

**SOLID WASTE PERMIT APPLICATION
BROADWAY TRANSFER STATION**

VOLUME 1 – RESPONSE TO REGULATIONS

March 2023

Prepared For:

**Universal Waste Systems, Inc.
5520 Broadway Blvd. SE
Albuquerque, NM 87105**



For Submittal To:

**Solid Waste Bureau
New Mexico Environment Department
1190 St. Francis Drive / P.O. Box 5469
Santa Fe, NM 87502**

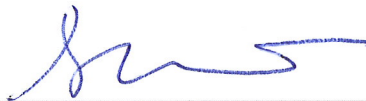


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CERTIFICATION OF APPLICATION

The Permit Application submitted for the Universal Waste Systems, Inc. Broadway Transfer Station located in Bernalillo County, New Mexico, was prepared by me and technical staff under my direct supervision. I certify that to the best of my knowledge and belief, the information contained herein is accurate, and that the Permit Application complies with the current New Mexico Solid Waste Management Rules (20.9.2-20.9.10) NMAC).



Scott A. McKittrick, P.G.

SUBSCRIBED AND SWORN before me this 27 day of July, 2021

NOTARY PUBLIC Aspen Rose Doyle

My Commission Expires May 17, 2025

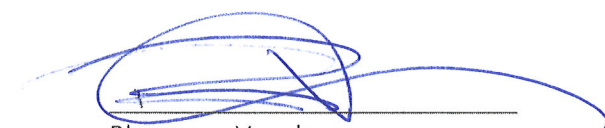


OFFICIAL SEAL
Aspen-Rose Doyle

NOTARY PUBLIC - State of New Mexico

My Commission Expires May 17, 2025

I have read the foregoing application for a Solid Waste Operating Permit including the contents of any attachments, and the same is true and correct to the best of my knowledge and belief.



Rheganne Vaughn

Government Affairs & Contract Compliance
Universal Waste Systems, Inc.

SUBSCRIBED AND SWORN before me this 27 day of July, 2021

NOTARY PUBLIC Aspen Rose Doyle

My Commission Expires May 17, 2025



OFFICIAL SEAL
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NOTARY PUBLIC - State of New Mexico

My Commission Expires May 17, 2025

**SOLID WASTE PERMIT APPLICATION
BROADWAY TRANSFER STATION
JULY 2021**

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2	Property and Zoning Map, Bernalillo County Special Use Approval
3	Drawings
4	Wind Rose Figure
5	Operations and Maintenance Plan
6	Transportation Plan
7	Alternate Waste Handling and Disposal Plan
8	Record Keeping and Annual Reports
9	Contingency Plan
10	Waste Screening Plan and Personnel Training Program
11	Closure and Post Closure Plan
12	Financial Assurance
13	Public Notice of Filing
14	FEMA Flood Insurance Rate Map
15	Wetlands Map
16	Cultural Properties Map and Table
17	Geologic Map
18	SWA Affirmation
19	FAA Correspondence

Executive Summary

The Broadway Transfer Station (BTS) is owned and operated by Universal Waste Systems, Inc. and is located at 5520 Broadway Blvd. SE, Albuquerque, Bernalillo County, New Mexico. The BTS provides transfer and disposal of non-hazardous, municipal solid waste (MSW) to commercial waste haulers located throughout Bernalillo, Sandoval, Tarrant, Santa Fe, Valencia, Cibola Counties and surrounding areas.

The facility is projected to begin operations in July 2022. The BTS will accept and transfer Municipal Solid Waste (MSW) collected by government and private haulers.

This permit application is for a new permit. The BTS will process residential and commercial solid wastes. Solid waste will be transported to the City of Albuquerque Cerro Colorado Landfill or Sandoval County Landfill in Rio Rancho, New Mexico for disposal. The facility will process an average of 800 tons of solid waste per day, and a maximum of 1,200 tons of solid waste per day. The facility will not accept recyclables, construction and demolition debris, clean fill, liquid waste, or special waste.

This permit application consists of explanatory responses to the regulatory requirements in 20.9.2 to 20.9.10 NMAC supported by 19 attachments. The regulatory requirements that do not apply to this application are not included and are shown below:

- 20.9.2.9
- 20.9.2.11
- 20.9.2.14
- 20.9.3.9 – 14
- 20.9.3.27 – 37
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**TITLE 20
CHAPTER 9
PART 2**

**ENVIRONMENTAL PROTECTION
SOLID WASTE
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.

*The Broadway Transfer Station (BTS) requires all vehicles entering the facility to be properly covered and enclosed to prevent the indiscriminate blowing of debris from the vehicle while it remains within the confines of the solid waste facility. All requirements related to the collection and transportation of solid waste while in route to or from the BTS, as well as the unloading of the vehicle, will be the responsibility of the owner and/or operator of the vehicle. For additional information, refer to **Attachment 5, Operations and Maintenance Plan, Section 4.1;** **Attachment 6 – Transportation Plan.***

- 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.

*All solid waste that enters the BTS is unloaded and processed indoors. Municipal solid waste (MSW) is properly handled and transferred to the Cerro Colorado Landfill or the Sandoval County Landfill so as to prevent blowing litter, insect and rodent harborage and does not cause a nuisance or create a potential hazard to public health, welfare or the environment. Yard refuse is not stored. Recyclables and white goods are not accepted at the BTS. **Please see Attachment 5, Operations and Maintenance Plan, Sections 2.5, 3.1, 4.1, 4.2, 4.3; Attachment 6, Transportation Plan, Section 6.***

- 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.

*All solid waste that is accepted at the BTS is properly handled so as not to create a public nuisance. **See Attachment 5, Operations and Maintenance Plan, Sections 4.1 - 4.3;** **Attachment 6, Transportation Plan, Section 6.***

- 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.

