

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



**IN THE MATTER OF THE APPLICATION  
OF CAMINO REAL ENVIRONMENTAL, INC.  
FOR THE RENEWAL AND MODIFICATION  
OF A SOLID WASTE FACILITY PERMIT  
FOR THE CAMINO REAL LANDFILL**

**NO. SWB 07-41(P)**

**ORDER ON REMAND AND  
ORDER ON MOTION TO REOPEN ADMINISTRATIVE RECORD**

The Secretary of Environment has reviewed the mandate from the New Mexico Court of Appeals in the matter docketed there as No. 28,857, remanding the cause for further proceedings consistent with the decision.

Having also reviewed the Motion, Response and Reply relating to reopening the Administrative Record and denying the Application for permit renewal and modification, the Motion is denied for the reasons set out in the Applicant's Response:

1. The Court of Appeals opinion does not authorize the Secretary to reopen the proceeding.
2. Reconsidering the decision to grant the permit renewal and modification at this time would violate the "law of the case" doctrine.
3. Even if the Secretary had the authority to reopen the proceeding and reconsider the earlier decision, the El Paso "flow control" ordinance is not yet in effect and may never go into effect; under the Solid Waste Act and the Solid Waste

Management Regulations, the Applicant is entitled to a decision on the record that was made in December 2007.

**IT IS THEREFORE ORDERED:**

The Application for solid waste facility permit renewal and modification is approved for a term of ten (10) years, subject to the conditions below, which were set out in the original Final Order dated July 24, 2008:

1. The Applicant will comply with all applicable requirements of the Solid Waste Management Regulations, the Solid Waste Act, and any other conditions set forth in the permit, and shall construct and operate the Landfill in accordance with the permit application. This condition is to remind the Applicant that all applicable requirements and application statements must be complied with throughout the life of the landfill.

2. At least 30 days prior to the start of new cell construction, the Applicant will furnish the Department with a major milestone schedule. This condition is to ensure that the Department is given timely notice to effectively monitor new construction at the landfill.

3. The Liner Construction Certification Report must be submitted to and approved by the Department prior to disposal of any solid or special waste in any new cell. Any new disposal area must be inspected by a representative of the Solid Waste Bureau prior to waste disposal. A letter from the Department must be received authorizing acceptance of waste prior to disposal. This condition is to ensure that the liner is constructed in accordance with the permit and regulations.

4. The Waste Inspection and Screening Program (Volume II, Section 2, Part 4.4, of the Permit Application) shall be amended prior to implementation at the Landfill to indicate that no less than three random waste screening inspections shall be conducted during each operating day. One of the required daily load inspections shall be conducted upon a load of maquiladora waste, unless no loads of such waste were received during the operating day. Within 30 days of permit issuance, the Waste Inspection Screening Program shall be updated and items as

specified by the Department shall be included. The Screening Program shall include:

- Inspection documentation that specifies the identity, by name and title, of the persons completing the inspection.
- A statement that staff shall inspect loads from the ground and not just from heavy equipment.
- Details on how the inspections will be completed; such as how many staff will undertake the inspections, what equipment will be used, what methods will be used to check the loads (i.e. ripping bags open using rakes), what personal protective equipment will be used, and any other information necessary.
- Information that addresses the procedures in place regarding maquiladora deliveries; such as identifying the number of waste totes inspected from maquiladora trucks and other details regarding the selection of these loads for inspection.

5. The Plan of Operations and the Special Waste Disposal Plan – Industrial Solid Waste Disposal Management Plan shall be amended to include additional details regarding use of Category I of daily covers (ADC). A pilot beneficial use plan, with a completed field evaluation of Category II ADCs including Auto/Fluff/Automotive Shredder Residue (ASR) and foam, shall be submitted to the Solid Waste Bureau for approval prior to any use of Category II ASR. Use of Category III ADCs is denied.

