

Triassic Park  
Draft Permit  
Comment 10/16/16



To: Dave Cobrain, Program Manager  
Hazardous Waste Bureau  
New Mexico Environment Department  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, NM 87505-6303

## Triassic Park Draft Permit Public Comment

***I request an additional extension of the comment period for at least 60 days to begin when the below mentioned problems are corrected and requests fulfilled.***

Although NMED has responded well to some of the requests in previous comments, there are serious problems remaining and I believe outreach and provision of information to the public is still totally inadequate.

1. With less than a week before the information meeting and only a few weeks before the end of the comment period, NMED has only provided the most minimal information in hardcopy in a library or libraries near the site. It appears that notices about the comment period extension and possibly about the information meeting on October 22nd have been posted at the locations which were sent me (and which do include the Artesia Public Library). However, it also seems that hardcopy of the English and Spanish Fact Sheets have not been given to the libraries, but instead are only in the Field Office in Roswell. That office is a fair distance from the site and is not open evenings and weekends so hardcopy of the Fact Sheets have never been available for any working person. In addition, the notices do not appear even to let people know that a Spanish or English Fact sheet is available there. Why NMED would physically go to all these locations with the notices and not include the Fact Sheets or even information as to their local availability is really impossible to understand. NMED is supposed to be pro-active in involving the public, including the Spanish-speaking public. Refusing over and over again to make even this small amount of hard-copy easily available is not pro-active.

2. But even if NMED *had* put the Fact Sheets in libraries and other places where people gather, this still would be completely inadequate. I have queried people living near the site who confirm again that many people are not comfortable researching this technically complex permit online. They may not know how to use a computer at all or if they do, just use Word and email. There needs to be hardcopy of the Record including the Fact Sheets, draft permit, the last permit and associated documents, held at a library close to the site that is open evenings and weekends. And people need to be informed that the materials are there.

It is unfortunate that NMED appears to be completely out of touch with those who would be most affected by the site and live closest to the site. These are the people whom it is NMED's mission to protect. If NMED had looked into the makeup of people at the site, they would have seen that this is a poor, rural, heavily Spanish-speaking area; that internet is expensive and unreliable in rural New Mexico and that people of the above-described demographic are less likely to be computer-literate than people of higher incomes and education living in cities. Even people not meeting that demographic who are educated and financially comfortable, but living in this area have said they are not comfortable doing online research but would probably look

at hardcopy documents that were easily accessible. Rural southeastern New Mexico is not a paperless environment.

This is born out by recent studies. In *13% of Americans don't use the internet. Who are they?* by Monica Anderson and Andrew Perrin (<http://www.pewresearch.org/fact-tank/2016/09/07/some-americans-dont-use-the-internet-who-are-they/>) 41% of seniors never go online, about 33% of adults with less than a high school education do not use the internet and adults from households earning less than \$30,000 a year are about eight times more likely than affluent adults not to use the internet. Finally rural Americans are about twice as likely as those in cities never to use the internet.

And though lack of access is a serious problem for rural, low income folks and people of color, even more serious is a lack of skills to be able to use the internet. It does no good to have online access in a library or community center if you don't have the skills necessary to do the online research. This is described in *Digital Readiness: Nearly one-third of Americans lack the skills to use next-generation "internet of things" applications* by John B Horrigan, PhD. ([http://jbhorrigan.weebly.com/uploads/3/0/8/0/30809311/digital\\_readiness.horrigan.june2014.pdf](http://jbhorrigan.weebly.com/uploads/3/0/8/0/30809311/digital_readiness.horrigan.june2014.pdf)) Even among folks who actually have broadband or a smartphone, 18% have low levels of digital readiness, meaning they can only do the most minimal things with their devices and exhibit low levels of internet use. In general, Americans with low levels of digital skills tend to be older, less educated and have lower incomes than those with moderate or high levels of digital skills. They are three times more likely to be over 65 and three times more likely to be poor. And they are two thirds more likely not to have a college degree than those with high skills. This study specifically looked at low-skilled people's use of searching for information online and use of state and federal websites, finding that they engaged in online activities at a fraction of the rate of others.

A Santa Fe New Mexican article *Who's not online—and why* by Brian Fung (10/22/15) described a study by the Pew Research Center that found that 32% of non-internet users said the internet was "...too hard to use;" and that low internet use was greatest among the poor and the elderly "...along with rural Americans and racial minorities." And that "[a]lthough blacks and Hispanics have significantly increased their rates of internet usages since 2005, they still lag behind other groups—and what's worse, according to Pew, their progress has stalled." (Native Americans seem to fare the worst of all as 63 percent of those on tribal lands lack basic broadband, compared to only 8% of urban Americans.)

Multiple other studies could be cited saying more or less the same thing. What is clear to me is that by insisting on a paperless environment for virtually all information about the Triassic Park permit, NMED appears to be discriminating against elders, the poor, rural people near the site and Hispanics.

I should also note that though NMED states in all their notice documents that the Record is available at its office for review, this is not the case now and never has been, as the printed Record is in complete disarray, unstapled, and stored in boxes—unless NMED expects to show people coming to them to see hardcopy, a computer terminal, that is. I do not consider sending them to the copy of the Record that is on NMED's website to be making the Record available for "review."

3. And using NMED's online Record is very difficult. It is *extremely* user un-friendly even for moderately- or highly-skilled online users. I have been doing online research for years but have problems finding information in the Record every time I look at it. However, I am more experienced in image research and, like many elders, am still much more comfortable with hardcopy for text. Nevertheless, there are many problems with the online Record which I have pointed out before and which have not been corrected in months.

Because the Record states that not all entries are available online, I went to check what was available and what wasn't. This became a very difficult and time-consuming task as there are almost 200 (!) entries that are out of order between the Administrative Record and the Administrative Record Index. (Both are titled as indexes but I will refer to the index with the links as the *Record* and the other as the *Index*, as you do on the site).

Generally the Index subject entries are more descriptive than the Record titles, but not always, so it is necessary to open two separate windows and go back and forth or to print out what is tiny type to see what the documents are actually about. Sometimes subject lines and titles give no information at all as they are just a series of numbers or letters. These may mean something to NMED personnel, but nothing at all to the public. Sometimes documents are incorrectly titled as with the *Concerned Citizen Document Log* which is entered on the correct date, but which should be dated 10-25-2001 in the title as well. Instead, it is dated 10-15-01 in the title which is confusing as that was not the date of the meeting. When documents are attached within other documents, that is not indicated so it is impossible to find those documents or even know they exist without opening hundreds of documents and scanning through them completely.

Some documents are clearly missing and they may not be the only ones. The Secretary's Final Order from the original hearing is not listed anywhere, nor are CARD's comments on the Hearing Officer's Report. The 7/5/3 Revised Permit Application (rev2) is listed, but there is no link. All of the written comments with the so-called "Radioactive Memo" attached that were given to NMED at the end of the original permit hearing are gone. (See CARD's *Triassic Park-Amended Complaint2.pdf* which is attached separately and is part of these comments). And of course, the transcript of the first hearing is not available at all.

None of my comments are entered either. These includes my comments of 7/5/16, 7/6/16 and 7/29/16. The 7/29/16 comment was acknowledged in an email to me but the 7/5/16 and the 7/6/16 comments were not. In fact, it appeared that the 7/5/16 comment was not understood to be a comment by NMED. Thus I sent the 7/6/16 clarifying comment. There was no acknowledgement of either of those two comments and none of the three has been entered in the Record or Index more than three months later. (I note that I first described the incompleteness of the Record in my unacknowledged and un-entered comment of 7/5/16.) There may be other comments and documents missing.

Finally, nothing has been added to the Record since August 12th—more than two months ago. Yet much has happened since then.

Posted notices of the information meeting are not entered to show the public that this has been done, what was posted and where; local radio announcements for this as well as for the Spanish and English Fact sheets and for the extension of the comment period are not posted

either before or after the 12th. How would any member of the general public even know that the Fact Sheets are available in your Roswell office? Without entering the text stating that, copies of the radio announcements and newspaper publications or even affidavits of publication of this information there is no information in the Record or the Index letting people know this. Though I appreciate the emails that I have received informing me of this information, I am only one member of the public whereas it is NMED's duty to inform *all* the public.

The online Record is clearly confusing and incomplete.

4. There is still no index and description of information in the confidential file anywhere for the public to see. Because NMED incorrectly filed the "Radioactive Memo" in the confidential file during the first hearing, it is critical that the public know what is in the file to see if there are other documents filed there incorrectly. We do not need to know the content of each document, but we do need to know what they are and NMED's justification for keeping each document from the public. NMED needs to add a descriptive index of documents in the confidential file to the Record.

5. Finally, NMED has stated that "...we do have limits on our resources and therefore may not be able to fully satisfy all of your comments..." and "We will look into the additional radio station reading the Public Notices. The radio spots are expensive, so we're working with EPA to help fund these additional spots." In the end, it appears that NMED did not do actual ads, but only public service announcements, which I believe are free. And NMED really cannot plead poverty to refuse to solve the problems I have described above as you have recently received an \$854,000 grant from EPA for, among other things, "RCRA permitting" and "providing program information."

However, even if NMED had not received this grant, not having enough money left to run the public process in a way that actually informs the public and even *encourages* the public to participate is no excuse. You cannot spend all your money and time helping the Applicants, literally for years, and then say there's nothing left for the public process—or only enough left to run what I see as a sham permit process where the public has no easy access to information. If you cannot run the public portion of the permit process adequately, you need to stop the process until you can.

Therefore, I again request that you solve the above-described problems and extend the comment period for another 60 days ***starting only after the problems have been fixed.***

Sincerely,

Deborah Reade  
117 Duran Street  
Santa Fe NM 87501  
505-986-9284  
10-15-16