

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT**



**IN THE MATTER OF THE APPLICATION
OF SANDOVAL COUNTY FOR A SOLID WASTE
FACILITY PERMIT RENEWAL AND MODIFICATION
FOR SANDOVAL COUNTY LANDFILL**

No. SWB 16-10 (P)

FINAL ORDER PURSUANT TO 20.1.4.500(D) NMAC

This matter comes before the Cabinet Secretary – Designate of the New Mexico Environment Department (“Secretary – Designate”) following a public hearing before the appointed Hearing Officer on August 3, 2016, in Bernalillo, New Mexico.

Sandoval County (“Applicant”) seeks renewal of a solid waste facility permit for the Sandoval County Landfill (“Facility”) located in Sandoval County, New Mexico. The Solid Waste Bureau (“Bureau”) of the Resource Protection Division of the New Mexico Environment Department supports renewal of the solid waste facility permit with fourteen (14) proposed conditions reasonable and necessary to protect health, the environment and public welfare while ensuring compliance with the New Mexico Solid Waste Act, NMSA 1978, Sections 74-9-1 to - 43 (1990, as amended through 2011) (“Act”) and the New Mexico Solid Waste Management Regulations found in 20.9.2 through 20.9.10 NMAC (“Rules”). Applicant agrees to the proposed conditions as a part of the solid waste facility permit renewal.

The Hearing Officer recommended issuance of the solid waste facility permit renewal in his report. The Secretary – Designate considered the entire record proper in this matter, which includes the Hearing Officer’s Report Pursuant to 20.1.4.500(C) NMAC filed with the Hearing Clerk on September 23, 2016.

The Secretary – Designate hereby adopts the Hearing Officer's recommended decision for the reasons expressed in the report, and issues the solid waste facility permit renewal with the following conditions identified by the parties as 1 through 14:

1. **Final Application:** The final version of the Application received by the Bureau on May 12, 2016 shall become the permit and shall be enforceable pursuant to the Act and the Rules. Volumes of the final version of the Application and engineering plan sets shall be kept at the facility office or scale house in an accessible area for easy reference.
2. **Approved Wastes:** The Facility owner/operator is authorized to accept the following wastes:
 - municipal solid waste;
 - construction and demolition debris; and
 - special wastes limited to:
 - sludge
 - petroleum contaminated soil

As requested in the final version of the Application.

3. **Contingency Plan Training:** Staff must be provided training regarding emergency evacuation, contingency plan in Volume II.A, Section 3, of the Application, and hazard identification within forty-five (45) days from the issuance of the permit. Training on these items must be documented to include: date, time and location of training (in office, tail-gate or location at the site, i.e. working face or evacuation route), name of trainer, and examples of training materials used (Power Point presentations, handouts, or copies of the plans or talking points).
4. **Operations Manual:** Applicant shall compile a separate "Operations Manual" using the necessary plans from the approved permit application. The location of each plan shall be identified in an index and labeled by plan name on a tab for easy location by facility operators and/or labeled sections with the names of the plans. The manual shall include all of the written plans from Volume II.A Sections 2-7 and Volume II.B Sections 8-11, and the Groundwater Monitoring Plan from Volume V, Section 2 of the Application.
 - a. Copies of the Operations Manual shall be kept at the Facility and it shall be placed in a location for easy access by operators.

- b. The Permit Engineering Plans must also be kept for reference in an easily accessed location. A reduced set (i.e., 11" x 17") shall be included with the Operations Manual.
 - c. Submit two printed copies of the Manual to the Bureau Chief within sixty (60) days of issuance of the permit.
- 5. **Training:** Facility staff involved with landfill operations and recordkeeping shall be trained using the Landfill Management Plans contained within the Operations Manual.
 - a. The Solid Waste Manager or his designee shall provide a time-table specifying the sequence and time frame of provision of training and provide a copy to the Bureau Chief and the Enforcement Section Manager.
 - b. Training on the Operations Manual shall be provided and documented by any one or combination of the following:
 - Sandoval County Solid Waste Manager,
 - Sandoval County Public Works Director,
 - Staff from the engineering firm that prepared the landfill management plans, or
 - Another qualified consultant retained by Sandoval County and/or by Director of Solid Waste.
 - c. Initial training of each staff member involved with operations and recordkeeping shall include the following:
 - Location of Operations Manual,
 - How it is organized,
 - How to find information,
 - Procedures for successful completion of landfill management and recordkeeping tasks.
 - d. Training must also be provided regarding how properly to maintain and file records in the operating record at the Facility.
 - e. Training documentation shall include: agenda with subjects covered; training materials used; and a completed Training Record Form (Attachment II.2.K of Permit Application). Documentation shall be placed and maintained in the facility operating record.
 - f. A copy of the training documentation shall also be sent to the Bureau Chief and the Enforcement Section Manager, upon completion.