6. As a result of public comments regarding dust generation from CRLF, within 60 days of issuance of the permit, the Applicant shall install a weather station at a location on-site that will accurately reflect the site's meteorological conditions. The capabilities of the station shall include, at a minimum, wind speed, wind direction, humidity, barometric pressure, temperature, and a precipitation gauge. The station shall be able to monitor wind speed (hourly peak wind speed) and wind direction at two different elevations, at eye level (5-6 feet from the surface of the landfill, and at a height between 10-20 feet. The Applicant shall install a system that is able to record data hourly and maintain records via a computer or other technology. The data should be compiled on a monthly basis, and the records maintained on-site for review by Department staff. Weather data shall be obtained for a minimum of five years. The Department has confirmed that Dave Nolan, 505-

589-3972, NOAA – National Weather Service Forecast Office, Santa Teresa, New Mexico, will provide technical assistance regarding equipment, placement and data sharing. The goal of this condition is to obtain five years of site specific data to assist and enhance the evaluation of air particulate monitoring data.

7. The Applicant shall submit a Plan to the Department within 90-days of permit issuance that explores options to minimize particulate matter from the fleet of on-site heavy equipment, and for the El Paso Disposal, a wholly owned subsidiary of Waste Connections. This plan applies only to equipment or vehicles used on-site or to deliver wastes to CRLF.

8. To facilitate on-going public involvement, the Applicant shall continue to assess community concerns, gauge the effectiveness of mitigation measures undertaken by owners of CRLF, and to provide information regarding operation of the facility to the residents, of Sunland Park, the Applicant shall hold at least one public meeting within one year. A report summarizing the comments from the meeting shall be provided to the Department within 30-days of the date of the meeting.

9. Upon issuance of the permit, the owner shall operate this facility in accordance with all applicable requirements of Title 20, Chapter 9, Parts 2-10.

10. The Applicant shall dilute any leachate collected and place it on lined cells only, but shall not place leachate on any other portion of the landfill, including access roads or other unlined areas. Prior to disposal of leachate at a Public Owned Treatment Works or permitted liquids management facility, the Applicant shall receive approval from the Department.

11. A view shed analysis of the proposed final elevation in comparison with the surrounding mesa shall be completed for Unit 3 within one year. The analysis must visually show a representation of the elevation from all directions.

12. Additional vegetative screening shall be established at this facility as specified in the CIA within one year.

13. Three revisions shall be made to the Contingency Plan and submitted to the Bureau for approval prior to implementation.

- It shall be revised to correctly identify the contact information for the landfill's emergency coordinator. The Contingency Plan shall be updated any time there is a material change in circumstances affecting the Contingency Plan.
- The site plan shall be revised to show the location of the newly registered recycling center located adjacent to the landfill office.
- The description of emergency response coordination should include the name of each agency; the date and location of coordination; the primary points of contact for each agency; a description of the equipment, expertise and assistance that the agency will provide in the event of an emergency; the agency's estimated response time to the landfill, if applicable; an indication of whether unaccompanied access after hours would be granted to the agency through the sharing of keys or codes or other means; and acknowledgment that the agency was apprised of potential contaminants and the type of incidents that could occur at the landfill; and, when applicable, the agency's failure or unwillingness to participate with the landfill regarding the contingency plan and related coordination efforts.

  
F. DAVID MARTIN  
Secretary of Environment

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER ON REMAND AND ORDER ON MOTION TO REOPEN ADMINISTRATIVE RECORD has been sent via first-class mail to the following on January 20, 2011:

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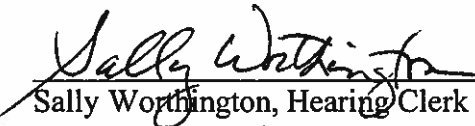
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and hand-delivered on the same date to:

Kathryn S.Becker  
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A handwritten signature in black ink, reading "Sally Worthington", is written over a horizontal line.

Sally Worthington, Hearing Clerk  
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