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**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES DEPARTMENT OF ENERGY  
CARLSBAD FIELD OFFICE &  
THE  
SHERIFF OF EDDY COUNTY  
CONCERNING  
LOCAL LAW ENFORCEMENT SUPPORT**

This Memorandum of Understanding (MOU) is between the United States Department of Energy (DOE), Carlsbad Field Office (CBFO)/US District Attorney, represented by the WIPP MANAGER/DESIGNEE and the Chief Law Enforcement Officers of EDDY County, represented by the SHERIFF/DESIGNEE OF EDDY COUNTY.

WHEREAS, all parties have certain responsibilities for protecting workers, the general public, the environment, and property; and

WHEREAS, all parties have developed and maintain capabilities to accomplish these respective responsibilities; and

WHEREAS, all parties recognize that developing and maintaining a program of mutual assistance will enhance each agencies ability to accomplish their respective responsibilities in a more effective and efficient manner; and

WHEREAS, all parties are willing to enter into this MOU; and

WHEREAS, the DOE-CBFO is authorized to enter into this agreement by Public Law 95-91; and

WHEREAS, the SHERIFF OF EDDY COUNTY is authorized to enter into this agreement to the extent provided by EDDY County.

It is understood and agreed by the parties as follows:

1. General:

a. Definitions

- (1) Waste Isolation Pilot Plant (WIPP) - Any current or future site of the DOE in the County of EDDY, State of New Mexico.
- (2) Protective force - Includes personnel, services, and equipment utilized in crime prevention programs, the protection of life, operations, and property from criminal activities and investigation of security incidents
- (3) Underground - Mined facilities at the WIPP.
- (4) Authorized Representative - Any member of the WIPP site security force, operations organization, management team or DOE personnel acting in the interest of the DOE

pursuant to the WIPP security mission.

(5) Significant threat - Any act, real or implied, which could by its very nature prevent the successful completion of the stated mission of WIPP protective force programs.

b. This MOU is entered into on behalf of the DOE-CBFO/US ATTORNEY by the WIPP PROJECT MANAGER/DESIGNEE, and on behalf of EDDY County by the SHERIFF OF EDDY COUNTY.

c. The provisions of this MOU apply to any actual or potential protective force incidents that:

(1) Involve a significant threat to employees of the Waste Isolation Pilot Plant (WIPP), other DOE-CBFO/DOE-Contractor personnel, or the general public;

(2) Involve property under the control or jurisdiction of either the DOE or other Federal agency for which the DOE has oversight;

(3) Involves a threat to the environment that is reportable to an off-site agency;

(4) Involves any other incident for which a joint determination has been made by the DOE-CBFO and the jurisdiction that the provisions of the MOU will apply.

d. Purpose

The DOE-CBFO has the responsibility to administer and conduct Protective Force Programs designed to protect the WIPP Project from theft, sabotage, and other hostile or non-hostile acts that may cause adverse impacts to the project's continuity and/or to the health and safety of the public and the environment.

These activities are conducted at the Skeen-Whitlock Building, 4021 National Parks Highway, and other leased or contracted locations in the City of Carlsbad, Eddy County, New Mexico as well as the site location, 26 miles southeast of Carlsbad, and other future locations established for the benefit of the DOE.

The purpose of this agreement is to provide for the assistance of EDDY County law enforcement during those incidents in which routine site protective force responses are unsuccessful or inadequate to guarantee project security.

e. The DOE and the SHERIFF OF EDDY COUNTY do hereby expressly waive any and all claims against each other hereto for any loss, damage, personal injury, or death occurring in consequence of the reasonable, prudent, and professional performance of this MOU.

