My name is John Heaton, I am a resident of Carlsbad, and I am chairman of the Mayor's Nuclear Opportunities Task Force here in Carlsbad. We have some 45 members and we typically meet twice monthly. We have been highly involved with WIPP since the accident and through this recovery phase which is still ongoing.

The Volume Of Record issue has been festering in the background for some time. WIPP has two documents that basically regulate what it does. The Federal Law, called the Land Withdrawal Act of 1992, which specifically defines the volume or capacity of Transuranic Waste that can be placed into WIPP at 6.2 million cubic feet or 175,565 cubic meters. The other document is the Permit issued by the New Mexico Environment Department which deals only with the mixed waste constituents (non-radioactive) in the waste or what is known as RCRA waste. So, the Permit from NMED treats each panel at WIPP as a Hazardous Waste Unit just as it would a city waste dump in New Mexico. In the permit for that HWU it dictates the overall volume of the Unit in that permit, and it does so for each panel at WIPP. Let me make it clear that there is no limit to the number of panels that can be licensed other than the 16 square miles where WIPP resides.

Therefore, let me explain it like this, WIPP has two masters, one that regulates the volume of radioactive Transuranic Waste and has a defined limit, and the other that regulates the non-radioactive waste and has no limit.

This is not a complicated issue. In order to protect the workers, and make operations work more smoothly, a significant amount of WIPP waste has been overpacked into another container for handling purposes. So, the 55 gallon drums holding the real transuranic waste have been put into other containers which make operations simpler and safer. But, rather than counting the volume of the 55 gallon drums as real waste volume, the volume that is being counted is the volume of container that holds the 55 gallon drums. I am sure you can visualize all the empty space in a container that is holding circular 55 gallon drums.

All that is being requested here is that only the 55 gallon drums get counted as the actual waste volume, and we quit counting the air in the container holding the 55 gallon drums. This is that simple.

Why this counting morass was created and has gotten out of hand is beyond me, but you can bet it's politics. WIPP has a very important mission in this country to clean up the Transuranic Waste in the country from the weapons production that occurred in many states across our nation. WIPP is a one of a kind facility, and its only mission is that of cleaning up the weapons complex. These weapons stopped WWII and saved hundreds of thousands of lives. These very same weapons control the balance of power in the world and provide for our security every day. We all have an obligation to clean up those states where this waste resides. The volume limit placed on WIPP by Congress was very arbitrary and the inventory was poorly documented at the time, some 45 years ago. Since the poorly documented
inventory was established, much more buried and other transuranic waste has been discovered, and the
volume will far exceed the limit established by Congress if we keep counting air as waste. Not counting
the air as waste emplaced already will save the facility approximately 30,000 cubic meters from the
present counting of air methodology of 92,000 cubic meter.

As you can see, this difference is a huge volume that will allow WIPP to complete its job of cleaning up
the weapons complex. Frankly, it is difficult for me to understand why anyone would oppose
permanently cleaning up land where many states, including our own, made such monumental sacrifices
for all of us in the United States.

I have included below, very clear visual explanations of overpacking of waste where it is very clear how
much air is inappropriately being counted as waste. There is a graph of the calculations explaining the
statistics which is very straight forward.

Schematic illustration of three over-pack containers used for shipping waste to WIPP, with their
respective volumes of the inner containers contrasted with the volume of the payload container
(number emplaced through May 2013).

<table>
<thead>
<tr>
<th>Container Type</th>
<th>Emplaced Volume of Record</th>
<th>Inner Container Volume</th>
<th>Volume Capacity Used by non-waste volumes</th>
</tr>
</thead>
<tbody>
<tr>
<td>TDOP</td>
<td>25,897</td>
<td>11,510</td>
<td>14,387</td>
</tr>
<tr>
<td>SWB</td>
<td>21,735</td>
<td>9,660</td>
<td>12,075</td>
</tr>
<tr>
<td>POC</td>
<td>5,224</td>
<td>1,250</td>
<td>3,974</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>39,436</strong></td>
</tr>
</tbody>
</table>
By counting the payload (outer) container volume as the waste volume of record, more than 30,000 cubic meters of non-waste volume is counted against the WIPP volume capacity limit (sum of the last column). This is almost the same volume occupied by two entire waste disposal panels at WIPP. Another way of thinking about this is that almost two of the six filled disposal panels have been used for emplacing the air and/or packaging material outside the inner containers (but still within the payload containers) to date.

