

**MINUTES
of the
SECOND MEETING
of the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**October 21, 2020
Video Conference Meeting**

The second meeting of the Radioactive and Hazardous Materials Committee was called to order by Representative Angelica Rubio, chair, on October 21, 2020 at 10:00 a.m. by video and audio conference via an online platform.

Present

Rep. Angelica Rubio, Chair
Sen. Jeff Steinborn, Vice Chair
Rep. Cathrynn N. Brown
Rep. Christine Chandler
Sen. Roberto "Bobby" J. Gonzales
Sen. Ron Griggs
Sen. Gay G. Kernan
Sen. Richard C. Martinez
Sen. Nancy Rodriguez

Absent

Rep. Eliseo Lee Alcon
Rep. Phelps Anderson
Rep. Joseph L. Sanchez

Advisory Members

Rep. David M. Gallegos
Sen. Clemente "Memé" Sanchez

Sen. Gregory A. Baca
Sen. William F. Burt
Sen. Gregg Fulfer
Sen. William H. Payne
Rep. Debra M. Sariñana
Rep. James G. Townsend

Staff

Shawna Casebier, Legislative Council Service (LCS)
Sara Wiedmaier, LCS
Tom Kricka, LCS

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

Wednesday, October 21

Welcome and Introductions (10:00 a.m.)

Representative Rubio welcomed everyone to the meeting.

Progress Update and Funding Requirements for Remediation of the Carlsbad Brine Well (10:08 a.m.)

Sarah Cottrell Propst, secretary, Energy, Minerals and Natural Resources Department (EMNRD), and chair, Carlsbad Brine Well Remediation Authority; and Jim Griswold, chief, Environmental Bureau, Oil Conservation Division, EMNRD, updated the committee on the progress and funding requirements for remediation of the Carlsbad brine well. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RHMC&Date=10/21/2020&ItemNumber=1>.

Comments from committee members included the following.

- In 2008, two brine wells in southeastern New Mexico failed catastrophically, which resulted in holes in the ground that were hundreds of feet across and hundreds of feet deep. There was concern that the Carlsbad brine well would also fail. The brine wells provide support for the extractive industries in southeastern New Mexico.
- The EMNRD is implementing best practices that are based on federal requirements at the permitting stage for brine wells.
- An operator is currently required to provide sufficient financial assurance to begin operations and for cleanup after. The bonding levels were recently increased.
- If ground water is affected by the brine well, the cost will be huge because it will require pumping the contaminated water out of the ground. It would probably cost \$100 million to \$150 million to do the cleanup.
- Site inspections occur every other week, and monitoring is automated and continuous.
- To mitigate risk, sand is being backfilled into the brine well cavern. Mitigating the risk may cost \$17.6 million. This is a much smaller amount than cleanup will cost if ground water becomes contaminated.

Waste Isolation Pilot Plant (WIPP) Expansion and Permit Modifications (11:22 a.m.)

Reinhard Knerr, manager, Carlsbad Field Office, United States Department of Energy (DOE); James C. Kenney, secretary, Department of Environment (NMED); Stephanie Stringer, director, Resource Protection Division, NMED; Don Hancock, director, Nuclear Waste Program, Southwest Research and Information Center; and George Anastas, P.E., nuclear safety and radiation safety consultant, and former president, Health Physics Society, discussed the expansion of the WIPP. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RHMC&Date=10/21/2020&ItemNumber=2>.

Comments from committee members included the following.

- There were roughly 178 individual shipments from the WIPP in 2020, and there were 35 shipments from Los Alamos National Laboratory (LANL) to the WIPP in 2020. LANL prioritizes its shipments based on available inventory, mission need, regulations, agreements and on-site conditions.
- Because New Mexico is a repository for waste, the state should get priority to move its waste to the WIPP.
- LANL's process of characterizing and certifying waste is lengthy, costly and audited on an annual basis. The waste goes through a verification process to meet waste acceptance criteria, then the waste is prepared to be sent to the WIPP.
- There was an incident at LANL in 2014 that halted operations for several years. In response to the incident, LANL reinforced its processes and the DOE established an office at Los Alamos to help characterize waste and document and validate information.
- Based on the DOE's latest waste inventories, the current approach to volume of record suggests that the WIPP has capacity to support the current mission.
- Not all nuclear waste in the country will fit inside the WIPP. There will need to be another repository. It is suggested that the eastern part of the country would make a good place for another repository since there is a lot of spent reactor fuel there.
- The WIPP has had 63 reported cases of COVID-19, and 27 of the cases are currently active. There is no indication of infection on-site.

