NRC-2018-0052

PUBLIC NOTICE NO. 01-05

NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NM

June 15, 2001

NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING

CONCERNING ISSUANCE OF A FINAL PERMIT FOR THE GANDY MARLEY, INC. TRIASSIC PARK WASTE MANAGEMENT FACILITY EPA ID NO. NM0001002484

The New Mexico Environment Department (NMED) proposes to issue a final permit for the treatment, storage and disposal of hazardous waste at the proposed Triassic Park Waste Management Facility pursuant to the New Mexico Hazardous Waste Act, NMSA 1978 §§ 74-4-1 et seq. (Repl. Pamp. 2000). The permit applicant, Gandy Marley, Inc. (GMI) of 1109 East Broadway, Tatum NM, is proposing to construct and operate the Triassic Park Waste Management Facility 43 miles east of Roswell in Chaves County, New Mexico, approximately two miles south of NM Highway 380. This notice provides the procedure for issuance of a final permit for Triassic Park.

NMED announces both the availability of the Triassic Park draft permit for public comment, and an opportunity for the public to request a public hearing prior to issuance of a final permit. NMED also announces the availability of a fact sheet that sets out in detail the principle basis for NMED's decision to issue a final permit, and the significant factual, legal and policy questions considered in preparing the draft permit. The fact sheet will also explain in detail the type and quantity of wastes which are proposed to be treated, stored and disposed at Triassic Park; a summary of the basis for permit conditions, including applicable statutory and regulatory support; and the reason why any requested variance may be justified.

On April 4, 1996, NMED issued an earlier version of the draft permit for public review and comment. Based upon the comments received, NMED issued a public notice rescinding the draft permit and required GMI to significantly amend its application. On March 15, 2001, NMED issued another version of the draft permit. That version was found to have been an incorrect version, so it was rescinded on May 17, 2001. This public notice is the third notice of the permit's availability for public review and comment.

SUNSI Review Complete
Template = ADM-013
E-RIDS=ADM-03
ADD= Antoinette Walker-Smith, Jill Caverly (JSC1)

COMMENT (160)
PUBLICATION DATE: 3/30/2018
CITATION # 83 FR 13802

PUBLIC REVIEW OF THE DRAFT PERMIT

A copy of the Triassic Park draft permit and the fact sheet may be reviewed at: the Roswell Public Library, Public Assessment Section, 3001 North Pennsylvania, Roswell, New Mexico; the Tatum Town Hall, 20 West Broadway, Tatum, New Mexico; and the NMED web site (***www.nmenv.state.nm.us/hwb/hazwaste_home.html***), by clicking on *Permits/Draft Permits*. The entire administrative record for the draft permit, including the draft permit and the fact sheet, may be reviewed at: New Mexico Environment Department, Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, (505) 428-2544, Attn: Mr. Stephen Pullen.

PUBLIC HEARING

NMED will conduct a public hearing only if, prior to August 14, 2001, it receives a timely request for public hearing containing the information specified below. If the Secretary of the NMED does not receive a request for public hearing, then the Secretary will cancel the public hearing and directly notify the public of that decision no later than August 31, 2001, in the following manner: (1) NMED will provide written notice to all persons submitting written comment or who request to be notified of the cancellation of the hearing; and (2) NMED will publish a notice of cancellation of the public hearing in a newspaper of general circulation in the vicinity of GMI's proposed landfill.

If NMED holds a public hearing, it will be to accept additional public comment on the draft permit. The hearing will begin Monday, October 15, 2001 at 9:30 a.m., and be located at the Roswell Civic Center, 912 North Main Street. The public hearing will provide interested persons a reasonable opportunity to present data, views, and arguments, as well as to examine witnesses. The hearing will continue daily with morning, afternoon, and evening sessions as appropriate, until all persons have been afforded an adequate opportunity to present comment. The hearing will be conducted in accordance with the Hazardous Waste Management Regulations, 20.4.1.901.F NMAC, and the following sections of the Environment Department Permit Procedures, 20 NMAC 1.4: 100-116; 201.A. and B.; 202; 203.C; 204; 301; 302; 402-403; 501-503.

PUBLIC COMMENT

Any person, including the applicant, wishing to submit written public comment or present oral public comment at the public hearing for NMED's consideration, shall do so according to the procedures set forth below. The public comment period commences on the date of this notice and continues for 60 days, ending on August 14, or if the Secretary holds a public hearing, the comment period will continue through the public hearing.

