



Department of Energy

Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221

SEP 27 2017

Mr. John E. Kieling, Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87508-6303

Subject: Certificate of Completion for Settlement Agreement and Stipulated Final Order No. HWB-14-21 Supplement Environmental Projects Paragraph 33

Reference: The Settlement Agreement and Stipulated Final Order No. HWB-14-21 (CO), January 22, 2016

Dear Mr. Kieling:

The purpose of this letter is to provide the Certificate of Completion with pertinent attachments and data related to the final implementation for the referenced Settlement Agreement and Stipulated Final Order (Agreement) Supplemental Environmental Project (SEP) in Paragraph 33. This Certificate of Completion is required by Paragraph 32 of the Agreement.

Paragraph 33 of the Agreement states the following:

DOE shall pay to the New Mexico Department of Transportation ("NMDOT") \$34 million to fund necessary repairs to New Mexico roads used for the transportation of DOE shipments of transuranic waste to WIPP ("WIPP designated routes"), as specified at 18.20.9 NMAC, in the southeastern portion of New Mexico.

a) Monies will be used first to repave/repair the WIPP North Access Road, an approximately 13-mile stretch of road between Highway 62-180 and the WIPP site.

b) After providing for improvements of the WIPP North Access Road, NMDOT will prioritize such WIPP-designated routes for improvements to maximize safety, pavement condition and available funding. NMDOT will provide a list of prioritized projects, including estimated total cost and schedule for completion to DOE prior to commencement of construction.

c) DOE and NMED agree that NMDOT will act as project manager and fiscal agent for all projects contemplated in this paragraph, including planning, designing and obtaining rights-of-way for each project and securing all environmental clearances and approvals as required for federally-funded highway projects.

Mr. Kieling

-2-

d) DOE shall remit funds to NMDOT provided that NMDOT: strictly accounts for all invoices and disbursements for the projects funded pursuant to this paragraph; provides detailed reports within ninety days of the completion of each project; maintains all records relative to the projects for a period of six (6) years; and, makes records reasonably available for inspection or audit by DOE at NMDOT offices in New Mexico.

e) DOE shall remit at least \$7.2 million of the funds in this paragraph to NMDOT by the end of federal fiscal year 2016; and shall remit the remainder of the funds to NMDOT by the end of federal fiscal year 2017. In no event shall DOE extend the time for providing all funding identified in paragraph 33 past the end of federal fiscal year 2017.

f) DOE shall complete all funding obligations contained in this paragraph by the end of federal fiscal year 2017 and submit a Certification of Completion following NMDOT's receipt of all the funds.

The funding pursuant to Paragraph 33 of the Agreement has been obligated. The enclosed Certificate of Completion for the SEP in Paragraph 33 with pertinent attachments and data is being provided pursuant to Paragraph 32 of the Agreement. The following are enclosed:

- Enclosure 1 – Certificate of Completion
- Enclosure 2 – Pertinent Attachments and Data
 - DOE Memorandum subject: Direct Miscellaneous Obligation to the State of New Mexico Department of Transportation, dated August 23, 2017, for Tom Park, Director, EFASC, Office of Finance and Accounting, CF-10, from Robin Osik, Office of Budget, Office of Environmental Management
 - DOE Memorandum subject: Direct Miscellaneous Obligation to the State of New Mexico Department of Transportation, dated May 23, 2016, for Tom Park, Director, EFASC, Office of Finance and Accounting, CF-10, from Connie Flohr, Associate Deputy Assistant Secretary, Office of Program Planning and Budget, Office of Environmental Management
 - Email Confirmation following NMDOT's receipt of funds
 - NMDOT's list of prioritized projects
 - Photographs depicting completion of repairs of the WIPP North Access Road

We certify under penalty of law that this document and all attachments were prepared under our direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on our inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of our knowledge and belief, true, accurate, and complete. We are aware that there are

Mr. Kieling

-3-

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If you have any questions, please contact Mr. George T. Basabilvazo at (575) 234-7488.

