

September 20, 2018

Ricardo Maestas
New Mexico Environment Department (NMED)
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505

via email: Ricardo.Maestas@state.nm.us

RE: Class 3 Draft Permit – TRU Mixed Waste Disposal Volume Reporting

Dear Mr. Maestas:

The undersigned organizations, representing thousands of New Mexicans, oppose the Draft Permit and request a public hearing. The undersigned organizations also request sufficient advanced notice to each organization of any negotiations held pursuant to 20.4.1.901. A.4 NMAC.

Our specific objections include that the Draft Permit and the modification request are contrary to the requirements of the two primary federal laws that specifically govern the Waste Isolation Pilot Plant (WIPP). Those laws are the WIPP Authorization (Public Law 96-164, Section 213 of 1979) and the WIPP Land Withdrawal Act (LWA, Public Law 102-579 of 1992). Those laws provide specific requirements and limitations on WIPP and specific authorities to the State of New Mexico. Many provisions of the Draft Permit are inconsistent with those legal requirements. For example, that the legal limit of 6.2 million cubic feet of defense transuranic waste is based on the waste volume being measured by the size of the gross internal volume of the container, as has always been included in the Permit. Those laws also provide specific authorities to the State of New Mexico, including to enforce capacity limits in individual waste panels and in the entire surface and subsurface facility. The Draft Permit could effectively eviscerate such authorities.

The Permittees have not shown in the Administrative Record a need for, or their legal authority for, the proposed “Volume of Record” or for the substantial WIPP expansion that the changes would allow. NMED has not shown in the Administrative Record how the Draft Permit protects public health and the environment or fulfills the State’s legal authorities.

Each of the undersigned organizations requests a public hearing and sufficient advanced notice of any negotiations.

Thank you for your careful consideration.

Sincerely,

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