In conclusion, the illustrations are very straightforward in explaining the amount of air that is being counted as transuranic waste. The value of this additional space in WIPP by NOT counting air as waste is enormous in both economic terms as well as WIPP being able to complete its national cleanup mission, for which all American citizens are responsible. Wouldn’t it be a terrible shame if the counting of air as waste in WIPP caused it to be filled completely before Los Alamos waste could be disposed there?
October 16, 2018

Hearing Clerk
New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502-5469

The Carlsbad Chamber of Commerce comprised of over 500 business members and community leaders, is supportive of the Department of Energy Field Office and Nuclear Waste Partnership’s application for a permit modification to the WIPP Hazardous Facility Permit distinguishing how the aforementioned permittees calculate final transuranic mixed waste volumes for the purpose of reporting and comparing these volumes to the maximum WIPP hazardous waste disposal unit.

The proposed permit modification more accurately depicts the actual volume of waste disposed at the WIPP facility. The limit was intended to be based on the actual volume of “waste” disposed in WIPP as the volume of record has historically been calculated based on the volume of outside containers. This measurement of volume towards the limit was not specified in the regulations and has been inaccurate when considering the intent of the federal WIPP Land Withdrawal Act. This method improperly counts void space in all containers, including over-packed drums, where a small drum or container of waste is packed within a larger one for ease of transport or handling.

This permit modification would correct this error and better defines how waste volume is determined at WIPP.

WIPP is a permanent solution for permanent disposal of transuranic nuclear waste. We encourage you to approve this modification to maximize the amount of waste that can be disposed under the federal WIPP Land Withdrawal Act.

Sincerely,

Robert P. Defer
C.E.O.
Carlsbad Chamber of Commerce
October 23, 2018

Hearing Clerk
New Mexico Environment Department, Room S-2100
PO Box 5469
Santa Fe, NM 87502-5469

To whom it may concern,

I have lived in Carlsbad, NM for nearly 40 years. For more than 21 of those years, I worked in WIPP-related jobs and was there during nearly all of the project’s major milestones ... both good and bad. In all of my experiences, I learned that it is important for all to be able to separate fact from fiction.

I am strongly in support of the proposed permit modification request to change how TRU mixed waste disposal volumes are reported. The issue of container volume versus actual waste volume has long been discussed, but comes down to common sense. The WIPP Land Withdrawal Act and the Hazardous Waste Permit are about disposing of waste, not about the number of 55-gallon drums, standard waste boxes or any other disposal container that is used to accomplish the mission. Using the container volume artificially limits the WIPP mission.

WIPP has proven, even under the worst circumstances in 2014, that it works. The facility should be used to its full capacity, for which the taxpayers of this country have heavily invested and for which the communities around the country who no longer have TRU waste sitting in surface storage are eternally grateful.

Thank you for your consideration of my comments.

Sincerely,

[Signature]

Mike Antiporda
4408 Buena Vida Court
Carlsbad, NM 88220
Good afternoon:

We know you have all had a busy day today, but we did want to take a moment to thank you for having this hearing in Carlsbad. My name is Dale Janway and, as mayor of Carlsbad, we want to show our support for approval of this proposed permit modification. Several more city officials plan on attending today and tomorrow, and we also know that the Carlsbad Department of Development, the Chamber of Commerce and Eddy County have passed resolutions in support.

There is a high level of local response on this issue because this change makes a lot of sense to everyone. While some permit modifications in the past have been highly technical, this proposal is simply a matter of counting how much waste you have in the WIPP underground by actually counting how much waste you have in the underground, not how big outer containers are. The previous method of counting void space, including large over pack drums, is not reasonable. We feel like right now, we are just counting air. This change would move WIPP’s current Land Withdrawal Act total from around 90,000 cubic meters of volume down to 60,000, freeing up more space for future intended use of WIPP. With this approval, WIPP will remain in compliance with the Land Withdrawal Act.

We want to put the 16 square miles at WIPP to its intended use. There is virtually an unlimited amount of space beneath WIPP, and the infrastructure is already in
place. Carlsbad remains very proud to serve as WIPP's host community, and we look forward to doing so for many decades. Thank you again to the hearing office and NMED for hosting this event in Carlsbad. We encourage prompt approval.
Good evening, my name is Councilor Lisa Anaya Flores and I am extremely grateful for being able to give my input on this issue. As a citizen of Carlsbad, I have a lot of stake in the safe and successful completion of WIPP’s mission and I think it is of the utmost importance that this proposed permit modification be supported. This modification does not produce any new safety concerns or change what is being allowed to go to WIPP. I am glad to hear that WIPP will remain in compliance with the Land Withdrawal Act’s TRU waste capacity limit, and hope it is completed in a steadfast and productive way. Thank you for taking the time to listen, and I look forward to hearing about this resolution.

