

**New Mexico Environment Department
Response to Public Comments
on the June 12, 2020 WIPP Draft Permit
October 27, 2021**

On August 15, 2019, the Department of Energy (DOE) and Nuclear Waste Partnership, LLC (NWP) (collectively, the Permittees) submitted a Class 3 Permit Modification Request (PMR) to the New Mexico Environment Department (NMED) requesting to revise the Resource Conservation and Recovery Act (RCRA) Hazardous Waste Facility Permit (Permit) for the Waste Isolation Pilot Plant (WIPP). The Class 3 PMR requested to excavate a new shaft and associated connecting drifts. The Permittees published a public notice on August 16, 2019 that commenced a 60-day public comment period, which ended on September 16, 2019.

On June 12, 2020, NMED issued a draft Permit based on the Class 3 PMR submittal, the Permittees' response to NMED's January 25, 2019 Information Request, the Permittees' response to NMED's December 6, 2019 Technical Incompleteness Determination (TID), public comments received, and applicable statutory and regulatory provisions. A 60-day comment period commenced on June 12, 2020, which ended on August 11, 2020. Due to opposition to the draft Permit and requests for a public hearing from commenters, virtual negotiations between parties were held December 15, 17, and 18, 2020 to resolve issues giving rise to the hearing requests. Hearing requests were not withdrawn and, on March 18, 2021, NMED issued a public hearing notice. A virtual public hearing was held May 17 -20, 2021. After the conclusion of the public hearing process, NMED took final agency action on October 27, 2021. This document is the NMED response to public comments received on the draft Permit, as required by 20.4.1.901.A(9) NMAC.

[Table 1](#) of this document lists entities and persons who commented on the draft Permit.

[Table 2](#) summarizes the comments received and contains NMED's responses thereto.

The original comments submitted to NMED and other documents related to the final action can be found on the NMED WIPP webpage at the following link: <https://www.env.nm.gov/hazardous-waste/wipp/>.

Note: The Commenter ID in Table 1 corresponds to the Administrative Record (AR) number that identifies the comment in the Hazardous Waste Bureau's WIPP [Facility Record Index](#). An individual comment, and any WIPP Facility record, may be found by searching for its AR # in [Facility Records](#), both links accessed on the above referenced webpage.

Table 1: List of Public Commenters

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.01	Dale Janway, Mayor/ John Heaton, Chairman	City of Carlsbad/Mayor's WIPP Task Force	7/16/2020
200805.02	Pamela Gilchrist/ Ken Mayers		7/17/2020
200805.03	Betty Kuhn		7/17/2020
200805.04	Victoria Parrill		7/19/2020
200805.05	Jean Stevens		7/20/2020
200805.06	Gregory Corning		7/20/2020
200805.07	Diana Baker		7/20/2020
200805.08	Paul Pino		7/20/2020
200805.09	Melanie West		7/20/2020
200805.10	Robert Hake		7/21/2020
200805.11	Basia Miller		7/21/2020
200805.12	George Anastas		7/21/2020
200805.13	Caroline Evans		7/21/2020
200805.14	Mona Ruark		7/22/2020
200805.15	Steve Zabinsky		7/23/2020
200805.16	Cindy Weehler		7/24/2020
200805.17	George Lukes		7/25/2020
200805.18	Brianna Fristoe		7/25/2020
200805.19	Carol Merrill		7/26/2020
200805.20	Lem Powers		7/27/2020
200805.21	Dara Mark/ Turner Mark-Jacobs		7/27/2020
200805.22	Sheila Parks, EdD, Founder	On Behalf Of Planet Earth	7/31/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.23	Melanie Deason, Former Radiation Tech worker/ Former Editor	White Sands Missile Range 1983-85/ Hazardous Waste regulations, EID 1985-86	8/1/2020
200805.24	Vicki O.		8/1/2020
200805.25	Jill ZamEk		8/2/2020
200805.26	Debra Stoleroff		8/2/2020
200805.27	Rebecca Mueller	Action Alliance of Embudo Valley	8/2/2020
200805.28	Kathryn Atkins		8/2/2020
200805.29	Beth Sweetwater		8/2/2020
200805.30	M. Reed		8/2/2020
200805.31	Elizabeth Allured		8/2/2020
200805.32	Jack Shoulders		8/2/2020
200805.33	Donnarae Aiello		8/2/2020
200805.34	M.E. Carrigan		8/2/2020
200805.35	Gina Mori		8/2/2020
200805.36	Rosemary Wilvert		8/2/2020
200805.37	Martha Goldin		8/2/2020
200805.38	Elyette Weinstein		8/2/2020
200805.39	Karen C. Nelson, PhD		8/3/2020
200805.40	Ron Pryor		8/3/2020
200805.41	Carol McGeehan		8/3/2020
200805.42	Helen Henderson		8/3/2020
200805.43	Eugene P. Coyle, PhD		8/3/2020
200805.44	Dr. G. Campbell		8/3/2020
200805.45	Deborah Jones		8/3/2020
200805.46	Ann Dusenberry		8/3/2020
200805.47	Rebecca Townsend		8/3/2020
200805.48	Jim Welke		8/4/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.49	Rosemary Dupray		8/4/2020
200805.50	Susan Bergholz		8/4/2020
200805.51	Bert Snyder		8/4/2020
200805.52		30 Post Cards mailed by SRIC	8/4/2020
	Joan H. Searer		
	Tessie Duran		
	Bernice Martinez		
	Mary J. Collins		
	Jefferson Goldstein		
	Mara Hoffman		
	Robin Elkin		
	Miguel Valdez		
	Katrice Grant		
	Amberli Benavidez		
	Sharon Chamberlin		
	Maureen Murphy		
	Elizabeth Aronson		
	Jan Tras		
	Matt Thompson, MD		
	Lyle Aufdermauer		
	John Nile Fischer		
	Sally Jane Gellert		
	Taylor Altenbein		
	Deborah Reade		
	Kevin Kamps		
	Laurie Headrick		
	Gary Headrick		
	Denise Jakobsberg		
	Malachi Daw		

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
	Denise Brown		
	Joel Lorimer		
	Patricia A. Marida		
	Jose Toby Gutierrez, Jr.		
	Richard Guttierrez		
200805.53	Susan Hart		8/4/2020
200805.54	Jacinta & Phillip Kehoe		8/4/2020
200805.55	David Tiemeyer		8/4/2020
200805.56	Christine Hughs		8/4/2020
200805.57	Livia Cordova		8/4/2020
200805.58	David A. Shephard, Jr. & Victoria Shephard		8/4/2020
200805.59	Diane Cole		8/4/2020
200805.60	Paula McGee		8/4/2020
200805.61	Merlin Emrys		8/4/2020
200805.62	Charlene M. Woodcock		8/4/2020
200805.63	Jean E. Stevens, Director	Taos Environmental Film Festival	8/4/2020
200805.64	Robb Lucas		8/4/2020
200805.65	Patricia A. Marida		8/4/2020
200805.66	Patricia Greer		8/5/2020
200805.67	Sam Yip		8/5/2020
200805.68	Elizabeth MacLaren		8/5/2020
200805.69	Jenny Vellinga		8/5/2020
200805.70	Sarah Sisk		8/5/2020
200805.71	Sylvia Rodriguez		8/5/2020
200805.72	Martha Rae Baker		8/5/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.73	Bill Baker		8/5/2020
200805.74	Jo Ann Sullivan		8/5/2020
200805.75	Robin Thompson		8/5/2020
200805.76	Dick Wagner		8/5/2020
200805.77	Laura Zirulnik		8/5/2020
200805.78	Dorothy Dean		8/6/2020
200805.79	Morris Pongratz		8/6/2020
200805.80	Mary Marquez		8/6/2020
200805.81	Patricia Callaway		8/6/2020
200805.82	Gary Sachs		8/6/2020
200805.83	Dave McCoy, Executive Director	Citizen Action New Mexico	8/6/2020
200805.84	Gail Robin Seydel		8/6/2020
200805.85	Julie Parcels		8/6/2020
200805.86	Joseph & Marilyn Mohanna		8/6/2020
200805.87	Jay Jenkins, President & CEO	Carlsbad National Bank	8/6/2020
200805.88	Jack Volpato		8/6/2020
200805.89	Richard Goeller		8/6/2020
200805.90	Fran Hardy		8/6/2020
200805.91	Lisa Leefeldt		8/6/2020
200805.92	Michael Gullberg		8/6/2020
200805.93	Jennifer Rowland		8/6/2020
200805.94	Te' zins		8/7/2020
200805.95	Walter Wright		8/7/2020
200805.96	Richard Sober		8/8/2020
200805.97	Thomas A. DePree, PhD, MS	Science & Technology Studies, Rensselaer Polytechnic Institute	8/8/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.98	Edward T. Rodriguez, Mayor Pro-Tem	City Council Ward 1	8/8/2020
200805.99	Bernice J. Gutierrez		8/8/2020
200805.100	Y Lee		8/8/2020
200805.101	Dario		8/8/2020
200805.102	Rev. Lawrence Bernard, OFM, Pastor	San Diego Mission	8/8/2020
200805.103	Elizabeth Jacobson, Fellow	Academy of American Poets	8/8/2020
200805.104	Janet M. Berry		8/8/2020
200805.105	Bill & Barbara Tiwald		8/8/2020
200805.106	Andrew Gold		8/8/2020
200805.107	Ella Joan Fenoglio		8/8/2020
200805.108	James Randall Oyster		8/8/2020
200805.109	Charles F Rudolph		8/8/2020
200805.110	Sharon Gross		8/8/2020
200805.111	David Hollenbach & Jane Rosenthal		8/8/2020
200805.112	Rebecca Peterson, PhD		8/8/2020
200805.113	Anna Rider		8/8/2020
200805.114	Jennifer Warren, Former Chair	Ward 4A	8/8/2020
200805.115	Patricia Willson, AIA	Willson + Willson Architects	8/8/2020
200805.116	Daniel Clothier		8/8/2020
200805.117	Carol Benson		8/8/2020
200805.118	Jean De Lataillade		8/8/2020
200805.119	Petuuche Gilbert		8/8/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.120	Anne Haven McDonnell		8/8/2020
200805.121	Kathy Sanchez, Elder	Sayain Circle of Grandmothers of Tewa Women United	8/9/2020
200805.122	Barbara Grothus		8/9/2020
200805.123	Tawnya Laveta		8/9/2020
200805.124	Carolyn Silver		8/9/2020
200805.125	Dorothy Massey		8/9/2020
200805.126	Paula Seaton		8/9/2020
200805.127	Eve B.		8/9/2020
200805.128	Karen Bentrup & Lloyd DeWald		8/9/2020
200805.129	Kathleen M. Burke		8/9/2020
200805.130	Frances Lamberts		8/9/2020
200805.131	Catherine R. Leach		8/9/2020
200805.132	Steve Maschino		8/9/2020
200805.133	Marie Silverman		8/9/2020
200805.134	Terry Burns, MD, Chair	The Alamo Group of the Sierra Club	8/9/2020
200805.135	Ed Hughs		8/9/2020
200805.136	Kathleen Clark		8/9/2020
200805.137	Victor Macks		8/9/2020
200805.138	Judy Repoff		8/9/2020
200805.139	Eugene Repoff		8/9/2020
200805.140	Steven Sondheim	Sierra Club	8/9/2020
200805.141	Sally-Alice Thompson		8/9/2020
200805.142	Tom Ferguson		8/9/2020
200805.143	Regina Minniss	Crabshell Alliance	8/9/2020
200805.144	Ben Bitterman	1 Post Card mailed	8/5/2020
200805.145	Kenneth Gibson		8/9/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.146	Mathilde Walker		8/9/2020
200805.147	Kathleen Newman		8/10/2020
200805.148	Richard Jennings		8/10/2020
200805.149	Christopher Williams		8/10/2020
200805.150	Margaret Wright		8/10/2020
200805.151	Tom Clements, Director	Savannah River Site Watch (SRS Watch)	8/10/2020
200805.152	Sherri Kalman		8/10/2020
200805.153	Amber Jeansonne		8/10/2020
200805.154	Susan O'Donoghue		8/10/2020
200805.155	Lena Bartula	La Huipilista Artspace	8/10/2020
200805.156	Larry Goodell		8/10/2020
200805.157	Lora Lucero		8/10/2020
200805.158	Cristina M. Rogers		8/10/2020
200805.159	Sue Shriver		8/10/2020
200805.160	Elizabeth West		8/10/2020
200805.161		37 Post Cards emailed by CCNS	8/10/2020
	Maj-Britt Eagle		
	Betty Kuhn		
	Marian A. Shirin		
	Gabe Hanson		
	Melissa Williams		
	Curtis Borg		
	Adair Seldon		
	Ron Pryor & Karen Nelson		
	Pat Hodapp		
	Naomi Diamond		
	Howard R. Shulman		