## 2. Specifics

a. Law Enforcement Services

- (1) DOE and EDDY County law enforcement agencies will mutually assist each other in the coordination of protective force activities involving armed responses or arrest authority.
- (2) Upon request to a representative of the county by an authorized representative of the DOE, personnel and equipment will be dispatched to any specified location within the WIPP site.
- (3) Any dispatch of personnel or equipment pursuant to this agreement is subject to the following conditions:
  - (a) Response to requests for aid shall be subject to prior commitment, the availability of equipment, personnel and other resources at the time the request is made.
  - (b) Requests for aid, hereunder, need be acted upon only if made by those persons designated as representatives of the WIPP.
  - (c) Any request for aid, hereunder, shall include a statement of the potential threat being encountered, the anticipated response and number of personnel requested, and shall specify the location to which equipment and personnel are to be dispatched. The amount and type of equipment and number of personnel to be furnished shall be determined by a representative of the responding organization. The responding organization shall advise the requestor as to the extent of the expected response.
  - (d) The responding organization shall report to the representative in charge of the requesting organization at the location to which the response is dispatched. The responding local law enforcement agency, in conjunction with the FBI shall be in charge of all issues involving law enforcement outside the authority of the protective force as stated by 10 CFR 1047--LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS. (See Attachment A)
  - (e) The responding organization shall render appropriate services as determined by the responding agency. In all cases, actions shall be appropriate to the officer's judgment of the situation, and in compliance with the laws of Eddy County, The State of New Mexico, and The United States of America.
  - (f) WIPP will provide qualified escorts to law enforcement responding to underground events.
- (4) It is recognized that in appropriate cases, governed by Federal statutes, regulations and orders, Federal Law Enforcement Agencies may have sole jurisdiction over particular Federal offenses committed at the WIPP facility. In those cases in which concurrent Federal and State jurisdiction is appropriate, the parties agree to cooperate in the execution of such jurisdiction.
- (5) WIPP and county law enforcement agencies will mutually assist each other in the coordination of loss prevention and property recovery programs.

- (6) Security and law enforcement training exercises, classes, and drills between and among the WIPP and county agencies will be encouraged under this agreement.
- (7) Nothing in this MOU authorizes access to or disclosure of US Government classified information required to be protected in accordance with Federal Law for regulation in the interest of National Security.
- (8) Recapture/Recovery and Pursuit. In keeping with (3)a. of this section, the Sheriff's Department of Eddy County will commit resources to the pursuit, recapture, and recovery of Department of Energy interests outside jurisdictional lines of the WIPP site. If those interests are radiological in nature the Department of Energy will provide necessary and appropriate support for safe recovery.

b. Radio Communications

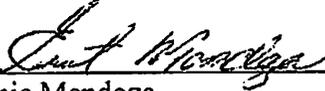
- (1) WIPP authorizes EDDY County to utilize the WIPP radio frequencies for coordination and cooperation during responses and at other times when such communications are deemed necessary for the relaying of information. Likewise, EDDY County authorizes WIPP to utilize the county frequencies for the same response, cooperation and coordination purposes.
- (2) Both parties agree to comply with FCC rules and regulations, proper radio conduct, and protocols.

3. Anti-Deficiency

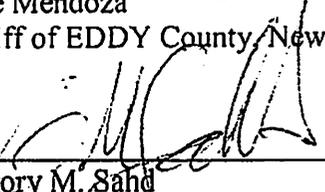
- a. Nothing in this MOU commits the DOE to expend funds which have not been authorized by the US Congress.
- b. Nothing in this MOU commits the county to expend funds which have not been authorized by the appropriate county representative.
- c. Nothing in this MOU commits the Office of the District Attorney, Fifth Judicial District to expend funds which have not been authorized by the appropriate state representative.

4. Term, Modification and Termination

- a. This MOU will become effective on being signed by the DOE, and the SHERIFF OF EDDY COUNTY.
- b. This MOU may be terminated by mutual agreement of the DOE and the SHERIFF OF EDDY COUNTY.
- c. This MOU shall continue in effect until modified by written agreement of the parties involved or terminated as stated in item "b" above, in any case, this MOU shall be in effect for no longer than five years.

  
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Ernie Mendoza  
Sheriff of EDDY County, New Mexico

01/21/09  
Date:

  
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Gregory M. Sand  
DOE Security & Emergency Ops Program Manager, Carlsbad Field Office

26 Jan 09  
Date: