

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

**IN THE MATTER OF THE
WASTE ISOLATION PILOT PLANT (WIPP)
HAZARDOUS WASTE FACILITY PERMIT RENEWAL**

No. HWB 23-26

FINAL ORDER APPROVING PROPOSED FINAL PERMIT FOR WIPP

This matter comes before the Secretary of Environment pursuant to 20.4.1.901 NMAC, following negotiations by the Hazardous Waste Bureau (HWB) of the New Mexico Environment Department (NMED), the U.S. Department of Energy (DOE) and Salado Isolation Mining Contractors, LLC (SIMCO) (together, Permittees), Carlsbad Department of Development, Citizens for Alternatives to Radioactive Dumping, Concerned Citizens for Nuclear Safety, Conservation Voters of New Mexico, Nuclear Watch New Mexico, Southwest Alliance for a Safe Future, Southwest Research and Information Center, and Steve Zappe (Interested Persons). (Collectively, NMED, the Permittees, and the Interested Persons are the Parties).

On March 31, 2020, the Permittees filed an application with NMED to renew and modify the Waste Isolation Pilot Plant (WIPP) Hazardous Waste Facility Permit [AR 200318]. On March 17, 2022, the Permittees submitted an updated redline strikeout for the Renewal Application [AR 220321]. On December 20, 2022, NMED issued a Draft Permit [AR 221219], along with public notice of the opportunity for public comment and requests for hearing [AR221218].

During June 19-23, 2023, pursuant to 20.4.1.901(A)(4) NMAC, the Parties met in confidential negotiations to discuss the contested issues in this matter and agreed to stipulate that certain conditions would be placed in the Draft Permit to resolve the contested issues. The

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Parties agreed to the Proposed Final Renewal Hazardous Waste Facility Permit (Proposed Final Permit), and the Interested Persons and Permittees agreed to withdraw their hearing requests in this matter and waive any challenge to the issuance of the proposed final Permit, including but not limited to any public hearing or judicial appeal of approval and issuance of the final Permit by NMED. The stipulations are outlined in the June 23, 2023, *Settlement Agreement and Stipulation on Draft Permit* [230615], which resolved the contested issues without the necessity of a public hearing on the Draft Permit. On June 26, 2023, the NMED Cabinet Secretary signed a Notice of Rescindment of Hearing and Hearing Officer Appointment [AR 230611].

On August 15, 2023, NMED issued the Proposed Final Permit, along with a notice of public meeting to provide a venue for the public to ask questions about the Proposed Final Permit. The Proposed Final Permit incorporates the changes made to the Draft Permit as a result of the negotiations and the *Settlement Agreement and Stipulation on Draft Permit*.

On September 22, 2023, NMED held a hybrid Public Meeting, with the ability for participation in-person at locations in both Carlsbad and Santa Fe, as well as remotely. As agreed during negotiations, the comment period remained open to the close of the public meeting, and NMED has responded to all comments received in conjunction with this Final Order, pursuant to 20.4.1.901(A)(9) NMAC.

IT IS THEREFORE ORDERED THAT:

The Proposed Final Permit issued by the HWB on August 15, 2023, which encompasses the amendment of the Draft Permit issued by the HWB on December 20, 2022, with language agreed upon by the Parties during their negotiations held on June 19-23, 2023, is hereby approved in its entirety.

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IT IS SO ORDERED.

**Michelle
Miano**

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Michelle Miano
Environmental Protection Division Director
New Mexico Environment Department

Under Section 9-7A-6 of the Department of Environment Act, the Secretary has the authority to delegate authority to subordinates as he deems necessary and appropriate. On April 7, 2023, Cabinet Secretary James C. Kenney delegated authority for the issuance of the Final Order regarding the issuance or denial for the permit to Michelle Miano, Environmental Protection Division Director of the New Mexico Environment Department [AR 230403].