town?

17 I think that every person who believes that
18 the WIPP will isolate radioactive waste should sign a
19 contract that guarantees he will forfeit all he owns or
20 will ever own, or that his progeny will own, if WIPP
21 fails to isolate radioactive waste.

22 How about it, Wendell Weart? How about it,
23 George Dials?

24 There are three kinds of people: People who
25 can count, people who can't count, and people who

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 manipulate the numbers in order to confuse, confound
2 and obfuscate.

3 MR. WILSON: Thank you very much for taking
4 the time to come here this morning and give us your
5 testimony.

6 Vicky Black?

7 MS. BLACK: We are ahead of schedule. I
8 wasn't quite ready.

9 MR. WILSON: Take your time.

10 MS. BLACK: I just have to be able to see.

11 MR. WILSON: Thank you. Take your time.

12 MS. BLACK: As I said, I'm Vicky Black. I
13 moved to Carlsbad three years ago as the business
14 manager for Sandia on the WIPP project.

15 Although I'm not involved in the technical
16 work of WIPP, I'm quite aware of the cost to the
17 taxpayer of delaying WIPP's opening. Taxpayers have
18 paid almost \$2 billion to get the WIPP to the point it
19 is today, and it's time to quit spending our taxes
20 marking time, maintaining a ready repository, and time
21 to use our tax dollars to get on with it to help solve
22 a national problem.

23 Through my association with Sandia Labs I
24 have had the opportunity to personally see some of the
25 material destined for WIPP: Wipes, old metal parts,

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 lab coats, et cetera. Nothing was glowing. Indeed,
2 most of it is contact handled, which means I could push
3 a barrel of it dressed as I am today.

4 As a citizen and a taxpayer, I find it
5 impossible to understand why the self-proclaimed
6 environmentalists who oppose the opening of the WIPP do
7 not see that it is indeed the environmentally right
8 thing to do. How can storing this waste in barrels
9 above ground near millions of people be environmentally
10 correct?

11 I read in the draft Rule that there's
12 concerns relating to human intrusion into the WIPP
13 site. What about human intrusions, terrorists and
14 natural disasters, wreaking havoc on an above-ground
15 warehouse?

16 Also, there will be active controls at WIPP
17 for the next hundred years. This means that someone
18 will be guarding the site for 100 years. Are we to
19 believe that after that time man will cease to be able
20 to read posted warning signs?

21 I personally believe that the opposition to
22 WIPP is political and not based on the need to protect
23 the citizens of this country. As to the common
24 refrain, "Not in my backyard," as far as I know, we all
25 agreed following the Civil War that we would be the

1 United States of America, "United" being the operative
2 word. I have relatives in Denver, some friends in
3 Idaho, and my back yard extends to include them.

4 As a dominant world power, our leaders made
5 the decision to stockpile nuclear weapons as a
6 deterrent to nuclear war. There is a byproduct to this
7 decision that must be dealt with. WIPP is part of that
8 solution.

9 Thank you.

10 MR. WILSON: Okay. Thank you very much for
11 coming.

12 Bob Neill.

13 MR. NEILL: My name is Bob Neill, and I'm
14 the Director of the New Mexico Environmental Evaluation
15 Group.

16 I have been honored in the work in
17 radioactive waste disposal to have served on three
18 different EPA Advisory committees and two DOE advisory
19 committees, and I have been either a member or
20 consultant to three National Academy of Sciences
21 committees over the years. The first one, I hate to
22 say, goes back to 1958. A long time ago.

23 As you know, the EEG is the only full-time,
24 independent, multi-disciplinary, scientific oversight
25 group for the WIPP project established in 1978 with

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 funds by the DOE to conduct an independent, technical
2 evaluation to ensure the protection of the public
3 health and safety and the environment of New Mexico.
4 While lacking regulatory authority, the EEG has a broad
5 oversight function, including the operational aspects
6 of the project.

7 I represent the State of New Mexico in review
8 and evaluation of the Safety Analysis Report by State
9 Statute.

10 I first want to thank you for holding these
11 these hearings here in New Mexico to provide an
12 opportunity for both the citizens and the
13 organizations, official agencies to express their views
14 on the EPA's proposed rule on the certification
15 decision for WIPP. I also want to congratulate you for
16 doing a remarkable job of reviewing the DOE's massive
17 application in a very short period of time. As we
18 know, the standards were issued in '85 and New Mexico
19 entered into an agreement, so it took DOE 11 years to
20 prepare the Certification Application to comply with
21 those standards, and your staff obviously made a
22 Herculean effort in reading and absorbing the DOE
23 submissions, conducting selected independent analyses,
24 and preparing documentation of the proposed rule at
25 several levels of detail, with cross referencing. We

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 are aware of the dedicated hard work that such an
2 effort requires. Indeed, the DOE Application
3 demonstrated such dedication, as well.

4 Thee WIPP inventory includes 28,400 pounds of
5 Plutonium-239, the dominant radionuclide. In fact,
6 about 85 percent of the radioactivity at 100 years will
7 be Plutonium-239.

8 One still encounters reference in the press
9 to this being low level. It is not. It is transuranic
10 waste, and we certainly would not be spending \$19
11 billion if this were a low-level waste facility.

12 Now, it's inevitable there be large
13 uncertainties in projecting the integrity of a
14 depository for a 10,000 year period. EPA recognized
15 this fact and included assurance requirements in
16 addition to the numerical "containment requirements."

17 Clearly, the repository is located in a
18 mineral-rich resource-rich area. The intensity for
19 drilling for oil and gas around the 4 mile by 4 mile
20 WIPP site is very high, and almost certainly the only
21 reason that there's no drilling within the site is it
22 has been withdrawn for exclusive use by WIPP.

23 Although potash mining and the production of
24 oil and gas were recognized in the '70s when the site
25 was selected, the intensity of the exploration and the

1 production of oil and gas increased in the late '80s.
2 We recognized this. We have been pressing for two
3 major actions.

4 One: All the implications of the resource
5 exploitation activities be taken into account in
6 projecting the potential scenarios for future
7 inadvertent breach of the site and in computing the
8 effects of those scenarios; in particular, the
9 consequences of air drilling and fluid injection, and
10 mining, including solution mining activities, require
11 additional attention from the EPA.

12 While it's been noted that the WIPP area may
13 well be the most studied piece of real estate in the
14 world, we might also note that it probably has the most
15 intense oil and gas exploration activities going on of
16 any site. I have no data for it, but it's an extremely
17 intense one.

18 No. 2: The waste should be treated to make
19 it more difficult to be dispersed in the environment in
20 case of breach. The most recent plan indicates that
21 DOE has plans to treat or repackage 85 percent of the
22 existing TRU waste. As we know, only about half the
23 waste slated to come to WIPP exists today. The other
24 has yet to be produced. The DOE proposed action in the
25 CCA which was submitted to EPA is to have the waste

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 meet the Waste Acceptance Criteria before shipment to
2 the generator sites. This is inconsistent with the
3 preferred alternative identified by the Department of
4 Energy in the May, 1997 Programmatic Environmental
5 Impact Statement which identifies the preferred
6 alternative, which is to treat the wastes prior to
7 shipment to WIPP.

8 We noted DOE is planning on doing 85 percent,
9 and we think also DOE should stand up and take credit
10 for this, and EPA should acknowledge those efforts as
11 well, or certainly DOE should be encouraged to do this,
12 to make the waste form less likely to be released into
13 the environment.

14 Can't help but note certain low-level wastes
15 have greater requirements for longevity for either the
16 waste form or container than for WIPP. Low level
17 graded in Class C requires a 300-year waste form or a
18 300-year container. There are no longevity
19 requirements on either the waste form or the container
20 for the WIPP.

21 EEG has extensively reviewed the
22 interpretations of the field and laboratory
23 observations; assumptions of future events and
24 processes that may affect the integrity of the
25 repository for 10,000 years; justification for the

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 parameters values gone through the -- and we have
2 identified certain problems which were identified in
3 the December 31 -- We have had a number of meetings
4 with EPA Staff, and at a December 10 meeting the staff
5 requested we provide greater specificity in addressing
6 some of our concerns. To that end, we put out a
7 December 31 letter to Mr. Marcinowski with copies to
8 the appropriate staff, and copies of that are available
9 for anyone wishing to see them. The 14-page letter
10 plus the attachments is about a 50-page documentation.
11 There's no way to, obviously, go through that today,
12 but I wanted to identify these issues.

13 I'll skip into -- We have identified
14 problems with the conceptual and numerical models in
15 the CCA, the values selected for some of the critical
16 parameters used on the computations, certain critical
17 scenarios rejected on the basis of low consequence or
18 low probability, inadequate attention paid to the waste
19 inventory.

20 This inventory keeps changing markedly. The
21 last two reports by DOE indicate that the existing
22 transuranic waste at a number of sites have changed by
23 a factor, in one case 10 to the 3, and in other case by
24 a factor of 5. This isn't fine tuning.

25 This does suggest there is some major concern

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 with the existing inventories that we have on our
2 hands.

3 In reviewing compliance, it's become clear
4 that the compliance is very sensitive to the models and
5 parameters selected. For example, the solubility of
6 plutonium and the brines postulated to be present in
7 the WIPP repository determines how much plutonium will
8 be released to the environment if a given volume of
9 brine is released.

10 Cutting to the short on this, DOE is planning
11 on using a magnesium oxide backfill. The question that
12 occurs is whether chemical reactions will result. In
13 the reciprocated -- with nesquehonite rather than
14 hydromagnesite with clear water molecules, or the
15 actinides could be highly soluble in the presence of
16 nesquehonite.

