

# **LIBRARY COPY**

**RESOURCE CONSERVATION AND RECOVERY ACT  
DRAFT POST-CLOSURE CARE PERMIT  
EPA ID NO. NMT-360010342**

**issued to**

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

**for the**

**PERSON GENERATING STATION**

**located in**

**ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO**

**Issued by**

**NEW MEXICO ENVIRONMENT DEPARTMENT  
HAZARDOUS AND RADIOACTIVE MATERIALS BUREAU  
2044 A GALISTEO STREET  
SANTA FE, NM 87505**

**JUNE 12, 2000**

001200

## HAZARDOUS WASTE FACILITY PERMIT

Permittee: Public Service Company of New Mexico  
Person Generating Station  
Broadway Boulevard at Rio Bravo Boulevard  
Albuquerque, New Mexico

Identification Number: NMT 360010342  
Permit Number: NMT 360010342-1

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6901, et seq.), and the New Mexico Hazardous Waste Act, NMSA 1978, Sections 74-4-1 et seq., and regulations promulgated thereunder by the New Mexico Environmental Improvement Board (codified and to be codified in the Hazardous Waste Management Regulations [20 NMAC 4.1]), a Post-Closure Care Permit is issued to the Public Service Company of New Mexico (**Permittee**), to monitor groundwater and perform corrective actions at a hazardous waste facility called the Person Generating Station, comprising a closed, gas-fired electric generating plant, a Soil Vapor Extraction well and treatment system, groundwater monitoring wells, groundwater extraction wells, and a tray aeration groundwater treatment system. The facility is located on a 22-acre site in the South Valley of Albuquerque, northeast of Broadway Boulevard and Rio Bravo Boulevard, approximately two miles east of the Rio Grande, at Latitude 35°01'41" North and Longitude 106°38'35" West.

The Permittee shall comply with all terms and conditions of this Permit. This Permit consists of the requirements and conditions herein, including those in the Attachments and all activities and standards in the Permit Application Volumes 1 through 5. Applicable provisions of regulations cited are those which are in effect on the effective date of this Permit, New Mexico Hazardous Waste Management Regulations 20 NMAC 4.1 (Effective March 1, 1997).

This Permit is based on the assumption that all information contained in the Permit Application and the administrative record is accurate and that the Facility will be operated as specified in the Permit Application. The Permit Application consists of information contained in Volumes 1 through 5 submitted to the New Mexico Environment Department Hazardous and Radioactive Materials Bureau (HRMB) on March 4, 1998, and including subsequent modifications and revisions received by HRMB as of May 30, 2000.

Any inaccuracies found in the submitted information may be grounds for the termination or modification of this Permit in accordance with 20 NMAC 4.1.900 (incorporating 40 CFR 270.41, 270.42, and 270.43) and for potential enforcement action.

This Permit shall become effective thirty days after notice of the decision is served on the applicant, and shall remain in effect for ten years in accordance with the New Mexico Hazardous Waste Act, Section 74-4-4, unless modified, suspended or revoked under Section 74-4-4.2 or 20 NMAC 4.1.900 (incorporating 40 CFR 270.41, 270.42, 270.43) or continued in accordance with 20 NMAC 4.1.900 (incorporating 40 CFR 270.51), or issued for a duration that is less than the full allowable term in accordance with 20 NMAC 4.1.900 (incorporating 40 CFR 270.50(c)).

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

by **DRAFT**  
Peter Maggioro  
Secretary  
New Mexico Environment Department

1571 NI 04171

TABLE OF CONTENTS

MODULE 1 - GENERAL PERMIT CONDITIONS

I.A.	Effect of Permit	Page 3
I.B.	Permit Actions	3
I.C.	Severability	4
I.D.	Definitions	4
I.E.	Duties and Requirements	6
I.F.	Signatory Requirement	9
I.G.	Reports, Notifications, and Submissions	9
I.H.	Confidential Information	9
I.I.	Enforcement	9

MODULE II - GENERAL FACILITY CONDITIONS

II.A.	Design and Operation of Facility	10
II.B.	Off-Site Wastes	10
II.C.	Security	10
II.D.	General Inspection Requirements	10
II.E.	Preparedness and Prevention	10
II.F.	Recordkeeping and Reporting	11

MODULE III - POST-CLOSURE CARE

III.A.	Module Highlights	15
III.B.	General Post-Closure Requirements	15
III.C.	Post-Closure Procedures and Use of Property	16
III.D.	Notices and Certification	16
III.E.	Financial Assurance	17
III.F.	Post-Closure Permit Modifications	18
III.G.	Incapacity	18

Attachment III-1	Post-Closure Cost Estimate	Page 19
Attachment III-2	Financial Assurance Trust Agreement	19

MODULE IV - CORRECTIVE ACTION

IV.A.	Corrective Action for Regulated Units	20
IV.A.1.	Corrective Action for Soil	20
IV.A.2.	Corrective Action for Groundwater	21
IV.B.	Corrective Action for SWMU's	26

APPENDICES

Appendix A - SWMU Summary	32 and 33
---------------------------	-----------

## MODULE I - GENERAL PERMIT CONDITIONS AND REQUIREMENTS

### I.A. EFFECT OF PERMIT

The Secretary of the New Mexico Environment Department (the Secretary) issues this Post-Closure Care Permit (the Permit) to the Public Service Company of New Mexico (PNM), the owner and operator of the Person Generating Station site (the Site) (EPA ID Number NMT 360010342). This Permit authorizes PNM (the Permittee) to perform the Corrective Action Program and to treat hazardous waste at the Site, and establishes the general and specific standards for these activities, pursuant to the New Mexico Hazardous Waste Act (HWA), NMSA 1978, Sections 74-4-1 et seq., and the New Mexico Hazardous Waste Management Regulations, 20 NMAC 4.1.100. et seq.

Compliance with this Permit during its term shall constitute compliance, for purposes of enforcement, with Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., the HWA, and their implementing regulations, except as otherwise specified at 20 NMAC 4.1.900. (incorporating 40 CFR §270.4(a)). Compliance with this Permit shall not constitute a defense to any order issued or any action brought under Sections 74-4-10, 74-4-10.1, or 74-4-13 of the HWA; Sections 3008(a), 3008(h), 3013, 7002(a)(1)(B), or 7003 of RCRA; Sections 104, 106(a), 107, or 196(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; or any other law providing for protection of public health or the environment. This Permit does not convey any property rights or any exclusive privilege, nor authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local laws or regulations. [20 NMAC 4.1.900. (incorporating 40 CFR 270.4 and 270.30(g))]

This Permit consists of Permit Modules I through IV and the Permit Application Volumes 1 through 5. The Permit Application is incorporated herein by reference and made an enforceable part of this Permit. The Permittee shall comply with the post-closure care, corrective action, and other activities and standards specified in the Permit Modules and the Permit Application.

### I.B. PERMIT ACTIONS

#### I.B.1. Permit Modification, Suspension, and Revocation

This Permit may be modified, suspended, and/or revoked for cause, as specified in Section 74-4-4.2 of the HWA and 20 NMAC 4.1.901.B. and 4.1.900. (incorporating 40 CFR 270.41, 270.42, and 270.43). The filing of a request for a Permit modification, suspension, or revocation, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or

enforceability of any Permit condition. [20 NMAC 4.1.900. (incorporating 40 CFR 270.4(a) and 270.30(f))]

I.B.2. Permit Renewal

The Permittee may renew this Permit by submitting an application for a new permit at least 180 days before the expiration date of this Permit, in accordance with 20 NMAC 4.1.901. and 4.1.900. (incorporating 40 CFR 270.10(h) and 270.30(b)) and Permit Condition I.E.3. In reviewing any application for a Permit renewal, the Secretary shall consider improvements in the state of control and measurement technology and changes in applicable regulations. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(b))]

I.C. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.

I.D. DEFINITIONS

Unless otherwise expressly provided herein, the terms used in this Permit shall have the meaning set forth in the HWA, RCRA, and/or their implementing regulations.

"Area of Concern (AOC)" means any area having a probable release of hazardous waste or hazardous constituents which is not from a solid waste management unit and is determined to pose a current or potential threat to human health or the environment.

"Corrective Action Program" means all work undertaken to clean up and monitor soil and groundwater contamination at the Site, including the Corrective Action Program, Plan, and requirements for soil, and the Corrective Action Programs, Plans, and requirements for groundwater specified in Permit Application Volumes 3, 4, and 5 and these Permit modules, and the groundwater monitoring programs specified in Permit Application Volumes 4 and 5 and Permit Modules I through IV.

"Facility" means the Person Generating Station site owned by the Public Service Company of New Mexico and located in the South Valley of Albuquerque, on approximately 22 acres northeast of Broadway Boulevard and Rio Bravo Boulevard, EPA ID No. NMT 360010342.

"Hazardous Constituent" means any constituent identified in 20 NMAC 4.1.200. (incorporating 40 CFR Part 261, Appendix VIII), any constituent identified in 20 NMAC 4.1.500. (incorporating 40 CFR

Part 264, Appendix IX), any constituent identified in a hazardous waste listed in 20 NMAC 4.1.200. (incorporating 40 CFR Part 261, Subpart D), or any constituent identified in a toxicity characteristic waste in 20 NMAC 4.1.200. (incorporating 40 CFR 261.24, Table 1).

"HWA" means the New Mexico Hazardous Waste Act, NMSA 1978, §§74-4-1 et seq. (Repl. Pamp. 1993).

"MCL's" means Maximum Contaminant Levels under the Federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and regulations promulgated thereunder.

"Permit Application" means Volume 1 through 5 submitted by PNM and all modifications or revisions received by the New Mexico Environment Department (NMED) Hazardous and Radioactive Materials Bureau (HRMB) as of May 30, 2000.

"Permittee" means the Public Service Company of New Mexico.

"RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq.

"Regional Administrator" means the Regional Administrator of EPA Region 6, or designee or authorized representative.

"Secretary" means the Secretary of NMED or designee.

"Site" means the land, including the subsurface and groundwater, consisting of an area including the Facility and the land, including the subsurface and groundwater, in the vicinity of the Facility, where any hazardous waste or hazardous constituents originating from the Facility come to be located.

"Solid Waste Management Unit" or "SWMU" means any discernible unit or area at the Facility at which solid waste has been placed at any time, and from which the Secretary determines there may be a risk of a release of hazardous constituents, irrespective of whether the unit was intended for the management of solid or hazardous waste. Placement of solid waste includes one time and accidental events that were not remediated, as well as any unit or area at which solid waste has been routinely and systematically placed.

"WQCC standards" means the maximum allowable ground water contaminant concentrations listed at 20 NMAC 6.2.3103. and 6.2.4103.

## I.E. DUTIES AND REQUIREMENTS

### I.E.1. Duty to Comply

The Permittee shall comply with all conditions and requirements of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit as specified in 20 NMAC 4.1.900. (incorporating 40 CFR 270.61). Any noncompliance with any condition or requirement of this Permit, other than under the terms of an emergency permit, constitutes a violation of the HWA and/or RCRA and may subject the Permittee, its successors and assigns, officers, directors, employees, parents, or subsidiaries to an administrative or civil enforcement action, including civil penalties and injunctive relief, under Sections 74-4-10 or 74-4-10.1 of the HWA or Section 3008(a) and (g) or 3013 of RCRA; Permit modification, suspension, revocation, or denial of a permit application or modification request under Section 74-4-4.2 of the HWA; citizen suit under Section 7002(a) of RCRA; criminal penalties under Section 74-4-11 of the HWA or Section 3008(d), (e), and (f) of RCRA; or some combination of the foregoing. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(a))]

### I.E.2. Permit Term

This Permit shall be effective for ten years from its effective date. [20 NMAC 4.1.900. (incorporating 40 CFR 270.50(a))]

### I.E.3. Duty to Reapply

If the Permittee will continue an activity allowed or required by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least 180 days before this Permit expires, in accordance with all applicable laws, unless an extension is granted by the Secretary. [20 NMAC 4.1.900. (incorporating 40 CFR 270.10(h) and 270.30(b))]

### I.E.4. Permit Expiration

This Permit and all conditions herein will remain in effect beyond the Permit's expiration date, if the Permittee has submitted a timely, complete application for renewal of this Permit 180 days prior to the expiration date of this Permit, in accordance with 20 NMAC 4.1.900. (incorporating 40 CFR 270.10 and 270.13 through 270.29) and, through no fault of the Permittee, the Secretary has not issued a new Permit on or before the expiration date of this Permit. [20 NMAC 4.1.900. (incorporating 40 CFR 270.10(h) and 270.51)]

I.E.5. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(d))]

I.E.6. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the Permittee to achieve compliance with the conditions and requirements of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions and requirements of this Permit. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(e))]

I.E.7. Duty to Provide Information

The Permittee shall furnish to the Secretary, within a reasonable time period specified by the Secretary, any relevant information which the Secretary requests to determine whether cause exists for modifying, suspending, or revoking this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Secretary, upon request, copies of any records required to be kept by this Permit. [20 NMAC 4.1.500. and 4.1.900. (incorporating 40 CFR 264.74(a) and 270.30(h))]

I.E.8. Inspection and Entry

The Permittee shall allow the Secretary, or authorized representatives, upon the presentation of credentials:

- a. Entrance to Premises - to enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- b. Access to Records - to have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- c. Inspection - to inspect, at reasonable times, any

Facility equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

d. Sampling - to sample or monitor, at reasonable times, for the purposes of assuring Permit compliance or as otherwise authorized by the HWA and/or RCRA, any substances or parameters at any location. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(i))]

Permit Condition I.E.8. shall not be construed to limit, in any manner, the Secretary's authority under Section 74-4-4.3. of the HWA or other applicable law.

