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March 7, 2005

Mr. David Cobrain
State of New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303



RE: Work Assignment No. 06110.250.0006; State of New Mexico Environment Department, Santa Fe, New Mexico; General Permit Support Contract; Fort Wingate Depot Authority, Gallup New Mexico; Fort Wingate Permit Support; Public Response Matrices

Dear Mr. Cobrain,

Enclosed please find two matrices addressing the Fort Wingate public comments. The first matrix is an index of comments received by NMED, based on the commentor and the second matrix addresses all public comments received during the public comment period. Please note that in the second matrix all public comments have been summarized

If you have any questions, please feel free to contact me at (303) 763-7188.

Sincerely,

June K. Dreith
Program Manager

Enclosure

cc: Denver Files



**FORT WINGATE PERMITTING SUPPORT
AND PUBLIC RESPONSE MATRICES**

Submitted by:

**TechLaw, Inc.
560 Golden Ridge Road, Suite 130
Golden, CO 80401**

Submitted to:

**Mr. David Cobrain
State of New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East
Building 1
Santa Fe, New Mexico 87505**

In response to:

Work Assignment No. 06110.250.0006

March 2005

Matrix of Public Comments Received by NMED on the Fort Wingate Part B Permit Renewal Application.

Comment Number	Commenter/ Affiliation	Topic Area	Commenter Number	Comment Summary	Response	Include in Draft Permit? Y/N	Reviewer (Initials)
A	Navajo Nation-Hon. Lawrence Morgan	Off-Site Ground Water Monitoring	1.1	The commenter strongly recommends testing wells beyond the ¼ mile boundary. The commenter expressed concern regarding wells owned by the Navajo Tribal Utility Authority (NTUA) that are used as an emergency source of water. The commenter also indicated there are 3 wells used for drinking water within the Church Rock community, and two wells within the Lyanbito community that may also be possibly impacted. Susceptibility Assessment reports indicate a “high” risk rating to the susceptibility of contamination due in part from the FWDA site. The commenter would like the Draft Permit to address the monitoring of these wells and to include a hydrodynamic isolation barrier.			
A	Navajo Nation-Hon. Lawrence Morgan	Ground Water Monitoring	1.2	The commenter indicated that the Navajo Nation had not had the opportunity to review any information on the “nature and extent” of the potential contamination. However, they are recommending that remediation activities include a hydrogeologic characterization of downstream groundwater and surface waters. As opposed to establishing an outer boundary or buffer zone of 500 feet. Again they recommend that off-site wells be included in the monitoring program.			
A	Navajo Nation-Hon. Lawrence	Ground Water Monitoring	1.3	The commenter also recommended that wells used for livestock be characterized. He noted that many of these well are			

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	Morgan			shallow within the alluvium and other shallow formations.			
A	Navajo Nation-Hon. Lawrence Morgan	Ground Water Monitoring	1.4	The commenter express additional concern regarding the FWDA site and that it had been identified as a potential source of contamination to the Church Rock wells, and he asked that the hazardous waste releases be isolated/removed and the treatment of contaminated water meet Navajo Nation water quality standards.			
A	Navajo Nation-Hon. Lawrence Morgan	Cultural Resources, Archaeological Sites, Traditional Cultural Properties (TCPs), and Burial Sites	1.5	The commenter indicated that the Draft Permit does not provide for the protection of cultural resources, archaeological sites etc., within the OB/OD area. The commenter provided several federal regulatory citations and Navajo Nation guidelines and policies regarding the protection of these areas. The Navajo Nation Archaeology Department is aware of burial sites, and traditional cultural properties (TCPs) within the OB/OD area, but that only a portion of the site has been inventoried. The commenter asked that the cultural resources within the OB/OD area be addressed on a case-by-case basis, depending on the status with regards to the specific federal and tribal legislations.			
A	Navajo Nation-Hon. Lawrence Morgan	Land Transfer Schedule	1.6	The commenter indicated that Table VII.2 is inconsistent with the draft land transfer schedule that was submitted to the Department of Defense (DOD). The submittal recommends transfer of certain parcels and prioritized transfer based on no further action (NFA). The commenter asked that a more appropriate schedule that coincides with the DOD schedule be			

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				developed in the work plan.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Format Errors, Grammar Errors, Typographical Errors, and the Need to Spell out Acronyms or Provide an Acronym List.	2.1	The commenter pointed out several format errors, grammar errors, typographical errors, wording errors, bolding errors, consistency errors etc.. She also indicated that words should be spelled out rather than acronym usage.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Land Transfer	2.2	The commenter asked if NMED intended to prevent the transfer of all parcels for a period of 6 months to the Bureau of Indian Affairs (BIA) or Department of Interior (DOI) once the permit is issued. (See page 2, line 31 of the Draft Permit). The commenter also asked if there were provisions for NMED to allow the transfer of property on an expedited basis for the benefit of the tribes. The commenter also indicated that BIA will be the land owner once all lands are available for transfer, and that BIA intends to transfer the lands to a trust. Therefore, NMED's requirement for covenants, deed restrictions will no longer apply. The commenter asked how NMED will address this situation. (line 11)			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria	Contractor TPL and MDA	2.3	The commenter indicated that TPL (contractor) is a separate entity from the Department of the Army (DOA) , and asked if NMED intends to make the DOA responsible for clean up of TPL parcels prior to transfer. The commenter asked if this applies to the other contractor Missile			

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	Duwyenie, Environmental Specialist			Defense Agency (MDA). The commenter asked how NMED intends to manage clean up on on-going missile test operation. The commenter also asked if NMED considers DOA and DOD one and the same and if NMED considers MDA and TPL DOA/DOD leases.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Need to Halt or Reduce Activity Not a Defense; Section I.1 3	2.4	The commenter indicated that page 7, lines 1-4 were confusing [Need to Halt or Reduce Activity Not a Defense]. The commenter stated that the section should be re-written or explained that the wording is directly from the statutes. The commenter indicated that Section 40 CFR 270.30(c) does not word their section in this manner.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Emergency Respond, Emergency Procedures	2.5	The commenter had several comments regarding emergency response and emergency procedures. The commenter asked if NMED intended to make DOA responsible for evacuation and removal of persons and livestock in the direct path and pay for the evacuation. The commenter asked what provisions under NMED regulations are available to accomplish this action. The commenter also asked what provisions were in place to provide impacted parties with information on releases, and were these provisions included in the Draft Permit? The commenter noted that on page 9, lines 10-30 that this section does not require immediate notification of the impacted population to allow for protection to their health and welfare. The commenter			

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				indicated that in some conditions a 24-hour notification may not allow for protection of the public, and did not provide protection of livestock or property. The commenter indicated that if NMED allows activities which could impact the communities then they may become responsible for damages.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Sampling Procedures	2.6	The commenter indicated that there were no chain of custody, holding times, and transport requirements included in this section (page 8, I.1.8.c)			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Emergency Procedures	2.7	The commenter stated that current operation at TPL acknowledges the presence of an exclusion zone for operations at their munitions recycling plant and storage area. The commenter was concerned that depending on the type of release, detonations of munitions entering FWDA could occur off site (transportation). The commenter asked if this will be addressed in the Draft Permit.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Copy Cost	2.8	The commenter asked what the charges are for document copies, and wanted to know if NMED has published reproduction cost.			

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	Specialist						
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Information Repository	2.9	The commenter asked where the information repositories will be located and that the physical address and telephone number be provided. The commenter suggested that the BIA Regional office located at Gallup Federal Building also be added as a repository.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Community Relations Plan	2.10	The commenter asked if the Community Relation Plan (CRP) would also include off-site education of the surrounding communities or users. The commenter asked if the CRP would provide the process for filing claims against DOA for damages associated with remedial activities.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Public Protection	2.11	The commenter asked how the map (page 13, lines 17-20) would be up dated when new munitions are discovered and how the public would obtain this information. The commenter was concerned about situation where the munitions may be live.			
B	Department of Interior, Bureau of Indian Affairs, Navajo	Ground Water Monitoring	2.12	The commenter stated that there is documentation which identified an explosive release to groundwater flowing to the Navajo Nation Trust/allotted lands adjacent to the old OB/OD which goes			

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	Region, Rosaria Duwyenie, Environmental Specialist			under the hogback. The commenter indicated that since the NMED does not have the jurisdiction to install wells on tribal lands how will monitoring of well off-site, or installation of monitoring well occur.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Clean Up Standards	2.13	The commenter asked how NMED proposes to have DOA meet the tribal clean up standards or other federal standards. In the past, DOA cleaned UXO or OE to Army policy which was sometimes surface, spot clearance or one foot depth.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Table VII.2	2.14	The commenter requested that Table VII.2 be changed to meet the schedule provided by BIA to NMED in 2003. The schedule was provided in the comment.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Acreage	2.15	The commenter asked the document to lists the remaining FWDA acreage as 22,120 acres. The figure should be corrected.			

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B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	Transport Off Site	2.16	The commenter indicated that the Draft Permit does not require that waste being transported off site be manifested and disposed at a permitted facility.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, Environmental Specialist	IM Operations and Maintenance	2.17	Page 7, Section 3.2-IM Operations and Maintenance Plan. The commenter indicated that this section failed to identify procedures for IM controls which may need to be constructed off site. The commenter asked what provisions does NMED for this situation. The commenter asked how NMED would coordinate IM with Navajo Tribal NNEPA, and Region 6 who has enforcement over Tribal trust lands on the North, East and West of FWDA.			
B	Department of Interior, Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, environmental Specialist	IM Operations and Maintenance	2.18	The commenter asked how NMED will require DOA to include activities underway at TPL and Missile Defense Agency. TPL generates hazardous waste and solid waste for disposal off site. The commenter asked how NMED would classify the rocket launches from FWDA to White Sands Missile range and their releases into the environment such as perchlorite. The original EIS did not identify any chemical releases from launches.			
B	Department of Interior,	Health and Safety	2.19	The commenter indicated that page 9, which addressed health and safety should			

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	Bureau of Indian Affairs, Navajo Region, Rosaria Duwyenie, environmental Specialist			also include the certification requirements for training and fit testing, if not available now, then prior to when work starts.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	FWDA Generator Status	3.1	The commenter asked what FWDA hazardous waste generator status is?			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Amount of Waste Generated	3.2	The commenter asked, based on the 2003 Hazardous Waste Report, how much hazardous waste was removed and what the waste codes were.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Information Repository	3.3	The commenter asked if the Permittee was required to maintain an information repository in Gallup, NM., which was open to the public and where the repository is physically located and the business telephone number. The commenter asked that additional repositories be established at the Church Rock Chapter and the Window Rock Public Library. The commenter provided the addresses, telephone numbers, and fax numbers for these two locations.			

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C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Community Relations Plan	3.4	The commenter asked that the Community Relations Plan be modified to add two additional contacts, including the Executive Director of the Navajo Nation EPA and the Church Rock Chapter. The commenter provided the addresses, telephone numbers, fax numbers and post office boxes.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Public Safety	3.5	The commenter asked that two additional contacts be added to the Public Safety Program including the Navajo Division of Public Safety, and the Resource Enforcement Division. The commenter provided the addresses, telephone numbers and fax numbers for these contacts.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Dust Suppression, II.B.2	3.6	The commenter indicated that the Permittee cannot apply any waste or used oil or any material contaminated with dioxin, PCBs, or other hazardous waste. The commenter asked how existing roads may have been treated with used oil. How NMED will manage surface runoff into culverts and waterways? How often are these areas inspected by the state? If any Clean Water Act violations were identified? And, if any of these treated roads are designated for transfer to DOI.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Warning Signs, II.C.3	3.7	The commenter asked that the warning signs also be posted in the Navajo language and provided a translation of the wording of the signage.			

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C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Location Standards, II.F	3.8	The commenter stated that NMED does not have primacy for National Pollutant Discharge Elimination Systems and Stormwater Programs, and that the EPA Region 6 may issue a permit for this. The commenter asked how regulatory oversight is coordinated with adjoining jurisdictions and has the Permittee complied with the Draft Permit conditions? The commenter asked what violations there are and if the violations had been corrected.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Operation and Maintenance of Facility, II.H.- Emergency Response	3.9	The commenter asked what arrangements has the Permittee made to notify adjoining communities in the event of an emergency? Has the Permittee developed an emergency response plan that will accommodate the evacuation of people in the adjoining communities?			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Soil Characterization and Confirmation Sampling, III.A.4	3.10	The commenter stated that the Navajo Nation's future use of the property will require that the contaminated soil and groundwater be clean up to residential standards. The commenter indicated that the NMED and Permittee must coordinate the clean up with the NNEPA.			
C	Navajo Nation, Environmental Protection Agency, Arlene Luther, Environmental Department Manager	Closure Plan for Kickout Area, III.B	3.11	The commenter indicated that the NMED approved plan was not available for review.			
C	Navajo Nation,	Attachments	3.12	Attachments 9-11 are missing and not			

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	Environmental Protection Agency, Arlene Luther, Environmental Department Manager			available for review.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	General Deficiencies	4.1	The commenter believes the Draft Permit fails to provide a sufficient mechanism for the Zuni Tribe to provide input into the development of work plans and remedies to address hazardous waste and contaminated soils and water at FWDA.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	Cultural Lands, and Traditional Cultural Property (TCPs)	4.2	The commenter expressed concern that the Zuni lands were taken by DOA without consideration or compensation. The commenter stated that the OB/OD Area, and other areas on FWDA contain TCPs which had been documented. There are several issues the commenter expressed concern about; these have been separated out and addressed in the following comments. First, the extent of contamination to the soil, groundwater and water has not been fully characterized. Therefore, the proper remediation can not be determined. However, the Zuni people wish that the lands be restored to the previously pristine conditions it was in before the Army took over the lands.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	Zuni Tribe Involvement	4.3	The commenter indicated that the Zuni Tribe should be involved in the development of work plans and selection of remedies to assure that the Tribes interests are protected, and to ensure cultural and religious areas are taken into			

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				consideration when the remedies are selected.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	Draft Permit Deficiencies	4.4	The commenter indicated that the Draft Permit was deficient and technically incomplete due to the incompleteness of the following items: The Interim Measure Implementation, the RCRA Facility Investigation (RFI) The Corrective Measure Study (CMS), the Remedy Selection, the Corrective Measures Implementation, the Closure Plan, the Facility-Wide Ground Water Monitoring Plan and the Ground Water Investigation and Corrective Action Program for the OB/OD Unit. The commenter indicated that the RFI and CMS should provide greater detail especially since the studies are what the remedies are based on. The commenter also indicates that the RFI should provide more detail on the nature, characterization, flow, direction, movement and concentration of releases, etc.. In addition, the commenter is concerned that the Draft Permit presents “scope of work” indicating that the DOA will do the work. The commenter is concerned that they will not have an opportunity to review this “work to be done”, and would then have no say in the final remedies, even when the lands will be transferred to them. The commenter is also concerned that there is not public participation during the work plan development and during the selection of the remedy, and no indication that public hearings will be held. The commenter			

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				believes a more extensive public participation is needed and that NMED should be following EPA guidance with regarding to public participation. The commenter indicated that the current Draft Permit is not in compliance with federal, state RCRA statutes and regulations, the New Mexico Constitution, or principles of environmental justice.			
D	Pueblo of Zuni, general comments, Arlen Quetawki, Sr. Governor	Public Participation	4.5	The commenter indicated under existing RCRA regulations states that have been delegated the RCRA permitting and enforcement program must follow EPA guidance, or risk sanctions by EPA. The commenter believes that NMED is not following EPA's guidance on public participation. In that guidance EPA clearly indicates that in some situations it is necessary to go beyond the states regulatory requirements and the commenter believes that this situation is one such case. The commenter states that NMED must provide the opportunity to comment on work plan development and remedies selected in the Draft Permit and further issues.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	Public Participation Plan	4.6	The commenter believes that NMED should develop a public participation plan for FWDA, which follows EPA guidance, based on public interviews or other methods of obtaining such information. The commenter provides an outline for such a plan, and includes specific areas where the opportunity to comment is especially important.			
D	Pueblo of	Fact	4.7	The commenter indicated that the fact			

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	Zuni, General comments, Arlen Quetawki, Sr. Governor	Sheet/Statement of Basis		sheet failed to provide a discussion of the remedy selection and was therefore deficient, and did not incorporate public participation in the remedy selection.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	New Mexico Constitution	4.8	The commenter indicates that the New Mexico constituent implicitly promotes public participation, and NMED did not comply with Article XX, Section 21.			
D	Pueblo of Zuni, General comments, Arlen Quetawki, Sr. Governor	Environmental Justice	4.9	The commenter indicated that the State of New Mexico expressed its interest and concern for ensuring that State agencies meet their obligation regarding environment justice. An extensive population around the FWDA is a minority population including Zuni, Navajo, and Hispanic. The State should protect the interest of the minorities and advance environmental justice. The commenter indicated concern regarding the cultural resources of interest at the OB/OD area and how protection of those areas are important.			
E	Pueblo of Zuni, Specific comments, Arlen Quetawki, Sr. Governor	Part I, General Draft Permit Conditions	5.1	Modification of several portions of the Draft Permit should be classified a Class III permit modification in accordance with 40 CFR 270.42 (d) Appendix I and Section I.F.3 of the Draft Permit. A Class III modification requires public participation, and opportunity for public comment and a public hearing. The commenter list several areas which will require public comments, and states that they will comment on those sections once they are submitted as a Class			

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E	Pueblo of Zuni, Specific comments, Arlen Quetawki, Sr. Governor	Part II-General Facility— Security	5.2	<p>III modification.</p> <p>The commenter indicated that the Zuni Tribe supports the use of a fence for the boundary of FWDA. They are however concerned that it has been relocated twice onto Parcel # 1, and they do not believe that Kickout would be 500 foot beyond the Kickout Area. The commenter recommends that NMED leave the fence along the northern boundary of Parcel # 1 in its present location and perform geophysical surveys, soil and water sampling, ground water monitoring, and other investigative studies without moving the fence. The commenter indicated that the Zuni Tribe still supports building a fence along the external boundary of the FWDA in congested areas where there is a high potential of human and animal traffic onto FWDA. This includes the parcels on the northern half of FWDA, especially along the eastern and western external boundaries</p>			
E	Pueblo of Zuni, Specific comments, Arlen Quetawki, Sr. Governor	Part III Closure Requirements	5.3	<p>The commenter indicated that Section III.A of the Draft Permit should contain the NMED-approved OB/OD unit closure plan including closure requirements for the OB/OD Area and the Kickout Area. The commenter stated that this section should contain specific requirements include identification of methods to be utilized to investigate contamination of soil and water from hazardous waste, and specific remedies for decontamination or removal of all contaminated equipment and structures, waste and waste residuals, and</p>			

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				<p>identification of known contaminants in the soil in the OB/OD Area. The Zuni Tribe is opposed to the removal of all contaminated soils in the OB/OD Area because of TCPs located in the area. The commenter recommends selection of remedies which preserves the TCPs. The Zuni Tribe is agreeable to the use of fire to expose munitions in the OB/OD Area. The commenter believe that the use of the term “all reasonable effort to remove or decontaminate all contaminated soils to achieve clean up” should be fully explained. The commenter believes that a more complete investigation of contamination, including depth, frequency etc., is needed. The commenter is also concerned regarding some former wetlands which were in the area which is not even mentioned in the Draft Permit.</p>			
E	<p>Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor</p>	<p>Part III Closure Requirements</p>	<p>5.4</p>	<p>The commenter indicated that the Draft Permit requires a geophysical investigation of the OB/OD and Kickout Areas after the removal of contamination to the extent “practicable”. The commenter indicated that the Draft Permit should establish the standard of “practicable” removal levels as proposed. The proposed Closure Report should contain all activities NMED requires the Permittee to complete, with specified time for completion, including a thorough investigation of all potential contaminants. Best available technology should be used and the Closure Report should contain the results of the geophysical investigation. The Closure</p>			

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				<p>Plan should identify all known and suspected contaminants, a plan for disposal and decontamination of equipment. Waste and waste residuals, a soils sampling method etc. Sampling and analysis should be conducted over the entire OB/OD Area and not just in those areas where military munitions were discovered during the previous investigation. The commenter believes that historical information has had inadequate investigation. NMED should also as mentioned before have public comments and public hearings on all elements submitted to NMED. The commenter observed that several vague terms were used in the Closure section which are ambiguous, and provided several examples. The commenter stated that specific details need to be provided on these terms.</p> <p>The commenter does not want to see a interim board, committee or other such structure to develop or circumvent the RCRA process used to clean up FDWA. The process should be done under RCRA.</p>			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Part IV, Confirmation of Kickout Plan and Periodic Removal	5.5	See previous comments under Comment 5.4. The commenter believes the plan must provide specific information and provided greater detail. That all activities proposed must be provided including the specific times for completion, and a complete investigation of all potential contaminates. Samples should be taken, and equipment etc., properly decontaminated. Previous investigations have been inadequate,			

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				including the investigation regarding the former wetlands in the area. Again, the commenter commented on ambiguous and undefined standards. (See previous Comment 5.4.) The commenter stated that when reports and investigation are submitted they should be considered a Class III permit modification and subject to public review and comment and a public hearing should be held. (See Comment 5.1)			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Part V, Facility Wide Ground Water Monitoring Interim Plan	5.6	The commenter believes that the section should include more information including items like the proposed location of the wells, depth of wells, and the frequency of sampling, methods of sampling, types of samples, constituents to be sampled, with specific maximum contamination levels. An assessment of the cumulative health effects and risk from all constituents should be included. When the Permittee submits the Plan it should be considered a Class III modification with public comment, public involvement and a public hearing. The clean up levels for ground water should be specified as the NM drinking water standards or EPA MCLs, whichever level is lower. The Plan should investigate wells within a one-mile radius of the contaminated wells.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Part VI Ground Water Investigation and Ground Water Corrective	5.7	The commenter believes that the Draft Permit should contain a specific groundwater investigation and corrective action program plan for the OB/OD Area. The plan should include methods for remediation of hazardous contamination of			

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		Action for OB/OD Area		ground water, additional monitoring wells, well installation, plugging and abandonment, and clean up of hazardous waste and waste constituents. Without this information the commenter stated that it was not possible to comment. The plan should indicate the number of years the area must be monitored, and should contain a Characterization or Hydrogeology of the OB/OD Area, a monitoring plan, and proposed corrective action for any contamination. The plan should include specific methods NMED requires for the Permittee to clean up ground water and the level to which ground water must be clean up too. The Draft Permit must address location of wells, construction of well, removal and treatment hazardous waste, methods of monitoring ground water flow rates, direction and other elements of an acceptable program. The health effect of constituents must be taken into consideration including the cumulative effects. The commenter indicated this should be submitted to NMED as a Class III permit modification. (See previous Comment 5.1.)			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Part VII Corrective Action for Solid Waste Management Units (SWMU's) and Areas of Concern	5.8	The commenter indicated that based on Zuni Land Use Plan For FWDA, the Zuni Tribe requests that the order of Clean up of the parcels be modified to comply with plans by the U.S. Army to transfer ownership of FWDA lands to the Tribes as soon as clean up is completed. Due to cultural concerns several of the parcel are of great concern. The commenter provided			