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
	Mary Van Sickle		
	Phillip Lepak		
	Peter Thomas White		
	Valerie Brown		
	James Murray		
	Joseph W. Brownrigg		
	Judy Klinger		
	Ann Brownrigg		
	John R. Vogel		
	Scott D. Pitz		
	Elizabeth MacMahon		
	Lorraine Hausman		
	Albert Christopher Calderon		
	Cate Cabot		
	David Funk		
	Eduardo Krasilovsky		
	Rosario H. Torres		
	Pam Parfitt & Brian Morgan		
	Gail Funk		
	Penny Truitt		
	Aldo Carrasco		
	Ann Morgan		
	Janet M. Berry		
	JoAnn Lucas		
	James Eagle		
	Mary Burton Riseley		
200805.162	Eleanore Voutselas		8/10/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.163	8 Members of the Board	San Luis Obispo Mothers for Peace Board	8/10/2020
200805.164	Linda Ann Marianiello & Karl Franz Vote		8/10/2020
200805.165	Sarah Zurick		8/10/2020
200805.166	Tina Cordova	Tularosa Basin Downwinders Consortium (TBDC)	8/10/2020
200805.167	Henry R. Lanman, Jr		8/10/2020
200805.168	Teresa Cummings		8/10/2020
200805.169	Diane Forsdale		8/10/2020
200805.170	Loren Kahn		8/10/2020
200805.171	Paige Murphy-Young, Esq.		8/10/2020
200805.172	Eve McGuire		8/10/2020
200805.173	Monica Linda Hughes		8/10/2020
200805.174	Mary McGuire		8/10/2020
200805.175	Serit Kotowski		8/10/2020
200805.176	Marti Zieg		8/10/2020
200805.177	Deborah Lamal		8/10/2020
200805.178	Rose Marie Cecchini, MM, Director	Office of Life, Peace, Justice & Creation, Catholic Charities of Gallup Diocese	8/10/2020
200805.179	Veronica Holmes, Nurse & Conservation Biologist		8/10/2020
200805.180	Ian Colburn, President	Rio Grande Farmers Coalition	8/10/2020
200805.181	Mike Hanna		8/10/2020
200805.182	Wendy Volkmann		8/10/2020
200805.183	Katya Reka		8/10/2020

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200805.184	Natalie Brackett		8/10/2020
200805.185	Gatis Cirulis		8/10/2020
200805.186	Rowan Adara		8/10/2020
200805.187	Carol Sanguinetti		8/10/2020
200805.188	James C. Taylor & Jackie Taylor		8/10/2020
200805.189	Susan Gerber		8/10/2020
200805.190	Sophie Anne Walker		8/10/2020
200805.191	Jane Lackey & Thomas Lehn		8/10/2020
200805.192	Sue Small		8/10/2020
200805.193	Geri Rhodes, PhD		8/10/2020
200805.194	Judy Klinger		8/10/2020
200805.195	Maureen Chase		8/10/2020
200805.196	Timothy Vellinga		8/10/2020
200805.197	Be Sargent		8/10/2020
200805.198	Carolina Van Stone, PhD		8/10/2020
200805.199	Diana Gries		8/10/2020
200805.200	Patricia Sheely		8/10/2020
200805.201	Gregory Sandoval		8/10/2020
200805.202	Bonnie Martin		8/10/2020
200805.203	Karen Sweeney		8/10/2020
200805.204	Susan Michetti		8/11/2020
200805.205	Richard Malcolm		8/11/2020
200805.206	Martha Lynne		8/11/2020
200805.207	Pia Jensen		8/11/2020
200805.208	Gloria & Richard Maschmeyer		8/11/2020
200805.209	Norah Edelstein		8/11/2020
200805.210	Darren Zurbay		8/11/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.211	Ann Maes		8/11/2020
200805.212	Lisa Ann Corradino & Family		8/11/2020
200805.213	Don Viering		8/11/2020
200805.214	Patricia R. Wood		8/11/2020
200805.215	Lorena Russell-Shalev		8/11/2020
200805.216	Jacqueline Hertel		8/11/2020
200805.217	Andromeda Romstad		8/11/2020
200805.218	Spencer Stair		8/11/2020
200805.219	John Waters, Executive Director	Carlsbad Department of Development	8/11/2020
200805.220	Ilsa Garduno		8/11/2020
200805.221	Kathryn Toll		8/11/2020
200805.222	Suzanne Caldarello		8/11/2020
200805.223	Benjamin Bonnet		8/11/2020
200805.224	Virginia Aromando		8/11/2020
200805.225	Samantha Macfarlane		8/11/2020
200805.226	Cathrynn Novich Brown, Representative	NM House of Representatives, District 5	8/11/2020
200805.227	Stephen Smulka		8/11/2020
200805.228	Charlotte Sayler & William Sayler		8/11/2020
200805.229	Charlotte Sayler		8/11/2020
200805.230	B. Kay Milton		8/11/2020
200805.231	David Kaufman		8/11/2020
200805.232	Lola Moonfrog		8/11/2020
200805.233	Bruce Campbell		8/11/2020

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
200805.234	Clay Turnbull, Trustee & Staff	New England Coalition on Nuclear Pollution	8/11/2020
200805.235	Donna Roxey		8/11/2020
200805.236	Damon J. Hudson		8/11/2020
200805.237	Beata Tsose	Tewa Women United, Environmental Health & Justice Program	8/11/2020
200805.238	Judy Traeger		8/11/2020
200805.239	Karen Hadden, Executive Director	Sustainable Energy & Economic Development (SEED) Coalition	8/11/2020
200805.240	Jan Boudart		8/11/2020
200805.241	Tim Hornig		8/11/2020
200805.242	Karen Bonime, Member	Citizens for Alternatives to Radioactive Dumping (CARD)	8/11/2020
200805.243	Christian R. Weehler		8/11/2020
200805.244	Don Hyde		8/11/2020
200805.245	Edith (Dee) Homans & Andrew Davis		8/11/2020
200805.246	Bob Demboski		8/11/2020
200805.247	Deborah Reade		8/11/2020
200805.248	Amy Christian		8/11/2020
200805.249	Linda Hibbs		8/11/2020
200805.250	Dominique Mazeaud		8/11/2020
200805.251	Sam D. Cobb, Mayor	City of Hobbs	8/11/2020
200805.252	Don Hancock	Southwest Research and Information Center (SRIC)	8/11/2020
200805.253	Elliott Skinner		8/11/2020
200805.254	Debi Saylor		8/11/2020
200805.255	Tiska Blankenship		8/11/2020
200805.256	Sasha Pyle		8/11/2020
200805.257	Carrie House		8/11/2020
200805.258	Jennifer Young		8/11/2020

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200805.259	Steve Zappe		8/11/2020
200805.260	Karen Weber		8/11/2020
200805.261	Kristin Goodman		8/11/2020
200805.262	Michael McGuire		8/11/2020
200805.263	Elaine Del Valle		8/11/2020
200805.264	Sandra Wheeler		8/11/2020
200805.265	Fay Evans		8/11/2020
200805.266	Joni Arends, Executive Director	Concerned Citizens for Nuclear Safety (CCNS)	8/11/2020
200805.267	Timothy Wade		8/11/2020
200805.268	Jean Nichols		8/11/2020
200805.269	Bobbe Besold		8/11/2020
200805.270	Sophie Aschwanden		8/11/2020
200805.271	Kevin Kamps, Radioactive Waste Specialist	Beyond Nuclear	8/11/2020
200805.272	Mary Burton Riseley		8/11/2020
200805.273		Youth United for Climate Crisis Action (YUCCA)	8/11/2020
200805.274	Jay Coghlan/ Scott Kovac	Nuclear Watch New Mexico (NWNM)	8/11/2020
200805.275	Larry Mitchell, Board President	Carlsbad Department of Development	8/11/2020
200805.276	Janet Greenwald, Coordinator	Citizens for Alternatives to Radioactive Dumping (CARD)	8/11/2020
200805.277	Scott S.		8/3/2020
200805.278	Emmy Koponen		8/11/2020
200805.279	Virginia J. Miller		8/11/2020
200805.280	Leona Morgan, Coordinator	Nuclear Issues Study Group	8/11/2020
200805.281	Laura Watchempino		8/11/2020
200805.282	Dennis Broske		8/12/2020

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200805.283	Rebecca M Summer, PhD	Pre-WIPP Expert Scientific Team, Sandia National Labs	8/12/2020
200805.284	Sr. Joan Brown, OSF		8/12/2020
200805.285	Gay G. Kernan, Senator	NM Senate District 42	8/12/2020
200805.286	Erika Wanenmacher		8/13/2020
200805.287	Nora Ryerson		8/13/2020
200805.288	Jill Markus		8/14/2020
200805.289	Richard Jennings/ Lydia Zepeda Jennings	Earthright Designs/LMFT	8/17/2020
200805.290	Joseph Wexler	1 Post Card mailed	8/17/2020
200805.291		6 Post Cards mailed by Bonnie Bonneau	8/20/2020
	Bonnie Bonneau		
	Yamuna Devi		
	Georgia Black		
	Sharon Henry		
	Michael Cloutman		
	Ashley Cloutman		
201029	Anna Marie Perez (Pebbles)		10/30/2020
Comments Received by the Hearing Clerk			
A	Tom Clements, Director	Savannah River Site Watch (SRS Watch)	03/25/2021, 05/13/2021
B	Cynthia Weehler		03/27/2021, 03/29/2021, 05/18/2021
C	Betty Kuhn		04/03/2021
D	Richard Vann Bynum, Ph.D.		04/07/2021
E	Pamela Richard		04/14/2021
F	Susan Noel		04/25/2021
G	Bert Snyder		05/06/2021

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H	Dara Mark		05/06/2021
I	Susan Bergholz		05/07/2021
J	Y.M. Lee		05/07/2021
K	William H. Baker, Jr		05/08/2021
L	Elizabeth A. Maclaren		05/11/2021
M	Lucy R. Lippard		05/11/2021
N	Robert Watson		05/12/2021
O	Addilade Windsor		05/13/2021
P	Robert Bennett		05/13/2021
Q	K. Bensusen		05/13/2021
R	Chad E. Ingram, CEO	Carlsbad Chamber of Commerce/Includes the below 14 names in support	05/13/2021
	John Heaton		04/28/2021
	Jason Shirley		04/28/2021
	Kyle Marksteiner		04/28/2021
	Donavan Mager		04/28/2021
	Susan Crockett		05/04/2021
	Martha Singleton		05/04/2021
	Elizabeth Licklitter		05/07/2021
	Will Cho		05/07/2021
	Juan Dorado		05/07/2021
	Don Dando		05/07/2021
	Kay Atwood		05/07/2021
	Tracy Hughes		05/07/2021
	Alejandro Munoz		05/10/2021
	Gay Kernan		05/10/2021
S	Jonathan Crews		05/13/2021
T	Lydia Dixon		05/13/2021, 05/14/2021
U	Jack Fanning		05/13/2021