17 (Note: Reporter interruption.)

18 MR. NEILL: You can have this. It's in
19 here.

20 The question arises as to what periods of
21 time that mineral phases may well be present.

22 We have documented a number of concerns
23 similar to the examples I am just citing here, and the
24 most important ones are summarized in our December 31
25 letter to the EPA.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 And I have mentioned the concerns about the
2 waste inventory characterization and the distribution
3 of different kinds of wastes in the repository.

4 Because of the synergistic effects of the
5 many models and parameter values used in the CCA, the
6 EEG has consistently advised the EPA to reject the idea
7 of accepting certain values on the basis of partial
8 sensitivity analysis. We do believe the models and the
9 parameters should be completely and satisfactorily
10 justified individually and the final set computations
11 should be run with fully justified values. Only then
12 can the compliance with the containment requirements be
13 determined.

14 During the remainder of the comment period we
15 expect to critically review some of the recommendations
16 of the NAS committee, as well as the OECD and the IAEA
17 report. For example, they both recommended that the
18 individual suggestions be prepared. They are not
19 required under the standards. We have done this, and
20 expect to publish that report, that work, within the
21 next few weeks.

22 In conclusion, I want to thank you,
23 Mr. Chairman, for your patient hearing of our views
24 today, and hope that you would give serious
25 consideration to our recommendations. We look forward

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 to continuing constructive dialogue with you, and we
2 have been very pleased with the ability to work with
3 EPA staff over these -- not just months, but over the
4 years, in exchanging concerns, ideas, and addressing a
5 number of the issues to date.

6 Thank you.

7 MR. WILSON: Thank you, Mr. Neill, for coming
8 today, and thank you and your group, the Environmental
9 Evaluation Group, for all your work on this project for
10 the last several years.

11 Thank you.

12 The next witness is Joe Epstein from
13 Westinghouse.

14 MR. EPSTEIN: Good morning. I appreciate
15 the opportunity to offer my views on EPA's proposed
16 certification decision for WIPP. I'm Joe Epstein,
17 General Manager of the Westinghouse Waste Isolation
18 Division.

19 I support the EPA's proposed Rule, and urge
20 you to complete final rule making quickly.

21 Westinghouse has been associated with the
22 WIPP for 20 years. We were selected as the WIPP
23 technical support contractor in '78, and have been the
24 management and operating contractor for DOE since
25 November of '85.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 For these 20 years Westinghouse has worked
2 hand in hand with our partners, DOE, its predecessors,
3 and Sandia to develop the safest and most effective
4 disposal system for radioactive transuranic waste in
5 the world. The EPA's proposed rule, which proceeds its
6 decision to certify the WIPP, closes another chapter in
7 the story that will culminate later this year with the
8 opening of the nation's first permanent underground
9 repository for transuranic radioactive waste.

10 Westinghouse is proud of its achievements over
11 the past 20 years. Our priority has always been, and
12 will continue to be, environmental and safety
13 excellence. Compliance with regulatory requirements
14 is essential to our demonstration of excellence. We
15 are committed to implement to the fullest extent all
16 the requirements set forth in the EPA's certification
17 of the WIPP.

18 Our commitment to excellence in safety and
19 environmental management is evidenced by two very
20 special honors we have received. The first recognition
21 under DOE's prestigious voluntary protection program as
22 a VPP Star Status site, demonstrating excellence and
23 safety, and the second, registry by the International
24 Organization for Standardization's ISO 14001,
25 demonstrating excellence in environmental management.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 In October, '94 Westinghouse became the first
2 management and operating contractor in the DOE complex
3 to receive Star status. Star status is the highest
4 level that can be achieved under the VPP guidelines.

5 Last summer we joined an elite class,
6 becoming the first nuclear facility, and only the 22nd
7 company nationally, to have received registration under
8 ISO 14001, a voluntary standard for developing and
9 implementing environmental management systems. ISO
10 14001 serves as a guide for environmental management
11 programs, and provides an internationally recognized
12 framework to measure, evaluate, and audit these
13 programs.

14 Westinghouse's environmental management
15 system of the WIPP includes elements of policy,
16 planning, implementation, corrective actions, and
17 management review. We have been recognized numerous
18 times for a proper approach to protecting the
19 environment and employee safety and health. For
20 example, we received eleven consecutive New Mexico Mine
21 Operator of the Year awards, two recent Awards of Honor
22 from the National Safety Council, and outstanding Mine
23 Safety and Health Administration inspection results.

24 In addition to this recognition, the Waste
25 Isolation division has a proven track record in other

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1 areas of environmental compliance, including permits,
2 regulations, standards, inspections, and audits. More
3 than 24 associated environmental operating permits,
4 ranging from rights-of-way to discharge permits are
5 required to operate the WIPP. To date, there have been
6 no citations for environmental permit noncompliance.

7 In addition to the formal compliance
8 statements provided to the EPA on a biennial basis,
9 several regulatory oversight activity compliance
10 programs are conducted on a frequent basis. During
11 the closeout meeting following a recent New Mexico
12 Environmental Department RCRA inspection at the WIPP
13 site, the inspectors commented the WIPP was extremely
14 well run and, gave recognition to the positive attitude
15 of the work force.

16 As further confirmation of our commitment to
17 100 percent compliance, EPA administrator Carol Browner
18 acknowledged in an August '97 Federal Register notice
19 that for the period of October 1994 to October 1996 the
20 WIPP was in compliance with the pertinent federal
21 statutes and regulations in the 1992 Land Withdrawal
22 Act.

23 In addition to our safety and environmental
24 excellence, Westinghouse has gone to great ends to
25 ensure that the WIPP meets the highest standards

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 of operational excellence. In preparing to open the
2 WIPP later this year, we have been involved in a
3 variety of activities, including an actual performance
4 demonstration involving the WIPP transportation system.
5 This past September Idaho National Engineering and
6 Environmental Laboratory shipped three TRUpacts with 42
7 drums filled with sand as simulated waste to the WIPP.
8 Every DOE-specific procedure from inspection of the
9 mock waste shipment as it left the site in Idaho to
10 final unloading and emplacement in the underground at
11 the WIPP was tested during the in-depth exercise. In
12 addition to all the normal waste-disposal activities,
13 Westinghouse personnel participated in a series of
14 graded drills to judge response to off-normal events. A
15 variety of regulators, oversight groups and
16 stakeholders observed the demonstration. Westinghouse
17 successfully completed every aspect of the
18 demonstration with no deficiencies noted by the review
19 team.

20 Our state of readiness is further supported
21 by the DOE accreditation of our dosimetry program under
22 their Laboratory Accreditation Program which ensures
23 the quality of dosimetry results and staff competency,
24 by having successfully trained more than 12,000
25 emergency responders living along or near

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 transportation routes, and by having WIPP employees
2 participate in more than 100 drills that test their job
3 knowledge and skills, should there be an actual
4 emergency at the facility.

5 Our employees are among the safest in the
6 Department of Energy complex and the nation, because
7 they are highly trained and competent. They are the
8 energy that powers this facility. These are the same
9 employees that live and raise their families in
10 Carlsbad, which is located only 26 miles west of the
11 WIPP. They are, without a doubt, a highly trained
12 group of people who believe in the WIPP and want to get
13 the job done. They will be the first to tell you it's
14 fine to open the WIPP and begin dealing with an
15 environmental problem that has been ignored for far too
16 long. The scientists and design engineers have done
17 their jobs. Now let's do ours.

18 One of our greatest achievements came in
19 October 94 when the CCA was submitted for EPA approval.
20 As you are fully aware, it took an extraordinary effort
21 to accomplish this feat. To say the compilation of
22 this document was monumental is an understatement. The
23 CCA development process and it's on-schedule submittal
24 further demonstrate the combined talent and dedication
25 of the DOE, Sandia, and Westinghouse team.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 I would also like to take this opportunity to
2 publicly applaud the job EPA is doing. The CCA review
3 has not been a simple process, nor is it an easy
4 decision. Reviewing a technical document that consists
5 of tens of thousands of pages for final certification
6 of a first-of-a-kind facility is challenging, to say
7 the least. Add to that the fact that your decision
8 affects the lives of millions of Americans and the task
9 at hand is daunting.

10 Concerning the proposed rule, I would like to
11 request the EPA reconsider Conditions Nos. 2 and 3 of
12 its proposed certification decision for the WIPP.
13 These conditions address certifying the waste
14 characterization process for waste generator sites.
15 The DOE process for cite certification was fully
16 described in the CCA. Despite the stringent waste
17 certification program that is already in place, the EPA
18 is imposing upon the DOE an additional process that
19 involves placing site quality assurance documents into
20 the EPA docket, generating a Federal Register Notice of
21 Availability, and providing a 30-day public comment
22 period. This process must be completed before the EPA
23 conducts its own site certification audit.

24 I do not believe the EPA should be expected
25 to regulate waste characterization activities at the

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 generator site facilities by conducting its own
2 independent audits and inspections. This would add no
3 greater protection to the public and the environment
4 but would significantly and unnecessarily increase the
5 life cycle costs of transuranic waste characterization
6 activities and keep the risk where it presently is
7 longer.

8 The EPA and the public should be confident in
9 the environmental and safety excellence of the WIPP.
10 Safety and environmental excellence has been repeatedly
11 demonstrated at the WIPP because they are essential
12 elements of the Westinghouse culture.

13 Let me reiterate: As the management and
14 operating contractor for DOE at the WIPP, we are proud
15 of our achievements. Our job is environmental
16 excellence and safety. We are committed to it.