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		(AOC's)		<p>in the comment a list which provides the order that the Zuni Tribe wishes to have the clean up take place. The Zuni Tribe also objected to the extremely long time frames specified for corrective action document and work plan submittal, since this delays the transfer of the property and increases the total financial burden on the Army. The commenter also stated as in previous comments that the Corrective Action Plan for the SWMUs and AOCs should contain specific requirements including such items as identification of methods, specific remedies etc. The commenter expressed concern regarding several buildings which have been demolished, including Building 11 and was concerned regarding the release of hazardous constituents including asbestos, and the possibilities of asbestos in the soils around the building. The commenter indicated that a similar situation had occurred at the Lowery Air Force Base in Colorado and suggested that NMED contact the Colorado Dept. of Public Health and the Environment (DPHE) to obtain information on how the DPHE managed the clean up. The commenter went on to discuss the health effect of asbestos, and clean up issues associated with the contaminate. The commenter also indicated as before, that submittal of documents should be handled as a Class III permit modification.</p>			
E	Pueblo of Zuni, Specific	Part VIII Schedule of	5.9	The commenter states that the submittal of any newly identified SWMU or AOC			

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	Comments, Arlen Quetawki, Sr. Governor	Compliance, Section VIII.A.1		should be considered a Class III permit modification, and subject to public review and comment and a public hearing.. The commenter indicated that the Zuni Tribe disagrees with the Schedule for Work Plan Submittals in Table VII.2. The commenter believes the clean up should be consistent with the order of transfer established by the U.S Army. As in the comment above the commenter provided a list which includes the order of transfer, and the time schedule associated with that agreement. The commenter also opposes the clean up of the parcels sequentially, and that clean up should proceed simultaneously on several parcels since this would increase the efficiency of clean up.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment I— General Facility Description	5.10	The commenter stated that the Draft Permit inadequately describes the hazardous waste and the waste characteristics potentially contaminating soil and water at FWDA. The commenter believes that lead-based paints utilized in the igloos and other structures and asbestos used in building were not addresses. The commenter also believes that there is a history of mustard gas being used and stored at the site which was also not addressed. The commenter believes that additive and cumulative effects of multiple contaminates was not addressed. The Zuni Tribes believes that details are missing in the general description of the facility and that all information submitted by the Permittee be incorporated into the final Draft Permit.			
E	Pueblo of	Attachment 2–	5.11	The commenter indicated that the map			

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	Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Facility Map		provided with the FWDA Draft Permit contains a legend classifying use of parcel according to the use proposed in the Navajo Nation Land Use Plan prepared in 1992. The plan, and map are out dated and have changed the most recent Zuni Land Use Plan is dated December 2004. The information should be up dated.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment 3— Interim Measures (IM) Implementation Scope of Work	5.12	The commenter states that the IM should have contained a Scope of Work, and that it is not possible to provide comments without sufficient information. The commenter indicates that Section 3.1.2 of the Draft Permit should contain a conceptual site model with analysis of the evaluation of hazardous waste migration. The commenter express concern about the water shed which was not addressed, and the shallow (15 feet) ground water in some locations The commenter indicated that the IM Scope of Work should include wells within one-mile radius of the FWDA boundaries to be sampled and monitored. Section 3.1.7 methods and process for the IM plan, and Section 3.1.10 does not contain the proposed investigation. The commenter stated that all of these documents, plans, and other information should be submitted as a Class III permit modification. (See Comment 5.1)			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment 4— RCRA Facility Investigation Scope of Work	5.13	The commenter believes that this attachment should contain a Scope of Work for the RFI, which addresses the nature and extent of contamination and releases of hazardous waste from the SWMU's and the AOC's, since such			

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				information was not provide it is difficult to comment on the section. Section 4.1 does not contain a pre-investigation task, the current conditions report, facility background, or date records etc. Section 4.2 does not include an RFI work plan, environmental conditions, hydrogeology, spoil characterization, surface water and sediment characterization, ground water characterization, etc., therefore it is incomplete and not possible to comment on. The commenter as before indicated that all of these documents, and plans should be submitted to NMED as Class III modification and available for public review and comment and open to a public hearing. (See Comment 5.1)			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment 5— Corrective Measure Study Scope of Work	5.14	The commenter indicated that the Draft Permit does not contain a CMS Scope of Work and therefore the Zuni Tribe can not comment on it. The commenter stated that the document must be submitted as a Class III permit modification.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment 6— Corrective Measures Implementation Scope of Work	5.15	The commenter indicated that the Draft Permit does not contain a Corrective Measures Implementation Plan Scope of Work and therefore the Zuni Tribe can not comment on it. The commenter stated that the document must be submitted as a Class III permit modification.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr	Attachment 7— Clean up Levels	5.16	The commenter indicated that the Draft Permit does contain specified clean up levels based on New Mexico standards, EPA standards and EPA guidance. However, the New Mexico Water Quality Control Commission (WQCC) recently			

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				added perchlorate to the toxic control list, but did not establish a numeric value. The Zuni Tribe suggested that a more protective standard based on California be established at a 10 ⁻⁶ cancer risk level. The commenter stated that the document must be submitted as a Class III permit modification. Also, the commenter indicated that cumulative risks were not taken into account, and that the clean up level must consider this.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment 8— Hazardous Waste Management Unit, Solid Waste Management Unit, and Areas of Concern Tables	5.17	The schedule specified in these tables must be consistent with the Zuni Land Use Plan and the priority of clean up established by the Army. The commenter provided the order. (See Comments 1.6 and 5.8)			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachments 9, 10, and 11,	5.18	The commenter stated that these attachments were not provide for review, and that any documents must be submitted as a Class III permit modification which is subject to public review and comment and a public hearing.			
E	Pueblo of Zuni, Specific Comments, Arlen Quetawki, Sr. Governor	Attachment 12	5.19	The commenter indicated that any reference to this map should be removed. It is an “unadopted” map by the DOI, BLM as a land use plan for Fort Wingate.			
F	U.S Department of Interior,	General Comment, Lack of Detail	6.1	The commenter point out several areas for wording modifications, places were definitions were needed, formatting errors			

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	Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer			etc.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	General Comment, Lack of Detail	6.2	The commenter indicated that the Draft Permit contained little detail regarding specific contaminates present at the AOCs and the SWMUs and how potential contaminates at these location will be addressed and resolved. The commenter believes that due to the lack of detail it was difficult to review the Draft Permit and that interested parties should be given time to review submittals from FWDA. The commenter also indicated specific locations in the Draft Permit where greater details are needed.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Clean up in Areas with TCPs	6.3	See Comment Summaries 1.5 and 4.2			
F	U.S Department of Interior, Bureau of	Schedule Associated with Transfer of Land	6.4	See Summary Comments 1.6 and 2.2			

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	Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Payment for Actions	6.5	The commenter asked that a requirement be included to identify who will pay for the on-going actions associated with remedy, such as fence maintenance and monitoring of groundwater. (page 2, line 11 through 14)			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	OB/OD and Kickout Area	6.6	The commenter asked about page 5, line 18 through 24 (and throughout the Draft Permit). The commenter asked if the area depicted on Attachment 12 is the OB/OD Area and identified as the OB/OD Unit, and the remainder of Parcel 3 and three portions of Parcel 2 is the "Kickout Area". Are AOC and SWMUs are located within the Kickout Area? If this is not correct, then the commenter asks that NMED rewrite the definitions and redraw Attachment 12 to more accurately identify the two areas.			
F	U.S Department of Interior, Bureau of Land	Transfer of Draft Permit	6.7	The commenter refers to lines 18, 23, 25 etc., of Section I.1.2. The commenter asked how the phrase "new owner or operator" is used in this section. The Draft Permit is to the DOA with lands and			

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	Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer			facilities “owned” by the U.S Government. Therefore a “new owner” would indicate the lands and facilities have been transferred out of U.S Government ownership. How is “operator” defined? The Army has made lands and facilities available to TPL, Inc. under a facilities use contract. For Draft Permit purposes, does that make TPL an “operator”? The Army has also made lands and facilities available to Missile Defense Agency (MDA) by license. For Draft Permit purposes, does this make MDA an “operator”? When the lands and facilities are transferred from DOA to DOI, the U.S. Government still “owns” the lands, but the agency of jurisdiction changes, does that constitute a change of “ownership” or a change in “operator”? The commenter asked that these terms be changed to clarify or fit the situation at FWDA.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Line 19 is Confusing	6.8	The commenter indicated that line 19 was confusing and that perhaps a more detailed explanation of various options would be beneficial., such as: 1) Parcel fully cleaned to NMED standards –a permit modification to revoke the permit applicability as to the lands being transferred; and 2) Parcels cannot be cleaned to NMED standards, land use controls and/or remediation activities will remain after parcel transfer—a permit modification is requested to transfer the permit, along with the lands to a new Permittee. The new Permittee will comply with page 6, line 23-28 and other requirements as applicable.			

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F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Page 7, lines 1-4	6.9	See Summary Comment 2.4			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Page 7, lines 6-9. Emergency Procedures	6.10	See Summary Comment 2.5			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Page 7, lines 20-30, Emergency Procedures	6.11	See Summary Comment 2.5			
F	U.S Department of Interior,	Sampling Requirements	6.12	See Summary Comment 2.6			

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	Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Emergency Releases: Page 9, line 14 through Page 10, line 2	6.13	See Summary Comment 2.5			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Copy Cost, Page 12, lines 14 through 20	6.14	See Summary Comment 2.8			
F	U.S Department of Interior, Bureau of Land Management,	Location of Informational Repository	6.15	See Summary Comment 2.9			

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	Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Community Relations Plan	6.16	See Summary Comment 2.10			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Update Information	6.17	See Summary Comment 2.11			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader,	Kickout Areas and Fence	6.18	See Summary Comment 5.2			

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	Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Military Munitions	6.19	The commenter asked that after “military munitions” add “and all components thereof”. A major concern on the Kickout lands is explosive components of munitions, such as portions of fuze trains. As part of the removal action, the commenter would like to see the Army remove all metal components of munitions to avoid an explosive component being overlooked. This would include munitions, and all components thereof, including inert casing and shrapnel, and waste military munitions scraps.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	IV.A Confirmation of Kickout Area	6.20	See Comment 5.5			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate	Annual Inspection and Removal	6.21	The commenter recommends the annual inspection requirement have a sunset date or criteria for termination. The commenter recommends that the inspection only be required for 5 years initially then only every 5 years thereafter.			