Sincerely,

Lisa Anaya Flores, Carlsbad City Councilor Ward 1
RESOLUTION 2018-03:
“Support for the permit modification addressing volume of record”
Whereas the Carlsbad Department of Development is a 501 C-6 organization composed of over 100 business and community leaders in and around Eddy County and
Whereas together, the United States Department of Energy and Nuclear Waste Partnership as the owner and operator, respectively, of the WIPP Facility have applied for a permit modification to clarify the accounting on the volume of waste emplaced in said facility and
Whereas Federal law limits the maximum “volume of transuranic waste” at WIPP to 6.2 million cubic feet and
Whereas it is apparent that this limit was intended to be based on the actual volume of “waste” disposed in WIPP as the volume of record has historically been calculated based on the volume of outside containers and
Whereas this measurement of volume toward the limit was not specified in the regulations and has been inaccurate when considering the intent of the Land Withdrawal Act and
Whereas this method improperly counts void space in all containers, including over-packed drums, where a small drum or container of waste is packed within a larger one for ease of transport or handling and
Whereas empty space within the drums should not be and should never have been counted towards the volume of record for the facility and
Whereas due to the exhaustive accounting of actual volumes of the waste materials placed in WIPP, the difference between what is transuranic waste and what is waste plus void space plus other non-TRU wastes is significant and should be corrected and
Whereas even if the proposed changes in this permit modification request were collectively considered as an increase to the scope of the operation, which it is not, WIPP’s operation is confined to a single mined horizon within a single square mile
Whereas the facility is being underutilized as it sits within an area that is sixteen square miles and, due to the thick nature of the bleded salt, was originally envisioned and intended to occupy multiple horizons. Thus there is plenty of room to place the entire volume of actual TRU “waste” as proposed and
Whereas it is fiscally responsible that WIPP should be used to the fullest extent allowed by law.
Now therefore be it resolved that I, Danny Cross, President of the Board of Directors for the Carlsbad Department of Development, on this day of October 4, 2018, acting by unanimous consent of the Board of Directors, do hereby support the proposed permit modification for the Volume of Record, and that this change should be approved immediately as it is a common sense clarification of a rule which does not increase the actual volume of waste intended for disposal nor increase original scope of the operation.

Danny Cross,
President of the Board of Directors, Carlsbad Department of Development

Attest:

Craig Stephens, Vice-President of the Board of Directors, Carlsbad Department of Development

October 4, 2018
Date
WHEREAS TOGETHER, the United States Department of Energy and Nuclear Waste Partnership as the owner and operator, respectively, of the WIPP Facility have applied for a permit modification to clarify the accounting on the volume of waste emplaced in said facility, and

WHEREAS, Federal law limits the maximum “volume of transuranic waste” at WIPP to 6.2 million cubic feet, and

WHEREAS, it is apparent that this limit was intended to be based on the actual volume of “waste” disposed in WIPP as the volume of record has historically been calculated based on the volume of outside containers, and

WHEREAS, this measurement of volume towards the limit was not specified in the regulations and has been inaccurate when considering the intent of the Land Withdrawal Act, and

WHEREAS, this method improperly counts void space in all containers, including over-packed drums, where a small drum or container of waste is packed within a larger one for ease of transport or handling, and

WHEREAS, empty space within the drums should not be and should never have been counted towards the volume of record for the facility, and

WHEREAS, due to the exhaustive accounting of actual volumes of the waste materials placed in WIPP, the difference between what is transuranic waste and what is waste plus void space plus other non-TRU wastes is significant and should be corrected, and

WHEREAS, even if the proposed changes in this permit modification request were collectively considered as an increase to the scope of the operation, which it is not, WIPP’s operation is confined to a single mined horizon within a single square mile, and

WHEREAS, the facility is being underutilized as it sits within an area that is sixteen square miles and, due to the thick nature of the bedded salt, was originally envisioned and intended to occupy multiple horizons. Thus, there is plenty of room to place the entire volume of actual TRU “waste” as proposed, and
WHEREAS, it is fiscally responsible that WIPP should be used to the fullest extent allowed by law.

NOW THEREFORE BE IT RESOLVED, that the Eddy County Board of Commissioners of Eddy County, New Mexico, do hereby support the proposed permit modification for the Volume of Record, and that this change should be approved immediately as it is a common sense clarification of a rule which does not increase the actual volume of waste intended for disposal nor increase original scope of the operation.

PASSED, APPROVED AND ADOPTED THIS 18TH DAY OF OCTOBER, 2018.

EDDY COUNTY BOARD OF COMMISSIONERS

[Signature]
Susan Crockett, Commission Chairman

ATTEST: [Signature]
County Clerk

[Seal]