Several comments regarding the draft permit were received by the NMED from interested citizens during the public comment period that commenced on March 15, 2001. NMED will retain those comments until August 14, at which time NMED will respond as appropriate. Interested citizens who provided comment may provide additional comment on the revised draft permit.

A. WRITTEN PUBLIC COMMENT AND REQUESTS FOR PUBLIC HEARING

NMED will accept written public comment and requests for public hearing through August 14, 2001. Written comments shall be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. All requests for public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester represents; (3) a statement of any objections to the draft permit, including specific references to the permit condition; and (4) a statement of the issues which such persons proposes to raise for consideration at the hearing. **The Secretary may decide not to hold a public hearing if he does not receive the above information.** Documents in the administrative record need not be submitted if expressly referenced by the commentator. Written comment must be filed with the Hearing Clerk on or before August 14, 2001 at NMED, Room N-4071, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico.

B. ORAL PUBLIC COMMENT

At the public hearing, NMED will accept technical and non-technical oral comment. The Hearing Officer will set reasonable limits upon the time allowed for oral comment. Oral comment on the draft permit shall be accepted at the public hearing as set forth below:

1. Non-Technical: Any person may present non-technical oral public comment at the hearing. The Hearing Officer will reserve time for non-technical oral comment during each day of the public hearing. Any person may file non-technical written comment in lieu of oral comment on or before the date of the hearing with the Hearing Clerk at the address provided above.

2. Technical: Any person, including the applicant, who wishes to present technical oral comment shall file a *Notice of Intent to Present Technical Testimony* on or before September 15, 2001 with the Hearing Clerk at the address provided above. Technical testimony is defined as scientific, engineering, economic or other specialized testimony, and can be in either written or oral form. Technical testimony does not include legal argument, general comments, or statements of policy concerning matters at issue in the hearing. To promote efficiency, fairness and avoid prejudice and surprise, technical oral comment will be restricted to points and factual information raised in written comment with the exception of rebuttal, as appropriate. The *Notice* shall contain the following information:

   A. Person/Entity: Identify the person or entity filing the *Notice*;

   B. Position: State whether the person or entity filing the *Notice* supports or opposes the revised draft permit;

   C. Witnesses: Identify each witness, including name, address, affiliation(s), and educational and work background;

D. Length of Testimony: Estimate the length of the direct testimony of each witness;

E. Exhibits: Identify all exhibits; for all exhibits which are not part of the Record Proper, attach a copy;

F. Technical Materials: Identify all technical materials relied upon by each witness in making a statement of technical fact or opinion contained in the direct testimony; attach a copy of such technical materials for the Record Proper; submit a copy of such technical materials to the Hearing Clerk concurrently with the filing of the notice;

G. Direct Testimony: Attach a summary of direct testimony of each witness, stating any facts or opinion(s) to be offered by such witness and explaining the basis for such facts or opinion(s). Summaries of testimony shall be comprehensive, substantive and provide sufficient detail to avoid surprise, prejudice and allow for effective cross-examination. Any summary which does not meet this requirement shall be excluded. Oral public comment shall be limited to written public comment as provided above.

3. The failure to file a timely *Notice of Intent to Present Technical Testimony* meeting the requirements above shall preclude a person from presenting technical oral comment, but shall not preclude a person from presenting non-technical oral comment.

4. The requirements for presenting oral comment shall not apply to NMED. NMED will not present written or oral comment on the draft permit, but reserves the right to file a *Notice of Intent to Present Technical Testimony* so that it may present testimony at the public hearing.

C. PARTY STATUS

1. Any person, including the applicants, who wish to be a party for purposes of public participation at the hearing shall file either a timely *Notice of Intent to Present Technical Testimony* or a timely *Entry of Appearance* on or before September 15, 2001 to the Hearing Clerk at the address provided above. The *Entry of Appearance* shall include the following:

A. Person: The person or entity filing the entry and current address for written notification;

B. Position: State whether the person or entity supports or opposes the revised draft permit; and

C. Length of Testimony: Provide an estimate of the amount of time for oral comment, if any.

2. The failure to file a timely *Entry of Appearance* shall preclude a person from being a party in the proceeding, but shall not preclude a person from presenting non-technical oral public comment at the hearing.