17 Thank you.

18 MR. WILSON: Thank you, Mr. Epstein.

19 I had one question.

20 You mentioned the waste characterization
21 issues. As I understand it, the waste won't be
22 characterized at the WIPP facility, so the facility is
23 dependent on the characterization that occurs at the
24 generating site.

25 Is that accurate?

1 MR. EPSTEIN: Dependent. But the DOE site
2 certification process certifies those sites as having
3 completed their characterization activities according
4 to their QAPD's, their waste handling into the TRUpact,
5 and their ability to operate the waste information
6 system, WIPP waste information system.

7 So the site certification by DOE -- that CAO,
8 that certification validates that their process has
9 been done correctly.

10 MR. WILSON: Uh-huh. And it's --

11 MR. EPSTEIN: But we do not redo it here.

12 MR. WILSON: Right. And it's those, the
13 characterization plans that aren't complete for most of
14 the generating sites at this stage?

15 MR. EPSTEIN: No, the site certification has
16 only been accomplished for Los Alamos. The others are
17 on schedule. Idaho and Rocky Flats will be next,
18 within the January, February, March timeframe.

19 But all sites have been doing these things,
20 it's that they have to go through this rigorous site
21 certification process. That is the schedule that
22 DOE -- that CAO is for.

23 MR. WILSON: I'm not sure that I understood
24 why you think it's inappropriate and unnecessary to
25 have a public review process for the other site --

1 MR. EPSTEIN: It's the DOE site certification
2 process is thorough and robust. Having somebody else
3 redo that is not considered necessary. Hasn't been up
4 to this point.

5 MR. WILSON: I see.

6 MR. EPSTEIN: It's just not necessary. It's
7 redundant, and it doesn't really add anything more.

8 Now, EPA checking that DOE has done its job
9 is right and appropriate. Redoing DOE's job is the
10 thing that I'm protesting, or suggesting that it be
11 eliminated.

12 MR. WILSON: Okay. Thank you very much.

13 MR. EPSTEIN: Thank you.

14 MR. WILSON: Dr. Richard Anderson.

15 Is Dr. Anderson here? Not here yet.

16 We are ahead of schedule.

17 Is Phil Carroll here?

18 How about Anthony Hakl?

19 MR. HAKL: Hakl. I'm here.

20 MR. WILSON: Sorry about that.

21 MR. HAKL: That is all right. It's been
22 mispronounced at least once before.

23 MR. WILSON: Thank you for coming.

24 MR. HAKL: Thank you for having me.

25 I have a hard --

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 MR. WILSON: I --

2 MR. HAKL: I have an extra copy, if you would
3 like it.

4 Good morning. My name is Anthony R. Hakl,
5 and I am here in my capacity as the program manager for
6 the contract that Commodore Advance Sciences has with
7 the DOE Carlsbad Area Office. That contract is entitled
8 the Carlsbad Area Office Technical Assistance Contract,
9 and we most often refer to ourselves as CTAC.

10 Our resources utilized in support of the DOE
11 CAO activities are drawn from more than a dozen small
12 and medium-sized companies in New Mexico, with, in
13 total, several thousand technical staff. We provide
14 technical support services to the DOE in areas
15 important to the success and safe operation of the
16 Waste Isolation Pilot Plant. From a personal note, I
17 have been active and involved with the WIPP, beginning
18 with the original conceptual design in the mid '70s, so
19 I guess I can say I have a quarter of a century of WIPP
20 pedigree. I also am a resident of Carlsbad with my
21 wife Sandra.

22 My personal philosophy for what one does and
23 how you do it is quite straightforward: Do what is
24 right, and do the best that you can. That is the same
25 philosophy that my wife and I have shared with our four

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 children, and you can ask each one of them and they
2 will tell you two things. They are: Do what is right.
3 Do the best that you can.

4 I mention this philosophy because I believe
5 the WIPP embodies both of these points. The terminal
6 disposal of radioactive materials in bedded salt is the
7 right thing to do. The WIPP as designed and to be
8 operated as described in the CCA ensures that we will
9 be doing the best that we can.

10 You will have many people stand before you
11 and speak during this week of hearings. It will
12 probably span the spectrum from brilliance to
13 gibberish. Fortunately, most of it will be quite
14 purposeful. The challenge will be to use a touchstone
15 of perspective for each presentation.

16 The following is intended to provide such a
17 touchstone of perspective. I have organized what I am
18 going to say as comments or points that I suggest you
19 might be able to use in your decision process.

20 Point No. 1: Each of us in this room, you
21 and I, and as all creatures before us and to follow us
22 until the end of time, are born into and live
23 in a nuclear environment. If you run into anyone who
24 thinks that is not evident, just ask them to walk
25 outside some night and look up at the star-filled sky.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 Every star you see, and billions that you cannot,
2 represent an extremely large thermonuclear reaction
3 with all of the radioactive consequences.

4 I suggest this to provide a perspective for
5 determining a value for the antinuclear sentiment.

6 Point 2: You, the EPA, have provided for
7 and accommodated extensive public involvement. Your
8 action in this regard is beyond what is required, and
9 the positive aspects of it are without precedent. Most
10 hearings are held only in the affected community, which
11 in this case would be only Carlsbad. You have tripled
12 your efforts in this regard. I commend you for that
13 and offer this note to those who want more public
14 involvement.

15 Point 3: The transuranic waste to be
16 disposed of in WIPP is as it will be determined through
17 a rigorous characterization and certification process.
18 As compared to the billions of pounds of hazardous
19 materials driven in trucks through our communities in
20 which each of us live, and flown overhead in planes
21 everyday again and again, the TRU waste is miniscule
22 and insignificant to our daily lives.

23 I offer this as a perspective of those who
24 challenge the safety of the transportation system.

25 The standards imposed by the EPA in 40 CFR

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 191 and the process determined in 40 CFR 194 compose a
2 margin of safety and conservatism that is
3 extraordinary. It is far beyond any similar standards
4 for any other repository planned throughout the world.

5 Point No. 5: The adherence to the Compliance
6 Application Guidance, the meeting of the requirements
7 of the Land Withdrawal Act, the Performance Assessment
8 Verification Testing, all of these as requested for the
9 WIPP project by the EPA, are also very conservative and
10 establish a level of confidence far beyond any
11 precedent.

12 Point No. 6: The WIPP level of quality
13 assurance, and the standard of excellence in operation,
14 as Mr. Epstein noted before me, have been substantiated
15 as both appropriate and correct. This substantiation
16 includes numerous peer reviews by both U.S. and
17 international experts, and it also has been recognized,
18 through a long list of safety and quality awards,
19 including such things as compliance with ISO 14000, the
20 Voluntary Protection Program, Mine Operator of the Year
21 award, Mine Rescue Team awards, and others that I am
22 sure you will be told about during this week.

23 Point 7: The EPA has already evaluated and
24 determined the appropriateness of the DOE site
25 certification process in its valuation of the Los

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 Alamos Laboratory program.

2 Point No. 8: The degree of conservatism and
3 safety margin for the development of the results in the
4 CCA clearly document the more-than-acceptable operation
5 of WIPP.

6 Point No. 9: The WIPP neighbors, the mining,
7 oil and gas industry, have participated and
8 cooperated with these efforts to secure certification.
9 They have a clear and mutual interest in the safety and
10 security of the region. They have shared their
11 knowledge, and DOE is aware of drilling practices used
12 in the region. I offer this to provide a perspective to
13 what you might hear on the fluid injection and air
14 drilling in the region. Neither is an issue.

15 During the past quarter of a century, we as a
16 nation have been engaged in this process that is near
17 its culmination with these public hearings. The purpose
18 of this process is to decide how to take a step towards
19 the remediation of a national problem. The problem is
20 the proximate existence in our biosphere of TRU waste.
21 For those who want to, both the proponents and the
22 opponents of WIPP, the scientific facts associated with
23 TRU waste are well known. Simply stated, there are
24 neither technical or scientific issues that in an
25 honest perspective deserve further debate.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 In the 100,000 plus-page CCA that the EPA has
2 reviewed, you have more science and discussion of it
3 than you probably ever wanted to need to review. You
4 have determined in your draft rule that that CCA
5 describes the what and how about the opening and safe
6 operation of WIPP, and it does so in a manner that is
7 fully responsive and compliant with the regulations
8 promulgated by the EPA.

9 From this nearly quarter of a century
10 involving every aspect of the world's best analysis,
11 review, design, re-review, re-review, and re-review, we
12 are now poised to make a decision to finalize the EPA
13 draft rule. That decision will be a powerful action to
14 solve the problem called TRU waste. This TRU waste is
15 sitting in near proximity to the lives of tens of
16 millions of people.

17 The EPA review of the CCA has been both
18 thorough and extensive. The requirements imposed have
19 established a degree of safety far in excess of any
20 reasonable degree of expectation. In your draft rule
21 the EPA concurs that the Waste Isolation Pilot Plant is
22 in compliance with the regulations promulgated. You
23 have determined that we as a nation can take a
24 life-impacting and beneficial step toward removing the
25 TRU waste from the biosphere of tens of millions of

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 people.

2 I personally appreciate your integrity and
3 discipline and that the EPA simply continues to examine
4 the facts and to do so in a valid perspective.

5 However, as these hearings continue, I am disappointed
6 to need to expect from the opponents impassioned pleas,
7 based on negative logic, where they request that if you
8 can only prove that nothing bad will ever happen.

