

**From:** [Maestas, Ricardo, NMENV](#)  
**To:** [McLean, Megan, NMENV](#); [Biswell, David, NMENV](#)  
**Subject:** FW: [EXTERNAL] WIPP Comments  
**Date:** Thursday, December 16, 2021 2:36:06 PM

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**From:** dave mccoey <dave@radfreenm.org>  
**Sent:** Monday, October 4, 2021 9:48 AM  
**To:** Maestas, Ricardo, NMENV <Ricardo.Maestas@state.nm.us>  
**Cc:** Don Hancock <sricon@earthlink.net>; Joni Arends <jarends@nuclearactive.org>; Janet Greenwald/CARD <contactus@cardnm.org>  
**Subject:** [EXTERNAL] WIPP Comments

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Dear Sir,

For Citizen Action New Mexico comments please see documents we submitted during the hearing process for WIPP.

So far as the New Mexico Environment Department has been involved in this matter, it has become a rogue agency.

NMED is no longer responsive to public concerns, statutory law, prior legal agreements and has taken legal positions that are contrary to full exposure of the facts that THIS IS AN EXPANSION OF WIPP!

The Motion in limine of NMED was a scurrilous suppression of the public's rights to raise intelligible issues during the WIPP hearing.

NMED is a complete disappointment with respect to the protection of public health and safety for allowing the piecemeal expansion of WIPP in violation of environmental law.

David B. McCoy, Executive Director  
Citizen Action NM

**NEW STATE OF NEW MEXICO  
BEFORE THE SECRETARY OF THE ENVIRONMENT DEPARTMENT**

**THE MATTER OF HEARING DETERMINATION  
REQUEST CLASS 3 EXCAVATION OF A NEW SHAFT  
AND ASSOCIATED CONNECTING DRIFTS  
PERMIT MODIFICATION TO THE WIPP  
HAZARDOUS WASTE FACILITY PERMIT**

HWB 21 02 P

**CITIZEN ACTION NEW MEXICO (CANM) LIST OF ISSUES**

CANM incorporates herein its issues and argument in its Opposition to the Hazardous Waste Bureau (HWB) Motion *in limine*. Additionally the following are provided:

1. The statements by the HWB that the PMR does not represent an expansion of WIPP are fictional. Provide the real purpose of the shaft and drifts.
2. The omission of and failure to fully disclose material facts by HWB and DOE and the Nuclear Waste Partnership for the expansion of WIPP should result in PMR denial. 40 CFR 270.43 (2).
3. The extent of Construction undertaken at WIPP in the absence of a Level 3 permit for the shaft and drifts.
4. CANM questions whether the HWB has the lawful authority to approve the Level 3 PMR that exceeds the scope of numerous agreements reaching from the time WIPP was approved to the present -- for example: 1981 State-DOE Consultation and Cooperation ("C & C") Agreement and its amendments, the Land Withdrawal Act and the Hazardous Waste Permit itself. These all contain limitations on the capacity volume and time for operation and closure that would be exceeded by expansion.
5. Need for the shaft and connecting drifts are not present or valid.
6. Waste characterization – whether disposal of other than defense-related TRU waste is planned.
7. CANM supports the SRIC Motion for Dismissal.
8. Identification of safety and accident risks for public and environment from expansion.
9. Environmental justice concerns.
10. Dilution of Plutonium and other chemical and hazardous wastes.

11. Community impacts of using WIPP disposal to continue nuclear weapons production in New Mexico along with disposal of the nation's nuclear reactor waste at the Holtec, Inc. facility and continuing failure of the HWB and DOE to order clean up for the Sandia Mixed Waste Landfill.
12. Stability of the WIPP facility for infrastructure and equipment.
13. Absence of a closure plan.
14. Concurrent consideration should be made for the Supplemental EIS and the PMR.
15. Failure of DOE to find other repositories.
16. Alternatives that are available if WIPP is unavailable for expanded disposal of nuclear weapons waste. Volume of TRU wastes assumed for WIPP if US pit production resumes at 80 pits per year.
17. CANM has not stipulated to facts not in contention.

CANM retains the right to raise additional issues as necessary based on facts discovered and raised by the hearing for the PMR.

Submitted 4/19/2021,

David McCoy, Executive Director  
Citizen Action New Mexico  
[dave@radfreenm.org](mailto:dave@radfreenm.org)

## **Certificate of Service**

I hereby certify that a true and correct copy of this List of Issues was served on the following via electronic transmission on April 21, 2021:

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