



## **Veterans For Peace**

Donald and Sally-Alice Thompson Chapter #63  
Albuquerque, New Mexico

October 4, 2021

John E. Wilks, III  
Acting Vice President  
1115 Republic Road  
Winston, NM 87943

The Honorable James C. Kenney  
Cabinet Secretary  
New Mexico Environment Department  
Post Office Box 5469  
Santa Fe, New Mexico 87502-5469

Re: Submission of Public Comment on the Matter of DOE's Proposal to Mine Three New Access Drifts to the West of the Existing Disposal Site and to Construct and Use Two Waste Disposal Panels 11 and 12 at the WIPP

Dear Secretary Kenney:

We urge the New Mexico Environment Department to consolidate the pending matters relating to the WIPP and to make a coordinated series of decisions. The Permit to Operate which has been pending for 18 months, should be approved only on the condition that the DOE sign an Acknowledgement of Understanding stating that the WIPP will cease accepting waste shipments no later than June 11, 2024. We view the DOE's other applications as mere incremental attempts to expand the footprint of the WIPP, as well as justifying an extension of the pre-closure phase of the WIPP's operation beyond the June 11, 2024. We oppose the drilling of shaft #5, but do not oppose the construction of waste panels 11 and 12.

There are several actions before the NMED. Before you issue any permits or approvals, we ask that you require the Carlsbad Field Office to satisfy you that all unpermitted operations have ceased. After DOE meets that pre-condition, we ask that you merge all matters before the NMED and make concurrent decisions.

We hold that permit approval to mine shaft #5 should be conditioned on the signing of an acknowledgment by DOE that in accordance with the WIPP Land Withdrawal Act (LWA), the final shipment accepted by the WIPP for storage must be on June 11, 2024, unless the mandated total capacity storage limit of 6.2 million cubic feet of waste is reached earlier. Similarly, under the terms of the WIPP LWA, DOE is required to submit a report to the NMED every 5 years outlining DOE compliance with the transuranic waste disposal provisions contained in permits issued by the state. Acceptance of those reports and all additional permits issued by NMED should include a provision which clearly reflects the June 11, 2024 pre-closure deadline

The only instance in which we would not vigorously oppose extending the operational life of the WIPP would be if, to avoid a repeat of the ongoing abject failure of the DOE to clean up decades of accumulated waste on the Hanford Reservation, New Mexico's five-member Congressional delegation introduced federal legislation to amend the WIPP LWA to allow for legacy cold war waste generated within New Mexico to be accepted in the WIPP after the June 11, 2024. We are outraged that dangerous waste is marooned at the Los Alamos Lab and Sandia Lab. Approximately 50,000 50-gallon drums or the equivalent languishes in close proximity to residential areas! We note that in the previous fiscal year only 26% of the wastes accepted by the WIPP originated in the Los Alamos Lab. The Defense Nuclear Facilities Safety Board issued an order to preclude some of the most aged, hazardous, and delicately volatile waste from movement within the Lab's campus, much less transported to the WIPP. We understand that DOE, in its frenzy to build out the Lab site in anticipation of plutonium PIT production, has surfaced the crazy idea of "capping and covering" much or all of the legacy waste now stranded on the Pajarito Plateau. We consider that proposal objectionable and unacceptable. "Cap and Cover" is actually a "Hide and Hope" strategy equally ludicrous to "Dilution is the Solution to Pollution."

As we have previously stated, New Mexico has no legal or moral obligation to continue in its 80-year role as the nation's nuclear waste dump. Although Lea and Eddy Counties appear to delight in their capacity as vassals of the oil and gas extraction, uranium enrichment, and electrical utility spent fuel dump site industries, the remainder of the state and the pueblos no longer feel the need to support DOD in its quest for global dominance at the expense of health and safety for residents. The state deserves to climb out of the "Cold War, Hot Mess" that the DOE, NNSA, and NRC have created and hope to perpetuate through plutonium PIT production and acceptance of defense related waste generated around the nation. We reiterate that during the previous fiscal year only 26% of the waste accepted by the WIPP originated from the Los Alamos Lab.

The WIPP was sited in New Mexico as an accommodation to the US Government. The understanding from New Mexico's negotiators was that the facility would be a pilot plant and that during the 25 years of operation, additional sites would be operational for either similar transuranic waste or permanent storage for high level wastes.

Finally, a recent adverse development in the Permian Basin merits consideration in this permit review. The National Research Council issued a Final Report in 2001, entitled "Improving Operations and Long-Term Safety of the Waste Isolation Pilot Plant." The authors stated that the oil, gas, and mineral reserves in the vicinity of the WIPP were considerable. On page 28 of the report, they wrote " . . . brine (or any fluid) inflow to the disposal region of the WIPP depository is a serious threat to the containment of radionuclides in the repository. Therefore it is critical that pathways are not created by human intrusion, either intentionally or unintentionally." And, "No human intrusion should occur during the first 100 years of the repository's life because of the active institutional controls."

Since 2001, salt water infusion ("fracking") has become a frequently used extraction assist in the oil fields throughout the Permian Basin and surrounding the WIPP.

The 2001 report, cited above, included specific recommendations, on page 30, with respect to oil, gas, and mineral production. Regarding drilling activities, they recommended:

. . . the utilization of seismic survey techniques to detect the presence of a large brine reservoir below the repository. In case a brine reservoir were found beneath the WIPP and its size were larger than what is already taken into account in the PA, then the DOE should conduct an extensive review of the impact of such a reservoir on the repository performance. A basis would then exist to take appropriate action to ensure the safety of the repository.

Regarding mining activities, the report recommended, on page 31:

"The committee recommends the development of a database to collect information on drilling, production enhancement, mining operations, well abandonments, and unusual events (accidents and natural events) in the vicinity of the WIPP site."

Yesterday, Veterans For Peace chapter #63 learned that there has been a significant increase in the frequency and intensity of earthquakes, likely attributable to fracking, in Western Texas. In 2018 there were 40 quakes of note; in 2020 there were 158 and in the first 6 months of 2121 there were 146. In response, the Texas Railroad Commission, which regulates mineral extraction in Texas, has barred new well fracking and has limited to 10,000 gallons daily the infusion of salt water for existing wells. Although to date there have not been quakes of note in the immediate vicinity of the WIPP, it would seem prudent for the NMED to monitor this developing situation and require that the DOE satisfy any concerns the NMED may have concerning proactive measures the Carlsbad Field Office might take, prior to the commencement of new mining operations at the WIPP.

We urge the NMED to renew the WIPP's 10-year Operating Permit (which would carry the WIPP 2 years into pre-closure and the first 8 of 10 years into the closure

phase of operation) with the provision that the applicant execute an Acknowledgement of Understanding and Agreement that the WIPP will cease accepting waste no later than June 11, 2024. After the Acknowledgement is received and DOE has satisfied NMED that appropriate monitoring of brine accumulation and related safeguards from nearby fracking operations and seismic monitoring issues have been addressed, and appropriate measures and practices have been implemented, only then should the NMED authorize the three new access drifts and construction of waste panels 11 and 12. Finally, after the aforementioned permits have been issued, the NMED should refer to its Hazardous Waste Bureau the matter of the construction of Shaft #5. For the record, Veterans For Peace chapter #63 strongly opposes the drilling of shaft #5, as we believe it is yet another veiled effort by DOE to expand the boot print of the WIPP and to justify an extension of pre-closure operations.

Respectfully,

John E. Wilks, III  
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Veterans For Peace, Chapter #63 (Albuquerque)