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
V	Ellen Fuller		05/13/2021
W	Rachel Hart		05/13/2021
X	David & Jane Hollenbach		05/13/2021
Y	Gay G. Kernan, Senator	New Mexico District 42	05/13/2021
Z	Nancy King		05/13/2021
A1	Susan & Roger Peirce		05/13/2021
B1	Rhonda H. Valdez		05/13/2021
C1	Sally Bryan		05/14/2021
D1	Robin Seydel		05/17/2021
E1	Barbara Grothus		05/14/2021
F1	Mary Ann Hammond		05/14/2021
G1	Sam D. Cobb, Mayor	City of Hobbs	05/14/2021
H1	Deborah Schneider		05/14/2021
I1	Mark Stair		05/14/2021
J1	Barbara Wisoff		05/14/2021
K1	Maeyer Edmondson		05/15/2021
L1	Thomas Thirion		05/15/2021
M1	Jim Zebora		05/15/2021
N1	Sallie Bingham		05/16/2021
O1	Sandra Blakeslee		05/16/2021
P1	Patricia Gilliam		05/16/2021
Q1	Libbe HaLevy, Producer/Host	Nuclear Hotseat	05/16/2021
R1	Richard L. Harrison, Reverend		05/16/2021
S1	Shannon Kilgore		05/16/2021, 05/17/2021
T1	Kevin Kirby		05/16/2021

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
U1	Peter McCarthy		05/16/2021
V1	Laura Reinbold		05/16/2021
W1	Anita Schultz		05/16/2021
X1	Felicia N Trujillo, ND	International FELDENKRAIS Assistant Trainer, DOCTORS W.A.R.N. (Wireless And Radiation Network)	05/16/2021
Y1	Richard Villasana, President	Find Relatives in Mexico	05/16/2021
Z1	Emmy Koponen		05/17/2021
A2	Bob Aly, President	Available Media Inc.	05/17/2021
B2	Jean Stevens		05/17/2021
C2	John Raifsnider		05/17/2021
D2	Shannon Kilgore		05/17/2021
E2	Kathleen Cody		05/17/2021
E2.5	Judy Kramer		05/17/2021
F2	Basia Miller, Ph.D.		05/17/2021
G2	Beth Nieman		05/17/2021
H2	Paul Baumann		05/17/2021
I2	Paul Pino		05/17/2021
J2	Debra Denker, Reverend		05/17/2021
K2	Janet Greenwald		05/17/2021
L2	Paula Seaton		05/17/2021
M2	Sherry Kerstetter		05/17/2021
N2	Paige Murphy-Young		05/17/2021
O2	John E. Wilks, III, Chair, Environmental Committee	Veterans for Peace, Chapter #63/ Received by NMED-Hazardous Waste Bureau	05/18/2021
P2	Karen Bonime		05/18/2021

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
Q2	Doug Pitzer, Facility Operations Engineer	Nuclear Watch Partnership LLC (NWP)	05/18/2021
R2	Bill Evans		05/18/2021
S2	Ian Cotten, Energy Program Manager	Snake River Alliance	05/18/2021
T2	James Randall Oyster		05/18/2021
U2	David Patton		05/18/2021
V2	Ron Rencher		05/18/2021
W2	Therese Patton		05/18/2021
X2	Andre VonReiter		05/18/2021
Y2	Anhara & Andy Lovato		05/19/2021
Z2	Jay Jenkins, President & CEO	Carlsbad National Bank	05/19/2021
A3	Carol Merrill, Poet, Author, Teacher, Librarian		05/19/2021
B3	April Mondragon		05/20/2021
C3	Karen Kirschling		05/20/2021
D3	Colleen McManus		05/20/2021
E3	Patricia Orlinkski		05/20/2021
F3	Joshua Atlas		05/21/2021
G3	T. Cassidy		05/21/2021
H3	Maj-Britt Eagle		05/21/2021
I3	Elizabeth Esparza		05/21/2021
J3	Dr. Virginia Necochea, Executive Director	New Mexico Environmental Law Center	05/21/2021
K3	Jeanne Green		05/21/2021

Commenter ID/AR #	Commenter	Association, if applicable	Date Received
L3	Kevin Kamps, Radioactive Waste Specialist	Beyond Nuclear	05/21/2021
M3	Sandra McCardell, President	Current-C Energy Systems, Inc.	05/21/2021
N3	Virginia Curtis Lee, Attorney at Law		05/23/2021
O3	Becca Gardner		05/24/2021
P3	Tony Green, Board Member	Tri-Valley CAREs	05/25/2021
Q3	Megan M. Murillo	Received by NMED-Hazardous Waste Bureau	05/26/2021

Table 2: Summaries of Public Comments and NMED Responses

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
<p>R1 In Support</p>	<p>200805.01 200805.32 200805.79 200805.87 200805.88 200805.98 200805.219 200805.226 200805.251 200805.275 200805.285 D G1 G2 M1 N Q2 R X2 Y Z2</p>	<p>Commenters were in general support of the proposed modification. Commenters Janway & Heaton’s letter states, “The men and women working in the WIPP underground are my top priority, and they have told me they support this project.” Commenter Brown noted, “The new shaft will provide better control of ventilation...making the facility safer for workers.” Commenter Rodriguez states, “Adequate air flow for workers and the safe operation of the WIPP facility is the question we have at hand, THE reason for the permit modification being considered...please keep in mind the permit modification is for the shaft, nothing else but the shaft.”</p>	<p>Comment noted.</p>
<p>R2 Post Cards</p>	<p>200805.52 200805.144 200805.161 200805.290 200805.291</p>	<p>76 identical post cards were received stating the following views: “I OPPOSE THE ‘WIPP FOREVER’ PLANS!”; “...the Department of Energy (DOE) plans to operate WIPP indefinitely for much additional waste and not to develop any other repositories.”; “NO WIPP EXPANSION!”; “The expansion is contrary to legal requirements and endangers public health and the environment, so NMED must deny the request.”</p>	<p>See R3, R15, R21.</p>
<p>R3 General Opposition</p>	<p>200805.02 200805.03 200805.04</p>	<p>Various letters in general opposition to the proposed modification were received which shared similar views with multiple comparable issues. The majority of these</p>	<p>Please see corresponding topic areas in responses below.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.05 200805.06 200805.07 200805.08 200805.09 200805.10 200805.11 200805.13 200805.14 200805.15 200805.17 200805.18 200805.19 200805.21 200805.22 200805.23 200805.24 200805.25 200805.26 200805.27 200805.28 200805.29 200805.30 200805.31 200805.33 200805.34 200805.35 200805.36 200805.38 200805.39 200805.40 200805.41 200805.37	<p>comments comprise variations of several different form letters promulgated by CCNS. The following is a summary of the issues identified in these comments.</p> <p>Several commenters objected to the Temporary Authorization (TA) which allowed construction of the shaft while the Class 3 process was on-going. The following reasons were given: 1. The TA was not used in an emergency situation; 2. Lack of a public process for the TA approval. From form letters: "It is clear there is no emergency requiring NMED to issue a temporary authorization for shaft construction." And, "It's an End Run around the People of New Mexico To build the WIPP EXPANSION before the permit may be approved WITHOUT A PUBLIC HEARING..." And, "The New Mexico Environment Department has authorized the construction of the shaft seven weeks before the draft permit was issued and long before the public hearings will be Held."</p> <p>Several commenters state the real purpose of the shaft is expansion. Expansion was viewed in several different ways: accepting new waste streams; expanding the volumetric capacity; enlarging the facility footprint; and extending the operating period of the facility. Some comments tied new plutonium pit production to the expansion of WIPP. Commenter Campbell states, "The new shaft is all about expanding WIPP for more waste and more kinds of waste." From form letters: "The new shaft is all about expanding WIPP for more waste, including: · high-level radioactive waste from Hanford, Washington and other sites; · weapons-grade plutonium from the Savannah River Site in South Carolina; ·</p>	<p>See R9.</p> <p>See R15.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.42 200805.43 200805.44 200805.45 200805.46 200805.47 200805.48 200805.49 200805.50 200805.51 200805.53 200805.54 200805.55 200805.56 200805.57 200805.58 200805.59 200805.60 200805.61 200805.62 200805.63 200805.64 200805.65 200805.66 200805.67 200805.68 200805.69 200805.70 200805.71 200805.72 200805.73 200805.74 200805.75	<p>commercial waste from West Valley, New York; and · 50 years or more of waste from building new nuclear weapons.” Also, “The new shaft actually is for new underground rooms that could more than double the disposal area because the existing, permitted panels will be filled in a few years.” And, “It’s time for NMED to support the promises DOE made to the People of New Mexico for closure of WIPP in 2024. The new shaft must be stopped.” Finally, “I firmly believe that this WIPP expansion is part of the DOE’s plan to continue nuclear weapons production.”</p> <p>The removal of the 2024 closure date and lack of a specific replacement date in the Ten-Year Permit Renewal Application, dated March 31, 2020, was a topic of several comments. Several commenters described the project as moving toward a ‘Forever WIPP’ goal. One form letter states, “...the NEW SHAFT isn’t a ventilation shaft - It’s designed to bring more waste to an expanded FOREVER WIPP!” Another states: “DOE says now it needs to keep WIPP open FOREVER.”</p> <p>Several comments state the New Filter Building (NFB) will provide adequate air without the need of the shaft as a ventilation component. From form letters: “The NEW SHAFT will take 3 years to construct While the NEW FILTER BUILDING coming online in 1 year will provide all the air that current workers need.” And, “The DOE’s stated justification for the new shaft is to provide airflow, yet a permanent ventilation system is currently being built. Clearly, the real purpose for the shaft is to expand capacity...”</p>	<p>See R25.</p> <p>See R26.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.76 200805.77 200805.78 200805.80 200805.81 200805.82 200805.83 200805.84 200805.85 200805.86 200805.89 200805.90 200805.91 200805.92 200805.93 200805.94 200805.95 200805.96 200805.97 200805.99 200805.100 200805.101 200805.102 200805.103 200805.104 200805.105 200805.106 200805.107 200805.108 200805.109 200805.110 200805.111 200805.112	<p>NMED’s public participation process in general was questioned. From commenter Kamps: “NMED's actions make it clear that the public participation, consultation, and comment processes are neither supported nor respected when it comes to WIPP.” Form letters state, “The Public Involvement Plan (PIP) is incomplete.” Also, “The Public Notice does not notify the public about how they can access language services for Low English Proficiency (LEP) speakers.” And, “The fact sheet for this permit modification provides little vital information in Spanish...” Several comments criticized the Fact Sheet for not containing information about the TA. From form letters: “The fact sheet for this permit modification...doesn't say that the shaft is already being built...” And, “The Fact Sheet does not state that DOE is digging the shaft NOW!”</p> <p>Some commenters felt the comment period should be extended due to the COVID-19 health emergency. Commenter De Lataillade states, “We must be given time to submit comments about this once the pandemic is over.” Similarly, commenter McGee states, “The comment deadline of 11 August 2020 is not reasonable for this proposed significant change to WIPP and the related transportation of waste. The public is focused on survival during a pandemic and, while transporting this waste within yards of our homes via HWY 285 is also potentially life threatening, we must be afforded reasonable opportunities for public comment. The deadline should be extended until this Covid-19 pandemic is over.”</p>	<p>See R13.</p> <p>See R24.</p> <p>See R6.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.113 200805.114 200805.115 200805.116 200805.117 200805.118 200805.119 200805.120 200805.121 200805.122 200805.123 200805.124 200805.125 200805.126 200805.127 200805.128 200805.129 200805.130 200805.131 200805.132 200805.133 200805.134 200805.135 200805.136 200805.137 200805.138 200805.139 200805.140 200805.141 200805.142 200805.143 200805.145 200805.146	<p>Several commenters discussed environmental justice (EJ) concerns. Form letters state, "Once again the People of New Mexico, a Majority Minority state, Are targets of environmental sacrifice." And, "This is an environmental justice issue against the majority minority Hispanic, Native American, and other people of color. Two high-level radioactive Consolidated Interim Storage facilities have targeted the same local area..." Commenter Kamp states, "In fact, New Mexico, with its very large proportion of Native American and Hispanic, as well as other people of color, communities, is a majority minority state. In addition, New Mexico also ranks towards the very bottom of many socio-economic indicators, when compared to other states across the country. Finally, there are high cancer rates in southeastern New Mexico, as well as significantly shorter life expectancies." Commenter Woodcock states, "As is the case all over the country, this hazardous waste site is located in a low-income area, presumably on the assumption that poor people won't sue to protect their health and lives. This is unjust and unacceptable." Commenter Cordova, a Trinity Downwinder, states, "My family and my community were overexposed to radiation as a result of the Trinity test in south central New Mexico...I hope you understand the negative consequences that could result from a catastrophe at WIPP."</p> <p>Many letters expressed the need for another repository to be opened so that WIPP and New Mexico (NM) would not be the sole destination for the nation's nuclear waste. Form letters state, "You must not allow New</p>	<p>See R21.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.147 200805.148 200805.149 200805.150 200805.151 200805.152 200805.153 200805.154 200805.155 200805.156 200805.157 200805.158 200805.159 200805.160 200805.162 200805.163 200805.164 200805.165 200805.166 200805.167 200805.168 200805.169 200805.170 200805.171 200805.172 200805.173 200805.174 200805.175 200805.176 200805.177 200805.178 200805.179 200805.180	<p>Mexico to become the nation’s nuclear dumping ground; as no other permanent repository has been created.”</p> <p>A number of commenters, some of whom live along the WIPP transportation corridor, express their concern over the safety of the WIPP transportation system. Statements in several form letters contained similar concerns. Form letters state, “The transportation element is inherently high-risk, and contaminated shipments are expected from long distances.” Commenter Tiemeyer states, “Transport of nuclear waste along US285, which passes close to my home, is a hazard that our family will not tolerate.” Commenter De Lataillade states, “This decision affects us directly because the DOE plans to transport this waste for decades past our homes on HWY 285.”</p> <p>Several commenters felt the public participation process was deficient, and that the Fact Sheets and Public Notices did not contain sufficient information.</p> <p>Several commenters had concerns over economic issues in southeastern New Mexico.</p> <p>Some commenters were generally opposed to the nuclear industry. Commenter Seaton states, “...we must stop all insanity of spending money on the military nuclear industrial complex...” Commenter Woodcock states, “To have allowed development of nuclear energy with no safe plan for the disposition of its radioactive waste was criminally irresponsible.” Commenter McCoy of Citizen Action New Mexico (CANM) states, “CANM is strongly opposed to the continued production of nuclear</p>	<p>See R5.</p> <p>See R13, R37, R38.</p> <p>See R40</p> <p>This is beyond NMED’s purview.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.181 200805.182 200805.183 200805.184 200805.185 200805.186 200805.187 200805.188 200805.189 200805.190 200805.191 200805.192 200805.193 200805.194 200805.195 200805.196 200805.197 200805.198 200805.199 200805.200 200805.201 200805.202 200805.203 200805.204 200805.206 200805.207 200805.208 200805.209 200805.210 200805.211 200805.212 200805.213 200805.214	<p>weapons..." Commenter Boudart states, "The expansion of WiPP is part of a larger plan by the U.S. to increase the size and security, and enhance the explosive power of the war and destruction project." Commenter Pyle states, "WiPP, as I predicted, has revealed itself to be dedicated to keeping the weaponeers producing future weapons (and wastes)--rather than addressing in any logical fashion the backlog of WWII-era (and later) legacy wastes used to justify the need for WiPP."</p>	