Sincerely,

Signatures on File

Todd Shrader, Manager
Carlsbad Field Office

Bruce C. Covert, Project Manager
Nuclear Waste Partnership LLC

Enclosures (2)

cc:w/enclosure

R. Maestas, NMED *ED

D. Biswell, NMED ED

CBFO M&RC

*ED denotes electronic distribution

ENCLOSURE 1:
CERTIFICATE OF
COMPLETION
(1 PAGE)

City: ...

CERTIFICATE OF COMPLETION

IN SATISFACTION OF SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER

JANUARY 22, 2016

HWB-14-21 (CO)

The Respondents certify that Supplemental Environmental Project (SEP) Paragraph 33 has been completed in accordance with the terms of the Settlement Agreement and Stipulated Final Order (AGREEMENT), January 22, 2016 [HWB-14-21 (CO)] between the Respondents and the New Mexico Environment Department (NMED). This SEP was completed on August 23, 2017.

Therefore, the Respondents issue this Certificate of Completion to the NMED in satisfaction of the AGREEMENT at paragraphs 32 and 33.

The Respondents do hereby certify that the SEP Paragraph 33 is complete and has been accepted by the Respondents by the signatures below.

Signature on File

Todd Shrader, Manager
Carlsbad Field Office

Signature on File

Bruce C. Covert, Project Manager
Nuclear Waste Partnership LLC

ENCLOSURE 2:
PERTINENT ATTACHMENTS
AND DATA
(17 PAGES)



Department of Energy

Washington, DC 20585

August 23, 2017

MEMORANDUM FOR TOM PARK
DIRECTOR, EFASC
OFFICE OF FINANCE AND ACCOUNTING, CF-10

FROM: **ROBIN OSIK** *Signature on File*
OFFICE OF BUDGET
OFFICE OF ENVIRONMENTAL MANAGEMENT

SUBJECT: Direct Miscellaneous Obligation to the State of New Mexico
Department of Transportation

This memorandum is requesting a direct miscellaneous obligation to the State of New Mexico Department of Transportation in the amount of \$26,800,000.

This payment is being made pursuant to the New Mexico Settlement Agreement and approval by Congress. These funds support the terms of the negotiated settlement of the Administrative Compliance Orders (ACO) between the U.S. Department of Energy (DOE) and New Mexico Environment Department (NMED) (attached). NMED issued two ACOs to both Los Alamos National Laboratory (LANL) and the Waste Isolation Pilot Plant (WIPP) as a result of each respective site's alleged violations to Hazardous Waste Management Regulations and Facility Permits.

Specifically, the funding will fund necessary repairs to New Mexico roads used for the transportation of DOE shipments of Transuranic waste to WIPP by means of the WIPP designated routes in the southeastern portion of New Mexico near the City of Carlsbad. It will first cover the repaving/repair needs to the WIPP North Access Road (an approximately 13 mile stretch of road between Highway 62-180 and the WIPP site). NMED may prioritize additional WIPP designated routes for improvements in conjunction with DOE following improvements of the North Access Road.

The appropriate accounting data is provided below.

FROM:

TAFS: 89 0251
 Approp: 89X0251
 Fund: 01276
 Year: **2017**
 Allottee: 60
 Reporting Entity: 301133
 SGL: 61000000
 Object Class: 25199
 Program: 1111671 (EY9100000)
 Project: 0000442 (CB-0080.O1)
 WFO: 0000000
 Local use: 0000000
 Amount: \$26,800,000.00
 CID: MIEW**50030**

TO:

Agency: 80500 (New Mexico Department of Transportation)
 Fund: 43100
 Program: P562
 Department: 9009000000
 Account Number: 451903

Bank Name: Wells Fargo
 Nine-Digit
 Routing Number: **Information on File**
 Account Number:

This memorandum supersedes the memorandum signed on Monday, August 21, 2017, signed by Tim Harms for Steve Trischman, subject same.

If you require additional information, please contact Angie Maddox of the EM Office of Budget at 301-903-4888.