I.E.9. Reporting Requirements

a. Reporting Planned Changes - The Permittee shall give notice to the Secretary, as soon as possible, of any planned physical alterations or additions to the Facility. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(1)(1))]

b. Reporting Anticipated Noncompliance - The Permittee shall give advance notice to the Secretary of any planned changes in the permitted Facility or activity which may result in noncompliance with Permit conditions or requirements. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(1)(2), and (10))]

c. Other Noncompliance - The Permittee shall report all instances of noncompliance with Permit conditions and requirements not reported under Permit Conditions I.E.9.a. and b. above and II.F.2. below at the time monitoring reports are submitted under Permit Condition IV.A.2.a.iv.(h) below.

I.E.10. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in any document submitted to the Secretary, the Permittee shall promptly submit the corrected facts or information in writing to the Secretary. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(1)(11))]

I.E.11. Transfer of Permits

The Permittee shall not transfer this Permit to any person except after notice to the Secretary. The Secretary shall require modification or revocation and reissuance of this Permit, as specified by 20 NMAC 4.1.901. and 4.1.900. (incorporating 40 CFR 270.40(b) and 270.41(b)(2)), to identify

the new Permittee and incorporate such other requirements as may be necessary under the HWA and RCRA and implementing regulations. Before transferring ownership or operation of the Facility, the Permittee shall notify the new owner or operator in writing of all applicable requirements of 20 NMAC Chapter 4 and this Permit. [20 NMAC 4.1.500. and 4.1.900. (incorporating 40 CFR 264.12(c) and 270.30(1)(3))]

I.F. SIGNATORY REQUIREMENT

The Permittee shall sign and certify, as specified in 20 NMAC 4.1.900. (incorporating 40 CFR 270.11), all applications, reports required by this Permit, or information required by the Secretary. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(k))].

I.G. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE SECRETARY

All reports, notifications, or other submissions which are required by this Permit to be submitted to the Secretary shall be sent by certified mail or hand-delivered to:

Bureau Chief  
Hazardous and Radioactive Materials Bureau  
New Mexico Environment Department  
2044A Galisteo Street  
Santa Fe, NM 87505

I.H. CONFIDENTIAL INFORMATION

The Permittee may claim confidentiality for any information submitted to or requested by the Secretary or required by this Permit, to the extent authorized by Section 74-4-4.3(D) of the HWA and 20 NMAC 4.1.900. (incorporating 40 CFR 270.12).

I.I. ENFORCEMENT

I.I.1. Waiver of Defenses

In any judicial action brought in New Mexico District Court for the First Judicial District under the HWA, or in the United States District Court for the District of New Mexico under RCRA (or under the HWA asserting supplemental jurisdiction under 28 U.S.C. § 1367), the Permittee waives all objections and defenses it may have to the jurisdiction of either such State or federal court or to venue in either such State or federal district.

I.I.3. Admissibility of Data

In any administrative or judicial action to enforce a condition of this Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Permit.

## MODULE II - GENERAL FACILITY CONDITIONS AND REQUIREMENTS

### II.A. DESIGN AND OPERATION OF FACILITY

The Permittee shall construct, design, maintain, and operate the Facility to minimize the possibility of a fire, explosion, or any unplanned, sudden, or non-sudden release of hazardous waste constituents to air, soil, surface water, or groundwater which could threaten human health or the environment. [20 NMAC 4.1.500. (incorporating 40 CFR 264.31)]

### II.B. OFF-SITE WASTES

The Permittee shall not accept hazardous waste at the Facility from any off-site source.

### II.C. SECURITY

The Permittee shall comply with the security provisions specified in 20 NMAC 4.1.500. (incorporating 40 CFR 264.14(b)(2) and (c)) and in Permit Application Volume 1, Section 2.7.2. and Attachment 31, in order to prevent unknowing or unauthorized entry onto the Site by persons or livestock.

### II.D. GENERAL INSPECTION REQUIREMENTS

The Permittee shall implement the inspection schedule specified in Permit Application Volume 2, Sections 2.3 and 2.4. The Permittee shall remedy any deterioration or malfunction discovered by an inspection. The Permittee shall maintain records of inspection in accordance with Permit Application Volume 2, Section 2.3., and Permit Condition II.F.4. below. [20 NMAC 4.1.500. (incorporating 40 CFR 264.15)]

### II.E. PREPAREDNESS AND PREVENTION

#### II.E.1. Required Equipment

The Permittee shall maintain, at a minimum, the emergency equipment specified in Permit Application Volumes 3, 4, and 5, Sections 4, at the Facility. [20 NMAC 4.1.500. (incorporating 40 CFR 264.32)]

#### II.E.2. Testing and Maintenance of Equipment

The Permittee shall test and maintain the equipment specified in Permit Condition II.E.1. above, on a periodic basis as necessary, to assure its proper operation in time of emergency. [20 NMAC 4.1.500. (incorporating 40 CFR 264.33)]

II.E.3. Access to Communications and Alarm System

The Permittee shall maintain access to the communications and alarm system specified in Permit Application Volumes 3, 4, and 5, Sections 4. [20 NMAC 4.1.500. (incorporating 40 CFR 264.34)]

II.E.4. Arrangements with Local Authorities

The Permittee shall maintain emergency arrangements with state and local authorities, as specified in Permit Application Volumes 3, 4, and 5, Sections 4.3 and 4.4. [20 NMAC 4.1.500. (incorporating 40 CFR 264.37)]

II.F. RECORDKEEPING AND REPORTING

In addition to the recordkeeping and reporting requirements specified elsewhere in this Permit, the Permittee shall comply with the following requirements:

II.F.1. Operating Record

The Permittee shall maintain at the Facility, until the end of the post-closure care period or completion of corrective action, whichever is later, a written record of waste, soil, and groundwater analyses. The written operating record shall include all information required under 20 NMAC 4.1.500. (incorporating 40 CFR 264.73(b)(5), (6), and (8)) and Permit Conditions II.F.3. and II.F.4. below. [20 NMAC 4.1.500. (incorporating 40 CFR 264.73)]

II.F.2. Twenty-four Hour Reporting

a. The Permittee shall report orally to the Secretary any noncompliance or incident at the Facility or Site which may endanger human health or safety or the environment. Such report shall be made within 24 hours from the time the Permittee becomes aware of the circumstances and shall include:

i. Information concerning the release of any hazardous waste or hazardous constituents which may endanger public drinking water supplies;

ii. Information concerning the release or discharge of any hazardous waste or hazardous constituents, or of a fire or explosion at the facility, which could threaten the environment or human health outside the facility. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(1)(6)(i))]

b. The description of the occurrence and its cause

shall include:

- i. Name, address, and telephone number of the Permittee and the Facility;
- ii. Date, time, and type of incident;
- iii. Name and quantity of materials involved;
- iv. The extent of injuries, if any;
- v. An assessment of actual or potential hazards to the environment and human health outside the Facility; and
- vi. Estimated quantity and disposition of recovered material that resulted from the incident. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(l)(6)(ii))]

c. The Permittee shall also submit a written notice to the Secretary within five calendar days of the time the Permittee becomes aware of the circumstances under Permit Condition II.F.2.a. above. The written notice shall contain the following information:

- i. a description of the noncompliance or incident and its cause;
- ii. the period(s) of noncompliance or incident, including exact dates and times, and, if the noncompliance or incident has not been corrected, the anticipated time it is expected to be corrected; and
- iii. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, incident, or imminent hazard.

