

**VILLAGE OF
LOS LUNAS,
NEW MEXICO**

**TRANSFER
STATION PERMIT
MODIFICATION
AND
RENEWAL
APPLICATION**

Submitted to:

**NEW MEXICO ENVIRONMENT DEPARTMENT
SOLID WASTE BUREAU**
1190 St. Francis Drive, Rm. N2150
P.O. Box 5469
Santa Fe, New Mexico 87502-5469

**VOLUME 1:
RESPONSE TO
SOLID WASTE
RULES**

Prepared for:

VILLAGE OF LOS LUNAS
600 Main Street NW
Los Lunas, New Mexico 87031

Prepared by:

MOLZEN CORBIN
2701 Miles Road SE
Albuquerque, New Mexico 87106

May 2021

MOLZENCORBIN
ENGINEERS | ARCHITECTS | PLANNERS

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EXECUTIVE SUMMARY

The Village of Los Lunas Transfer Station (VLLTS) is owned and operated by the Village of Los Lunas Solid Waste Division (SWD), a division of the Public Works Department. The VLLTS is located approximately four miles west of Interstate 25 on New Mexico Highway 6. The SWD provides solid waste collection and transfer services for Village residents and businesses.

The VLLTS first began operation in November 1999 under the existing Permit (SWM-320606). The SWD is submitting this Permit Modification and Renewal Application for extension of the existing permit with modifications to bring the permitted operations of the VLLTS up to date.

The VLLTS currently processes approximately 60 tons per day of municipal solid waste. The accumulated waste is then transferred to either the Sandoval County or Valencia Regional landfill for final disposal. Other wastes, such as source-separated recyclables and green waste, are also collected at the VLLTS for transfer to permitted recycling facilities.

This Permit Modification and Renewal Application requests regulatory approval for modification of the existing permit to allow the SWD to expand their waste acceptance policies to include some types of waste not provided for in the existing permit. No expansion of the VLLTS grounds is required for these operations, and the SWD is currently carrying out operations in accordance with the Solid Waste Rules (New Mexico Administrative Code Title 20, Chapter 9). The modification would enable the VLLTS to divert reusable or recyclable wastes from the landfill for a beneficial purpose.

The existing permit allows for the acceptance of the following types of waste:

- General Municipal Solid Waste
- White Goods
- Green Waste
- Recyclables
 - Glass
 - Aluminum
 - Mixed Paper
 - Cardboard
 - Scrap Metal

All of the collected materials were to be segregated and stored onsite until a sufficient quantity had accumulated for hauling to another permitted facility for final disposal. Since the original permit was filed, the SWD has begun accepting the following additional types of solid waste for diversion and requests that these activities be added to the Permit:

- E-waste
- Lead Acid Car Batteries
- Paint (Five gallons per resident per year)
- Tires (Five per household per year)
- Household Quantities of Hazardous Waste in Original Containers (Insecticides, Herbicides, etc.)
- Used Motor Oil (Five gallons per drop-off; ten gallons per resident per year)

All of these wastes are gathered onsite in contained areas until a quantity sufficient for hauling has accumulated. The waste is then transferred to a facility permitted for disposal.

The VLLTS is also requesting that the Permit be modified to include operation of their existing glass grinder. Ground glass can be mixed into the solid waste disposal stream or utilized for dust and erosion control.

The final permit modification being requested by the VLLTS is for the operation of a composting facility that is currently under construction, as of December 2019. The anticipated completion date of construction is in late March 2020. Operation is anticipated to begin shortly thereafter, but will depend on the availability of feedstocks. The 10 ton per day composting facility will include new in-vessel composting equipment with biofilters, a green waste, brown waste, and compost processing and storage area, a compost mixer with material conveyor, and other miscellaneous site improvements. After completion of construction and within 90 days of commencing operation, the VLLTS will submit a draft operations plan, record drawings of the constructed facility, and an updated financial assurance for review and approval by the Solid Waste Bureau. At this time, it is anticipated that a submittal can be made in May of 2020.

The VLLTS will continue to operate under the existing Permit until the Secretary of the New Mexico Environment Department decides to issue a new permit, issue a new permit with conditions, or to deny the permit for renewal.

This Permit Modification and Renewal Application consists of two volumes:

- Volume 1: Response to Solid Waste Rules
- Volume 2: Management Plans and Supporting Documents

The first volume responds to all of the Solid Waste Rules that are applicable to transfer stations. The second volume contains 25 exhibits that provide the documentation necessary to demonstrate that the VLLTS was designed and is operated in accordance with the Solid Waste Rules applicable to transfer stations.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 2 SOLID WASTE MANAGEMENT GENERAL REQUIREMENTS

20.9.2.8 GENERAL REQUIREMENTS.

- A. Any person who hauls solid waste or recyclable materials or provides solid waste or recyclable collection services shall only haul to a permitted or registered facility, and shall use vehicles that have covers or enclosures to prevent the solid waste or recyclable materials from blowing from the vehicle during collection and transportation, and that are cleaned at such times and in such manner as to prevent offensive odors and unsightliness, and that use devices to retain or control free liquids.

Response: The Village of Los Lunas Transfer Station operates under the Solid Waste Division (SWD) and is managed under the Public Works Department. The Transfer Station provides transfer services to Village of Los Lunas residents only. No commercial solid waste is accepted at the Transfer Station. All SWD vehicles used to transfer solid waste from the Transfer Station to Sandoval County Landfill or Valencia County Landfill are covered during transport and are cleaned regularly to prevent offensive odors and unsightliness. These vehicles also incorporate features that are intended to retain free liquids derived from the conveyed solid waste. The SWD encourages private residents to cover solid waste loads prior to delivery to the Transfer Station to minimize solid waste or recyclable materials from blowing from the vehicle during transportation.

- B. Any person who generates solid waste shall store the solid waste in suitable storage containers for the solid waste, unless the solid waste is construction and demolition debris, yard refuse, or white goods. Storage containers shall prevent insect and rodent harborage and shall be kept covered and reasonably clean. Outside containers shall also prevent blowing litter, be leak-proof and shall:
- 1) if manually handled by a commercial or municipal hauler, be of sufficient size and weight-bearing capacity to be safely handled without presenting undue risk of harm to human health or the environment, with safe, usable handles, or shall be bags that are not filled to an extent that they rupture with normal handling; or
 - 2) if mechanically handled, be compatible with collection vehicles.

Response: The Village of Los Lunas Transfer Station receives, but does not generate, solid waste and therefore, this section is not applicable. Miscellaneous solid waste generated by on-site personnel in office and break room areas is disposed of in marked bins.

- C. Any person who stores solid waste, recyclable materials, yard refuse or white goods shall store such materials in a manner that prevents blowing litter, insect and rodent harborage and does not create a public nuisance or public health hazard.

Response: All solid waste delivered to the Transfer Station by SWD collection vehicles is handled indoors on a concrete tipping floor, where the waste is screened and transferred to transport vehicles. The building enclosure prevents blowing debris and dust so as to prevent public nuisance and health hazards. Some scrap tires, scrap metal, and white goods are stored outside on a paved surface within a fenced area to minimize the potential for blowing litter. The potential for infestation of insects, rodents, and odors is controlled by removing most waste from the Transfer Station on a daily basis. Stockpiled waste is stored for only a short duration before transfer to a permitted recycling or disposal facility. The facility operators also regularly inspect these areas for evidence of infestation and address any issues on a case-by-case basis.

- D. Any person who generates, stores, processes, transports or disposes of solid waste shall do so in a manner that does not create a public nuisance.

Response: All solid waste managed at the Los Lunas Transfer Station is properly handled so as not to create a public nuisance.

- E. All notifications to the department required by 20.9.2 - 20.9.10 NMAC shall be directed to the Bureau Chief of The Solid Waste Bureau.

Response: The SWD will direct all notifications to the Village of Los Lunas Public Works Director, who shall also direct all notifications to the Bureau Chief of the New Mexico Environment Department's Solid Waste Bureau.

- F. Soil, water, and special waste testing methods used to demonstrate compliance with the Solid Waste Act or 20.9.2 - 20.9.10 NMAC shall conform to permit requirements or otherwise be specifically approved by the department prior to use.

Response: Soil and water testing is not required at the Los Lunas Transfer Station.

- G. Any person who excavates a closed cell or solid waste disposal area in response to an emergency situation shall notify the department of such excavation within 48 hours.

Response: The Village of Los Lunas Transfer Station is located adjacent to a closed landfill, which has a separate permit. This section is, therefore, not applicable to the Los Lunas Transfer Station.

- H. Any person who accepts, stockpiles, or uses clean fill material shall:

- 1) manage the material in a manner that does not create a public nuisance or potential safety hazard, or adversely impact the environment;
- 2) not place the material in a watercourse or wetland unless appropriate permits are obtained; and
- 3) cover the material with two feet of clean earth within 30 days after being deposited, unless the clean fill material is clean soil, or unless a longer period or alternative material or depth is specifically approved by the department. [20.9.2.8 NMAC - Rp, 20 NMAC 9.1.I.106, 08/02/07]

Response: The Los Lunas Transfer Station does not normally accept, stockpile or use clean fill material. However, on occasion, clean soil from construction excavations is stockpiled at the Transfer Station for reuse by the Village. The SWD will manage any stockpiles so that they do not create a public nuisance, potential health hazard, or adversely impact the environment and are not located in watercourses or wetlands.

20.9.2.10 PROHIBITED ACTS.

A. In addition to the prohibited acts identified in Section 74-9-31(A) and Section 74-13-4(J), and subject to the exemptions in Section 74-9-31(B) of the Solid Waste Act, no person shall:

- 1) store, process, or dispose of solid waste except by means approved by the secretary and in accordance with Board rules;

Response: The Los Lunas Transfer Station will not store, process, or transfer solid waste, except as described in the Transfer Station permit, as issued by the Secretary and in accordance with regulations.

- 2) dispose of any solid waste in this state in a manner that the person knows or should know will harm the environment or endangers the public health, welfare or safety;

Response: Not applicable to the Los Lunas Transfer Station; no disposal is provided at this facility. All solid waste managed at the Transfer Station is ultimately disposed of at other permitted disposal facilities.

- 3) dispose of any solid waste in a place other than a solid waste facility that meets the requirements of 20.9.2 - 20.9.10 NMAC;

Response: Not applicable to the Los Lunas Transfer Station. This Station is not a disposal facility for any solid waste. Solid waste consolidated at the Los Lunas Transfer Station is hauled to the Sandoval or Valencia County Landfills, which are permitted solid waste disposal facilities.

- 4) dispose of any solid waste, including special waste, in a solid waste facility when that facility's permit does not authorize the disposal of the particular type of solid waste in that facility;

Response: Not applicable to the Los Lunas Transfer Station. This Station is not a disposal facility for any solid waste and does not accept special waste. Some dewatered municipal wastewater sludge is transferred to the Los Lunas Transfer Station as a feedstock for composting. However, this is not considered a disposal activity.

- 5) construct, operate, modify or close a solid waste facility unless the facility has approval under 20.9.2 - 20.9.10 NMAC from the department for the described action;

Response: The SWD will not construct, operate, modify or close a solid waste facility unless the facility has approval under Sections 20.9.2 – 20.9.10 NMAC from the Department.

- 6) modify permit conditions or modify a solid waste facility unless the facility has applied for and received permission from the secretary for the modification pursuant to 20.1.4 NMAC Permit Procedures - Environment Department;

Response: The modifications proposed in this Permit Modification and Renewal Application will not be implemented until a Final Order is issued by NMED. All future modifications will be in accordance with NMAC 20.1.4 Permit Procedures – Environment Department.

- 7) dispose of petroleum waste, sludge which that does not meet the analytical criteria of 20.9.8.16 NMAC, septage, domestic sewage, or treated domestic sewage at any solid waste facility;

Response: The Los Lunas Transfer Station is not a disposal facility and does not accept petroleum waste, sludge, septage, domestic sewage, or treated domestic sewage. Some dewatered municipal wastewater sludge is transferred to the Los Lunas Transfer Station as a feedstock for composting; however, this is not considered a disposal activity.

- 8) dispose of hazardous wastes which are subject to regulation under Subtitle C of the Resource Conservation and Recovery Act, 42 USC 6901 et seq, at any solid waste facility, unless the facility is permitted for the disposal of hazardous wastes;

Response: The Los Lunas Transfer Station is not a disposal facility and does not accept hazardous waste-

- 9) dispose of liquid waste at any landfill unless:
 - a) the liquid waste is household waste other than septic waste and is in a small container similar in size to that normally found in household waste and the container is designed to hold liquids for use other than storage;

Response: Not applicable; the Los Lunas Transfer Station is not a liquid waste disposal facility. Accumulated containers of household liquid waste are transferred to other permitted facilities for disposal.

- b) the liquid waste is leachate or landfill gas condensate generated on-site which is recirculated in accordance with applicable laws and rules; or

Response: Not applicable; the Los Lunas Transfer Station is not a liquid waste disposal facility.