9 As all of you probably know from painful
10 experience, that is a brilliant ploy of the
11 anti-everything, because you cannot prove the
12 nonoccurrence of anything. I am asking that you
13 continue to act upon your examination of the facts. In
14 perspective, listen and ask: Is this the right thing
15 to do, and does this represent what is best at
16 this time in our history? If you do that, then the EPA
17 will be able to adhere to its right and best decision
18 and to make your draft rule final and allow the WIPP to
19 open.

20 Thank you very much.

21 MR. WILSON: Thank you very much for coming
22 and for your testimony.

23 MR. WILSON: Next is Chuck Wiggins.

24 Is he here?

25 Did either Dr. Anderson or Phil Carroll come?

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 How about Mike Simpson? Is he here?

2 (Note: No response.)

3 Looks like it's a good time to take a break.

4 We are quite a bit ahead of schedule, I guess.

5 We are half an hour ahead of schedule, so why
6 don't we take -- It's 10 of 10:00. Why don't we take a
7 15-minute break, and we will come back.

8 Thank you.

9 (Note: A recess was taken at 9:50 a.m.)

10 MR. WILSON: Okay. We can get started again.

11 I understand Dr. Anderson is here.

12 DR. ANDERSON: Yes.

13 THE COURT: Please come forward. Good
14 morning.

15 DR. ANDERSON: Good morning. I'm Rip Anderson
16 from Sandia, Albuquerque, New Mexico, and I'd like to
17 spend a minute or two giving my impressions of the
18 position that EPA should take.

19 MR. WILSON: Okay.

20 DR. ANDERSON: First, the very obvious
21 conclusion of the proposed rule is that EPA has made
22 the correct decision. In case anyone is worried about
23 what the decision is, the decision is to open the WIPP
24 and to get on with the business of solving the DOE
25 military nuclear waste problem in a reasonable and

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 cost-effective manner.

2 The evidence for safe disposal of the
3 contact-handled TRU military waste in bedded salts in
4 Southern New Mexico is overwhelming. The evidence
5 comes from the following: A detailed understanding of
6 the very stable geologic formations; the complete
7 understanding of a hydrology and hydrologic transport
8 of any radionuclides, both at the site and within the
9 region; the development of shaft seals that are highly
10 conservative; the detailed understanding of the complex
11 chemistry within the room; exhaustive probabilistic
12 performance analysis completed and reported in the
13 Compliance Application, and the complete system of
14 Quality Assurance.

15 The above components allow all of the work to
16 be traceable, reproducible, and of a demonstrated high
17 quality.

18 The research on the WIPP site began with an
19 exhaustive development and study of all the features,
20 events, or processes that could possibly occur at WIPP,
21 then through research the elimination of those that
22 cannot occur at the site -- like Sunamis. The
23 remaining features, events, and processes are included
24 in the final set of calculations.

25 On top of features, events, or processes,

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 parameter distributions were generated through detailed
2 lab and field experiments. In addition, when
3 parameters are needed that could not be measured, such
4 as what humans might want or need in the future, or
5 what will the environmental conditions be 10,000 years
6 in the future, conservative estimates were used. This
7 use of parameters, distributions, and conservative
8 assumptions, produces estimates of total
9 releases from the disposal systems that are bounding;
10 that is, the redistributed releases, if any, are larger
11 than those that could be expected.

12 The motivation for conducting a probabilistic
13 performance assessment is to evaluate the effects of
14 uncertainty in parameters and conceptual models.
15 Although the inclusion of uncertainties in performance
16 assessment calculation is inescapable, using
17 distribution functions rather than fixed values allow
18 the performance assessment to include the uncertainty
19 within the calculations.

20 The information obtained in the past 23 years
21 of field and laboratory research for the WIPP program
22 and the many detailed probabilistic calculations
23 leading to the final two highly detailed probabilistic
24 calculations, one for the Compliance Certification, and
25 a second, using parameters specified by EPA, have shown

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 how robust and safe the WIPP program and repository
2 really is.

3 So again, the very clear conclusion of this
4 hearing is that the WIPP repository is safe, and that
5 disposal should begin as soon as possible.

6 Thank you.

7 MR. WILSON: Thank you, Dr. Anderson.

8 I also understand Phil Carroll is now here.
9 Good morning.

10 MR. CARROLL: Good morning. I'm Phil Carroll.
11 I'm the president of the Carlsbad Chamber of Commerce,
12 and also own a Buick dealership here in Carlsbad.

13 As president of the Chamber, I'd like to say
14 that the businesses of Carlsbad fully support the
15 opening of the WIPP as early as possible. I would also
16 like to say as a family person I have three children
17 that live here and three grandchildren that live here,
18 and we fully support this. We feel this project is a
19 totally safe project. We feel it's been ready to be
20 opened for possibly as long as three years; however,
21 due to the new and furthering of testing to make sure
22 everything is done at this point, that I think we
23 probably perhaps have done some overkill, and I think
24 it's time for us to go ahead and get this open.

25 As far as the studies that have been done, I

1 think they have been exhaustive; I think they have been
2 very complex. I think that everything that's been done
3 by EPA, DOE, Westinghouse has proven that this is a
4 safe and viable solution to storage of transuranic
5 waste.

6 Thank you for coming. Thank you for your
7 support, and good day.

8 MR. WILSON: Thank you very much for coming
9 today and testifying before us.

10 MR. WILSON: Chuck Wiggins. Good morning.

11 MR. WIGGINS: Good morning.

12 I'm City Councilman Chuck Wiggins, and I'm
13 here this morning to speak in support of WIPP.

14 Those of us that have taken the time over the
15 past few years to educate ourselves about WIPP believe
16 that it's safe and the only viable alternative to the
17 continued stockpiling of transuranic waste around the
18 country. Our best scientific minds have said so.

19 We think it's time to open WIPP, and we thank
20 you very much for being here.

21 Thank you.

22 MR. WILSON: Thank you.

23 Is Dee Armstrong here?

24 MS. ARMSTRONG: Yes.

25 MR. WILSON: Hi.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 MS. ARMSTRONG: Good morning. I guess I'm
2 your first protester. I protest the inaction that's
3 been taken on WIPP.

4 But this isn't a protesting sign.

5 My name is Dee Armstrong. In my opinion, as
6 a taxpayer and an environmentalist, the major focus of
7 these hearings resolves around two words: "Will"
8 and "might."

9 Picture this. It's December 27, and I was in
10 my car in the middle of nowhere between Roswell and
11 Vaughn -- and this didn't happen. But I spot a person
12 lying on the side of the road in a pool of blood.

13 A problem.

14 I stop. The person is alive. Logic tells me
15 that if I leave this person there, he will surely bleed
16 to death.

17 I must consider what "might" happen if I
18 place this person in my car and drive him to the
19 nearest police or hospital. This consideration is a
20 responsible one. I must consider what "might" happen.

21 If I get his blood on me, I "might" contract
22 a blood-transmitted disease such as hepatitis or AIDS,
23 or I "might" not.

24 I can take measures to minimize these risks.

25 If I get a flat tire and I have car trouble,

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

1 then he "might" die anyway.

2 But I might not get a flat tire.

3 If I leave him where he is, then someone else
4 "might" help him. But someone else might not.

5 Kind of like the WIPP waste.

6 If we leave it where it is, some solution
7 "might" come along. But it might not.

8 I see your social and scientific
9 responsibility as this: Consider, please, both what
10 "will" happen if the waste is left where it is
11 currently stored, and what "might" happen in the next
12 10,000 years if we dispose of it at WIPP.

13 Consider what measures have been incorporated
14 to minimize risks of what "might" happen.

15 I also want you to place your heaviest
16 consideration on the consequences of what "will" happen
17 and treat the "might" scenarios in perspective.

18 It's "will" versus "might."

19 And in Albuquerque and Santa Fe you are going
20 to see and hear much emotional testimony. Please don't
21 let the theatrics of emotions at these hearings distort
22 the importance of sound science, common sense, and
23 obvious logic.

24 I'm an environmentalists, and WIPP is the
25 environmentally responsible project that will most

1 definitely help clean up the DOE weapons complex.
2 Yes, it might present risks in the far future, but it
3 has responsibly considered those risks and incorporated
4 processes to minimize those risks.

5 It's "will" versus "might." And while the
6 silent majority is busy earning a paycheck, it's
7 counting on you to prevent what "will" happen if the
8 waste remains where it is, and to minimize what "might"
9 happen in the next 10,000 years.

10 It's time we got what we paid for as
11 taxpayers: A nuclear waste repository for the
12 environmental good health of our nation's people and
13 our environment. WIPP is a well-regulated solution to
14 the national transuranic waste program. It is a
15 fishbowl scrutinized by scientists around the globe.
16 Please keep the "will" and the "might" in perspective.
17 Please keep the science and the sensationalism clearly
18 separate. And please keep in mind that in most cases
19 New Mexicans are proud of hosting this world-class
20 facility and being a part of the solution and not the
21 problem. Please issue your final Certificate of
22 Compliance for WIPP in a timely manner.

23 Thank you.

24 MR. WILSON: Okay. Thank you very much for
25 coming, and thanks for all the time you obviously put

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 in.

2 Is Mike Simpson here? Mike, please come up.

3 Good morning.

4 MR. SIMPSON: Good morning.

5 The information and opinions I would like to
6 present today are based on my working experience and
7 knowledge in my subject area. I'm the Quality
8 Assurance Manager at the Technical Assistance
9 Contractor to the DOE's CAO office, and I supervise a
10 staff of about 20 QA professionals with vast experience
11 in both the nuclear power industry and the DOE complex.
12 Personally, I've been at sites such as Hanford, Los
13 Alamos, Lawrence Livermore, also DOE headquarters.

14 And I'd like to make the following points for
15 the record in support of my belief that EPA and the
16 American people can be confident that the controls
17 employed for WIPP to assure quality are appropriate
18 and sufficiently rigorous and demanding.

19 The QA practices employed in support of the
20 Compliance Certification Application were stringent,
21 thorough, and exceeded any yet applied to a repository,
22 including UMTRA, RCRA, CERCLA, Superfund,
23 and Low-level Radioactive. These practices are also
24 equivalent to or exceed those QA programs implemented
25 by the WIPP participant organizations in other aspects

1 of their operation. DOE controls are being
2 implemented in a much stricter fashion for this project
3 than they are in most parts of the complex.

4 The thoroughness of DOE's data qualification
5 process for WIPP ensures that only high quality
6 scientific data were used for the Performance
7 Assessment and Compliance Certification Application.
8 By "high quality" I mean data that were qualified for
9 use by being generated under the controls of an ASME
10 NQA-1, -2 and -3 program -- that is the American
11 Society of Mechanical Engineers -- or otherwise
12 qualified using two of the four methods specified by 40
13 CFR Part 194, those being peer review and independent
14 review teams. Both methods utilized highly qualified
15 technical experts who were completely independent of
16 the work being examined. Only qualified data were
17 used.

18 DOE's QA program for WIPP ensures that
19 participants are in full compliance with QA
20 requirements through an aggressive assessment program.
21 In preparation for the CCA, DOE conducted extensive
22 assessments of the WIPP participants to ensure they met
23 the QA requirements of 40 CFR 194 and NQA-1, -2 and -3.
24 In addition to data quality requirements, NQA criteria
25 include, for example: controls on documents records;

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 personnel qualification and training; design;
2 procedures and drawings; nonconforming items; software;
3 procurement; tests and inspections. And the list goes
4 on.

5 All participant organizations undergo
6 constant DOE assessment, as well as assessment from
7 independent organizations and international programs.

8 DOE assessments of WIPP include various types
9 of evaluations designed to determine the adequacy,
10 implementation, and effectiveness of participants'
11 programs. Adequacy in this sense means appropriate
12 flow-down of upper-tier requirements into implementing
13 procedures. "Implementation" is the term for the
14 performance of the activities required by those
15 procedures, and "effectiveness" is the determination of
16 the quality and usefulness of the end product.

17 All assessments include review of program
18 documentation, witness of in-process practices, and
19 extensive tracking and follow-up of identified program
20 deficiencies, and corrective action.

21 Assessments are conducted by highly qualified
22 and formally certified QA and technical personnel that
23 maintain strict independence from the work they assess.

24 In conclusion, I would reiterate that the EPA
25 should be secure in the knowledge that the QA controls

1 instituted on WIPP are strict and rigorous to a degree
2 that demonstrates the suitability of the physical site
3 and the transportation methods that will be used to
4 isolate DOE's transuranic waste.

5 Thank you.

6 MR. WILSON: Thank you very much.

7 Is Senator Kidd here yet?

8 Is there anybody else here who would like to
9 testify and hasn't signed up, or hasn't had a chance to
10 yet?

11 I think we will then take a break until other
12 witnesses -- we are again a fair amount ahead of
13 schedule, so we will just take a break and holler
14 whenever other people come who are scheduled to testify
15 this morning.

16 I should add that for those of you here, it
17 looks like after the lunch break, we have, oh, one,
18 two, three, or four additional folks who are coming to
19 testify, and we will probably finish earlier than 4:00
20 o'clock. Probably more like -- we will start up again
21 around 2:00 and probably finish by 3:00, or a little
22 sooner, depending on who comes.

23 So if any of you are planning to be here, you
24 can know that, or if you know of others who are
25 planning to come this afternoon, you might let them

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 know that probably coming early will be better than
2 coming late.

3 So thank you. And we will holler as soon as
4 there's some folks who want to testify.

5 We will take a break.

6 (Note: A recess was taken at 11:37 a.m. and
7 proceedings resumed at 11:50 a.m.)

8 MR. WILSON: Okay. The next witness today
9 is Senator Kidd.

10 Senator, welcome. Good morning.

11 SENATOR KIDD: Thank you very much. And good
12 morning.

13 My name is Don Kidd. I'm the New Mexico
14 State Senator who represents District 34, which
15 includes Eddy, Lea, and Otero counties. As we all
16 know, Eddy County is the host community of the Waste
17 Isolation Pilot Project.

18 We are here today to say it would be -- and I
19 believe this very much -- to say it would be very hard
20 to find a community in the United States that has a
21 better understanding of WIPP. Our mining experience
22 goes back to almost the first settlers in this area,
23 and continues today with the benefits of the most
24 advanced engineering and geology I believe that is
25 available in the nation. The WIPP geology and mine

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 engineering is fully understood and accepted in our
2 district.

3 The energy business prospers in Southern New
4 Mexico, in large part because we understand and accept
5 the environmental responsibility that is associated
6 with energy, whether it's oil or nuclear.

7 I believe Eddy County and its neighbors lead
8 the nation with environmental responsibility, and the
9 Environmental Protection Agency in its decision-making
10 progress on the WIPP should not take my community's
11 understanding and its willingness to accept a major
12 portion of the nation's nuclear clean-up responsibility
13 lightly.

14 It is indeed a pleasure and an honor to be
15 here with you today. The EPA has proven itself time
16 and time again worthy and capable. Your review of the
17 Compliance Certification Application prepared by the
18 Carlsbad area office and Westinghouse and submitted to
19 the U. S. Department of Energy for your decision, has
20 been cautious and deliberate. The willingness of the
21 EPA to set the process above reproach is noteworthy,
22 and the people from EPA who worked on this review will
23 be benchmarked for many, many years to come. You will
24 be the ones that break the nuclear deadlock.

25 Ahead, the EPA must make a determination,

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 based on fact and hopefully not fiction, a decision
2 based on science and not politics, a decision whose, I
3 feel, time has come, and I personally would urge the
4 agency to speedily forward a favorable record of the
5 decision to the Secretary of Energy.

6 I think you'll find the people in our area
7 feel the site is ready and would like to move ahead.
8 However, the basic decision before us today is: Does
9 the WIPP comply with the Radiation Disposal Standards
10 defined in 40 CFR 194? And I believe the answer is a
11 resounding yes.

12 I would like to point out to you and request
13 that you include the following conclusions issued by
14 the independent scientific and regulatory experts who
15 have reviewed the WIPP parallel to the EPA. In
16 summary, the Nuclear Energy Agency for the Organization
17 of Economic Development, in cooperation with the
18 International Atomic Energy Agency, undertook a joint
19 review of the scientific and engineering soundness of
20 the WIPP. They concluded that the information
21 presented in the Compliance Certification Application
22 that is before us today is appropriate and in the
23 context of the EPA's requirements. The analysis in the
24 CCA is based on appropriate studies and is technically
25 sound, and the method used to assess the performance of

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 the WIPP is in conformity with the practice used in our
2 country. The independent review should be included and,
3 I hope, given great weight in your consideration.

4 I would like to bring forward to you for the
5 record the conclusion issued in the report by the
6 National Research Council. They concluded that
7 scientific analysis indicated the WIPP repository has
8 the ability to isolate transuranic waste for more than
9 10,000 years. The National Research Council is the
10 principal operating agency of the National Academy of
11 Sciences. The National Academy of Engineering is a
12 private non-profit institution that provides science
13 and technology advice under Congressional charter.

14 In closing, I would like to paraphrase
15 journalist Bernard Cohen. He said: The worst sin in
16 discussing nuclear issues is to put risk in
17 perspective. People can only understand risk by
18 comparing it to known risk.

19 For example, the risk to the average American
20 from nuclear power is equivalent to smoking one
21 cigarette every 10 weeks; to an overweight person,
22 increasing his weight by 300ths of an ounce; to
23 crossing the street one extra time every 20 weeks;
24 increasing the national speed limit from 55 miles an
25 hour to 55.02 per hour.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 The Waste Isolation Plant will dispose of
2 plutonium-contaminated solid waste. WIPP is the
3 ultimate safe disposal site. As you know, it will be
4 disposed of a half mile underground in bedded salt
5 forever. The WIPP poses no problem; however, the
6 inflammatory language you hear on this subject is
7 totally misleading, in my judgment. You hear about
8 deadly radiation, lethal radioactivity; you hear about
9 plutonium, the most toxic radioactive element known.

10 We never read about deadly automobiles or
11 lethal electricity, although 1200 Americans die of
12 electrocution each year, or how lethal water is,
13 referring to 8,000 drownings per year, or deadly falls,
14 which kill 15,000 people a year.

15 My point is: The risk associated with the
16 Waste Isolation Pilot Plant is low and fully acceptable
17 when it's understood. The communities of Eddy, Lea and
18 Otero, understand the risk and accept the
19 responsibility. I urge you, as the leading regulatory
20 agency in the country, to accept on their merits the
21 validated science, engineering, and facilities that
22 support the Waste Isolation Plant, and grant a
23 favorable decision, not only for our community but for
24 the nation.

25 Thank you all very much for allowing me to be

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 here.

2 MR. WILSON: Senator, thank you for coming
3 today. We really appreciate your testimony.

4 Is there anybody else here who wants to
5 testify and hasn't had a chance? If not, we will break
6 for lunch. We'll be back at 2:00 o'clock, as I
7 mentioned earlier. We have about three people on for
8 this afternoon around 2:00, and we'll see you all then.