- g. New Facility staff involved with facility operations and recordkeeping must be familiarized with the location of the Operations Manual within one week from the date of hire, and should be trained using the Operations Manual within 30 days of the first day the employee starts working at the Facility.
 - h. Provisions of subsequent operational training sessions or tail-gate meetings must also be documented on the Training Record Form (Attachment II.2.K of Permit Application), and a copy must be kept in the operating record at the Facility office.
- 6. **Management Plan Updates:** The Landfill Management Plans in Volume II may be updated or amended as necessary during the term of the permit, as long as:
 - i. The proposed amended plans are approved by the Bureau enforcement or permitting staff in writing prior to replacement of the approved plans in the file,
 - ii. Training (as needed) on the updated plans is provided per documentation requirements described in Condition 5.
- 7. **Financial Assurance:** Copies of records pertaining to financial assurance shall be maintained at the Facility site in a labeled binder or file folder by date with the most recent documents at the front, and oldest records in the back. A duplicate hard copy of records should be maintained off-site or electronically at another County location.
 - a. This record at a minimum shall include annual financial assurance estimate worksheets, independent audit reports for each fiscal year, and annual certification letters prepared by the Sandoval County Financial Director regarding annual compliance with requirements of the Rules 20.9.10.10 NMAC for the Local Government Financial Test.
 - b. The annual financial assurance cost estimate and letter from the County's Financial Director shall be provided to the Bureau Chief concurrent with the required annual report due by February 14 of each year (or other date as established by the Bureau).
- 8. **Self-audit Operational Evaluation Plan:** Within 30 days from issuance of the permit, provide a letter to the Bureau Chief for approval. This letter shall include an affirmative statement that a self-audit operational evaluation plan and record review process will be implemented, and the proposed date for the submission of this plan to the Bureau Chief for review and approval.
 - a. This plan shall specify the steps and actions that will be taken by facility managers for the implementation of this Internal Operational Audit Plan to evaluate and check operations, verify record keeping and to track compliance

task deadlines to ensure that tasks are completed correctly and in a timely manner to limit the number of possible violations noted in potential Notices of Violation by Enforcement Inspectors. This plan shall be implemented and used to confirm operational compliance with the Rules, permit, and permit conditions. The frequency and duration of such internal audits shall be also specified.

- b. Create and implement an operational record keeping tracking system using a spreadsheet or other method to track deadlines, dates of task completion to ensure that reporting deadlines are met, to confirm reports and other documents are placed in files, and ensure that necessary operational records are maintained and are easily accessible on site.

9. **Litter Management and Exposed Waste Control Plan:** Litter management and exposed waste on side slopes with intermediate cover at this facility has been a long-standing persistent problem as demonstrated by the numerous citations in Notices of Violation issued by Solid Waste Enforcement Officers. The Solid Waste Manager and/or his/her designee, consultant and other Facility staff shall meet with the Bureau Chief to review the Litter Management and Control Plan contained in the approved permit (Operations Plan – Volume II, Section 2, Subsection 5.11) and discuss options to improve litter control, and preparation and implementation of a more detailed Litter Management and Exposed Waste Control Plan within 30 days of issuance of the permit.

- a. At a minimum the enhanced Litter Management and Exposed Waste Control Plan shall include a site plan map with an attached wind rose showing the types of prevention measures that will be used and locations of various proposed litter catchment methods used to create litter drops internally on the site based on seasonal wind variations. The plan shall specify the frequency of litter clean-ups.
- b. The revised Litter Management and Exposed Waste Control Plan shall be provided to the Bureau Chief within 45 days from meeting with the Bureau Chief.
- c. The operator shall use the Edge of Liner and Sideslope Inspection Form in the approved Permit (Volume II, Section 2, Attachment II.2.J) to complete monthly inspections to check for rills and exposed waste on the southern slope and other slopes with intermediate cover. If rills or exposed waste are found, keep a record with the date, photos, and notes regarding when repairs or clean-up will be undertaken. Covering of waste or repairs or tracking of rills must be made within 45 days from discovery. If unable to address rills, cover, or pick exposed waste within the 45-day time frame, request an extension with a justification as to why the deadline cannot be met to the Bureau Chief at

least one week before the end of the 45-day period. If necessary, place woodchips on such slopes to prevent wind and water erosion and exposure of waste.

