

TP 002

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GARY E. JOHNSON  
Governor

State of New Mexico  
**ENVIRONMENT DEPARTMENT**

District 4  
1914 W. Second ST.  
Roswell, NM 88201  
(505) 624-6046



PETER MAGGIORE  
Secretary  
PAUL RITZMA  
Deputy Secretary

FAX TRANSMITTAL

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DISTRICT IV  
ROSWELL, NM 88201

TELEPHONE NUMBER: (505) 624-6046 FAX NUMBER: (505) 624-2023

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# Triassic consent pending

T.S. HOPKINS  
RECORD STAFF WRITER

New Mexico will likely have its first hazardous waste site.

A decision on the proposed Triassic Park hazardous waste site near Tatum will come next month.

Following five days of public hearings on the proposed permitting of Triassic Park last October, Hearing Officer Felicia Orth collated testimony and wrote her findings. Those findings were submitted to the New Mexico Environmental Department Friday. In part her findings read:

*Although many citizens sincerely expressed their concerns and fears about the proposed facility and although the Applicant did agree to some special conditions and limitations in response to those concerns, testimony from lay witnesses is insufficient basis for a finding that the facility will endanger public health or welfare of the environment, and it does not provide sufficient grounds for denial of the permit.*

The final step in the lengthy process is allowing both Gandy Marley Inc., and the New Mexico Environmental Law Center 15 days to comment on the findings.

Following the comment period, NMED Secretary Peter Maggione will have 30 days to render his decision and the permit. It appears the decision will come on or about March 15.

Dale Gandy, president of GMI, is cautiously optimistic the company will clear the final hurdle of comment period and get the permit.

"I am pleased to hear about the recommendation of the hearing officer," Gandy said Friday from his office in Lovington. "I disagreed with those who opposed our plan, but I'm very happy they had the right to express their opinions in public hearings."

The hazardous waste site has been a topic of discussion — some of it very heated — since 1994 when GMI initially applied for the permit to operate the first hazardous waste site in New Mexico.

In her findings, Orth noted the administrative record on Triassic Park had grown to 25 linear feet, including 20 linear feet of bound documents and correspondence files measuring 4 linear feet.

"The findings from Ms. Orth were quite thorough," said Pete Domenici, the attorney for GMI. "It confirms we satisfied every concern raised."

Opposition to Triassic Park came in organized groups and individuals curious about potential problems stemming from the hazardous waste. Most outspoken in their opposition was Conservative Use of Resources and Environment. CARE members spent months before the hearing gathering signatures in support of their opposition and raising money for legal fees.

The New Mexico Environmental Law Center acted as legal counsel for the group while representatives of Forest Guardians and Citizens for Alternatives to Radioactive Disposal also testified against the proposed permit.

In setting up their position against GMI, Heather Green with the Law Center laid out four points alleging:

- GMI did not appear to be prepared for an emergency with proper responders;
- Ground water monitoring variances were not adequate;
- Quality of life would be affected; and
- Transporting hazardous waste through Roswell was potentially a hazard.

## Triassic

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As the days moved toward the October 15 hearing date, the Law Center changed focus to concentrate on GMI's apparent lack of proper finances to deal with post closure details. The Law Center maintained GMI lacked sufficient funds to address possible post-closure clean up and contingencies if they were to close during the permits active period.

As the five-day hearing progressed, many of the initial concerns drew lay testimony, but the focus remained on money and contingencies.

Orth hosted double sessions for that five-day hearing: daytime expert testimony — much of it paralyzingly technical and dry — and evening lay testimony. As passionately and occasionally contentiously was the lay testimony, much of it did not deal directly with the permit process.

Transportation of hazardous waste, for example, was not part of the process, but drew serious concern over possible truck spills or accidents.

Transporting hazardous waste is not part of the Triassic Park's permit.

The disposal site stops, then inspects a truck's contents and matches it with the driver's manifest. If it doesn't match up the truck is turned around and sent back to the waste hauler's contractor.

The same procedure is in place for GMI

accepting waste from Mexico and Canada in accordance with the North American Free Trade Agreement.

"Actually, there is a double manifest procedure in place for international waste," Domenici explained. "When it crosses the border, a new manifest is added. The double documentation allows tracking of the generator of the waste in Mexico or Canada."

The Forest Guardians testified to the wildlife concerns they harbored over the future of the lesser prairie chicken and sand dune lizard.

Forest Guardians disputed the threat assessment of both species filed in a report from the Bureau of Land Management and GMI.

Deborah Reade with CARD was excluded from testifying at length about possible violations of Title VI of the Civil Rights Act and health concerns, given the high incidence of cancer in Chaves County. She was allowed to submit her "offer of proof."

"I was and am still concerned about violations of the Civil Rights Act," Reade said from her home in Santa Fe. "When the state signed their agreement with the federal Environmental Protection Agency, they agreed to all federal guidelines."

Reade is mystified that the NMED never looked at the possibility of violating the civil rights of minorities down wind from Triassic Park.

"Chaves, Eddy and Lea Counties have high cancer rates," Reade said. "No one ever investigated to see if that population

could be harmed."

Reade said CARD intends to wait to see if Maggiore issues GMI a permit, then there likely will be court action filed to stop GMI from proceeding with Triassic Park.

Jim Gadzia, a spokeswoman for CURE, said her group was disappointed by Orth's findings.

"We just received the findings and haven't thoroughly read them," Gadzia said. "But our efforts to stop Triassic Park are not done."

CURE had been challenged because it was not considered a bona-fide organization. Gadzia said that has changed.

"We have become an organization and continue our grass-roots fundraising," Gadzia said. "We are committed and will continue to fight this thing."

For his part, Gandy said he hasn't pursued financial backing yet.

"I can't move forward on financing until I get the permit," Gandy pointed out. "Whether we seek private or institutional money is still not settled."

The Gandy's and Marley's, two longtime area residents, have said previously they would like to remain in control of the operation without taking in any partners.

What hasn't changed since the October hearings in Roswell is the state of the hazardous waste market.

"It is still soft," Gandy admitted. "But we feel we will have many customers in New Mexico as the economy begins to grow again."