From: Maestas, Ricardo, NMENV
To: McLean, Megan, NMENV; Biswell, David, NMENV; Tellez, Hernesto, NMENV
Subject: FW: NWNM WIPP VOR Comments
Date: Thursday, September 20, 2018 4:43:10 PM
Attachments: NWNM_WIPP_VOR_Class_3_comments_9-20-18.pdf

-----Original Message-----
From: Scott Kovac <scott@nukewatch.org>
Sent: Thursday, September 20, 2018 4:16 PM
To: Maestas, Ricardo, NMENV <Ricardo.Maestas@state.nm.us>
Cc: Jay Coghlan <jay@nukewatch.org>
Subject: NWNM WIPP VOR Comments

Ricardo,
Nuclear Watch NM respectfully submits our comments on the WIPP Volume Of Record Permit Modification Request.

Please reply as to the readability and receipt of our comments.

Thank you,
Scott

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Scott Kovac
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nuclear watch new mexico

September 20, 2018

Mr. Ricardo Maestas
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505
Ricardo.maestas@state.nm.us

RE: WIPP "Volume Reduction" PMR

Dear Mr. Maestas:

Nuclear Watch New Mexico (NukeWatch) seeks to promote safety and environmental protection at nuclear facilities; mission diversification away from nuclear weapons programs; greater accountability and cleanup in the nation-wide nuclear weapons complex; and consistent U.S. leadership toward a world free of nuclear weapons.

We strongly oppose the "Volume Reduction" Permit Modification Request (PMR) that the Waste Isolation Pilot Plant (WIPP) permittees submitted on August 6, 2018, according to the public notice. The Land Withdrawal Act does not support it. And the need is not proven.

Request for Public Hearing and Negotiations
For the reasons stated in its comments on April 3 and the comments that follow, NukeWatch opposes the Draft Permit and requests a public hearing. Further, and prior to any notice of public hearing, pursuant to 20.4.1.901. A.4 NMAC and NMED practice regarding past class 3 modifications and the permit renewal hearing, NukeWatch requests that NMED, the Permittees, NukeWatch, and other parties conduct negotiations to attempt to resolve issues.

Objections to NMED's Planned Schedule for Negotiations
While there are many problems with the request, we'll start with our objections to NMED's planned schedule for negotiations. NukeWatch opposes NMED's plans to start negotiations on Monday, September 24, which does not provide adequate notice to the many parties that are requesting a public hearing, nor adequate time for parties to read all of the comments submitted by September 20 and prepare for the negotiations. In the most recent class 3 modification – Public Notice No. 18-01 of February 22, 2018 – requests for a public hearing were due and received by April 23, 2018. Negotiations were scheduled and conducted with NMED, the Permittees, and all of the parties that had requested a public hearing – Southwest Research and Information Center (SRIC), Concerned Citizens for

Nuclear Safety (CCNS), Nuclear Watch New Mexico (NWNM) – from July 31 to August 2. The negotiations were held more than 95 days after the hearing requests were due and received. These negotiations eliminated the need to have a hearing.

Here, NMED is proposing negotiations within five days after the date for hearing requests are due even though the Draft Permit is much more controversial than the previous Panel Closure modification and even though there are many more parties requesting a public hearing than in the case of the Panel Closure Draft Permit.

The proposed schedule will have the effect of excluding some parties from the negotiations because of the short notice. In fact, NMED and the Permittees were informed at a meeting in Santa Fe on September 17 that there were objections to that negotiation schedule and that some parties would be excluded. NukeWatch is aware of more than a dozen organizations that will be requesting a public hearing that have not been notified by NMED of the proposed negotiation schedule. Thus, they will be provided with even less notice and opportunity to prepare for the negotiations.

Thus, NukeWatch is being prejudiced by not having adequate time to prepare for the negotiations. Since NukeWatch's representative has a long scheduled conference out of the country starting on Wednesday, September 26, he will not be able to participate in negotiations that date or after that date for two weeks. Thus, NukeWatch could be deprived of the ability to "attempt to resolve the issues giving rise to the opposition," as provided by 20.4.1.901. A.4 NMAC.

Other parties may be deprived of all opportunity to participate in the negotiations because of the unnecessarily rushed schedule. They will have no opportunity to meet with NMED, the Permittees, and other parties attempt to resolve the issues, as provided by 20.4.1.901. A.4 NMAC.