3. NMED may file an *Entry of Appearance* to participate at the public hearing.

As soon as practicable, but in no event later than two weeks prior to the hearing, the Hearing Officer shall make a hearing schedule available for public participants and mail it to each person who files an *Entry of Appearance* or *Notice of Intent to Present Technical Testimony*.

PROCEDURE FOR ISSUANCE OF FINAL PERMIT DECISION

NMED will respond in writing to public comments prior to proposing a final decision to the Secretary. The Secretary will issue a final permit decision and response to comments. This response shall:

(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(b) briefly describe and respond to all public comments on the draft permit or the permit application raised during the public comment period or public hearing.

The Secretary will make the final permit decision publicly available and shall notify the applicants by certified mail. All persons presenting written comment, who filed an *Entry of Appearance* or requested notification in writing shall be notified of the decision by first-class regular mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the Hazardous Waste Act (74-4-14 NMSA 1978).

ARRANGMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Cliff Hawley by September 15, 2001, at the following address: New Mexico Environment Department, Room N-4030, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502-6110, (505) 827-2850. TDD or TDY users please access Mr. Hawley's number via the New Mexico Relay Network.. Albuquerque users may access Mr. Hawley's number at (505) 275-7333 or 800-659-1779.

ADDITIONAL INFORMATION

Any person seeking additional information regarding this draft permit, or who would like to arrange for copies of the draft permit at 35 cents a page after the first 80 pages, may contact Mr. Stephen Pullen at the Hazardous Waste Bureau by mail or in person at, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, or by telephone at ((505) 428-2544).

- **U Codes** (Wastes identified as toxic wastes): U003-U012, U014-U039, U041-U053, U055-U064, U066-U099, U101-U103, U105-U138, U140-U174, U176-U194, U196-U197, U200-U211, U213-U223, U225-U228, U234-U240, U243-U244, U246-U249, U328, U353, and U359.

Storage Units. The facility will be permitted to store the hazardous waste and the PCB-contaminated wastes identified above, and hazardous waste generated on-site in drums and roll-off containers. The facility may store hazardous waste as follows:

- **Drum-handling Unit:** The facility may store hazardous waste in as many as 1,120 55-gallon drums or equivalent (61,600 gallons).

- **Roll-off Container Unit:** The facility may store hazardous waste in 132 40-yd^3 roll-off containers or roll-off container equivalent (5,280 cubic yards).

- **Liquid Waste Storage Tanks:** The facility may store hazardous waste in four 9,000-gallon, double-lined, above-ground polyethylene liquid storage tanks (36,000 gallons).

Treatment Units. The facility will be permitted to treat the hazardous waste and PCB-contaminated wastes identified above, and hazardous waste generated on-site, in two separate treatment units. The facility may treat hazardous waste as follows:

- **Treatment Tanks:** (Stabilization Bins): The facility may treat hazardous waste by solidification in four in-ground, double-lined steel stabilization bins with a combined capacity of 10,000 cubic feet.

- **Surface Impoundment Units:** The facility may treat hazardous waste by evaporation in a double-lined surface impoundment consisting of two ponds (Ponds IA and IB) with an approximate combined capacity of 5.2 million gallons and an area of approximately 78,600 square feet.

Disposal Unit. The facility will be permitted to dispose of the hazardous waste and PCB-contaminated wastes listed above, and hazardous waste generated on-site, in a double-lined hazardous waste landfill with a capacity of 553,200 cubic yards and covering approximately 35 acres.

ORGANIZATION OF THE PERMIT

The Triassic Park Waste Disposal Facility operating permit follows the general format specified by the Department for hazardous waste facility permits. The Permit also follows the format suggested by EPA (*Model RCRA Permit for Hazardous Waste Management Facilities*, Office of Solid Waste, U.S. Environmental Protection Agency, September, 1988).