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.215		
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NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	200805.253		
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NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
	B3, C, C1, C2, C3, D1, D2, D3, E, E1, E2, E2.5, E3, F, F1, F2, F3, G, G3, H, H1, H2, H3, I, I1, I2, I3, J, J1, J2, J3, K, K1, K2, K3, L, L1, L2, L3, M2, M3, N1, N3, O, O1, O3, P, P1, P2, P3, Q, Q1, Q3, R1, R2, S, S2, T, T1, U, U1, U2, V, V1, V2, W, W1, W2, X, X1, Y1, Y2, Z, Z1		
R4 Hearing Requests	200805.12 200805.83 200805.247 200805.252 200805.259 200805.266 200805.274	<p>These seven commenters write in opposition to the proposed modification and request a public hearing.</p> <p>Commenter Reade states concern over holding a virtual Hearing, stating, “It is not enough to have a Zoom meeting or a webinar because of the lack of online access...that would cause so many people in the potentially impacted area around WIPP to be left out of the process. Perhaps some combination with conference calling could work—or the public or NMED might come up with other options.”</p>	<p>A public hearing was held May 17-20, 2021 remotely on the Zoom platform.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
		<p>Commenter Zappe states objections to the draft Permit: "I object to approval of the draft Permit in the absence of a clearer explanation by the Permittees of future expansion plans, either conceptual or actual, for the repository. I further object to approval of the draft Permit as long as NMED's April 24 TA approval remains in effect and/or any construction activities authorized under the TA approval proceed." Commenter Zappe summarizes issues for consideration at hearing: "a) The absence of contextual information regarding the role of Shaft #5 in the expansion of WIPP construction and waste management activities. b) The request and approval of the Permittees' TA request to commence construction of Shaft #5 prior to approval of the draft Permit."</p> <p>Commenters Kovac and Coghlan state clear objections to the draft Permit, as well: "We object to approval of the draft Permit in the absence of a clearer explanation by the Permittees of future expansion plans, either conceptual or actual, for the repository. We further object to approval of the draft Permit as long as NMED's April 24 TA approval remains in effect and/or any construction activities authorized under the TA approval proceed." Commenters Kovac and Coghlan summarize issues for consideration at hearing: 1) "The absence of contextual information regarding the role of Shaft #5 in the expansion of WIPP construction and future national waste management activities."; 2) The request and approval of the Permittees' TA request to commence construction of Shaft #5 prior to approval of the draft Permit."</p>	

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
R5 Transportation	200805.16 200805.205 200805.256 200805.274 A3 M S1	<p>A number of commenters, some of whom live along the WIPP transportation corridor, express their concern over the safety of the WIPP transportation system. Commenter Weehler states, "I, along with approximately 10,000 residents, are at risk of these increased shipments since we live on the route." Commenter Malcolm states concern over "Inadequate safety measures for transportation of toxic wastes through populated areas..."</p> <p>Commenters Kovac and Coghlan state NMED should withdraw the TA until analyses of the transportation infrastructure needs in NM are completed.</p>	WIPP waste transport is under the purview of the United States Department of Transportation (US DOT) and the Nuclear Regulatory Commission (NRC). The transportation of WIPP waste is not regulated under the Permit. The State of New Mexico also has the New Mexico Radioactive Waste Consultation Task Force, whose mission is to represent the interests of the State of New Mexico regarding the safe and uneventful transportation of nuclear waste in and through the state.
R6 Environmental Justice	200805.240 200805.247 200805.274 200805.276	Several commenters discussed environmental justice (EJ) concerns. Commenter Boudart states, "...New Mexico is second from the bottom in the poverty rate of its people, having a 19.5% rate of poverty (before COVID19). But on New Mexico soil, the powerful Department of Energy has installed its major depository of waste..." Commenter Reade states, "...there also appears to be no interest in understanding if there could be any disparate effects as well on affected Communities of Color."	NMED went to extensive efforts to ensure public participation was enabled, paying special attention to the needs of the Spanish-speaking community in Carlsbad. These efforts are outlined in the testimony of NMED's Megan McLean given during the virtual public hearing.
R7 Environmental Impact Studies	200805.95 200805.151 200805.252 200805.256 200805.274 A N2	Commenter W. Wright expresses the need for an updated Environmental Impact Statement (EIS), stating, "The people who will have to live with the consequences of endless WIPP and vastly expanded pit production deserve full information about the environmental and social costs of these proposed programs." Commenter Clements states DOE "...must prepare a Programmatic Environmental Impact Statement (PEIS) on potential complex-wide technical and environmental impacts related to the disposition of	A Supplemental Analysis (SA) for the PVS, including the shaft, was issued in November 2017. This SA was added to the record for this proceeding through an NMED request in its December 6, 2019 Technical Incompleteness Determination (TID) [AR 191203].

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
		<p>surplus plutonium via the dilute and dispose technique. Disposal of surplus plutonium in WIPP “redefines the character of WIPP,”...” Commenter Clements further states, “Action on the permit application by NMED must be postponed at least until DOE clarifies what new approach it will take under NEPA [National Environmental Policy Act] concerning disposal of surplus plutonium and pit plutonium and other plutonium...” and “...a NEPA approach would consist of first a PEIS and then site-specific EISs [Environmental Impact Statements].” Commenter Clements concludes, “...given the evolving nature of the program, DOE must begin a Programmatic EIS on its plutonium disposition program... this PEIS must be coordinated with the required PEIS on pit production as efforts with plutonium disposition and pit fabrication overlap in a number of areas.” Commenter Hancock does not believe the new shaft project is supported by an adequate NEPA analysis because the Supplemental Analysis (SA) termed the shaft the “new exhaust shaft,” and it is no longer intended to be used for that purpose. Commenter Kovac and Coghlan state, “We request a full National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) of the new shaft and any future panels. We demand a Supplement Analysis of the new shaft and any future panels. In addition to the environmental benefits, a NEPA action would stop the spending of irretrievable resources on an unapproved modification.”</p>	
<p>R8 Financial Issues</p>	<p>200805.247 200805.256 200805.259 200805.274</p>	<p>Several issues relating to cost and financial incentives are raised. Commenter Reade states, “Does anyone really believe that, after DOE has spent tens of millions of dollars—possibly more than \$100 million digging the</p>	<p>This is beyond NMED’s purview.</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
		<p>New Shaft, that anything the public could say would make DOE reverse course?" and "the rush is related to financial incentives and bonuses for DOE's co-permittee on WIPP, Nuclear Waste Partnership, for meeting certain performance deadlines in constructing the shaft." Commenters Kovac and Coghlan state, "...DOE awarded a \$75 million contract to construct the 30-foot in diameter shaft to a depth of 2,150 feet below ground surface. We respectfully request that NMED not be inclined to approve this PMR just because public tax dollars have already been spent." Commenters Kovac and Coghlan further state, "NMED should withdraw the temporary authorization to build the ventilation shaft until DOE reinstates that [Land Withdrawal Act state infrastructure] funding. When the State of New Mexico has leverage over DOE it should use it."</p>	
<p>R9 Temporary Authorization</p>	<p>200805.12 200805.240 200805.247 200805.252 200805.256 200805.259 200805.266 200805.274 200805.276 200805.280</p>	<p>Several commenters objected to the Temporary Authorization (TA) which allowed construction of the shaft while the Class 3 process was on-going. Commenter Anastas states, "Now the DOE is constructing a new waste shaft to expand WIPP without the required public hearing..." Commenter Weehler states, "...NMED allowed the DOE to start excavating the 5th shaft even before a final permit was approved." Commenter Boudart states, "I also object that the New Mexico Environment Department (NMED) has authorized the construction of the shaft seven weeks before the draft permit was issued and long before the public hearing will be held." Commenter Reade states, "NMED must withdraw the current <i>Temporary Authorization (TA)</i> that allows the New WIPP Shaft to be constructed without a complete public process.... It is irresponsible to start constructing</p>	<p>There was no public participation requirement for this TA because it occurred as part of the Class 3 process which contains its own expanded public participation elements. In the Federal Register, Vol. 53, No. 188, which established the ability to request a TA, the following response to commenters was made: "One commenter was generally opposed because of a lack of public comment and hearings. EPA disagrees because the use of temporary authorizations is allowed only for specified purposes, which are intended to improve the management of hazardous wastes or respond to a critical situation; The Agency will have the authority to deny any requests which are not protective of human health and the environment or do not meet the criteria for a temporary authorization. Also, as discussed below, the permittee must notify persons</p>