Attachments

cc:

HQ Vendor Pay

Rachel Pectol, CF-10

Linda Smith, CF-32

Haemi Park, CF-32

John Mocknick, EM-3

Mark Senderling, EM-4.2

Alton, Harris, EM-4.21

Angie Maddox, EM-5.111

Laura Rosencrantz, EM-5.111

Matt Murie, GC

William Mackie, CBFO

Karen Richardson, CBFO



Department of Energy
Washington, DC 20585

MAY 23 2016

MEMORANDUM FOR TOM PARK

DIRECTOR, EFASC
OFFICE OF FINANCE AND ACCOUNTING, CF-10

FROM:

CONNIE FLOHR ^{Signature on File}
ASSOCIATE DEPUTY ASSISTANT SECRETARY
OFFICE OF PROGRAM PLANNING AND BUDGET
OFFICE OF ENVIRONMENTAL MANAGEMENT

SUBJECT:

Direct Miscellaneous Obligation to the State of New Mexico
Department of Transportation

This memorandum is requesting a direct miscellaneous obligation to the State of New Mexico Department of Transportation in the amount of \$7,200,000.

This payment is being made pursuant to the New Mexico Settlement Agreement and approval by Congress. These funds support the terms of the negotiated settlement of the Administrative Compliance Orders (ACO) between the U.S. Department of Energy (DOE) and New Mexico Environment Department (NMED) (attached). NMED issued two ACOs to both Los Alamos National Laboratory (LANL) and the Waste Isolation Pilot Plant (WIPP) as a result of each respective site's alleged violations to Hazardous Waste Management Regulations and Facility Permits.

Specifically, the funding will fund necessary repairs to New Mexico roads used for the transportation of DOE shipments of Transuranic waste to WIPP by means of the WIPP designated routes in the southeastern portion of New Mexico near the City of Carlsbad. It will first cover the repaving/repair needs to the WIPP North Access Road (an approximately 13 mile stretch of road between Highway 62-180 and the WIPP site). NMED may prioritize additional WIPP designated routes for improvements in conjunction with DOE following improvements of the North Access Road.

The appropriate accounting data is provided below.

FROM:

TAFS: 89 0251
 Approp: 89X0251
 Fund: 01250
 Year: **2015**
 Allottee: 60
 Reporting Entity: 301133
 SGL: 61000000
 Object Class: 25199
 Program: 1110954 (EY9009801)
 Project: 0000442 (CB-0080.O1)
 WFO: 0000000
 Local use: 0000000
 Amount: \$6,000,000.00
 CID: MIEW50030

TAFS: 89 0251
 Approp: 89X0251
 Fund: 01250
 Year: **2016**
 Allottee: 60
 Reporting Entity: 301133
 SGL: 61000000
 Object Class: 25199
 Program: 1110954 (EY9009801)
 Project: 0000442 (CB-0080.O1)
 WFO: 0000000
 Local use: 0000000
 Amount: \$1,200,000.00
 CID: MIEW50030

TO:

Agency: 80500 (New Mexico Department of Transportation)
 Fund: 43100
 Program: P562
 Department: 9009000000
 Account Number: 451903

Bank Name: Wells Fargo
 Nine-Digit
 Routing Number: **Information on File**
 Account Number:

If you require additional information, please contact Angie Maddox of the EM Office of Budget at 301-903-4888.

Attachment

cc:

HQ Vendor Pay

Rachel Pectol, CF-10

Linda Smith, CF-32

Janice Stull, CF-32

Cathy Williams, CF-32

Alton, Harris, EM-31

Mark Senderling, EM-32

Angie Maddox, EM-61

Laura Rosencrantz, EM-61

William Mackie, CBFO

Karen Richardson, CBFO

GENERAL PRINCIPLES OF AGREEMENT HWB-14-20 and HWB-14-21

These General Principles of Agreement ("Principles of Agreement") are agreed upon by the New Mexico Environment Department ("NMED"), and the United States Department of Energy ("DOE"), Los Alamos National Security, LLC ("LANS"), and Nuclear Waste Partnership, LLC ("NWP") (collectively, with DOE and LANS, the "DOE Permittees") for the purpose of resolving Compliance Order Nos. HWB-14-20 and HWB-14-21 ("Compliance Orders"), related to the Los Alamos National Laboratory ("LANL") and the Waste Isolation Pilot Plant ("WIPP").