This permit specifies the actions that GMI may take during treatment, storage, and disposal operations, during closure, during the post-closure care period, and any corrective action required at the Triassic Park Waste Disposal Facility. The permit specifies general and specific conditions that generally apply to all hazardous waste management facilities under the HWA and

RCRA. Conditions covering general facility requirements include:

- general waste analysis (20.4.1.500 NMAC (incorporating 40 CFR 264.13));
- security and inspection (20.4.1.500 NMAC (incorporating 40 CFR 264.14 and 264.15));
- training (20.4.1.500 NMAC (incorporating 40 CFR 264.16));
- ignitable, reactive or incompatible wastes (20.4.1.500 NMAC (incorporating 40 CFR 264.16 and 264.17));
- standards for preparedness and prevention to ensure the facility is designed, constructed, maintained and operated to minimize the possibility of fire, explosion or unplanned sudden or non-sudden releases of hazardous wastes into the environment, including testing of equipment (20.4.1.500 NMAC incorporating 40 CFR 264.30 *et seq.*));
- contingency and emergency procedures (20.4.1.500 NMAC (incorporating 40 CFR 264.50 *et seq.*));
- record-keeping and reporting (20.4.1.500 NMAC incorporating 40 CFR 264.70 *et seq.*));
- closure activities for each regulated unit and each facility unit and the post-closure care requirements for the landfill (20.4.1.500 NMAC (incorporating 40 CFR 264.110 through 264.120));
- the corrective action requirements for regulated units;
- corrective action for releases from solid waste management units and/or areas of concern (20.4.1.500 NMAC (incorporating 40 CFR 264.101)); and
- financial assurance requirements (20.4.1.500 NMAC (incorporating 40 CFR 264.140 *et seq.*)).

Additionally, the permit covers specific requirements such as conditions for:

- storage of hazardous waste in containers (20.4.1.500 NMAC (incorporating 40 CFR 264.170 *et seq.*));
- the storage and treatment of hazardous waste in tanks (20.4.1.500 NMAC (incorporating 40 CFR 264.190 *et seq.*));
- treatment by evaporation of hazardous waste in surface impoundments (20.4.1.500 NMAC (incorporating 40 CFR 264.220 *et seq.*)); and
- disposal of hazardous waste in the landfill (20.4.1.500 NMAC (incorporating 40 CFR 264.300 *et seq.*)).

The Permit specifies conditions and requirements of a vadose zone monitoring system under 20.4.1.500 NMAC (incorporating 40 CFR 264.90(f)(2)) and 20.4.1.900 NMAC (incorporating 40 CFR 270.32(b)(2)). A ground water monitoring waiver for the Facility has been approved by the Secretary for reasons specified at Permit Attachment H, *Ground Water Monitoring Waiver Request and Approval,* in accordance with 20.4.1.500 NMAC (incorporating 40 CFR 264.90(b)(4)). It is pursuant to these regulations, and as a condition of the waiver approval, that vadose zone monitoring is required.

The permit is organized into ten parts as described below. The column titled *Regulation* provides the regulatory authority for each permit condition. The permit also expressly incorporates attachments that have been approved, with revisions, for enforceability consistent with Department regulations.

PERMIT ORGANIZATION

PERMIT PART	TOPIC	REGULATION
1	GENERAL PERMIT CONDITIONS	20.4.1.500 NMAC (incorporating 40 CFR Part 270)
2	GENERAL FACILITY CONDITIONS	20.4.1.500 NMAC (incorporating 40 CFR Part 264, Subparts B through H)
3	HAZARDOUS WASTE STORAGE IN CONTAINERS	20.4.1.500 NMAC (incorporating 40 CFR Part 264, Subpart I)
4	HAZARDOUS WASTE STORAGE AND TREATMENT IN TANKS	20.4.1.500 NMAC (incorporating 40 CFR Part 264, Subpart J)
5	HAZARDOUS WASTE TREATMENT IN THE SURFACE IMPOUNDMENT	20.4.1.500 NMAC (incorporating 40 CFR Part 264, Subpart K)
6	HAZARDOUS WASTE DISPOSAL IN THE LANDFILL	20.4.1.500 NMAC (incorporating 40 CFR Part 264, Subpart N)
7	VADOSE ZONE MONITORING	20.4.1.500 NMAC (incorporating 40 CFR Part 264)
8	CLOSURE AND POST-CLOSURE CARE	20.4.1.500 NMAC (incorporating 40 CFR Part 264, Subpart G); 20.4.1.900 NMAC (incorporating 40 CFR Part 270)
9	CORRECTIVE ACTION FOR REGULATED UNITS	20.4.1.500 NMAC (incorporating 40 CFR Part 264.100)
10	CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS	20.4.1.500 NMAC (incorporating 40 CFR Part 264.101)

Permit Part 1 contains conditions that generally apply to all hazardous waste management facilities and includes permit conditions specifying: the Effect of Permit; Permit Actions; Severability; Definitions; Duties and Requirements; Signatory Requirement; Reports and Notifications Submitted to the Secretary; Confidential Information; Documents to Be Maintained at the Facility; and a Compliance Schedule.

