

**STATE OF NEW MEXICO
BEFORE THE OFFICE OF THE SECRETARY**

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

Docket No. HWB 21-02

FINAL ORDER

This matter comes before the Secretary of Environment following the appointment of a hearing officer to conduct an evidentiary public hearing pursuant to NMSA 1978, Section 74-4-4.2 which commenced May 17, 2021, via the Zoom platform.

The Department of Energy and Nuclear Waste Partnership LLC, who own and operate the Waste Isolation Pilot Plant ("WIPP"), seek approval of a Class 3 Permit Modification Request ("PMR") to excavate and operate a new shaft and associated connecting drifts.

Located in Eddy County, New Mexico, WIPP is a facility authorized by Congress for the disposal of transuranic radioactive waste materials generated by atomic energy defense activities of the United States. As a result of a 2014 radiological underground release, portions of the WIPP facility and the existing surface-mounted ventilation exhaust systems were contaminated. Consequently, the WIPP facility ventilation system can accommodate only a small percentage of the original design airflow, and even with the addition of the New Filter Building, full scale mining is not possible. The addition of the new shaft and associated connecting drifts will upgrade the underground ventilation system and will restore


full-scale concurrent, unfiltered mining, maintenance, and continuously filtered waste emplacement operations as originally permitted.

The Hazardous Waste Bureau within the Resource Protection Division of the New Mexico Environment Department recommends approval of the PMR to enable the Permit to maintain the protection of human health and welfare and the environment. This recommendation is conditioned on Permittees' compliance with the applicable laws, rules and conditions of the Permit.

Having considered the administrative record, including all post-hearing submittals and the Hearing Officer's Report; and being otherwise fully advised regarding this matter; THE SECRETARY HEREBY ADOPTS THE HEARING OFFICER'S REPORT AND RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

IT IS THEREFORE ORDERED:

The Permit Modification Request for the excavation and operation of Shaft #5 and associated connecting drifts is hereby granted, and the Permit shall be issued by the Hazardous Waste Bureau in the form set forth in the Draft Permit, as shown in the Administrative Record.

 Digitally signed by
James Kenney
Date: 2021.10.27
14:24:30 -06'00'

JAMES C. KENNEY, Secretary of Environment

NOTICE OF RIGHT TO REVIEW

Pursuant to Section 74-4-14, NMSA 1978, any person who participated in this permitting action and who is adversely affected by the action may file a petition for hearing by the Environmental Improvement Board, c/o Pamela Jones, 1190 St. Francis Drive, Santa Fe, New Mexico 87502. The petition shall be made in writing to the Board within thirty days from the date notice is given of this action.

Certificate of Service

I hereby certify that on October 27, 2021 a copy of the foregoing **Final Order** was emailed to the persons listed below:

A copy will be mailed first class upon request.

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