All notifications to the Department shall be directed to the Bureau Chief of the 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 with permit requirements or otherwise be specifically approved by the department prior to use.

Special wastes that require testing are not accepted at the Transfer Station; refer to Attachment 5, Operations and Maintenance Plan, Section 2.2.

- 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.

Not applicable to transfer stations.

- 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.

Clean fill is not accepted at the BTS. Please refer to Attachment 5, Operations and Maintenance Plan, Section 2.2.

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 regulations;

BTS will not store, process or dispose of solid waste, except as described in the solid waste permit, as issued by the Secretary, or as 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;

Not applicable to transfer stations

- (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;

Not applicable as the BTS does not dispose of any solid waste but only transports solid waste to the Cerro Colorado or Sandoval County landfills.

- (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;

BTS will not dispose of any solid waste, including special waste, although it is not accepted at the Transfer Station, in a solid waste facility when that facility's permit does not authorize the disposal of that particular type of solid waste in that facility.

- (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;

BTS will not 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.

- (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;

BTS will not modify the facility unless the facility has applied for and received permission from the secretary for the modification pursuant to the appropriate regulation.

- (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;

BTS will not dispose of petroleum waste, sludge that does not meet the analytical criteria of Section 20.9.8.16 NMAC, septage, domestic sewage, or treated domestic sewage.

- (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;

BTS will not dispose of hazardous wastes which are subject to regulation under Subtitle C of the Resource Conservation and Recovery Act, 42 USC 6901 et seq.

- (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;

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

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

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

Not applicable, applies to landfills and not transfer stations.

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

BTS will not process, recycle, transfer, transform, or dispose of radioactive waste. See Attachment 5, Operations and Maintenance Plan, Section 3.5.; Attachment 10, Waste Screening Plan, Section 4.0.

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

Not applicable, applies to landfills and not transfer stations.

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

Not applicable, applies to landfills and not transfer stations.

- (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;

Not applicable. BTS does not accept any material regulated under the Federal Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692.

- (14) allow open burning at a solid waste facility;

No open burning will be allowed at the BTS. Please refer to Attachment 5, Operations and Maintenance Plan, Section 2.5.

- (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;

Not applicable to transfer stations.

- (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;

BTS 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;

BTS does not accept sludge and does not perform liquid extraction from sludge. Please refer to Attachment 5, Operations and Maintenance Plan, Section 2.2.

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

BTS does not accept special waste. Please refer to Attachment 5, Operations and Maintenance Plan, Section 2.2.

- (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).

BTS will not dispose of any type of non-hazardous material at a solid waste facility that is excluded from the definition of solid waste, unless permitted to do so. Please refer to Attachment 10, Waste Screening Plan, Section 4.0 for details regarding prohibited wastes.

- 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.

BTS will take reasonable measures to determine the characteristics of waste being handled to assure that no prohibited act is being knowingly performed. Attachment 10, Waste Screening Plan, Section 4.0 contains waste screening procedures that enables personnel to properly inspect waste loads, identify regulated or unauthorized special waste, and initiate proper handling of the materials should they enter the facility.

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

Properly identified NMED personnel will be allowed to enter the BTS to inspect monitor, sample or obtain records associated with the facility.

20.9.2.13 SPECIFIC APPROVALS.

- A. Where a specific approval or authorization for an alternative time period, test method or other requirement is allowed under 20.9.2 - 20.9.10 NMAC, the following procedures apply.
- (1) The owner or operator shall submit a written request to the department seeking the specific approval or authorization and indicate the regulatory provision allowing the approval or authorization. If the requested approval is for a background ground water quality

determination, the request shall include all sample results, approved practical quantitation limits, and a detailed explanation supporting the requested levels. If the request is for an alternative time period, test method or other requirement under 20.9.2 - 20.9.10 NMAC, the request shall explain why the proposed alternative is at least as protective of the public health, safety and welfare as the requirement for which an alternative is requested. In addition, the request shall provide any technical information required in the section allowing the specific approval. The department may request further information prior to acting on the request.

BTS acknowledges this requirement and will comply with it.

- (2) The department shall approve, approve with terms and conditions, or deny the request in writing.

BTS acknowledges this requirement.

- (3) Any affected person who is dissatisfied with action taken by the department on a request for a specific approval or authorization may appeal to the secretary. The request must be made in writing to the secretary within fifteen (15) days after notice of the department's action has been issued. Unless an appeal is received by the secretary within fifteen (15) days after notice to the applicant of the department's action the decision of the department shall be final.

BTS acknowledges and will comply with the stated appeal process.

- B. If an appeal is received within the fifteen (15) day time limit, the secretary shall hold a hearing within fifteen (15) days after receipt of the request, unless extended for good cause. The secretary shall notify the person who requested the hearing of the date, time and place of the hearing by certified mail.

BTS acknowledges the hearing process stated.

- C. In the appeal hearing, the burden of proof is on the person who requested the hearing.

BTS acknowledges the burden of proof requirement.

- D. Appeal hearings shall be held at a place designated by the secretary. The secretary may designate a person to conduct the hearing and make a final decision or make recommendations for a final decision. The secretary's hearing notice shall indicate who will conduct the hearing and make the final decision.

BTS acknowledges the stated appeal hearing process.

- E. Upon request the hearing shall be recorded or transcribed by a court reporter. The person who requests the recording or transcription shall pay recording or transcription costs. A request for recording or transcription shall be made at least 5 working days prior to the hearing.

BTS acknowledges the recording and transcription process.

- F. In appeal hearings, the rules governing civil procedure and evidence in district court do not apply. Hearings shall be conducted so that all relevant views, arguments and testimony are amply and fairly presented without undue repetition. The secretary shall allow department staff and the hearing requestor to call and examine witnesses, to submit written and oral evidence and arguments, to introduce exhibits, and to cross-examine persons who testify. All testimony shall be taken under oath. At the end of the hearing, the secretary or his designee shall decide and announce if the hearing record will remain open and for how long and for what reason it will be left open.