Permit Part 2 contains conditions covering general Facility requirements for the Triassic Park Waste Disposal Facility and includes permit conditions specifying: Construction and Operation; Run-on And Run-off Controls; Permitted And Prohibited Waste Sources; Permitted And Prohibited Waste; Waste Analysis Plan; Security; General Inspection Requirements; Personnel Training; Special Provisions For Ignitable, Reactive, or Incompatible Waste; Preparedness And Prevention; Contingency Plan; Recordkeeping And Reporting; Waste Minimization Program; Transportation of Hazardous Waste; General Closure Requirements; and General Post-closure Care Requirements.

Permit Part 3 contains conditions for storage of hazardous waste in drums and roll-off containers. Permit Part 3 specifies standards for the construction, operation, and maintenance of a Drum Handling Building and a Roll-Off Container Storage Area. The requirements and conditions for the maximum volumes and kinds of waste that can be stored in approved containers are also specified.

Permit Part 4 contains conditions for the storage and treatment of hazardous waste in tanks. Permit Part 4 specifies standards for the construction, operation, and maintenance of a Liquid Waste Tank Storage Area and the Stabilization Building. The requirements and conditions for the maximum volumes and kinds of waste that can be stored and treated in tanks are also specified.

Liquid hazardous wastes will be transferred directly to the Storage Tanks from either off-site tanker trucks, the Drum Handling Unit, or the Roll-Off Container Storage Area. Liquid hazardous waste will be transferred by transfer truck from the tanks to either a Stabilization Tank or the Surface Impoundment for treatment. Treatment will consist of stabilization (solidification) of the waste by mixing with dry or liquid reagents. After stabilization, the waste will be transferred to a roll-off container and either stored in the Roll-Off Container Area (Stabilized Waste Cell) to cure, or transferred directly to the Landfill.

Permit Part 5 contains the conditions and requirements for treatment by evaporation of hazardous waste in the Surface Impoundment. Standards for construction, operation, and maintenance are also specified. Conditions are included to ensure proper pond operation and maintenance and for response actions to be taken in case of pond failure. Permit Part 5 also includes conditions for the maximum volumes and kinds of waste that can be treated in the Surface Impoundment.

The Surface Impoundment has a double liner system with a Leak Detection and Removal System for detecting and removing leakage. Leachate will be pumped to a tanker truck and returned to the Surface Impoundment, stored in an on-site liquid storage tank prior to stabilization, or transferred to the on-site stabilization unit prior to disposal in the landfill.

Permit Part 6 contains the conditions and requirements for disposal of hazardous waste in the Landfill. Standards for construction, operation, and maintenance of the Landfill are also specified. Permit Part 6 also contains requirements for the maximum amount and kinds of waste that can be disposed in the Landfill.

The Facility will be permitted to accept RCRA hazardous waste and certain PCB waste, but will not be permitted to accept the following waste types: radioactive waste, dioxin contaminated waste, medical waste, ~~municipal solid waste, construction and demolition waste,~~ explosive waste, compressed gases, waste containing greater than 50 parts per million PCBs except for bulk PCB-contaminated remediation waste~~, and waste containing volatile organic concentration equal to or greater than 10 percent by weight~~. Only wastes meeting Land Disposal Restrictions treatment standards may be disposed in the Landfill. Wastes containing free liquids will be solidified in the Stabilization Units before disposal in the Landfill.

The Landfill will receive hazardous waste from off-site generators and from waste generated on-site. On-site wastes disposed of in the Landfill include stabilized Surface Impoundment sludges and Surface Impoundment and Landfill leachate.

The Landfill liner consists of primary and secondary systems. A Leachate Collection and Removal System will be located above the primary system. The Landfill liner will be sloped so that leachate above the primary liner drains to the sumps. A Leak Detection and Removal

System designed to detect and remove leachate that passes through the primary liner system will be located below the primary geomembrane and above the secondary geocomposite layer.

Leachate collected in the sump will be pumped to a tanker truck and either placed in the Surface Impoundment, stored in an on-site liquid storage tank prior to stabilization, or transferred to the on-site stabilization unit prior to being returned to the landfill.