NMED Response Number/ Topic Area	Commenter ID/AR #	Public Comment	NMED Response
		<p>the project before deciding, in a properly conducted public process, whether or not the shaft should be built at all." Commenter Hancock states, "...SRIC strongly opposes the draft permit and the Temporary Authorization..."</p> <p>Commenters Kovac and Coghlan request the following information: 1) "Why, if the new shaft is 'important for current underground operations and worker safety,' did the agency not reach the conclusion during its consideration of the December 22, 2017 PMR?"; 2) "Why...did the agency delay for 239 days from the end of the comment period on the class 3 request on October 16, 2019 until issuing the draft permit on June 12, 2020?"; 3) "Why...does NMED allow the site to continue to operate without the new shaft, including allowing dozens of workers to go underground on a daily basis?"; 4) "Why...does NMED allow underground operations even though the agency stated to the New Mexico Court of Appeals and the New Mexico Supreme Court that current workers in the underground are an 'imminent health concern, and improved ventilation at the facility is a necessity.'?"; 5) "Why...is the site allowed to continue underground operations during the 37 months of scheduled construction of the new shaft and associated underground drifts?"; and 6) "Why is the new shaft 'important for current underground operations and worker safety,' when it is scheduled to be in operation for little more than a year before the permit states that waste disposal operations will end in 2024?"</p>	<p>on the facility mailing list about the temporary authorization and must comply with Part 264 standards for its duration."</p> <p>Although no public participation requirement exists for TA's, NMED does recognize the benefit of including this information in the Fact Sheet. NMED did post documents associated with the TA when the draft Permit was issued on June 12, 2020.</p> <p>The analysis of the NMED approval of the original Temporary Authorization request may be found in the WIPP Facility Administrative Record (AR), as well as the record for this permit action, under the designation AR 200415.1.</p> <p>The Temporary Authorization reissuance request was denied by NMED on November 18, 2020 [AR 201108].</p>

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		<p>Commenter Zappe states, "...the department improperly approved the Permittees' temporary authorization (TA) request to commence construction of the new shaft prior to any public involvement or comment on the draft permit – in fact, NMED didn't issue the draft permit for public comment until seven weeks after the TA approval. The Permittees abused the TA process by proposing (and NMED abused it by approving) an activity that was neither necessary nor able to achieve the stated objectives to 'facilitate other changes to protect human health and the environment' or 'provide improved management of hazardous wastes' at the facility within the time limitations of the TA approval. The TA approval simply provided the Permittees a head start in excavating Shaft #5, with no environmental benefit achieved during that time..." Commenter Zappe attaches his April 27, 2020 affidavit to his comment in which he asserts the following interpretation of the regulations and guidance documents: 1) Preconstruction is not allowed with Class 3 PMR's; 2) The TA request does not satisfy the criteria to facilitate changes to protect human health and the environment; 3) The proposed TA activity will not achieve the stated objective within the TA time limit; 4) The proposed TA activity will not be complete within the TA timeframe; 5) The Permittees have not demonstrated a clear necessity for the TA; and 6) the State-DOE Consultation and Cooperation Agreement, dated July 1, 1981, requires a permit to be in place before any action is executed. In defense of the latter argument, Zappe states, "That language, standing alone, prohibits a TA for an activity that requires a permit modification, as the excavation of a new shaft</p>	

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		<p>surely does. The TA violates the C&C Agreement.” Commenter Arends states, “NMED has not followed previous precedent for approving or not approving temporary authorizations. Please see affidavit of Steve Zappe...”</p>	
<p>R10 Site Geology</p>	<p>200805.10 200805.247 200805.256</p>	<p>Commenter Hake expresses concerns about water activity underground at the facility and the presence of sink holes in the vicinity. The letter states, “The salt water below...will soon crack the floors, walls and ceilings as it creeps up into the site. Look around down there and you will see massive sink holes that have no other explanation but that the water wins.”</p> <p>Commenter Reade states concern over closing the new shaft, with a larger diameter than the existing shafts, “in the complex WIPP karst geology.” Commenter Pyle states, “The site was chosen and then defended as appropriate for long-range isolation of radioactive materials, even as hydrological and geological evidence coming to light increasingly indicated that eventual release into the Rustler Aquifer, the Pecos River, the Rio Grande and eventually the Gulf of Mexico would be inevitable. The allegedly ‘stable’ salt formations were weakened and fractured as shafts were built and wastes emplaced. Dangerous collapse and exposure events in recent years, coupled with long-term hazards posed by waste interaction with the salt itself, show that WIPP is no magic solution but just another ill-conceived, over-budget, politically motivated mess that can never be cleaned up.” Commenter Pyle further states, “Scientists worldwide agree that Hardened On-Site Storage is a far better solution than irretrievable deep-geological repositories at this time.”</p>	<p>The testimony of the Permittees’ witness, Robert M. Holt, directly addresses issues relating to site geology. Mr. Holt’s testified that geologic conditions at Shaft #5 are “practically identical” to those found at the Air Intake Shaft.</p>

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<p>R11 2014 Event</p>	<p>200805.16 200805.83 200805.205 200805.247 200805.252 200805.256 200805.259 200805.274 200805.280</p>	<p>Safety of WIPP operations is questioned considering the 2014 fire and subsequent radiological release. Commenter McCoy references "...WIPP's failed safety operations resulting in fire, explosion and worker exposures..." Commenter Malcolm states, "Inadequacies in design, planning, and operation of the project were evident in February 2014, when two incidents resulted in significant injuries to workers, a three-year shutdown, and reduced ventilation capacity at a cost of half a million dollars." Commenter Reade states, "This rush to complete the shaft is particularly frightening because this is exactly what caused explosive drums to be sent to WIPP from LANL in the first place." Commenter Hancock states, "That expanded underground footprint is needed because of mismanagement of the permitted underground space and underground contamination for the February 14, 2014 radiation release so that the panels are not filled to capacity." Commenter Zappe would have liked NMED to have "required the Permittees' submittals to give the public a big picture view of the how the Permanent Ventilation System (including Shaft #5) dovetails...with the incidents in 2014 that shut the WIPP repository down for three years..."</p>	<p>The purpose of the Permit is to ensure the protection of human health and the environment pursuant to RCRA. Numerous regulatory entities, including the New Mexico Environment Department (NMED), conduct audits, surveillances, and inspections at the WIPP facility on a periodic basis in order to ensure compliance with the Permit.</p>
<p>R12 NMED Agenda</p>	<p>200805.12 200805.16 200805.240 200805.247 200805.252 200805.256 200805.259 200805.274 B</p>	<p>Commenters state concern that NMED appears to be "rubber stamping" DOE permit modification requests. Commenter Anastas states NMED is "completely ignoring the good faith agreements entered into by New Mexico with the DOE, and ignoring the history of WIPP" and "NMED must cease being an organization that gives automatic approval or authorization to the decisions of the DOE, without proper consideration by the people of New Mexico and the rule of reason and</p>	<p>NMED carefully considers all modifications to the WIPP Permit to ensure compliance with the regulations and to protect human health and the environment.</p> <p>NMED also carefully considers all public comments received during the permit modification process.</p>

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		<p>the rule of law.” Commenter Weehler states, “It seems the Environment Department has abdicated its responsibility to protect us.” Commenter Boudart states, “The idea that New Mexico...can withhold permission for a project well underway is a David and Goliath situation of ludicrous and infuriating proportions.” Commenter Reade states, “...how can anything the public says change NMED's mind when the Department has obviously already decided to expand WIPP forever?” Commenter Hancock states, “...NMED’s decision to approve the TA is effectively a decision to approve the PMR...” and “...NMED has concluded that the new shaft is important, and the agency will effectively not consider any further facts that will be submitted during the public process on the draft permit!” Commenter Pyle states, “The current State administration has given us reason to hope that citizens can look to State agencies for policy that protects us and values our survival.” Commenter Zappe states, “...it is unclear to me where NMED’s interests lie – whether it is to serve the public by asking tough questions and requiring non-obfuscating responses from the Permittees, or to simply rubber stamp whatever the Permittees ask for and accept everything...without question.”</p>	
<p>R13 Public Participation</p>	<p>200805.247 200805.252 200805.266 200805.276 200805.280</p>	<p>NMED’s public participation process in general is questioned. Commenter Reade states, “...it is still a struggle for significant segments of the New Mexico population even to inform themselves about what is going on, let alone to be able to participate meaningfully in the permitting process.” Commenter Morgan states, “...we also object to NMED’s efforts to silence public input during this process” and requests</p>	<p>NMED went to extensive efforts to ensure public participation was enabled. Please also see R36, 37, 38.</p>

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		<p>that NMED “provide more information in both English and Spanish that is timely and accurate.” Commenter Hancock states, “...NMED’s process has clearly favored the interests, including their preferred timeframes, of the permittees and prejudiced the ability of SRIC and other members of the public to effectively participate in the permitting process.” Commenter Arends states, “Public participation relative to the permit modification process has been tainted and prejudiced by the New Mexico Environment Department (NMED)’s approval of the temporary authorization...” Commenter Greenwald states, “The NMED authorized the building of the new, large utility shaft at WIPP without public process. It is being built now when the public is finally being asked to comment on a fait accompli. To ask the public to comment on a project that is already being built weakens the public involvement process.”</p>	
<p>R14 DP-831</p>	<p>200805.83</p>	<p>Commenter McCoy also opposes the NMED Ground Water Quality Bureau Discharge Permit (DP-831) which is in its renewal process at this time. He states, “DP-831 puts the cart before the horse in assisting a backdoor approval for a new shaft and facility to receive additional nuclear waste that has not yet been permitted for construction.”</p>	<p>Comment noted.</p>
<p>R15 Expansion</p>	<p>200805.12 200805.16 200805.83 200805.205 200805.240 200805.247 200805.252 200805.256 200805.259</p>	<p>Several commenters state the real purpose of the shaft is expansion. Expansion was viewed in several different ways: accepting new waste streams; expanding the volumetric capacity; enlarging the facility footprint; and extending the operating period of the facility. Some comments tied new plutonium pit production to the expansion of WIPP.</p>	<p>In the Permittees’ March 4, 2019 Response [AR 190301] to NMED’s Information Request of January 25, 2019 [AR 190115], NMED asked Question 8: “State whether the proposed new shaft and associated connecting drifts support development of future disposal units...” The Permittees responded, “The Utility Shaft project...is a stand-alone capital asset project...This...project does not include future disposal units...specific future repository</p>