NukeWatch requests that at least 30 days be provided from September 20 until the start of negotiations so that all participants can read all of the comments received by parties requesting a public hearing and prepare for the negotiations, including making any necessary adjustments in their schedules so that they can participate, if they so desire. NukeWatch also believes that the notice of public hearing should be delayed until after the negotiations are held.

Objections to NMED's Planned Public Hearing Schedule and Location

On September 17, the Permittees, SRIC, CCNS, NukeWatch, and Citizens for Alternatives to Radioactive Dumping (CARD) were informed by NMED that the Notice of Public Hearing on the Draft Permit would be issued on Saturday, September 22 for a public hearing on Tuesday, October 23 in Carlsbad. At that time, NukeWatch strongly objected to the location of the hearing being outside of Santa Fe and that the large majority of people of the State interested in the Draft Permit in Albuquerque and Santa Fe would be deprived of the opportunity to attend the hearing and provide public comment.

The public hearings on the original WIPP Permit were held in Santa Fe for 19 days from February 22 to March 26, 1999. Non-technical oral public comment hearing was held in Carlsbad on March 9. For the Permit Renewal, public hearings were held in Santa Fe on August 9 and 10, 2010, and non-technical public comment hearing was held in Carlsbad on August 16.

NukeWatch believes that those precedents should be followed for the Draft Permit. The technical testimony should occur in Santa Fe with public comment hearing in Carlsbad. NukeWatch suggests that the schedule for the hearing should be part of the negotiations, but should not occur on October 23 in Carlsbad unless it is for non-technical public comment. The technical testimony should be in Santa Fe and held at a later date.

Objections to the Draft Permit – It Violates the Law

The Permittees have not shown in the Administrative Record a need for, or their legal authority for, the proposed "Volume of Record" or for the substantial WIPP expansion that the changes would allow. NMED has not shown in the Administrative Record how the Draft Permit protects public health and the environment or fulfills the State's legal authorities.

Our specific objections include that the Draft Permit and the modification request are contrary to the requirements of the two primary federal laws that specifically govern the Waste Isolation Pilot Plant (WIPP). Those laws are the WIPP Authorization (Public Law 96-164, Section 213 of 1979) and the WIPP Land Withdrawal Act (LWA, Public Law 102-579 of 1992). Those laws provide specific requirements and limitations on WIPP and specific authorities to the State of New Mexico. Many provisions of the Draft Permit are inconsistent with those legal requirements. For example, that the legal limit of 6.2 million cubic feet of defense transuranic waste is based on the waste volume being measured by the size of the gross internal volume of the container, as has always been included in the Permit. Those laws also provide specific authorities to the State of New Mexico, including to enforce capacity limits in individual waste panels and in the entire surface and subsurface facility. The Draft Permit could effectively eviscerate such authorities.

The request seeks to very significantly change the way the volume of waste at measured in order to substantially increase the capacity. Since before WIPP before opened 1999, the waste volume measured the of the outer container. That measurement has always been included in the WIPP Permit, and that way that has reported to Congress how much waste disposed at WIPP. The proposed new measurement of the volume of waste inside container results in "reducing" the amount of waste in WIPP by more than 930,000 cubic feet. The effect would be to immediately increase WIPP's capacity by that amount. Such an expansion of capacity is a clear attempt to circumvent the WIPP Land Withdrawal capacity of 6,200,000 cubic feet. Section 7(a)(3). Such a major change is unacceptable and apparently contrary to law. We ask you to deny the request.

The Permittees have not shown in the Administrative Record a need for, or their legal authority for, the proposed "Volume of Record" or for the substantial WIPP expansion that the changes would allow. NMED has not shown in the Administrative Record how the Draft Permit protects public health and the environment or fulfills the State's legal authorities.

WIPP Authorization - Public Law 96-164, Section 213
In December 1979, Congress authorized WIPP in southeastern New Mexico "to demonstrate the safe disposal of radioactive waste resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission." The law specifically designates WIPP as a "pilot plant," and to "demonstrate the safe disposal." Both of those designations clearly indicate that WIPP was not the disposal site for all transuranic (TRU) waste. Congress has maintained those legal requirements and constraints for the last 39 years. Additionally, Congress has not changed the authorization in subsequent nuclear waste laws.

