

Dr. Elizabeth Gordon
HAZ Waste Bureau

ENTERED

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

1
2 UNITED STATES OF AMERICA,
3 DEPARTMENT OF THE AIR FORCE,

'92 JAN -2 P2:11

4 Plaintiff-Appellant,

STATE OF NEW MEXICO
P.D. MARGUARRES, CLERK

5 vs.

No. 12550

6 STATE OF NEW MEXICO, HEALTH AND
7 ENVIRONMENT DEPARTMENT, ENVIRONMENTAL
8 IMPROVEMENT DIVISION,

9 Defendant-Appellee.

JAN 8 1992
RECEIVED
ORDER

10
11 On the Courts' own motion, the above-entitled matter is scheduled for
12 oral argument on Wednesday, February 5, 1992 at 9:00 a.m. in the Court of
13 Appeals courtroom, Room 119, 237 Don Gaspar, Santa Fe. In addition to
14 addressing the issues discussed in the briefs, the parties shall be prepared
15 to discuss the following:

16 1. Whether the material to be classified as waste after 90 days is
17 "discarded" or remains part of an ongoing process. Compare API v. EPA, 906
18 F.2d 730 (D.C. Cir. 1990) with American Mining Congress v. EPA, 824 F2d 1177
19 (D.C. Cir. 1987).

20 2. Does the permit require waste verification on waste other than
21 group II(a) material? If not, why is waste verification on this small group
22 of materials onerous? If so, what tests are justified and what support is
23 there in the record for such a testing requirement?

24 3. In what particular respect is the permit categorization into group
25 I and group II more stringent than Resource Conservation and Recovery Act
26 guidelines?

27 *Patricia C. Marguarres*
CLERK OF THE COURT

28 xc: Counsel of Record

KAFB1191
[Barcode]