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April 6, 2000

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**RE: REVISED DRAFT CORRECTIVE ACTION (CA) SECTION, DATED
JANUARY 7, 2000 - TRIASSIC PARK WASTE DISPOSAL FACILITY PERMIT
APPLICATION**

The New Mexico Environment Department (NMED) Hazardous and Radioactive Materials Bureau (HRMB) has completed its review of the above referenced submittal. The Department has determined that the CA Section does not sufficiently stipulate the principal response actions that must occur should fluids be detected in the proposed Vadose Zone Monitoring System (VZMS). Therefore, the corrective action requirements for that scenario will be established in the Department's draft operating permit.

General comments regarding the draft CA Section are attached. NMED suggests that the portions of the CA Section that describe no previous releases and reference the RFA may remain in the application. The portions that discuss contaminant investigation, removal, notification, and record keeping, in many ways conflict with the proposed permit language and should be removed from the application to avoid confusion. The Department recommends that where appropriate the application should simply reference Module 10 (Corrective Action) of the permit.

If you have any questions regarding the comments, please contact Steve Pullen of the HRMB at (505) 827-1558 ext. 1020.

Sincerely,

Stephanie Kruse,
Project Manager
Triassic Park Project

cc: w/attachment

James Bearzi, NMED/HRMB
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NMED Comments
March 2000

CORRECTIVE ACTION (CA)- SECTION 10
(draft)
Triassic Park Waste Disposal Facility

Gandy-Marley Corporation (GMC) agreed at a September 23, 1999 meeting that it would provide in its application a corrective action response plan addressing detection of fluids in the vadose zone monitoring system. It was suggested that a minimum of three response commitments would be provided:

- a methodology to distinguish contaminated fluids from waste management units and presumably non-contaminated fluids from other sources (**Issue #1**);
- an investigation of the extent of contamination (**Issue #2**); and,
- the removal of contamination and an approach to stop the release (**Issue #3**).

Each of these issues, plus others, will be addressed in turn below.

The Department has interpreted GMC's draft CA Section to contain the following descriptions and commitments:

- a description of the absence of any previous releases at the proposed site;
- an identification of all future SWMUs as determined in the RCRA Facility Assessment;
- a commitment to notify the regulatory authority according to the Contingency Plan (CP) (**Issue #4**);
- a commitment to keep records according to the CP (**Issue #5**);
- a commitment to perform a RCRA Facility Investigation (RFI) should a release occur; and,
- a commitment to perform a Corrective Measures Study (CMS) should a release pose an unacceptable risk.

(Issue #6) NMED is concerned that the CA Section does not make the required distinctions between corrective actions for the hazardous waste management units (HWMUs) and solid waste management units (SWMU). CA regulations for both HWMUs and SWMUs are stipulated at 20 NMAC 4.1.500, which incorporates by reference 40 CFR 264.100 and 264.101. The former, 264.100, requires an owner/operator (O/O) take the corrective action needed to ensure that regulated units (i.e., HWMUs) are in compliance with the groundwater protection standard. The groundwater monitoring requirement is currently waived at the proposed Triassic Park facility for reasons provided in NMED's letter to GMC dated January 12, 2000. However, because a VZMS takes the place of the groundwater monitoring system, and as a condition of the above referenced waiver, the application and the permit must maintain the same level of protectiveness by having special CA requirements for the HWMUs.

Section 264.101 requires an O/O to institute corrective action as necessary to protect human health and the environment for all releases of hazardous wastes or constituents

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from all SWMUs. This regulation will form the basis for the standard, less specific corrective action requirements for all SWMUs identified in the CA Section.

(Issue #7) The Department is concerned that the CA Section does not sufficiently address what response GMC would take if non-contaminant fluids were detected in the vadose zone monitoring system (VZMS). A previous GMC submittal proposes that if non-contaminated fluids were detected, the permittee would propose no-further-action (NFA). This proposal is not considered by NMED to be sufficiently protective.

For the VZMS to effectively monitor for releases from a waste management unit, all extraneous fluids will need to be removed. Among other things, NMED is concerned that existent fluids would either create a reverse gradient that would preclude contamination from moving into the monitoring system, or dilute contamination to below appropriate detection limits. NMED anticipates similar requirements in the permit for notification, investigation and removal for non-contaminated fluids as for contaminated fluids, but perhaps with less urgency.