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	Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Ground Water Investigation	6.22	See Summary Comment 2.12			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Ground water Investigation Work Plan	6.23	See Summary Comment 5.7			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	PCBs and Asbestos	6.24	See Summary Comment 5.10			
F	U.S Department of	Inconsistent Text and Tables	6.25	The commenter indicated that the text on line 11, page 32 indicated that the RAR for			

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	Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer			each AOC is required to be within 360 days of the effective date of the Draft Permit whereas the Table on page 41 requires 90 days. The commenter indicated that the discrepancy needs to be resolved.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Ground Water Monitoring of Off-site Well	6.26	See Summary Comment 1.1			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Clean Up Standards	6.27	See Summary Comment 2.13			
F	U.S Department of Interior, Bureau of Land	Definitions	6.28	See Summary Comment 2.1			

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	Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Schedule for RFI Work Plan Submittal	6.29	See Summary Comments 1.6 and 2.2			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Historic Aerial Photo	6.30	The commenter indicated that rather than start from scratch that they maybe existing Ft. Wingate aerial photo archive which can be used. There appear to be photos from 1935 and the commenter asked if this would be good enough.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI	Acreage	6.31	See Summary Comment 2.14			

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	Team Leader, Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Off-site Transport	6.32	See Summary Comment 2.16			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Interim Measures, Attachment 3, Page 6	6.33	See Summary Comment 2.17			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Attachment 4	6.34	See Summary Comment 2.18			

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F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Attachment 4, Page 18, 4.2.2.c.v and vi	6.35	The commenter recommended that a 20 year time period be used for future movement of contamination.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Attachment 4, Page 20, 4.2.2.d.vii	6.36	The commenter asked that the following be added. Cultural Resources—The Permittee shall provide a description of any cultural resources that are near the SWMUs and AOCs under investigation, and where they are located. The description should be by reference to the site as listed in an existing study, so that sensitive information is not released.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	Attachment 6, Page 6, 6.2.11	6.37	The commenter asked if hazardous waste chain of custody forms should be added.			
F	U.S Department of Interior,	Health and Safety Plan	6.38	See Summary Comment 2.19			

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	Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer						
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	SWMU and ACOs	6.39	The commenter indicated that AOC's # 129 through 132 should be clarified. Do these AOC's include the entire watershed or just the physical watercourse? The definition on page 5 of the Draft Permit condition appears to indicate it is just the watercourse.			
F	U.S Department of Interior, Bureau of Land Management, Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer	SWMU's and AOC's	6.40	The commenter has a question regarding AOC numbers for specific clean up issues affecting multiple parcels, similar to SWMU 133 and AOC 46, should be considered as a means of improving efficiencies, saving funding, and expediting clean up. The commenter provided a list of AOC which should be considered for this option.			
F	U.S Department of Interior, Bureau of Land Management,	Functional Range	6.41	The commenter indicated that he could not find Functional Test Range 1 (FTR 1) (Parcel 19) listed. It should be a SWMU, the same as SWMU 18 is for FTR 2/3.			

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	Dwight J. Hempel, DOI Team Leader, Ft. Wingate Transfer						
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Interested Party Review	7.1	The commenter indicated that NMED needs to establish a mechanism to provide for review and comments by Tribes and DOI before NMED makes their decision.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	GIS	7.2	The commenter stated that all GIS products should follow metadata requirements			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting	Security Fence	7.3	See Summary Comment 5.2			

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	Regional Director						
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Arrangements with Local Authorities	7.4	The commenter asked about the third paragraph, in Section II.H.5 and wanted to know what happened if local authorities decline to enter into an emergency arrangement, what was the Permittee required to do to assure that emergencies are dealt with.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Soil Characterization and Confirmation Sampling, Section III.A.4	7.5	The commenter stated that 2 nd paragraph first sentence: Replace “ make reasonable efforts to effect removal or decontamination of” with “ remove and decontaminate”			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Characterization of Areas Not Subject to Initial Removal Actions, Section III.A.5	7.6	The commenter stated that the 3 rd sentence: remove: also make all reasonable efforts to” . Reasonable efforts cannot be defined. The commenter suggest the following alternative “ The Permittee shall, remove or decontaminate all contaminated soils to meet cleanup levels in accordance with Draft Permit Attachment 7”			
G	U.S	Characterization	7.7	The commenter indicated that the 4 th			

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	Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	of Areas Not Subject to Initial Removal Actions, Section III.A.		sentence should remove "where practicable". This term can not be defined.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Abandoned Wells	7.8	The commenter asked if NMED has guidelines for plugging wells.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Hazardous Waste and Hazardous Constituents	7.9	The commenter asked that PCBs be added.			
G	U.S Department of Interior, Bureau of	Monitoring of Hazardous Constituents; Section VI.B.6 a	7.10	The commenter indicated that the entire section is not very clear. The first paragraph says to analyze all sample for every possible hazardous waste and			

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	Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director			<p>hazardous constituent as defined in 1.H and the second paragraph starts out by only analyzing for specific hazardous waste and hazardous constituents as specified in VI.B.2.a</p> <p>1st paragraph: Will the hazardous waste and hazardous constituents, as defined in 1.H, not detected need to be analyzed at each sampling event. If not at what frequency will they be analyzed for?</p> <p>2nd paragraph: VI.B.2.a is a partial list of hazardous waste and hazardous constituents, as defined in 1.H, when is the requirement to analyze the samples for only these items made? What additional hazardous waste and hazardous constituents are the samples to be analyzed for. Is it all hazardous waste and hazardous constituents as defined 1.H?</p>			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Monitoring of Groundwater Flow Rate and Direction, Section VI.B.6.b	7.11	The commenter asked where is it specified what other aquifers are to be monitored?			
G	U.S Department of Interior,	Contamination Beyond the Facility	7.12	The commenter indicated that a short paragraph on identifying sources of information on ownership would be			

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	Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Boundary		helpful. Such as the Bureau of Indian Affairs for Tribes allotments and trust lands.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Attachment 4, Data Records, Section 4.1.1.d	7.13	The commenter asked that item 20 be added which includes adding "Control sample information."			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Attachment 4, Hydrogeology, Section 4.2.2.a.i	7.14	Paragraph 5 (a), what is to be depicted?			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest	Surface Water and Sediment, Section 4.2.2.a.iii	7.15	The commenter asked what is required for the wetlands, which is missing?			

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	Region, Ronald G. Toya, Acting Regional Director						
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Air Characterization, Section 4.22.c.v	7.16	The commenter asked that an item 4 be added to the conditions which included an extrapolation of future air contaminant movement over a time period specified by NMED.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Subsurface Gas Characterization, Section 4.2.2.c.vi	7.17	The commenter asked that item (5) be added which include "An extrapolation of future contaminant movement over a time period specified by NMED.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting	State and Federal Endangered and Threatened Species. Section 4.2.2.c.vi	7.18	At the end of sentence add "are located"			

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	Regional Director						
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Cultural Resources, Section 4.2.2.c.vii	7.19	The commenter asked that the following be added. "The Permittee shall provide a description of any cultural resources that are near the parcel on which SWMU's and AOC's under investigation are located"			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Attachment 6, Section 6.2.11, Data Management and Document Requirements	7.20	The commenter asked that hazardous waste chain of custody forms be added.			
G	U.S Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director	Attachment 6, Section 6.5.1- Objectives	7.21	The commenter asked that tribal regulations be added.			
G	U.S	Attachment 7	7.22	Tribal standards for clean up levels should			

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	Department of Interior, Bureau of Indian Affairs, Southwest Region, Ronald G. Toya, Acting Regional Director			be added if they have been established.			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Permitted Activities, Page 1, Section 1.B, lines 14-15	8.1	“The Permittee is not authorized to store, treat or dispose of any hazardous waste at the Facility under this Draft Permit”. The commenter assume that this prohibition of treatment, storage, and disposal (TSD) activities is simply to state that no further operation of the regulated unit is allowed, since the regulated unit has been out of operation for years and is undergoing regulatory closure. Considering this comprehensive TSD activity ban, NMED may want to make it clear that the actions which may be necessary to remediate the regulated unit and to perform corrective action at the site may require a Draft Permit modification.			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Transfer Of Land Ownership. Page 2, Section 1.F.4	8.2	The commenter stated that while the Draft Permit does not require that clean up be complete prior to property transfer, the Region recommends that NMED not approve modifications to the Draft Permit until corrective measures are complete to the State’s satisfaction.			

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H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Waste Generated During Closure, Page 14, line 3-7, Section II.A.1	8.3	The commenter indicated that NMED may want to add clarifying language if a Corrective action management unit (CAMU) is to be designated.			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Security Fence, Page 15, lines 7 through 20	8.4	This requires the fence to be 500 feet beyond the Kickout Areas. The commenter agrees that parts of this area, such as the facility boundary, are inadequately fenced and need more secure fencing as an interim measure. Ultimately, it is important to minimize the fenced area, which the commenter assumes will never be transferred, in order to maximize the lands available for use by the Zuni and Navajo. So the location of the boundary fence should be revisited when the Kickout Area has been defined.			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Page 19, lines 3 through 4	8.5	The commenter indicated that this text should refer to the Closure Plan required to be submitted in VIII.A.2.			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Page 19, line 34	8.6	To clarify the text the commenter suggested the following language: "unless that location is already within a munitions			

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	Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section			SWMU or AOC.”			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Emergency Interim Measures, Section VII.G.4, Page 34, lines 17 through 19	8.7	The commenter suggest that part of the statement be rephrased to state NMED intent which was to state that this requirement will not apply under those exempt circumstances, such as during response to an immediate threat from military munitions. To clarify the subject the commenter suggested the following modification: “This requirement shall not apply if it conflicts with...”			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facilities Section	Emergency Interim Measures, Section VII.G.4, Page 34, lines 17 through 19	8.8	The commenter further proposed that NMED add to the Draft Permit standard operating procedures (SOPs), such as those currently in use at FWDA for responses to military munitions findings. The commenter enclosed a White paper on Destruction in Place, recently finalized and endorsed by the National Munitions Response Committee for NMED consideration in dealing with munitions-related responses.			
H	U.S Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal	Table VII.2, Page 42-44,	8.9	The commenter noted that the clean up of SWMUs and AOCs in the OB/OD Areas are given the very lowest schedule priority, while the clean up of the regulated OB/OD HWMU is given high priority. The commenter suggested that it would be more efficient to integrate the clean up of these collocated units. The commenter			

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	Facility Section			also noted that this facility remediation program schedule is intensive at its start but is not expeditious in final remedy. The last RFI work plan is not submitted until 2013, 20 years after the facility is closed. The region is particularly concerned about the TNT washout lagoons in that they are a continuing source of contamination.			
H	U.S. Environmental Protection Agency, Region 6, Laurie F. King, Chief, Federal Facility Section	Attachment 1 and Attachment 2	8.10	Attachment 1: The description of the Burning Ground Area references Figure 3, Draft Permit Attachment 2. This reference should be Figure 2, Permit Attachment 12			
I	Department of the Army, Karol L. Ripley, LTC, OD	Requirement for a RCRA Permit, Comment 1	9.1	FWDA believes a more appropriate document to address the closure of the OB/OD unit and implementation of Corrective action for SWMUs at Interim Status facilities, is an Administrative Order (AD) pursuant to RCRA Section 3008 (h) as apposed to a Draft Permit. The commenter continues by stating that the standard conditions and requirements of RCRA permits were never intended to address clean up activities, but rather serve to regulate active sites. Use of an AD to address closure/post-closure of OB/OD unit and to implement Corrective Action is authorized by regulation and follows USEPA RCRA Clean up Reform rulemakings that are designed to work outside the RCRA permit process in order			

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				to expedite RCRA clean ups. (See Fed. Regs promulgated October 22, 1998), and adopted by NM October 9, 2001). The commenter provides additional direction on why a AD should be issued, indicating that all of the objectives of the Draft Permit can be accomplished through an AD specially written with the intent to expedite clean up and closure. The commenter ended by stating that FWDA requests that the current Draft Permit be replaced with an AD under Section 3008(h) as specifically authorized by 40 CFR 265.110 (d).			
I	Department of the Army, Karol L. Ripley, LTC, OD	FWDA RCRA Chronology	9.2	The commenter stated that in the Fact Sheet attached to the Draft Permit and in meetings with FWDA and other stakeholders, NMED has stated either overtly or by implication that FWDA “failed” to complete closure, and that FWDA has somehow been “irresponsible” in the closure of the OB/OD Area and the environmental restoration of the remaining FWDA facilities and property. To refute the sentiments FWDA provided additional fact, an in-depth chronology in Attachment B of the comments submitted. The commenter provides a narrative in which they indicate that much of the delays encounter was due to several (five) programmatic changes within the NMED, and the direction provided to FWDA, as well as impact on the previous established timeline/schedule. They also acknowledge that there have been specific differences on compliance strategies advocated by FWDA			