- c) the liquid waste is managed in accordance with an approval issued by the secretary;

Response: Not applicable; the Los Lunas Transfer Station is not a liquid waste disposal facility.

- d) the use of uncontaminated water for dust control or to improve vegetation on a final or intermediate cover is not considered disposal;

Response: Not applicable; the Los Lunas Transfer Station is not a liquid waste disposal facility and does not use water for dust control.

- 10) Process, recycle, transfer, transform, or dispose of radioactive waste in a solid waste facility;

Response: The Los Lunas Transfer Station does not accept radioactive waste.

- 11) dispose of lead-acid batteries at any landfill or incinerator;

Response: The Los Lunas Transfer Station is not a disposal facility and will not transfer lead-acid batteries to any landfill or incinerator for disposal. Lead-acid batteries are accepted for recycling and are transferred to a permitted recycling facility.

- 12) dispose of any infectious waste in a landfill;

Response: Not applicable; the Los Lunas Transfer Station is not a disposal facility and does not accept infectious waste.

13) dispose of any material regulated under the federal Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692, except in a solid waste facility, registered facility or operation authorized to accept such waste;

Response: *Not applicable; the Los Lunas Transfer Station is not a disposal facility and does not accept any material regulated under the Toxic Substances Control Act.*

14) allow open burning at a solid waste facility;

Response: *Fires are strictly prohibited at the Los Lunas Transfer Station.*

15) Excavate or trench a closed cell or solid waste disposal area without written approval by the department and a determination whether an excavation plan will be required, unless in response to an emergency situation; excavation and trenching do not include excavations or trenches of less than 120 cubic yards or exploratory borings for the purpose of waste characterization, site investigation or mapping, nor does it include removal of waste for routine maintenance on gas collection and control and venting systems;

Response: *The Los Lunas Transfer Station is not a landfill and therefore, 20.9.2.10(15) NMAC is not applicable. Activities at the adjacent closed landfill are regulated under a separate permit.*

16) Violate a term or condition of a closure and post-closure care plan, a registration, or conditions contained in an approval of the department under 20.9.2.17 NMAC;

Response: *The SWD will not violate a term or condition of a closure and post-closure plan, a registration, or condition contained in an approval of the Department under Section 20.9.2.17 NMAC.*

17) allow liquid extraction from sludge at a solid waste facility unless authorized by permit; or

Response: *Sludge is not accepted at the Los Lunas Transfer Station, except for use as a feedstock for the composting process. Liquid derived from this process is contained and reused within a closed system.*

18) process, transfer, store, dispose, or allow the disposal of special waste at a collection center;

Response: *Special waste is not accepted at the Los Lunas Transfer Station.*

19) dispose at a solid waste facility any type of non-hazardous material that is excluded from the definition of solid waste, unless permitted to do so, except that a landfill may dispose of non-hazardous excluded waste listed under the following subparagraphs of Paragraph (9) of Subsection S of 20.9.2.7 NMAC unless prohibited from doing so in its permit; Subparagraphs (d) (agricultural), (f) (sand and gravel), (i) (densified refuse derived fuel), (m) (scrap tires), (n) (recyclable materials), (o) (compost), and (p)(materials, other than those that are regulated as hazardous, toxic or special waste, that are retained as evidence in a criminal proceeding and that are required to be destroyed or managed in accordance with a court or administrative order, and ash derived from such materials).

Response: *The Los Lunas Transfer Station is not a disposal facility and will not transfer any non-hazardous material that is excluded from the definition of solid waste to any solid waste disposal facility unless that facility is permitted for the disposal of that material.*

B. Any person who generates, stores, processes, transports or disposes of solid waste shall take reasonable measures to determine the characteristics of the waste being handled to assure that no prohibited act is being performed.

Response: *The SWD will take reasonable measures to determine the characteristics of waste being handled at the Los Lunas Transfer Station to assure that no prohibited act is knowingly performed.*

C. A Subtitle C facility authorized to accept special waste for disposal may accept solid waste if allowed under its permit.

Response: *The Los Lunas Transfer Station is not a Subtitle C facility and this paragraph is, therefore, not applicable.*

- D. Nothing in this section shall prohibit a person for whom a drug or dangerous drug has been dispensed in accordance with a valid prescription from transferring the drug or dangerous drug to a law enforcement agency that collects, stores, transports, or disposes of drugs or dangerous drugs pursuant to a program in compliance with applicable state or federal law or a law enforcement household pharmaceutical take-back program that complies with the solid waste rules.

Response: *The Los Lunas Transfer Station does not participate in any drug, dangerous drug, or pharmaceutical take-back programs and this paragraph is, therefore, not applicable.*

- E. Household pharmaceutical waste collected through a law enforcement household pharmaceutical take-back program may only be disposed of or incinerated in accordance with the solid waste rules.

Response: *The Los Lunas Transfer Station does not participate in any drug, dangerous drug, or pharmaceutical take-back programs and this paragraph is, therefore, not applicable.*

20.9.2.12 SOLID WASTE FACILITIES; ENTRY BY DEPARTMENT; AVAILABILITY OF RECORDS TO DEPARTMENT.

- A. The secretary or any authorized representative, employee or agent of the department may enter, inspect, monitor, sample, or obtain records of a solid waste facility, or commercial hauler as provided in Section 74-9-33 of the Solid Waste Act. [20.9.2.12 NMAC - Rp, 20 NMAC 9.1.I.111, 08/02/07] [(Facilities, entry by the department and availability of records was formerly in 20 NMAC 9.1.I.111; recordkeeping was moved to 20.9.5.16 NMAC)]

Response: The SWD will allow entry by the Secretary or any authorized representative, employee, or agent of the Department to inspect, monitor, sample, or obtain records of a solid waste facility, or commercial hauler as provided in Section 74-9-33 of the Solid Waste Act. The SWD maintains daily and annual logs in the main office on the Transfer Station site. A listing of the maintained logs is provided in Exhibit 11.

20.9.2.18 COMPLIANCE WITH OTHER REGULATIONS.

- A. Compliance with 20.9.2 - 20.9.10 NMAC does not relieve a person of the obligation to comply with other applicable local, state and federal laws. [20.9.2.18 NMAC - Rp, 20 NMAC 9.1.X.1004, 08/02/07]

Response: The SWD acknowledges that compliance with Sections 20.9.2 - 20.9.10 of the NMAC does not relieve the SWD of the obligation to comply with other applicable local, state and federal laws.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 3 SOLID WASTE FACILITY PERMITS AND REGISTRATIONS

20.9.3.8 PERMIT APPLICATION REQUIREMENTS.

C. Any person seeking a permit to construct, operate or modify a solid waste facility shall file an application, which shall:

- 1) contain all information required by the Solid Waste Act and 20.9.2 - 20.9.10 NMAC;

Response: This Permit Modification and Renewal Application for the Los Lunas Transfer Station will contain all applicable information of the Solid Waste Act and 20.9.2 - 20.9.10 NMAC.

- 2) comply with Permit Procedures - Environment Department, 20.1.4 NMAC;

Response: The SWD will comply with Permit Procedures – Environment Department in Section 20.1.4 of the NMAC.

- 3) contain information required by Section 74-9-21 of the Solid Waste Act, and if applicable, disclosure statements shall be on forms provided by the department;

Response: This Permit Modification and Renewal Application for the Transfer Station will contain all information required by Section 74-9-21 of the Solid Waste Act. Disclosure statements have been submitted under separate cover and were received by NMED on November 21, 2018.

- 4) provide site information including:
 - a) the name and address of the applicant, property owner, and solid waste facility owner and operator;

Response: *Facility Name: Village of Los Lunas Transfer Station*

Physical Address/Location: 7480 Main Street NW, Los Lunas, New Mexico 87031

Owner: Village of Los Lunas

660 Main Street, Los Lunas, New Mexico 87031

Operator: Solid Waste Division (SWD)

315 Don Pasqual Road, Los Lunas, New Mexico 87031

- b) total acreage, legal description and maps of the proposed facility site, including land use and zoning of the site and adjacent properties;

Response: *The Los Lunas Transfer Station property encompasses a total of 48.58 acres, of which 32.62 acres is dedicated for the Transfer Station and 15.96 acres is the closed landfill facility. See Exhibits 9 and 13 for Plat Map and Zoning Map, respectively.*

- c) a description of the facility's water source and its location;

Response: *The Los Lunas Transfer Station receives its onsite water from a well located at approximately 34.822500 N, 106.828054 W. The well was drilled in 1998 and the well record was filed with the Office of the State Engineer under ID number RG 69853. See Figure 3-1 in Exhibit 2 for the VLLTS Water and Sewer System.*

- d) a description of the prevailing winds, including a wind rose diagram;

Response: *According to both the Belen Alexander Airport and the Albuquerque Double Eagle Airport wind roses', the strongest winds come from the West-Southwest direction. This holds true for most wind directions in the southwest region of the country. See Volume 2: Exhibits 14-B and 14-C for wind rose diagrams for Belen Alexander Airport and Albuquerque Double Eagle Airport, respectively.*

- e) a demonstration of compliance with the siting criteria in 20.9.4.9-12 NMAC;

Response: *Compliance with the siting criteria for transfer stations and processing is covered in Section 20.9.4.12 NMAC of this Application.*

- f) facility plans and drawings of the existing or proposed facility, with corresponding elevations and contours, signed and sealed by a Professional Engineer registered in New Mexico; and

Response: *The original site drawings for the Transfer Station are provided in Exhibit 1: Location Map, Site Plan, and Engineering Drawings. Minor improvements to the facility that include a new modular building used as office space, a new parking area, a new electrical power feed, and an addition to the main tipping building have been made since the original Transfer Station construction project was completed. Some of these improvements were not designed by an Engineer and there are no Engineering Drawings for these improvements. See revised Sheet CIR – Transfer Station Improvements in Exhibit 1 for general locations of site improvements. All available drawings have been included in Exhibit 1: Location Map, Site Plan, and Engineering Drawings.*

- g) the latitude and longitude of the geographical center of the existing or proposed facility (as approved by the department) in NAD-83 or equivalent;

Response: *The geographical center of the Los Lunas Transfer Station is approximately 34°49' 19.92" North, 106° 49'42.38" West.*

- 6) contain an operating plan for compliance with operational criteria, including

Response: *See Exhibit 2: General Operating Plan for the Facility Operating Plan and documents that address the operational criteria listed in a) through h).*

- a) the means for controlling access to the facility and controlling and mitigating odors and litter;
- b) a listing and description of the number, type and size of equipment to be used at the proposed solid waste facility for processing, recovering, diversion of recyclables, and transforming or disposing of solid wastes;
- c) a description of the proposed solid waste facility, including:
 - (i) the anticipated origin, composition and weight or volume of solid waste and other materials that are projected to be received at the facility;

- (ii) the processes to be used at the facility;
- (iii) the daily operational methodology of the proposed process;
- (iv) the loading rate, the expected life of the facility; and
- (v) the design capacity through the expected life of the facility and through the permit life of the facility;
- d) a plan for an alternative waste handling or disposal system during periods when the proposed solid waste facility is not in operation, including procedures to be followed in case of equipment breakdown; procedures may include the use of standby equipment, extension of operating hours and contractual agreements for diversion of waste to other facilities;
- e) the anticipated start-up date of the facility;
- f) the planned operating hours of the proposed facility;
- g) the plans for transportation to and from the facility including:
 - (i) the size and approximate number of vehicles that will deliver waste to the facility daily;
 - (ii) the anticipated routes that will be used by waste vehicles and the suitability of roads
 - (iii) measures for controlling litter, dust and noise caused by traffic;
 - (iv) other predicted impacts of traffic to and from the facility; and
 - (v) plans, if any, for diverting solid waste from the waste stream;

h) a plan for complying with record-keeping requirements in 20.9.5.16 NMAC as applicable;

Response: *See Exhibit No. 11, Required Operating Record and Annual Report for facility record keeping and reporting procedures as well as appropriate documentation.*

7) contain an emergency contingency plan that meets the requirements of 20.9.5.15 NMAC;

Response: *See Exhibit No. 6, Contingency Plan for an emergency contingency plan for the facility. Exhibit No. 2, General Operations Plan also provides additional information regarding on site contingency plans.*

8) contain a closure and post-closure care plan in compliance with 20.9.6 NMAC;

Response: *See Exhibit No. 7, Closure and Post-Closure Plan for the closure and post-closure plans.*

9) demonstrate the ability to comply with any applicable special waste requirements in 20.9.8 NMAC;

Response: *Special wastes are not accepted at the Los Lunas Transfer Station.*

10) contain a proposed ground water monitoring system plan in compliance with 20.9.9 NMAC, including, if site assessment bore holes are drilled to obtain data, a certification that the holes were plugged or sealed in accordance with the New Mexico Office of State Engineer's requirements for plugging or sealing of test holes, or will be converted to monitoring wells as part of the ground water monitoring system;

Response: *20.9.9 NMAC does not apply to this facility since groundwater monitoring is not required.*

11) include a cost estimate in accordance with the requirements of 20.9.10 NMAC, in a format as specified by the department; and

Response: *See Exhibit No. 15, Financial Assurance for the cost estimate required in 20.9.10 NMAC.*

12) contain any other information required by the secretary.