The Secretary may waive the five day written notice requirement in favor of a written report within 15 days. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(l)(6)(iii))]

### II.F.3. MONITORING RECORDS

a. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, records of all data used to complete the Permit Application, and records from all

ground-water monitoring wells and associated ground-water surface elevations until, at a minimum, the later of the following dates: 1) three years from the date of the sample, measurement, report, record, certification, or Permit Application, or 2) the date that post-closure care and corrective action are approved as complete by the Secretary. The Secretary may extend these periods at any time, and these periods shall be automatically extended during the course of any unresolved enforcement action regarding the Facility. [20 NMAC 4.1.500. and 4.1.900. (incorporating 40 CFR 264.74(b) and 270.30(j)(2))]

b. Records of monitoring information shall include:

i. The dates, exact place, and times of sampling or measurements;

ii. The individuals who performed the sampling or measurements;

iii. The dates analyses were performed;

iv. The laboratory and individuals who performed the analyses;

v. The quality assurance and quality control procedures used;

vi. The analytical techniques or methods used; and

vii. The results of such analyses. [20 NMAC 4.1.900 (incorporating 40 CFR 270.30(j)(3))]

#### II.F.4. DOCUMENTS TO BE MAINTAINED AT THE FACILITY

The Permittee shall maintain at the Facility, until post-closure care and corrective action are approved as complete by the Secretary, the following documents and all amendments, revisions, and modifications to these documents:

a. This Permit and its Attachments, including Application Volumes 1 through 5, with the Volume 2 Post-Closure Care Plan, as required by 20 NMAC 4.1.500 (incorporating 40 CFR 264.118(a));

b. Inspection schedules, as required by 20 NMAC 4.1.500. (incorporating 40 CFR 264.15(b)(2)) and this Permit;

c. Operating record, as required by 20 NMAC 4.1.500. (incorporating 40 CFR 264.73) and this Permit;

d. Annually-adjusted post-closure cost estimate, as required by 20 NMAC 4.1.500. (incorporating 40 CFR 264.144(d)) and this Permit;

e. Groundwater monitoring and all other corrective action documents required by Permit Condition II.F.3.a. and b. above.

## MODULE III - POST-CLOSURE CARE CONDITIONS AND REQUIREMENTS

### III.A. MODULE HIGHLIGHTS

This Permit implements post-closure care requirements for soil and groundwater contamination left in place after closure of a RCRA-regulated unit, an unlined, below-grade dry well used for disposal of RCRA-regulated hazardous waste. The dry well was located at what is now the capped area, and consisted of a vertical, below-ground, open-ended, three and a half foot by ten foot pipe that received waste piped from a parts cleaning station. The waste consisted of waste oils and greases, kerosene, waste paint, paint thinners, turpentine, and various solvents, including a solvent with the active ingredients of 1,1,1-trichloroethane (1,1,1-TCA) and tetrachloroethene (PCE). The dry well was used from 1976 to 1983. Closure of the dry well was completed in January, 1988. A Post-Closure Care Permit, implementing post-closure care and corrective action requirements, was issued in August, 1988 and expired in August, 1998. The terms of that Permit remain in effect until the effective date of this Permit. Post-closure care requirements shall remain in place for 30 years after closure, unless the post-closure period is shortened or lengthened pursuant to 20 NMAC 4.1.500. (incorporating 40 CFR 264.117(a)(2)). The Corrective Action Program consists of monitoring and extraction wells and a groundwater treatment system consisting of a tray aeration unit, and is required to remain in place until completion of corrective action, i.e., demonstration of attainment of cleanup standards for three years and as otherwise required by Module IV of this Permit, pursuant to 20 NMAC 4.1.500. (incorporating 40 CFR 264.96(c) and 264.100(f)).

### III.B. GENERAL POST-CLOSURE REQUIREMENTS

#### III.B.1. Post-Closure Care Period

The Permittee shall comply with post-closure care requirements for 30 years after completion of closure of the RCRA-regulated unit, unless the Secretary approves shortening or lengthening the post-closure care period pursuant to 20 NMAC 4.1.500. (incorporating 40 CFR 264.117(a)(2)). Post-closure care shall be in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR Part 264, Subpart G), and the Post-Closure Plan, Permit Application Volume 2, and shall be subject to the terms and conditions of this Permit. [20 NMAC 4.1.500. (incorporating 40 CFR 264.117)]

The Permittee shall implement the Post-Closure Plan, Permit Application Volume 2. All post-closure care activities must be conducted in accordance with the provisions of the Post-Closure Plan. [20 NMAC 4.1.500. (incorporating 40 CFR 264.117(d) and 264.118(b))]

III.C. POST-CLOSURE PROCEDURES AND USE OF PROPERTY

III.C.1. The Permittee shall operate the ground-water monitoring and corrective action system of the Corrective Action Program and shall comply with all other applicable requirements of 20 NMAC 4.1.500. (incorporating 40 CFR Part 264, Subpart F), during the post-closure period. [20 NMAC 4.1.500. (incorporating 40 CFR 264.117(a)(1))]

III.C.2. The Permittee shall comply with the requirements for landfills, pursuant to 20 NMAC 4.1.500. (incorporating 40 CFR 264.310), and as follows:

a. Maintain the integrity and effectiveness of the final cover, including making repairs to the cap, as necessary, to correct the effects of settling, subsidence, erosion, or other events;

b. Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

c. Protect and maintain surveyed benchmarks used in complying with the surveying and recordkeeping requirements of 20 NMAC 4.1.500. (incorporating 40 CFR 264.309). [20 NMAC 4.1.500. (incorporating 40 CFR 264.310(b))]

III.C.3. The Permittee shall maintain security at the Facility during the post-closure care period, in accordance with the Post-Closure Plan and all security requirements specified in Permit Condition II.C. and Permit Application Volume 1, Section 2.7.2. and Attachment 31, and in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.14). [20 NMAC 4.1.500. (incorporating 40 CFR 264.117(b))]

