

NEW MEXICO
ENVIRONMENTAL LAW CENTER

Via: Hand Delivery

August 23, 2001

Ms. Felicia Orth,
Hearing Officer
New Mexico Environment Department
1190 St. Francis Drive North 4050
Santa Fe, New Mexico 87505

Re: Request for Public hearing; draft permit for Triassic Park waste disposal facility U.S. EPA
NM0001002484

Dear Ms. Hearing Officer,

Please find enclosed a motion for a hearing no earlier than November 12, 2001 for the
above captioned matter. Feel free to call if you have any questions.

Sincerely,

Heather L. Green
Douglas Meiklejohn

Attorneys for Conservative Use of
Resources and Environment

1405 Luisa Street, Suite 5, Santa Fe, New Mexico 87505
Phone (505) 989-9022 Fax (505) 989-3769 nmelc@nmelc.org

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
BEFORE HEARING OFFICER FELICIA ORTH

IN THE MATTER OF THE DRAFT)
FINAL PERMIT FOR THE TRIASSIC PARK) No. HRM 01-02(P)
WASTE DISPOSAL FACILITY)
U.S. EPA NO. NM0001002484)
)

OPPOSED MOTION FOR PUBLIC HEARING

Conservative Use of Resources and Environment ("CURE") requests, pursuant to 20.4.1.901 NMAC, that a public hearing be held on the Draft Permit for the Triassic Park Waste Disposal Facility, Chaves County, New Mexico, U.S. EPA No. NM001002484, and that the October 15, 2001 public hearing date be rescheduled no earlier than November 12, 2001 to allow the applicant sufficient time to hold additional public meetings at which information in Spanish, and a Spanish translator would be available and used. In support of this Motion, CURE states as follows:

- (1) CURE is a group of concerned citizens and communities opposed to hazardous and nuclear waste dumps in the Southwest.
- (2) CURE, through its attorneys New Mexico Environmental Law Center, is requesting that the public hearing scheduled for October 15, 2001 be held no earlier than November 12, 2001 on behalf of its individual members and does not represent the interests of any other parties in this matter.
- (3) The applicant did not provide adequate notice for the Public Meetings held in May

and July, 2001.¹ CURE members who received only a one week notice for the meetings in Hagerman, Roswell, Santa Fe, and Tatum had difficulty rearranging their schedules to attend. Many CURE members could not attend the public meetings held in Hagerman, Roswell and Tatum because of inadequate notice. (Deborah Petrone Affidavit ¶ 3.) At least one member was unable to attend because he received notice of the public meeting too late to arrange for someone to work for him. (Judy King Affidavit ¶ 3.) Other members received notice of public meetings by word of mouth and were unable to attend. (Eric Fairfield Affidavit ¶ 2.)

(4) The applicant did not provide a fact sheet in Spanish, and did not provide a Spanish translator.

(5) The applicant's failure to provide adequate notice for the public meetings, its failure to provide a fact sheet in Spanish, and its failure to provide a Spanish translator has hindered CURE members' ability to participate in the permitting process. (Libarado Garza De La O Affidavit ¶¶ 2 to -3, Maria Dolores De La O Affidavit ¶¶ 2 to -3.)

(6) The applicant specifically failed to use a Spanish translator at the July 19, 2001. As a result, CURE members who do not speak English, did not understand any of the speakers. Approximately 70 to 80 people left the meeting because of this. (King Aff. ¶ 4, L. De La O Aff. ¶ 3, M. De La O Aff. ¶ 3.)

(7) The applicant submitted comments regarding the March 15, 2001 version of the draft permit in which the applicant requested the New Mexico Environment Department Hazardous Waste Bureau make nine provisions in that draft permit less stringent.

¹ NMAC 20.4.1.900 adopts 40 CRR Part 270: 40 CFR 270.42, Permit modification at the request of the permittee, requires that the permittee give at least 15 days notice prior to a public notice meeting. Other CFR regulations pertaining to public meetings at the application stage require reasonable notice. See, e.g., 40 CFR 124.31, 40 CFR 124.32.

(8) The applicant is not required to submit their proposed changes to the current draft permit (June 15, 2001 version) until September 21, 2001.

