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September 20, 2001

Mr. Steve Pullen
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

Re: Triassic Park Hazardous Waste Facility Draft Permit
Hearing Docket Number HRM 01-02 (P)
NMGF Doc. No. 7629



Dear Mr. Pullen,

The Department of Game and Fish (Department) has reviewed the Draft Permit (Permit) for the proposed Triassic Park Waste Disposal Facility (Facility), 43 miles east of Roswell, Chaves County. The Department provides the following recommendations to mitigate potential impacts of construction and operation of the facility to wildlife species of concern.

As mentioned in the Permit, the ferruginous hawk occurs in the area, as do other raptors, passerine birds, and waterfowl species during migration. The permit commits to using bird netting to preclude access of birds to evaporation ponds. We recommend that netting also be used over any other open storage facilities that contain hazardous liquid wastes that could be accessed by birds or bats, and that the netting be regularly inspected and maintained throughout the life of the Facility.

It is our understanding from discussions with you that a six-foot chainlink fence, with three strands of barbed wire on top, will be constructed around evaporation ponds, contaminated water basins, stormwater detention basins, and dust control water basins, to preclude access to hazardous wastes and plastic-lined water sources by wildlife and unauthorized humans.

Charles Painter, nongame biologist of my staff, met with Mr. Larry Gandy, the landowner and project proponent, on 19 September 2001 to investigate the possible occurrence of the state-listed sand dune lizard (*Sceloporus arenicolus*) at the site and possible mitigation strategies. The western edge of the proposed facility site was found to be within occupied sand dune lizard habitat; therefore, we make the following recommendations:

1. Construct an enclosure fence of metal flashing around the base of the 6-foot chainlink fence that will be constructed around evaporation ponds, contaminated water basins, stormwater detention basins, and dust control water basins. This enclosure fence should be constructed

- of solid metal and not synthetic materials, such as silt fence, due to the synthetic material's relatively short effective life and maintenance requirements.
2. The metal flashing enclosure should be constructed to protrude a minimum of 18-inches above ground, and a minimum of 10-inches below ground.
 3. The enclosure fence should be regularly maintained to provide a minimum of 18-inches above ground.
 4. If possible, relocate any hazardous waste storage facilities planned for construction within sand dune/shinnery oak habitats, to another area within the site.

Permit Attachment A, "Site Environment" (p.3), states:

"One bird species, the ferruginous hawk (*Buteo regalis*), is classified as a Category 2 candidate for listing as threatened or endangered by the United States Fish and Wildlife Service of the U.S. Department of Interior. Currently, it is not listed. No other documented species in the area of the proposed Facility site are federally protected or candidates for federal protection".

However, the lesser prairie chicken (*Tympanuchus pallidicinctus*) is currently a candidate for federal listing under the category of Warranted but Precluded, has been studied for state-listing by the Department, and is known to have occurred in the vicinity of the Facility. Although not acknowledged as occurring within the proposed project site, the Department believes that the implementation of fencing and bird netting mitigation measures already committed to in the Permit and recommended in these comments will be sufficient to protect the lesser prairie chicken from impacts associated with this project.

The Department appreciates the opportunity to comment on this project. Should you have any questions regarding our comments, please contact Habitat Specialists Alexa Sandoval at 434-1024, or Mark Watson at 476-8115.

Sincerely,



Tod W. Stevenson, Chief
Conservation Services Division

TWS/AS/MLW

CC: Joy Nicholopoulos (Ecological Services Field Supervisor, USFWS)
Scott Brown (Assistant Director, NMGF)
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