BTS acknowledges the appeal hearing process.

- G. Based upon the evidence presented at the hearing, the secretary shall sustain, modify or reverse the action of the department. The secretary's decision shall be by written order within fifteen (15) days following the close of the hearing record. The decision shall state the reasons therefore and shall be sent by certified mail to the hearing requestor and any other affected person who requests notice. Appeals from the secretary's final decision are by Rule 1-075 NMRA.

BTS acknowledges the hearing decision process.

20.9.2.15 VARIANCES.

- A. Any person seeking a variance from any requirements of 20.9.2 - 20.9.10 NMAC shall do so in accordance with Permit Procedures - Environment Department, 20.1.4 NMAC.
- B. Variance petitions shall be accompanied by proof of public notice as in accordance with the Solid Waste Act and with Permit Procedures - Environment Department, 20.1.4 NMAC. The public notice shall:
- (1) contain the name of the owner and operator of the solid waste facility;
 - (2) address and telephone number at which interested persons may obtain further information;
 - (3) briefly describe for what the variance is being sought and the proposed alternative;
 - (4) state the time period for which the variance is sought;
 - (5) 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 if the facility is in a class A or H class county or a municipality with a population of more than 2,500 persons; or
 - (b) within one-half mile of the property on which the facility is located in a county or municipality other than those specified in Subparagraph (a) of Paragraph (5) of Subsection B of this section;
 - (6) be provided by certified mail to all municipalities and counties within a 10 mile radius of the property on which the facility is located;
 - (7) be published once in a newspaper of general circulation in each county in which the property on which the facility is located; 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 and, and when appropriate shall be printed in both English and Spanish; and
 - (8) be posted in at least four publicly accessible and conspicuous places, including the existing facility entrance on the property on which the facility is located.

- C. The secretary shall deny the variance petition unless the petitioner establishes evidence that:
 - (1) application of the regulation would result in an arbitrary and unreasonable taking of the applicant's property or would impose an undue economic burden upon any lawful business, occupation or activity; and
 - (2) granting the variance will not result in any condition injurious to public health, safety or welfare or the environment.
- D. No variance shall be granted until the secretary has considered the relative interests of the applicant, other owners of property likely to be affected, and the general public.
- E. Variance or renewal of a variance shall be granted for time periods and under conditions consistent with reasons for the variance but within the following limitations:
 - (1) if the variance is granted on the grounds that there are no practicable means known or available for the adequate prevention of degradation of the environment or the risk to the public health, safety or welfare, it shall continue only until the necessary means for the prevention of the degradation or risk become known and available;
 - (2) if the variance is granted on the grounds that it is justified to relieve or prevent hardship of a kind other than that provided for in Paragraph (1) of this subsection, it shall not be granted for more than one year.
- F. Any variance granted by the secretary shall be reviewed for consistency with existing federal regulations.

BTS acknowledges the variance process.

20.9.2.16 EXEMPTIONS.

- A. Any person seeking an exemption pursuant to NMSA 1978, Section 74-9-32 shall do so by filing a written petition with the board, and serving a copy of the petition to the secretary. The petition shall be reviewed in accordance with Adjudicatory Procedures - Environmental Improvement Board, 20.1.2 NMAC.
- B. A petition for exemption shall:
 - (1) state each provision of the Solid Waste Act or 20.9.2 - 20.9.10 NMAC from which exemption is sought;
 - (2) cite, and have attached as exhibits, each provision of applicable federal or state law the petitioner alleges that imposes as stringent or more stringent requirements than those imposed by the Solid Waste Act or 20.9.2 - 20.9.10 NMAC;
 - (3) be signed by the petitioner or the petitioner's representative; and
 - (4) contain proof of public notice in accordance with the Solid Waste Act's requirements for applications for solid waste facility permits.
- C. Each petition filed with the board for an exemption shall include proof that the applicant has provided notice of the filing of the petition to the public and other affected individuals and entities. The notice shall be:
 - (1) 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 H county or a municipality with a population of more than 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 county or municipality other than those specified in Subparagraph (a) of this paragraph;
- (2) provided by certified mail to all municipalities, counties, and tribal governments in which the facility is or will be located and to all municipalities, counties, and tribal governments within a ten mile radius of the property on which the facility is proposed to be constructed, operated or closed;
- (3) published once in a newspaper of general circulation in each county in which the property in which the facility is proposed to be constructed, operated or closed is located; 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 and, when appropriate, shall be printed in both English and Spanish; and
- (4) posted in at least four publicly accessible and conspicuous places, including the proposed or existing facility entrance on the property on which the facility is or is proposed to be located.

BTS acknowledges the exemption requirements.

20.9.2.17 SEVERABILITY. If any provision or application of 20.9.2 - 20.9.10 NMAC is held invalid by a court of competent jurisdiction, the remainder, or its application to other situations or persons, shall not be affected.

BTS acknowledges the severability requirements.

20.9.2.18 COMPLIANCE WITH OTHER REGULATIONS. 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.

BTS acknowledges the compliance requirement.

20.9.2.19 SAVINGS CLAUSE. 20.9.2 - 20.9.10 NMAC does not apply to pending litigation or affect violations of prior, effective regulations, permits, registrations, closure and post-closure care plans.

BTS acknowledges the savings clause.

20.9.2.20 INTERPRETATION. 20.9.2 - 20.9.10 NMAC shall be liberally construed to carry out its purpose.

BTS acknowledges the interpretation requirement.

20.9.2.21 CONTINUING EFFECT OF PRIOR ACTIONS; EXCEPTIONS.

- A. All permits and certificates of registration issued, and all closure and post-closure care plans approved, pursuant to previous regulations shall remain in effect until they expire or they are suspended, revoked, or otherwise modified.