(9) CURE members will not have a chance, absent a public meeting and additional time before the scheduled hearing, to adequately review the proposed changes to the draft permit and prepare for the hearing.

(10) CURE will present technical and non-technical evidence relating to the financial assurance plan, the ground water monitoring variance, emergency preparedness, and other aspects of the draft permit in opposition of the issuance of the Final Permit for the Triassic Park Waste Management Facility.

(11) This testimony will specifically include, but not be limited to, discussion of inadequate coverage in the financial assurance plan of financial assurance covering third party completion of closure and post-closure activities, failure to support closure costs with calculations, the draft permit's failure to describe the facility's capability of handling more than the proposed waste limits, the draft permit's failure to take into account the actual maximum anticipated amounts of waste as related to the rated capacity of the landfill, and the applicant's failure to identify actual local authorities in its contingency plan or to build the capacity of local emergency response authorities to the level necessary .

(11) Counsel for CURE will be unavailable from November 1, 2001 to November 6, 2001.

Wherefore, CURE respectfully requests the following:

- (1) that the public hearing be rescheduled no earlier than November 12, 2001;
- (2) that before the hearing, the applicant holds public meetings with at least 15 days

notice at which a Spanish translator is present in Hagerman, Santa Fe, Roswell and Tatum;

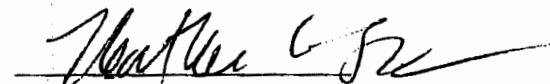
(3) that the applicant discuss its proposed changes to the draft permit at those meetings;

and

(4) that the applicant has a fact sheet in Spanish available for members of the public at those meetings.

Respectfully submitted,

NEW MEXICO ENVIRONMENTAL
LAW CENTER



Heather L. Green
Douglas Meiklejohn
1405 Luisa Street, Suite 5
Santa Fe, NM 87505
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Attorneys for the Conservative Use of
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U.S. EPA NO. NM0001002484)
_____)

CERTIFICATE OF SERVICE

This is to hereby certify that the undersigned counsel for Conservative Use of Resources and Environment (CURE), in the above-entitled action on this day filed a Notice of Entry of Appearance and served it upon the following counsel of record in the manner indicated:

Clay Clark Hand delivery
New Mexico Environment Department
Office of General Counsel
1190 St. Francis Drive
Santa Fe, NM 87502

Pete V. Domenici, Jr., Esq. Facsimile and First class mail, postage prepaid
Dolan & Domenici, P.C.
6100 Seagull NE, Suite 205
Albuquerque, New Mexico 87109

Dated: August 23, 2001

By: Heather Green
Heather Green

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_____)

AFFIDAVIT OF DEBORAH PETRONE

Deborah Petrone, being duly sworn, deposes and says:

1. I live in Hagerman, New Mexico. I am a member of the Conservative Use of Resources and Environment (CURE) consortium.
2. I am concerned about the proposed Triassic Park hazardous waste dump having adverse long term impact, specifically in the areas of health, economics, cultural, and the environment.
3. Because of the short notice given for the public information meetings in Santa Fe, Roswell, Tatum, and Hagerman in the month of July, I know members in each of these communities who were either unable to attend, or attended in spite of the hardship created by the lack of adequate notice.

Dated: August 21, 2001.
Santa Fe, New Mexico

Deborah Petrone
Deborah Petrone

Sworn to before me this 21
day of August, 2001

[Signature]
Notary Public

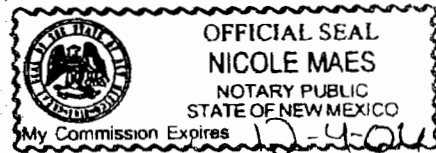


EXHIBIT
1

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BEFORE HEARING OFFICER FELICIA ORTH

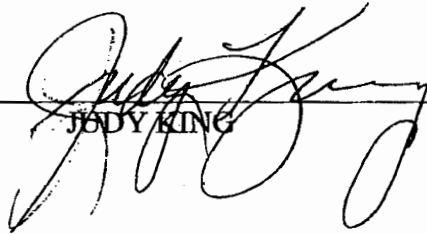
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WASTE DISPOSAL FACILITY)
U.S. EPA NO. NM00010112484)