9 Thanks.

10 (Note: Lunch recess taken at 11:45 a.m.,
11 and proceedings resumed at 2:00 p.m.)

12 MR. WILSON: Ready? Okay.

13 I think we got through everybody this
14 morning, so Tim Sweeney is first, and right up front.

15 MR. SWEENEY: Good afternoon. My name is
16 Tim Sweeney. I'm the transportation manager for the
17 Carlsbad Area Office. And yes, I did choose this time,
18 after lunch on purpose. I think the discussions of
19 comparative risks would be ones you can understand if
20 you went to Canal Street and ate at one of the places
21 where the menu is on the wall, not in your hands.

22 Although your draft decision does not involve
23 the transportation system that will be used by WIPP,
24 opponents of this project will stand before you this
25 week and tell you what a menace it is. They will tell

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 you how countless thousands of people will be at risk.
2 They will tell you about the leaking containers found
3 in shipments from Fernald to Nevada three weeks ago, as
4 an example of the dangers of shipment.

5 They won't tell you those leaks are such low
6 level to be considered background. They won't tell you
7 there were no injuries. They won't tell you those
8 shipments have as much to do with WIPP shipments as a
9 pizza delivery.

10 Some people say they do this because they
11 lack the intellectual capacity to grasp the complex
12 science that goes into the certification process;
13 others argue that they bring it up because they believe
14 that it is the easiest way to manipulate the opinions
15 of citizens by using fearmongering, hysteria, and, as
16 you will see, personal attacks.

17 Regardless of their selfserving motives, they
18 have never provided you the truth about the safest
19 transportation system in the world.

20 To support the WIPP mission, the DOE requires
21 a system that would meet regulatory requirements and
22 address the issues and concerns of the various
23 stakeholders. The transportation system is designed to
24 transport approximately 38,000 shipments of TRU waste
25 over a 35-year period in a safe manner. The system

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 must also meet or exceed all safety requirements.

2 To achieve this objective, DOE also worked
3 closely with our stakeholders to identify their
4 concerns on the transport of radioactive material.
5 Using the various inputs, the DOE built a
6 transportation system that has set standards for the
7 transportation industry. The system incorporates an
8 integrated equipment design, highly qualified drivers,
9 training of emergency response personnel, and testing
10 and evaluation of both equipment and personnel.

11 With up to 38,000 shipments scheduled, it is
12 probabilistic that some shipments will be involved in
13 accidents. The consequences associated with an
14 incident depend on various factors, including, of
15 course, the severity of the accident forces, the type
16 of packaging being used, weather conditions, time of
17 day, emergency response personnel response time, and
18 their level of training.

19 I want to briefly address those factors.

20 Over 90 percent of the routes used by WIPP
21 will be on the safest roads in the country: U. S.
22 Interstates. By avoiding locations that could result
23 in head-on collisions, the system significantly reduces
24 the physical impact forces possible in the case of an
25 accident.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 By requiring each tractor to have two fully
2 qualified drivers, the system reduces driver fatigue,
3 which reduces the possibility of an accident occurring
4 at all, since that is the leading indication of
5 commercial accidents.

6 Inclement weather also creates hazardous
7 travel conditions. DOE is smart enough to know it
8 snows in Colorado and it snows in Idaho. We will
9 optimize our schedules and, during the winter months,
10 minimize the use of those sites and ship from southern
11 sites.

12 Additionally, the weather is monitored 24
13 hours a day, and reports are available to drivers at
14 any time or location. Current weather conditions, the
15 weather forecast, and road conditions must be
16 acceptable prior to the dispatch of any WIPP shipment.

17 The time of day is a major player, also. To
18 minimize undue risk, WIPP shipments will attempt to
19 avoid travel during peak traffic hours; i.e., avoid
20 rush hours. We have made agreements with certain towns
21 and cities to do just that.

22 Response time to emergency is also critical.
23 Our shipments are monitored by a satellite system
24 designed to provide tracking and communications for DOE
25 shipments of radioactive materials. Each state

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 impacted by the WIPP is provided funding and training
2 for monitoring shipments within their jurisdiction.
3 This PC-based system can monitor the transport and can
4 pin-point the location of the truck within 1,000 feet.

5 Additionally, these jurisdictions are
6 provided a detailed eight-week schedule, updated
7 monthly, of all shipments. This allows the responders
8 to be aware of the time window that the shipment will
9 pass through their area. Additionally, each tractor is
10 equipped with a CB radio, a cellular phone, and a
11 satellite phone that would allow the drivers to notify
12 response agencies in case an accident occurs.

13 To address the knowledge and experience level
14 of the emergency response teams along the route to the
15 WIPP site, the DOE agreed to provide training to the
16 state and tribal first responders. The program
17 provides training in emergency response actions,
18 hazardous constituents, the incident command system,
19 incident mitigation, and medical management. This is
20 the only OSHA certified training in the world.

21 In conclusion, in today's transportation
22 world, there are many hazards. At any given time one
23 can be in close proximity to them. Many of these
24 products we use every day and disregard their
25 potential consequences. The fact is there have been

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 over one million shipments of radioactive materials in
2 this country, both DOE and commercial, without a single
3 radiological fatality.

4 Even with a perfect record, we have gone to
5 extremes to make the system even safer. This is why
6 the National Academy of Sciences proclaimed that the
7 system proposed for transportation of TRU waste to the
8 WIPP is safer than that employed for any other
9 hazardous material in the U.S. today. To put this in
10 the final perspective, you, the panel, have a higher
11 probability of having a fatality during your trip out
12 to Carlsbad, Santa Fe, and Albuquerque than being
13 involved in 20 years of WIPP shipments.

14 Thank you.

15 MR. WILSON: Thank you very much. I gather
16 you are not using Mesa Airlines to carry any...

17 Sorry about that.

18 The next person I have on the list is
19 Donovan Mager. Is he here?

20 (Note: No response.)

21 No.

22 We had a couple of people who came in --
23 Gosh, I can't read that.

24 Jimmy Mc?

25 MR. McWHINNEY: Good afternoon.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 M-c-W-h-i-n-n-e-y.

2 I am not used to making presentations where
3 I read things verbatim, but I do want to do that today
4 because I want the wording as it appears on the page.

5 Two articles were recently published in the
6 Carlsbad Current and the Albuquerque Journal regarding
7 the issue of air drilling into the WIPP. Content for
8 these articles was apparently derived from a letter
9 sent to the EPA by the New Mexico Attorney General's
10 office. Attached to that letter was a technical report
11 ostensibly containing an evaluation of the feasibility
12 of air drilling into WIPP, and a quantitative
13 assessment of the impact of such an event, should it
14 occur. However, the news article omitted information
15 which, if included, would have led to the conclusion
16 that air drilling was correctly excluded from the WIPP
17 Compliance Certification Application, and that the
18 calculations presented in Dr. Bredehoeft's report were
19 without scientific basis.

20 In the proposed ruling published in October
21 of '97, EPA states that the WIPP complies with the
22 applicable disposal regulations. Issuance of this
23 proposed ruling concluded a lengthy public review,
24 including a detailed assessment of the WIPP performance
25 relative to the applicable regulatory requirements.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 Scientific studies leading to the conclusion of
2 compliance with these standards were also critically
3 reviewed by the National Academy of Science and other
4 groups. Since the WIPP is located in a region of
5 productive natural resources, specific regulations were
6 set forth to ensure that any future resource
7 development was appropriately included in the CCA.
8 Inherent in these regulations are the conservative
9 assumptions that exploration and drilling for these
10 resources -- I'm about to knock that over -- will
11 continue at today's pace and technological level, and
12 all institutional memory of WIPP will be lost.

13 In this published review of WIPP, the
14 National Academy of Sciences recommended that, quote,
15 "Speculative scenarios of human intrusion should not be
16 used as the sole basis or primary basis on which to
17 judge the acceptability of WIPP."

18 An appropriate quantitative assessment of
19 future drilling intrusions is included in the CCA to
20 ensure the safety of the site for future generations.
21 The inclusion of speculative scenarios of the type
22 proposed by the Attorney General's office regarding air
23 drilling are justifiably excluded. Overwhelming
24 evidence, discussed by Ross Kirkes last night, by the
25 way, demonstrates that air drilling is not the current

1 practice in the WIPP vicinity. To further public
2 confidence in the safety of WIPP, it will also be shown
3 that the potential impact of air drilling into WIPP was
4 grossly misrepresented by the Attorney General's
5 office.

6 Is the yellow light really on?

7 MR. WILSON: Yeah. You got about a minute
8 and a half.

9 MR. McWHINNEY: Let's just, in that case,
10 then, turn to the summary. You have the written text.

11 MR. WILSON: Okay.

12 MR. McWHINNEY: It is worthy of note, before
13 I get to the summary, that the author of the GasOut
14 code, the computer code that calculates releases due to
15 spillings said it was never intended to be used for the
16 purpose for which Dr. Bredehoeft used it, and, in fact,
17 the author of that code called it an inappropriate and
18 misleading use of the codes.

19 In summary, the Attorney General's letter and
20 attached analysis are misleading, inappropriate,
21 inaccurate, and incomplete. Issues regarding
22 environmental regulations have already been carefully
23 evaluated by the EPA. The predictive studies and
24 scenarios presented in the CCA have received extensive
25 review.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 Then I'll conclude at that point. You have
2 the written testimony. We will have additional
3 material on this subject available in the comment
4 period, hopefully by the end of January.

5 MR. WILSON: Okay.

6 MR. McWHINNEY: There are plans for studies
7 that will not be done because it's related to the
8 spalling phenomenon. That work will continue for
9 another year or so. But I think we can dismiss the air
10 drilling to your satisfaction.

11 MR. WILSON: Okay. Thank you. We will
12 include your full statement in the record and look
13 forward to your further comments later on.

14 MR. McWHINNEY: Fine.

15 MR. WILSON: Appreciate it. Thank you very
16 much.

17 MR. WILSON: Next I have Tom Quintela.
18 Did I say that right?

19 MR. QUINTELA: That's close.

20 MR. WILSON: I had a little hard time.

21 MR. QUINTELA: I've heard worse.

22 MR. WILSON: Hi.

23 MR. QUINTELA; Good afternoon. My statement
24 will be very short. My name is Tom Quintela,
25 Q-u-i-n-t-e-l-a. And don't feel bad about it,

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 everybody seems to have problems with it.

2 I am the Mayor Pro Tem for the City of
3 Carlsbad, and basically I'm here to tell you that for
4 many, many years, 20 plus years, our community has been
5 very supportive of this project. Our city leaders,
6 county leaders, our legislators, our congressmen, we
7 have all been in this together for 20-plus years, and
8 we feel very strongly today that it's a project that
9 has been probed and analyzed by the best scientific
10 minds in the world. We feel that it's a safe project,
11 and we live here. And we certainly feel it's going to
12 be safe for generations to come; otherwise, we
13 certainly would not support it.

14 But for 20-plus years we have supported it.
15 We believe in the safety of the WIPP issues, of the
16 WIPP site, and what's going on out there. We are ready
17 to become part of the solution for this national
18 problem that we have in regards to waste disposal.

19 So I think through the years that the City,
20 the Department of Energy, our Congressional
21 delegations, et cetera, we have all had an excellent
22 relationship and have all had the same goal in mind,
23 and that's to open the Waste Isolation Pilot Project.

24 As I said, we certainly believe in its goal,
25 and we certainly feel that WIPP is ready, and that it

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 should be opened. And we feel it's met just about
2 every requirement that's been thrown at it through the
3 years, and I think it's time to quit spending all this
4 money and to open the site and let's get on with taking
5 care of this national problem that we have.

6 Thank you very much.

7 MR. WILSON: Thank you very much for taking
8 the time to come here.

9 Next is Tom Bearden.

10 Did I do better on that one?

11 MR. BEARDEN: That was great. Thanks.

12 Here is copies. I'll stay pretty close to
13 this.

14 MR. WILSON: Okay. Good. Thank you.

15 MR. BEARDEN: Good afternoon. My name is
16 Tom Bearden. I live here in Carlsbad, and I work for a
17 company called NFT Incorporated, which is a nuclear
18 technology company based in Lakewood, Colorado. The
19 owner and president of our company, Gil Brazell, will
20 be testifying tomorrow afternoon in Albuquerque, so my
21 comments are designed to in some ways complement what
22 you will hear tomorrow afternoon from Mr. Brazell.

23 As a resident of Carlsbad, I want to
24 sincerely thank the EPA for choosing to hold these
25 opening hearings here in our city. NFT is also part of

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 the Carlsbad Technical Assistance Contractors -- that
2 is CTAC for short -- which is a team of companies that
3 has been hired by DOE for their expertise in waste
4 management and nuclear operations. I provide technical
5 assistance primarily in the field of waste
6 characterization.

7 Just so you know something about my
8 background, I'm a chemical engineer with just over 15
9 years of industrial experience, and for the last nine
10 years I've worked on DOE weapons sites, including
11 Hanford, Washington, and Rocky Flats, Colorado.

12 You've heard a lot of discussion today and
13 last night about the scientific studies that have
14 concluded WIPP as an ideal radioactive waste
15 repository. I'd like to spend my time discussing the
16 characteristics of the waste that will be placed at the
17 WIPP, and the detailed measurements that are used to
18 ensure all the waste meets our stringent Waste
19 Acceptance Criteria.

20 Before waste can come to the WIPP, it must
21 meet what we call the Waste Acceptance Criteria. Some
22 of the examples are that the waste cannot have any
23 free liquid in it, no compressed gases, or no
24 explosives or corrosive materials.

25 These requirements ensure the safety of the

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 workers both at the sites and the WIPP. They also
2 protect the public and also prevent emplacement of any
3 materials that would adversely affect the long-term
4 performance of the repository.

5 The National Transuranic Program, which is
6 part of the DOE based here in Carlsbad, works directly
7 with the DOE sites where the waste is stored to make
8 sure our requirements are met before the waste is
9 shipped. Each container is put through a battery of
10 requirements and tests before being certified for
11 shipment and disposal. I want to quickly go through
12 some of those tests that are done on the waste.

13 First we accurately measure the radioactivity
14 in every container of the waste, and we use a technique
15 called radioassay. For most containers this is done
16 without having to open the container. That is a
17 non-destructive assay which uses very sensitive
18 instruments to measure the radioactivity.

19 For example, at one of the sites where I
20 worked, at Rocky Flats, they will be using systems
21 called calorimeters to measure the decay heat for
22 plutonium residue waste, and this will give a very
23 accurate assay of the radioactive material and verify
24 it meets the waste acceptance criteria.

25 Another technique is called radiography.

1 That is just a sophisticated X-ray system. It's used
2 to look at the waste. Every container of stored waste
3 will be radiographed before shipment to verify its
4 physical form and to make doubly sure that none of the
5 prohibited items I discussed earlier are present.

6 In addition, a limited number of these
7 containers will also be opened and visually examined to
8 verify the accuracy of the radiography.

9 Radiography is an excellent characterization
10 method because it provides the data we need without
11 unnecessarily exposing workers to radioactive material.

12 Finally, all the waste will be sampled before
13 it's sent to WIPP for the presence of flammable or
14 toxic gases.

15 WIPP also requires that the containers be
16 vented using special filters, and then at the same
17 time it's vented, generally that's where we also take
18 this sample and test for the gas contents.

19 My company happens to be a leader in this
20 particular technology and Mr. Brazell will be talking more
21 about that tomorrow afternoon. All I wanted to say
22 this afternoon is that by installing these high-tech
23 filters on the containers, WIPP can be assured that the
24 risk from flammable or toxic gas is negligible.

25 I think you can see from this brief overview

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 that each container is thoroughly tested. In fact,
2 those of us in the transuranic waste management
3 business sometimes joke that it's our job to make sure
4 that only "reagent grade" waste ever makes it to WIPP.
5 Actually, there is some truth in this lame attempt at
6 humor, because if you work in the nuclear industry you
7 find out, with the possible exception of spent nuclear
8 fuel, transuranic waste is probably the most well
9 characterized waste material on earth.

10 So I urge the EPA to carefully review the
11 DOE's waste characterization program. I am confident
12 when you do so, you will agree with me that it is
13 entirely adequate to the task.

14 I also urge you to promptly approve the
15 shipment and disposal of waste to WIPP.

16 Thank you.

17 MR. WILSON: Thank you very much.

18 Next we have Michael Kearney.

19 MR. KEARNEY: Good afternoon. My name is
20 Mike Kearney. I'm the former chief of the regulatory
21 branch of the U. S. Nuclear Regulatory Commission
22 Division of Low-level Waste Management and
23 Decommissioning. In that position I helped manage and
24 develop the Commission's rules and rulemakings for
25 uranium mill tailings, low-level waste, and financial

1 assurances for decommissioning. All our rules for the
2 protection of the public health and safety were
3 stringent and they were well based. My review of this
4 proposed rule shows that it, too, is similarly
5 stringent and well based, and I commend you for an
6 excellent job that you have done in evaluating the
7 enormous amount of information presented and drawing
8 the timely and firmly based conclusions that you have.

9 Where there are legitimate concerns raised in
10 rulemakings, they must, of course, be given due
11 consideration and be resolved. Where there are
12 other agendas masquerading as legitimate concerns,
13 they must be recognized as such and treated
14 appropriately.

15 The rules promulgated by both the EPA and
16 the NRC have, over time, proven to be able to be
17 implemented, and they have proven to be effective.
18 Both agencies have kept their eye on making sure that
19 an excellent basis for their regulations has been
20 developed and that guidance is provided to let the
21 regulated communities know what successful compliance
22 look like. That oftentime requires excellent
23 communication between the regulator and those regulated
24 to feed back the practical implementing aspects of
25 regulations.

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 I'm glad to see that such a communication
2 channel has been provided for in the implementation of
3 this rule through the recertification of WIPP every
4 five years.

5 Sometimes these implementing difficulties can
6 be seen coming and headed off while the rule is still
7 in the proposed stage. One such difficulty is the new
8 requirement for EPA to certify each of some 570 waste
9 streams that are destined for disposal at WIPP, and
10 which introduce a 30-day comment period prior to the
11 certification of each waste stream.

12 This appears to have grown out of the
13 original 40 CFR 194, a rule that was developed to
14 regulate the disposal of TRU waste, not the
15 certification of wastes and the sites that generated
16 them.

17 At DOE Carlsbad Area Office waste and site
18 certification requirements and processes are very
19 thorough. Their process provides full visibility to
20 the EPA and the State of New Mexico and others of all
21 information involved with their decisions to approve
22 sites to ship waste to WIPP. EPA conducting a separate
23 and lengthy process to achieve the same end
24 adds no real value. It will be very expensive. The
25 language in the proposed rule addressing the separate

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
(505) 983-4643

1 EPA process for certification of waste streams,
2 Condition 3, should be stricken.

3 In all other respects I fully endorse the
4 proposed rule and commend EPA for its thorough review
5 of DOE's Certification Application.