PREAMBLE

NMED and the DOE Permittees ("Parties") have engaged in settlement discussions in an effort to resolve the Compliance Orders without further administrative or judicial actions. As a result of these discussions, the Parties enter into these Principles of Agreement for the purpose of settling the claims of NMED as stated in the Compliance Orders, and any future claims related thereto. These Principles of Agreement are binding on the Parties, their officers, directors, employees, constituent agencies, contractors, subsidiaries, successors, assigns, trustees, receivers and other affiliates. These Principles of Agreement provide a binding framework the Parties will follow as the Parties work toward a detailed settlement agreement and stipulated final order that will incorporate the compromise and settlement of the alleged violations, including the necessary corrective actions, so LANL and WIPP may work toward resumption of waste processing operations.

TERMS

Accordingly, to settle any and all present and future claims, penalties, fines, or other sanctions, against the DOE Permittees, their constituent agencies, contractors and other affiliates arising from or relating to the February 2014 incidents at WIPP, the Parties commit to the following Principles of Agreement. The Parties shall work cooperatively and in good faith to implement these Principles of Agreement beginning with implementation particulars – scope, timing and other implementation details of the supplemental environmental projects outlined below.

1. DOE will pay to the State of New Mexico ("State") \$34 million to fund necessary repairs to New Mexico roads used for the transportation of DOE shipments of transuranic waste to WIPP ("WIPP designated routes"), as specified at 18.20.9 NMAC, in the southeastern portion of New Mexico near the City of Carlsbad.
 - A. Monies will be used first to repave/repair the WIPP North Access Road, an approximately 13 mile stretch of road between Highway 62-180 and the WIPP site.
 - B. The State may prioritize WIPP designated routes for improvements in conjunction with DOE following improvements of the North Access Road.
 - C. DOE will assign designees to participate in meetings with the New Mexico Department of Transportation ("NMDOT") and NMED in order to execute the commitments in Principle 1, including but not limited to, coordinating the receipt and application of funds and implementing the necessary procedures.
2. DOE will fund up to \$12 million to improve DOE-owned transportation routes at LANL used for transportation of transuranic waste to WIPP. Potential projects include widening portions

of East Jemez Road and constructing egress/merge lanes at the intersection of East Jemez Road and New Mexico Route 4.

- A. DOE will assign designees to participate in meetings with NMDOT and NMED, in order to execute the commitments in Principle 2, including but not limited to determining the best use of the funds for improvements to DOE-owned transportation routes at LANL.
 - B. DOE, NMDOT and NMED will take into consideration input from Los Alamos County.
- 3. DOE will fund independent, external triennial reviews of environmental regulatory compliance and operations at LANL and WIPP to ensure any regulatory deficiencies are identified. The results of such reviews shall be made available to NMED and the public. The DOE Permittees, their constituent agencies, contractors and affiliates agree to address any deficiencies identified in such reviews. NMED agrees to refrain from taking any enforcement action against the DOE Permittees, their constituent agencies, contractors and affiliates for any violations identified in the triennial reviews so long as the DOE Permittees and their facility operators correct any deficiencies identified in the course of such reviews. DOE and NMED shall agree on a third party to perform the independent reviews.
 - 4. DOE will fund enhanced training and capabilities for local emergency responders, including funding for training and exercises with local mine rescue teams, in and around Carlsbad, NM, and DOE will fund an offsite emergency operations center near WIPP.
 - 5. DOE will fund and install engineering structures in canyons in and around LANL to slow storm water flow and decrease sediment load to improve water quality in the area, allowing DOE and NMED to manage surface water at a watershed scale.
 - 6. DOE will fund increased sampling and monitoring capabilities for storm water runoff in and around LANL, with the results of sampling and monitoring to be shared with the public and NMED.
 - 7. DOE will provide \$10 million for LANL to replace aging potable water lines and install metering equipment on LANL potable water systems. These improvements will reduce potable water losses, minimize reportable spills and enhance water conservation efforts at LANL.
 - 8. In addition to waiving any and all present and future claims, penalties, fines, or other sanctions, against the DOE Permittees, their constituent agencies, contractors and other affiliates arising from or relating to the February 2014 incidents at WIPP, NMED also agrees to: consider in a timely manner a request for extension to store transuranic waste in the waste handling building on the surface of WIPP beyond the date of May 6, 2015, as is currently required under the most recent NMED permit extension; consider in a timely manner a permit modification request to allow for an above-ground storage facility for temporary on-site storage of transuranic waste at WIPP; enter into good-faith discussions concerning modifications to the 2005 Consent Order for completion of the cleanup of legacy contamination, and forego penalties so far assessed under the 2005 Consent Order.
 - 9. The Parties will resume the WIPP and LANL technical working groups to identify and implement the necessary corrective actions at both facilities. The technical working groups will memorialize the corrective actions necessary to satisfy the Compliance Orders' Schedules of Compliance,

