

**PUBLIC NOTICE NO. 01-05**

**NEW MEXICO ENVIRONMENT DEPARTMENT  
HAZARDOUS WASTE BUREAU  
SANTA FE, NM**

**June 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. Pamp. 2000). The permit applicant, Gandy Marley, 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. This notice provides the procedure for issuance of a final permit for Triassic Park.

NMED announces both the availability of the Triassic Park draft permit for public comment, and an opportunity for the public to request a public hearing 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 may be 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. On March 15, 2001, NMED issued another version of the draft permit. That version was found to have been an incorrect version, so it was rescinded on May 17, 2001. This public notice is the third notice of the permit's availability for public review and comment.

## **PUBLIC REVIEW OF THE DRAFT PERMIT**

A copy of the Triassic Park draft permit and the fact sheet may be reviewed at: the Roswell Public Library, Public Assessment Section, 3001 North Pennsylvania, Roswell, New Mexico; the Tatum Town Hall, 20 West Broadway, Tatum, New Mexico; and the NMED web site ([www.nmenv.state.nm.us/hwb/hazwaste\\_home.html](http://www.nmenv.state.nm.us/hwb/hazwaste_home.html)), by clicking on *Permits/Draft Permits*. The entire administrative record for the draft permit, including the draft permit and the fact sheet, may be reviewed at: New Mexico Environment Department, Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, (505) 428-2544, Attn: Mr. Stephen Pullen.

## **PUBLIC HEARING**

NMED will conduct a public hearing only if, prior to August 14, 2001, it receives a timely request for public hearing containing the information specified 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 August 31, 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 of 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, October 15, 2001 at 9:30 a.m., and be located at the Roswell Civic Center, 912 North Main Street. 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, 20.4.1.901.F NMAC, and the following sections of the Environment Department Permit Procedures, 20 NMAC 1.4: 100-116; 201.A. and B.; 202; 203.C; 204; 301; 302; 402-403; 501-503.

## **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 for 60 days, ending on August 14, or if the Secretary holds a public hearing, the comment period will continue through the public hearing.

Several comments regarding the draft permit were received by the NMED from interested citizens during the public comment period that commenced on March 15, 2001. NMED will retain those comments until August 14, at which time NMED will respond as appropriate. Interested citizens who provided comment may provide additional comment on the revised draft permit.

A. WRITTEN PUBLIC COMMENT AND REQUESTS FOR PUBLIC HEARING

NMED will accept written public comment and requests for public hearing through August 14, 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. **The Secretary may decide not to hold a public hearing if he does not receive the above information.** Documents in the administrative record need not be submitted if expressly referenced by the commentator. Written comment must be filed with the Hearing Clerk on or before August 14, 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.
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 September 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 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 September 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. NMED 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 FOR 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:

- (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 (74-4-14 NMSA 1978).

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

### **ADDITIONAL INFORMATION**

Any person seeking additional information regarding this draft permit, or who would like to arrange for copies of the draft permit at 35 cents a page after the first 80 pages, may contact Mr. Stephen Pullen at the Hazardous Waste Bureau by mail or in person at, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, or by telephone at ((505) 428-2544).