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				and NMED. FWDA is requesting that the overt language and implied language suggesting failure, lack of responsibility, lack of responsiveness, on the part of FWDA be removed from any documents.			
I	Department of the Army, Karol L. Ripley, LTC, IOD	Notice Of Deficiency Comments, (NOD)	9.3	The commenter indicates that FWDA submitted an application for a Post-Closure Permit in July 2002. NMED commented on March 2003, and FWDA responded on June 2003. FWDA indicates that their response to the NOD identified several legal and technical positions that FWDA took contrary to NMED. FWDA indicates that no following consultations or response to FWDA's submittal was received by FWDA. FWDA request that NMED formally address each issue presented in FWDA response to the NOD, and FWDA be allowed to incorporate that information into the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Fair and Equitable Treatment	9.4	FWDA raise issues throughout the comments provided regarding the treatment of FWDA as compared to the ways other facilities are treated by NMED. The commenter states that this apparent singular treatment of FWDA raises a concern whether there has been an effective waiver of sovereign immunity. In order for the Federal government to be subject to state laws, Congress must expressly waiver sovereign immunity. The commenter provides citations to the law and indicates that it is only in effect if the federal government is being treated the same as any other entity. The commenter believes that FWDA is being treated in a			

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				disparate and discriminatory manner.			
I	Department of the Army, Karol L. Ripley, LTC, OD	OB/OD Unit	9.5	The commenter indicates that NMED appears to have revised the definition of the regulated unit from the position presented in the NOD. In the NOD, NMED instructed FWDA to “revise the figure in the Permit Application to depict the boundaries for the OB/OD units and the waste piles” as eight individual HWMUs. The commenter believes this now is a reversal concerning the definition of the OB/OD unit. FWDA maintains that HWMU 1 through 3 have regulatory status as “miscellaneous units” and HWMUs 4 through 8 should be regulated as “landfill” for closure and post-closure. The commenter requests a response from NMED.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Kickout Area	9.6	The commenter stated that the regulatory status of the Kickout Area in the Draft Permit is unclear. The Kickout Area has not been specifically identified as part of the OB/OD Unit, as stand alone HWMU, or a SWMU, however, the Draft Permit requires a RCRA Closure. FWDA believes the Kickout Area should be treated under Corrective Action rather than Closure. FWDA restates the position provided previously in the NOD response. The commenter request that the Kickout Area be removed from Parts III and IV of the Draft Permit and a section be added to Attachment 8, to address this as corrective action site.			
I	Department of the Army,	Kickout Area	9.7	The commenter indicated that they are aware of other sites in New Mexico			

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	Karol L. Ripley, LTC, OD			(Rhodes Canyon Landfill and White Sands Missile Range [WSMR]), where unexploded ordnance (UXO) has been found but was not declared by NMED to be Waste Military Munitions (WMM) and therefore subject to RCRA Closure. At WSMR UXO were destroyed in place and the facility was allowed to construct a landfill which was fenced. The commenter states that it appears that NMED agreed to a risk-based or corrective action approach. The commenter indicates that other comments regarding the Kickout Area are provided later.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Other Operations at the Facility	9.8	TPL, Inc. operates at FWDA under a Army contract. TPL has a separate hazardous waste ID number. On July 29, 2004 NMED requested information from NMED regarding TPL operations. In the Draft Permit for FWDA, NMED lists several TPL operating locations as either SWMUs or AOCs FWDA disagrees with the listing of TPL operations in the Draft Permit, since TPL has identified their hazardous waste operations as their responsibility for regulatory compliance. FWDA request that SWMU and AOCs associated with TPL be removed from Attachment 8 of the FWDA Permit			
I	Department of the Army, Karol L. Ripley, LTC, OD	Preservation of Natural and Cultural Resources	9.9	The commenter states that NMED fails to mention the impacts to TCPs and cultural resources from complete removal of debris, residues, and impacted soils. If closure is performed to the extent directed in the Draft Permit significant natural and cultural resources will be affected. FWDA			

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				believes the closure strategy presented in the July 2002 Permit Application represents a balance. To date NMED has not commented on this specific strategy.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Fact Sheet, Types and Quantity of Waste, Page 40 of 11, Comment 10	9.10	The commenter indicated that the types of wastes listed in the Draft Permit include wastes codes (D007, F003, F005, and P065) which were not included in the Part A information in the June 12 2003 Permit Application. As stated in the FWDA's response to comment FWDA disagrees with these waste codes being added. FWDA restates their position in the comment, and addresses each waste code and the reason for not including it. FWDA wants the waste codes to be removed, and the public record to be corrected.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Fact Sheet, Description of the Draft Permit, Page 5 of 11, Comment 11	9.11	The commenter had several comments regarding the use of the RCRA omnibus provision 40 CFR 270.32 (b) (2). The key element of this provision is the protection of human health and the environment. The commenter indicated that NMED must base use of this provision on something more than mere speculation. The commenter provides a direct quote from the USEPA Appeals Board. The commenter indicates that to justify and exercise omnibus authority, the finding must have a sufficient factual basis in the record. FWDA believes that NMED has exceeded both the regulatory reach and intent of RCRA's omnibus permitting authority. The commenter requests that NMED provide the factual basis for exercising the "omnibus authority" as			

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I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.F.1- Effective Date, Comment 12	9.12	referenced in the Draft Permit. The commenter indicated that the Draft Permit requires numerous compliance activities in a limited time frame, the first 180 days after the permit is issued. FWDA will need to request the resources necessary to comply with these Draft Permit conditions. FWDA has not been able to plan for these expenses. In addition, during this initial Draft Permit implementation period, FWDA must submit work plans for the implementation of offsite Interim Measures investigation and removal. To develop and achieve this work FWDA will need to negotiate access agreements with nearby landowners which may require time. Also, during the first 180 days FWDA is to submit various plans for complex and extensive investigation, remediation and abatement activities. FWDA is requesting the effective date of the Draft Permit be 180 days after Draft Permit issuances notice by NMED.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.F.4- Transfer of Land Ownership, Comment 13	9.13	The commenter states that the Draft Permit condition requires the submittal of the permit modification request, at least 180 calendar days prior to the proposed effective date to transfer of ownership of any lands which is part of the facility. FWDA believes that this condition should only apply to those parcels that contain SWMUs , AOCs, or HWMUs that have not been determined to be “ Corrective Action Complete” or “closed. Other parcels returned to public domain will under going public notice procedures under the			

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				Department of Interior. In addition, a Class III permit modification is required for remedy selection for individual SWMUs and AOCs by Draft Permit condition VII.I.3.C. The FWDA believes that to then require additional public notice for just the transfer is unnecessary and duplicative. FWDA is requesting that the transfer be classified as a Class I modification, with written approval by NMED.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.H.-Definitions, Comment 14	9.14	The commenter indicated that the hazardous waste definition used in the Draft Permit is not consistent with the RCRA regulations and other Consent Orders or Permits issued by NMED. The commenter restates the definition used in the Draft Permit and the RCRA definition used in the Los Alamos National Laboratory (LANL) Consent Order. The commenter further indicates that the State of New Mexico may define hazardous waste more broadly than RCRA, however this must be done through a legislative process. FWDA believes that NMED has expanded the definition for FWDA and this raise concerns about waiver of sovereign immunity. FWDA wishes NMED to change the definition in the Draft Permit to match the LANL or RCRA definition, or respond to this comment and explain why these hazardous waste definitions are different compared to other facilities and the RCRA regulations.			
I	Department of the Army,	Draft RCRA Permit, Part I,	9.15	The commenter indicated that NMED used a different definition for SWMU for			

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	Karol L. Ripley, LTC, OD	Subpart I.H.- Definitions, Comment 15		different facilities within the State. The commenter provides the definition used in the FWDA Draft Permit and from a recent Consent Orders and other Permits. FWDA request that the definition for a SWMU from 61 Federal Regulations 19431, 19442-43 (May 1, 1996) or the Consent Order definition be used.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Part I, Subpart I.I.7.3 and 4 NMED Inspection and Sampling, Comment 16	9.16	The commenter indicated that the statement to allow NMED to inspect at reasonable times any facility equipment, etc., ...and sample, monitor, etc., should be revised to acknowledge that the ability to conduct inspections and /or sample can be limited or even precluded by operating and personnel safety requirements and precautions.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Part I Subpart I.I.6,-Duty to Provide Information	9.17	The commenter suggests that the statement of requirements be revised to read, "The Permittee shall furnish to NMED within a reasonable time, <i>as agreed upon by NMED and Permittee</i> , any relevant information..."			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Part I, Subpart I.K.1-Contents of the Information Repository	9.18	The commenter indicated that FWDA voluntarily established an Information Repository in the local Gallup area in 1998, and believes this Repository meets the regulatory intent and the public needs. The commenter indicated that such a repository is not required in other permits issued by NMED. The commenter believes that Draft Permit Conditions I.K.1 and I.K.3 are excessive and should be deleted. The commenter notes that since the establishment of the FWDA Repository only two persons, both on official duty have accessed it.			

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I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.L- Community Relation Plan. Comment 19	9.19	The commenter indicated that establishing a Community Relation Plan (CRP) which includes both a Public Safety Program and a Military Munitions Map for public use will require more that 90 days, and proceeds to explain why it will take longer. FWDA requests the compliance schedule of Subpart I.L be revised to 180 days after the effective date of the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.L.2- Military Munitions map and Table, Comment 20	9.20	The commenter indicated that in Part I.L.2 NMED states that “the military munitions map and table shall depict and list, respectively, all military munitions known to have been managed or previously found at the facility and released beyond the facility boundary. FWDA request that the term “managed or previously found” be clarified. The commenter includes several questions pertaining to the terms used.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.L.2- Military Munitions map and Table, Comment 21	9.21	The sentence “The military munitions map and table shall include specific references for the sources of information to allow easy verification of information” is unclear. FWDA request that it be re-written.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part I, Subpart I.L.2- Military Munitions map and Table, Comment 22	9.22	The commenter has some concerns regarding the sentence which requires that the map and table be updated annually and submitted to NMED. The requirement for initial submittal to NMED is not specified in the paragraph, and the commenter would like this clarified. The commenter asked that the submittal date be 180 days after issuance of the Draft Permit to allow for preparation of the military map and table.			