AFFIDAVIT OF JUDY KING

JUDY KING, being duly sworn, deposes and says:

1. I live in Hagerman, New Mexico. I am a member of the Conservative Use of Resources and Environment (CURE) consortium.
2. I am concerned about the proposed Triassic Park hazardous waste dump because of severe health risks and negative socio-economic impacts upon our communities and my family.
3. I received notice of the public information meeting one week ahead of when it was supposed to take place. This caused undue hardship because it meant that either me or my son would not be able to attend since we are the evening operators of the store in the evening hours.
4. I attended the public information put on by GMI and witnessed approximately seventy people walk out because of Spanish translation was promised but not delivered. Most of those people were Hispanic and the few that were not left out respect and sympathy for their neighbors and friends.

Dated: 8-20-01, 2001.
Hagerman, New Mexico



JUDY KING

EXHIBIT
tabbies
2

Sworn to before me this 20
day of August, 2001

Eugenia D. L. Harris

Notary Public

STATE OF NEW MEXICO
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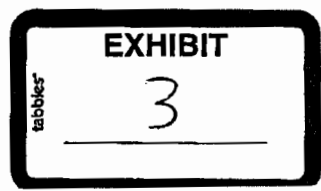
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AFFIDAVIT OF ERIC FAIRFIELD

ERIC FAIRFIELD, being duly sworn, deposes and says:

1. I live in Hagerman, New Mexico.
2. I am concerned about the proposed Triassic Park hazardous waste dump. I received notice of the public information meeting by word of mouth about one week before it was scheduled. I was unable to attend because of the short notice.

Dated: 8/20, 2001. ERIC FAIRFIELD
Hagerman, New Mexico



Sworn to before me this 20
day of August, 2001

Suzanne D. Levario

Notary Public

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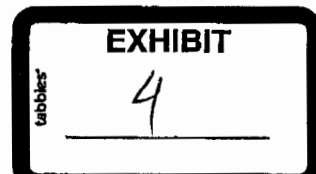
AFFIDAVIT OF LIBARADO GARZA DE LA O

LIBARADO GARZA DE LA O, being duly sworn, deposes and says:

1. Lla Libarado Garza De La O y vivo en la 7812 Shoshoni en Hagerman N M. Yo participo en en la membersa de la organizacion numbrada Conservative Use of Resources and Environment (CURE) consortium.
2. Les pido que no pongan estos desperdisios en este dompe que queiren poner. Por el motibo de que todo eso es para aser a para probocar muchas enfermedades para toda las familias y personas que lla estamos enfermos.
3. Hora les pido que iseran el proposito poner nos un interperte, para todos los que no sabemos ingeles. Para puerder entender todo lo que esta pasando en las juntas y por esta misma rason muchas personas se salieron de la junta que tovimos en Hagerman. En total se salereon como unas 70 personas.

Dated: 8-20, 2001. f
Hagerman, New Mexico LIBARADO GARZA DE LA O

witness: Victor Blau



Sworn to before me this 20
day of August, 2001

Eugenia D. Levario

Notary Public

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NO. HRM 01-02(P)

AFFIDAVIT OF MARIA DOLORES DE LA O

MARIA DOLORES DE LA O, being duly sworn, deposes and says:

1. Lla Maria Dolores De La O y vivo en la 7812 Shoshoni en Hagerman N M. Yo participo en en la membersa de la organizacion numbrada Conservative Use of Resources and Environment (CURE) consortium.
2. Les pido que no pongan estos desperdisios en este dompe que queiren poner. Por el motibo de que todo eso es para aser a para probocar muchas enfermedades para toda las familias y personas que lla estamos enfermos.
3. Hora les pido que iseran el proposito poner nos un interperte, para todos los que no sabemos ingeles. Para puerder entender todo lo que esta pasando en las juntas y por esta misma rason muchas personas se salieron de la junta que tovimos en Hagerman. En total se salereon como unas 70 personas.

Dated: 8-20-01, 2001.
Hagerman, New Mexico

Maria Dolores de la O
MARIA DOLORES DE LA O



Sworn to before me this 20
day of August, 2001

Eugenia D. Levario

Notary Public