Approval of Minutes (1:34 p.m.)

On a motion made, seconded and duly passed, the minutes of the September 9, 2020 meeting were approved as submitted.

Consolidated Interim Storage (1:35 p.m.)

Jeffrey Moore, railroad safety specialist, Federal Railroad Administration, United States Department of Transportation; Ms. Stringer; Nick King, pastor, Carlsbad Mennonite Church, and member, Citizens Caring for the Future; and Gene Harbaugh, member, Citizens Caring for the Future, discussed consolidated interim storage in the state. Ed Mayer, project manager, Holtec International, also addressed questions from the committee. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RHMC%20102120%20Item%203%20Federal%20Railroad%20Administration%20-%20USDOT.pdf>

Comments from committee members included the following.

- The rail carriers are liable for accidents and cleanup when transporting nuclear waste to the proposed site. The federal government underwrites shipments under the federal Price-Anderson Act. The value of the policy is \$13.4 billion total for the United States.

- A group of 19 legislators sent a letter to the United States Nuclear Regulatory Commission (NRC) regarding the Draft Environmental Impact Statement expressing concerns that there is no permanent site for high-level nuclear waste; that the state has no ultimate jurisdiction to consent to having the waste stored here; that despite the federal Price-Anderson Act, the emergency response would first fall to state and local responders; that the NRC has done no outreach in New Mexico; and that there is limited capability to repackage the waste on-site. Communities across New Mexico have passed resolutions opposing the long-term storage and transportation of nuclear waste in their communities.
- The NRC requires armed guards to accompany shipments of nuclear waste to address security concerns. The security package for trains is robust and classified. Security includes a rail escort vehicle with the ability to monitor the train. Storage casks are made of 15 inches of carbon steel and lead and weigh 250 tons each. The casks cannot easily be stolen. State and local governments will be briefed on the schedule of shipments and have the opportunity to make preparations, but local residents may only know at the last minute. First responders in the state are trained to respond to accidents by rail.
- The cask interiors are monitored by measuring the temperature of the air around the casks. The casks are designed to last over 100 years, even in the most corrosive environments.
- According to the NRC, there have been close to 100 incidents involving dry cask storage facilities. Extrapolating to storage in New Mexico, this could mean a large number of possible incidents.
- A Waste Control Specialists (WCS) facility in Texas is very close to Jal, New Mexico, and first responders from Jal already respond to WCS security concerns, but New Mexico does not get any of the economic benefits from WCS. WCS is also close to Eunice, New Mexico.

Sandia National Laboratories (SNL) Mission and Operations (3:04 p.m.)

Dr. Andrew McIlroy, associate labs director, Integrated Security Solutions, SNL, and Secretary Kenney discussed SNL's mission and operations. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RHMC%20102120%20Item%204%20Sandia%20National%20Laboratories.pdf>.

Comments from committee members included the following.

- The number of employees at SNL has grown from 9,000 in 2012 to 14,000 in 2020. SNL makes between 500 to 1,000 new hires each year.
- The majority of SNL's employees are working remotely.
- A mixed waste landfill that encompasses 2.6 acres is located about five miles southeast of Albuquerque.
- The NMED is moving people from other areas to the Occupational Health and Safety Administration program to respond to the COVID-19 pandemic.

- The majority of funding for the hazardous waste program comes from permit revenues, and the legislature has allowed the NMED to use the Corrective Action Fund. Thirty percent of the NMED's budget comes from entities such as the DOE and the United States Department of Defense. The NMED is self-funding through permit fees.

Public Comment (3:49 p.m.)

The committee heard public comments from the following individuals.

- Cynthia Wheeler commented on the expansion of the WIPP and issues along the transportation route to the WIPP. Ms. Wheeler gathered signatures of people who oppose the WIPP expansion. She said that plutonium takes 500,000 years to decay before it becomes other radioactive material. Ms. Wheeler commented that the current safety protocols are inadequate and that the NMED is failing to hold the DOE to its promises.
- Steve Zappe, who formerly worked with the NMED on WIPP permitting and regulation, discussed some of the issues with the WIPP, including the temporary authorization to construct a ventilation shaft that may not be necessary, is irreversible and could end up being a waste of money. He said that the WIPP was constructed and operated without a definite closure date, which should have been included, and that there are no plans to construct a second WIPP facility somewhere else in the country.

Adjournment

There being no further business before the committee, the meeting adjourned at 4:06 p.m.