Response: Applicant will submit any other information required by the Secretary upon request.

G. Each permit application filed with the secretary shall include proof that the applicant has provided notice of the filing of the application and any community impact assessment scoping meetings, pre-assessment meetings or other notifications required by 20.9.2 - 20.9.10 NMAC, and unless otherwise specified by 20.9.2 - 20.9.10 NMAC, to the public and other affected individuals and entities. The notice shall:

Response: The Applicant is, with concurrence from NMED – Solid Waste Bureau, proceeding with the public notification requirements contained in 20.9.2 – 20.9.10 NMAC concurrently with the application for this permit. See Exhibit No. 17, Notice of Application for documentation of pre-permit public involvement.

- 1) be provided by certified mail to the owners of record, as shown by the most recent property tax schedule, and tax exempt entities of record, of all properties:
 - a) within one hundred feet of the property on which the facility is located or proposed to be located if the facility is or will be in a Class A or Class H county or a municipality with a population of more than two thousand five hundred (2,500) persons; or
 - b) within one-half mile of the property on which the facility is located or proposed to be located if the facility is or will be in a Class B county or municipality with a population of 2,500 or less;
- 2) be provided by certified mail to all municipalities and counties in which the facility is or will be located and to the governing body of any county, municipality, Indian tribe or pueblo when the boundary of the territory of the county, municipality, Indian tribe or pueblo is within ten miles of the property on which the facility is proposed to be constructed, operated or closed;
- 3) be provided to all parties and interested participants of record for a permit modification or renewal;

- 4) be published once in a newspaper of general circulation in each county where the facility is proposed to be constructed, operated or closed; this notice shall appear in either the classified or legal advertisements section of the newspaper and at one other place in the newspaper calculated to give the general public the most effective notice; notice also shall be provided to residents of each community that is or will be affected significantly by the existing or proposed solid waste facility at least once in one or more other media in a manner that effectively reaches a substantial number of members of each community, and where printed shall be printed in both English and Spanish;
- 5) be posted in at least eight publicly accessible and conspicuous places, including the proposed or existing entrance to the property on which the facility is or is proposed to be located; and

Response: The notice of filing was posted both in English and Spanish in eight (8) publicly accessible and conspicuous places on the SWD website, and in the Valencia County News Bulletin on December 13, 2018. A banner advertisement was also published in the Valencia County News Bulletin on February 7, 2020. Certified mailings were also sent to all property owners within 100 feet of the Transfer Station and to all municipalities, counties, and Native American governing bodies within 10 miles. Proof of posting is provided in Exhibit No. 17, Notice of Application.

- 6) include the following:
 - a) name, address, and telephone number of the applicant and contact person;
 - b) the anticipated start-up date of the facility or modification, and planned hours of operation;
 - c) a description of the facility, including the general process, location, size, quantity, rate, and type of waste to be handled and a description of any proposed modification;
 - d) the anticipated origin of the waste; and
 - e) a statement that comments regarding the application should be provided to the applicant and the department.

- H. Notices shall be submitted to the department for approval prior to publication, service and posting. The applicant shall submit a certificate from an American Translators Association certified translator showing that English versions have been accurately translated into Spanish. [20.9.3.8 NMAC - Rp, 20 NMAC.9.1.II.201, 08/02/07]

Response: The Village submitted the proposed notices to the NMED Solid Waste Bureau for approval on November 29, 2018 The NMED Solid Waste Bureau approved the notices on November 29, 2018 and they were posted in the locations noted under 20.9.3.8 (G)(5) on December 13, 2018.

20.9.3.15 ADDITIONAL PERMIT APPLICATION REQUIREMENTS FOR TRANSFER STATIONS.

- A. Any person seeking a permit for a transfer station shall submit the following information in addition to that required by 20.9.3.8 NMAC:

Response: See below for additional required information.

- B. plans and elevations, drawn to scale, of all structures proposed to be used for handling and storage of solid waste and diversion of recyclables;

Response: Site plans and elevations of the facility have been provided, drawn to scale in Exhibit No. 1, Location Map, Site Plan, and Engineering Drawings, along with the details related to each Paragraph of Subsection C below.

- C. a site plan of the proposed facility, drawn to scale, indicating the location of:

- 1) storage, loading and unloading areas;
- 2) fencing and gates;
- 3) entrances, exits, and access roads; and
- 4) area map showing locations of structures within 100 feet of the facility boundary;

- D. methods of collection, treatment, or disposal of waste water from the facility;

Response: Free liquids from solid waste deposited on the Transfer Station tipping floor for screening are collected into a floor drain system that conveys the wastewater to a lined evaporation pond on the west side of the main tipping building. Domestic drains in the Transfer Station buildings are connected to a 1,000-gallon septic tank located on the east side of the main tipping building. The newly installed modular operations building sanitary drains are connected to a separate septic system. Both septic systems are connected to a leach field on the eastern side of the Transfer Station property. Additional information is provided in Exhibit No. 1, Location Map, Site Plan, and Engineering Drawings.

- E. the frequency of solid waste and recyclables deposit and pick-up from the facility, method of transport, and destination;

Response: *The Village of Los Lunas Transfer Station currently processes approximately 60 tons of solid waste per day. A waste breakdown is provided in Exhibit No. 2, General Operations Plan, Section 5.4.*

Solid waste and recyclables are collected from Village residents on a daily basis during normal business hours. Solid waste is transferred to the landfill on a daily basis. Recyclables and other waste collected at the transfer is allowed to stockpile until a sufficient quantity has accumulated for hauling and disposal. The approximate frequency of transport to other facilities varies by the quantity received at the Transfer Station. The methods of transport and destination for recyclable materials is further described in Exhibit No. 2, General Operations Plan, Section 5.4.

- F. specific operational procedures, including traffic patterns and procedures for handling recyclables, household hazardous waste, white goods, bulky items, tires, yard refuse, and used oil; and

Response: *Operational procedures for specific types of waste accepted by the Los Lunas Transfer Station are outlined in Exhibit No. 2, General Operations Plan, Section 6.0.*

- G. a demonstration that the facility will be capable of handling the predicted waste stream. [20.9.3.15 NMAC - Rp, 20 NMAC 9.1.II.208 NMAC, 08/02/07]

Response: *The existing Transfer Station facility was designed to handle approximately 80 tons per day of municipal solid waste. The 2011 expansion project increased processing capacity by approximately 35 tons per day. The Transfer Station currently collects and processes approximately 60 tons per day of solid waste. Recent population projections completed by the Mid Region Council of Governments anticipate a 2040 Los Lunas population of approximately 40,000, or about double the current population. Thus, the processing capacity of the Transfer Station is anticipated to be sufficient for at least the next 20 years. Additional information is provided in Exhibit No. 2, General Operations Plan.*

20.9.3.16 PERMITTING PROCEDURES.

- A. The permitting procedures in 20.9.3.8 - 20.9.3.25 NMAC supplement the permitting requirements in the Solid Waste Act and Permitting Procedures - Environment Department, 20.1.4 NMAC.
- B. A permit shall be issued only after a public hearing as required by NMSA 1978 Section 74-9-24 A of the Solid Waste Act. If a public hearing is held for a permit application, modification, renewal, or petition, the applicant shall pay one-half the actual cost of:
- 1) court reporting services, including the cost to provide a copy of the transcript to the department;
 - 2) any translation or interpretation services; and
 - 3) providing the facility where the public hearing is held, including any security and ancillary costs.

Response: The Applicant is, with concurrence from NMED – Solid Waste Bureau, proceeding with the public hearing requirements contained in the rules concurrently with this Permit Modification and Renewal Application.

- C. The department shall submit an invoice to the applicant for payment. Payment shall be made before action on a permit will be finalized. A public entity may seek a waiver of payment for its share of hearing costs if it demonstrates to the secretary that payment would impose a financial hardship to the entity. [20.9.3.16 NMAC - Rp, 20 NMAC 9.1.II.212 NMAC, 08/02/07]

Response: The Applicant acknowledges that an application fee will be invoiced after submittal of the Permit Modification and Renewal Application. The Applicant will review the invoice and notify the Secretary if there are any issues with payment of the invoice.

20.9.3.17 PERMIT APPLICATION REVIEW.

- A. The applicant shall submit three copies of the initial permit application for approval. Upon receipt of an application for a permit, the department shall review the application to determine if additional information is necessary or shall determine the application administratively complete. The department shall issue a notice of administrative completeness or a notice that additional information is necessary within 120 days after receipt of the application and within 90 days of any subsequent responses to requests for further information. The secretary may extend the time for good cause.

Response: The Applicant has submitted three copies of the initial Los Lunas Transfer Station Permit Renewal/Modification Application for approval. The Applicant acknowledges that upon receipt of an application for a permit, the Department shall review the application to determine if additional information is necessary or shall determine the application is administratively complete. The Applicant acknowledges that the Department shall issue a notice of administrative completeness or a notice that additional information is necessary within 120 days after receipt of the application and within 90 days of any subsequent responses to requests for further information. Furthermore, the Applicant acknowledges that the Secretary may extend the time for good cause.

- B. In the event the department requests additional information, the applicant shall submit any information requested within 120 days of receipt of the first request, and 90 days of receipt of subsequent requests, or the application may be denied without prejudice. The secretary may extend the response time for good cause, and set up an alternative permit review schedule. When submitting the information in response to a request for additional information, the applicant shall submit three copies. If the permit application is not administratively complete after two requests for additional information, the secretary may deny the permit application without prejudice. This subsection is not intended to limit informal informational exchanges during the permit review period or prior to submission of an application. Denial of a renewal application under this subsection does not automatically terminate the existing permit of a facility.

Response: In the event the Department requests additional information, the Applicant will submit three copies of any information requested within 120 days of receipt of the first request, and 90 days of receipt of subsequent requests. The Applicant acknowledges that the application may be

denied without prejudice if the information is not submitted within the allotted response time or if the permit application is not administratively complete after two requests for additional information.

C. Within 14 days after the application is deemed administratively complete, the applicant shall submit to the department:

- 1) six complete new copies of the application; and
- 2) an updated list of all property owners as specified in Subsection G of 20.9.3.8 NMAC; the list must be date stamped and signed by the appropriate county agent, or certified as accurate by the applicant as of the date the application is deemed complete.

Response: The Applicant will submit six complete new copies of the application and an updated list of all property owners as specified in Subsection G of 20.9.3.8 NMAC; the list will be date stamped and signed by the appropriate county agent, or certified as accurate by the Applicant after the permit renewal/modification application is deemed administratively complete.

D. Acceptance of the application as administratively complete allows the permit application to be processed according to the permitting procedures. Acceptance of the application as administratively complete is not an indication that the department supports the permit without conditions or that it will be approved. [20.9.3.17 NMAC - Rp, 20 NMAC 9.1.II.212 NMAC, 08/02/07]

Response: The Applicant acknowledges that acceptance of the application as administratively complete is not an indication that the Department supports the permit without conditions or that it will be approved.

20.9.3.18 PERMIT ISSUANCE.

- A. The secretary shall issue a permit if the applicant demonstrates that the requirements of 20.9.2-20.9.10 NMAC and the Solid Waste Act are met and that neither a hazard to public health, welfare or the environment nor undue risk to property will result.

Response: The Applicant understands that the Secretary will only issue a permit if the Applicant demonstrates that the requirements of 20.9.2 - 20.9.10 NMAC and the Solid Waste Act are met and that neither a hazard to public health, welfare or the environment nor undue risk to the property will result.

- B. The secretary shall consider the information in the community impact assessment and any demonstrations made pursuant to Subsection E of 20.9.3.8 NMAC, together with other information in the record, in any decisions to issue, issue with conditions or deny the permit.

Response: Not applicable to transfer stations.

- C. The terms and conditions of the permit or permit modification shall be specifically identified by the secretary.

Response: The Applicant will comply with any terms and conditions that the Secretary may impose upon the Los Lunas Transfer Station.

- D. Multiple contiguous facilities may be permitted under one solid waste facility permit provided each facility meets the applicable requirements of 20.9.2 - 20.9.10 NMAC and the Solid Waste Act. [20.9.3.18 NMAC - Rp, 20 NMAC 9.1.II.212 NMAC, 08/02/07]

Response: Not applicable; the Applicant is not proposing to operate multiple contiguous facilities under one permit.

20.9.3.19 PERMIT DENIAL OR REVOCATION.

A. In addition to the causes for denial or revocation listed in Subsections A and B of 74-9-24 of the Solid Waste Act and 20.9.3.18 NMAC, the secretary may deny or revoke a permit during its term for:

- 1) a material violation of any term or condition of the permit, any requirement of 20.9.2 - 20.9.10 NMAC, or any requirement of the Solid Waste Act by the owner or operator, after taking into consideration the seriousness of the violation, any good faith efforts to comply with the applicable requirements and other relevant factors;

Response: The Applicant acknowledges that, in addition to the causes for denial or revocation listed in Subsections A and B of 74-9-24 of the Solid Waste Act, 20.9.2 through 20.9.10 NMAC, and 20.9.3.18 NMAC, the Secretary may deny or revoke a permit during its term for a material violation of any term or condition of the permit.

- 2) failure of the applicant in the application or during the permit issuance process to disclose fully all material facts;

Response: The Applicant acknowledges that the Secretary may deny or revoke a permit during its term for failure to disclose fully all material facts in the Permit Modification and Renewal Application or during the permit issuance process.

- 3) misrepresentation by the owner or operator of any material facts at any time;

Response: The Applicant acknowledges that the Secretary may deny or revoke a permit during its term for misrepresentation of any material facts at any time.

- 4) a determination that the permitted activity endangers public health, welfare or the environment;

Response: The Applicant acknowledges that the Secretary may deny or revoke a permit during its term if it is determined that a permitted activity endangers public health, welfare or the environment.

- 5) failure of the owner or operator to demonstrate the knowledge and ability to operate a facility in accordance with 20.9.2 - 20.9.10 NMAC; and

Response: The Applicant acknowledges that, in addition to the causes for denial or revocation listed in Subsections A and B of 74-9-24 of the Solid Waste Act and 20.9.3.18 NMAC, the Secretary may deny or revoke a permit during its term for failure to demonstrate the knowledge and ability to operate a facility in accordance with 20.9.2 through 20.9.10 NMAC.

- 6) a history of non-compliance by the owner or operator with environmental regulations or statutes at another facility.

Response: The Applicant acknowledges that the Secretary may deny or revoke a permit during its term for a history of non-compliance by the Applicant with environmental regulations or statutes at another facility.

- B. A permit shall be revoked in accordance with the procedures set forth in Adjudicatory Procedures - Environment Department, 20.1.5 NMAC. Construction, modification and operation, if any, shall cease upon the effective date of the revocation. [20.9.3.19 NMAC - Rp, 20 NMAC 9.1.II.212 NMAC, 08/02/07]

Response: The Applicant acknowledges that a permit will be revoked in accordance with the procedures set forth in Adjudicatory Procedures – Environment Department, 20.1.5 NMAC. Construction, modification and operation, if any, will cease upon the effective date of the revocation.

20.9.3.20 EFFECT OF PERMIT.

- A. Any terms or conditions of the permit shall be enforceable to the same extent as a regulation of the board.

Response: The Applicant acknowledges that any terms or conditions of the permit shall be enforceable to the same extent as a regulation of the Board.

- B. The existence of a permit issued under 20.9.2 - 20.9.10 NMAC shall not constitute a defense to a violation of 20.9.2 - 20.9.10 NMAC or the Solid Waste Act. [20.9.3.20 NMAC - Rp, 20 NMAC 9.1.II.212 NMAC, 08/02/07]

Response: The Applicant understands that the existence of a permit issued under 20.9.2 - 20.9.10 NMAC will not constitute a defense to a violation of 20.9.2 - 20.9.10 NMAC or the Solid Waste Act.

20.9.3.21 PERMITTED FACILITIES - DUTIES PRIOR TO OPERATION.

- A. At least 14 days prior to the start of solid waste facility construction, the owner or operator shall provide the department with a major milestone schedule.

Response: The Village of Los Lunas Transfer Station was originally constructed in 1998. The SWD is currently in the process of designing and constructing a new composting facility at the Transfer Station. This project will not expand the boundary of the Transfer Station. It is anticipated that construction of this facility will kick off in early, September 2019. A major milestone schedule will be submitted at least 14 days prior to the start of construction currently anticipated.

- B. After a permit is granted for a solid waste facility or for the expansion of a solid waste facility, and at least 14 days prior to disposal, processing, or transforming of any solid waste at the solid waste facility or expansion, the owner or operator shall:

- 1) provide to the department a written notice of construction completion with "as built" construction drawings signed and sealed by a registered professional engineer; and

Response: If new facilities are added to Los Lunas Transfer Station, the Applicant will provide to the Department a written notice of construction completion with "as built" construction drawings signed and sealed by a registered Professional Engineer at least 14 days prior to the using the new facility for processing or transfer of any solid waste at Los Lunas Transfer Station.

- 2) for landfills, provide the department a quality assurance/quality control report, certified by a registered professional engineer licensed in New Mexico and experienced in liner installation, for construction of the liner and leachate collection system.

Response: Not applicable; the Los Lunas Transfer Station is not a landfill.

- C. The owner and operator shall prohibit the disposal, processing, or transformation of solid waste at a new or modified portion of a solid waste facility until the department has either inspected the solid waste facility or modified portion and determined that the site has been developed in accordance with the permit or permit modification, 20.9.2 - 20.9.10 NMAC and the Solid Waste Act, or the department fails to inspect the solid waste facility within 30 calendar days of receipt of written notice of construction completion and any quality assurance/quality control report or engineer's certification that the facility or modification has been constructed in accordance with the permit or permit modification, 20.9.2- 20.9.10 NMAC and the Solid Waste Act, and that a quality assurance/quality control report is being prepared.

Response: The Applicant will prohibit the processing of solid waste within a new or modified portion of the Los Lunas Transfer Station until the Department has either inspected the Los Lunas Transfer Station or modified portion and determined that the site has been developed in accordance with the permit or permit modification, 20.9.2 -20.9.10 NMAC and the Solid Waste Act, or the Department fails to inspect the Los Lunas Transfer Station within 30 calendar days of receipt of written notice of construction completion and any quality assurance/quality control report or Engineer's certification that the modification has been constructed in accordance with the permit or permit modification, 20.9.2 - 20.9.10 NMAC and the Solid Waste Act, and that a quality assurance/quality control report is being prepared.

- D. The owner and operator shall prohibit the disposal, processing, or transformation of solid waste at a new or modified portion of a solid waste facility until the owner or operator has secured financial assurance and has submitted appropriate documentation to the department prior to the initial receipt of waste at a new or modified portion of a solid waste facility. [20.9.3.21 NMAC - N, 08/02/07]

Response: The Applicant will prohibit the processing of solid waste within a new or modified portion of the Los Lunas Transfer Station until the Applicant has secured financial assurance and has submitted appropriate documentation to the Department prior to the initial receipt of waste at a new or modified portion of the Los Lunas Transfer Station.

20.9.3.22 PERMIT OR FACILITY MODIFICATION.

- A. Any owner or operator of a solid waste facility who seeks to modify such facility or permit conditions shall obtain a permit modification prior to making any modifications. A permit modification shall not extend the initial term of any permit.

Response: The Applicant is submitting, for approval, this Permit Modification and Renewal Application for operations at the Los Lunas Transfer Station. In addition, the Applicant understands that a permit modification does not extend the initial term of the permit.

- B. An application for a modification shall demonstrate compliance with the portions of 20.9.2 – 20.9.10 NMAC that pertain to such a modification.

Response: The Applicant understands that an application for a modification must demonstrate compliance with applicable portions of 20.9.2 - 20.9.10 NMAC.

- C. The secretary may initiate the modification of permit conditions or require modification of the facility if:

- 1) changes occur after permit issuance which justify permit conditions that are different from or are not included in the existing permit;

Response: The Applicant acknowledges that the Secretary may initiate a modification of a permit condition or require modification of the Los Lunas Transfer Station if changes occur after permit issuance which justify permit conditions that are different from or are not included in the existing permit.

- 2) the secretary has received information that was not in the record at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance;

Response: The Applicant acknowledges that the Secretary may initiate a modification of a permit condition or require modification of the Los Lunas Transfer Station if the Secretary has received information that was not in the record at the time of permit issuance and would have justified the Application having different permit conditions at the time of issuance.

- 3) the standards or regulations on which the permit was based have changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued;

Response: The Applicant acknowledges that the Secretary may initiate a modification of a permit condition or require modification of the Los Lunas Transfer Station if the standards or regulation on which a permit was based have changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

- 4) the secretary determines good cause exists for modification, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonable remedy.

Response: The Applicant acknowledges that the Secretary may initiate a modification of a permit condition or require modification of the Los Lunas Transfer Station if the Secretary determines good cause exists for modification, due to events over which the Department has little or no control and for which there is no reasonable remedy.

- D. All permit modifications, whether initiated by the owner or operator or by the secretary, shall be subject to Permit Procedures - Environment Department, 20.1.4 NMAC and permitting procedures in this part. [20.9.3.22 NMAC - Rp, 20 NMAC 9.1.II.210 NMAC, 08/02/07]

Response: The Applicant understands that all permit modifications, whether initiated by the owner or operator or by the Secretary will be subject to Permit Procedures – Environment Department, 20.1.4 NMAC and permitting procedures of this part.

20.9.3.23 TRANSFER OF PERMITS AND CHANGE IN PERMIT APPLICANT.

A. A change in ownership of a permitted entity requires a permit transfer and shall be allowed according to the following procedure.

- 1) Where a permitted entity undergoes a change in ownership, but the permitted entity remains the same, the new owner shall, within 30 days after the change submit the following:
 - a) a description of the change in ownership;
 - b) the date of the change in ownership;
 - c) a statement that the current financial assurance will remain in effect, or a new proposed financial assurance to meet the requirements of 20.9.10 NMAC;
 - d) information required by Section 74-9-21 of the Solid Waste Act, and if applicable, disclosure statements shall be submitted for the new owner on forms provided by the department;
 - e) a statement whether the new owner has been convicted of a felony or other crime within 10 years immediately preceding the date of the transfer, and if so details of the crime and conviction;
 - f) a statement whether the new owner has been fined within the past 5 years for alleged violations of any environmental laws of this state, any other state or the United States, and if so, details of any allegations, settlements or compliance orders;
 - g) proof of public notice of the change in ownership; and h) any other information required by the secretary.
- 2) The permittee shall provide public notice of the ownership change by publishing once in a newspaper of general circulation in the county where the facility is located, and shall indicate in the public notice that the department will accept public comment on the ownership change for a period of 30 days after the date of publication.

- 3) The existing financial assurance required by 20.9.10 NMAC shall remain in effect until the secretary has approved any new proposed financial assurance submitted by the new owner.

Response: The Applicant acknowledges that a change in ownership of a permitted entity requires a permit transfer and shall be completed according to the procedure outlined in 20.9.3.23.A NMAC.

B. A change in the permittee requires a permit transfer and shall be allowed according to the following procedure.

- 1) Where the person owning the permit seeks to transfer the permit to a new person to be named as permittee, the existing owner and the proposed new owner shall file an application with the Department requesting transfer of the permit. The application shall contain the following information:
 - a) a description of the proposed change of permittee;
 - b) an explanation of whether the change in permittee will have any effect on the operations;
 - c) a new proposed financial assurance to meet the requirements of 20.9.10 NMAC;
 - d) information required by Section 74-9-21 of the Solid Waste Act, and if applicable, disclosure statements shall be submitted for the new proposed permittee on forms provided by the department;
 - e) a statement whether the new owner has been convicted of a felony or other crime within 10 years immediately preceding the date of the transfer, and if so, details of the crime and conviction;
 - f) a statement whether the new owner has been fined within the past five years for alleged violations of any environmental laws of this state, any other state or the United States, and if so, details of any allegations, settlements or compliance orders;

- g) proof of public notice of the proposed change in permittee; and
 - h) any other information required by the secretary;
- 2) The permittee shall provide public notice of a proposed permit transfer by publishing once in a newspaper of general circulation in the county where the facility is located, and shall indicate in the public notice that the department will accept public comment on the permit transfer for a period of 30 days after the date of publication.
- 3) The existing financial assurance required by 20.9.10 NMAC shall remain in effect until the secretary has approved any new proposed financial assurance submitted by the proposed new permittee.

Response: The Applicant acknowledges that a change in the permittee requires a permit transfer and shall be completed according to the procedure outlined in 20.9.3.23.B NMAC.

- C. If a permit applicant changes ownership or seeks to transfer the application to a new proposed permittee, the applicant and transferee shall follow the procedures in this section. If the application has already been deemed complete, the application shall be re-noticed and re-submitted. [20.9.3.23 NMAC - Rp, 20 NMAC 9.1.II.211 NMAC, 08/02/07.

Response: The Applicant acknowledges that if the Los Lunas Transfer Station changes ownership or seeks to transfer the application to a new proposed permittee, the Applicant and transferee shall follow the procedures outlined in this section. If the application has already been deemed complete, the Application shall be re-noticed and re-submitted.