(Issue #1 revisited) The methodology to distinguish fluids from the waste management units and other sources was not addressed in the CA Section, but is addressed in draft the Vadose Zone Monitoring Work Plan (WP) dated February 11, 2000. NMED identified its concerns to that WP in correspondence dated March 16, 2000. NMED believes that the Vadose Zone Monitoring WP is the appropriate location to address the fluid distinction issues. Hence forth, NMED proposes that the corrective action process be defined as those actions taken when a release is confirmed.

The WP also contains corrective action commitments that NMED deemed inappropriate. Addressing CA, the WP simply states that if the fluids are not from a waste management unit, GMC would do “no-further-action”, and, if fluids are from a unit, a “detection monitoring” program would be developed. Besides being inappropriate response actions, NMED feels the WP is not the appropriate location for CA commitments and hopes the WP will be changed to reference the Corrective Action Module of the Permit.

If fluids detected in the VZMS are contaminated, the WP’s suggestion to initiate detection monitoring is considered non-protective. Detection monitoring, as described in § 264.98 of the regulations, is a method of measuring groundwater in the upper-most aquifer, at a point-of-compliance, for a statistically significant detection of contamination in reference to groundwater protection standards. GMC’s detection monitoring proposal is inappropriate because contamination will have already been confirmed, the measuring point is not in the upper-most aquifer and not at a point-of-compliance, and concentrations will not be compared to groundwater standards.

(Issue #2 revisited) The CA Section commits to investigating the extent of the contamination by performing a RCRA Facility Investigation (RFI). Though the CA Section lacks detail as to what constitutes a RFI, NMED presumes GMC is referring to the RFI described in EPA guidance. In general NMED feels this is appropriate approach.

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However, NMED feels that the RFI process does not appropriately reflect the necessary urgency of responding to a contaminant release from a hazardous waste management unit. NMED's experience is that, in general, the RFI process takes approximately one year to propose, perform and report. NMED considers the regulatory requirements and time restraints stipulated in the application's Response Action Plan (RAP) for leaks through the primary liner of the landfill a more appropriate corrective action. To paraphrase the RAP, if a serious release has been detected, the permittee will "submit a written assessment to NMED within 14 days of the determination as to the amount and source of liquids; information on possible size, location and cause of the leak; ... and any immediate and short term actions to be taken;...". Furthermore, the permittee will "submit a report to NMED within 30 days ... describing how effective the response actions have been at reducing the leakage rate ... ". NMED anticipates that the permit will have a combination of RAP and RFI requirements for HWMUs, and slightly less urgent RFI requirements for SWMUs.

(Issue #3 revisited) The CA Section's commitment to remove contamination is via a Corrective Measures Study (CMS) process. Like the RFI, the CMS process is not extensively described in the CA Section and NMED assumes GMC is referring to the process described in EPA guidance. Here too NMED believes this may be appropriate, but that elements of the RAP should be combined with CMS processes to establish a more comprehensive response action. The preferred elements of the RAP, besides the reporting requirements mentioned earlier, include:

- increasing the pumping rate on the leachate collection system pump (this may apply to the leak detection recovery and the vadose zone monitoring pumps as well);
- removal of all standing water from the surface of the landfill (and possibly all fluids from the evaporation ponds); and,
- assessment of operations to determine if waste receipt should be curtailed or wastes should be removed for liner inspection, repair or control.

(Issue #8) The CA Section suggests that corrective measures might be initiated should released hazardous wastes "pose a concern to human health or the environment". NMED anticipates that corrective measures will be required in the permit for any and all releases from HWMUs. And furthermore, the permit mandated cleanup standard for all environmental media will be the same standard as that in the application's proposal for closure (i.e., predetermined background concentrations).

(Issue #4 revisited) The CA Section commits to notifying the regulatory authority according to the Contingency Plan (CP). The CP states that the emergency coordinator (EC) will follow the off-site notification requirements when it is determined that a release poses an "immediate threat". The NMED is concerned that the CP is obviously meant to address emergencies that occur at the surface (i.e., it makes no specific mention of a release detected in the VZMS) and that the EC will not consider the detection in the VZMS an immediate threat . Please augment the CP to specifically address subsurface releases and reference the CA Module of the permit.

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(Issue #5 revisited) Regarding record keeping commitments for corrective actions, again NMED is concerned that GMC is referencing the CP as the location describing those commitments, yet the CP makes no specific reference to subsurface releases.

(Issue #9) NMED cautions GMC to recognize the distinctions between the CA process and the response actions stipulated in the Contingency Plan and the Response Action Plan. The application should cross reference these response action where appropriate.

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