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**By Overnight Delivery
Return Receipt Requested**

August 24, 2000

John Hale
Environmental Engineer
Public Service Company of New Mexico
Alvarado Square – MS 2104
Albuquerque, NM 87158

**RE: RESPONSE TO COMMENTS -
DRAFT RCRA POST-CLOSURE CARE PERMIT
PERSON GENERATING STATION
EPA ID NO. 360010342**

Dear Mr. Hale:

Attached is the New Mexico Environment Department (NMED) response to comments submitted by the Public Service Company of New Mexico (Permittee) on the above-referenced Draft Permit. The comments were submitted to NMED via a faxed letter dated July 26, 2000.

If you have any questions or need additional information contact Carl Will at 505-827-1561, ex. 1031.

Sincerely,

John E. Kieling
Program Manager

Attachment

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ATTACHMENT
PUBLIC COMMENTS RECEIVED AND NEW MEXICO ENVIRONMENT
DEPARTMENT (NMED) RESPONSES

NMED received three comments from the Permittee. No other comments were received.

PERMITTEE COMMENT NUMBER ONE:

Module II.F.1. Operating Record
Module II.F.4. Documents to be Maintained at the Facility

The number of documents that are required to be stored at the Facility under these permit conditions is quite voluminous. Currently, the only enclosed area at the Facility suitable for document storage is the groundwater treatment building. This building was constructed to house the groundwater treatment equipment, replacement parts, and maintenance tools. Consequently, there is very limited storage space.

PNM believes that the PNM headquarters offices located at 414 Silver SW, Albuquerque, NM 87102, is a more suitable location for the storage of Facility documents. The proximity of the headquarters offices to the Facility would allow PNM to quickly provide any of these documents to HRMB during a Facility inspection.

Therefore, PNM requests that due to limited storage space at the Facility, these permit conditions be modified to allow for the storage of applicable and relevant documents at the PNM headquarters offices.

NMED RESPONSE TO PERMITTEE COMMENT NUMBER ONE:

The Department agrees to make a change to the Permit so that not all documents associated with the Person Station site (the Site) are required to be kept on-site. Documents required to be kept on-site are the Permit (including the Permit Application which is incorporated by reference), groundwater sampling analytical results in semi-annual and annual reports, inspection logs and results, and records of any hazardous waste shipped off-site. Documents other than those specified in the Permit as required to be kept on-site, and which form the historical and administrative record of corrective action and cleanup activities at the site, may be kept at the Public Service Company of New Mexico (PNM or Permittee) headquarters building in downtown Albuquerque, with the condition that those records will be immediately provided for inspection to NMED personnel at the Site if requested by NMED personnel. This provision will apply only to Post-Closure Care Permits for facilities that are closed and engaged in remediation activities and that are not actively managing hazardous waste.

The Draft Permit, at Sections II.F.3. and II.F.4., includes a requirement that the Permittee maintain at the Facility, among other things, ". . . copies of all reports and

records required by this Permit, [and] records of all data used to complete the Permit Application" The "Facility" is defined in the Permit as the Person Station Site. Resource Conservation and Recovery Act (RCRA) regulations require that the Permittee "retain" the above-referenced documents; the regulations do not specify that the documents be kept at the Facility. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(j)(2))] Other documents required to be kept as part of the operating record are specifically required under the RCRA regulations to be kept at the Facility.

Because only remediation and not hazardous waste management activities are taking place at the Site, the Permittee has only a small building with limited storage space housing the groundwater remediation equipment on-site. Most of the Permittee's historical and administrative records associated with the Site are kept at the Permittee's headquarters building in downtown Albuquerque.

The Department believes that the requirement to keep at the Facility "records of all data used to complete the Permit Application" provides uncertain direction to the Permittee and is unnecessarily burdensome, as it could be interpreted to mean practically all data generated since discovery of contamination at the site fifteen years ago.

For the above reasons, NMED is making the following changes in the Final Permit:

II.F.1. Operating Permit

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.~~ Condition II.F.4. below.

~~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:

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- b. Inspection schedules and results
 - e. Groundwater monitoring ~~and all other corrective action documents required by Permit Condition II.F.3.a. and b. above~~ analytical results and data contained in quarterly and annual reports required under Permit Conditions IV.A.2(h)(ii) and (iii) below, for three years from the date of the report.
 - f. Copies of manifests for any shipments off-site of hazardous waste generated at the Site.