20.9.3.24 PERMIT REVIEW.

No later than 60 days before a permit review is required by Section 74-9-24 of the Solid Waste Act, the owner or operator shall submit to the department a complete description of the following:

- A. facility operations;
- B. compliance history;
- C. environmental monitoring results, releases, and any remediation;
- D. changes in information from the disclosure forms;
- E. any other technical requirements requested by the secretary;
- F. financial assurance;
- G. any behavior or incidents of the nature described in Subsection B of 74-9-24 of the Solid Waste Act;
and
- H. proof of public notice of the review provided in accordance with Section 74-9-22 of the Solid Waste Act and 20.9.2 - 20.9.19 NMAC. [20.9.3.24 NMAC - Rp, 20 NMAC 9.1.II.212, 08/02/07]

Response: The Applicant will submit complete descriptions of items A through H to the Department for a permit review no later than 60 days before a permit review is required by Section 74-9-24 of the Solid Waste Act. Refer to 20.9.3.25(A) NMAC for current descriptions of items A through H listed above.

20.9.3.25 PERMIT RENEWAL.

- A. To renew a permit, the owner or operator of a solid waste facility shall file a permit renewal application no later than 12 months prior to the expiration date of the facility permit. A permit renewal application shall include a complete description of the following:

Response: *The SWD submitted this Permit Modification and Renewal Application on November 16, 2018, which is at least 12 months prior to the expiration of the existing permit. This application includes a complete description of the items listed under NMAC 20.9.3.25.*

- 1) facility operations;

Response: *The facility operations are described in Exhibit No. 2, General Operations Plan.*

- 2) compliance history;

Response: *See Exhibit No. 22, Compliance History for a list of compliance history.*

- 3) environmental monitoring results, releases, and any remediation;

Response: *Not applicable; monitoring is not required at the Village of Los Lunas Transfer Station.*

- 4) changes in information from the most recent disclosure forms filed with the department;

Response: *In order to provide confidentiality to the Disclosure Statement signatory, the Disclosure Statement related to this Permit Modification and Renewal Application for the Village of Los Lunas Transfer Station has been received by the NMED on November 21, 2018.*

- 5) any other technical requirements requested by the secretary;

Response: *In Volume 2: Exhibit 22, Section 1.0, the two requirements requested by the secretary are listed. The November 17, 1999 Final Order issued by the Secretary can be found, in its entirety, at the end of Exhibit 22 as well.*

6) financial assurance;

Response: *See Exhibit No. 15, Financial Assurance.*

7) any behavior or incidents of the nature described in Subsection B of 74-9-24 of the Solid Waste Act;

Response: *A letter has been provided in response to this Solid Waste Rule in Exhibit No. 25, Letter Regarding NMSA 1970, 74-9-24.*

8) compliance demonstrations under Subsection A of 20.9.4.9 NMAC; and

Response: *Not applicable; Subsection A of 20.9.4.9 NMAC applies to landfills and not transfer stations. Compliance demonstrations have been voluntarily provided for 20.9.4.12 NMAC by the Applicant although 20.9.4.12 NMAC doesn't apply to the Los Lunas Transfer Station since the facility was initially permitted prior to the effective date of the regulations. However, the Transfer Station currently meets all of the requirements of NMAC 20.9.4.12.*

9) proof of public notice of the renewal application provided in accordance with Section 74-9-22 of the Solid Waste Act.

Response: *Proof of public notice of the renewal application provided in accordance with Section 74-9-22 of the Solid Waste Act is provided in Exhibit No. 17, Notice of Application.*

B. A solid waste facility may continue to operate under the terms and conditions of the existing permit until the renewal permit is issued or denied provided that:

1) the owner and operator are in compliance with the existing permit, 20.9.2 - 20.9.10 NMAC, the Solid Waste Act, and any federal regulations which apply;

Response: *The Applicant acknowledges that the Los Lunas Transfer Station may continue to operate under the terms and conditions of the existing permit until the renewal permit is issued or denied provided that the SWD is in compliance with the existing permit, 20.9.2 through 20.9.10 NMAC, the Solid Waste Act, and any federal regulations which apply.*

- 2) a permit renewal application was submitted in a timely fashion in accordance with this section;
and

Response: The Applicant acknowledges that the Los Lunas Transfer Station may continue to operate under the terms and conditions of the existing permit until the renewal permit is issued or denied because this permit renewal application was submitted at least 12 months prior to expiration in accordance with this section.

- 3) the owner or operator submits any requested additional information by the deadline(s) specified by the secretary.

Response: The Applicant acknowledges that the Los Lunas Transfer Station may continue to operate under the terms and conditions of the existing permit until the renewal permit is issued or denied provided that the Applicant submits any requested additional information by the deadlines specified in NMAC 20.9.3.17 or other deadlines as specified by the Secretary.

- C. The secretary may establish new deadlines for the permit renewal application if the application is denied under 20.9.3.17 NMAC. The secretary may issue an order for the revocation of the existing permit if the provisions in Subsection B of 20.9.3.17 NMAC are not met. [20.9.3.25 NMAC - Rp, 20 NMAC 9.1.II.212, 08/02/07]

Response: The Applicant acknowledges that the Secretary may establish new deadlines for the permit renewal application if the application is denied under 20.9.3.17 NMAC. The Secretary may also issue an order for the revocation of the existing permit if the provisions in Subsection B of 20.9.3.17 NMAC are not met.

20.9.3.26 PERMIT EXPIRATION; AUTOMATIC CLOSURE.

- A. A permit shall automatically expire when the secretary verifies that the closure and any post-closure care plan, including corrective action, have been completed.

Response: The Applicant acknowledges that the permit shall automatically expire when the Secretary verifies that the closure and any post-closure care, including any future corrective actions, have been completed.

- B. If a permitted facility begins operation, and thereafter suspends operation in full for at least five years, authorization to accept waste is suspended and closure activities shall begin. [20.9.3.26 NMAC - Rp, 20 NMAC 9.1.II.212, 08/02/07]

Response: The Applicant does not anticipate suspension of operations for any extended period of time. If operations are suspended in full for at least five years, the Applicant understands that authorization to accept waste is suspended and closure activities will begin.

20.9.3.38 CONFIDENTIALITY OF INFORMATION.

- A. Permit applicants, owners or operators, or commercial haulers who submit information to the department may claim such information as confidential. Any claim of confidentiality must be asserted at the time of submittal.

Response: In order to provide confidentiality to the Disclosure Statement signatory, the Disclosure Statement related to this Permit Modification and Renewal Application has been provided under separate cover to the NMED.

- B. To claim confidentiality of information in a submittal, the submitter must clearly mark each page in the document on which the submitter claims there is confidential information, and submit to the department a written description of the basis for the claim of confidentiality at the time of submission. The department shall review the claim of confidentiality based on the written submittal and determine whether the information may be maintained as confidential pursuant to the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1, et seq. If the department determines that information in a submittal is confidential, the department may require submission of redacted copies of the submittal for the public record.

Response: The Applicant will comply with all confidentiality requirements of Subsection (B) of 20.9.3.38 NMAC.

- C. If no claim of confidentiality is made at the time of submission, any such claims are deemed waived and the department may make the information available to the public without further notice.

Response: The Applicant acknowledges that if no claim of confidentiality is made at the time of submission, any such claims are deemed waived and the Department may make the information available to the public without further notice.

- D. Information that is determined by the department to be confidential may be disclosed to officers, employees, or authorized representatives of the United States concerned with implementing RCRA, or when relevant in any proceedings under the Solid Waste Act or this chapter. [20.9.3.38 NMAC - N, 08/02/07]

Response: The Applicant acknowledges that information that is determined by the Department to be confidential may be disclosed to officers, employees, or authorized representatives of the United States concerned with implementing RCRA, or when relevant in any proceedings under the Solid Waste Act or this chapter.

20.9.3.39 FEE SCHEDULE.

- A. Fees are required from applicants for all permit applications, modifications, and applications for permit renewals. Fees shall be paid by the applicant at the time of application and are non-refundable. Fees for individual facility types shall be cumulative if more than one type is included in the permit application.

Response: The appropriate fee for this permit application has been submitted and paid in full.

- F. For a transfer station, the permit application fee shall be \$5,000.
- G. For a recycling facility or composting facility that accepts solid waste, the permit application fee shall be \$2,000.
- I. Fees for permit modifications shall be half of the stated permit application fee for that type facility.
- J. Fees for permit renewals shall be the same as for new facilities.

Response: The Applicant acknowledges that fees for permit renewals will be the same as for new facilities. A fee of \$5,000 is required for transfer stations.

- K. The fee for resubmittal of an application that has been denied without prejudice shall be half of the stated permit application fee for that type of facility.

Response: The Applicant acknowledges that the fee for resubmittal of an application that has been denied without prejudice will be charged a fee of half the state permit application fee for the type of facility.

- L. Fees shall be paid by check or money order, payable to "New Mexico Environment Department."
[20.9.3.39 NMAC - Rp, 20 NMAC 9.1.XI.1108, 08/02/07]

Response: The Applicant has provided a check or money order, payable to the "New Mexico Environment Department".

**TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 4 SOLID WASTE AND REGISTERED FACILITY MAXIMUM SIZE, SITING
CRITERIA, AND DESIGN CRITERIA**

20.9.4.8 MAXIMUM SIZE.

The secretary shall not issue a permit for any solid waste facility larger than 500 acres.

Response: The Transfer Station property is approximately 32.6 acres. See Exhibit No. 9, Plat Map for verification of waste facility size.

20.9.4.12 SITING CRITERIA FOR TRANSFER STATIONS AND PROCESSING FACILITIES.

No transfer station or processing facility initially permitted after the effective date of these regulations shall be located in the following areas:

A. a floodplain, a watercourse, or a wetland, except:

Response: See Exhibit No. 16, FEMA Flood Insurance Rate Map and Exhibit No. 19, Wetlands Map for floodplain and wetland information. The facility is not located in the floodplain or near any wetlands or watercourses.

- 1) a transfer station property boundary may extend into or cross a floodplain, watercourse, or wetland if those areas will not be impacted by structures or activities of the facility; and
- 2) engineering structures designed to prevent impacts to or from a floodplain, watercourse, or wetland may be constructed subject to prior approval of the secretary;

Response: The Los Lunas Transfer Station property does not extend into a floodplain, watercourse, or wetland; therefore the Los Lunas Transfer Station does not impact any of these wetland regions. See Exhibit No. 16, FEMA Flood Insurance Rate Map and Exhibit No. 19, Wetlands Map.

- B. within 250 feet of a permanent residence, institution, school, place of worship, or hospital, that existed at the time the transfer station permit application was submitted, unless the applicant demonstrates that a shorter distance of no less than 50 feet has been affirmatively approved by the local government;

Response: *The Los Lunas Transfer Station is located at a distance greater than 250 feet from the nearest permanent residence, school, hospital, institution or church in existence at the time of the permit application. Refer to Exhibit No. 13, Zoning Map and Setbacks Map.*

- C. within an unstable area, except where the owner or operator demonstrates that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted or unless otherwise approved by the secretary; or

Response: *Geotechnical data for the original Transfer Station is provided in Exhibit No. 21, Existing Site Geotechnical Report and Geologic Maps. An investigation was conducted for select areas of the site in 2018 and did not reveal any potentially problematic soil conditions. All data is provided in Exhibit No. 21 Existing Site Geotechnical Report and Geologic Maps.*

- D. within historically or archaeologically significant sites, unless in compliance with the Cultural Properties Act, NMSA 1978, Sections 18-6-1 to 18-6-23 and the Prehistoric and Historic Sites Preservation Act, NMSA 1978, Sections 18-8-1 to 18-8-8.

Response: *The Los Lunas Transfer Station was initially permitted in 1998, which was prior to the promulgation of NMAC 20.9.4.12. However, according to the State of New Mexico Historic Preservation Division, there are no sites of historic or archaeological significance near to or within the Transfer Station property boundary. Refer to Exhibit 20: Historic and Cultural Properties Assessment.*

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 5 SOLID WASTE FACILITY AND COMMERCIAL HAULERS OPERATING REQUIREMENTS

20.9.5.8 GENERAL OPERATING REQUIREMENTS FOR ALL SOLID WASTE FACILITIES.

A. Owners and operators of each solid waste facility shall:

- 1) operate the facility in a manner that does not cause a public nuisance or create a potential hazard to public health, welfare or the environment;

Response: *The Applicant operates the facility in a manner that does not cause a public nuisance or create a potential hazard to public health, welfare or the environment. See Exhibit No. 2, General Operations Plan, Section 7.0.*

- 2) control and mitigate odor and litter; and

Response: *The Applicant operates the facility in a manner to control and mitigate odor and litter. See Exhibit No. 2, General Operations Plan, Section 7.0.*

- 3) post signs to indicate the location of the site, the hours of operation, emergency telephone numbers, disposal instructions, and that fires and scavenging are prohibited.