10. **Cell Construction Milestone Schedule:** At least 30 days prior to the start of cell construction, the permittee shall furnish the Bureau with a major milestone schedule so that the Bureau may effectively monitor landfill liner construction at the Facility.
11. **Cell Construction Plans:** At least 20 working days prior to issuance of any important landfill construction bid documents, landfill cell construction plans must be provided to the Bureau Permit Section Manager for review prior to the start of construction. Any changes requested by the Bureau shall be made prior to release of the bid package and construction drawings.
12. **Alternative Cover Stabilization:** The owner/operator shall submit a proposed time-frame for development and implementation of a Plan based on the Alternative Stabilization Options for Intermediate and Final Cover as detailed in Volume II.A, Section 2, Attachment II.2.L of the Application. This attachment includes proposed management methods for any areas under intermediate cover that have been inactive for more than two years, and have not been successfully stabilized with vegetation or mulch.
 - a. Upon implementation of the Plan, provide a letter to the Bureau Chief for approval specifying what materials and methods, how these materials were used and how they were placed, and the frequency of monitoring to confirm performance. Use of alternative stabilization methods for intermediate cover is permissible in accordance with 20.9.5.9(O)(3) NMAC.
 - b. The Alternative Intermediate Cover Stabilization Plan shall also include the information contained in the approved Permit for intermediate cover maintenance (Operations Plan – Volume II, Section 2, Subsection 5.15) to state the frequency and method of intermediate cover inspection (using the Intermediate Cover Inspection Form provided as Figure II.2.7 in the approved Permit (Volume II, Section 2)), frequency of replacement of alternative erosion control materials, actions to be implemented to repair the intermediate cover, and criteria for determining when repair actions must be taken.
13. **Special Waste Audits:** Audits of the acceptance and disposal processes for authorized special (i.e., PCS and sludge) wastes must be completed every six months for the first 18 months of acceptance by the Solid Waste Manager or a qualified designee, alone or in conjunction with a qualified consultant familiar with the approved permit.

- a. The audits shall include evaluation of use of the Special Waste Profile Sheet, use of Disposal Management Plan procedures, and proper completion of the Special Waste Manifest and other forms included as attachments in Volume II, Section 8 of the Application.
- b. If some special wastes are not received at the Facility during the first year, auditing of acceptance of these wastes will not be required until the initiation of deliveries of such waste. The term of the audits will occur for 18 months after the start of acceptance of the special waste.

14. Site Sequencing Plan: The Site Sequencing Plan View Sheet 1 of 2, Volume II.A, Section 2, Attachment II.2.I showing the cell fill progression, and the current status regarding placement of intermediate and final cover must be prepared and submitted to the Bureau every five (5) years.

- a. It must also include the current total amount of acreage with daily, intermediate and final cover for each cell, and project how long the areas with intermediate cover will remain in this state before final cover can be applied.
- b. The first updated plan must be provided to the Bureau concurrent with the submittal of the Annual Report and the updated annual financial assurance estimate, no later than February 14, 2018, and thereafter every five (5) years on or before February 14 of each year (or other date as established by the Bureau).

Finally, in light of the aligned positions of the parties as stated in their joint post-hearing submission, the Secretary – Designate waives the comment and oral argument periods set forth in 20.1.4.500(C)(2) and (3) NMAC, and issues the solid waste facility permit renewal forthwith.



Butch Tongate, Cabinet Secretary – Designate
New Mexico Environment Department

NOTICE OF PROCEDURE FOR JUDICIAL REVIEW

Any person adversely affected by an administrative action may appeal the action to the court of appeals pursuant to NMSA 1978, Section 74-9-30 (1990). Direct appeals from orders shall be taken by filing a notice of appeal with the appellate court clerk within thirty (30) days from the date of the order pursuant to Rule 12-601 NMRA.