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January 30, 2001

Mr. Larry Gandy, Vice-President
Gandy Marley, Inc.
1109 East Broadway
P.O. Box 827
Tatum, New Mexico 99267

**RE: TIME FRAME AND REQUIREMENTS FOR ISSUANCE OF THE DRAFT
TRIASSIC PARK RCRA PERMIT**

Dear Mr. Gandy:

The New Mexico Environment Department (NMED) is prepared to initiate the public involvement process associated with the Draft RCRA Permit for the Triassic Park Waste Disposal Facility. This process will include: issuing a Public Notice of the Draft Permit that seeks public comment; setting forth deadlines for persons to participate as a party and to submit written technical comment; and setting a public hearing date for NMED's acceptance of oral public comment. Before NMED initiates the public involvement process however, several regulatory requirements (consisting of additions or revisions to the Permit Application) remain which Gandy Marley, Inc. (GMI) must provide to NMED. These requirements are required elements of a final permit application. In the interest of successfully issuing GMI's permit, and doing so in a timely manner, it is essential to resolve these issues prior to the beginning of the public comment period. The timing of GMI's resolution of these requirements will dictate, in large part, the nature and timing of the Public Notice.

Requirements The following issues are required by regulation to be included in the Permit Application and have not yet been adequately addressed.

1. **Training programs.** Training programs are addressed in Section 7.0, *Personnel Training*, of the Permit Application. NMED has added provisions to the draft Permit (enclosed) enumerating the topics that must be addressed in the Facility training programs. However, 20.4.1.500 NMAC (incorporating 40 CFR 264.16) and 20.4.1.900 NMAC (incorporating 40 CFR 270.14 (b)(12)) require that the Permit Application provide a brief description of how training programs will meet the job requirements for each affected Facility work group (e.g., personnel involved in incident response, laboratory personnel, waste handlers and samplers, and maintenance personnel).

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2. **Laboratory Quality Assurance/Quality Control Plan.** HWB staff have added language to Section 4.7, *Waste Analysis*, of the Permit Application which includes the standard for the Laboratory Quality Assurance/Quality Control Plan (i.e., compliance with the guidance set forth in *EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations* (EPA QA R-5)). HWB staff consider this section is still vulnerable to criticism in that it does not provide site-specific details of how the program will be accomplished (e.g., How will the Facility ensure that there is not an explosion in the lab? How will the lab ensure that there is not cross-contamination between two samples?) NMED suggests that, at a minimum, GMI add language pointing out areas where the program, as set forth in the revised Permit Application, meets the guidance contained in this EPA document.

3. **Contingency Plan.** As specified in Section 6.0, *Contingency Plan*, of the Permit Application, GMI plans to submit an updated Contingency Plan after the Permit has been issued, but prior to the first receipt of waste by the Facility. Three items planned to be submitted at that time are required by regulation to be included in the Permit Application. These items are:
 - a) GMI must submit a written procedure that addresses the decontamination of personnel and equipment during and after an emergency, as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.14 (b)(v)). This procedure should address the establishment of a personnel decontamination zone, removal of personnel protective equipment, and procedures to ensure that contaminants are not spread;

 - b) GMI must submit a written procedure for response actions to be taken at the Stabilization Building in the event of a power outage (e.g., evacuation of the Stabilization Building, and cessation of waste receiving in the Stabilization Building until electrical power is restored), as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.14(b)(v) and (vi)); and

 - c) GMI must submit a written procedure, as specified in Section 6.3.5.3, *Evaporation Pond Failure Control Procedure*, and as required by 20.4.1.500 NMAC (incorporating 40 CFR 264. 227(c), outlining actions to be taken in response to surface impoundment failure. This procedure should describe how the facility will carry out the actions outlined in § 264.227(b) and in the Contingency Plan (i.e., provide the details on the availability and use of temporary double-lined ponds, temporary double-liner bladders, temporary portable double-lined tanks, or tanker trucks to provide storage capacity during a major evaporation pond response effort).

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4. **Criteria to assess sample representativeness.** GMI must submit a written procedure that explains in gross terms the statistical method or other method, as approved in EPA statistical sampling guidance, for determination of the representativeness of the representative waste stream sample. The procedure need not be long but should be sufficient to provide some bounds on the determination (e.g., how to determine the number of samples to be collected?).

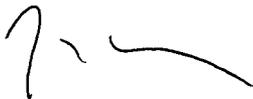
NMED has determined that a Public Hearing on the Draft Permit will be held approximately 120 calendar days after the Public Notice. The precise date of the Public Hearing will be subject to availability of a hearing officer. NMED will require that any party wishing to submit written technical comments do so in writing at least 30 days prior to the Public Hearing.

Please be advised that if the aforementioned outstanding requirements are not resolved prior to the Public Notice, NMED will identify these deficiencies in the Notice and will state its intent to deny GMI's Permit Application. GMI may submit its Permit Application revisions to the Department during the public comment period, but under no circumstances shall NMED accept a revised Application later than 60 days after the Public Notice (i.e., 30 days before written technical testimony is due and 60 days before the Public Hearing). Should GMI choose to revise its Application during the public comment period, GMI would have to fully inform the public of its revised Application via the same public notification process undertaken by NMED. For these reasons, it is imperative to address these requirements fully and, if at all possible, prior to issuance of the Public Notice.

After you have considered this schedule and the time required by your organization to respond to the requirements discussed above, please inform me in writing of GMI's intentions and suggestions for an appropriate date to initiate the public comment process. NMED pledges not to issue any notice until we have received your response.

Please call me at (505) 827-1557 if you have any questions or comments. My staff and I will be happy to discuss details of the required submittals.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: Gregory Lewis, Director, Water and Waste Management Division, NMED
Susan McMichael, Assistant General Council, OGC, NMED
John Kieling, Program Manager, HWB, NMED

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