



The Secretary of Energy

Washington, DC 20585

June 11, 1998

Honorable John Conway
Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, N.W., Suite 700
Washington, D.C. 20004

Dear Chairman Conway:

I have received your June 3, 1998, letter advising us that, based on the Board's independent review, the Board has concluded that the Waste Isolation Pilot Plant for the disposal of transuranic waste can be operated safely and that startup of waste disposal operations should begin as soon as practicable. The Department agrees with the Board's conclusions, and on May 13, 1998, I issued the statutorily required 30-day notice indicating the Department's intention to commence operations.

On June 9, 1998, the New Mexico Attorney General and several environmental groups filed a motion for a preliminary injunction seeking to bar the opening of WIPP prior to the issuance of a permit under the Resource Conservation and Recovery Act. The Department is not required to await a RCRA permit, provided it limits its disposal activities to non-mixed waste. On June 22, 1998, we will be filing our opposition to the motion for a preliminary injunction. We believe that the Court that must rule on this motion would greatly benefit from receiving the views of the Board in its capacity as DOE's independent safety oversight authority. I therefore ask that the Board consider submitting a declaration to the Court setting forth its views on WIPP's safety, benefits, and stability. Such a declaration would appropriately be submitted with the papers that will be filed by the Department of Justice on June 22, 1998.

We appreciate your consideration of this request. If you have any questions, please do not hesitate to call or to have a member of your staff contact Mr. Paul Detwiler in our Office of General Counsel at (202) 586-1371.

Sincerely,

A handwritten signature in cursive script, appearing to read "Federico Peña".

Federico Peña
Secretary