Section III of the Compliance Orders, to be incorporated as addenda to the settlement agreement and stipulated final order.

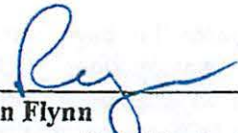
10. DOE will agree to good-faith, informal discussions with NMED and NMDOT concerning the State's ongoing and future needs to maintain roads on WIPP designated routes and how best to address those needs following the expiration of the WIPP designated routes grant.
11. Nothing in these Principles of Agreement, including Paragraphs 1 through 7 above, is intended to obligate DOE to expend funds in excess of available appropriations. DOE will take all necessary steps, including Budget reprogramming, within its existing authority to effectuate the provisions of Paragraphs 1 through 7. Funds used by DOE to execute these Principles of Agreement will not detract from work at LANL or from the WIPP recovery. Nothing in these Principles of Agreement will obligate the DOE Permittees to disclose information when such disclosure is contrary to law, including classified information.
12. The Parties will seek a stay of discovery and all litigation proceedings concerning the Compliance Orders pending execution of the settlement agreement and stipulated final order.

IMPLEMENTATION

The Parties agree they will act reasonably and in good faith at all times to accomplish the objectives of these Principles of Agreement. These Principles of Agreement will serve as the document that will bind the Parties' execution of a detailed settlement agreement and stipulated final order. These Principles of Agreement shall not be altered or amended. These Principles of Agreement shall become effective and enforceable on the date executed by all the Parties and shall remain in effect until the Parties execute a detailed settlement agreement and stipulated final order incorporating these terms.

BY SIGNING THESE PRINCIPLES OF AGREEMENT, THE SIGNATORY FOR EACH PARTY BELOW CERTIFIES THAT HE OR SHE HAS THE AUTHORITY TO LEGALLY BIND THE PARTY TO THESE PRINCIPLES OF AGREEMENT.

NEW MEXICO ENVIRONMENT DEPARTMENT

By: 
Ryan Flynn
Secretary, New Mexico Environment Department

Date: 4/30/2015

UNITED STATES DEPARTMENT OF ENERGY

By: 
Mark Whitney
Principal Deputy Assistant Secretary, Environmental Management

Date: 4/30/15

By: 
Frank G. Klotz
Under Secretary for Nuclear Security, Department of Energy
Administrator, National Nuclear Security Administration

Date: 4/30/2015

LOS ALAMOS NATIONAL SECURITY, LLC

By: 
Dr. Charles F. McMillan
Director, LANS

Date: 4/30/15

NUCLEAR WASTE PARTNERSHIP, LLC

By: Signature on File
Robert L. McQuinn
President, NWP

Date: 4/30/2015

From: Walker, Andy - FedNet
Sent: Tuesday, September 05, 2017 12:38 PM
To: Basabilvazo, George - FedNet; Chavez, Rick - RES; Most, Wille - RES
Cc: Mackie, Bill - FedNet
Subject: FW: WIPP Priority Projects

Importance: High

Just received this confirmation that NMDOT has received the funding of \$26.8M

Andy Walker
DOE/CBFO
Transportation Logistics Manager
Acting Director of NTP Operations Division
575-234-7407

From: Lujan, Anthony N., NMDOT [<mailto:Anthony.Lujan1@state.nm.us>]
Sent: Tuesday, September 05, 2017 11:59 AM
To: Andy Walker <andy.walker@cbfo.doe.gov>
Cc: Padilla, Rick M., NMDOT <Rick.Padilla@state.nm.us>; James Mason <James.Mason@cbfo.doe.gov>
Subject: RE: WIPP Priority Projects
Importance: High

Good day Mr. Walker,

The NMDOT received on Monday August 28, 2017 the amount of 26.8 million. If you have any other questions please advise.

