

(FAX COVER PAGE)

DATE : 7/29/01

TO : NAME : SEE BELOW
FAX NO. : SEE BELOW

FROM : NAME : Ken Schultz
FAX NO. : 505-332-7283

Number of Pages : 2 (including cover page)

Subject / Notes : The need for Triassic Park
NMED

- James Beatty 505-428-2567 827-1545
- * Steve Pullen 505-428-2567
- Paul Ritzyas 505-827-2836
- U.S. Department of Energy
- H.L. 'Jody' Plum 505-234-7008
- GMI
- Dale Sandy 505-396-6887
- Pete Domenici Jr. 505-884-3424
- Pat Corser 970-879-9048
- GMI office file (Larry Sandy/Bill Morley) 505-347-0435

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"THIS COULD BE HAPPENING IN NEW MEXICO"

AND

IS A GOOD EXAMPLE OF WHY THE TRIASSIC PARK WASTE DISPOSAL FACILITY
IS NEEDED NOW.

Hazardous Waste

Tenn. Construction Firm to Pay \$867,320 in RCRA Criminal Case on Solvent Disposal

A Tennessee construction company and its management were ordered by a federal court July 13 to pay \$867,320 for disposal of solvents in violation of the Resource Conservation and Recovery Act (*United States v. Simpson*, E.D. Tenn., No. 1:00-CR-168, 7/13/01).

Simpson Construction Co., of Cleveland, Tenn., the owner, Claude Simpson, and employee Ralph Hicks pleaded guilty Jan. 29 to charges stemming from the way the company disposed of solvents used to clean painting equipment.

The payments ordered by the court include:

- a \$25,000 federal fine;
- \$75,000 for training company employees in environmental and ethical issues from the University of Tennessee Center for Industrial Services;
- \$100,000 to the University of Tennessee to develop videos for training construction workers in environmental management;
- conveyance of property worth \$209,000 to the city of Cleveland;
- \$100,000 to relocate a concrete mixing facility on the construction company's property;
- and \$358,320 to restore the site to its natural state for use as a park.

Following the sentence, a company official questioned the investigative tactics of law enforcement officials and the level of the fine.

According to a July 16 statement from the Department of Justice, company employees poured waste solvents onto wood and other refuse and burned it in a pit.

The solvent waste was highly flammable. "This ignitability made it a hazardous waste within the meaning of the Resource Conservation and Recovery Act," the DOJ statement said.

A joint state-federal East Tennessee Environmental Crimes Task Force covertly observed the business and in May 1998 videotaped the disposal and ignition of the hazardous waste in the pit, DOJ said. The task force executed a search warrant at the facility on Sept. 13, 1998.

In addition to the fine, Simpson and Hicks were placed on supervised probation under a plea agreement negotiated by the parties.

Company Unaware of Violation. Larry Eskew, vice president of Simpson Construction Co., told BNA that disposing of solvent by burning is not uncommon in Tennessee, and the company was unaware that it was illegal.

"If we'd have known we were breaking the law, we wouldn't have done it," Eskew said.

Eskew said that a disgruntled employee who was fired after failing a drug test informed environmental officials that Simpson Construction was burying hazardous waste at the Cleveland facility.

Approximately 25 armed agents from EPA, the FBI, the Tennessee Valley Authority, and Tennessee state law enforcement raided the facility in 1998, but failed to find any buried hazardous waste, Eskew said. An X-ray survey of the site confirmed the absence of buried hazardous waste, he said.

They did find the burn pit, however, Eskew said. The burn pit was approved by authorities in Bradley County, he said.

'Penalty Does Not Fit The Crime.' "In my personal opinion, the penalty does not fit the crime," Eskew said. Authorities found no environmental harm resulting from the burning, Eskew said.

Eskew said the company has tried to be environmentally conscious and has won awards for its construction methods. "This one slipped by, and we paid dearly for it," Eskew said.

Kent Starwalt, executive vice president of the Tennessee Road Builders Association, told BNA that the tactics used in the Simpson case "were a little much."

"These weren't Branch Davidians," Starwalt said.

Simpson volunteered that they were burning solvents, Starwalt said. "The question isn't the violation," Starwalt said. "They admitted them. The question is the tactics and the penalty," which Starwalt described as "excessive."

An assistant U.S. attorney in Greenville, Tenn., did not respond to phone calls.

However, James Dedrick, U.S. attorney for the Eastern District of Tennessee, said in the DOJ statement that "virtually every agency in the Environmental Crimes Task Force participated significantly in the in-