BTS acknowledges the continuing effect requirement.

20.9.2.22 DOCUMENTS. Copies of all documents cited in 20.9.2 - 20.9.10 NMAC may be viewed at the department's Solid Waste Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico.

BTS acknowledges that documents may be viewed as stated.

**TITLE 20
CHAPTER 9
PART 3**

**ENVIRONMENTAL PROTECTION
SOLID WASTE
SOLID WASTE FACILITY PERMITS AND REGISTRATIONS**

20.9.3.8 PERMIT APPLICATION REQUIREMENTS

A. Any person seeking to construct, operate, modify or close a solid waste facility shall first obtain a permit.

BTS acknowledges this requirement, and submits this permit application to comply.

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;

This permit renewal application contains all required information.

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

BTS will comply with required permit procedures.

(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;

Disclosure statements are confidential and will be provided under separate cover.

(4) provide site information including:

(a) the name and address of the applicant, property owner, and solid waste facility owner and operator;

Applicant/Property/Facility Owners:

Universal Waste Systems, Inc.

5520 Broadway Blvd. SE

Albuquerque, NM 87105

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

The facility property is approximately 8.66 acres in size. The legal description is Tract of Land situated in NW ¼ of Section 20, T9N, R3E, NMPM.. BTS is located at 5520 Broadway Blvd. SE, Albuquerque, New Mexico. The legal description is shown in Attachment 1, Legal Description.

*The property is zoned “M-1” which is “Light Industrial” as shown in **Attachment 2, Property and Zoning Map**. The property has an approved Special Use Permit for a Technical Operation (Solid Waste Transfer Station), CSU2019-0014, dated November 8, 2019, see **Attachment 2, Property and Zoning Map**. The land use for a transfer station is consistent with the adjacent properties, which include a trucking company and a salvage yard. **Attachment 3, Drawings** shows site plan and engineering drawings for the facility.*

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

*The facility receives its water from a private well, as shown on the site plans in **Attachment 3, Drawings**.*

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

*Generally, the site experiences winds prevailing from the north and east. Refer to **Attachment 4, Wind Rose Figure**, which shows wind rose data describing the prevailing winds for the Albuquerque International Airport (Sunport), which is proximal to the BTS.*

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

BTS has demonstrated that the facility’s location complies with the four “Siting Criteria” applicable to a solid waste transfer station (20.9.4.12 NMAC).

- (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

*Permit application drawings denoting the solid waste facility site layouts, including floor plan, building locations, drainage controls, and related details are provided in **Attachment 3, 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;

The approximate centroid of BTS is latitude 34°59'48.31"N and longitude 106°39'1.12"W.

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

*All of the below items are fully addressed in the facility **Attachment 5, Operations and Maintenance Plan**. This Plan describes routine practices at BTS and also meets the requirements of 20.9.5 NMAC for operation within all areas of the site.*

- (a) the means for controlling access to the facility and controlling and mitigating odors and litter;

A fence surrounds the perimeter of the BTS property, which serves to control both

*access and litter, as shown in **Attachment 3, Drawings**. Access to the BTS and litter control is described in the **Attachment 5, Operations and Maintenance Plan, Section 2.4, and 4.2**.*

*Odor mitigation is addressed in the **Attachment 5, Operations and Maintenance Plan, Section 4.3**. and below:*

- *The delivery of waste is handled by enclosed vehicles. Tarps are required on non-enclosed vehicles.*
- *Unloading, processing, and loading of waste occurs within the facility structure.*
- *Waste receiving areas, equipment, and surrounding areas are cleaned daily.*

- (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, transforming or disposing of solid wastes;

*Type, number, and size of equipment are included in **Attachment 5, Operations and Maintenance Plan, Section 2.6., Table 2.1**.*

- (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;

*See **Attachment 5, Operations and Maintenance Plan, Section 3** for information regarding municipal solid waste, which demonstrates compliance with the operational criteria described in the Subparts of this Subsection and Section 20.9.5 NMAC for operation of the Transfer Station.*

- (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;

*See **Attachment 7, Alternate Waste Handling Plan** for details regarding alternative waste handling procedures when the Landfill is not in operation, including procedures to be followed in case of equipment breakdown; use of rental equipment and diversion of waste to other facilities. The Alternative Waste Handling Plan also applies during periods when the facility is not open.*

- (e) the anticipated start-up date of the facility;

The BTS is a proposed transfer station with an anticipated start-up date of July 1, 2022.

- (f) the planned operating hours of the proposed facility;

Monday – Saturday: 6:00 a.m. to 6:00 p.m.

Holiday Closures: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas

- (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 and bridges involved;
 - (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; and

*See **Attachment 6, Transportation Plan.** Additional information on impacts to traffic to and from the facility will be addressed in the NMDOT Driveway Permit for the facility. The facility has no plans 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;

*Record keeping is performed in accordance with the regulations. Records are maintained at the Transfer Station and record keeping requirements are described in **Attachment 8, Record Keeping and Annual Reports.***

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

*See **Attachment 9, Contingency Plan** for the facility emergency contingency plan developed in accordance with Section 20.9.5.15 NMAC.*

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

*The closure and post-closure care plan has been developed in accordance with 20.9.6 NMAC. See **Attachment 11, Closure and Post-Closure Care Plan** for the closure and post-closure plans for the BTS.*

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

The Transfer Station does not accept special wastes.

- (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;

*Both the design and the intended mode of operation for the Transfer Station preclude the potential for any impact to local groundwater. All waste and recyclables are processed on concrete surfaces. All waste processing and load out operations are located indoors. Site drainage plans have been developed to ensure that storm water is properly controlled and discharged to detention basins. For additional details regarding waste acceptance and processing, please refer to **Attachment 5, Operations and Maintenance Plan, Section 3.***

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

*The closure and post-closure cost estimates prepared in accordance with the requirements of 20.9.10 NMAC in the Department's format is provided in **Attachment 12, Financial Assurance.***

- (12) contain any other information required by the secretary.

