



Mark Reynolds

IN THE COURT OF APPEALS  
OF THE STATE OF NEW MEXICO

NEW MEXICO ENVIRONMENT DEPARTMENT,

Administrative Agency-Appellee

and

NUCLEAR WASTE PARTNERSHIP, LLC and  
UNITED STATES DEPARTMENT OF ENERGY,      No. A-1-CA-37894

Applicants-Intervenors-Appellees,

v.

CONCERNED CITIZENS FOR NUCLEAR  
SAFETY, NUCLEAR WATCH NEW MEXICO, and  
SOUTHWEST RESEARCH AND INFORMATION  
CENTER,

Protestants-Appellants.

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**ANSWER BRIEF OF THE UNITED STATES DEPARTMENT OF  
ENERGY TO THE BRIEF IN CHIEF OF CONCERNED CITIZENS FOR  
NUCLEAR SAFETY**

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## ARGUMENT

In accordance with Rule 12-318 of the New Mexico Rules of Appellate Procedure (“NMRA”), the United States, on behalf of the United States Department of Energy (“DOE”), an intervenor-appellee in this case, submits this Answer Brief in response to the Brief in Chief submitted by the Protestant-Appellant Concerned Citizens for Nuclear Safety (“CCNS”). For the reasons discussed below, DOE respectfully requests that this appeal be dismissed.

CCNS’s arguments on appeal are very limited in scope and focus on certain aspects of public participation in the permit process concerning Appellee New Mexico Environment Department’s (“NMED”) review of DOE’s and Intervenor-Appellee Nuclear Waste Partnership, LLC’s (“NWP”) Permit Modification Request concerning the Waste Isolation Pilot Plant. CCNS’s appeal focuses particularly on the translation of documents into Spanish. In the interest of brevity and judicial economy, the United States will not burden the Court with duplicate briefing. DOE submits that CCNS’s appeal should be dismissed based on the factual and legal grounds set forth in the Answer Briefs of NMED and NWP to CCNS’s Brief in Chief.<sup>1</sup> Their briefs describe in detail how NMED provided a

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<sup>1</sup> The factual and legal background concerning the substance of the appeals in this case also are set forth in DOE’s Answer Brief to the Brief in Chief submitted by Protestants-Appellants Southwest Research Information Center and Nuclear Watch New Mexico (Aug. 10, 2020).

robust and proper opportunity for public participation before, during, and after the three-day public hearing concerning NMED's review of the Permit Modification Request. Thus, CCNS's appeal should be dismissed.

### CONCLUSION

For the reasons set forth above, the United States Department of Energy respectfully requests that the Court dismiss this appeal.

Date: September 4, 2020

Respectfully submitted,

/s/ John E. Sullivan

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served electronically on all parties to this proceeding in accordance with Rule 12-307.2 on September 4, 2020.

*/s/ John E. Sullivan*  
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