



SOUTHWEST RESEARCH AND INFORMATION CENTER

P.O. Box 4524 Albuquerque, NM 87196 505-262-1862 FAX: 505-262-1864 www.sric.org

Rebecca Roose, Deputy Cabinet Secretary of Administration
Stephanie Stringer, Deputy Cabinet Secretary of Operations
New Mexico Environment Department (NMED)
1190 St. Francis Dr.
Santa Fe, NM 87505

June 30, 2021

via email

RE: WIPP Permit Renewal and Excavation of West Mains

Dear Deputy Secretary Roose and Deputy Secretary Stringer:

This letter would be directed to Secretary Kenney, except that Southwest Research and Information Center (SRIC) seeks to avoid any appearance of influencing the Secretary's decision on the WIPP New Shaft Permit Modification, Docket No. HWB 21-02. SRIC urges you to address the issues being raised, which we believe require urgent attention.

1. The WIPP Renewal Permit has been too long delayed and must now move forward. WIPP was granted a 10-year renewal by then NMED Secretary Ron Curry on November 30, 2010, effective from December 30, 2010 until December 30, 2020. In a March 8, 2019 letter to then HWB Chief John Kieling, which was copied to Secretary Kenney, SRIC requested an "agreement on which of the modification requests could be included in the permit renewal application that must be submitted in early 2020 and which could be submitted at an earlier date." After a meeting with the Permittees and others, on April 15, 2019, SRIC wrote to Secretary Kenney and requested: "NMED inform the permittees that the priority is the permit renewal process and that the permittees should initiate the pre-renewal application public process immediately, given the time required for what could be a technically and legally complex renewal process so that a permit renewal decision can be issued by the end of 2020, when the existing permit expires."

NMED effectively rejected those requests. While the Permittees submitted their 1,371 page Permit Renewal Application on March 31, 2020, there has been no draft permit issued for public comment during the past 15 months because the Permittees and NMED have instead prioritized permit modification requests. With the time required for the public process, a permit renewal order will not be issued in 2021. SRIC is very concerned that the permit renewal will be delayed for months more, unless NMED now prioritizes its limited resources to the renewal process.

The Permit Renewal process is the appropriate venue for NMED, the Permittees, and the public to discuss the *problems of the past decade and to address all upcoming waste management needs and minimize the number of permit modifications that will be required over the next 10 years.*

Achieving that goal is even more important given that there are class 3 modification requests pending since April 2013 and September 2016, and the Permittees intend to submit the class 3 modification request for “replacement panels” in the near future. Any of those requests could again delay the permit renewal process. Further, the Department of Energy (DOE) has plans for many more changes to WIPP’s operations that will require other modification requests.

SRIC understands that the ongoing New Shaft modification process will continue to be a major focus of NMED. But SRIC urgently requests that NMED leadership determine that there should be no further delays in the permit renewal process and so inform the Permittees and the public.

2. Mining of the West Mains should not now be allowed.

The June 23, 2021 “Notification of Planned Change to the Permitted Facility Regarding the Excavation of the West Mains” makes clear that two of the West Mains – S-400 and S-550 – are the same locations as the “associated drifts” included in the pending New Shaft modification. It is inappropriate to allow mining of those same drifts prior to approval of the highly contested modification request.

The other three Mains are explicitly part of the proposed Panels 11 and 12 that would be included in the class 3 modification request. Such a request will also be highly contested by SRIC and other parties and the subject of great public interest.

Further, as NMED is well aware, on April 20, 2021, Lee Ann Veal of the Environmental Protection Agency (EPA) informed Mr. Reinhard Knerr of DOE that such new panels “will likely require a rulemaking...[that] could take at least two years [emphasis in original].”

SRIC has raised concerns about the West Mains mining with NMED since DOE announced that was a 2021 priority at the February 9, 2021 Legislative Update. Apparently, that matter has already taken significant attention and resources of multiple NMED staff over the past five months.

If NMED now reviews the West Mains and upcoming “replacement panels” modification request, it will necessarily divert resources from the permit renewal process and further delay the permit renewal. Instead, NMED should now prioritize the permit renewal.

SRIC also requests that NMED inform the Permittees that they cannot commence any mining of the West Mains until they are approved in permit modifications.

Of course, SRIC also welcomes further discussions with you and your staff. Thank you very much for your careful consideration of these requests.

Sincerely,



Don Hancock

cc: Chris Catechis, Ricardo Maestas, Megan McLean, David Biswell, Natalie Barka