UWS, Inc. and the BTS will provide any additional information required by the Secretary upon NMED request.

During the pre-application meeting for the BTS, NMED requested that BTS address the Federal Aviation Administration (FAA) Advisory Circular for Hazardous Wildlife Attractants On or Near Airports, AC NO. 150/5200-33B, dated August 28, 2007. Section 2-2.d of this Circular addresses enclosed trash transfer stations, and states:

"Enclosed waste-handling facilities that receive garbage behind closed doors; process it via compaction, incineration, or similar manner; and remove all residue by enclosed vehicles generally are compatible with safe airport operations, provided they are not located on airport property or within the Runway Protection Zone (RPZ). These facilities should not handle or store putrescible waste outside or in a partially enclosed structure accessible to hazardous wildlife. Trash transfer facilities that are open on one or more sides; that store uncovered quantities of municipal solid waste outside, even if only for a short time; that use semi-trailers that leak or have trash clinging to the outside; or that do not control odors by ventilation and filtration systems (odor masking is not acceptable) do not meet the FAA's definition of fully enclosed trash transfer stations. The FAA considers these facilities incompatible with safe airport operations if they are located closer than the separation distances specified in Sections 1-2 through 1-4."

The BTS is a fully enclosed trash transfer station and will not be a hazardous wildlife attractant.

*In preparation of this permit application, consultation was completed with the FAA to attempt to obtain correspondence demonstrating FAA concurrence that the BTS will not be a hazardous wildlife attractant (copies are enclosed as **Attachment 19, FAA Correspondence.** An FAA Notice of Proposed Construction or Alteration was submitted using the FAA on-line website on May 3, 2021. The FAA reviewed the notice, closed the request, and requested additional information, misunderstanding*

that the proposed facility is a transfer station, and not a landfill. Follow-up correspondence was sent to the FAA on June 7, 2021, clarifying that the facility is a transfer station, and not a landfill. To date, no response has been received from FAA.

- D. Any person seeking an initial permit for a landfill or a transformation facility, or for a permit modification of a landfill resulting in a lateral or vertical expansion, excluding an on-site scrap tire monofill, shall first submit to the secretary the information that is necessary for the secretary to determine if the proposed site is in a vulnerable area. If the secretary determines that the site or the proposed site is in a vulnerable area, and the applicant is proposing to site the facility, or expand the facility, in an area that has not been designated for the proposed use as the result of a land-use zoning process conducted by the local government that requires a quasi-judicial public hearing, with the opportunity for public participation, the applicant shall follow the following procedures.

Not applicable; a Vulnerable Area Assessment is not required for transfer stations.

- 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.

*Refer to **Attachment 13, Public Notice of Filing** for proof that the notice for filing of the application was provided to the public and other affected individuals and entities.*

The notice shall:

- (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;

*The BTS is located in the in Bernalillo County, a county with population greater than 2,500 persons; therefore, the notice was mailed to the owners of record within one hundred feet of the property. Refer to **Attachment 13, Public Notice of Filing**.*

- (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;

*Refer to **Attachment 13, Public Notice of Filing** for the required notice.*

- (3) be provided to all parties and interested participants of record for a permit modification or renewal;

As part of the Special Use Permit process with Bernalillo County, a list of neighborhood associations, coalitions and alliances was provided by Bernalillo County. These groups will be notified.

- (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;

*A public notice regarding the Transfer Station permit application was published in the legal section of the Albuquerque Journal on August 3, 2021, and in the general section of Albuquerque Journal on August 3, 2021, both in English and Spanish. Scanned copies of the notices and affidavits attesting to the published notices are provided in **Attachment 13, Public Notice of Filing**.*

Note: Public notice is currently being completed. This section, and Attachment 13 will be updated when public notice is complete.

- (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

*The notice of filing was posted both in English and Spanish in eight publicly accessible and conspicuous places on July 27, 2021. Proof of posting is provided in **Attachment 13**,*

Public Notice of Filing as a certified form noting each posting location as listed below:

- Central and Unser Library, 8081 Central Ave. NW, Albuquerque 87121
- Albertson's Market, 1625 Rio Bravo Blvd. SW, Albuquerque 87105
- South Broadway Library, 1025 Broadway Blvd. SE, Albuquerque 87102
- Valencia County Administrative Offices, 444 Luna Ave., Los Lunas 87031
- Albuquerque City Hall, 400 Marquette NW, Albuquerque 87102
- Bernalillo county Administrative Offices, One Civic Plaza NW, Albuquerque 87102
- Tractor Supply, 890 Bosque Farms Blvd., Bosque Farms 87068
- UWS Headquarters, 5520 Broadway Blvd. SE, Albuquerque 87105

(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.

*Public notice evidence meeting the above stated requirements is provided in **Attachment 13, Public Notice of Filing** and was approved by NMED on February 5, 2021.*

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.

*Notices were submitted to the Department for approval prior to publication, service, and posting. Refer to **Attachment 13, Public Notice of Filing** for proof of approval. A certificate of accuracy from an American Translators Association certified translator showing that English version of the Notice of Filing has been accurately translated into Spanish is provided in **Attachment 13, Public Notice of Filing**.*

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:
- 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;

*Site plans and applicable cross-sections of the facility, drawn to scale, have been provided in **Attachment 3, Drawings**.*

- 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;

*Refer to **Attachment 3, Drawings**, for a site plan of the facility that indicates storage areas, loading and unloading areas, fencing, gates, entrances, exits, and access roads. Refer to **Attachment 3, Drawings** for an area map that shows neighboring structures within 100 feet of the facility boundary.*

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

*Domestic wastewater will be disposed of in on-site septic tank/leachfield systems installed in accordance with Bernalillo County requirements.. Wastewater flows to floor drains, which drain to a 2,000 gallon septic tank for storage. The septic tank is not equipped with a leachfield, but will be pumped out monthly and hauled for disposal at a facility approved to accept wastewater. The tank will be equipped with a high level alarm. See **Attachment 3, Drawings**.*

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

The BTS will accept an average of 800 tons of MSW per day, and a maximum of 1,200 tons per day. BTS does not accept recyclables.