Permit Part 7 contains the conditions and requirements of the vadose zone monitoring system (VZMS). The VZMS is designed to ensure the earliest possible detection of contaminant leakage and consists of a primary system of sumps and a secondary system of nine monitoring wells located proximal to, and down gradient of, the Landfill and the Surface Impoundment. The VZMS will monitor the accumulation and migration of fluids, both leachates and non-leachates that may be released from the Landfill and Surface Impoundments. Permit Part 7 specifies how the Permittee will establish the chemical characteristics of leachates and non-leachates, as well as how the Permittee will collect and analyze fluids that may appear in the VZMS to determine their source. The location, design, construction, operation and maintenance of the VZMS; the methodology for sampling and characterizing the fluids that may accumulate in the VZMS; a methodology for distinguishing between leachates and non-leachates; monitoring frequency; laboratory analysis; and data reporting and recording requirements are specified in Permit Part 7.

Vadose zone monitoring, as specified in Permit Part 7, is not specifically required in the New Mexico Hazardous Waste Management Regulations. The regulations do require that facilities monitor ground water for releases to the uppermost aquifer to protect human health and the environment. It is these requirements that provide the regulatory basis for vadose zone monitoring and Permit Part 7. The requirement for ground water monitoring of the uppermost aquifer has been waived at the Facility because the Permittee demonstrated that there is no potential for migration of liquid from any of the proposed regulated units to the uppermost aquifer during the life of the regulated units. One condition of the ground water monitoring waiver is that the facility must install a VZMS to protect human health and the environment.

Permit Part 8 contains requirements and conditions for both closure and post-closure care. Closure requirements and conditions exist for the Drum Handling Unit, Stabilization Units, Liquid Waste Storage Unit, Roll-Off Container Area, Surface Impoundment, and Landfill. The Permittee will be required to submit an updated closure plan prior to closure. The facility will be required to implement its approved closure plan within 90 days of receipt of the last waste shipment at the Facility. All permitted units except the Landfill are expected to clean close.

Closure must: minimize the need for further maintenance; control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff or hazardous waste decomposition products to surface or subsurface soils, ground or surface waters or to the atmosphere; and, comply with the regulatory closure requirements.

Post-closure care requirements include long-term site maintenance, monitoring, security and reporting following the completion of all closure activities. Post-closure care is anticipated for the Landfill cap, the storm water collection system, the leachate collection systems, and the VZMS. Post-closure care may also include corrective action at any facility units that cannot achieve clean-closure.

The Facility will be required to submit a Permit modification to Permit Part 8 that updates the post-closure care plan prior to the completion of Facility closure. Post-closure care requirements will remain in place for 30 years after closure.

Permit Part 9 specifies the responses that shall be taken in the event of a release of hazardous wastes or constituents from a regulated unit. Regulated units include the Landfill and the Surface Impoundment as defined at 20.4.1.500 NMAC (incorporating 40 CFR 264.90(a)(2)). Permit conditions specified in Permit Part 9 include: identification of remediation indicator parameters; initial response actions; regulatory notification requirements; release verification procedures; long term response actions; and recording and reporting requirements. Regulated Units are also Solid Waste Management Units and the corrective action response actions specified in Permit Part 10 also apply.

Permit Part 10 contains the conditions and requirements for corrective action for releases from Solid Waste Management Units (SWMUs) and Areas of Concern, and includes: notification and assessment requirements for releases; confirmatory sampling requirements; investigations requirements; interim measures; remedy selection; and permit modification requirements. SWMUs are any discernable unit at which solid wastes has been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units may include any area at the Facility at which solid wastes has been routinely and systematically released, but does not include one-time accidental spills that are immediately remediated or areas in which waste has not been managed, e.g., product storage areas. AOCs are considered to be any discernable area at the facility, or are off-site, determined by the Secretary to be impacted by migration of contamination from the facility, where hazardous waste or hazardous constituent(s) are present, or are suspected to be present, as a result of a release from the facility, and that pose a current or potential threat to human health or the environment. The regulatory justifications for imposing corrective action are contained in the Department's technical support documents filed in the administrative record.