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	200805.266 200805.274 200805.276 200805.280 T2	<p>Commenter Anastas states NMED is “ignoring the vocal opposition to this WIPP expansion” and identified examples “of mission creep by DOE...” Commenter Weehler states, “I’m writing to you about my concerns over the WIPP expansion. We need the Environment Department to hold the DOE to the agreement it made with New Mexico about how long WIPP will stay open and what kind of waste it will accept.” Commenter Malcolm states the project should not allow “expanded operations or expanded scope.” Commenter Boudart states, “...I endorse withholding the license for WIPP expansion...” and “the new shaft will lead to rooms where the 6.2 million-cubic-foot agreement can be reneged with additional waste from Pu pit production and other sources.” Commenter Reade states, “The New Shaft and drifts are obviously the essential part of the buildout for DOE’s desired WIPP expansion.” Commenter Morgan states, “I am concerned that this additional shaft will create a huge and unnecessary expansion of the entire facility. I thought WIPP would be working toward closure, not growth. Our organization has concerns that the new shaft will allow for a doubling of the disposal area and invite more and different types of waste into our state.” Commenter Pyle states, “The striking thing to me now is that my direst predictions from the 1980s, regarding the real agenda behind WIPP and how its mission would creep and twist moving into the future, have all been confirmed.”</p> <p>Commenter Hancock states the new shaft was “not needed for ventilation and that its real purpose was to expand the capacity of the facility... to address the lost</p>	<p>configurations are beyond the scope of this modification. Because of the ubiquitous nature of underground ventilation, the new shaft and connecting drifts in conjunction with the NFB will be capable of supporting future disposal units...” NMED states in the June 12, 2020 Fact Sheet, “NMED has concluded that the proposed new shaft is important for current underground operations and worker safety. NMED’s action on this Class 3 PMR does not guarantee approval of any future PMRs.” The argument holds for other WIPP expansion issues such as new waste streams. These issues will be reviewed by NMED when submitted as future modifications and/or in the Ten-Year Permit Renewal Application (Renewal Application) that is currently being processed.</p>

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		<p>capacity in ten-panel underground footprint... Neither NMED nor the permittees have refuted those comments, but they did not specifically acknowledge the real need for the new shaft and associated drifts for WIPP expansion.” Commenter Hancock further states, “The SRIC comments further documented that the new shaft is needed to expand the underground footprint of WIPP beyond the ten-panel design.” Commenter Hancock also states, “The expansion is also needed because of DOE’s many plans to bring much more waste to WIPP...” including “High-Level Tank Waste; Greater-Than-Class C commercial waste; West Valley, NY commercial waste; surplus plutonium waste; and most recently, waste from fifty years of proposed new plutonium pit production at Los Alamos and the Savannah River Site.”</p> <p>Commenter Zappe would have liked more information on “how the Permanent Ventilation System (including Shaft #5) dovetails...with the efforts to expand the footprint of the repository to accept more waste following the “clarification” of how waste volumes are calculated in the 2018 volume of record PMR approval.” Commenter Zappe states, “The public is left in the dark as to the Permittees’ true intent in locating Shaft #5 so far away from the existing repository footprint, and as a result can only surmise that a significant expansion of WIPP’s mission and waste disposal capacity is in the works.”</p> <p>Commenter Arends states, “The proposed Shaft No. 5 is actually for new underground waste rooms that could more than double the disposal area.” Commenter</p>	

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		<p>Arends further states, "The proposed Shaft No. 5 is another step in the DOE plans to increase the waste volume (VOR) for WIPP for more waste and more kinds of waste..."</p> <p>Commenters Kovac and Coghlan state, "We strongly oppose the "WIPP Forever" plans that a new shaft would afford... designed to increase WIPP's capacity without full public disclosure." Commenters Kovac and Coghlan further state, "The new shaft actually is for new underground rooms that could more than double the disposal area because the existing, permitted panels will be filled in a few years... The new shaft is all about expanding WIPP for more waste, including:</p> <ul style="list-style-type: none"> • High-level radioactive waste from Hanford, Washington and other sites • Weapons-grade plutonium from the Savannah River Site in South Carolina • Commercial waste from West Valley, New York • 50 years or more of waste from building new nuclear weapons." <p>Commenter Greenwald states, "The new utility shaft is related to the not so near future operations of WIPP. Since some of the latest DOE documents list no ending date to WIPP operations contrary to current laws and regulations, the only logical explanation which explains this new, large utility shaft is the expansion of WIPP beyond legal limits." Commenter Greenwald further states, "Instead of honestly bringing the expansion of WIPP to the public, DOE, with the NMED's approbation, is trying to expand without the public debate that such an impactful decision should require."</p>	

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R16 Class 1 Changes	200805.252	Commenter Hancock states, "SRIC does not object to changing the typographical error on line 23 on that page. SRIC also does not object to adding 'standard' in the two places shown in line 45 on the page. However, those changes can be made through class 1 modifications..."	Comment noted.
R17 Draft Permit	200805.252	Commenter Hancock expresses concern that the draft Permit "...makes no substantive changes to any of the proposed revisions to the Permit that are included in the December 22, 2017 class determination modification request (AR 171222) and the Class 3 PMR (AR 190815)" even though "...NMED's own compilation of comments on the class 3 PMR...show that more than 97 percent of the 295 commenters opposed the PMR." Commenter Hancock continues, "Since NMED made no substantive changes, the reasonable conclusion once again is that NMED will approve the PMR."	The regulations require NMED to either issue a draft Permit (with or without changes) or issue a Notice of Intent to Deny. Therefore, in issuing a draft Permit, NMED believes the modification is protective of human health and the environment and is in favor of the modification.
R18 EPA Questions	200805.266	Commenter Arends references a May 4, 2020 Environmental Protection Agency (EPA) letter to the Permittees with shaft questions regarding closure, diameter, and anticipated uses apart from ventilation.	The Permittees responded to issues raised by EPA in an August 10, 2020 letter [AR 200802.5]. After reviewing the response, EPA stated in their September 28, 2020 letter [AR 200922], "EPA's review concludes that the new shaft will not result in non-compliance with the terms of the certification. The EPA does not object to the shaft construction."
R19 Shaft Location	200805.247 200805.259 200805.274 200805.276	Commenters question the location chosen to site the shaft. Commenter Reade states, "It clear that the primary and overwhelming reason to drill the New Shaft where it is sited and build the connecting drifts, is to build the basic structure for an expanded WIPP." Commenter Zappe would have liked an explanation of "what 'physical plant configurations' the Permittees considered in locating Shaft #5 roughly 1200 feet west	In their January 21, 2021 response [AR 210114] to NMED's TID [AR 191203] , the Permittees answered NMED's question about the shaft location: "It was determined that a shaft located to the west of the existing facility provides the least engineering challenges along with lower expected construction and long-term operational costs. A borehole confirmed the adequacy of the location."

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		<p>of the existing Air Intake Shaft. The public is left in the dark as to the Permittees’ true intent in locating Shaft #5 so far away from the existing repository footprint, and as a result can only surmise that a significant expansion of WIPP’s mission and waste disposal capacity is in the works.” Commenters Kovac and Coghlan state, “The Permittees must explain the reasons for the new shaft proposed location. The Permittees must explain the reasons for the new drifts’ proposed locations.” Commenter Greenwald points out the shaft is “now being built down a long drift from current operations.”</p>	
<p>R20 Permitting Approach</p>	<p>200805.252 200805.259 200805.266 200805.274 X</p>	<p>Commenter Hancock states, “NMED admits that it has already concluded that the new shaft is important, despite many comments to the contrary, before completing the required public comment and hearing process.” Commenter Hancock further states, “NMED’s actions demonstrate that the agency coordinated the schedule for new shaft construction with the permittees before issuing the TA, and then delayed issuing the draft permit to compress the time available for the required public comment and public hearing process... The effect of NMED’s actions has been to accommodate the permittees’ schedule to begin construction, while compressing the required public process, all of which is to benefit the permittees and limit the time for the required public participation.”</p> <p>Commenter Zappe states, “...the department has failed to require the Permittees to use a holistic approach in developing and submitting PMRs – that is, seeking to understand how the individual parts (i.e., separate, disconnected PMRs) fit into the big picture of where</p>	<p>In accordance with RCRA regulations, NMED can only review proposed modifications as they are submitted and received. NMED may approve, approve with changes, deny, or elevate a permit modification request. NMED does not determine which modifications are submitted by the Permittees.</p> <p>The original TA approval [AR 200415] granted permission to begin excavating the shaft on April 27, 2020 to align with the Permittees’ construction schedule. The draft Permit was delayed due to Covid restrictions while NMED searched for available Information Repositories to give access to the public. The draft Permit was further delayed by the receipt of a Class 1 Permit Modification Notification (PMN) in May 2019. To ensure the draft Permit was based on the current Permit at the time of issuance, NMED incorporated this Class 1 PMN before issuing the draft Permit.</p>

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		<p>the permit as a whole is being directed by the sum of the proposed modifications.” Commenter Zappe further states, “...the department will assert that such concerns are outside the scope of this PMR and can be dismissed as irrelevant, rather than help the public gain a better understanding of likely future changes at the facility and assist them in making more informed comments.”</p> <p>Commenter Arends similarly states, “The Permittees have segmented its proposed plans and provided incremental changes for the future of WIPP.”</p> <p>Commenters Kovac and Coghlan state, “The whole picture must be considered... This PMR must include all the planned and ongoing Permit Modification Requests, and ongoing operations that will be affected by a new shaft. NukeWatch remains concerned about the number of proposed permit modification requests (PMRs) that are waiting in the wings. These include Panel 10 (2019), Panel 11 (fall 2020), and perhaps many others. Yet this PMR would lead one to believe that the shaft would stand alone. Where are the PMRs for the new Panels? The public deserves the whole picture. This segmented approach to modifying the WIPP permit leaves the public feeling like part of the future of WIPP is being hidden from view. The Permittees can envision complicated ventilation schemes in the underground using different fans, blocking drifts, and directing the air to different shafts, but the Permittees refuse to share their integrated plans for the future panels.”</p>	

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<p>R21 Other Repositories</p>	<p>200805.252 200805.256 200805.266 200805.274 200805.280 K2 P2</p>	<p>Many letters expressed the need for another repository to be opened so that WIPP and New Mexico (NM) would not be the sole destination for the nation’s nuclear waste. Commenter Hancock states the need to discuss “whether the permit requirements reflect the policy that multiple repositories, not just WIPP, are necessary to accommodate the present and future transuranic waste inventory.” Commenter Pyle states, “There was a window of opportunity to build this facility, once billed as a ‘pilot’ plant, when it was clear there would be no other sites employing the same risky approach.” Commenter Arends states, “Decades ago, Congress charged DOE with finding other repositories in other states. DOE has not done its part by properly managing and operating WIPP and finding other repositories for this waste. New Mexico has done its part.” Commenters Kovac and Coghlan state, “Other repositories and improved on-site storage must be developed for other wastes and newly generated TRU waste.” Commenter Morgan states, “New Mexico does not need to continue to provide storage for waste that was not generated in our state” and “...we urge the NMED not to let the federal government bully New Mexico into being the nuclear dumping ground for the rest of the country.”</p>	<p>This is outside NMED’s purview.</p>
<p>R22 Volume Capacity</p>	<p>200805.151 200805.252 200805.266 200805.274 A N2 O2</p>	<p>Commenters express concern over proposals to dispose of new waste streams from the DOE complex, including plutonium from the “dilute and dispose” program at the Savannah River Site (SRS) and waste generated by new plutonium pit production there and at the Los Alamos National Laboratory (LANL). Commenters call for an analysis of the impact of these waste streams on the volume limits at the WIPP facility. Commenter</p>	<p>The capacity limit for TRU waste allowed by Congress in the Land Withdrawal Act (LWA) is 6.2 million ft³ (175,564 m³). Permit Part 4, Table 4.1.1 tracks the LWA TRU waste volume in relation to the TRU mixed waste volume reported for the Permit. As NMED receives PMRs requesting additional disposal panels, these requests will be evaluated to ensure they do not exceed the LWA limit.</p>