*Solid waste entering the Transfer Station is compacted and loaded into walking floor transfer trailers. Once the transfer trailer is full, the solid waste is transported to the Cerro Colorado Landfill or the Sandoval County Landfill for disposal. Refer to **Attachment 5, Operations and Maintenance Plan, Sections 3.1; Attachment 6, Transportation Plan**.*

- 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;

***Attachment 5, Operations and Maintenance Plan** details operational procedures for specific waste types as listed. Household hazardous waste, recyclables, and used oil are not accepted at the BTS.*

- G. a demonstration that the facility will be capable of handling the predicted waste stream;

*The Transfer Station is designed to accommodate the handling and disposal of the current and predicted waste streams. The type and number of each piece of equipment maintained at the Transfer Station is sufficient to process the volumes of waste predicted. For more information regarding the predicted volumes of waste, see **Attachment 5, Operations and Maintenance Plan, Section 3.0**. For the Transfer Station facility equipment used to handle the waste streams, see **Attachment 5, Operations and Maintenance Plan, Section 2.6**.*

- 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.
- 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.

Universal Waste Systems, Inc. and the BTS understand the permitting procedures outlined in 20.9.3.16 NMAC and will pay one half of the actual costs outlined in Subsection B of 20.9.3.16 NMAC if a hearing is held.

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 90 days of any subsequent responses to request for further information. 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.
- 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.
- 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.

Universal Waste Systems, Inc. and the BTS intend to comply with the permit application submittal process, the process of submitting the permit application in response to requests for additional information by the department, the submission requirements after the permit application is deemed administratively complete, and 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.

BTS acknowledges the required demonstrations.

- 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.

Not applicable to transfer stations.

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

BTS acknowledges the requirement.

- 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.

BTS acknowledges the requirement.

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;
- (2) failure of the applicant in the application or during the permit issuance process to disclose fully all material facts;
- (3) misrepresentation by the owner or operator of any material facts at any time;
- (4) a determination that the 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
 - (6) a history of non-compliance by the owner or operator 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.

BTS acknowledges the permit denial or revocation regulation.

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.
- 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.

BTS acknowledges the Effect of Permit.

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.

BTS will comply with this requirement.

- 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

BTS will comply with this requirement.

- (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.

Not applicable to transfer stations.

- 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.

The BTS acknowledges that disposal, processing, or transformation of solid waste at a modified portion of the facility will be prohibited until the department has either inspected a new modified portion and determined that the site has been developed in accordance with the permit modification, 20.9.2 – 20.9.10 NMAC and the Solid Waste Act, or the department fails to inspect the 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 modification has been constructed in accordance with the permit modification, 20.9.2 – 20.9.10 NMAC and the Solid Waste Act.

- 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.

The BTS acknowledges that disposal, processing, or transformation of solid waste at a modified portion of the facility will be prohibited until financial assurance is secured and appropriate documentation is submitted to the department prior to the initial receipt of waste at a modified portion of the solid waste facility.

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.
- 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.
- 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;
 - (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;
 - (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;
 - (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.
- 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.

BTS acknowledges the stated requirements.

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.
- 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.
- 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.

BTS acknowledges the requirements for transfer of permits and change in permit applicant and will comply with the requirements.

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.

BTS 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.

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:
 - (1) facility operations;
 - (2) compliance history;
 - (3) environmental monitoring results, releases, and any remediation;
 - (4) changes in information from the most recent disclosure forms filed with the department;
 - (5) any other technical requirements requested by the secretary;
 - (6) financial assurance;
 - (7) any behavior or incidents of the nature described in Subsection B of 74-9-24 of the Solid

- (8) compliance demonstrations under Subsection A of 20.9.4.9 NMAC; and
- (9) proof of public notice of the renewal application provided in accordance with Section 74-9-22 of the Solid Waste Act.

BTS acknowledges that a permit renewal application should be filed no later than 12 months prior to the expiration date of the facility permit and the application should include a complete description of the information required by 20.9.3.25 NMAC.

- 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;
 - (2) a permit renewal application was submitted in a timely fashion in accordance with this section; and
 - (3) the owner or operator submits any requested additional information by the deadline(s) specified by the secretary.

BTS acknowledges the requirements.

- 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.

BTS acknowledges the requirement.

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.
- 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.

BTS acknowledges the requirements.

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.

In order to provide confidentiality to the Disclosure Statement signatory, the Disclosure Statement related to this permit renewal application is provided under separate cover, as part of the submission of permit application 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.
- 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.
- 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.

BTS acknowledges confidentiality requirements.

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.
- B. For a municipal or special waste landfill which receives, based on the projected operational rate:
 - (1) 20 tons or less of waste per day, annual average, the permit application fee shall be \$6,000;
 - (2) more than 20 tons of waste per day, annual average, the permit application fee shall be \$10,000;
 - (3) special waste, in addition to the facility permit application fee, an additional \$1000 per type of special waste, up to \$10,000 shall be paid.
- C. For a construction and demolition landfill, the permit application fee shall be \$5,000.
- D. For a processing facility, the permit application fee shall be \$5,000.
- E. For a transformation facility, the permit application fee shall be \$10,000.
- 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.
- H. For a commercial hauler registration, the registration fee shall be \$100 if the hauler registers two trucks or fewer and hauls no special waste, and shall be \$300 if the hauler registers three trucks or more or hauls any special waste.
- 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.
- 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.
- L. Fees shall be paid by check or money order, payable to "New Mexico Environment Department."