Anthony Lujan
Deputy Secretary



From: Andy Walker [<mailto:andy.walker@cbfo.doe.gov>]
Sent: Thursday, August 31, 2017 9:14 AM
To: Lujan, Anthony N., NMDOT
Cc: Padilla, Rick M., NMDOT; James Mason
Subject: RE: WIPP Priority Projects

That would be great. Please include myself and James Mason from CBFO on the invite and we can share with others.
Thanks

From: Diane Snow <diane.snow@cbfo.doe.gov>
Sent: Thursday, August 25, 2016 9:28 AM
To: 'Dorland, Kristen, NMDOT'
Cc: Valencia, Becky D., NMDOT; Friel, Michael, NMDOT; Chavez, Rick - RES; Hunt, Suzanne - FedNet
Subject: RE: \$7.2M Payment to New Mexico Department of Transportation

Kristen:

Thank you for confirming the settlement payment date and amount of \$7.2M.

Vicki Diane Snow
Contracting Officer
DOE - Carlsbad Field Office
(575)234-7452

-----Original Message-----

From: Dorland, Kristen, NMDOT
Sent: Thursday, August 25, 2016 9:16 AM
To: Diane Snow
Cc: Valencia, Becky D., NMDOT; Friel, Michael, NMDOT; Chavez, Rick - RES
Subject: FW: \$7.2M Payment to New Mexico Department of Transportation

Diane,
We did receive the \$7.2M as part of the DOE settlement on May 26, 2016.

Thanks,
Kristen Dorland
Accounting Services Deputy Director
New Mexico Department of Transportation
Cell: 505-231-5282

-----Original Message-----

From: Valencia, Becky D., NMDOT
Sent: Monday, August 15, 2016 2:41 PM
To: Dorland, Kristen, NMDOT; Friel, Michael, NMDOT
Subject: FW: \$7.2M Payment to New Mexico Department of Transportation

Kristen and Mike,
We did receive this deposit on May 26, 2016, but I wasn't sure if I could reply to this email, or if it had to be one of you.

Thank you,
Becky Valencia
NMDOT
Accounting Services
Project Billing
505-827-6880

2018 PRIORITY WIPP NAR/US 285 PROJECTS

| Route | Direction | Termini & Description | Project Scope | Approved Funding Amount |
|-------------------------|-----------|-----------------------|---|-------------------------|
| Fiscal Year 2018 | | | | |
| US 285 | Both | MP 55.0 TO MP 63.5 | 2.5" HIR on Driving Lane W/ Wearing Course on Driving and Passing Lanes | \$3,000,000 |
| US 285 | SBL"s | MP 146.0 TO MP 158.0 | 1" Heater Scarification W/2.0" Overlay | \$4,000,000 |
| US 285 | SBL"s | MP 158.0 - MP 174.0 | 2.5" HIR w/Wearing Course | \$3,500,000 |
| NM 176 | NBL"s | MP 37.5 TO MP 41.0 | 2.5" HIR w/Wearing Course | \$1,500,000 |
| | | | Sub-Total - 2018 | \$12,000,000 |