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I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part II, Subpart II.C.2- Security Fence	9.23	The commenter indicated that they have some concerns about the fencing requirements specified in condition II.C.2, including that the fencing requirements are too prescriptive in requiring a 6 foot high chain link security fence topped with 3 strands of angled barbed wire around the OB/OD Unit...and at least 500 feet beyond the Kickout Area, except that the fence shall follow the facility boundary where the Kickout Area extends beyond the facility boundary.” The commenter indicated that the FWDA OB/OD Unit fence meets the required fencing. However, parcel 3 boundaries are either completely surrounded by a combination of barbed wire and chain link fences and natural barriers, or adjoin other parcel with existing security fencing. The commenter indicated that the existing fencing meets the requirements of 40 CFR 264.14 (b) and 270.32(b) (2). The commenter asked that the specific requirements for fencing be removed from the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Per Subpart II.C.2- Security Fence Permit, Part II,	9.24	The commenter indicated that the current Draft Permit Condition require that the Security fence be installed within 180 days of the effective date of the Draft Permit. The commenter indicated that this requirement conflicts with the requirement in Draft Permit conditions IV.A, VII.G.2.b and VIII.A.2.4. Completion of the above cited Draft Permit conditions requiring clean up could preclude the need for installing additional fencing on the Parcel 3 boundary, and may have a significant			

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				effect on the determination of the final parcel 3 boundaries. The commenter indicates that Draft Permit condition II.C.2 recognizes this conflict by stating that NMED may require the Security fence to be expanded if evidence indicates that the Kickout Area extends beyond the security fence. The commenter points out that a less substantial fence has been in place along the boundaries of the OB/OD Area for many years without incidents. The commenter provides additional information pertaining to the fencing and included suggested Draft Permit language for modification to this Draft Permit condition.			
I	Department Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part II. Subpart II.H.2- Required Equipment, Comment 25	9.25	The commenter provides comments on Draft Permit Condition II.H.2 which addresses facility equipment requirements. The commenter states that because this is a closure site, the location of the area, the remoteness from common utility system, some equipment specified in 40 CFR 264.32 does not fit the utilities available at the OB/OD area. FWDA proposes the equipment presented in their June 12, 2003 Draft Permit Application regarding internal communication equipment, external communication equipment, emergency equipment, and water for fire control. Specific language is provided in the comment for each of these areas. The commenter believes that the equipment listed in the comment provided meets the requirement of 40 CFR 264.32 and Draft Permit condition II.H.2. Alternatively, the commenter requests NMED to specify			

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				which equipment does not meet the requirements of Draft Permit Condition II.H.2 and provide the basis for each determination.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.A.2 – Removal of Waste and Waste Residues from the OB/OD Unit, Comment 26	9.26	The commenter indicates that the removal of all waste and waste residue is addressed on page 6 of the fact sheet and reads “Failure to remove all hazardous waste and residues from the OB/OD Unit during closure would constitute abandonment and illegal disposal without a permit...” Based on publicly available information on other Permits and Corrective Actions approved by NMED, it appears that the requirement for removal has not been uniformly applied. FWDA states that NMED has allowed other sites to leave waste in place and this should be allowed for the OB/OD Area. FWDA believes that NMED has the same option for the OB/OD Unit and has chosen not to use this regulatory flexibility.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Part III, Subpart III.A.3-Removal or Decontamination of Known Contaminated Soils from the OB/OD Unit, Comment 27	9.27	The commenter indicates that based on publicly available information on other RCRA Permits issued and Corrective Action approved by NMED, it appears that the requirement for removal of all know contaminated soils has not been applied uniformly to other private and federal sites within the state. The commenter provides examples, and states that FWDA is apparently being singled out, which raise sovereign immunity concerns.			
I	Department of the Army, Karol L.	Draft Permit, Part III, Subpart III.A.3-Removal	9.28	Because the soils have been contaminated by waste placement, and were not placed as a waste themselves, FWDA believes any			

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	Ripley, LTC, OD	or Decontamination of Known Contaminated Soils from the OB/OD Unit, Comment 28		activities dealing with contaminated soils in the OB/OD Unit should be a Corrective Action requirement, utilizing risk-based procedures considering expected future land use.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.A.4 Soil Characterization and Confirmation Sampling, Comment 29	9.29	The commenter stated that NMED should provide the basis on which analysis of confirmation samples should include PCBs, dioxins, furans and cyanide. The commenter provides a discussion on why they should not be included.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.A.5- Characterization of Areas Not Subject to Initial Removal Actions, Comment 30	9.30	The commenter stated that this section is unclear what is meant by the term "entire OB/OD Unit". The term "entire" is confusing and should be clarified. The commenter provides additional direction in the comment.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.B- Closure Plan for the Kickout Area, Comment 31	9.31	The commenter indicated that they believe that the Kickout Area is not part of the OB/OD Unit, and therefore subject to Corrective Action rather than Closure. FWDA requests that all of Subpart II.B be deleted from the Draft Permit, additional comments are provided below			
I	Department of the Army, Karol L. Ripley, LTC,	Draft RCRA Permit, Part III, Subpart III.B- Closure Plan for	9.32	The commenter indicates that NMED has specified that a closure plan must be prepared and the area "closed" in accordance with 20.4.1.500 NMAC.			

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	OD	the Kickout Area, Comment 32		NMED seems to be mixing and matching Corrective Action (40 CFR 364.101), Closure (40 CFR 264.113) and Subpart X Environmental Performance Standards (40 CFR 264.601) requirements in this section of the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.B-Closure Plan for the Kickout Area, Comment 33	9.33	The commenter believes that compliance with the Environmental Performance Standards listed in 40 CFR 264.601 can be achieved without conducting “a geophysical investigation on 100% of the lands in the Kickout Area” and without complete removal of “all detected waste munitions”.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.B.1-Removal of Wastes Military Munitions From Kickout Area, Comment 34	9.34	The commenter believes that the requirement to require 100% geophysical investigation of the Kickout Area using GIS-bases, best available technology is to prescriptive and inflexible as written. The commenter provides in the comment reasons why the requirement is to inflexible, and why it does not provide FWDA with a realistic opportunity to comply with the Draft Permit terms and conditions.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.B.1-Removal of Military Munitions From Kickout Area, Comment 35	9.35	The use of the phrase “GIS-based” is confusing. The commenter indicates that handheld magnetometry may be the most appropriate option, or even the only option, for conducting a geophysical survey, especially when high MEC density, high magnetic noise, and access may be issues. However one of the short comings of handheld magnetometry is that no direct record of the geophysical data or decision-making process is produced. FWDA			

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				requests that the phrase "GIS-based" be removed from the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.C.4-Remedy Completion Report, Comment 36	9.36	The commenter indicated that the section contains an incorrect reference to Part III.B.3. FWDA believes the correct reference is Part III.C.3.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part III, Subpart III.C.5-Post-Closure Plan, Comment 37	9.37	Delete "ort" after Remedy Selection Work Plan.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part IV, Confirmation of Kickout Area and Periodic Removal, Comment 38	9.38	FWDA position is that the Kickout Area is not part of the OB/OD Unit, and is therefore subject to Corrective Action rather than Closure. FWDA requests that all of Part IV regarding the Kickout Area be deleted from the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part IV, Confirmation of Kickout Area and Periodic Removal, Comment 39	9.39	The commenter indicated that NMED requirements set forth in Part IV are conservative to the extreme, conflicting and confusing. As drafted, the inflexible language requiring 100% of all detected anomalies to be excavated does not take into consideration that there could be naturally occurring anomalies. This requirement does not provide FWDA with a realistic opportunity to comply. Additional supporting language is provided in the comment.			
I	Department of the Army,	Draft RCRA Permit, Part IV,	9.40	As stated previously, FWDA request that the phrase "GIS-based" be removed from			

Comment Number	Commenter/ Affiliation	Topic Area	Commenter Number	Comment Summary	Response	Include in Draft Permit? Y/N	Reviewer (Initials)
	Karol L. Ripley, LTC, OD	Confirmation of Kickout Area and Periodic Removal, Comment 40		the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit. Part IV, Confirmation of Kickout Area and Periodic Removal, Comment 41	9.41	The commenter requests that annual visual inspections and removal of WMM from the OB/OD Unit be deleted as a Draft Permit condition. The commenter believes that visual inspection annually and a geophysical investigation conducted every five years is redundant. As previously stated the commenter request that the Kickout Area be deleted from this portion of the text.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit. Part IV, Confirmation of Kickout Area and Periodic Removal, Comment 42	9.42	If not revised as requested FWDA will be required to identify the extent of the Kickout Area under both Subpart III.B.1 and IV.A. Subpart IV.A requires FWDA to “confirm the outer boundary of the Kickout Area by conducting a initial geophysical investigation”. Subpart II.B.1 requires FWDA to conduct a geophysical investigation on 100% of the land in the Kickout Area”. The requirements for the Kickout Area are confusing and should be clarified.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit. Part IV, Confirmation of Kickout Area and Periodic Removal, Comment 43	9.43	The commenter indicated that Subpart VIII.A.2.4, requires “...to conduct the initial geophysical investigation” , and Subpart IV.A, requires “work plan to confirm the extent of the Kickout Area within 60 days” The commenter indicated that this was confusing.			
I	Department of the Army,	Draft RCRA Permit. Part IV,	9.44	NMED states that “at least once every five years after certification of closure, the			

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	Karol L. Ripley, LTC, OD	Confirmation of Kickout Area and Periodic Removal, Comment 44		<p>Permittee shall conduct a geophysical investigation of the entire OB/OD and Kickout Area and excavate 100% of detected anomalies..” The commenter requested that the future MEC detections be limited to areas experiencing elevated erosion (e.g. arroyos). As written the investigation is to occur every five years with no provision for potential reduction of the requirement based on previous investigations. NMED indicates in the fact sheet that they expect the Draft Permit to be for 10 years and that 2 such investigation will be required. However, the Permittee indicate that the Draft Permit may be renewed which could mean repeating the process every 5 years. There is no mechanism for termination or limitation of the activity. The commenter suggested the following revised condition: “At five years after certification of closure, the Permittee shall perform a visual inspection of the OB/OD Unit and remove all observed waste military munitions.” Note that the Kickout Area has been deleted since the commenter does not believe that that area should be managed as part of the OB/OD Unit.</p>			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Part V, Subpart V.A-Interim Plan, Comment 45	9.45	<p>The commenter states that in the Draft Permit condition V.A. Interim Plan, NMED requires an Interim Facility-Wide Ground Water Monitoring Plan. FWDA requests that NMED specify the objectives for conducting the ground water monitoring required by the permit condition. FWDA also requests</p>			

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				clarification from NMED if the Interim Plan is to include the OB/OD Area.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft Permit, Part V, Subpart V.A.1- Ground Water Monitoring and Sampling, Comment 46	9.46	Define what is meant by "valid data"			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit Part VI, Subpart VI.B.2.b-Point Of Compliance, Comment 47	9.47	The commenter states that Section VI.B.2.b of the Draft Permit mandates that FWDA achieve compliance at all point in the ground waste and cites 20.4.1.500. The commenter provides a regulatory cross walk with regards to the location of the definition of the point of compliance, but ultimately requests that Draft Permit condition VI.B.2.b be revised to establish the point of compliance. The commenter also indicates that the requested definition of the point of compliance has been provided by NMED in other permits.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VI, Subpart VI.B.6.a- Monitoring of Hazardous Constituents, Comment 46 (2 nd 46)	9.48	The commenter asked that the sentence beginning on line 6, page 30 be modified to read " additional hazardous waste or hazardous constituents, for which Army is responsible are present"			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VI, Subpart VI.B.7. a- Recordkeeping,	9.49	The commenter asked that the statement "The data shall include all computations that NMED has specified", be clarified. It is unclear what computations are required and where said computations are (or will			

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		Comment 47 (2 nd 47)		be) specified.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Corrective Action for SWMUs and AOCs, Comment 48	9.50	The commenter request that the Corrective Action process prescribed in the Draft Permit Part VII and Permit Attachment 3, 4, 5 and 6 be deleted and replaced by the USEPA Region 6 November 2000 Corrective Action Strategy (CAS). Part VII of the Draft Permit and attachments are derived from USEPA's 1994 Corrective Action Plan (CAP), which has been shown to be overly prescriptive, needlessly time consuming and costly to implement. The CAP also does not provide the needed flexibility to adapt to actual site conditions. The commenter proceeds to provide supporting information. The commenter requested an initial scope meeting under the CAS process with NMED and EPA Region 6, to bring facility representatives and the agencies together as specified by the CAS process.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Subpart VII,B- Contamination Beyond the Facility Boundary, Comment 49	9.51	The FWDA request that the phrase "to clean up a release that has migrated beyond the facility boundary", be added to read "The Permittee shall implement corrective action beyond the facility boundary, to clean up a release that has migrated beyond the facility boundary, where..."			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RVRA Permit, Part VII, Subpart VII.C- Corrective Action Already Completed,	9.52	Draft Permit Condition VII.C indicates that any work previously completed may be used to meet the requirements in whole or in part, as determined by NMED. The Army has already spent \$42 million to complete corrective action at FWDA.			