Universal Waste Systems, Inc. provided the required fee of \$5,000 for the permit application for the transfer station.

**TITLE 20
CHAPTER 9
PART 4**

**ENVIRONMENTAL PROTECTION
SOLID WASTE
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.

The BTS site is a total of 8.66 acres, which is less than the 500-acre maximum 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:
- (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;

*BTS is not constructed in a floodplain or watercourse, see **Attachment 14, FEMA Flood Insurance Rate Map**. It is also not constructed in a wetland, see **Attachment 15, 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;

*The BTS transfer station structure will be slightly less than 50 feet from the property boundary. The property has an approved Special Use Permit for a Technical Operation (Solid Waste Transfer Station), CSU2019-0014, dated November 8, 2019, see **Attachment 2, Property and Zoning Map**. No setback requirement was stipulated by the permit. No permanent residence, school, hospital, institution or church in existence at the time of the permit application is closer than 250 feet from the facility. Refer to **Attachment 3, Drawings**.*

- 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

The BTS has evaluated the potential for an unstable area at the facility location based on local geology, potential for karst topography, terrain steepness, and landforms indicative of landslides. The BTS site is not located in an unstable area. Further, BTS will be constructed in accordance with design plans and specifications prepared by a licensed professional engineer or architect, which will ensure the facility will not be constructed in an unstable area. .

- 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.

The BTS is not located within any historically or archaeologically significant sites. Refer to Attachment 16, Cultural Properties Map and Table.

**TITLE 20
CHAPTER 9
PART 5**

**ENVIRONMENTAL PROTECTION
SOLID WASTE
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;

*BTS will 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. Refer to **Attachment 5, Operations and Maintenance Plan**.*

- (2) control and mitigate odor and litter; and

*BTS will operate the facility in a manner to control and mitigate odor and litter. Refer to **Attachment 5, Operations and Maintenance Plan, Section 4; Attachment 6 – Transportation Plan, Section 6**.*

- (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.

*BTS will 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. Refer to **Attachment 5, Operations and Maintenance Plan, Section 2.5**.*

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;

*A certified operator or representative will be present at all times while the facility is operational. Refer to **Attachment 5, Operations and Maintenance Plan**. Operator Certifications for BTS staff will be submitted prior to operation.*

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

- (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;

*The facility Waste Inspection (Screening) Plan is designed to detect and prevent the disposal of unauthorized waste, including each of the elements above. See **Attachment 10, Waste Screening Plan**.*

- (3) maintain a written operating record in compliance with 20.9.5.16 NMAC;

BTS personnel maintain written operating records accordance with Section 20.9.5.16 NMAC as detailed in Attachment 5, Operations and Maintenance Plan, Section 3.3; Attachment 8, Record Keeping and Annual Reporting.

- (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;

The Department shall be notified by BTS personnel both orally and in writing within 24 hours of a spill, fire, flood, explosion, mass movement of waste, or similar event. Refer to Attachment 5, Operations and Maintenance Plan, Section 3.6; Attachment 9, BTS 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;
 - (b) restrict the area from public access and from facility personnel; and
 - (c) assure proper cleanup, transport and disposal of the waste;

BTS will comply with the unauthorized waste requirements. See Attachment 5, Operations and Maintenance Plan, Section 3.5; Attachment 10 - BTS Waste Screening Plan.

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

Copies of the contingency plan are maintained at the BTS Scale House and office. Refer to Attachment 9, BTS 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.

All employees will be trained on how and when to implement the contingency plan when hired and annually thereafter. Documentation of training is maintained in BTS office and at the UWS headquarters in Albuquerque as part of the operating record. Refer to Attachment 9, BTS Contingency Plan.

- 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.

BTS acknowledges the requirement.

- 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.

No diversion of recyclable materials is proposed. BTS S acknowledges this requirement.

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;

*BTS does not accept special waste. Special waste loads will be diverted to appropriate disposal facilities. Refer to **Attachment 10, BTS Waste Screening Plan.***

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

All containers used for the storage and transportation of solid waste or the transportation of recyclables at the BTS will be constructed of non-biodegradable material and be leak-proof.

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

*Litter control measures are outlined in **Attachment 5, Operations and Maintenance Plan, Sections 4.2; Attachment 6, BTS Transportation Plan.** Emergency procedures for extinguishing fires and fire extinguisher locations are presented in **Attachment 5, Operations and Maintenance Plan, Sections 5.0; Attachment 9, BTS 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;

BTS does not accept recyclables.

- 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;

BTS does not accept recyclables.

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

*The BTS has sufficient unloading areas to meet demands of peak periods. See **Attachment 5, Operations and Maintenance Plan, Section 3.0.***

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

*The Transfer Station has adequate area for parking for transfer vehicles. Refer to **Attachment 3, Drawings.***

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

Collection and transfer vehicles will not be parked on public streets except under emergency conditions.

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

*The BTS will remove solid waste from the station at the end of the operating day as described in **Attachment 5, Operations and Maintenance Plan, Section 3.1** The plan describes times that the facility will not be able to remove solid waste at the end of the operating day, specifically at times when landfills that waste is hauled to have closed due to adverse weather or other conditions. At these times, solid waste will remain within covered trailers, and will be shipped for disposal during the next working day.*

- 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:

Bulky items are accepted at the BTS as MSW and handled accordingly.

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.
- 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.
- 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.
- 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.
- 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.
- F. The contingency plan for emergencies shall, if 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.