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		<p>Clements states, "...the new TRU waste streams from SRS, as well as from expanded plutonium pit fabrication at the U.S. Department of Energy's Los Alamos National Lab, will strain the volume cap placed on WIPP by the land Withdrawal Act." Commenter Clements also expresses concern over plans to fabricate fuel at the Idaho National Laboratory (INL) and states, "Just as for the dilute & dispose and pit projects, the TRU waste stream volumes from fuel fabrication for the VTR must be analyzed before any new shaft or drifts are constructed or permits given for that purpose."</p> <p>Commenter Clements expresses concern over the lack of verification regarding surplus plutonium downblending rates and total amounts to be processed at SRS which affects anticipated volumes of waste for disposal at WIPP and states, "...the larger the amount of surplus plutonium proposed to be disposed of in WIPP the greater the strain placed on the Land Withdrawal Act volume cap." Commenter Hancock states, "...the waste that DOE intends to emplace at WIPP is beyond the legal limits of the WIPP Land Withdrawal Act (LWA)..." and "There can be no technical doubt about the fact that DOE seeks to emplace more waste in WIPP than those legal limits."</p> <p>Commenter Hancock further states, "...NMED has told the New Mexico Court of Appeals that WIPP's capacity cannot be considered by the courts." Commenters Kovac and Coghlan state, "Federal laws, agreements with the State of New Mexico, and the WIPP Permit all provide that WIPP has a limited mission for up to 175,564 cubic meters of transuranic (TRU) waste..." and "Programmatic review is needed to sort out WIPP's remaining capacity, the future demands on it and</p>	<p>Waste destined for WIPP must be reviewed and approved through a certified program and all waste streams must meet the Permit Waste Acceptance Criteria (WAC) and Waste Analysis Plan (WAP).</p>

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		prioritization of those demands (e.g., cleanup vs. waste disposal for renewed industrial scale nuclear weapons production)."	
R23 Term "Utility Shaft"	200805.266 200805.274	Commenter Arends states, "The Permittees told the public that the proposed Shaft No. 5 was needed for ventilation, and then the public was told that the proposed Shaft No. 5 would be needed as a 'utility' shaft. When the public asked...whether it was a ventilation shaft or a utility shaft, the Permittees could not answer. Other documents are more forthcoming to say the proposed Shaft No. 5 could be used as for a waste hoist."	In their March 4, 2019 Response to NMED's Information Request [AR 190301], the Permittees explained that terms for the shaft project have changed over time. Since future uses of the new shaft, apart from ventilation, are discussed in DOE budget requests, the budget line item was termed "Utility Shaft."
R24 COVID Issues	200805.16 200805.247 200805.256	Some commenters felt public participation suffered due to the COVID-19 health emergency. Commenter Weehler states, "So my request is that you stop the expansion, at least until the public has a fair amount of time to weigh in on whether they want the expansion or not. Public hearings after the pandemic is over should be a given." Commenter Reade states that viewing of documents associated with this PMR are not available for viewing at public libraries due to Covid. Commenter Pyle states, "While the public is distracted and undermined by the pandemic, which we hope will be a short-term public health crisis, is no time to let toxic camels into the tent that will never go away and will continue to put our health and environment at risk permanently."	Documents associated with this PMR have been available at the Carlsbad Public Library and at the La Farge Branch of the Santa Fe Public Library. This accessibility has been stated in the Public Notice, on NMED's website, on the doors of certain NMED buildings, and even on the Santa Fe Public Library's Facebook page.
R25 Closure Date in Renewal Application	200805.12 200805.83 200805.205 200805.252 200805.256 200805.266	The removal of the 2024 closure date and lack of a specific replacement date in the Ten-Year Permit Renewal Application, dated March 31, 2020, was a topic of several comments. Commenter Anastas states, "DOE stated that WIPP is to operate for 25 years, and NMED has always included that date in the Permit, but	The closure date in the Renewal Application will be reviewed as part of the 10-Year Permit Renewal process. Once NMED issues a draft Permit, a Public Notice will announce the start of a 60-day comment period. NMED welcomes comments on this topic at that time.

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	200805.274 200805.276 200805.280 O2 T2	now DOE wants WIPP to operate essentially in perpetuity (beyond 2050) – NMED should not change the 2024 end of Disposal Operations in the Permit...” Commenter McCoy states, “The addition of a new shaft for more nuclear waste would result in WIPP operations well beyond the expiration of its current permit in 2024.” Commenter Malcolm states, “The State of NM should not allow it to extend operations past its current RCRA end date of 2024...” Commenter Pyle states, “The current permit requires WIPP to close in 2024.” Commenter Arends states, “...the People of New Mexico do see and know the Permittees are breaking the ‘social contract’ established for WIPP - that WIPP would operate for 25 years and then begin a 10-year closure of the facility.” Commenters Kovac and Coghlan state, “...WIPP is currently permitted by NMED to operate only until 2024, a mere 3 years-plus from now.”	
R26 Need for Shaft	200805.205 200805.240 200805.247 200805.252 200805.256 200805.266 200805.274 200805.276	Comments question the need for the new shaft. Commenter Malcolm believes the shaft is “inadequately justified.” Commenters Kovac and Coghlan question the technological advancement cited in the PMR: “Basically this says that automatically adjusting the control will enhance the operational control. Setting the circular logic aside for a moment, when has the lack of automatic ventilation control ever been a problem?” Several comments state the New Filter Building (NFB) will provide adequate air without the need of the shaft as a ventilation component. Commenter Boudart states, “...the lie that the new shaft was necessary for	The new shaft is one of two projects referred to as the Permanent Ventilation System, the other being the NFB. The shaft is designed to be the new air intake Shaft with variable frequency drive fans that will automatically control the airflow in the WIPP underground (UG). The Permittees state in their January 21, 2020 Response [AR 210114] to NMED’s December 6, 2019 TID [AR 191203], “Underground ventilation is ubiquitous in that it affects the entire underground facility regardless of facility configuration. Therefore, the ventilation uses for the SSCVS [NFB project] and the US [Utility Shaft] will apply to both current and future facility configurations.”

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		<p>circulation of air underground has given way to the truth that a new filter building will more than restore the quantity of air available before the Feb 14, 2014 accident ...” Commenter Reade states, “...the New Filter Building will provide all the airflow that is needed to fulfill WIPP’s mission and more, and will do it <i>years</i> before the the New Shaft and drifts are operational.” Commenter Hancock states, “NMED has not explained in the AR what independent technical basis the agency has to conclude that the new shaft configuration is important and that it will actually operate to protect worker safety.” Commenters Kovac and Coghlan state, “Please explain exactly what adding the new shaft and increasing the ventilation to 540,000 cfm really gains versus 425,000 cfm.” Commenter Arends states, “...nearly two years before the proposed Shaft No. 5 and drifts, with the inevitable delays, are finished, the New Filter Building will provide over 100% of the air that workers need in the partially contaminated underground.” Commenter Greenwald states, “The only justification given for the draft permit modification focuses on ‘increased control of ventilation airflow...underground and performing "underground operations.’ But this has already been shown to be taken care of by the New Filter Building.”</p>	
<p>R27 Construction Techniques</p>	<p>200805.274</p>	<p>Commenters Kovac and Coghlan request the following information: “Please describe the advantages and disadvantages of a polymeric spray coating on the shaft wall versus grout. What are the environmental implications of a polymeric spray coating? What was used on the other shafts? Is this the first use of this at WIPP?” and “Please explain the effects of b[]asting to</p>	<p>A polymer coating is a thin coating made with polymers that provide superior adherence and protection against corrosion. This coating is an upgrade to construction corrosion protection with high wear resistance. This coating is the industry standard and environmentally preferred coating.</p>

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		construct the new shaft on the existing underground, especially the ceilings.”	“Blasting” is a universal mining technique using appropriately sized explosive charges to loosen the rock for excavation. Occurring within the confined area of the shaft excavation, the small size of the charges minimize shock to the shaft walls and to equipment staged in the shaft area. Effects to the repository are minimal due to the small charge sizes as well as due to the plasticity of salt, which dampens vibrations.
R28 EEG	200805.274	Commenters Kovac and Coghlan state, “...we believe the Environmental Evaluation Group [EEG] should be reinstated throughout the whole incremental expansion of WIPP, including and before any authorization to build the ventilation shaft.”	This is outside NMED’s purview.
R29 Shaft Closure Plan	200805.247 200805.252 200805.266 200805.274	Commenters question the ability to seal a shaft with a larger diameter. Commenter Reade states, “Why not wait to see if DOE can prove they actually could seal such a large shaft...” Commenter Hancock suggests the sealing of the shaft may not be possible. Commenter Arends writes, “The Environmental Protection Agency has raised concerns about whether DOE will even be able to close the proposed Shaft No. 5 with confidence for the post-closure period of 10,000 years. Has NMED conducted a review of the technical aspects of closure of the 30-foot in diameter proposed Shaft No. 5?” Commenters Kovac and Coghlan state, “The new shaft will require a new closure plan. But what would there be to actually close? Now it seems like only a shaft, but a closure plan should include the entire facility, including any new panels.”	The final shaft design will be certified by a New Mexico Professional Engineer and the Closure Plan in Permit Attachment 6 will be updated.
R30 Include in Renewal	200805.247 200805.252 200805.274	Commenters feel the shaft PMR should be included in the Ten-Year Permit Renewal Application (Renewal Application). Commenter Reade states, “...drilling a	NMED understands the public’s interest in the future of the WIPP Facility. While the Shaft modification was processed separately as a Class 3,

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		<p>New Shaft and drifts shouldn't be part of modifying the existing permit at all, but should be part of the 10-year permit renewal. Drilling has started many months before the <i>Draft Permit</i> for that renewal will be published in the future, as well." Commenters Kovac and Coghlan state, "This new shaft PMR must be included in the 10-year WIPP permit renewal. To have parallel processes going at the same time is a huge complication."</p>	<p>NMED will consider whether to consolidate the Class 3 Panels 11&12 PMR, submitted July 30, 2021, with the Renewal Application, with the intent of streamlining these processes for all.</p>
<p>R31 LANL Waste Priority</p>	<p>200805.274</p>	<p>Commenters Kovac and Coghlan state, "The Idaho settlement allocates 55% of all TRU waste shipments received at WIPP for Idaho and NNSA prioritizes 53 percent of the projected available capacity at WIPP for wastes from future plutonium pit production. We are being facetious here, but in theory that only allocates 2% of WIPP's future capacity for cleanup of all of the other DOE/NNSA sites. How does that treat 'the state that hosts and regulates the WIPP'? Our response is DOE does not treat New Mexico well!" Commenters Kovac and Coghlan further state, "Concerning NMED's assertion that 'Legacy waste, particularly from LANL, must remain a high priority for disposal at the WIPP', it is clear that DOE and NNSA have completely other ideas. First is the aforementioned allocation of 55% of WIPP's future capacity for Idaho. Second is NNSA's prioritization of future plutonium pit production wastes, with up to 53% of WIPP's future capacity to be held in reserve for that. Our recommendation is that NMED quits being subservient to DOE. NMED should withdraw the temporary authorization to build WIPP's new ventilation shaft until such time as DOE demonstrates that it is truly committed to genuine, comprehensive cleanup at LANL which would</p>	<p>Disposal of LANL legacy waste is a priority for the State of New Mexico. However, the ability to require the prioritization of LANL waste over the waste from other generator sites is not currently a condition of the WIPP Permit.</p>

