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Subject: ATTN: EDITORS---DOMENICI OP-ED

TO: New Mexico Newspaper Editors
FROM: U.S. Senator Pete Domenici
DATE: June 30, 2000
RE: WIPP Funds and New Mexico Highway Projects

I am issuing the following op-ed in hopes that it will provide facts that may clear up some of the confusion and controversy about Waste Isolation Pilot Plant funds and New Mexico Highway and Transportation Department road projects.

I invite you to share these thoughts with your readers.

I also issued a news release on June 30, which is posted on my web site, addressing the latest congressional action on my efforts to try to resolve this issue and get these projects back on track.

THE REAL STORY ON WIPP AND NEW MEXICO HIGHWAY PROJECTS
U.S. Senator Pete V. Domenici
June 30, 2000

Like many New Mexicans, I am excited about all the highway improvements started in the past few years. But I now find it curious to read news stories and editorials piling blame on the Department of Energy for the delays in highway projects which really stem from the state of New Mexico's unreasonable, unprecedented and untenable position related to the Waste Isolation Pilot Project (WIPP).

The fact is neither Bill Richardson nor DOE is to blame for the delays.

Our concerned citizens need to share their frustration with the New Mexico Environmental Department, whose actions have caused this problem. While I have written legislation to force NMED to remedy the situation, the state already has the power to fix it at any time. Here are the facts.

In 1992, the federal government reached a deal with New Mexico to spend \$20 million annually for 15 years to cover road improvements related to WIPP shipments. Congress appropriated the money, and the

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state has relied on it to leverage funds for other road projects. It was a good idea and a good deal for New Mexico.

WIPP is designated to receive two types of waste: purely low level waste (governed by a federal Environmental Protection Agency permit); and less dangerous mixed waste (governed by a NMED permit and EPA.) EPA, a strident environmental regulator, issued its permits and determined that WIPP was safe to receive both types of waste.

When NMED issued its permit last fall for less dangerous waste shipments to WIPP, it imposed a completion bond on the federal government or its contractor to guarantee clean-up of the WIPP site when it closes in 35 years. It is this bonding requirement, never before required in history, that has caused the road delays.

The NMED bond demand is an unprecedented attempt to require the federal government to guarantee what it has already guaranteed--namely the clean-up of WIPP. The federal government is already legally responsible for any clean-up costs related to eventually closing WIPP. U.S. government projects have never been subject to this type of bonding requirement. Such bonds aren't even sold and it is doubtful that a private company could obtain one.

Because of this NMED-created problem, the federal government cannot continue its WIPP efforts without posting this unnecessary bond. So DOE took the rational step of extracting \$20 million for the bond from the annual federal payment to the state for WIPP road improvements. Without the \$20 million, the state cannot continue to leverage funds to do other roads projects. Hence, the delays.

It would not be fair to American taxpayers to ask them to provide another \$20 million to New Mexico to cover an unnecessary bonding requirement that hasn't ever been imposed on any other federal project. I have repeatedly pointed out to the NMED leadership that their demand is undermining the state road plan.

Last year, Congress enacted legislation I authored to stop NMED from imposing this bond. NMED ignored that statute, and continues to insist on the bond.

On June 30, my latest legislative solution passed the Senate and will soon be signed into law by the President. It has even more specific language that absolutely precludes this state bond. The new law says that "The State of New Mexico... may not enforce against the United States.... a requirement to post a bond or any other financial responsibility requirement related to closure of WIPP."

If NMED will follow the law this time, instead of waiting for a court challenge that it will eventually lose, the road funds will be released.

My level of frustration with this issue is extremely high. New Mexico citizens are suffering because of the foolishness of a state agency, and I share their growing anger. I again call on the NMED to follow federal law, stop battling DOE in court over this bond, and stop hurting our citizens who depend on the state for safe roads and highways.

END

Approximately 660 words in text