III.C.4. The Permittee shall not allow any use of the Facility which will disturb the integrity of the final cover or the function of the Facility's monitoring or corrective action systems during the post-closure care period, in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.117(c)). [20 NMAC 4.1.500. (incorporating 40 CFR 264.117(c))]

III.C.5. The Permittee shall inspect the components, structures, and equipment at the Site in accordance with the requirements specified at Permit Condition II.D. and Permit Application Volume 2, Sections 2.3. and 2.4. [20 NMAC 4.1.500. (incorporating 40 CFR 264.117(a)(1)(ii))]

III.D. NOTICES AND CERTIFICATION

III.D.1. If the Permittee wishes to move off-site any

hazardous waste, hazardous waste residue, or contaminated soils, then the Permittee shall request a modification to this Permit in accordance with the applicable requirements at 20 NMAC 4.1.901. and 4.1.900. (incorporating 40 CFR Part 270). The Permittee shall demonstrate that the removal of hazardous waste is in compliance with all applicable HWA and RCRA requirements for generation and transport of hazardous waste. [20 NMAC 4.1.500. (incorporating 40 CFR 264.119(c))]

III.D.2. No later than 60 days after completion of the established post-closure care period, the Permittee shall submit to the Secretary, by registered mail, a certification that post-closure care was performed in accordance with the specifications in the Post-Closure Plan. The certification must be signed by the Permittee and an independent, New Mexico registered professional engineer. Documentation supporting the independent, registered professional engineer's certification must be furnished to the Secretary upon request until the Secretary releases the Permittee from the financial assurance requirements for post-closure care under 20 NMAC 4.1.500. (incorporating 40 CFR 264.145(1)). [20 NMAC 4.1.500. (incorporating 40 CFR 264.120)]

### III.E. FINANCIAL ASSURANCE

The Permittee shall implement and maintain financial assurance and comply with all applicable requirements of 20 NMAC 4.1.500. (incorporating 40 CFR Part 264, Subpart H), during the post-closure period. The Permittee shall demonstrate continuous compliance with financial assurance requirements by providing documentation of financial assurance in compliance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.145 and 264.151), in at least the amount of the cost estimate required by 20 NMAC 4.1.500. (incorporating 40 CFR 264.144), and Permit Condition III.E.1. Changes in financial assurance mechanisms must be approved by the Secretary pursuant to 20 NMAC 4.1.500. (incorporating 40 CFR 264.145). A copy of the Permittee's financial assurance instrument is attached as Permit Attachment III-2.

#### III.E.1. Cost Estimate for Facility Post-Closure

The Permittee's most recent post-closure cost estimate, prepared in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.144), is specified in Permit Attachment III-1.

a. The Permittee shall adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument used to comply with 20 NMAC 4.1.500. (incorporating 40 CFR 264.145), and Permit Condition III.E. [20 NMAC 4.1.500. (incorporating 40 CFR 264.142(b))]

b. The Permittee shall revise the post-closure cost estimate whenever there is a change in the Facility's Post-Closure Plan. [20 NMAC 4.1.500. (incorporating 40 CFR 264.144(c))]

c. The Permittee shall keep in the operating record at the Facility the latest post-closure cost estimate. [20 NMAC 4.1.500. (incorporating 40 CFR 264.144(d))]

d. Financial assurance funds may be released, upon approval by the Secretary and in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.145(a)(10)), if the value of the financial assurance mechanism exceeds the remaining cost of post-closure care. The Permittee shall demonstrate to the Secretary that the value of the financial assurance mechanism exceeds the remaining cost of post-closure care, in order for the Secretary to approve a release of funds. [20 NMAC 4.1.500. (incorporating 40 CFR 264.145(a)(10))]

e. The Permittee shall submit itemized bills to the Secretary when requesting reimbursement from the trustee for post-closure care expenditures in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.145(a)(11)).

### III.F. POST-CLOSURE PERMIT MODIFICATIONS

The Permittee shall request a Permit modification to authorize a change in the approved Post-Closure Plan when a change is made in the Post-Closure Plan. This request shall be in accordance with applicable requirements of 20 NMAC 4.1.901. and 4.1.900. (incorporating 40 CFR Part 270, Subpart D), and must include a copy of the proposed amended Post-Closure Plan for approval by the Secretary. The Permittee shall request a Permit modification whenever changes in operating plans or Facility design affect the approved Post-Closure Plan, or other events occur that affect the approved Post-Closure Plan. The Permittee shall submit a written request for a Permit modification at least 60 days prior to the proposed change in Facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the Post-Closure Plan, and in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.118(d)).

### III.G. INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS

The Permittee shall comply with 4.1.500. (incorporating 40 CFR 264.148), in the event of bankruptcy proceedings naming the owner or operator or bankruptcy of the financial assurance issuing institution. [20 NMAC 4.1.500. (incorporating 40 CFR 264.148)]

PERMIT ATTACHMENTS REFERENCED IN MODULE III - POST-CLOSURE CARE

<u>Permit Attachment No.</u>	<u>Plan or Document</u>
III-1	Post-Closure Cost Estimate
III-2	Financial Assurance Trust Agreement

ATTACHMENT III-1

**Schedule A**  
**Effective March 20, 2000**

EPA ID Number	NMT 360010342
Name:	Person Generating Station
Address:	Broadway Blvd. at Rio Bravo Blvd. Albuquerque, NM
Current post-closure cost estimate:	\$4,417,025

ATTACHMENT III-2  
TRUST AGREEMENT

Trust Agreement, the "Agreement," entered into as of May 27, 1993, by and between Public Service Company of New Mexico, a New Mexico corporation, the "Grantor," and First National Bank in Albuquerque, N.A., the "Trustee."

Whereas, the New Mexico Environmental Improvement Division, "E.I.D.," an agency of the State of New Mexico, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A.

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of EID. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B

attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibilities for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by EID.

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the fund as the EID Director shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the EID Director from the Fund for closure and post-closure expenditures in such amounts as the EPA Regional Administrator shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the EID Director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which

persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State Government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale.

No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificate of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and

all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate EID Director a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EID Director shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor

trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the EID Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the EID Director to the Trustee shall be in writing, signed by the EID Director, or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or EID hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or EID, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the EID Director, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate EPA Regional Administrator, or by

the Trustee, and the EID Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the EID Director, or by the Trustee and the EID Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EID Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of New Mexico.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in the New Mexico Hazardous Waste Management Regulation, Part II, 206.D.3.j.(1)(a), as such regulations were constituted on the date first above written.

