



Certified Mail – Return Receipt Requested No. 7020 3160 0000 0515 4451

August 3, 2023

Dora Gonzales
Manager, Southwest NM Regional Landfill
318 Ridge Road
Silver City, New Mexico 88061

Re: Notice of Violation – Southwest NM Regional Landfill

Dear Dora Gonzales,

On June 7, 2023, Jaime Rodriguez, Enforcement Officer, Solid Waste Bureau (“SWB”), New Mexico Environment Department (“NMED”), inspected the Southwest NM Regional Landfill to determine compliance with the New Mexico Solid Waste Rules (“SWR”), 20.9.2 – 20.9.10 NMAC, and the New Mexico Recycling, Illegal Dumping and Scrap Tire Management Rule (“RIDSTMR”), 20.9.20 NMAC. The following violations were observed:

1. Failure to conduct random load inspection every day according to the frequency noted in the permit – The inspection documented the facility’s lack of performing and recording random load inspections. No records of any employee having done the inspections were found. Facility personnel explained that prior management did not perform, document or train employees on random load inspecting.

The SWR, 20.9.5.8.B(2)(a) NMAC, requires owners and operators of a solid waste facility to implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste. The plan must include the inspection frequency, inspection personnel, method of inspection, and a training program for facility employees in the identification of unauthorized waste.

2. Failure to train employees on waste screening, how to conduct random load inspections and keep records at facility - The inspection documented the failure to produce any records of the training. No records of any employee having been trained on inspections were found. Facility personnel explained that prior management did not perform, document or train employees on random load inspecting.

The SWR, 20.9.5.8.B(2)(d) NMAC, requires owners and operators of a solid waste facility to implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste. The plan must include the inspection frequency, inspection

personnel, method of inspection, and a training program for facility employees in the identification of unauthorized waste.

3. **Failure to train employees on when and how to implement contingency plans and document this training in the operating record** – The inspection documented the failure to train employees on implementing the contingency plan as required by the SWR and as specified in the facility’s permit. Accordingly, there was no record of contingency plan training in the operating record.

The SWR, 20.9.5.8.B(7) NMAC, requires owners and operators of a solid waste facility to train employees when hired and at least annually thereafter on when and how to implement contingency plans and to document such training in the operating record.

4. **Failure to control litter throughout the facility** – During the inspection, areas along the west fence line and several areas along the top of the landfill were seen with large amounts of litter scattered on the ground.

The SWR, 20.9.5.8.A(2) and 20.9.5.9.L NMAC, requires owners and operators of each solid waste facility to control and mitigate odor and litter.

5. **Failure to properly cover the active face with six inches of earth or specifically approved alternate cover on a daily basis** – During the inspection, municipal solid waste (MSW) was seen protruding out of the ground on the top area of the landfill as well as the eastern and northern slopes.

The SWR, 20.9.5.9.N NMAC, requires all municipal waste landfill owners and operators to cover the active face with a six-inch layer of earth or specifically approved alternate daily cover at the conclusion of each day’s operation or more often as conditions may dictate.

6. **Failure to provide proper intermediate cover on areas that have not received waste for 60 days or longer** – During the inspection, inactive areas of the facility were seen with various amounts of MSW protruding from the ground. Management at the facility stated that those areas had not received waste for 60 days or longer.

The SWR, 20.9.5.9.O(1) and 20.9.5.9.O(2) NMAC, requires all municipal waste landfill owners and operators to provide intermediate cover which shall be at least one foot thick and placed on all areas of a landfill that have not received waste for 60 days or longer, or have not reached final elevation.

The SWR, 20.9.3.20.A NMAC, states that any terms or conditions of the solid waste facility permit is enforceable to the same extent as a regulation of the Environmental Improvement Board.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue SWB Notices of Violation to the Chief of the SWB in the Resource Protection Division. The NMED is seeking your voluntary cooperation in the immediate correction of these violations. Please respond in writing within 10 calendar days of receipt of this notice as to what action you have taken, or plan to take, to correct the violations. Send your response to Rick Shean, Director, Resource Protection Division, NMED, NMED District I, 121 Tijeras Avenue NE, Suite 1000, Albuquerque, New Mexico 87102-3400. The failure to assure corrective action or continued non-compliance may result in additional enforcement action, which may include the assessment of a civil penalty.

All documentation submitted to NMED's SWB related to this Notice of Violation must include the following certification, signed by you or a delegated responsible official:

"I certify under penalty of law that this document and all its attachments were prepared under my directions or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for the gathering of the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

If you have any questions, please contact Mr. Rick Shean at (505) 629-6494 or rick.shean@env.nm.gov.

Sincerely,

Rick Shean
Director, Resource Protection Division
Acting Chief, Solid Waste Bureau

Enclosure – Copy of Solid Waste Facility Inspection Report

RS:jr:drg

cc: Rick Shean, Director, Resource Protection Division, NMED *[via electronic mail]*
Daniel R. Galasso, Enforcement Coordinator, Solid Waste Bureau *[via electronic mail]*
Jaime Rodriguez, Enforcement Officer, EA-IV, Solid Waste Bureau *[via electronic mail]*