

My name is Kyle Marksteiner and I have been instructed to enter these comments into the record on behalf of John Heaton. Mr. Heaton, a former state representative, is the chair of the Carlsbad Mayor's Nuclear Task Force and the Eddy Lea Energy Alliance.

"Good afternoon, esteemed members of the Defense Nuclear Facilities Safety Board and thank you very much for holding this hearing in Carlsbad. Vice-Chairman Roberson I am sorry I have missed seeing you, and thank you for being here. We recognize that the rarity of such a public hearing indicates the significance of both the Waste Isolation Pilot Plant itself and the severity of the mistakes that led to last February's fire and radiological incident.

I know all of you must feel deeply ashamed that you didn't enforce your fire findings at WIPP or that you failed to identify the shortcomings of the waste treatment process and poor AK documentation of that treatment at Los Alamos, as well as the incompetence of the CCP program there and at CBFO to identify and assure how that treatment was occurring. Certifying waste for disposal at WIPP that does not meet the WIPP WAC is inexcusable! It shakes the very foundation of trust and moral responsibility to one's fellow man.

I apologize for not being there today, but I have a prior commitment I am unable to get out of. I hope this hearing is productive and look forward to watching the archived online broadcast when I am able to do so.

My message today is to emphasize the absolute need for transparency, transparency at the WIPP level, transparency in Washington D.C., transparency for regulators and, yes, transparency for the DNFSB. Transparency is not passive.

For many years, the DNFSB indicated concerns about a possible fire at WIPP in letters to the Secretary of Energy that were, admittedly, published on the DNFSB web site. However, the back and forth discussion on these concerns, and their apparent lack of resolution, were not brought to the public's attention, and obviously not resolved in spite of corrective action responses.

While I understand that your primary mission is to report to the Secretary, the reality is that we live in an era where the media, the public and the host communities need to be directly brought into the discussion to make sure changes are made. It is true that we could have found your letters on your web page and made a bigger deal of them to our local WIPP management and our congressional delegation, but we are also busy people and you are the experts. I hope the DNFSB and all regulators will strive to do a better job of bringing their message directly to the community.

The public should be informed immediately and directly after every visit you make to the site in the form of an exit conference with the public when your findings or judgements of safety breaches against WIPP are reported directly. You should then report the response by WIPP in the way of "corrective actions" they intend to implement and whether you accept their

responses as adequate. We should then have a minimum of a monthly report from you to the mayor as to which corrective actions are completed and which are outstanding. Too often, we hear about some concern and then never get the follow-up about whether it was addressed, or why it was not addressed.

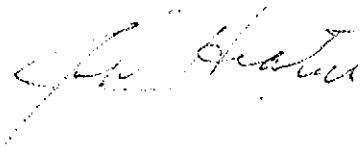
Furthermore, this information from your findings should be presented in a way that is understandable to the public-- not recorded in a way where even people directly involved cannot understand the concern.

Many of these concerns tie in with our attempt to develop a Community Assurance Program. Vice Chairman Roberson, I was gratified by our meeting in D.C. several months ago when you agreed that the DNFSB would be pleased to participate in such a program. You pointed out several instances where there may be inconsistencies between regulators, and such a meeting of the regulators would allow those and others to be cleared up, as well as, finding gaps in oversight. We don't believe introducing a new regulator to WIPP is the solution, so much as we think the focus should be to tie in the existing regulators, eliminate the "silo" effect caused by each group handling its own process and sometimes missing key issues and, finally turning these reports into something that is digestible by the public.

We appreciate your willingness to be part of this community assurance program, and we understand its development is part of the State of New Mexico's negotiations with the Department of Energy.

As a closing element- the final goal here is the restoration of the Waste Isolation Pilot Plant. The salt beds in this area have, and will continue to do their job. This is an exceptional resource for the permanent disposal of transuranic waste- we just need to keep working to eliminate human error.

Thank you again for being here today.

A handwritten signature in black ink, appearing to read "J. H. Hester". The signature is written in a cursive style with a long, sweeping underline that extends to the left.