

# City of Carlsbad

Dear Mr. Maestas:

Please accept this comment on the Waste Isolation Pilot Plant's Renewal Draft permit, which was published by the New Mexico Environment Department on Dec. 20. We do not support NMED's significant proposed changes to the permit, as they introduce elements that are well beyond the scope of both the NMED's regulatory authority and WIPP's own area of control. These proposed changes are not beneficial to the residents of Carlsbad and the surrounding area, who should always be regarded as the most important stakeholders in this process.

The NMED's proposed edits include a series of regulatory enhancements tied into a variety of topics, including the Land Withdrawal Act, the rate of cleanup at Los Alamos National Laboratory and the requested citing of another repository. These issues are not relevant to this particular permitting process.

The NMED's own web page- <https://www.env.nm.gov/hazardous-waste/wipp/> outlines the organization's dual regulatory framework when it comes to WIPP. According to this language, the NMED handles the hazardous waste components at WIPP. As stated:

"New Mexico does not have the authority to regulate the radiological aspects of the waste at WIPP. This is regulated and granted by certification by EPA 's Radiation Protection Program."

Additionally, it is unreasonable to propose a regulatory process that is outside of WIPP's zone of control. For example, "Part 1, Section 1.3.1" declares that the permit will be revoked if the United States Congress- the highest legislative authority in our land- ever makes a change to the Land Withdrawal Act. WIPP's Management and Operations Contractor, the Department of Energy's Carlsbad Field Office and even the Department of Energy do not control the United States Congress, which represents the will of the people. Presently, WIPP is barely using two sections of the 16 made available for waste disposal. We do not understand why New Mexico would want to restrict the clean-up of the weapons complex.

WIPP's responsibility of coordinating defense-generated TRU shipments from around the country cannot be tethered to circumstances outside of its own control. WIPP plays an important national role to the entire nation's defense system, on par with military bases and other similar installations. Another proposal attempts to define the amount of waste to be emplaced at WIPP from LANL as an amount equal to the total "stored" waste throughout the complex. This proposal is not at all realistic, fair or feasible. WIPP remains prepared to take LANL waste when it is characterized and ready for shipment.

An additional proposal would require compliance with WIEB transportation guidelines. This ignores the fact that WIPP has a flawless transportation record and is regularly used as a global model. It also ignores the WIEB's role as an ad hoc advisory committee and proposes giving state-designated authority to an agency located outside of the state.

Over the past four years, the NMED striven, at public meetings and throughout the regulatory process, of insisting that all discussions focus within the given perimeters of any specific regulatory process. This is commendable for any legal process, and appropriate to the NMED's role as a neutral regulatory agency.

We were therefore very surprised and disappointed on Dec. 8, when the NMED initiated a media campaign highlighting its proposed changes to the permit. These proposed changes closely mirrored fact sheets put out by groups who have been historically opposed to WIPP.

In short, the NMED appeared to have ended its guise of neutrality and reversed its own policy of insisting that the perimeters of any given regulatory process be maintained. This decision also likely

has the unfortunate side effect of making future public hearings impossible to manage, as it has now been established that there will be no reasonable boundaries on what is relevant.

As stated before, the NMED, in its proposed modifications to this permit, has apparently assigned a great deal of value to the opinions of members of several anti-nuclear groups, who largely live about 300 miles from the facility. Of less value, apparently, are the opinions and interests of those who live in the cities and rural areas around WIPP. Carlsbad is very proud of its role as WIPP's host community, and our neighbors in communities such as Hobbs and Artesia strongly support the facility as well.

It certainly seems reasonable that proximity be assigned the highest possible value when weighing public opinion. Additionally, it should be stated that being supportive of a project does not make an opinion of less value than being opposed.

WIPP has a tremendous safety record and is doing an excellent job of serving as an underground repository for the nation's defense-generated TRU waste, which includes waste generated in Los Alamos. WIPP also provides thousands of high-paying jobs to New Mexico residents and an opportunity for scientists and engineers growing up around Carlsbad to continue to do so.

The NMED's proposed new modifications, which could see WIPP's role shuttered unexpectedly for a variety of reasons, therefore cause a great deal of concern for Carlsbad residents, who are nervous about their own jobs and the future of this community.

The NMED has every right to advocate for the safety of New Mexico residents, but such measures should be based on data and facts, and within the current scope of defined authorities. The State's interest on issues such as Los Alamos cleanup and the citing of an additional repository should be handled through the actual political process, not by weaponizing what should be a neutral and clinical regulatory process. In fact, the NMED's proposals, as written, could cripple its own stated goal of increased cleanup from Los Alamos.

We strongly encourage the New Mexico Environment Department to review its proposed changes and withdraw all of those that are not relevant to the permit.

Sincerely, ~e~----..... Carlsbad Mayor Dale Janway