VARIANCE

Ground Water Monitoring Waiver On November 9, 1998, the Permittee first requested a variance to the ground water monitoring requirements specified at 20.4.1.500 NMAC (incorporating 40 CFR 264.90(a)(2)). The Permittee's proposal was to substitute a shallower vadose zone monitoring system for the traditional deep ground water monitoring system. (See description of vadose zone monitoring system below.) The New Mexico Hazardous Waste Management Regulations, at 20.4.1.500 (incorporating 40 CFR 264.90(b)(4)), allow the Secretary to waive the ground water monitoring requirements if the Permittee conservatively demonstrates that there is no potential for migration of liquid from any of the proposed regulated units to the uppermost aquifer during the life of the units. The basis of the Department's authority to grant a ground water monitoring waiver is the existence in certain parts of the state of unique geologic deposits, relatively deep ground water, and an arid environment, all combining to significantly inhibit the migration of contaminants to an aquifer.

In January 2000, after considerable additional site characterization and the performance of a Department-approved contaminant transport model, the Permittee submitted a final Ground Water Monitoring Waiver Request. On January 14, 2000, the Department agreed that the uppermost aquifer below the facility need not be monitored. The Department based its decision on the following considerations; contaminant transport modeling invariably calculated travel times to an aquifer in excess of 800 years, all predictions of potential liquid migration were based on assumptions that maximized the rate of liquid migration, the demonstration that the potential for migration of liquid from a regulated unit to the uppermost aquifer during the specified regulatory time period was certified by a qualified geologist, and the Permittee was committing to a vadose zone monitoring system that the Department feels is more protective of human health and the environment than a groundwater monitoring system. In addition, Permit Condition 10.11 specifies that if a release to the vadose zone occurs, the Department will revoke the ground water monitoring waiver.

ISSUES

This section of the fact sheet addresses issues and major permit conditions that may be of interest to the public. In order to facilitate public review, the following is a summary of issues and non-standard permit conditions.

PCB-Contaminated Waste The Permittee may accept soils and non-ignitable liquid waste with PCB concentrations of less than 50 parts per million. These wastes are not regulated under the Toxic Substances Control Act (**TSCA**). The Permittee may also accept bulk PCB-contaminated remediation wastes. These wastes are permitted under TSCA to be disposed in a hazardous or municipal waste landfill; however, these wastes continue to be regulated under TSCA.

Vadose Zone Monitoring System Permit Part 7 contains the conditions and requirements for the vadose zone monitoring system (VZMS). As discussed above under *Variance*, the Department determined that the Permittee's variance request to install and operate a VZMS in lieu of a ground water monitoring system, as required at 20.4.1.500 NMAC, incorporating 40 CFR 264, Subpart F, was appropriate because the proposed VZMS will adequately protect human health and the environment. The VZMS, as proposed, is capable of immediately detecting a release from the regulated units to the vadose zone before ground water can be adversely affected.

Clean-up Performance Standard The Department has determined that as a condition to the permittee's authorization to operate the Triassic Park Waste Disposal Facility, the Permittee must remove or remediate all hazardous wastes or hazardous constituents released to any and all environmental media (i.e., soils and ground water) to a statistically significant level that can be considered equivalent to clean background concentrations. This condition is consistent with the Permittee's Closure/Post-Closure clean closure commitment contained in the permit application (Section 8.3, *Closure Performance Standard),* which commits to removing contaminated soils at closure to "clean background" levels for all permitted units except the landfill. The clean-up performance standard of background concentrations is also the standard used to implement corrective action in Permit Part 10 and is specified at Permit Conditions 10.2.2 and 10.2.3 (*Soil Action Levels and Ground Water Action Levels).* This stringent clean-up performance standard is consistent with the regulatory requirements specified at 20.4.1.500 NMAC (incorporating 40 CFR 264.93(a)) and 20.4.1.900 NMAC (incorporating 270.32(b)(2)).

Closure Cost Estimate The Department has estimated closure cost for the landfill cap based on a survey of unit cost estimates acquired from EPA Region VI and from local contractors in New Mexico. The Department's cost estimate was also based on the assumption that a third party would be contracted by the State of New Mexico to construct the landfill cap and vegetative cover.

Other The Department has imposed certain permit conditions applicable to lithologic characterization, compatibility of well construction materials, compatibility of well construction materials, chemical analysis of drilling fluids, and decontamination of materials introduced into boreholes. These conditions are based on the EPA's guidance document, *RCRA Ground-Water Monitoring Technical Enforcement Guidance Document*, model permit language and/or standard operating procedures for the Department.