In 1982, Congress passed the Nuclear Waste Policy Act (NWPA) of 1982 (Public Law 97-425), "to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes." The law did not apply to WWP because the facility was authorized as being exempt from Nuclear Regulatory Commission (NRC) licensing, while any repository only for high-level defense waste would be licensed by the NRC. Section 8(b)(3).

In 1987, Congress amended the NWPA to designate a single high-level waste and spent fuel repository, and discussed whether that facility should be WIPP, but again determined that WIPP would not be that facility, and instead designated Yucca Mountain, Nevada as the repository.

In 1992, Congress passed, and President George H.W. Bush signed, Public Law 102-579 that established many requirements for WIPP, including that it was subject to the Solid Waste Disposal Act. Section 9(a)(1)(C). It's also known as the WWP Land Withdrawal Act (LWA).

The LWA clearly states:
"CAPACITY Of WIPP. —The total capacity of WIPP by volume is 6.2 million cubic feet of transuranic waste." Section 7(a)(3).

Thus, Congress determined that WIPP was to demonstrate safe disposal of a limited amount of TRU waste, not more than the capacity, and not all TRU waste. ***Congress recognized that the limit was based on gross internal container volumes***, which the request does not discuss.

This permit modification request ignores those legal requirements and states that the capacity limit: "constrains the DOE from achieving the goal of removing the inventory of

TRU mixed waste from the generator/storage sites." (Page 9) In fact, the capacity limits are integral to the mission of WIPP to focus on legacy TRU waste, not on expanding the facility's capacity. The permittees' request is an attempt to circumvent the legal capacity limit, and it includes no specific limit.

NMED cannot approve a Permit modification that is contrary to the LWA. NMED is well aware of the LWA. In its written Direct Testimony Regarding Regulatory Process and Imposed Conditions for the original permit, the "Statutory Background" began with the WWP Authorization and LWA. Page 1 of 9. NMED's permit writer testified extensively about the LWA. Hearing, p. 2586-26 17.

The WIPP Permit has always incorporated the LWA and the capacity limit. The definition of the facility is:

> "The WIPP facility comprises the entire complex within the WIPP Site Boundary as specified in the WIPP Land Withdrawal Act of 1992, Pub. L. 102-579 (1992), including all contiguous land, and structures, other appurtenances, and improvements on the Permittees' land, used for management, storage, or disposal of TRU mixed waste." Original (1999) Permit Module LD.2, now Section 1.5.3.

Further, the LWA capacity limit always has been incorporated into the WIPP Permit. The limit was included in the Permittees' Part A application, Original Permit Attachment O, now Attachment B. The capacity limit also is now included in Table 4.1.1, Attachment B, Attachment G1, Attachment G1c Attachment H1, and Table J3. ***Until submittal of this request, the permittees have never publicly opposed the capacity limit, measured by gross interior container volume, being in the Permit.***

Although the permittees apparently do not want to comply with the WIPP legal capacity limits, NMED must ensure compliance with the federal law and cannot approve a Permit modification that is contrary to federal laws. Indeed, the history of the Permit includes occasions when the permittees strongly objected to the Permit including provisions that they deemed contrary to legal requirements.

In November 1999, the permittees sued NMED in federal and state courts regarding several provisions of the original WIPP Permit, including the financial assurance conditions, that were alleged to be contrary to federal law. On August 9, 2000, the NMED Secretary withdrew the financial assurance conditions because of changed federal law that prohibited such contractor financial assurance requirements. In 2003-2005, there was a prolonged permit modification process regarding Energy and Water Development Appropriations Acts "Section 310 and 311" requirements, in which because of federal law changes, NMED agreed to certain waste characterization and related requirements to be included in the Permit.

NMED has a practice and obligation to ensure that provisions of the Permit must comply with federal law. This current request is contrary to the intent and specific provisions of laws, and NMED must deny this request.

General Comments – This Request Is Not Needed

The New Mexico Hazardous Waste Act (HWA) and its regulations, 20 NMAC 4.1.900 (incorporating 40 CFR 270.42(b)(1)(iii)(B)), require a request to "explain[s] why the modification is needed." The request includes a section 3 purportedly to explain the need (pages 6-11), but the explanation is grossly inadequate and does not explain why the modification is needed.