*Mike H. Laska*  
Senior Vice President and  
Chief Financial Officer

Attest: *Anita L. Romero*  
*My Commission expires July 19, 1995*  
Financial Compliance Specialist  
[Seal]



OFFICIAL SEAL  
ANITA L. ROMERO  
NOTARY PUBLIC • STATE OF NEW MEXICO  
My Commission Expires July 19, 1995  
*Donald R. Bloom*

Attest: *Kathy Earl*  
Title Assistant Vice President & CO  
[Seal]

MODULE IV - CORRECTIVE ACTION CONDITIONS AND REQUIREMENTS

IV.A. CORRECTIVE ACTION FOR RCRA-REGULATED UNITS

The Corrective Action Program addressing the release of contaminants to soil and groundwater from the dry well RCRA-regulated unit is described in the Permit Application, which is incorporated by reference into this Permit. The Corrective Action Program for soil is at Permit Application Volume 3, Section 3; the Corrective Action Program for shallow groundwater is at Permit Application Volume 4, Section 3; and the Corrective Action Program for deeper groundwater is at Permit Application Volume 5, Section 3.

IV.A.1. Corrective Action for Soil

a. The Permittee shall comply with the Corrective Action Program for soils, consisting of a soil vapor extraction (SVE) system, described in Permit Application Volumes 2 and 3. The cleanup standards for soil are:

i. For all soil, meaning from the ground surface to the water table, Soil Screening Levels (SSL's) for Transfers from Soil to Groundwater (DAF=20) in 1999 EPA Region 6 Human Health Medium-Specific Screening Levels. The SSL's for the Constituents of Concern (COC's) at the Site are:

PCE	0.06 mg/kg
1,1-DCE	0.06 mg/kg
1,1,1-TCA	2.0 mg/kg

ii. For surface soil, meaning from the surface of the ground to 12 feet below the ground surface, a cumulative  $10^{-5}$  carcinogenic risk level for all three COC's. This risk level is calculated by multiplying by 10/3 the residential Risk-Based Screening Level in the 1999 EPA Region 6 Human Health Medium-Specific Screening Levels. The acceptable risk level for surface soil at the Site are:

PCE	16.0 mg/kg
1,1-DCE	0.18 mg/kg
1,1,1-TCA	1,400.0 mg/kg (saturation level)

b. The Permittee shall operate the SVE system to meet the following performance standards:

i. No leakage of water on the surface shall be allowed to occur around the SVE well which might serve to drive the contaminants lower in the vadose

zone;

ii. Air releases shall meet the standards of Bernalillo County air emission regulations.

c. If the Permittee demonstrates attainment of soil remediation standards under Permit Condition IV.A.1.a.i. and ii. above in accordance with this Permit and in accordance with the sampling and analysis provisions specified in Permit Application Volume 3, Section 6, then the Permittee may submit a request to the Secretary to shorten the post-closure care period for soil, in accordance with 20 NMAC 4.1.500. (incorporating 40 CFR 264.117(a)(2)(i)), and to terminate the Corrective Action Program at the Site for soil.

#### IV.A.2. Corrective Action for Groundwater

The Permittee shall comply with the Corrective Action Program for groundwater specified in Permit Application Volumes 2, 4 and 5; with the corrective action conditions and requirements in this Permit Module; and with the requirements of 20 NMAC 4.1.500. (incorporating 40 CFR Part 264, Subpart F).

##### a. General Requirements

##### i. Groundwater Protection Standard

(a) Hazardous Constituents. The Permittee shall monitor at the well locations, frequencies, and for the Hazardous Constituents specified in Permit Application Volume 4, Table 3.2 and Appendix F, and Volume 5, Table 3.5 and Appendix D, and at other wells as may be required under IV.A.2.a.iv.(i) below. The constituents that currently exceed standards in groundwater at the Site (Chemicals of Concern or COC's) are:

tetrachloroethylene (PCE)  
1,1-dichloroethylene (1,1-DCE)  
1,1,1-trichloroethane (1,1,1-TCA) [20 NMAC  
4.1.500. (incorporating 40 CFR 264.93)]

(b) Concentration Limits. The maximum concentrations of all Hazardous Constituents in the groundwater shall not exceed the more stringent of WQCC standards or MCL's. The

concentration limits for the COC's at the Site are:

PCE 5.0 µg/L  
1,1-DCE 5.0 µg/L  
1,1,1-TCA 60.0 µg/L [20 NMAC 4.1.500.  
(incorporating 40 CFR 264.94)]

(c) Point of Compliance. The point of compliance is the vertical surface located perpendicular to the groundwater flow direction at PSMW-1R and extending into the uppermost aquifer. The concentration limits in Permit Condition IV.A.2.a.i.(b) above shall apply at all wells at and downgradient from the point of compliance. [20 NMAC 4.1.500. (incorporating 40 CFR 264.95)]

ii. The Permittee shall continue the Corrective Action Program until the groundwater protection standards set forth in Permit Conditions IV.A.2.a.i.(a), (b), and (c) above have not been exceeded for three consecutive years. [20 NMAC 4.1.500. (incorporating 40 CFR 264.100(f))]

iii. If the Permittee or the Secretary determines that the Corrective Action Program established by this Permit no longer satisfies the requirements of RCRA, the HWA, regulations promulgated pursuant to RCRA and the HWA, or this Permit, then the Permittee shall, within 90 days of the determination, submit for approval by the Secretary a request for a permit modification to make any appropriate changes to the Corrective Action Program which will satisfy RCRA, the HWA, the regulations, and this Permit. [20 NMAC 4.1.500. (incorporating 40 CFR 264.100(h))]

iv. Groundwater Monitoring

(a) The Permittee shall maintain the groundwater monitoring program specified in Permit Application Volumes 4 and 5 for the duration of the Corrective Action Program, as specified in Permit Application Volume IV, Section 3.3.2.2., Volume V, Section 3.3.3., and Permit Condition IV.A.2.a.ii. above, to demonstrate the effectiveness of the Corrective Action Program for groundwater and to meet the requirements of 20 NMAC 4.1.500. (incorporating 40 CFR 264.97). [20 NMAC 4.1.500. (incorporating 40 CFR 264.100(d))]

(b) The Permittee shall maintain groundwater monitoring wells at the locations specified in Permit Application Volume 4, Figure 3.3, Volume 5, Figure 3.1, and on the Detailed Site Map in Permit Application Volume 1, Attachment 3, subject to Permit Condition IV.A.2.a.iv.(i) below. [20 NMAC 4.1.500. (incorporating 40 CFR 264.97(c) and 264.100(a)(3) and (d))]

(c) The Permittee shall monitor for the hazardous constituents and at the frequencies specified in Permit Application Volume 4, Table 3.2 and Appendix F, and Volume 5, Table 3.5 and Appendix D, during the Corrective Action Program. [20 NMAC 4.1.500. (incorporating 40 CFR 264.93)]

(d) The Permittee shall determine the groundwater flow rate and direction in the uppermost aquifer at least annually. [20 NMAC 4.1.500. (incorporating 40 CFR 264.98(e))]

(e) In addition to the requirements of Permit Condition IV.A.2.a.iv.(c) above, the Permittee shall monitor the Cobisa-Person Generating Station cooling water production well (Cobisa Well). The Cobisa Well discharge is regulated under NMED Ground Water Quality Bureau Discharge Plan DP-1260. The Permittee shall sample the Cobisa Well at the wellhead semi-annually and shall at each sampling event determine groundwater surface elevation, submit the sample to a qualified analytical laboratory for analysis using EPA Method 8021 or equivalent, and submit the sample analysis results to HRMB as part of the semi-annual report under IV.A.2.a.(h)(ii) below. The Permittee shall monitor the Cobisa Well in compliance with all applicable requirements of Permit Condition IV.A.2., including Permit Application Volume 4, Section 3.6.