Response: *The Applicant has signage to indicate the location of the site, the hours of operation, emergency telephone numbers, disposal instructions, and that fires and scavenging are prohibited. See Exhibit No. 2, General Operations Plan, Section 3.2 and Exhibit No. 23, Facility Signage.*

B. Owners and operators of a solid waste facility shall:

- 1) have a certified operator or representative present at all times while the facility is operational;

Response: *A certified operator or representative is present at all times while the facility is operational. See Exhibit No. 2, General Operations Plan, Section 2.0.*

- 2) implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste, including:

Response: *A detailed Waste Screening Plan is included in Exhibit No. 4, Waste Screening and Inspection Plan. At any time, Applicant operators may inspect incoming loads to detect and prevent the disposal of unauthorized waste, including hazardous waste, hot waste, PCB's, and other materials deemed incompatible with the Applicant's operation at the Los Lunas Transfer Station. See Exhibit No. 4, Waste Screening and Inspection Plan as well for a description of actions for unauthorized materials.*

- a) inspection frequency;
 - b) inspection personnel;
 - c) method of inspection; and
 - d) a training program for the facility employees in the identification of unauthorized waste, including hazardous waste, hot waste, and PCB's;
- 3) maintain a written operating record in compliance with 20.9.5.16 NMAC;

Response: *The Applicant's personnel maintain written operating records in accordance with Section 20.9.5.16 of the NMAC as indicated in Exhibit No. 2, General Operations Plan, Section 9.0. Additional operating record information is found in Exhibit No. 11, Required Operating Records and Annual Reports.*

- 4) notify the department both orally and in writing within 24 hours of an occurrence of a spill, fire, flood, explosion, mass movement of waste, or similar event;

Response: *The Department shall be notified by the Applicant's personnel both orally and in writing within 24 hours of a spill, fire, flood, explosion, mass movement of waste, or similar event. See Exhibit No. 6, Contingency Plan.*

- 5) upon discovery of the receipt of unauthorized waste:

- a) notify the department, the hauler, and the generator in writing within 48 hours;

Response: *If the screened load is deemed unacceptable, the Department, hauler, and waste generator shall be notified within 48 hours. Refer to Exhibit No. 6, Contingency Plan.*

- b) restrict the area from public access and from facility personnel; and

Response: *If the load is found to be unacceptable, access to the waste is restricted to prevent exposure to the public and facility personnel. Refer to Exhibit No. 6, Contingency Plan.*

- c) assure proper cleanup, transport and disposal of the waste;

Response: *The SWD will assure proper transport and disposal of any unauthorized waste discovered; refer to Exhibit No. 6, Contingency Plan.*

- 6) ensure that copies of contingency plans are readily accessible to employees on duty; and

Response: *Copies of the contingency plan are maintained at the Los Lunas Transfer Station Administration Building and the Applicant's Main Office; see Exhibit No. 6, Contingency Plan.*

- 7) train employees when hired and at least annually thereafter on when and how to implement contingency plans and document in the operating record that such training has been conducted.

Response: *All employees will be trained on how and when to implement the contingency plan when initially hired and annually thereafter; the training is documented and becomes part of the operating record. See Exhibit No. 8, Personnel Training Plan, Section 2.3.*

- C. The secretary may order temporary changes in operation or facility design in emergency situations when the secretary determines there is an imminent danger to public health, welfare or the environment.

Response: *The Applicant acknowledges that the Secretary may order temporary changes in operation of facility design in emergency situations when it is determined that there is an imminent danger to public health, welfare, or the environment.*

- D. If recyclable materials such as used oil, antifreeze, paint, or similar materials are diverted from the waste stream at a solid waste facility, the materials shall be stored for no longer than twelve months and shall be maintained in a covered area, not exposed to the weather, with secondary containment. [20.9.5.8 NMAC - Rp, 20 NMAC 9.1.IV.401, 8/2/2007]

Response: *Household quantities of used oil, paint, and similar materials are accepted at the Transfer Station and stored temporarily outdoors in a covered area with secondary containment. Three walls surround each containment area to help protect the stored waste from the elements.*

20.9.5.11 ADDITIONAL TRANSFER STATION OPERATING REQUIREMENTS.

Owners and operators of transfer stations shall:

- A. accept special wastes only when specifically authorized to do so by a permit;

Response: *Special wastes are not accepted at the Los Lunas Transfer Station; see Exhibit No. 2, General Operations Plan, Section 5.2.*

- B. use containers for storage of solid waste that are leak-proof and manufactured of non-biodegradable material;

Response: *All containers used for the storage of solid waste or recyclables at the Los Lunas Transfer Station are constructed of non-biodegradable material and are leak-proof.*

- C. provide adequate means to control litter and prevent and extinguish fires;

Response: *Litter control measures are outlined in Exhibit No. 2, General Operations Plan, Section 7.1. Emergency procedures for extinguishing fires and fire extinguisher locations are presented in Exhibit No. 6, Contingency Plan.*

- D. conduct any recycling operations in a safe and sanitary manner, confined to an area remote from the tipping area, and in a manner that does not interfere with transfer operations;

Response: *Recycling operations at the Los Lunas Transfer Station are conducted in a safe and sanitary manner and are confined to a designated area within the tipping building, which does not interfere with transfer operations. See Exhibit No. 2, General Operations Plan, Section 6.9.*

- E. store recyclable materials in a manner that does not create a nuisance, harbor vectors, or create a public health hazard, and remove recyclable materials in a timely manner;

Response: *The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 2, General Operations Plan, Section 6.9.*

- F. provide sufficient unloading areas to meet demands of peak periods;

Response: *The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 2, General Operations Plan.*

- G. provide adequate off-street parking facilities for transfer vehicles;

Response: *The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 1, Location Map, Site Plan, and Engineering Drawings.*

- H. not park collection or transfer vehicles containing putrescible materials on public streets or roads except under emergency conditions;

Response: *The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 2, General Operations Plan.*

- I. remove solid waste from the station at the end of the operating day unless otherwise approved in the permit; and

Response: *The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 2, General Operations Plan.*

- J. provide separate storage areas for bulky wastes, such as brush, white goods, appliances, and scrap tires, and remove the bulky wastes at a frequency approved in the permit. [20.9.5.11 NMAC - Rp, 20 NMAC 9.1.IV.404, 8/2/2007]

Response: *The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 2, General Operations Plan.*

20.9.5.15 CONTINGENCY PLAN FOR EMERGENCIES.

- A. 20.9.5.15 NMAC applies to owners and operators of all solid waste facilities except as otherwise provided.

Response: The Applicant acknowledges that 20.9.5.15 NMAC applies to the operations at the Los Lunas Transfer Station, except as otherwise provided.

- B. The owner or operator shall maintain a current contingency plan at each solid waste facility. The contingency plan shall be designed to minimize hazards to public health, welfare or the environment from fires, explosions, or any release of contaminants or hazardous constituents to air, soil, surface water or ground water.

Response: The Applicant will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 6, Contingency Plan.

- C. A copy of the contingency plan shall be kept at the facility and copies shall be provided to the emergency response authority of the local emergency management center.

Response: A copy of the current emergency contingency plan will be available on-site at all times and available for review during normal business hours. A copy will be provided to the Village of Los Lunas Fire Department, which is the emergency response authority for the Village.

- D. The provisions of the contingency plan shall be carried out immediately whenever there is a fire, explosion, or release of contaminants or hazardous constituents which could pose an immediate or imminent threat to public health, welfare or the environment.

Response: The facility will conduct operations in compliance with the provisions of this section as outlined in Exhibit No. 6, Contingency Plan.

E. The contingency plan shall be amended immediately, if necessary, whenever:

- 1) the facility permit is renewed or modified;
- 2) the plan fails in an emergency;
- 3) the facility's design, operations, maintenance, or other circumstances change in a way that increases the potential for fires, explosions, or releases of hazardous constituents, or necessitate changes to the planned emergency response;
- 4) the list of emergency coordinators changes; or
- 5) the list of emergency equipment changes.

Response: The Applicant will amend the contingency plan if required by any of the conditions listed in the NMAC 20.9.5.15 (E)(1) to 20.9.5.15 (E)(5).

F. The contingency plan for emergencies shall, if applicable:

Response: See Exhibit No. 6, Contingency Plan which contains the information required by NMAC 20.9.5.15(F), as applicable.

- 1) describe the actions facility personnel should take in response to fires, explosions, or releases of contaminants or hazardous constituents to air, soil, surface water, or ground water;
- 2) describe arrangements with local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services;
- 3) list the name(s) and telephone numbers of the emergency coordinator(s); if more than one person is listed, one must be named as the primary emergency coordinator;

- 4) include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems and decontamination equipment), along with the location, physical description, and a summary of the capabilities of each item;
- 5) include an evacuation plan for facility personnel which describes signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes in cases where the primary routes could be blocked by fire or releases of wastes;
- 6) include an evaluation of potential contaminants, potential media contaminated, and procedures for investigation, containment, and correction or remediation;
- 7) indicate when the contingency plan must be amended;
- 8) instruct the emergency coordinator or his designee, in case of an imminent or actual emergency situation, to immediately:
 - a) activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
 - b) notify appropriate state and local agencies with designated response roles if their assistance is needed;
- 9) instruct the emergency coordinator, whenever there is a release, fire, or explosion, to as quickly as possible identify the nature, source, amount, and extent of any release by means of observation, review of facility records or manifests, or if necessary, by chemical analysis;
- 10) instruct the emergency coordinator to assess possible hazards to public health, welfare or the environment that may result from the release, fire, or explosion;
- 11) instruct the emergency coordinator to provide for monitoring for leaks, pressure buildup, gas generation or rupture in valves, pipes, or equipment, if appropriate;

- 12) instruct the emergency coordinator to provide for appropriate treatment, storage, or disposal of recovered waste, or any other material that results from a release, fire, or explosion at a facility, after the emergency situation is under control; and

- 13) instruct the emergency coordinator to ensure that waste which may be incompatible with the released material is not treated, stored, or disposed until cleanup procedures are complete.
[20.9.5.15 NMAC - Rp, 20 NMAC 9.1.VIII.811, 8/2/2007]

20.9.5.16 RECORD KEEPING AND ANNUAL REPORTS.

- A. Owners and operators of solid waste facilities shall make and maintain an operating record during the active life of the facility, for each day that operations, monitoring, or closure occurs, including:

Response: The facility will conduct operations in compliance with the provisions of this section. Refer to Exhibit No. 11, Required Operating Records and Annual Report for records required to be maintained by the Applicant throughout the active life of the Los Lunas Transfer Station.

- 1) the type (including special waste) and weight or volume of each load of solid waste received;
- 2) the country (if other than the United States), state, county, and municipality in which the solid waste originated (i.e. the origin);
- 3) the business name of any commercial hauler of solid waste for each load of the solid waste if it can be reasonably obtained;
- 4) type and weight or volume of non-solid waste materials, as referenced in Paragraph (9) of Subsection S of 20.9.2.7 NMAC, received;
- 5) a record of load inspections, including:
 - a) date and time of inspection;
 - b) business name of the commercial hauler and driver name;
 - c) vehicle license number and description;
 - d) origin of the waste; and
 - e) any pertinent observations made during the inspection;

- 6) a description of solid waste or special waste handling problems or emergency disposal activities;
 - 7) a record of deviations from the approved design or operational plans;
 - 8) for a transfer station, the origin of and destination of the solid waste if transported out of state;
 - 9) all monitoring and testing results;
 - 10) plans for operations, contingencies, detection and identification of unauthorized waste, and any other plans required by 20.9.2 - 20.9.10 NMAC;
 - 11) documentation of the implementation of required plans;
 - 12) copies of special waste manifests required under 20.9.8.19 NMAC;
 - 13) copies of certificates of processing, transformation, or disposal of special wastes required under 20.9.8.13 NMAC;
 - 14) financial assurance information, including a copy of the current standby trust document, current estimates for closure, post-closure care, phase I and phase II assessments and a copy of the financial assurance mechanism being utilized;
 - 15) a complete and current copy of the facility permit, final order issuing the permit, and any approvals granted by the secretary under 20.9.2 - 20.9.10 NMAC;
 - 16) a daily log of construction activities; and
- B. A copy of the operating record for the current month and the previous twelve months, at a minimum, shall be kept on site, unless the facility no longer accepts solid waste, after which time it shall be kept in a place where it can be made available to the department.

Response: The Applicant will conduct operations in compliance with the provisions of this section. See Exhibit No. 2, General Operations Plan, Section 9.0.

C. Owners and operators of solid waste facilities shall make and maintain an operating record during the post-closure period of the facility for each day that monitoring, corrective action, or other post-closure activity occurs, including:

- 1) a record of any deviations from the approved post-closure care plan;
- 2) all monitoring and testing results;
- 3) documentation of the implementation of required plans and any exceptions to those plans;
- 4) financial assurance information, including current estimates for closure, post-closure care, phase I and phase II assessments and a copy of the financial assurance mechanism being utilized;
- 5) a complete and current copy of the facility permit, final order issuing the permit, and any approvals granted by the secretary under 20.9.2 - 20.9.10 NMAC; and
- 6) any other information specifically required by the secretary.

Response: If closure of the Los Lunas Transfer Station is initiated, then the Applicant will maintain an operating record in accordance with these requirements as outlined in Exhibit No. 7, Closure and Post-Closure Plan.

D. Owners or operators of solid waste facilities shall submit an annual report to the department for each facility or operation, within 45 days from the end of each calendar year, describing the operations of the past year. The reports must be certified as true and accurate by the owner or operator and shall include:

Response: The Applicant will submit annual reports within 45 days from the end of each calendar year describing the operations of the past year in accordance with the requirements of this section. See Exhibit No. 11, Required Operating Record and Annual Report.