In its first 19 years of operations — March 26, 1999 to March 26, 2018 — less than 55 percent of that 6.2 million cubic feet (175,564 cubic meters) volume capacity limit has been emplaced at WWP. The request does not specifically discuss that fact, nor address why any change in the capacity limit nor a "Volume of Record" is needed now or at any time in the future since the existing gross internal container volume limits are adequate for years or even decades into the future.

NukeWatch's conclusion is that the reason for the request now is because it is part of the Department of Energy (DOE) efforts to expand WIPP for several missions that are also not allowed by the LWA. The permittees desire to expand WIPP, including for missions contrary to federal laws (for some of the expansions even DOE admits are contrary to the LWA), does not meet the regulatory need requirement. The modification is not needed, and NMED must deny the request.

A quick look at the August 6, 2018 Final Fact Sheet shows the flimsiest of reasons for this PMR. It states (Pg. 2):

> This modification proposes to distinguish how the Permittees calculate final TRU mixed waste volumes for the purposes of reporting and for comparing such volumes to the maximum hazardous waste disposal unit capacities prescribed by Permit Part 4, Table 4.1.1, *Underground HWDUs,* so that capacities in the Permit, which are limited by the physical volume of each mined HWDU, are not exceeded.

So, this PMR is to keep track of the waste in the HWDUs. This is already being done, and any change is not needed. The Fact Sheet continued (Pg. 2):

> This Modification also proposes to distinguish between TRU mixed waste RCRA volume and Land Withdrawal Act ("**LWA**") TRU waste volume.

These two volumes were invented by the Permittees as a way to have two sets of books. Why count something once, when you get paid to count it twice?

Gross Internal Container Volume of the Outermost Container Is The Historic Practice Of Determining The Capacity Limit

Even before WIPP opened in 1999, the waste volume is measured by the size of the gross internal volume of the outermost container, as included in the Permit. To support the WIPP Permit application and other requirements, DOE published a WIPP Transuranic Waste

Baseline Inventory Report (WTWBIR) in June 1994. Revision 2 (DOE/CAO-95-1 121) included all DOE TRU waste. (Page xi) The document calculated all waste volumes in "Final Waste Form," which was the gross internal container volume. In their Permit Application, the permittees included the gross internal container volume amounts, which were incorporated into the original Permit and remain in the current permit. (Section 3.3.1)

In their modification request, the permittees admit: "At the time the Permittees prepared the Part B Permit Application, the WIPP LWA limit and the HWDU limit were considered to be the same." (Page 7) The permittees have not previously stated that there is a reason for a second measurement regarding the capacity limit. There is no basis to change the capacity limit, nor any reason to add the proposed new Section 1.5.22. - Land Withdrawal Act TRU Waste Volume of Record.

Not only is the WPP capacity limit appropriately based on those gross internal container volume of the outermost container, that is the way that DOE has reported to Congress how much waste is disposed at WIPP. In the annual budget requests to Congress, the volume of waste disposed at WIPP is reported as the gross internal container volumes of the outermost container.

Thus, DOE has been reporting to Congress each year about the amount of waste emplaced at WIPP compared with the LWA and Permit capacity limit. Those amounts are the same. The modification request provides no explanation of why that historic practice should be changed.

Clearly, gross internal container volumes have consistently been used for calculating the WIPP legal capacity limit, as well as for numerous other reasons. The modification request does not discuss that plethora of documents, nor why those documents should now be considered inaccurate or should be changed. There is no legal basis to change the Permit capacity limits, which are those provided by the LWA.

General Comments – Lack of Concern For Connected Actions

A major problem with this PMR is the lack of consideration of connected actions and cumulative effects. A federal agency cannot segment proposed actions into small pieces to avoid looking at the big picture. Connected actions must be considered together and not be sneaked in separately. An agency should analyze "connected actions" and "cumulative actions" in one document. DOE has hacked the proposed expansion of WIPP into little PMR pieces.

Agency "connected actions" are those actions that are tied to other actions, cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for justification. The proposed Volume Reduction PMR would not stand alone.

"Cumulative actions" are those that when viewed with other actions proposed by the agency have cumulatively significant impacts. Regulations are directed at avoiding segmentation, wherein the significance of the environmental impacts of an action as a whole would not be evident if the action were to be broken into component parts and the impact of those parts analyzed separately.