PERMITTEE COMMENT NUMBER TWO:

Module III.D.1.

The language in this section appears to indicate that PNM must initiate a permit modification in order to move any hazardous waste, hazardous waste residue, or contaminated soils off-site. PNM believes that this permit requirement would create needless expense and delay.

PNM requests that the language be clarified to indicate that only movement of hazardous waste from the regulated unit would require a permit modification.

NMED RESPONSE TO PERMITTEE COMMENT NUMBER TWO:

The Department agrees that the Permit should be revised, based on PNM's comment, so that a permit modification is required only if hazardous waste or contaminated media is moved off-site from the regulated unit, i.e., the former dry well that is now covered with a cap. A permit modification is not required for removal of contaminated media from other locations, such as Solid Waste Management Units (SWMU's), at the Facility. This reflects current NMED practice. Requiring a permit modification for any remediation activities involving moving of contaminated media off-site would significantly delay implementation of remediation. NMED oversight of remediation activities at SWMU's is achieved by NMED review and approval of RCRA Facility Investigation Workplans and Reports submitted by the site owner or operator.

The Final Permit has been revised as follows:

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 from the RCRA-regulated unit,

PERMITTEE COMMENT NUMBER THREE:

Module IV.A.2.a.iv.(e)

PNM believes that the permit requirement of sampling the Cobisa-Person Generating Station (CPGS) cooling water production well (Cobisa Well) is more appropriately addressed as part of the CP GS discharge plan sampling requirements. This sampling requirement is included in the contractual agreement PNM has with Cobisa-Person Power Company, Inc. (C-PLP), and was noted in a letter to C-PLP dated April 22, 1999. In an unfortunate oversight, this requirement was not included in the CP GS discharge plan, DP-1260, issued by the Groundwater Quality Bureau on March 6, 2000.

In a letter dated June 1, 2000, PNM requested that C-PLP amend DP-1260 to include sampling of the Cobisa Well. C-PLP has agreed to this request and has submitted a request to amend DP-1260. Furthermore, it is PNM's understanding that the Groundwater Quality Bureau is currently preparing an amended DP-1260 that will include this sampling requirement.

Therefore, PNM requests that the requirement that PNM sample the Cobisa Well not be included in the final permit. At the time this comment letter was prepared, PNM had not yet received a copy of Cobisa's letter request. However, PNM will provide HRMB a copy of this letter as soon as it is received.

NMED RESPONSE TO PERMITTEE COMMENT NUMBER THREE:

The Draft Permit requires that PNM sample the Cobisa Production Well (the Well) in order to assure that the Well is not pulling the groundwater contaminant plume towards it. PNM obtained an agreement with the owner of the Well for the Well owner to do the sampling on a quarterly basis and to submit the sampling results to HWB. Those requirements of the Well owner are contained in NMED Groundwater Quality Bureau Discharge Plan DP-1260, as amended by letter dated August 1, 2000. Because the sampling and reporting requirements are contained in DP-1260, NMED agrees to remove from the Permit Section IV.A.2.a.iv(e).

NMED INITIATED CHANGES:

NMED INITIATED CHANGE NUMBER ONE:

Since the time of issuance of the Draft Permit, HWB has agreed on definitions of "Area of Concern (AOC)" and "Solid Waste Management Unit (SWMU)" that will be used in all HWB permits. These standard definitions are included in the Final Permit. NMED believes that the revised definitions are more clear, but do not substantively change the meaning of the terms in the Draft Permit.

The Permit has been revised as follows:

I.D. DEFINITIONS

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

...
"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 or area 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.

NMED INITIATED CHANGE NUMBER TWO:

Since the time of issuance of the Draft Permit, the NMED Bureau issuing the Permit has been reorganized. The Radiation Inspection Group has been moved out of the Bureau, and the Bureau has consequently changed its name from the Hazardous and Radioactive Materials Bureau to the Hazardous Waste Bureau. This change will be made in the definitions section of the Permit, Section I.D., and throughout the Permit.

NMED INITIATED CHANGE NUMBER THREE:

Since the time of issuance of the Draft Permit, the New Mexico Administrative Code citation has been amended effective February 15, 2000. For example, the former official citation of 20 NMAC 4.1.500 is now 20.4.1.500 NMAC. This change will be made throughout the Permit.