- 1) the type and weight or volume of waste materials received each month and the country (if other than the U.S.), state, county, and municipality in which the waste originated;

- 2) the type and weight or volume of solid waste received from each commercial hauler that delivered waste to the facility;
- 3) for a landfill, a description of the capacity used in the previous year and the remaining capacity;
- 4) for a landfill, a description of the acreage used for disposal, the acreage seeded, the acreage where vegetation is permanently established and a description of the progress in implementing the closure plan;
- 5) the weight or volume of each type of special waste received at the solid waste facility in the previous year;
- 6) a summary of all monitoring results (not including the results required under 20.9.9.10 NMAC);
- 7) written notice to the secretary if any change in operation has occurred that will reduce the active life of the facility by 25 percent or more;
- 8) type and weight or volume of materials recycled during the year;
- 9) final disposition of materials not stored or recycled;
- 10) amount of leachate generated and treated or recirculated;
- 11) an annual financial assurance certification on forms supplied by the department;
- 12) the latitude and longitude of the geographical center of the existing or proposed facility (as approved by the department) in NAD-83 or equivalent; and
- 13) any other information requested by the secretary.

- E. All records and plans required by 20.9.2 - 20.9.10 NMAC shall be furnished upon request and made available at all reasonable times for inspection by the secretary.

Response: The Applicant will furnish all records and plans required by Parts 2 to 10 of 20.9 of the NMAC.

- F. Operating records and copies of annual reports for solid waste facilities shall be retained by the owner or operator through the post-closure period. [20.9.5.16 NMAC - Rp, 20 NMAC 9.1.I.109, 8/2/2007]

Response: If closure occurs, the Applicant will retain all operating records and copies of annual reports during the post-closure period.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 6 SOLID WASTE FACILITY AND COMPOSTING FACILITY CLOSURE AND
POST-CLOSURE REQUIREMENTS

20.9.6.8 GENERAL REQUIREMENTS FOR CLOSURE AND POST-CLOSURE CARE.

- A. Closure and post-closure care plans are required of all solid waste facilities that operated on or after May 14, 1989. The owner or operator of a solid waste facility that has closed but not submitted a closure and post-closure care plan shall submit such a plan within 180 days of the effective date of these regulations. The submitted plan shall meet the requirements of 20.9.6 NMAC.

Response: Refer to Exhibit No. 7, Closure and Post-Closure Plan for the closure and post-closure care plan for the Los Lunas Transfer Station, which addresses all items in 20.9.6.8 of the NMAC.

- B. The owner or operator of the solid waste facility shall prepare a written closure and post-closure care plan that describes the steps necessary for closure and post-closure care of the solid waste facility and any anticipated future uses of the property following closure.
- C. Closure and post-closure care plans are required in the application for a permit or permit modification. One initial copy of the plan and two copies of the completed plan shall be submitted to the department.
- D. The owner or operator of the solid waste facility shall notify the secretary in writing of the intent to close at least 90 days before closure occurs and shall notify the secretary in writing within 14 days after becoming a locked facility.
- E. Closure and post-closure care plans for new solid waste facilities and modifications to existing facilities shall be approved as part of the facility permit.
- F. All closure and post-closure care plans shall be approved by the secretary and may be subject to conditions.

- G. Closure and post-closure care plans for existing non-permitted landfills that seek to close rather than continue to operate, shall be submitted for approval by the secretary within one year after the effective date of this part. The closure and post-closure care plan shall meet the requirements of 20.9.6 NMAC. After determining that the plan is complete, the secretary shall provide public notice of the plan in a newspaper of general circulation in the county where the facility is located. A non-adjudicatory hearing will be held if significant public interest warrants it. Approved closure and post-closure plans for unpermitted category 2 and 3 landfills shall be enforceable as a permit or regulation for purposes of 20.9.2 - 20.9.10 NMAC and the Solid Waste Act. Any landfill that operates after the effective date of these regulations shall have a closure and post-closure care plan approved as part of the permit, or shall seek approval of a closure and post-closure care plan.
- H. Responses to the secretary's requests for additional information concerning a proposed closure and post-closure care plan shall be made within 90 days of receipt of such a request. The secretary may extend the response time for good cause.
- I. Post-closure inspection and maintenance shall not be required of the facility if the owner or operator demonstrates to the secretary that all solid waste has been removed, requirements of the closure plan have been met, and following the removal of such wastes, a demonstration is made that the soil and ground water have not been contaminated.
- J. All landfills, regardless of category, except construction and demolition debris landfills, which close after October 9, 1991, shall comply with the final cover requirements contained in 20.9.6.9 NMAC in addition to other closure requirements in effect at the time of closure.
- K. The length of the post-closure care period may be decreased by the secretary if the owner or operator demonstrates that the reduced period is sufficient to protect public health, welfare, and the environment, or it may be increased by the secretary if the secretary determines that a longer period is necessary to protect health, welfare, and the environment. The time period for application of the provisions for financial assurance as defined in 20.9.10 NMAC shall be coincident with the time period of the post-closure care period. Any reduction or extension of the post-closure care period as described in this section shall be accompanied by an identical reduction or extension of the financial assurance provisions.

- L. The owner or operator shall submit a closure report to the department within 60 days after closure completion. The report shall include:
- 1) a summary of closure activities: and
 - 2) a certification by a New Mexico registered professional engineer that the closure of the solid waste facility has been completed and all conditions of the approved closure plan have been satisfied.
- M. The active life of the facility terminates, and post-closure care begins, upon written verification by the department that the facility has been closed in accordance with the closure plan approved by the secretary.
- N. The owner or operator shall submit a post-closure report to the department within 60 days after the post-closure period expires. The report shall include:
- 1) a summary of post-closure activities: and
 - 2) a certification by a New Mexico registered professional engineer that the post-closure requirements, and if applicable, any corrective action requirements have been completed and all conditions of the approved post-closure care plan have been satisfied.
- O. The post-closure care period for the facility terminates upon written verification by the secretary that the requirements of the approved post-closure care plan have been satisfied. If the secretary does not issue a verification, the secretary shall notify the owner or operator in writing that the activities required under 20.9.6 NMAC and 20.9.9 NMAC have not been conducted satisfactorily, and specify the reasons for such determination.
- P. The secretary may require the owner or operator to amend the post-closure care plan if the secretary believes that the present or future implementation of the plan may cause a threat to human health or the environment. [20.9.6.8 NMAC - Rp, 20 NMAC 9.1.V.501, 8/2/2007]

20.9.6.12 CLOSURE AND POST-CLOSURE REQUIREMENTS FOR OTHER SOLID WASTE FACILITIES.

A. Owners or operators of solid waste facilities other than landfills shall comply with the following requirements:

Response: The Applicant will comply with the provisions of this section should closure occur. See Exhibit No. 7, Closure and Post-Closure Plan. Specific closure activities are also provided in Exhibit No. 15, Financial Assurance. Generally, demolition/removal buildings, fences, and roads will not be included in closure because they are anticipated to have value even after closure and may be repurposed.

- 1) cleanup of the area;
- 2) dismantling and removal of any improvements related to solid waste handling or disposal, if required in the approved closure plan, such as;
 - a) removal of buildings;
 - b) removal of fences;
 - c) removal of roads; and
 - d) removal of equipment;
- 3) testing of soils and ground water for contamination, if required in the approved closure plan; and
- 4) all other conditions of the permit.

- B. Post-closure inspection and maintenance may be waived upon written approval of the secretary, if the facility owner or operator demonstrates to the department that all requirements of closure have been met and there is no evidence of contamination. [20.9.6.12 NMAC - Rp, 20 NMAC 9.1.V.505, 8/2/2007]

Response: The Applicant acknowledges that post-closure inspection may be waived if it is able to demonstrate that all closure requirements have been met and there is no evidence of contamination. See Exhibit No. 7, Closure and Post-Closure Plan.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 7 SOLID WASTE FACILITY AND REGISTERED FACILITY OPERATOR
CERTIFICATION

20.9.7.8 GENERAL PROVISIONS.

- A. Owners and operators of landfills and transformation facilities shall require the managers of those facilities to attend, at least once every three years, a training program offered by the department or department certified training program on the subject of environmental justice.

Response: *Not applicable. The Los Lunas Transfer Station is neither a landfill nor a transformation facility.*

- B. To become a certified operator an individual shall:
- 1) complete a certification training course offered by the department or its designated agent, or equivalent training approved by the department;
 - 2) pass an examination approved by the department;
 - 3) have at least one year of experience in the operation of a facility of the same type as that for which certification is sought;
 - 4) file an application with the department on a form provided by the department;
 - 5) meet the requirements of the Parental Responsibility Act, NMSA 1978, Sections 40-5A-1 to 40-5A-13 (1998 Cum. Supp.);
 - 6) for operators of municipal waste incinerators, also meet the training requirements of New Mexico Municipal Waste Combustion rule, 20.2.62 NMAC; and
 - 7) for operators of biomedical waste incinerators, also meet the training requirements of New Mexico Biomedical Waste Combustion rule, 20.2.63 NMAC.

Response: *A listing of currently licensed operators employed by the SWD is provided in Exhibit No. 2, General Operations Plan.*

- C. Operator certification is valid for three years from date of issuance.

Response: *The Applicant acknowledges that the operator certification is valid for three years from date of issuance. Operator certifications are kept up to date. See Exhibit No. 2, General Operations Plan, Section 2 for a listing of certified operators employed by the SWD and the expiration dates of operator certifications.*

- D. The department may certify an operator with alternate training. Alternate training shall be equivalent to or more extensive than the department's course work, and shall be approved by the department. It shall be the applicant's responsibility to submit any documentation the department may require to evaluate the equivalency of alternate training.

Response: *The Applicant acknowledges that alternate training will be equivalent to the Department training courses. The Los Lunas Transfer Station recognizes that it is the Applicant's responsibility to submit any documentation the Department may require to evaluate the equivalency of alternate training.*

- E. A person holding certification in a particular facility type may operate any facility of that type.
[20.9.7.8 NMAC - Rp, 20 NMAC 9.1.VI.601, 8/2/2007]

Response: *The Applicant acknowledges that a person holding certification in a particular facility type may operate any facility of that type.*

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 8 SPECIAL WASTE REQUIREMENTS

20.9.8.8 GENERAL. The generator of a special waste shall assure that the special waste is disposed of in a solid waste facility permitted to accept the special waste or treated at a permitted facility, prior to disposal, to render it a non-special waste. [20.9.8.8 NMAC - Rp, 20 NMAC 9.1.VII.701, 8/2/2007]

Response: The Transfer Station is not a generator of special wastes and does not accept special wastes. Refer to Exhibit No. 2, General Operations Plan, Section 4.2.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 9 SOLID WASTE FACILITY GROUND WATER MONITORING SYSTEM PLAN
AND GROUND WATER MONITORING PLAN; CORRECTIVE ACTION

20.9.9.8 GROUND WATER MONITORING APPLICABILITY.

Response: Not applicable; the Los Lunas Transfer Station is not a solid waste landfill and does not have groundwater monitoring requirements.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 10 FINANCIAL ASSURANCE

20.9.10.8 APPLICABILITY AND EFFECTIVE DATE.

- A. The requirements of 20.9.10 NMAC apply to owners and operators of all solid waste facilities and composting and recycling facilities required to provide financial assurance pursuant to Subsection C of 20.9.3.28 NMAC and Subsection E of 20.9.3.29 NMAC, except owners and operators who are the United States, the state of New Mexico, or any agency, department, instrumentality, office, or institution of those governments whose debts and liabilities are the debts and liabilities of the United States or the state of New Mexico. Owners or operators of composting and recycling facilities required to provide financial assurance pursuant to Subsection C of 20.9.3.28 NMAC and Subsection E of 20.9.3.29 NMAC are not required to provide financial assurance for post-closure care, phase I and II assessments or corrective action.

Response: The Applicant will comply with the requirements of 20.9.10 NMAC as described in the following sections.

- B. The owner or operator of a category 5 landfill or any solid waste facility modified after the initial effective date of this section shall submit to the department proof of financial assurance prior to the initial receipt of waste.

Response: The Applicant has provided the Department proof of financial assurance and associated mechanisms as part of this Permit Modification and Renewal Application for approval. See Exhibit No. 15, Financial Assurance.

- C. For municipal landfills operating on or after April 9, 1997, or solid waste facilities permitted after January 30, 1992, the requirements of 20.9.10 NMAC apply. For landfills that have been granted a waiver under 20.9.2.14 NMAC, the requirements of 20.9.10 NMAC apply.

Response: The Applicant acknowledges that the requirements of 20.9.10 NMAC apply to the Los Lunas Transfer Station, which was constructed in 1998 and permitted in November 1999.

