

Affidavit of Publication

State of New Mexico,
County of Eddy, ss.

Dawn Higgins

being first duly sworn, on oath says:

That she is Business Manager of the Carlsbad Enterprise a newspaper published daily at the City of Carlsbad, in said county of Eddy, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

March 15	2001
	2001
	2001
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That the cost of publication is \$ 274.50 and that payment thereof has been made and will be assessed as court costs.

Dawn Higgins

Subscribed and sworn to before me this

5 day of March 2001
Lorraine Deporte

My commission expires 5/25/03
Notary Public

March 15, 2001

PUBLIC NOTICE NO. 01-01

NEW MEXICO ENVIRONMENT HAZARDOUS WASTE BUREAU SANTA FE, NM 87502

March 15, 2001

NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING

CONCERNING ISSUANCE OF A FINAL PERMIT FOR THE GANDY MARLEY, INC. TRIASSIC PARK WASTE MANAGEMENT FACILITY. EPA ID NO. NM0001002484

The New Mexico Environment Department (NMED) proposes to issue a final permit for the treatment, storage and disposal of hazardous waste at the proposed Triassic Park Waste Management Facility pursuant to the New Mexico Hazardous Waste Act, NMSA 1978 §§ 74-4-1 et seq. (Repl. Pamph. 2000). The permit applicant, Gandy Marely, Inc. (GMI) of 1109 East Broadway, Tatum NM, is proposing to construct and operate the Triassic Park Waste Management Facility 43 miles east of Roswell in Chaves County, New Mexico, approximately two miles south of NM Highway 380.

NMED announces both the availability of the Triassic Park draft permit for public comment, and a public hearing to consider public comment prior to issuance of a final permit. NMED also announces the availability of a fact sheet that sets out in detail the principle basis for NMED's decision to issue a final permit, and the significant factual, legal and policy questions considered in preparing the draft permit. The fact sheet will also explain in detail the type and quantity of wastes which are proposed to be treated, stored and disposed at Triassic Park; a summary of the basis for permit conditions, including applicable statutory and regulatory support; and the reason why any requested variance appears justified.

On April 4, 1996, NMED issued an earlier version of the draft permit for public review and comment. Based upon the comments received, NMED issued a public notice rescinding the draft permit and required GMI to significantly amend its application. The new draft permit incorporates the revisions of the revised application.

2001, in the following manner: (1) NMED will provide written notice to all persons submitting written comment or who request to be notified of the cancellation of the hearing; and (2) NMED will publish a notice of cancellation of the public hearing in a newspaper of general circulation in the vicinity for GMI's proposed landfill.

If NMED holds a public hearing, it will be to accept additional public comment on the draft permit. The hearing will begin Monday, July 16, 2001 at 9:30 a.m., and be located at Eastern New Mexico University's Occupational Technology Center, Seminar Room (#124), 20 West Mathis Street, Roswell, NM. The public hearing will provide interested persons a reasonable opportunity to present data, views, and arguments, as well as to examine witnesses. The hearing will continue daily with morning, afternoon, and evening sessions as appropriate, until all persons have been afforded an adequate opportunity to present comment. The hearing will be conducted in accordance with the Hazardous Waste Management Regulations, 20 NMAC 4.1.901.F, and the following sections of the Environment Department Permit Procedures, 20 NMAC 1.4:

100-116	301
201.A. and B.	302
202	402-403
203.C	501-503
	204

PUBLIC COMMENT

Any person, including the applicant, wishing to submit written public comment or present oral public comment at the public hearing for NMED's consideration, shall do so according to the procedures set forth below. The public comment period commences on the date of this notice and continues through the public hearing.

A. WRITTEN PUBLIC COMMENT AND REQUESTS FOR PUBLIC HEARING

NMED will accept written public comment and requests for public hearing on or before May 15, 2001. Written comments shall be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. All requests for public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester

No 21287

the direct testimony of each witness;

E. Exhibits: Identify all exhibits; for all exhibits which are not part of the Record Proper, attach a copy;

F. Technical Materials: Identify all technical materials relied upon by each witness in making a statement of technical fact or opinion contained in the direct testimony; Attach a copy of such technical materials for the Record Proper; submit a copy of such technical materials to the Hearing Clerk concurrently with the filing of the notice:

G. Direct Testimony: Attach a summary of direct testimony of each witness, stating any facts or opinion(s) to be offered by such witness and explaining the basis for such facts or opinion(s); summaries of testimony shall be comprehensive, substantive and provide sufficient detail to avoid surprise, prejudice and allow for effective cross-examination. Any summary which does not meet this requirement shall be excluded. Oral public comment shall be limited to written public comment as provided above.

3. The failure to file a timely Notice of Intent to Present Technical Testimony meeting the requirements above shall preclude a person from presenting technical oral comment, but shall not preclude a person from presenting non-technical oral comment.

4. The requirements for presenting oral comment shall not apply to NMED. NMED will not present written or oral comment on the draft permit, but reserves the right to file a Notice of Intent to Present Technical Testimony so that it may present testimony at the public hearing.

C. PARTY STATUS

1. Any person, including the applicants, who wish to be a party for purposes of public participation at the hearing shall file either a timely Notice of Intent to Present Technical Testimony or a timely Entry of Appearance on or before June 15, 2001 to the Hearing Clerk at the address provided above. The Entry of Appearance shall include the following:

A. Person: The person or entity filing the entry and current address for written notification.

Network. Albuquerque users may access Hawley's number at (505) 275-7333 800-659-1779.

