

## Resolution No. 2015-11

### A RESOLUTION IN SUPPORT OF THE WASTE ISOLATION PILOT PLANT

WHEREAS, the citizens of Carlsbad, NM and Eddy County, NM are gravely concerned about the deadlocked negotiations between DOE and NMED regarding the compliance order imposed; and

WHEREAS, the Waste Isolation Pilot Plant, or WIPP, is a critical solution to the nation's nuclear waste problem, having already provided cleanup to thousands of barrels of transuranic (TRU) waste from the defense program generator sites across the country, but a significant amount of work remains; and

WHEREAS, a radiological release and unrelated fire in 2014 has stalled this important national cleanup effort, and an extensive recovery process is underway; and

WHEREAS, the New Mexico Environment Department has issued a compliance order resulting in fines to the Department of Energy for incidents, based on allegations closely matching the investigations by the Department of Energy's own Accident Investigation Board; and

FURTHERMORE, the Central Characterization Program at Los Alamos certified waste for transportation to WIPP that violated DOT standards which prohibits shipments of ignitable, corrosive or reactive substances; and

FURTHERMORE, Congress and DOE have significant culpability, due to inadequate funding and poorly-written contracts with contractors resulting in a lack of emphasis on safety, lack of emergency response training and an extraordinarily long list of deferred maintenance; and

WHEREAS, a prompt resolution to the dispute related to the compliance order is in the best interest of the safety of the citizens of New Mexico and nation. Waste accumulating at generator sites has a significant oversight cost, and that waste needs to be disposed at WIPP; and

WHEREAS, the DOE will require the NMED's assistance for a number of future permit modifications, some of which will be critical to the reopening of WIPP; and

WHEREAS, DOE receives appropriations and operating funds from Congress for only one fiscal year at a time, and those funds are expressly appropriated for specific line items for individual site operations; and

WHEREAS, DOE has withheld anticipated site budget expense of \$57 million from LANS and \$3 million from NWP for bonuses that were not paid; and

WHEREAS, communities and states hosting operating federal facilities or clean-up sites across the DOE complex are deeply concerned by the DOE position that the only way they can pay a fine is to extract it

from the budget of the site which significantly harms the site's operation and mission – which takes money away from cleanup activities in the community most impacted by DOE's violation of the law; and

WHEREAS, DOE's position on paying fines essentially compromises and negates any authority a state has to regulate and oversee a DOE facility when that authority has clearly been given a state in federal law and by operating permit agreement, and

FURTHERMORE, fines are an enforcement necessity; however, money from fines should not be considered a revenue-enhancing vehicle for a state, and such money should not be diverted to the state's general fund but should be used directly to enhance and improve the status and safety of the WIPP project and community which embraced this project.

WHEREAS, DOE and NMED should immediately begin discussions at high level management positions in order to develop a framework for resolution rather than waiting for a lengthy legal battle – which has already been ongoing for over six months.

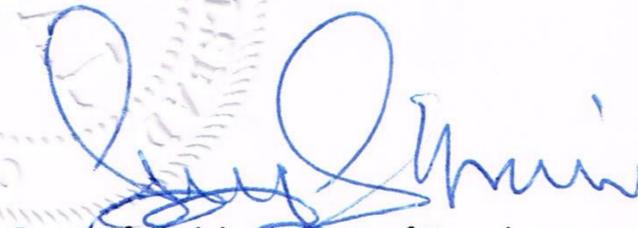
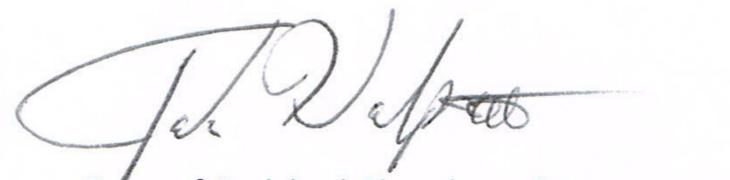
NOW, THEREFORE, the City of Carlsbad, NM, Eddy County, NM, Carlsbad Department of Development and the Carlsbad Chamber of Commerce recommend the following actions:

1. Both parties at the DOE Secretary level and the Governor of New Mexico, in the best interest of their constituents, show a willingness to negotiate by confirming to one another that willingness, and subsequently appointing negotiators and setting a meeting date.
2. Each party should come to the negotiating table and also bring pre-agreed upon alternative positions and/or compromises from their hierarchy in response to prior positions iterated by both parties.
3. NMED and DOE should come forward with lists of potential supplemental environmental programs for uses of the fines that would advance the sites' program by off-setting future costs, yet not off-setting any regulatory or operational requirements presently required.
4. Payment of fines should not come from the sites' budgets, but from the reprogramming of DOE's funds, unused funds from the affected sites budget, newly appropriated funds, or other sources that do not affect the operating budget of the site or its mission.
5. An extended amortization of the fine should be taken under consideration to avoid a large DOE budget payout at one time.
6. Presently, the fines for WIPP and LANL are being considered as a package and the parties should be prepared to separate the negotiations for WIPP and LANL and to resolve them separately.
7. If no resolution through negotiations is forthcoming, the parties should immediately move into a formal mediation process.

AND FURTHERMORE, we the undersigned, on behalf of our citizens, implore the Secretary of Energy and the Governor of New Mexico, come to the table in good faith to resolve the issues of the Consent Order, fines, their amounts, source of payment, supplemental environment programs for use of the fine money in the best interest of the affected facilities, New Mexico communities and counties, the State of New Mexico, those affected in the DOE Complex and the United States.

  
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Mayor, City of Carlsbad, NM  
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Chairwoman of Eddy County Commission

ATTESTED TO:

  
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CARLSBAD CITY CLERK  
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Pres. of Carlsbad Dept. of Development  
Jay Jenkins  
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Pres. of Carlsbad Chamber of Commerce