

Steve Pullen

From: Steve Pullen [Steve_pullen@nmenv.state.nm.us]
Sent: Friday, March 15, 2002 10:55 AM
To: Richard Mayer
Subject: FW: Triassic Park - Foreign Wastes



Part 02.doc

-----Original Message-----

From: Steve Pullen [mailto:Steve_pullen@nmenv.state.nm.us]
Sent: Tuesday, March 12, 2002 11:06 AM
To: Nick Stone
Cc: Clay Clarke; John Kieling; James Bearzi
Subject: Triassic Park - Foreign Wastes

Nick,

Attached is the revised permit language regarding foreign waste. (See Part 1.3)

Perhaps what the Secretary is concerned about is a public comment that, "the proper procedure would be to apply to the EPA for a permit to receive imported waste at the Triassic Park facility." This comment is based on the following language in the August 10, 2001 Federal Register (Volume 66, Number 155, p. 42145) regarding NM's final authorization for Program revisions:

"The State of NM also has adopted the regulations for Import and Export of hazardous waste. However, the requirements of the Import and Export regulations will be administered by EPA and not by the State because the exercise of foreign relations and international commerce powers is reserved to the Federal government under the United State Constitution. Therefore, the State of NM is not seeking authorization for this rule."

The rule further clarifies:

"The State of NM will issue permits for all the provisions for which it is authorized ... The EPA will continue to implement and issue permits for HSWA requirements for which NM is not yet authorized.

As the attached permit language demonstrates, NM does not impede foreign trade with its permit condition specifying what a "detailed chemical and physical analysis of a representative sample of waste" (264.13(a)(1)) would be. And we reiterate the 264.12(a) requirement to contact the RA.

Numerous conversations with David Neleigh's NM/Federal Facility group, R6's foreign waste person (Aldolphus Talton), and the EPA's expert on FW, Chris Rinner in R9, have led me to believe that the attached permit language is appropriate.