ADDITIONAL INFORMATION

Any person seeking additional information regarding this draft permit, who would like to arrange for copies of the draft permit at 35 cents a page after the first 80 pages, may contact Ms. Stephanie Kruse at the Hazardous Waste Bureau, 2044 Galisteo Street, P.O. Box 26110, Santa Fe, New Mexico 87502-6111 (505) 827-1557, extension 1016.

FILE COPY

2. Technical: Any person, including the applicant, who wishes to present technical oral comment shall file a Notice of Intent to Present Technical Testimony on or before June 15, 2001 with the Hearing Clerk at the address provided above.

(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
(b) briefly describe and respond to all public comments on the draft permit.

2. **Technical:** Any person, including the applicant, who wishes to present technical oral comment shall file a *Notice of Intent to Present Technical Testimony* on or before June 15, 2001 with the Hearing Clerk at the address provided above. Technical testimony is defined as scientific, engineering, economic or other specialized testimony, and can be in either written or oral form. Technical testimony does not include legal argument, general comments, or statements of policy concerning matters at issue in the hearing. To promote efficiency, fairness and avoid prejudice and surprise, technical oral comment will be restricted to points and factual information raised in written comment with the exception of rebuttal, as appropriate. The *Notice* shall contain the following information:

A. **Person/Entity:** Identify the person or entity filing the *Notice*;

B. **Position:** State whether the person or entity filing the *Notice* supports or opposes the revised draft permit;

C. **Witnesses:** Identify each witness, including name; address, affiliation(s), and educational and work background;

D. **Length of Testimony:** Estimate the length of

(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(b) briefly describe and respond to all public comments on the draft permit or the permit application raised during the public comment period or public hearing.

The Secretary will make the final permit decision publicly available and shall notify the applicants by certified mail; all persons presenting written comment, who filed an *Entry of Appearance* or requested notification in writing shall be notified of the decision by first-class regular mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the Hazardous Waste Act.

ARRANGMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Cliff Hawley by June 15, 2001, at the following address: New Mexico Environment Department, Room N-4030, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502-6110, (505) 827-2850. TDD or TDY users please access Mr. Hawley's number via the New Mexico Relay

support; and the reason why requested variance

On April 4, 1996, NMED issued an earlier version of the draft permit for public review and comment. Based upon the comments received, NMED issued a public notice rescinding the draft permit and required GMI to significantly amend its application. The new draft permit incorporates the revisions of the revised application.

PUBLIC REVIEW OF THE DRAFT PERMIT

A copy of the Triassic park draft permit and the fact sheet may be reviewed at: New Mexico Environment Department, District IV Office, 1914 West Second Street, Roswell, New Mexico, 88201, (505) 624-6046, Attn: Mr. Darwin Pattengale; and the NMED web site (www.nmenv.state.nm.us/HWB/hazwaste_home.html), click on *Permits/Draft Permits*. The entire administrative record for the draft permit may be reviewed at: New Mexico Environment Department, Hazardous Waste Bureau, 2044-A Galisteo Street, P.O. Box 26110, Santa Fe, New Mexico 87502-6110, (505) 827-1560 ext. 1013, Attn: Ms. Stephanie Kruse.

PUBLIC HEARING

NMED will conduct a public hearing only if, prior to May 15, 2001, it receives a timely request for public hearing as set forth below. If the Secretary of the NMED does not receive a request for public hearing, then the Secretary will cancel the public hearing and directly notify the public of that decision no later than May 30,

NMED will accept written public comment and requests for public hearing on or before May 15, 2001. Written comments shall be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. All requests for public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester represents; (3) a statement of any objections to the draft permit, including specific references to the permit condition; and (4) a statement of the issues which such persons proposes to raise for consideration at the hearing. Documents in the administrative record need not be re-submitted if expressly referenced by the commentator. Written comment must be filed with the Hearing Clerk on or before May 15, 2001 at NMED, Room N-4071, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico.

B. ORAL PUBLIC COMMENT

At the public hearing, NMED will accept technical and non-technical oral comment. The Hearing Officer will set reasonable limits upon the time allowed for oral comment. Oral comment on the draft permit shall be accepted at the public hearing as set forth below;

1. **Non-Technical:** Any person may present non-technical oral public comment at the hearing. The Hearing Officer will reserve time for non-technical oral comment during each day of the public hearing. Any person may file non-technical written comment in lieu of oral comment on or before the date of the hearing with the Hearing Clerk at the address provided above.

purposes of public participation the hearing shall file a timely *Notice of Intent to Present Technical Testimony* or a timely *Entry of Appearance* on or before June 15, 2001 to the Hearing Clerk at the address provided above. The *Entry of Appearance* shall include the following:

A. **Person:** The person or entity filing the entry and current address for written notification;

B. **Position:** State whether the person or entity supports or opposes the revised draft permit; and

C. **Length of Testimony:** Provide an estimate of the amount of time for oral comment, if any.

2. The failure to file a timely *Entry of Appearance* shall preclude a person from being a party in the proceeding, but shall not preclude a person from presenting non-technical oral public comment at the hearing.

3. The Department may file an *Entry of Appearance* to participate at the public hearing.

As soon as practicable, but in no event later than two weeks prior to the hearing, the Hearing Officer shall make a hearing schedule available for public participants and mail it to each person who files an *Entry of Appearance* or *Notice of Intent to Present Technical Testimony*.

PROCEDURE OF ISSUANCE OF FINAL PERMIT DECISION

NMED will respond in writing to public comments prior to proposing a final decision to the Secretary. The Secretary will issue a final permit decision and response to comments. This response shall: