



**STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT  
BEFORE HEARING OFFICER FELICIA ORTH**

IN THE MATTER OF THE DRAFT  
FINAL PERMIT FOR THE TRIASSIC  
PARK WASTE DISPOSAL FACILITY  
U.S. EPA NO. NM0001002484

No. HRM 01-02(P)

**NOTICE OF FILING**

COMES NOW the applicant Triassic Park, by and through it counsel of record, Dolan & Domenici, P.C. (Pete V. Domenici, Jr., Esq.), and provides notice of filing of the following documents:

1. Comments that constitute Applicant's Minor Clarifications and Editorial Corrections to NMED Permit for the Triassic Park Facility. Additional Comments responding to public questions will be submitted by separate submittal of the applicant.

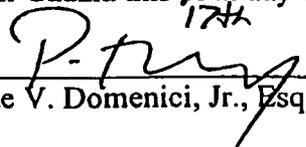
DOLAN & DOMENICI, P.C.



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I hereby certify that a true copy  
of the foregoing was sent via fax  
to counsel for CURE, the hearing clerk and  
the administrative record in Roswell c/o Linda Cole of  
the NMED, Steve Pullen of the NMED, and mailed to  
Jimi Gadzia this ~~15th~~<sup>17th</sup> day of September, 2001.



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Pete V. Domenici, Jr., Esq.

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
<b>Comments on Section 2, 3, 6, 7, 8 and Permit Attachments O2, Q, R, and T</b>	
1	<b>3.2.3 Berms</b> Slopes are 3H:1V not 1.5H:2V and there is not a concrete floor in the Roll-Off Storage Area.
2	<b>6.2.1.b Liner Systems</b> 264.301 (c)(1) is not an accurate citation because it states the use of three (3) feet of compacted clay. MW suggests that 264.301 (d) is more applicable to this permit.  The second to the last bulleted item states that 3 feet of compacted clay will be part of the liner system. This statement should be removed from the permit.
3	<b>6.2.1.f Access Ramps</b> The permit states, "The Permittee shall construct an access ramp in the south waste fill slope". The access ramp is not installed in "waste fill". The ramp is constructed in native ground that forms the excavation surface.
4	<b>7.2.1.(c) Vadose Zone Monitoring Sumps</b> In addition, CFR 264.90 (f)(2) is referenced, but it appears this citation does not exist in the CFR.
5	<b>7.2.10 Decontamination of Material Introduced into the Well Bore</b> This section is vague. Do drill rods require decontamination? If this section is supposed to address only monitoring well construction materials, then the section should make this statement.
6	<b>8.1.4.b Clean Closure Confirmation</b> The Permit references sampling rates of 500 square feet and 10 lineal feet. These rates should be struck from the Permit to avoid confusion. Sampling frequencies are stated for each permitted unit in Permit Attachment O; therefore, only Permit Attachment O should be referenced for sampling frequencies.
<b>Comment on Draft Permit Part 1</b>	
7	<b>1.1</b> The Secretary of the New Mexico Environment Department (the Department) - should abbreviate as (Secretary) rather than (the Department), since Secretary is used alone throughout the document and the Department is not.
8	<b>1.2.3</b> The reference 40 CFR 270.51 refers to expiring permits, not to permit modifications, suspension or revocation
9	<b>1.4</b> Reference in definition for ALR is missing "NMAC"

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
10	1.4 Leak Detection System definition - "Such a structure..." should read "Such a system..." and NMAC reference should be 20.4.1.100 rather than 500
11	1.4 Soil definition - could not locate reference to 268.2 (k)
12	1.4 UHC definition - Clarify why Selenium and Sulfides are added to list of constituents that can be expected to be present at the point of waste generation at a concentration above UTS standards, but not included in regulation definition.
13	1.4 Vadose Zone definition - NMAC reference should be 20.9.1.105.CH rather than HHHH
14	1.5.3 Reference through 270.29 should be through 270.27
15	1.10 NMAC reference should be 20.4.1.900 rather than 500
<b>Comment Draft Permit Part 2</b>	
16	Reference to 270.41 does not apply, only 270.42 should be referenced
17	2.5.2 2 <sup>nd</sup> paragraph - reference should be through 2.5.2.e rather than 2.5.2.f
18	2.5.2 Last sentence should add "or Permit Attachment F" to the end to be consistent with Section 2.5.1
19	Referenced in Landfill bullet are incorrect. Should be Permit Condition 2.5.2.a rather than 2.5.1.a.i.
20	2.7 Remove "is initiated" from end of last sentence. See Permit Condition 1.9.1 - Attachment D and D1 must be kept at Facility until final completion of closure
21	2.7.3 Reference to Permit Condition 2.12.1.l does not apply - this reference relates to Corrective Action records
22	2.8.1 Reference should be to Section 4.6.5.1 rather than 4.6.3.1

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
23	2.10 Inconsistent with Permit section 1.9.1, which says Attachment B shall be maintained at the Facility until final completion of closure
24	2.10.5 Reference to 264.37(b) relates to refusal to enter agreement being recorded in Operating Record, not termination of an agreement. Requirement to document in Operating Record and reference should be moved to relate to discussion of refusal in previous paragraph.
25	2.11.5 Remove Section 6.0 from reference - same as Attachment C
26	2.12.1.h Referenced permit condition 3.4 does not include discussion of information required for non-exempt waste
27	2.14.1.b Reference to Attachment F should be Section 4.4, Procedures for Incoming Waste Acceptance
28	2.14.2.b.ii Sentence implies the dust is generated from waste in trucks. Better reworded to read "... to control the dust generated from the surface of the landfill daily soil cover"
29	2.14.3 Requirement that any vehicles or equipment which have come in contact with hazardous waste in any storage or treatment area or in the landfill are decontaminated prior to further movement to prevent contamination of uncontaminated areas of the Facility is additional to permit application. We request that this be clarified to indicate that all trucks used for hauling waste into and out of the facility will not have to be routed through the truck wash unless they are visually contaminated.
30	Reference to Attachment F1 should be Section 4.5.1.3 rather than 3.0 as indicated
31	Typo of extra parenthesis at end of last reference.
32	2.15.2.c No such regulation 40 CFR 264.1083(b)(1)(ii) found as referenced
33	Table 2-2 General comment - difficult to tell the purpose of this table - Section 2.12.1 says all the information listed in Table 2-2 shall be maintained at the Facility, yet it appears to be more just a reference to all the permit sections that discuss recordkeeping. Assuming it is intended to be a list of records to be kept, specific comments follow:

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
34	General - Would be helpful to include applicable area or activity (General - sections 1-2, Containers - section 3, Tanks - section 4, Surface Impoundment - section 5, Landfill - section 6, VZMS - section 7, Closure - section 8, Corrective Action - section 9) that the requirement applies to since many sections have vague titles or the same title as another areas (e.g. Recordkeeping Requirements, Inspection Logs, Other Records, etc)
35	Generator's sampling plan included in permit section 2.5.3.a.ii not included in Table
36	Permit section 2.5.3.b does not relate to sampling and analysis recordkeeping and there is no section titled Individual Sampling and Analysis Protocols
37	Several items listed are duplicates to the list provided in section 1.9.1 (first item in Table), including Personnel Training Documents (2.8.3), Contingency Plan Copies (2.11.2), Contingency Plan Implementation (2.11.6).
38	Item listed as Recordkeeping Requirements (2.12.1) does not include any records to be kept, just refers to Table 2-2 and sections 2.12.1.a-n, which are also listed in the table.
39	Typo for Monitoring Information item - permit section should be 2.12.1.k (get rid of the 'i' at the end)
40	Typo for Other Records item - permit section should be 2.12.1.n
41	Several items listed are duplicates to item listed as sections 2.12.1f and g, including permit number items 3.7.1.c, 4.7.1.c, 4.7.1.d
42	Inspection Records (4.7.1.a) is duplicate of Recordkeeping - Inspection Logs (2.7.3)
43	Action Leakage Rate section (5.5.3) does not include recordkeeping requirements, but is included in Table
44	Release Assessment section (7.5) does not include recordkeeping requirements, but is included in Table
45	Table 2-3 General comment - difficult to tell the purpose of this table -Section 2.12.2 says all the submittals listed in Table 2-3 shall be submitted to the Secretary, yet it appears to be more just a reference to all the permit sections that discuss submittals. Assuming it is intended to be a list of information to be submitted, specific comments follow:
46	General - Would be helpful to include applicable area or activity (General - sections 1-2, Containers - section 3, Tanks - section 4, Surface Impoundment - section 5, Landfill - section 6, VZMS - section 7, Closure - section 8, Corrective Action - section 9) that the requirement applies to since many sections have vague titles or the same title as another areas (e.g. Subpart CC Noncompliance, etc)
47	Permit section 1.5.9.d is included in the table, yet there is no requirement discussed in this section (no text), except within the subsections, which are listed in the table as well
48	Contingency Plan Implementation is duplicated in the table - sections 1.5.9.e and 2.11.6
49	Section 2.11.1 is included in the table, but the text does not include any reporting requirement
50	The individual elements required in the Contingency Plan are listed separately in the table (sections 2.11.5.a - f) in addition to the Contingency Plan itself (section 2.11.5) - duplicate listing

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
51	Item listed as Recordkeeping Requirements (2.12.2) does not include any reports to be submitted, just refers to Table 2-3 and sections 2.12.2.a-d, which are also listed in the table.
52	Permit section 4.7.2.a is included in the table, yet there is no requirement discussed in this section (no text), except within the subsections, which are listed in the table as well
53	Permit section for Certification Reporting after Major Repairs should be 4.7.3.b
54	Permit section for Reporting Noncompliance - Subpart CC should be 4.7.2.b
55	Permit section 5.7.2.a is included in the table, yet there is no requirement discussed in this section, except within the subsections, which are listed in the table as well
56	Permit section 5.7.2.b is included in the table, yet there is no requirement discussed in this section, except within the subsections, which are listed in the table as well
57	Title for permit section 5.7.3.b should be Dike Recertification
58	Sections 7.2.1 and 7.3.1.c are included in table, yet no reporting requirements are discussed in these sections
59	All permit section references for section 8 are incorrect. List should be: 8.2.2.a Post-Closure Care Plan Amendment 8.2.2.b Surface Impoundment Post-Closure Care Plan Modification 8.2.2.c Tank System Post-Closure Care Plan Modification 8.2.8 Annual Reports throughout Post-Closure 8.2.9 Closure Certification 8.2.11 Notification of Closure 8.2.11.b.i Survey Plat 8.3.1.a Latest Closure Cost Estimate 8.3.2.a Financial Assurance
<b>Comment Draft Permit Part 3</b>	
60	3.4 Reference to Permit Condition 3.11 for managing waste which testing has not been completed is unclear. Section 3.11.1 states BB waste will not be accepted, and there is no discussion of managing waste greater than 10% organic concentration by weight. Section 3.11.2 discusses both compliance and exemption from CC regulations

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
61	3.7.1.d Sentence is difficult to understand. Would be better worded as: For containers that fall under Container Level 1 standards in accordance with Permit Condition 3.11.2.c.ii that do not meet the applicable DOT regulations on packaging hazardous materials for transportation specified at 20.4.1.500 NMAC (incorporating 40 CFR 264.1086(f)), the Permittee shall maintain at the Facility a copy of the procedures used to determine that these containers are not managing hazardous waste in light material service, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.1086(c)(5))
62	3.11.2.b.ii Clarify that wastes are exempt if they meet any of the 3 conditions listed rather than having to meet all requirements. Suggest changing beginning to "Containers containing any of the following waste.." and changing the 'and' after the second bullet to 'or'
<b>Comment Draft Permit Part 4</b>	
63	4.4.3 Reference to 264.1083(a) is more appropriate than 264.1083(a)(2) since (a)(1) requires determination of compliance and (a)(2) defines the procedures for determination
64	4.6.1 Should reference Attachment A, Section 2.3.6 (relates to Liquid Waste Tanks) in addition to Section 2.4.6 (relates to Stabilization Unit)
65	Reference to Attachment D, Inspection Procedures, Section 5.2, Inspection Procedures is repetitive - Attachment D is Section 5.2.
66	Reference to 264.15(c) in 3 <sup>rd</sup> bullet refers to remedy of problems that the inspection reveals, does not require inspection as stated
67	4.6.2 Regulation 264.195(a) does not require inspection of overfill controls daily as stated.
68	4.6.3 Clarify inspection of Cathodic Protection System. Section 4.6.1 says they will be inspected daily for both liquid tanks and stabilization tanks, while Section 4.6.3 discusses different inspection schedule for stabilization tanks only. Why does 4.6.3 not apply to liquid tanks as well and why is daily inspection not included?
69	4.6.3 Wording of 2 <sup>nd</sup> bullet should be changed to "... inspected and/or tested as appropriate..." to be consistent with the Regulations
70	4.7.2.a.i Reference for reporting spill/leak within 24 hours would be better as CFR 264.196(d)(1)

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
71	4.7.3.a Requirement to submit tank installation certification 60 days prior to initiation of operations not specified by regulations or permit application. We suggest that it be submitted prior to the initiation of operations.
72	4.8.2 Sections 2.3 and 2.4 do not address distance between tanks and property line as stated
<b>Comment Draft Permit Part 5</b>	
73	5.4.4.b Permit conditions 7.3.2.a and b relate to Landfill and Surface Impoundment Leachate (i.e. LCRS and LDRS) monitoring and don't discuss VZMS wells monitoring as referenced
74	5.5.3 Reference for the ALR for the Surface Impoundment should be Attachment A, Section 2.6.4.7 rather than 2.5.3.8, which relates to the landfill.
75	5.5.7 Reference to Permit Condition 5.7.3.b does not address certification of repairs and includes requirement of certification submitted 60 days prior to initiation of operations - would this apply to repairs as well?
76	5.6.1.b 1 <sup>st</sup> sentence should include inspection for "damage" rather than "drainage" to be consistent with regulations requirements
77	5.6.2 VZMS wells required to be monitored semi-annually during post-closure, not quarterly as stated. References cited all require semi-annual monitoring.
78	5.6.2 & 6.6.2 Reference to Attachment I only relates to removal and disposal of VZMS liquids, not LDRS liquids
79	5.7.1.a References should be to Permit Condition 2.7.3 rather than 2.7.1.d, and Permit Condition 5.6.1 rather than 5.6.1.c
80	5.7.1.b & 6.7.2.b Using references to published literature to document compliance is not included in Permit, but allowed by 264.17(c)
81	5.7.2.a.i Add clarification that sudden drop in the liquid level of a Surface Impoundment pond "that is not caused by changes in the flows into and out of the Surface Impoundment or expected evaporation rates"

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
82	5.7.2.b.iii Reword first sentence to read "... submit to the Secretary the results of analyses (remove 'and any other information') required under.." to be consistent with requirements of the regulation
<b>Comment Draft Permit Part 6</b>	
83	6.4.3.a Clarify that sample and analysis of leachate will be for LDRS, LCRS and VZMS leachates combined, not analyzed for each sump individually
84	7.3.2.b Clarify that biennial sampling described in this section only applies to VZMS wells according to Section 4.5.6 and 264.98(a) (relates to groundwater monitoring), not to sumps
85	6.5.2.c References cited are related to leachate storage tank description and specifications (e.g. Section 2.5.1.3 only relates to LCRS). Reference to Attachment F, Section 4.5.6 would be better to support that leachate from the sumps will be stored in the leachate storage tank.
86	6.5.2.d Requirement to sample and analyze leachate from LCRS, LDRS and VZMS sumps prior to comingling with leachate from VZMS wells or Surface Impoundment additional to permit application. Can leachate from the Landfill LDRS, LCRS, and the VZMS sump at the base of the Landfill be collected separately for sampling and analysis prior to comingling in the tank, if it is necessary to identify the location of the source of the fluids entering the LDRS and the VZMS sump?
87	6.5.3 Should also reference Attachment A, Section 2.5.3.8 in this section
88	6.5.5 Reference to Permit Condition 7.4.1.a should be 7.4.1.b
89	6.6.1.d Use of inspect "entire" Landfill weekly and after storms is misleading. Attachment D1 and the referenced regulation specify the required inspections
90	6.7.1.a Reference to Permit Condition 2.12.1.h should be 2.12.1.m

MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT FOR THE TRIASSIC PARK FACILITY	
No	COMMENT
91	6.7.1.a The bullets have been changed from the wording of the regulations, which changes their meaning. The 1 <sup>st</sup> bullet should be "a map with the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks". Remove "grid" from the 2 <sup>nd</sup> bullet - regulations specify requirements for the each cell, not each grid. The reference to Permit Condition 6.3.2 relates to placement of incompatible wastes and should not be referenced here.
92	6.7.1.c Requirement to retain all LDRS, LCRS, VZMS monitoring data until completion of post-closure care is not required by the regulation
93	6.7.2.a Requirement to submit current cell map information quarterly not required by permit application or regulations
94	6.7.2.a Requirement to submit waste location map accurate to w/in 1 meter grid in Quarterly report is too restrictive. We suggest an accuracy of to w/in an individual grid cell.
95	6.7.2.c 3 <sup>rd</sup> bullet - monthly report should only be required if ALR continues to exceed in LDRS, not LCRS as stated.
96	6.7.3 Reference to Permit Condition 1.5.8.c.ii should be 1.5.9.c.ii
97	6.8 Remove "LDR" from first sentence - CFR 264.17 is not an LDR requirement
98	6.10.4 Could not locate reference to CFR 268.49

**MINOR CLARIFICATIONS AND EDITORIAL CORRECTIONS TO NMED DRAFT PERMIT  
FOR THE TRIASSIC PARK FACILITY**

**COMMENT**

No

99

**Clarification of Draft Permit Section 2.3.1 Hazardous Waste from Sources Located Outside of the United States**

For the purposes of provision 2.3.1, a United States corporation operating outside of the United States and governed by the Mexico and United States of America Agreement on Co-Operation for the Protection and Improvement of the Environment in the Border Area, 14 August 1983 (the La Paz Agreement) is not a "generator of hazardous waste located outside of the United States of America" or a "source located outside of the United States." Permittee may accept hazardous waste generated by United States corporations operating outside of the United States and governed by the La Paz Agreement in the manner established by the Solid Waste Disposal Act (SWDA) § 1002 *et seq.* as amended by the Resource Conservation and Recovery Act (RCRA) § 6901 *et seq.* and 40 C.F.R. § § 262 and 264.

Such wastes are required to be "imported" by the generator at the border between the United States and Canada or Mexico and the customs broker at the boarder takes the Canadian or Mexican waste manifest forms and "generates" the new hazardous waste manifest form that is used throughout the United States for "cradle to grave" tracking 40 C.F.R. § 262.23.