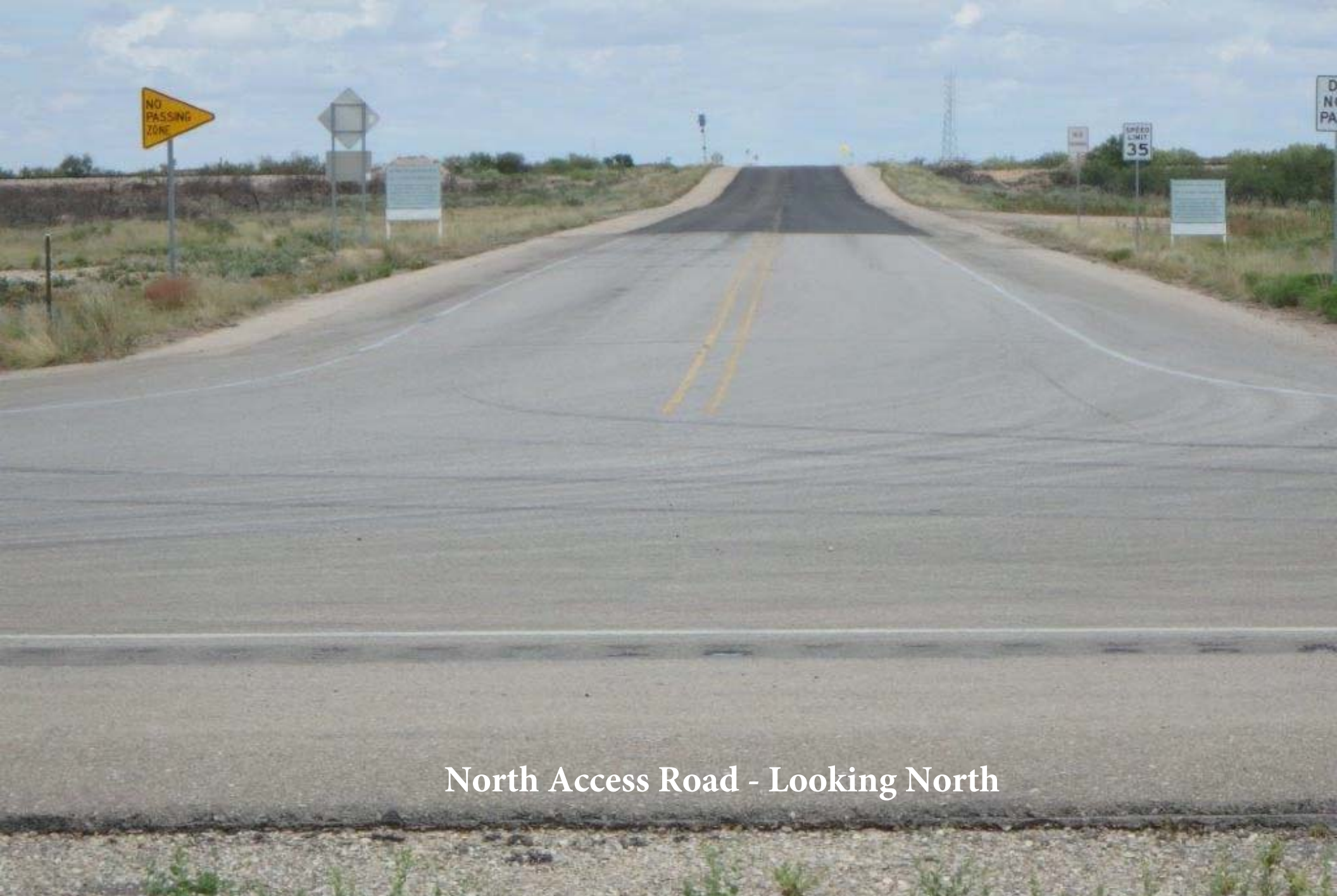
2019 PRIORITY WIPP NAR/US 285 PROJECTS

| Route | Direction | Termini & Description | Project Scope | Approved Funding Amount |
|-------------------------|-----------|-----------------------|---|-------------------------|
| Fiscal Year 2019 | | | | |
| US 285 | Both | MP 96.3 TO MP 105 | 3" Mill and Inlay | \$5,000,000 |
| NM 18 | Both | MP 41.6 - MP 47.8 | 3" Mill and Inlay on Driving Lane and Isolated Fatigued Areas on passing Lane | \$4,800,000 |
| US 285/US 60 | Both | MP 256.7 to MP 263.5 | Heater Scarification W/2.0" Overlay | \$5,000,000 |
| | | | Sub-Total - 2019 | \$14,800,000 |
| | | | Total | \$26,800,000 |