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		permanently protect our irreplaceable water resources and provide numerous high-paying jobs.”	
R32 DNFSB Concerns	200805.252 200805.274	Commenter Hancock states, “NMED has not responded to concerns of the Defense Nuclear Facilities Safety Board (DNFSB) related to safety problems with the new ventilation system that DNFSB had been raising for more than a year...” Commenters Kovac and Coghlan state, “The DNFSB is concerned that the final design of the WIPP ventilation system may not adequately perform its intended safety functions due to the use of potentially inadequate performance criteria for damper closure time and unspecified design requirements for the underground safety significant continuous air monitors (CAM) and related support systems... All DNFSB concerns must be met before the new shaft PMR is approved.”	The final ventilation system will be certified by a New Mexico Professional Engineer prior to coming online.
R33 Exposure Information	200805.247 200805.276 A3	Commenter Reade would like to see exposure information included in the PMR and believes NMED should require the Permittees to include these studies “whether or not the Environment Department believes the regulations require them.” Commenter Greenwald states, “...there is no exposure information, nor history of health related issues nor an adequate action plan for addressing community concerns in the Draft Permit.”	Exposure risks have been updated in the Ten-Year Renewal Application.
R34 South Carolina Plutonium	200805.151 200805.252 200805.266 200805.274 A E J3 K2	Commenter Clements states, “DOE must promptly outline how the current plutonium stockpile will be removed from South Carolina and at what annual rate.” Commenter Clements further states, “Failure to remove all the plutonium now stored...before receipt of yet more plutonium...could negatively impact proposed plans for both expanded D&D [“dilute and dispose”] and pit fabrication in the abandoned plutonium fuel...building and will face public opposition.”	Waste destined for WIPP must be reviewed and approved through a certified program and all waste streams must meet the Permit Waste Acceptance Criteria (WAC) and Waste Analysis Plan (WAP).

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		<p>Commenter Arends states, “The common presentation of WIPP TRU waste as modestly contaminated debris generated through defense activities related to nuclear weapons maintenance and development is incongruent with the characteristics of the DSP-TRU waste stream. Indeed, the DSP-TRU waste streams (SRS-KAC-PuOx, SR-KAC-PuOx-1, and SRS-KAC-SPD) could be viewed as closer to conditioned nuclear material than traditional TRU waste.” Commenters Kovac and Coghlan state, “The New Mexico Environment Department should withdraw its temporary authorization to build the ventilation shaft and deny the Department of Energy’s modification request until such time as DOE: 1) Corrects its deficiencies noted by the NMED’s own technical comments on the National Nuclear Security Administration’s (NNSA’s) April 2020 <i>Draft Environmental Impact Statement for Plutonium Pit Production at the Savannah River Site</i>; and 2) Completes a programmatic environmental impact statement on surplus plutonium disposition as recommended by the National Academy of Sciences [NAS].” Commenters Kovac and Coghlan emphasize the need to follow NAS recommendations regarding surplus plutonium slated for disposal at WIPP and state, “We assert that ‘The Environmental Protection Agency, the Department of Energy, and the State of New Mexico should engage in developing a mutually agreed-upon strategy for vetting the effects of the dilute and dispose inventory’ before the ventilation shaft is approved.” Commenters Kovac and Coghlan agree further with NAS recommendations, stating, “...we strongly agree that ‘The Department of Energy should implement a new comprehensive programmatic environmental impact</p>	

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		statement (PEIS) to consider fully the environmental impacts of the total diluted surplus plutonium transuranic waste inventory (up to an additional 48.2 metric tons) targeted for dilution at the Savannah River Site and disposal at the Waste Isolation Pilot Plant (WIPP).”	
R35 Uranium Mining	200805.240	Commenter Boudart connects uranium mining to expansion of the WIPP facility in this statement: “...how does this relate to expanding WIPP? I am using the resumption of mining as (1) an example of a cog in the “enhanced-nuclear-arsenal” steamroller bearing down on the U.S., but particularly New Mexico and (2) an example of disregard by the DOE for a basic issue: whether U-mining should resume at all. The FR notice makes it clear: It does NOT ask whether mining is a good idea; only how can the resumption of mining be implemented. By analogy, the shaft at WIPP was started to implement a plan already in motion ...”	This is beyond NMED’s purview.
R36 PIP	200805.247	Commenter Reade has several concerns with NMED’s WIPP Public Involvement Plan (PIP): 1) She states the PIP was partially created as a result of the 2017 Resolution Agreement and that this should be acknowledged in the document; 2) She states, “Instead of consulting community stakeholders and leaders, to understand the impacted communities, the <i>PIP</i> only reviews data compiled through EJSCREEN and US Census data”; 3) She believes the PIP should be translated into Spanish and should recognize the existence of Spanish days and sections in local newspapers; 4) She believes the PIP should include concerns such as “high levels of pollution, numerous other nearby polluting facilities, poor health, poverty, etc”; and 5) She states, “the <i>WIPP Shaft PIP</i> does tell	The June 2020 PIP [AR 200611] was updated based on previous public feedback to include the entire southeastern corner of the state, covering all major communities in the area, including Roswell, which is 80 miles away from the Facility. The WIPP PIP is an internal planning document to help guide NMED public participation efforts. It is not a subject of this proceeding.

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		the public that they can review and comment on the <i>PIP</i> .”	
R37 Public Notice	200805.247	Commenter Reade states the Public Notice does not contain, “any information on how LEP persons can access language services or even that such services exist.” Commenter Reade states the Public Notice does not inform the public of the availability of the Administrative Record (AR) Index and documents associated with this Permit action on NMED’s website. Commenter Reade also states that these documents are not available for viewing at public libraries or state offices.	<p>NMED recognizes the need to add information on the existence and process for accessing language services in its public notices and fact sheets and will include this in future documents. The Hearing Public Notice [AR 210315] for the action contains this information.</p> <p>NMED did include notice of the availability of the AR Index and AR documents on its website in the Hearing Public Notice which specifically states: “A copy of the draft Permit, this Public Notice, the Fact Sheet, the PMR, public comments received on the PMR, the responses to NMED’s Information Request and TID, and an index of the Administrative Record are also available on NMED’s website at: https://www.env.nm.gov/hazardous-waste/wipp/.”</p> <p>Documents associated with this PMR have been available at the Carlsbad Public Library and at the La Farge Branch of the Santa Fe Public Library. This accessibility has been stated in the Public Notice, on NMED’s website, on the doors of certain NMED buildings, and even on the Santa Fe Public Library’s Facebook page.</p>
R38 Fact Sheet	200805.247 200805.252 200805.259 200805.274 200805.276	Commenter Reade states, “The <i>Fact Sheet</i> in no way adequately summarizes the <i>Draft Permit</i> or vital hydrologic and geologic information in the <i>Administrative Record</i> ” and therefore does not provide enough vital information in Spanish. Commenter Reade would like to see hydrological and geological information about the WIPP site, as well as exposure	<p>The original Fact Sheet [AR 200608], issued with the draft Permit on June 12, 2020, includes all the required information set out in the regulations.</p> <p>NMED recognized the need to add information on the existence and process for accessing language services in its public notices and fact sheets and</p>

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		<p>and effects information, in the Fact Sheet. Commenter Reade would like to see the section on types and quantities of waste to be made clearer for the general public.</p> <p>Commenter Reade would like to see information on how Limited English Proficiency (LEP) speakers may access language services included in the Fact Sheet.</p> <p>Commenter Reade states the Fact Sheet does not inform the public of the availability of the Administrative Record (AR) Index and documents associated with this Permit action on NMED’s website. Commenter Reade also states that these documents are not available for viewing at public libraries or state offices.</p> <p>Several commenters believe information on the TA should have been included in the Fact Sheet. Commenter Hancock states, “A principal fact, not mentioned in the fact sheet, is that the TA was approved on April 24, 2020 and that shaft construction began on April 27, 2020. That fact is essential for adequate, informed public comments on the draft permit.” Commenter Greenwald states, “...the Fact Sheet does not disclose to the public the fact that the shaft that they are commenting on is currently being built. In reality the Fact Sheet is a non factual sheet.”</p> <p>Commenter Hancock would like NMED to better consider policy questions in the Fact Sheet, such as “whether expanding WIPP is consistent with the C&C</p>	<p>created an updated Fact Sheet [AR 210316] with the issuance of the March 18, 2021 Hearing Public Notice [AR 210315].</p> <p>NMED did include notice of the availability of the AR Index and AR documents on its website in the original Fact Sheet [AR 200608] which specifically states: “A copy of the draft Permit, the Public Notice, this Fact Sheet, the PMR, public comments received on the PMR, the responses to NMED’s Information Request and TID, and an index of the Administrative Record are also available on NMED’s website at: https://www.env.nm.gov/hazardous-waste/wipp/.” This information was emphasized in the updated Fact Sheet [AR 210316].</p> <p>Although no public participation requirement exists for TA’s, NMED does recognize the benefit of including this information in the Fact Sheet. NMED did post documents associated with the TA when the draft Permit was issued on June 12, 2020.</p>

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		<p>Agreement, whether expanding WIPP to accept additional volume and types of waste is appropriate, how important is having the new shaft in operation for about a year before waste disposal operations end in 2024 according to the permit, and whether the permit requirements reflect the policy that multiple repositories, not just WIPP, are necessary to accommodate the present and future transuranic waste inventory.”</p> <p>Commenter Zappe states, “...NMED provided little background information in the fact sheet...” and “...the fact sheet and PMR both limit themselves to speaking primarily of the technological advancements in repository ventilation, without providing any insight into what “physical plant configurations” the Permittees considered...”</p>	
<p>R39 DOE Complex</p>	<p>200805.256</p>	<p>Commenter Pyle expresses concern that WIPP will not accomplish the goal of cleaning up waste at sites within the DOE complex, stating, “The fact that not one facility in DOE’s empire would be rendered harmless by WIPP--that all of them would remain polluted--was hush-hushed. We were in essence adding another site that could never be cleaned up, to a long list of sites that would never be cleaned up.”</p>	<p>Disposal of defense-generated TRU and TRU mixed wastes from generator sites around the nation is the primary goal of the WIPP facility.</p>
<p>R40 Economy</p>	<p>D1</p>	<p>Commenter Seydel expresses concern over the economic impacts from WIPP in southeastern New Mexico: “Additionally as a person who was a NM registered organic agricultural producer for over a decade, I know that the economy in southeast New Mexico where WIPP is sited has traditionally been based on farming, ranching, dairies, tourism and oil and gas extraction. These traditional economies provide</p>	<p>Comment noted.</p> <p>The RCRA regulations do not consider economic factors in the review and processing of RCRA permit modification requests.</p>

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		<p>many more jobs and much more income and tax revenue than WIPP ever has. WIPP has already experienced a serious accident with radiation release internally and to the above ground environment, resulting in the closure of WIPP for several years. The threat of contamination from another accident and/or release from the site or along the transportation routes, is real and could have devastating effects on these industries and our economy.”</p>	<p>The majority of comments received from southeastern New Mexico continue to be in favor of operations at the WIPP facility.</p>