(f) Groundwater Surface Elevation

(i) The Permittee shall determine the groundwater surface elevation at each well each time ground water is sampled. [20 NMAC 4.1.500. (incorporating 40 CFR 264.97(f))]

(g) Sampling and Analysis Procedures

(i) The Permittee shall comply with the procedures specified in Permit Application Volume 4, Section 3.6., and Volume 5, Section 3.5., when obtaining and analyzing samples from all ground-water monitoring wells. [20 NMAC 4.1.500. (incorporating 40 CFR 264.97(d) and (e))]

(ii) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed shall be the appropriate method from Appendix I of 40 CFR Part 261 or an equivalent method approved by the Secretary. Laboratory methods must be those specified in Test Methods for Evaluating Solid Waste: Physical/Chemical Methods SW-846, Standard Methods of Wastewater Analysis or an equivalent method. [20 NMAC 4.1.900. (incorporating 40 CFR 270.30(j)(1))]

(h) Recordkeeping and Reporting

(i) The Permittee shall enter all monitoring, testing and analytical data obtained in the operating record. The data shall include all computations, calculated means, variances, and results of the statistical tests specified in Permit Condition IV.A.2.a.iv(g) above. [20 NMAC 4.1.500. (incorporating 40 CFR 264.73(b)(6))]

(ii) The Permittee shall submit a written report semi-annually to the Secretary on the effectiveness of the Corrective Action Program. [NMAC 4.1.500. (incorporating 40 CFR 264.100(g))]

(iii) The Permittee shall submit the results of all sampling and analysis under the Corrective Action Program to the Secretary annually.

(i) Well Replacement and Abandonment

(i) The Permittee shall replace any groundwater monitoring well removed from service with a monitoring well located as close to the abandoned well as practicable. The Permittee shall submit the proposed location and construction specifications for the new well to the Secretary for prior approval.

(ii) The Permittee shall record the surveyed location and elevation of a new monitoring well when the well is installed.

(iii) All wells removed from the monitoring program shall be plugged and abandoned by the Permittee so as to ensure that the abandoned well will not serve to transport contaminants to the aquifer and will be otherwise in compliance with all applicable regulations. The Permittee shall submit well plugging and abandonment specifications to the Secretary for approval prior to abandoning the well.

b. Corrective Action Program for Shallower Groundwater

The Permittee shall comply with the Corrective Action Program for the shallower groundwater, consisting of extraction wells and an air stripper system, specified in Application Volume 4, and conditions and requirements specified in this Permit Module. The locations of the extraction wells are specified in the Detailed Site Map, Application Volume 1, Attachment 3. The locations of the monitoring wells for the shallower groundwater are specified in the Detailed Site Map and in Application Volume 4, Figure 3.3.

The Permittee shall conduct the Corrective Action Program to ensure that the groundwater protection standards, as defined at Permit Section IV.A.3.a.i. above, are not exceeded at and downgradient from the compliance point, and to ensure compliance with the requirements of 20 NMAC 4.1.500. (incorporating 40 CFR Subpart F). [20 NMAC 4.1.500. (incorporating 40 CFR 264.100)]

i. Hazardous Constituents. The Permittee shall monitor at the locations, frequencies, and for the hazardous constituents specified in Application

Volume 4, Table 3.2 and Appendix F. [20 NMAC 4.1.500. (incorporating 40 CFR 264.93)]

ii. Sampling and Analysis Procedures. The Permittee shall comply with the procedures specified in Application Volume 4, Sections 3.6.3.3. and 3.6.3.4., when obtaining and analyzing samples from the ground-water monitoring wells. [20 NMAC 4.1.500. (incorporating 40 CFR 264.97(d) and (e))]

c. Corrective Action Program for Deeper Groundwater

Corrective Action for the deeper groundwater consists of monitored natural attenuation specified in Application Volume 5. The Permittee shall comply with the monitoring program specified in Application Volume 5. The locations of the monitoring wells for the deeper groundwater are specified in the Detailed Site Map, Application Volume 1, Attachment 3, and in Application Volume 5, Figure 3.1.

The Permittee shall conduct the Corrective Action Program to ensure that the groundwater protection standards, as specified in Permit Condition IV.A.2.a.i. and ii. above, are not exceeded, and to ensure compliance with the requirements of 20 NMAC 4.1.500. (incorporating 40 CFR Subpart F). [20 NMAC 4.1.500. (incorporating 40 CFR 264.100)]

i. Hazardous Constituents. The Permittee shall monitor at the locations, frequencies, and for the hazardous constituents specified in Application Volume 5, Table 3.5 and Appendix D. [20 NMAC 4.1.500. (incorporating 40 CFR 264.93)]

ii. Sampling and Analysis Procedures. The Permittee shall comply with the procedures specified in Application Volume 5, Section 3.5.3., when obtaining and analyzing samples from the ground-water monitoring wells. [20 NMAC 4.1.500. (incorporating 40 CFR 264.97(d) and (e))]

IV.B. CORRECTIVE ACTION FOR SWMU'S

IV.B.1. Applicability

The Conditions of IV.B. apply to:

a. The SWMU's and AOC's identified in Appendices A.1 and A.2 of this Module;

b. Any additional SWMU's or AOC's that may be

discovered.