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		Comment 50		FWDA believes that Corrective Action work that has been complete should be treat in a manner which is outlined in the comment. FWDA also believes that the evaluation conducted under the outlined approach should be completed during the Draft Permit Public comment period, prior to issuing the final permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Subpart VII.D- Notification and Assessment for Newly Identified SWMUs and AOCs, Comment 51	9.53	Draft Permit Condition VII.D requires the Permittee to conduct an explosive or munitions emergency response at the facility, or beyond the facility, in response to a waste military munitions release and to treat the response location as a newly discovered AOC. The commenter requested that the phrase: "unless the explosive or munitions emergency response is conducted within the boundaries of an existing AOC, SWMU or HWMU, or the area was remediated at the time of the response".			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Subpart VII.F.1- Release Assessment Report, Comment 52	9.54	Draft condition VII.F.1 requires that the Permittee submit a Release Assessment Report within 360 calendar days of the effective date of the Draft Permit, for each AOC listed in Attachment 8, Table 2 and each newly discovered SWMU or AOC requiring a Release Assessment under Draft Permit Condition VII.D. The commenter wants to insure that adequate consideration is given to work that has previously been done and prioritization of remaining work using USEPA, Region 6 CAS principles should be completed prior to a final permit being issued.			
I	Department of	Draft RCRA	9.55	FWDA completed a MEC clearance to 1-			

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	the Army, Karol L. Ripley, LTC, OD	Permit, Part VII, Subpart VII.G.2.b- Cleanup of Kickout Beyond the Facility Boundary, Comment 53		foot depth on 250 acres adjacent to the western facility boundary in 1995. FWDA has not received formal comments from NMED regarding this clearance. The subsection implies that NMED is certain that WMM have been released beyond the boundary in this area, and FWDA request the NMED provide evidence of this. The commenter questions the use of "immediately required interim measures" for the off-site portion of the Kickout Area and notes that for more than 50 years since OD operations began, and the years to follow there has been no reported occurrences of any off-site MEC encounters. FWDA requests that Subpart VII.G.2.b be deleted from the Draft Permit and that after review and comment on work already done, any requirements that NMED has for off-site kickout be included in corrective action for the Kickout Area.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Subpart VII.G.2.b- Cleanup of Kickout Beyond the facility Boundary, Comment 54	9.56	FWDA as stated before requests that the phrase "GIS-based" be removed from the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Subpart VII.G.2.b- Cleanup Beyond the Facility	9.57	As stated previously the regulatory status of the Kickout Area is unclear in the Draft Permit. The commenter provides several citations within the Draft Permit where such problems are encountered. FWDA requests the requirements for the VII.G.2.b			

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		Boundary, Comment 55		work plan be revised to delete provisions for identifying the extent of the Kickout Area. The commenter states the Draft Permit is confusing and need to be logically and sequentially scheduled and rewritten.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Subpart VII.G.4- Emergency Measures, Comment 56	9.58	The commenter request that the wording in line 6, of page 34 be changed to have NMED notified in three business days, and that the wording in line 12 of page 34 be changed to notify NMED within one business day. The change is request to be consistent with the wording in similar conditions in other Permits and Orders that have been drafted by NMED.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Table VII.2 – Schedule for RFI Work Plan Submittals, Comment 57	9.59	The commenter had comments regarding Table VII.2 which provides a schedule, by land parcel for submitting RFI Work Plans. FWDA would like to complete Corrective Action work to facilitate land transfer, and therefore submitted in the comment a list of Army priorities for the corrective action which accommodates the land transfer. The priority list is provided in the comment. The commenter indicated if there are “other factors” in determining the NMED priority then FWDA believes those other factor should be documented and the rational provided in the public record.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VII, Table VII.2 – Schedule for RFI Work Plan Submittals, Comment 58	9.60	The commenter stated that as written NMED requires the first RFI work plan to be submitted April 1, 2005. Parcel 21 RFI work plan is currently relates to the investigation of 12 SWMUs and 8 AOCs. The commenter goes on the explain the amount of work associated with the RFI for			

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				these sites and the fact that after initial review of the Draft Permit when public comments ends that FWDA will only have 49 calendar day to research, prepare and write the RFI work plan. FWDA is requesting the schedule for Parcel 21 RFI work plan be submitted 90 calendar days after permit issuance. They would also like to get feedback on the first submittal before submitting the next.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VIII, Subpart VIII.A.1.a- Historial Documents, Comment 59	9.61	The commenter indicated that the information request to submit two copies of all historical documents, reports, data, and information relating to the facility is a voluminous amount of information. The commenter suggested that they submit a listing of the documents which NMED can look at and then request copies of the information they need.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VIII, Subpart VIII.A.1.b Interviews, Comment 60	9.62	The commenter indicates that the Draft Permit requires FWDA to interview persons familiar with current and past operations. FWDA indicated that this has already been done for previous investigations. FWDA would like the condition to indicate that this only needs to be done for persons which have not previously been interviewed. FWDA stated that they would submit copies of past and recent interviews within 90 days of the effective date of the Draft Permit.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Part VIII, Subpart VIII.A.1.c- Historical Aerial	9.63	The commenter indicated that Subpart VIII.A.1.c requires FWDA to perform a historical aerial photograph time sequence analysis and submit a Historical Aerial Photograph Report. The commenter			

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		Photo Interpretation, Comment 61		provided a detailed regulatory analysis and indicates that such a requirement is not required by the regulations, and that Part VII.A.1.c should be deleted from the Permit. FWDA also indicates that for the record there are two aerial photographs analysis performed by EPA Environmental Photographic Interpretation Center (EPIC), which are included as Document FW90-11 in the FWDA Information Repository and also on file at NMED. The first was in 1981 and the second in 1990.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Attachment 1, General Facility Description, Comment 62	9.64	The commenter indicated that the facility description contains an inaccurate paragraph regarding hazardous wastes codes. (See Comment 9.10) The commenter asked that the codes be removed.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Attachment 1, General Facility Description, Comment 63	9.65	The commenter indicated that on page 2, paragraph 1, the last sentence states that "most of the residue piles are located within arroyo." This is not accurate, most of the areas are immediately adjacent to the arroyo rather than "within the arroyo". FWDA request that this statement be removed.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Attachment 1, General Facility Description, Comment 64	9.66	FWDA request the NMED explain how "burning and detonation of waste military munitions, explosive-contaminated items, and incidental solid waste is associated with...dioxins and furans, cyanide, PCBs, pesticides, and herbicides". (See Comment 9.29) FWDA requests that the portion of the last sentence containing these constituents be deleted.			
I	Department of	Draft RCRA	9.67	The commenter request clarification			

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	the Army, Karol L. Ripley, LTC, OD	Permit, Attachment 7 – Cleanup Levels, Comment 65		regarding the ground water cleanup levels. Item 1 of Section 7.1 states that “for all contaminants listed in 20.6.2.2VV and 3103 NMAC the Permittee shall attain the WQCC standard of 20.6.2.4103 A and B. FWDA is unable to review (or comply) with this requirement, because Section 20.6.2.1101 NMAC is part of 20.6.2 NMAC that has been reserved for future use; there is no list of “toxic pollutants” at 20.6.2.1101 NMAC.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Attachment 7 – Cleanup Levels, Comment 66	9.68	The commenter indicated the within Section 7.3 Land Use Determination of Attachment 7 Cleanup Levels to the Draft Permit, the second sentence reads: “ The Permittee may only propose an alternate land use with higher cleanup levels if NMED can legally and practicably enforce the institutional controls limiting the land use.” The commenter brought up recent orders with SNL and LANL which allowed levels other than residential. FWDA is requesting language allowing higher cleanup levels other than residential use.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Attachment 8, Hazardous Waste Management Unit, Solid Waste Management Unit, and Area of Concern Tables,	9.69	The commenter noted that there are significant additional SWMU and AOCs in this Draft Permit. FWDA identified 34 SWMUs and the Draft Permit identifies 172 SWMU and AOCs requiring either a RFI (138 sites) or a Release Assessment (34 sites). FWDA feels that NMED must meet a standard of proof before a site is added, and FWDA asks that NMED make available any and all information upon which decisions were made to list a particular SWMU or AOC. The			

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		Comment 67		commenter provides what they believe to be the criteria used to identify SWMUs and AOCs in the comment. If NMED cannot provide the factual basis for designating a given location as a SWMU or AOC, then FWDA believes it should be removed from the list. In some cases there may not be sufficient information for an RFI, than it should be placed on the list for a Release Assessment.			
I	Department of the Army, Karol L. Ripley, LTC, OD	Draft RCRA Permit, Attachment 8, Hazardous Waste Management Unit, Solid Waste Management Unit, and Area of Concern Tables, Comment 68	9.70	The commenter indicated that in an email dated November 8, 2004 FWDA requested clarification regarding the basis for NMED's inclusion of certain buildings and structures as SWMUs or AOCs in the Draft Permit, Attachment 8. In NMED response of November 23, 2004 NMED stated that some building and structures were included based on the presence (or possible presence) of lead-based paints and asbestos, and the possible releases to the environment. The commenter provides legal reasoning for why these building and structures should not be considered SWMUs and/or AOCs. FWDA requests that all buildings and structures listed as SWMU and AOCs on the basis of a suspected or potential release of lead-based paints or asbestos be removed from Attachment 8.			

Index of Comments Received by NMED on the Fort Wingate Part B Permit Renewal Application.

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A	1	2/9/05	Navajo Nation Council- Hon. Lawrence T. Morgan	The commenter had several concerns regarding the testing of off- site wells, the need for the Navajo Nations to be involved in the remediation determinations, the need to notify the Navajo Nation with sufficient time so that they can review any proposed actions. The Navajo Nation also expressed concern regarding the protection of cultural resources on Navajo lands and the fact that cultural resources are located within the OB/OD areas. He indicated that archaeological sites have been identified in the areas as well. The commenter also expressed concern regarding the work plan schedule on Table VII. 2 indicating that it was inconsistent with the draft land transfer schedule that was submitted to the DoD. The commenter believes a more timely schedule should be developed.
B	2	2/9/05	Department of Interior, Bureau of Indian Affairs, Navajo Region-Ms. Rosaria Duwyenie, environmental specialist	The commenter had several editorial comments, several comments regarding the need to define acronyms, problems with format issues in the Draft Permit, inconsistent capitalization and bolding of words contained in the Draft Permit, and confusing wording in the Draft Permit. The commenter also expressed concern regarding the transfer of property to the tribes. The commenter also was concerned regarding the need to identify contractors of DOA as separate entities in the. The commenter indicated concern regarding the evacuation procedures and the emergency notification procedures for personal and livestock, as well as some emergency procedures. The commenter expressed concern regarding groundwater monitoring, including releases into groundwater and the installation of off-site wells. There were also concerns regarding the Community Relations Plan, the need to notify tribes regarding activities and the need for NMED to take into consideration the tribes concerns regarding clean-up levels proposed by DOA. The commenter is also concerned regarding the clean-up schedule that is inconsistent with the schedule provided by BIA. The commenter had several comments on the attachments regarding editorial issues, rewriting sections, the replacement of a correct figure, and the need for certification requirements for training and PPE with regards to the health and safety plan.

