



STATE OF NEW MEXICO

OFFICE OF THE GOVERNOR

SANTA FE

87503



TONEY ANAYA  
GOVERNOR

October 2, 1985

RN 1029

The Honorable Jeff Bingaman  
United States Senate  
Hart Building, Room 502  
Washington, D. C. 20510

Dear Senator Bingaman:

Attached is a copy of a letter I recently sent to Donald Hodel,  
Secretary of the United States Department of the Interior.

We are concerned that the bill his agency is drafting for permanent  
federal withdrawal of lands underlying the WIPP site contain certain  
provisions to protect our State's interests. I have requested that DOI  
recognize these interests in this bill, including reaffirmation of the  
limited mission of WIPP, appropriate restrictions on mineral exploration  
and extraction during operations and post closure with sufficient long  
term site control, assurance of remuneration for the State's lost mineral  
royalties and of suitable trade for State trust lands at the site. In  
addition, I have requested that DOI encourage Congressional hearings on  
this bill in both Washington, D. C. and New Mexico. I am confident that  
you will agree that the importance of the WIPP project to our citizens  
mandates such hearings.

If you agree, please do what you can to assure Congressional consideration  
for protection of State interests in the proposed bill. Additionally,  
please support hearings to be held in New Mexico.

Sincerely,

TONEY ANAYA  
Governor

TA/AS/to

Enclosure

cc: Donald Hodel, Secretary, DOI  
John Herrington, Secretary, DOE  
Raymond Romatowski, Manager, ALO





# STATE OF NEW MEXICO

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TONEY ANAYA  
GOVERNOR

October 3, 1985

RN 1029

Donald Hodel, Secretary  
Department of the Interior  
18th and C Streets, N.W.  
Washington, D.C. 20240

Dear Secretary Hodel:

I understand that your agency, pursuant to a request by the Department of Energy (DOE), is currently drafting a bill concerning the Congressional withdrawal of federal lands in New Mexico for the Waste Isolation Pilot Project (WIPP), a DOE facility intended for the storage of nuclear waste. Nearly a billion dollars has already been spent on this facility in southern New Mexico, on land that your agency first administratively withdrew in 1982. A number of issues related to the land withdrawal proposal need public consideration and the Congressional hearing process would provide the appropriate forum.

First and foremost, I request that the proposed bill include a provision reaffirming the limited mission of the WIPP project. As you know, the Consultation and Cooperation Agreement required by the 1981 Stipulated Agreement in settlement of the lawsuit between DOE and the State of New Mexico specified that "WIPP is intended to include receipt, handling and permanent disposal of transuranic waste and temporary storage for experimental purposes of a limited amount of high level waste." The 1984 Modification to this Agreement reiterated that WIPP is not designed for, nor has it been characterized as, a high level waste repository and set specific quantities and concentrations for the waste. But given the federal government's history of broken promises and revised commitments concerning WIPP, I am concerned that the mission may be thought of as malleable by the Department of Energy. Congressional reaffirmation of the WIPP mission, as spelled out in the 1984 Modification to the Consultation and Cooperation Agreement, would help underscore the meaningful and firm commitment by Congress to the representations DOE has repeatedly made to the State.

Second, the State would like to have Congressional ratification of the DOE's obligation to satisfactorily compensate the State of New Mexico for the loss of revenues, e.g., rental fees, royalties, bonuses, severance and other taxes, from restrictions on development of mineral resources underlying the WIPP site. Additionally, the bill should address the federal obligation to provide suitable federal land sections in trade for the State trust lands in the WIPP site; clearly DOI should hardly be drafting legislation that calls for the withdrawal of some lands that do not even belong to the federal government. Although the DOE and some people within your Department have expressed an interest in negotiation of these two issues, substantive progress is yet to be achieved. I believe that the federal government might be more responsive to State needs if these items were included in the bill.

Donald Hodel, Secretary

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Third, an appropriate ban on mining, drilling, resource exploration and development at the WIPP site during construction and operation should be included in any law passed by Congress concerning these federal lands. In addition, we take the position that the same restrictions and site controls on mineral exploration and exploitation should continue after operations cease and as long as the necessity for these measures continue. This law should instruct DOE to develop, in consultation with New Mexico, a detailed and comprehensive plan for protecting the WIPP site from these activities now and in the future. I believe that for safety and site integrity considerations, this operational and post closure ban is imperative.

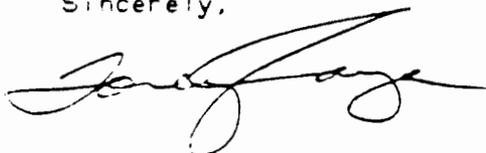
Fourth, the specific methods DOE must utilize in caring for and maintaining the WIPP site after closure should be addressed in this bill. DOE has promised that it, or its successors, has the responsibility for post-closure control and that it would not abandon the site. Given the record on a number of nuclear contaminated sites that currently lack any meaningful maintenance, DOE could alleviate State concerns by including the specifics of post-closure control in the land withdrawal legislation. Congress will expect such specifics before withdrawing land in perpetuity.

Last, given the importance of any proposed bill concerning land withdrawal for WIPP to the citizens of New Mexico, I request that public hearings on the bill be held in New Mexico as well as in Washington, D.C. I am writing the New Mexico Congressional Delegation urging them to do what they can to assure these New Mexico hearings.

We will be pleased to provide detailed information on any of the issues and help draft specific language as you deem appropriate. To obtain this aid, contact Ms. Denise Fort, Director of the Environmental Improvement Division and Chairperson for the Radioactive Waste Consultation Task Force.

I would appreciate your support of these requests.

Sincerely,



TONEY ANAYA  
Governor

TA/AS/cp

cc: Senator Pete Domenici  
Senator Jeff Bingaman  
Representative Manuel Lujan  
Representative Joe Skeen  
Representative Bill Richardson  
Raymond Romatowski, Manager, ALO  
Representative James Otts, Chairman, Radioactive Materials Committee  
Denise D. Fort, Director, Environmental Improvement Division