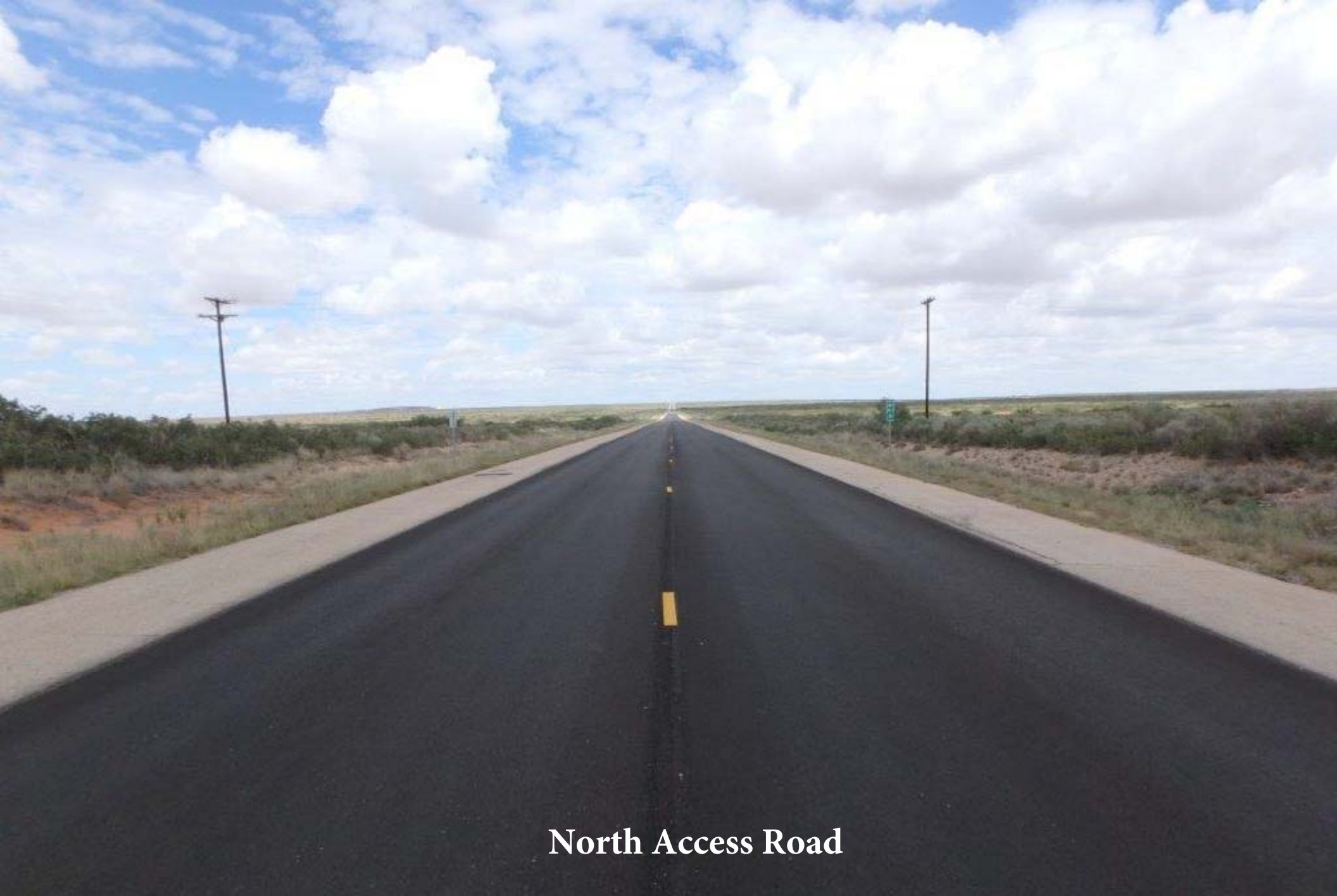
Note: preliminary estimates, project scope and project terminies may need to be adjusted based on funding.



North Access Road - Looking South



North Access Road - Looking North



North Access Road