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C	3	2/11/05	Navajo Nation, Environmental Protection Agency-Arlene Luther, environmental Department Manager	<p>The commenter requested information on the generator status of the facility and also how much waste was removed from the site and the waste codes associated with the waste removed. The comment asked that the information repository in Gallup New Mexico be designated and that a business telephone number be provided. The commenter also asked that the Church Rock Chapter and the Window Rock Public Library be designated as Information Repositories also, and she provided addresses, telephone numbers, and fax numbers for these locations. She also provided additional names, telephone numbers and addresses of individuals who should be added to the Community Relations Plan and the Public Safety Program. She expressed concern about contaminated PCB or dioxin oils being used as dust suppression on road. She asked that the warning signs be also posted in Spanish, Navajo and Zuni; she provided the translation of the warning sign in Navajo. The commenter indicated that the Draft Permit has requirement for which NMED does not have primacy over, such as the National Pollutant Discharge Elimination System and Storm water Programs. The commenter was concerned regarding emergency notification and whether the Permittee has developed an Emergency Response Plan which will accommodate evacuation of people. The commenter indicated that the Navajo Nation future use of property requires that the contaminated soils and groundwater be clean up to residential standards and that NMED and the Permittee must coordinate with NNEPA. The commenter was concerned that the NMED approved Kickout Area Closure Plan was not available for review and that Attachments 9-11 are not available for review.</p>
D	4	unknown	Pueblo of Zuni, Arlen P. Quetawki, Sr. Governor-General Comments	<p>The commenter indicated that in studies of Traditional Cultural Properties (TCPs), that there are cultural lands on the FWDA. The commenter indicates that the Army has stored toxic chemicals including weapons and explosives in the FWDA lands, and that the Army has not provided sufficient information on the extent of contamination of the soil, water and buildings. Nor, has the Army determined the nature of the contamination and the requisite clean up levels and methods to return the land to the previously pristine condition. The commenter indicated that the Army is financially and moral responsible for the clean up and that contaminated sites should be thoroughly investigated</p>

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				<p>and remediated prior to returning the lands to the Zuni Tribe, and the land should be returned in the same condition as it existed at the time the lands were taken. The commenter indicated that the Zuni Tribe should be involved in the development of work plans and selection of remedies to assure the Tribes interest is adequately protected. The commenter believes that the Draft Permit is deficient because several items were not provided (see other matrix), and that the RCRA Investigation (RFI), and the Corrective Measures Study (CMS) were not of sufficient detail. The commenter did not believe that sufficient public participation during the work plan occurred because there was non-binding policy. The commenter indicated that EPA has extensive public participation requirements which NMED did not meet, and that public involvement should include additional periods for reviewing documents and associated materials. The commenter indicated that the Draft Permit does not even provide a work plan on which to comment. The commenter wants NMED to be responsive to the Zuni Tribe with regards to clean-up levels. The commenter believes that Public Participation Plans should be developed, and she provided an outline for such plans. The commenter indicated that NMED did not provide a fact sheet which discussed the remedy selection process, and that this is insufficient. With regards to public participation, the New Mexico constitution promotes this activity, which was not performed by NMED. The commenter also addressed environmental justice, and that NMED should be interested in protection of minorities.</p>
E	5	unknown	Pueblo of Zuni, Arlen P. Quetawki, Sr. Governor- Specific comments	<p>The commenter indicated that several modifications should be classified as a Class III Permit Modification. The commenter also had several concerns regarding Part II and the security fence, and Part III which address closure of the O/OD and Kickout Area. The commenter is concerned about massive soil removal as there could be cultural artifacts that could be lost. The commenter also expressed concern regarding the geophysical investigation, and that standards should be developed and public comment obtained. The commenter indicated that sampling should be conducted, and that ambiguous and undefined standards should be more detail. The commenter indicated that Part IV should contain specific requirements, including the methods to be used to investigate contamination. The commenter believes that the Closure</p>

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				<p>Report should contain all activities NMED requires the Permittee to complete, and the time frame associated with those activities. The commenter believes previous activities which investigated the scope of contamination has been inadequate and needs greater investigation under this evaluation. The commenter believes that Parts V and VI that address groundwater monitoring are inadequate and does not provide sufficient details on such items as wells, sampling methods, frequency of sampling, types of sampling etc. The commenter believes that wells within one mile should also be investigated. The commenter believes in Section VI the permit should contain a specific Ground Water Investigation and Corrective Action Program Plan for the OB/OD Area. The commenter believes that Part VII should be consistent with the transfer of ownership documents and that the schedule of clean up should be consistent with that document. The commenter indicates the Zuni Tribe believes the time frame for clean up is extremely long. The commenter indicated that asbestos should be included in the clean up, and suggested that NMED follow the Colorado Department of Public Health and Environment regarding this constituent. The commenter indicated they have several concerns regarding the schedule of compliance. The commenter believes the general facility description in Attachment 1 does not provide sufficient detail, and the map in Attachment 2 is outdated. The commenter believes a scope of work is needed in Attachment 3, as well as other details are lacking. The commenter indicated that the same problems exist in Attachments 4, 5, and 6. The commenter believes that perchlorate should also be addressed in the clean up levels. The commenter also believes that cumulative effects should be addressed. The commenter believes that Attachment 9 should contain a Closure Plan, or should once completed should be a Class III modification to the permit. The same issues are of concern regarding the Ground Water Monitoring Plans, and the corrective action plans.</p>
F	5	1/26/05	U.S Department of Interior, Bureau of Land Management- Dwight J. Hempel, DOI Team Leader, Fort Wingate Transfer	<p>The commenter expressed concern that there was little detail regarding the specific contaminants present at the Areas of Concern (AOC), and the Solid Waste Management Units (SWMUs) and how the potential contaminants will be addressed and resolved. The commenter believes that NMED must provide an opportunity in the future for interested</p>

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				<p>parties to comment on all documents to be submitted. The commenter provides specific references to the Draft Permit where this issue is of concern. The commenter expressed concern that the proposed remediation and clean up may cause more damage to traditional cultural properties (TCP), archeological sites, and historical sites. He believes these sites must be considered in the work plans. The commenter provided specific comments where this is an issue. The commenter believes that on page 2 the requirement for 180 days to submit a modification is excessive and should be 90 days. The commenter questioned who would pay for on-going activities such as the maintenance of the fence and groundwater monitoring. The commenter believes that the map in Attachment 12 is not accurate, and the description and definition is not correct. The commenter expressed concern regarding the transfer of the Permit to new owners, and asked how it would be defined, the commenter also indicated that there were several areas where the Draft Permit language was confusing. The commenter was concern regarding emergency procedures and emergency notification. He also expressed concern regarding sampling procedures. He asked that specific information on the location of the repertory be provided and ask that more specific details be included in the community relation plan. He asked how up-dated information will be provided to the community. He indicated that a fence is not sufficient and that the area should be cleaned up. The commenter did not agree with the 100% geophysical investigation of the Kickout Area, that a larger area should be evaluated. The commenter asked how the NMED will install and monitor wells off-site. The commenter had several concerns regarding the Ground Water Investigation Work Plan. He believes that PCBs and asbestos should be added to the list of constituents. He noted some discrepancies between the time schedules specified in the tables and the text, and noted that some terms were not defined. He indicated that the area where off-site well are to be evaluated was too small of an area. He indicated that the length of time and the schedules were too long, and did not identify the same parcels of land to be clean up at a specific schedule as previously planned and is not inline with the Base Closure Team. He provides a list of the ones that are a high priority. He suggested that some historical aerial</p>

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				<p>photographs may be of help. He suggested some modifications to language and indicated the acreage in Attachment 1 maybe incorrect. He indicated that in Attachment 3 that the section fails to identify procedures for interim measures operations and maintenance controls. He expressed concern regarding contractors and their role. The commenter provided some additional language changes, and clarifications, and indicated there was a need to add more AOC and SWMUs.</p>
G	6	2/9/05	<p>U.S. Department of Interior, Bureau of Indian Affairs, Southwest Region-Ronald G. Toya, Acting Regional Director</p>	<p>The commenter indicated that there needs to be a mechanism to provide review and comments to Tribes and DOI before NMED makes their decision. The commenter expressed concern regarding some format issues, general wording, definitions, and provided specific language to correct the issues. The commenter had some issues regarding the security fence, and emergency procedures and notification. The commenter believes that vague language such as "make all reasonable efforts" should be removed and specific clean up levels or procedures should be included. The commenter provided other examples of vague language in the Draft Permit. The commenter asked if NMED has specific procedures for abandonment of wells, and asked that PCBs be added to the list of hazardous constituents. The commenter had several comments on the monitoring of Hazardous Contituents, Section VI.B. 6a and VI.B. 6b and believes that the sections are not very clear, and that other aquifers which are to be monitored should be specified. The commenter believes the specific requirement for wetlands are missing, and believes that the cultural resources near the parcel in Section 4.2.2. c.vii should be investigated. The commenter believes that Tribal Regulations should be added to Section 6.5.i in Attachment 6. In Attachment 7 the commenter believes that Tribes Clean up Standards should be included</p>
H	7	2/11/05	<p>U.S. Environmental Protection Agency, Region 6- Ms. Laurie F. King, Chief, Federal Facilities Section</p>	<p>The commenter indicated that it should be clear that this Draft Permit does not cover the storage, treatment and disposal of hazardous waste that this Draft Permit is for closure activities, and remediation. The commenter indicated that the Draft Permit does not require that the clean up be complete prior to transfer of property, but the region recommends that modification not be approved until corrective measures are complete. The commenter indicated that fencing should</p>

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				<p>be minimized and the lands should be clean up, and they assumed that fenced property that is fenced will not be transferred to Tribes due to contamination. The commenter provided changes to the text in specific areas to clarify wording, including some word modification under the emergency interim measures, and attachments that appeared to be incorrectly referenced. The commenter noted some inconsistencies on the schedule for clean up of SWMUs and AOCs and suggested that these units be integrated. The commenter also expressed concern regarding the proposed length of the schedule and that they were concerned regarding washout from the TNT lagoons.</p>
I	8	2/8/05	U.S. Department of the Army-Karol L. Ripley, LTC, OD commanding	<p>The commenter indicated that all documents referenced in the Army's comments were included for the administrative record. The commenter with regards to several issues believes that they are not being treated in the same manner as other facilities which are being permitted in the state. The commenter also indicated that a better procedure for closing the site would be an administrative order or a corrective action order, not the permitting process. The commenter was concerned with the implication in the fact sheet, and other documents the FWDA had "failed" to complete closure or maintain regulatory compliance. The commenter provided a chronology and other items to refute these issues. The commenter provided comments on some Notice of Deficiency issues which were still outstanding. The commenter had some concerns regarding regulatory definition of some units, the status of other units, and the proposed actions specified by NMED for some units. The commenter also indicated that some action specified by NMED may not be in the best interest of the preservation of natural and cultural resources. The commenter takes issue with the fact that additional waste codes have been added to the Draft Permit. The commenter took issue with the use of the "omnibus" provision indication that NMED did not provide sufficient justification. The commenter indicated they have issues with the proposed schedules in the Draft Permit and that they have issues with the condition associated with the transfer of ownership. The commenter had several concerns about standard permit condition which are normally found in all permits. The commenter indicated that many of the conditions specified in the Draft Permit would require additional resources and</p>

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				expenses which have not been planned for. The commenter also asked that NMED provide additional clarification on several of the conditions included in the Draft Permit, and that some sections be re-drafted. The commenter provided numerous other specific comments which will be addressed in the other matrix.