IV.B.2. Notification and Assessment Requirements for Newly Identified SWMU's and AOC's

a. The Permittee shall notify the Secretary in writing, within fifteen (15) calendar days of discovery, of any suspected new SWMU or AOC. The notification shall include, at a minimum, the location of the SWMU or AOC and all available information pertaining to the nature of the release (e.g., media affected, hazardous constituents released, magnitude of release, etc.).

b. The Permittee shall prepare and submit to the Secretary, within ninety (90) calendar days of the notification under Condition IV.B.2.a. above, a SWMU Assessment Report (SAR) for each SWMU or AOC identified under Condition IV.B.2.a. above. At a minimum, the SAR shall provide the following information:

i. Location of unit(s) on a topographic map of appropriate scale;

ii. Designation of type and function of unit(s);

iii. General dimensions, capacities and structural description of unit(s) (supply any available plans/drawings);

iv. Dates that the unit(s) was operated;

v. Specification of all wastes that have been managed at/in the unit(s) to the extent available. Include any available data on hazardous constituents in the wastes;

vi. All available information pertaining to any release of hazardous waste or hazardous constituents from such unit(s), including groundwater data, soil analyses, air, and surface water data;

c. Based on the results of the SAR, the Secretary shall determine the need for further investigations at the SWMU's or AOC's covered in the SAR, including the need for an RFI under Permit Condition IV.B.5. below. The Secretary will notify the Permittee in writing of the final determination of the status of the suspected SWMU or AOC. If the Secretary determines that further investigation of a SWMU or AOC is required, the Permit will be modified to include the newly discovered SWMU or AOC to the list of SWMU's requiring further investigation

in Appendix A.1, in accordance with 20 NMAC 4.1.901. and 4.1.900. (incorporating 40 CFR Part 270, Subpart D). If the Secretary determines that further investigation is needed, the Permittee shall submit a Workplan for such investigation for approval by the Secretary.

IV.B.3. Reporting Planned Changes

The Permittee shall give written notice to the Secretary as soon as possible of any planned physical alterations or additions which impact known or suspected contamination at or from SWMU's or AOC's listed in Appendix A.1.

IV.B.4. Notification Requirements for Newly Discovered Releases from SWMU's or AOC's

a. The Permittee shall notify the Secretary in writing of any newly discovered release of hazardous waste or Hazardous Constituents from a SWMU or AOC discovered during the course of groundwater monitoring, field investigations, environmental audits, or other means, within fifteen days of discovery.

b. The Secretary will notify the Permittee in writing of the final determination of the status of the newly discovered release from a SWMU or AOC. If the Secretary determines that further investigation of a SWMU or AOC is needed, the Permittee shall submit a Workplan for such investigation for approval by the Secretary.

IV.B.5. RCRA Facility Investigation (RFI)

a. RFI Work Plan

i. The Secretary may require that the further investigation under Conditions IV.B.2.c. and IV.B.4.b. above be in the form of an RFI. The Permittee shall prepare and submit to the Secretary, within ninety days of receipt of notice from the Secretary that an RFI is required, an RFI Work Plan for those units requiring further investigation.

ii. The RFI Work Plan shall include schedules of implementation and completion of specific actions necessary to determine the nature and extent of contamination and the potential pathways of contaminant releases to the air, soil, surface water, and groundwater.

iii. The RFI Work Plan must be approved by the Secretary, in writing, prior to implementation. If

the Secretary disapproves the RFI Work Plan, the Secretary shall notify the Permittee in writing of the RFI Work Plan's deficiencies and specify a due date for submission of a revised RFI Work Plan. Upon approval by the Secretary, the RFI Work Plan and any revisions thereto shall be incorporated by reference and made an enforceable part of this Permit.

b. RFI Implementation

The Permittee shall implement the RFI in accordance with the approved RFI Work Plan. The Permittee shall notify the Secretary at least 20 days prior to any sampling activity under the RFI Workplan.

c. RFI Reports

i. The Permittee shall prepare and submit to the Secretary an RFI Report, prepared in accordance with HRMB guidance documents, for the investigations conducted pursuant to the RFI Work Plan. The RFI Report shall include an analysis and summary of all required investigations of SWMU's and AOC's and their results. The summary shall describe the type and extent of contamination at the facility, including sources and migration pathways, identify all hazardous constituents present in all media, and describe actual or potential human and ecological receptors. The RFI Report shall also describe the extent of contamination in relation to background levels and shall include cleanup levels.

ii. The Secretary will, following review of the RFI Report, notify the Permittee of the need for further investigation, including a Corrective Measures Study, or of a no further action decision.

IV.B.6. Interim Measures (IM)

a. IM Work Plan

i. If required by the Secretary, the Permittee shall prepare and submit an Interim Measures (IM) Work Plan. Interim measures will be required if necessary to reduce or prevent migration of contaminants or human or environmental exposure to contaminants while long-term corrective action remedies are evaluated and implemented. The Permittee may initiate interim measures by submitting notification to the Secretary.

ii. The IM Work Plan shall ensure that the interim measures are designed to mitigate any current or potential threats to human health or the environment and are consistent with and integrated into any long-term solution at the facility.

iii. The IM Work Plan must be approved by the Secretary prior to implementation. If the Secretary disapproves the IM Work Plan, the Secretary will notify the Permittee in writing of the IM Work Plan's deficiencies and specify a due date for submission of a revised IM Work Plan. Upon approval by the Secretary, the IM Work Plan and any revisions thereto shall be incorporated by reference and made an enforceable part of this Permit.

b. IM Implementation

i. The Permittee shall implement the interim measures in accordance with the approved IM Work Plan.

ii. The Permittee shall prepare and submit to the Secretary, within ninety days of completion of interim measures, an IM Report summarizing the results of the interim measures, and including copies of all relevant laboratory, monitoring, and other data.

IV.B.7. Corrective Measures Study (CMS)

a. CMS Work Plan

i. The Permittee shall submit a CMS Work Plan within ninety days of notification by the Secretary that a CMS is required. The CMS may be concurrent with the RFI.

ii. The CMS Work Plan shall include schedules of implementation and completion of specific actions necessary to complete the CMS.

iii. The Secretary will either approve or disapprove, in writing, the CMS Work Plan. If the Secretary disapproves the CMS Work Plan, the Secretary will notify the Permittee in writing of the CMS Work Plan's deficiencies and specify a due date for submittal of a revised CMS Work Plan. Upon approval by the Secretary, the CMS Work Plan and any revisions thereto shall be incorporated by reference and made an enforceable part of this

Permit.

b. CMS Report

i. The Permittee shall submit to the Secretary a CMS Report evaluating each remedial alternative.

ii. If the Secretary disapproves the CMS Report, the Secretary will notify the Permittee in writing of deficiencies in the CMS Report and specify a due date for submittal of a revised CMS Report. The Secretary will notify the Permittee of any no further action decision.

IV.B.8. Corrective Measures Implementation

a. The Permittee shall implement the remedy chosen in the CMS Report. The Permittee shall submit a CMI completion report to the Secretary in accordance with a schedule for completion determined by the Secretary.

APPENDIX A.1

List of SWMU's and AOC's requiring corrective action:

1. Natural pit area.

APPENDIX A.2

List of SWMU's and AOC's not currently requiring corrective action:

1. Four leach fields;
2. Bone yard area;
3. Spin-off filter;
4. Waste oil tank.