6 Thank you for this opportunity. The work
7 you're doing here is both important and urgent, and
8 deserves to be done well. You have done so. It is now
9 time to open and bring waste to WIPP.

10 MR. WILSON: Thank you very much for coming
11 today.

12 Is Donovan Mager here now?

13 We're a little bit a head of schedule. We
14 have two other people yet to testify, Mr. Mager being
15 next. Maybe we'll take about a 10-minute break here
16 and see if he shows up, and start up the hearings
17 again.

18 Thanks. Take a 10-minute break.

19 (Note: A short recess was taken.)

20 MR. WILSON: If people will take their
21 seats, let's continue. We just got the word on Donovan
22 Mager's testimony. He is not going to be here.

23 (Note: Written testimony of Donovan Mager
24 submitted and included herein in lieu of oral
25 testimony.)

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 MR. WILSON: Roger has the honor of being
2 the last witness. Is there anybody else would like to
3 testify but hasn't had a chance?

4 (Note: No response.)

5 Roger, you're last but not least.

6 MR. NELSON: Good. I planned it that way.

7 First of all let me congratulate you on your
8 upcoming challenge to become immortal.

9 MR. WILSON: That is a challenge.

10 MR. NELSON: Your names will be associated
11 with the world's first deep geologic waste repository,
12 and the associated opening of the WIPP as a regulated
13 facility under the force of law. That's truly a
14 historic event. You are to be congratulated.

15 But let me get to my comment.

16 Taxpayer dollars are paying for this hearing.
17 They paid for your salaries and your contractors'
18 salaries while you made your long evaluation of the
19 application. Despite what has been said before, it has
20 taken a long time to get here.

21 Taxpayer dollars are paying for the DOE and
22 its contractor's salaries, as well, while the facility
23 itself sits ready and fully operational. Tax dollars
24 are paying for the EEG to evaluate independently the
25 safety for the State of New Mexico, and tax dollars are

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 even being spent to pay the salaries of the New Mexico
2 Attorney General's Office and subcontractors to pose
3 worst-case doomsday scenarios and pressure you to
4 consider them in your evaluation.

5 Why does the process take so long? Each of
6 you knows in your heart the facility is safe. Your
7 proposed rule represents that admission.

8 Congress directed you to regulate WIPP in
9 1993. You proposed some standards, promulgated
10 criteria by which you would evaluate an application to
11 meet these standards. DOE prepared that Application,
12 demonstrated it could meet the standards. Then you
13 evaluated that Application, and are here now proposing
14 to say that WIPP meets those standards.

15 What could be simpler than that proposition?
16 When Al and Bill challenged you to reinvent government,
17 I don't think that this is what they had in mind.

18 America won the Cold War in no small part by
19 building an enormous nuclear deterrent, and in the
20 process created a little transuranic waste, a
21 ridiculously small amount of waste in contrast to the
22 historical significance of winning the Cold War. But
23 because the waste came from a nuclear weapons program,
24 we, as a society fearing all things nuclear, created a
25 complex and redundant and complicated regulatory

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 process to manage its disposal.

2 I must add this nation's regulatory process
3 is oft times unintelligible to the lay public.

4 So here we are today with you receiving
5 comments on the proposed rule. My comment is: You got
6 it right, EPA. WIPP will meet the standards you have
7 set it to meet.

8 But now you must again expeditiously move
9 forward and finalize the certification process so that
10 WIPP can start operation. Then and only then will the
11 tax dollars be spent on a useful and productive
12 service, that of permanently disposing of the waste,
13 instead of the environmentally irresponsible practice
14 of storing it in temporary storage facilities across
15 the nation, putting millions at risk. A small risk but
16 some.

17 Now, you've heard very few comments here in
18 Carlsbad that are negative, that disagree with your
19 proposed rule. I guarantee you're going to hear many,
20 many more when you move to Albuquerque and Santa Fe.

21 The next opportunity for the delay of WIPP is
22 litigation. Listen closely when negative comments are
23 heard. Question the depth of technical and regulatory
24 understanding by those who speak against WIPP. It's
25 those same arguments, those same fallacious and

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 oftentimes obfuscating comments and arguments that will
2 be the basis of the litigation challenging your
3 decision.

4 I fully expect you to be able to meet that
5 challenge, and I pray that fearmongering and uninformed
6 delaying tactics won't once again delay the opening of
7 WIPP at taxpayer expense.

8 Thank you.

9 MR. WILSON: Thank you very much for your
10 testimony.

11 Anybody else -- That's the end of the list we
12 had here in Carlsbad. Is there anybody else here who
13 wants to testify?

14 We will be -- Oops.

15 From stage left, I guess we have one more
16 speaker, so we will hold on.

17 I will just mention again the plan. We will
18 be in Albuquerque tomorrow and tomorrow night and
19 Thursday morning, and then in Santa Fe Thursday
20 afternoon, Thursday evening, and most of the day
21 Friday. So that will be the rest of the hearing
22 sequence this week.

23 And Jerome Holderness, I guess.

24 MR. HOLDERNESS: Right.

25 MR. WILSON: Just in time. We are almost

1 ready to close.

2 MR. HOLDERNESS: This won't take but a
3 minute.

4 I'm Jerome Holderness. I'm with Jacobs
5 Engineering here in town. I'm a Carlsbad resident and
6 member of the CTAC staff.

7 I would like to thank you for the opportunity
8 to add my comments to those of many others and to
9 support the timely EPA Certification of the WIPP, the
10 Waste Isolation Pilot Plant.

11 I've been associated with the WIPP project
12 since 1981 when I first moved out to New Mexico from
13 back east to assist in the performance of the
14 scheduling function for the project at that time.
15 Little did I know that 16 years later I would be
16 speaking here now about only commencing operations on
17 that project.

18 From those early days, before construction
19 even started on the project, I can bear witness to the
20 fact that there has always been a serious commitment to
21 executing this project safely and carefully and in full
22 compliance with all environmental protection
23 considerations.

24 When I left the WIPP project in 1983, it was
25 to pursue other opportunities as a civil engineer for

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

SANTA FE DEPOSITION SERVICE
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1 the U.S. Air Force, and for eight years to provide the
2 budget and scheduling support for another DOE project,
3 a remediation project that has essentially completed
4 permanent disposal of radioactive and hazardous waste
5 at 26 sites across the United States. Some of you here
6 know which project I'm talking about. That project
7 could not have been completed if it had not been
8 allowed to begin.

9 I resumed work on the WIPP project as part of
10 CTAC's staff just over two and a half years ago.
11 Rejoining the project after 12 years has brought
12 several things into focus for me, and I'd like to
13 share them with you.

14 First, it reminded me of the commitment to
15 quality that has marked this effort from the beginning.

16 Clearly, extraordinary efforts have been made
17 over the years and are being made still today to ensure
18 that this facility not only the meets all applicable
19 safety and environmental protection requirements but
20 exceeds them whenever possible. The people associated
21 with this effort take pride in doing things better than
22 anyone else has done.

23 Second, an inordinate number, in my opinion,
24 of confirming and sometimes redundant tasks have been
25 undertaken to ensure the safety of not just the

DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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1 environment but the workers on this project. Backup
2 safety systems and generous safety margins abound in
3 all aspects of the design, operational parameters, and
4 human interfaces associated with this facility and the
5 national program which it supports.

6 Third, it is clear that the time has come to
7 get on with it. The "i's" have been dotted, the "t's"
8 crossed, and the checks have been checked and
9 rechecked. With the commitment to quality that exists
10 here, and the holistic or system view that deals with
11 changes in the project, I am confident the facility can
12 be operated safely.

13 Finally, it's ironic that I left this program
14 12 years ago, helped complete a similar project, and
15 now come back and find this one has not been allowed to
16 start operations. As a taxpayer I am more than ready
17 to see the results of my considerable investment
18 realized. I fully support the immediate certification
19 and commencement of operations at the Wipp.

20 And I thank you for this opportunity.

21 MR. WILSON: Thank you for coming. Glad you
22 made it just in time.

23 With that, I would just like to express our
24 appreciation to everybody in the Carlsbad area who came
25 to give us testimony. It was all excellent. We will

1 consider all the testimony we get.

2 A reminder that the hearing record is open
3 until the end of February, so if anybody didn't get a
4 chance to comment and would like to, or wants to react
5 to something they heard that somebody else said, or
6 expand, or has new information for us, if you get it to
7 us in writing by the end of February, we would
8 appreciate it. All the testimony we get at these
9 hearings and all the written information we get will be
10 considered before we issue a final decision in May.

11 With that, I'd also like to express all of
12 our appreciation to the community of Carlsbad for the
13 hospitality over the last couple of days.

14 And with that, we'll close this hearing and
15 move to Albuquerque. Thank you very much.

16 (Note: Proceedings adjourned at 2:58 p.m.)

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1 COUNTY OF TAOS)
2 : SS
3 STATE OF NEW MEXICO)

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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, do hereby
7 certify that I am a Certified Court Reporter for the
8 State of New Mexico; that I reported in shorthand the
9 testimony given at the Environmental Protection Agency
10 hearing held in Carlsbad, New Mexico on the date of
11 January 6, 1998; and that the foregoing transcript,
12 consisting of pages numbered 1 through 78, inclusive,
13 was transcribed by me from my stenographic notes, and
14 is full, true and correct transcript of said testimony,
15 to the best of my ability.

16 Dated this 9th day of January, 1998.

17

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19

Mary therese Macfarlane
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DAY 2 - JANUARY 6, 1998 - CARLSBAD, NEW MEXICO

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