The Carlsbad Field Office should think of this proposed PMR expansively and aim to include rather than exclude connected activities. The proposed Volume Reduction PMR is actually a small part of the larger plan to expand WIPP.

- DOE must do a big Class 3 PMR for expansion of WIPP.

- Here's a list coming regulatory items that be considered together as connected actions to expand WIPP:
  - New shaft
  - New filter building
  - Revised training
  - Updates and efficiencies
  - Excluded waste prohibition
  - Addition of concrete overpack aboveground storage
  - Panel closure redesign
  - Additional waste disposal panels
  - Others

Safe operations of the WIPP site and along the transportation routes should be the focus – not expansion.

Specific Comments – The Word "Clarify" Must Be Removed From the Title

The August 6, 2018 fact sheet gives the title of this PMR as, ***Notice Of Intent To Approve A Class 3 Modification To Clarify TRU Mixed Waste Disposal Volume Reporting At The Waste Isolation Pilot Plant (WIPP) Carlsbad, New Mexico.*** This PMR clarifies nothing. As a matter of fact, this PMR muddles the current volume reporting system that has been in place since before WIPP opened. The Permittees have constructed a PMR narrative that is both misleading and incomplete, suggesting (p. 6) that "TRU mixed waste volumes recorded in the Permit are not consistent" (in fact, they allege, have never been consistent), and that the solution is to remove information from the Permit that has always been there and replace it with new, "improved" information to clarify things. This confusing narrative may be accepted by some people unfamiliar with the administrative record for the Permit, but is easily dismissed when considering the facts and including information conveniently left out by the Permittees.

Specific Comments – Permit Part 1 – The New Definitions Must Be Removed

Permit Part 1 states -

1.5.21. TRU Mixed Waste RCRA Volume

"TRU Mixed Waste RCRA Volume (**TRU Mixed Waste Volume**)" means the gross internal volume of the outermost disposal container of TRU mixed waste pursuant to waste volumes in this Permit. For purposes of this Permit, all TRU waste is managed as though it were mixed. This volume is tracked and reported by the Permittees relative to the authorized maximum capacities in Permit Part 4, Table 4.1.1.

1.5.22. Land Withdrawal Act TRU Waste Volume
"Land Withdrawal Act TRU Waste Volume **(LWA TRU Waste Volume)**" means the volume of TRU waste inside a disposal container. This volume is tracked and reported by the DOE internally relative to the WIPP Land Withdrawal Act total capacity limit of 6.2 million ft3 (175,564 m3) (Pub. L. 102-579, as amended). For informational purposes, the LWA TRU Waste Volume is included in Table 4.1.1.

The Permittees attempt to create two new definitions in the Permit:

1. TRU Mixed Waste RCRA Volume; and
2. Land Withdrawal Act TRU Waste Volume

There is no basis for the Permittees to now propose two new definitions for how disposal waste volume should be calculated. Instead, NMED should take this opportunity to explicitly state in the Permit what has been historically understood to constitute waste container volume.

The Permittees are redefining terms at their convenience. For example, all the TRU waste at WIPP is managed as mixed waste, therefore, the second definition should be "Land Withdrawal Act TRU Mixed Waste Volume". Why was "Mixed" left out of this definition? It would be the exact same waste as "TRU Mixed Waste RCRA Volume".

These definitions create a false dichotomy by pitting "bad" RCRA volumes (outer or overpack container volume) against the mythically "correct" LWA waste volumes (supposedly the inner container volume, particularly for overpacked containers). However, they are all the same volume based upon the gross internal volume of the outermost container.

We find it disturbing that Land Withdrawal Act TRU Waste Volume means "the volume of TRU waste inside a disposal container." At the very least this definition should mention an inner container volume and should be based on an inner container volume. Do the Permittees mean that only the waste in a stand-alone drum be counted? This is a serious omission and must be corrected.

The Permittees attempt to limit the Permit's concern with waste volume solely to the volume of waste disposed of in Underground Hazardous Waste Disposal Units (HWDUs) or Panels by removing all references to the maximum repository capacity of 6.2 million cubic feet. Does this remove NMED's authority to regulate the 6.2 million cubic foot capacity?

Clearly, the Permittees are happy to limit individual Hazardous Waste Disposal Units (HWDUs or Panels) without limiting the total number of HWDUs or Panels. This is a backdoor way to increase the capacity of WIPP.