- D. Multiple facilities under one permit shall be treated individually for the purposes of 20.9.10 NMAC. Estimates and assurance must be given for each facility, but multiple facilities may be covered by the same mechanism(s). [20.9.10.8 NMAC - Rp, 20 NMAC 9.1.IX.901, 8/2/2007]

Response: Not applicable; the Applicant is not proposing to cover multiple facilities under one permit.

20.9.10.9 FINANCIAL ASSURANCE FOR CLOSURE AND NUISANCE ABATEMENT.

- A. The owner or operator of a solid waste facility shall develop a detailed written estimate, in current dollars, of the cost of hiring a third party to close the largest area of the facility ever requiring closure under 20.9.6 NMAC at any time during the active life. This estimated cost should include estimated costs for an independent project manager and contract administration. The estimate may contain a subsidiary schedule showing the amount necessary to perform closure of the facility in each year of the permit life of the facility. The owner or operator shall file a copy of the estimate with the department concurrently with proof of financial assurance and shall notify the department that copies have also been placed in the operating record.

Response: The Applicant will comply with these requirements. Closure estimates to hire a third party to close the Los Lunas Transfer Station are found in Exhibit No. 15, Financial Assurance. Financial assurance information required by the rules has been provided for the closure of the Los Lunas Transfer Station.

On an annual basis, the Applicant will submit a detailed written cost estimate on the approved estimate form/worksheet, within 45 days from the end of each calendar year (February 14) in accordance with 20.9.5.16.C.4 NMAC in current dollars, including the cost of hiring a third party to conduct post-closure care of the Los Lunas Transfer Station.

- 1) For landfills, the cost estimate shall be based upon the cost of closing the largest area of all landfill cells ever requiring a final cover at any time during the active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan. Should the owner or operator submit a subsidiary schedule, the amount guaranteed annually may be in accordance with this schedule upon approval by the secretary. If the owner or operator is found to be utilizing acreage in excess of the amount shown in the subsidiary schedule, final closure on the excess acreage shall be completed within sixty days or the subsidiary schedule and the amount of financial assurance shall be increased to reflect the excess acreage.

Response: Not applicable; Los Lunas Transfer Station is not a landfill.

- 2) For all other solid waste facilities, the cost estimate must be a detailed written estimate of the cost of closure to be performed in accordance with the applicable portions of 20.9.6.12 NMAC

and also shall include the cost of hiring a third party to clean up and dispose of the largest inventory of material and end product expected at the facility and to clean up and dispose of all fugitive trash, solid waste, or other materials that could potentially create a nuisance at the facility. The cost estimate shall also include costs of an independent project manager and contract administration. For a recycling or composting facility required to provide financial assurance for nuisance abatement pursuant to Subsection C of 20.9.3.28 NMAC or Subsection E of 20.9.3.29 NMAC, the owner or operator shall develop a detailed written estimate, in current dollars, of the cost of hiring a third party to clean up and dispose of the largest inventory of compostable or recyclable material and end product expected at the facility and to clean up and dispose of all fugitive trash, solid waste, or other materials that could potentially create a nuisance at the facility. The cost estimate shall also include the costs of an independent project manager and contract administration.

Response: The Applicant will provide a detailed written estimate of the cost of hiring a third party to clean up and dispose of the largest inventory of material and end product expected at the facility. The estimate will also include the clean-up and disposal of fugitive trash, solid waste, and materials that could potentially create a nuisance at the facility. The cost estimate includes financial assurance for the nuisance abatement as described in Subsection C of 20.9.3.28 NMAC or Subsection E of 20.9.3.29 NMAC. All cost estimates include the costs of hiring an independent project manager and contract administration. The financial assurance estimates can be found in Exhibit No. 15, Financial Assurance.

- 3) During the active life of the facility, the owner or operator shall annually adjust the closure cost estimate for inflation, installation of final cover material on any areas at final grade, and any other factors affecting closure costs. A copy of the adjusted closure cost estimate shall be placed in the operating record.

Response: The Applicant adjusts closure and post-closure cost estimates annually for inflation or any part thereof that affects closure costs. A copy of the adjusted financial assurance estimate is placed in the operating record.

- 4) The owner or operator shall increase the amount of financial assurance if changes to the closure plan or facility conditions increase the maximum cost of closure at any time during the remaining active life by over three percent of the current financial assurance amount.

Response: The Applicant acknowledges that if closure costs increase by greater than three percent, or facility conditions change the costs for closure during the remaining life of the given processing and transfer area, closure and post-closure costs will be adjusted accordingly.

- 5) The owner or operator may reduce the amount of financial assurance for closure if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the facility, upon specific approval by the secretary. To seek approval, the owner or operator shall provide the adjusted cost estimate and supporting documentation to the department. If approved, the owner or operator may revise any financial assurance documents to reflect the adjusted closure cost estimate, and shall file a duplicate original of each financial assurance document with the department within 15 days following approval, and shall place a copy of the estimate and approval in the operating record.

Response: The Applicant will reduce financial assurance for closure if the cost estimate exceeds the maximum cost of closure, upon specific approval from the Secretary. The Applicant will submit the adjusted cost estimate and supporting documents to the Department for approval.

- B. The owner or operator of each solid waste facility shall establish a financial assurance mechanism for closure of the facility in compliance with 20.9.10.13 - 20.9.10.23 NMAC. The owner or operator shall provide continuous coverage for closure until released from financial assurance requirements by a written verification issued by the secretary pursuant to Subsection O of 20.9.6.8 NMAC. [20.9.10.9 NMAC - Rp, 20 NMAC 9.1.IX.902, 8/2/2007]

Response: The Applicant utilizes a Local Government Reserve Fund to comply with financial assurance requirements as indicated in Exhibit No. 15, Financial Assurance. The Applicant will maintain continuous coverage of financial assurance until released from their obligation by the Secretary in accordance with 20.9.10.13 – 20.9.10.23 of the NMAC.

The Applicant currently maintains a budgeted line item in their Solid Waste Enterprise Fund budget dedicated to closure/post-closure reserve fund and adds to this fund annually based on current financial assurance cost estimates as indicated in Exhibit No. 15, Financial Assurance. The balance of this fund contributes to the assets available for closure and post-closure activities; therefore, when calculating annual FA obligations, the balance in the reserve fund is applied as a credit towards closure/post-closure activities and decreases the calculated total liability.

20.9.10.10 FINANCIAL ASSURANCE FOR POST-CLOSURE CARE.

- A. The owner or operator of a solid waste facility shall develop a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the facility in compliance with the post-closure care plan developed under 20.9.6 NMAC. The post-closure care cost estimate shall account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure care plan over the entire post-closure care period. This estimated cost should also include estimated costs for an independent project manager and contract administration. The owner or operator may submit a subsidiary schedule showing, for the permit life of the facility, the annual incremental acreage and total acreage needing post-closure care and the corresponding estimate of post-closure costs. The owner or operator shall file a copy of the estimate with the department concurrently with proof of financial assurance and shall notify the department that copies have also been placed in the operating record.

Response: Post-closure care estimates for hiring a third party to conduct post-closure care for the processing and transfer areas are found in Exhibit No. 15, Financial Assurance.

- 1) The cost estimate for post-closure care shall be based on the most expensive costs for care during the post-closure period. Should the owner or operator submit a subsidiary schedule as described in Subsection A of this section, the amount guaranteed annually for post-closure care during the permit life of the facility may be in accordance with this schedule upon approval by the secretary. If the owner or operator, upon inspection, is found to have exceeded the acreage shown on the subsidiary schedule, the subsidiary schedule and the amount of financial assurance shall be increased within sixty days.

Response: The Applicant will comply with these requirements. The financial assurance cost estimates provided in Exhibit No. 15, Financial Assurance are based on existing conditions. Updates to these calculations will be provided to the Department with the Annual Report. Should this schedule change, as a result of processing and transferring operations, a revised schedule will be submitted for approval by the Department. At that time, the amount of financial assurance will be evaluated and adjusted within 60 days of approval.

- 2) During the active life of the facility and during the post-closure care period, the owner or operator shall annually adjust the post-closure care estimate for inflation, and any other factors affecting post-closure care costs. The owner or operator shall place a copy of the adjusted estimate in the operating record.

Response: The Applicant will adjust post-closure cost estimates annually to address changes in post-closure liabilities. The Applicant shall place a copy of the adjusted estimate in the operating record.

- 3) The owner or operator shall increase the amount of financial assurance if changes in the post-closure care plan or facility conditions increase the maximum cost of post-closure care by over three percent of the current financial assurance amount.

Response: If post-closure care costs increase as a result of a change in the post-closure care plan or site conditions by greater than three percent, financial assurance funds will be adjusted.

- 4) The owner or operator may reduce the amount of financial assurance if the adjusted cost estimate exceeds the maximum cost of care remaining over the post-closure period, upon specific approval by the secretary. To seek approval, the owner or operator shall provide the reduced post-closure care cost estimate and any justification for the reduced estimate in a request to the department.

Response: The Applicant will reduce financial assurance for post-closure if the cost estimate exceeds the maximum cost of post-closure upon specific approval from the Secretary. The Applicant will submit the adjusted cost estimate and supporting documents to the Department for approval.

- B. The owner or operator of each solid waste facility shall establish financial assurance for the costs of post-closure care in compliance with 20.9.10.13 - 20.9.10.23 NMAC. An originally signed duplicate of each financial assurance document shall be filed with the department. The owner or operator shall provide continuous coverage for post-closure care until released from financial assurance requirements by a written verification issued by the secretary pursuant to Subsection O of 20.9.6.8 NMAC. [20.9.10.10 NMAC - Rp, 20 NMAC 9.1.IX.903, 8/2/2007]

Response: The Applicant utilizes a Local Government Reserve Fund to comply with financial assurance requirements as indicated in Exhibit No. 15, Financial Assurance. The Applicant will maintain continuous coverage of financial assurance until post-closure care is complete and released by the Secretary.

20.9.10.13 ALLOWABLE MECHANISMS.

A. The owner or operator shall establish a financial assurance mechanism to ensure that the funds necessary to meet the costs of closure, post-closure care, phase I and phase II assessments, and corrective action for known releases will be available whenever they are needed. The allowed mechanisms are:

- 1) trust fund;
- 2) surety bond;
- 3) irrevocable letter of credit;
- 4) insurance;
- 5) risk management pool;
- 6) local government financial test;
- 7) local government guarantee;
- 8) local government reserve fund;
- 9) corporate financial test; or
- 10) multiple mechanisms.

Response: The Applicant utilizes a Local Government Reserve Fund to comply with financial assurance requirements as indicated in Exhibit No. 15, Financial Assurance. The Applicant will maintain continuous coverage of financial assurance until released by the Secretary.

- B. Owners or operators shall implement one or more of the financial assurance mechanisms specified in 20.9.10.14 - 20.9.10.23 NMAC. Each selected mechanism shall be made payable to or name the New Mexico governmental entity or entities that own or operate the facility as the beneficiary of the instrument, but if no New Mexico governmental entity or entities own or operate the facility, then the instrument shall be made payable to or name the New Mexico environment department as the beneficiary. [20.9.10.13 NMAC - Rp, 20 NMAC 9.1.IX.906, 8/2/2007]

Response: The Applicant complies with these requirements. The Applicant is a NM governmental entity; therefore the Applicant is named as the beneficiary of the instrument.

20.9.10.20 LOCAL GOVERNMENT RESERVE FUND.

A local government may demonstrate financial assurance for closure, post-closure care, phase I and phase II assessments, and corrective action by establishing a reserve fund within its existing financial accounting system.

- A. The reserve fund shall be created by resolution of the governing body specifying the use of funds only for purposes of closure, post-closure care, phase I and phase II assessments, or corrective action for the facility. The reserve fund shall specify that the funds shall be used for closure, post closure care, phase I and phase II assessments and corrective action costs in compliance with 20.9.2 - 20.9.10 NMAC and orders issued pursuant to such rules by the secretary. In the case of closure, post-closure care, and phase I and phase II assessments for new facilities, the resolution shall be effective prior to the initial receipt of waste. In the case of corrective action, the resolution shall be effective not later than 120 days after the corrective action remedy has been approved by the secretary. The resolution shall specify withdrawals from the fund will only occur with approval by the secretary. Funding of the reserve fund shall be in conformance with the formulas specified for trust funds in 20.9.10.14 NMAC. The reserve fund shall be audited annually by the state auditor under the Single Audit Act.

Response: The Village of Los Lunas will utilize a Local Government Reserve Fund for closure and post-closure care of the Transfer Station, which is further defined in Exhibit No. 15, Financial Assurance.

- B. The local government shall file a copy of the resolution with the department. The local government shall file audit reports of the reserve fund annually with the department.

Response: The resolution that created the reserve fund for closure and post-closure care of the Transfer Station was ratified by the Village Council on August 22, 2019. A copy of the adopted resolution is provided in Exhibit No. 15, Financial Assurance. Financial audits of the Village are completed every fiscal year and are typically available in September through the Office of the State Auditor's website. The SWD will ensure that the dedicated reserve account is shown on the Village's financial audits and submit this evidence with the annual closure cost estimate form.