The Permittees attempt to allow the DOE to "track and report" the LWA VOR separately from the Permit. The Permittees must provide details of DOE's plan or mechanism to track and report waste volumes pursuant to the LWA. Please clarify if DOE will use fill factor or inner container volumes. Explain how and when the plan will be implemented. Also, please clarify if the action will be retroactive. Provide the conversion factors or calculations that will be used to convert RCRA volume to LWA volume. DOE must clarify to whom or what organization the LWA volume and additional information mentioned above will be reported to, and how this will be documented. Provide details, if any, regarding regulatory oversight. Provide a list of regulatory agencies or organizations who oversee the WIPP Permittees.

The September 1997 SEIS-II (p. 8) states, "the volume of the drum or cask is used, as if the drum or cask were full without void space." Since at least 1982, DOE has carefully studied and estimated the inventory of retrievably stored and newly generated waste potentially destined for WIPP. Although rarely stated explicitly in the record, DOE's historic method for estimating the volume of TRU and TRU mixed waste stored in containers at generator/storage sites relies on counting containers and using the internal gross volume of the disposal container.

Thus, it is clear that assuming "the drum or cask were full without void space" is simply a conservative assumption to ensure bounding results from any modeling analyses performed and is not a realistic expectation. Everybody involved in the original permit application process understood that few waste containers would ever be 100% full. Many solidified solid waste drums would be partially full due to weight limitations, and many debris waste drums would be loosely compacted, resulting in inefficiently packaged containers.

Specific Comments – Permit Part 3

Section 3.3.1.8 on Shielded Containers states:

> Each shielded container contains a 30-gallon inner container with a gross internal volume of 4.0 ft3 (0.11m3) and an outermost container volume of 7.4 ft3 (0.21 m3). Shielded containers contain RH TRU mixed waste, but shielding will allow it to be managed and stored as CH TRU mixed waste. For the purpose of this Permit, shielded containers will be managed, stored, and disposed as CH TRU mixed waste, but will be counted towards the RH TRU mixed waste volume limits associated with RH TRU mixed waste. Shielded containers may be overpacked into standard waste box or ten drum overpack.

Because it is lead, would the outer shielding of a shielded container count as RCRA waste or LWA waste? This is another example of the lack of detail that should cause this PMR to be denied.

Specific Comments – Permit Part 4

Table 4.1.1 - Underground HWDUs Footnote 4 states:

> Final LWA TRU Waste Volume is calculated based on the volume of TRU waste inside a disposal container. The volume listed here is tracked and reported by the DOE internally pursuant to the WIPP Land Withdrawal Act total capacity limit of 6.2 million ft3 (175,564 m3) of TRU waste (Pub. L. 102-579, as amended) and is included here for informational purposes. A link to the LWA TRU Waste Volume is posted on www.wipp.energy.gov.

Once again, there is no mention of the volume of an inner container, which there must be. Is the intent of this PMR to count the waste volume as the total volume of the inner container, or not? This must be stated. But even more disturbing is the statement that the WIPP Land Withdrawal Act total capacity limit of 6.2 million ft3 (175,564 m3) of TRU waste volume listed in the table is included here for informational purposes. Does "for informational purposes" mean that this volume is not required for this Table or that this volume serves no regulatory purpose?

Conclusion

The permit modification request seeks to very significantly change the way the volume of waste at WIPP is measured in order to substantially increase the facility's capacity. Since long before WIPP opened in 1999, the waste volume is measured by the size of the outer container. That measurement has always been incorporated into the WIPP Permit, and it is that way that DOE has reported to Congress how much waste is disposed at WIPP. The proposed new measurement of the volume of waste inside a container results in "reducing" the amount of waste in WIPP by more than 930,000 cubic feet. The effect would be to immediately increase WIPP's capacity by that amount. Such an expansion of WIPP's capacity is a clear attempt to circumvent, not comply, with the WIPP Land Withdrawal Act capacity limit of 6,200,000 cubic feet. Such a major change is unacceptable, apparently contrary to law, and the PMR should be denied.

All proposed changes in the PMR related to striking or modifying the 6.2 million ft3 limit should be denied.

For these reasons and more, Nuclear Watch NM requests a hearing on this permit modification request.

Sincerely,
Scott Kovac
Nuclear Watch New Mexico