BTS maintains a Contingency Plan (see Attachment 9, BTS Contingency Plan) designed to minimize hazards to public health and welfare, as well as the environment from fires, explosions, or any release of contaminants or hazardous constituents to air, soil, surface water or ground water. It includes all the required items listed above. The provisions of the contingency plan will be carried out immediately whenever conditions warrant.

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:
 - (1) the type (including special waste) and weight or volume of each load of solid waste received;

Records maintained by BTS will include the type and weight or volume of each commercial load of solid waste received. Daily weight tickets from the BTRL or other approved landfill will be kept to track the weight of waste brought to the BTS. Refer to Attachment 8, Record Keeping and Annual Reporting for records required to be maintained at the transfer station throughout the active life of the facility.

- (2) the country (if other than the United States), state, county, and municipality in which the solid waste originated (i.e. the origin);

*Records maintained by BTS will include the country (if other than the United States), state, county, and municipality in which the solid waste originated (i.e. the origin). Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (3) the business name of any commercial hauler of solid waste for each load of the solid waste if it can be reasonably obtained;

*Records maintained by BTS will include the business name of any commercial hauler of solid waste for each load of the solid waste if it can be reasonably obtained. Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (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;

Non-solid waste materials will not be accepted at the BTS, therefore this rule is not applicable.

- (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;

*Records maintained at the BTS will include the load inspections inclusive of Items a) through e) of this subpart. Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (6) a description of solid waste or special waste handling problems or emergency disposal activities;

*Records maintained at the BTS will include a description of solid waste or special waste handling problems or emergency disposal activities. Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (7) a record of deviations from the approved design or operational plans;

*Records maintained at the BTS will include a record of deviations from the approved design or operational plans. Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (9) all monitoring and testing results;

*Records maintained at the BTS will include all monitoring and testing results. Refer to **Attachment 8, Record Keeping and Annual Reporting 8** for records required to be maintained at the facility throughout its active life.*

- (10) plans for operations, contingencies, detection and identification of unauthorized waste, and any other plans required by 20.9.2 - 20.9.10 NMAC;

*Records maintained at the BTS will include plans for operations, contingencies, detection and identification of unauthorized waste, and any other plans required by 20.9.2 - 20.9.10 NMAC. Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (11) documentation of the implementation of required plans;

*Records maintained at the BTS will include documentation of the implementation of required plans. Refer to **Attachment 8, Record Keeping and Annual Reports** for records required to be maintained at the facility throughout its active life.*

- (12) copies of special waste manifests required under 20.9.8.19 NMAC;

Not applicable, BTS does not accept special waste.

- (13) copies of certificates of processing, transformation, or disposal of special wastes required under 20.9.8.13 NMAC;

Not applicable, BTS does not accept special waste.

- (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;

*Financial assurance information will be kept at the New Mexico Headquarters of UWS, Inc. in Albuquerque. Refer to **Attachment 8, Record Keeping and Annual Reporting** 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;*

- (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;

*Records maintained at the BTS will include 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. Refer **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (16) a daily log of construction activities; and

*Records maintained at the BTS will include a daily log of construction activities, if applicable. Refer to **Attachment 8, Record Keeping and Annual Reporting** for records required to be maintained at the facility throughout its active life.*

- (17) for landfills, any demonstration made to the secretary under Paragraphs (12) and (13) of Subsection A of 20.9.4.9 NMAC regarding seismic impact areas and unstable areas.

Not applicable to transfer stations.

- 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.

*The operating record is maintained as described in **Attachment 8, Record Keeping and Annual Reporting**.*

- 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.

BTS will maintain the transfer station operating record throughout the post-closure period of the facility and supplement with the following information for each day that monitoring, corrective action, and/or other post-closure activities occur. The operating record will contain Items 1) through 6) as listed in this subpart.

- 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:
- (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.

*BTS will submit an annual report to the NMED within 45 days of the end of the calendar year. See **Attachment 8, Record Keeping and Annual Reporting**. The NMED website and/or correspondence will provide any updates to the annual reporting information. The reports will be certified as true and accurate by the owner and will include items 1 through 13 as listed in this subpart.*

- 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.

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

- 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.

*All operating records and copies of annual reports for the facility will be retained by BTS through the post-closure period (if applicable) in accordance with **Attachment 8, Record Keeping and Annual Reporting**.*

**TITLE 20
CHAPTER 9
PART 6**

**ENVIRONMENTAL PROTECTION
SOLID WASTE
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.

*The required closure and post-closure plan is included as **Attachment 11, BTS Closure and Post- Closure Plan.***

- 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.

*Refer to **Attachment 11, BTS Closure and Post- Closure Plan** for a description of the steps necessary for closure and post-closure care of the transfer station and anticipated future uses of the property following closure and the proposed post-closure land use.*

- 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.

*The required closure and post-closure plan is included **Attachment 11, BTS Closure and Post- Closure Plan.***

- 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.

*BTS will notify NMED at least 90 days before closure occurs and within 14 days after becoming a locked facility. Refer to **Attachment 11, BTS Closure and Post- Closure Plan.***

- 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.

The closure and post-closure plan will be approved by the Secretary as part of this permit renewal application.

- F. All closure and post-closure care plans shall be approved by the secretary and may be subject to conditions.

BTS acknowledges that the plans shall be subject to conditions.

- 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.

Upon receipt of a request from the Secretary, BTS will respond within 90 days. The Secretary may extend the response time for good cause.

- 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.

Not applicable to transfer stations.

- 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.

BTS acknowledges the potential for change of post-closure care period and associated changes to 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.

*BTS will submit a closure report to the Department within 60 days after closure completion. The report will include a summary of closure activities and be certified by a New Mexico registered professional engineer that the Landfill has been completed and all conditions of the approved closure plan have been satisfied. Refer to **Attachment 11, BTS Closure and Post-Closure Plan.***

- 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.

BTS acknowledges the termination of active life and beginning of post-closure care requirements.

- 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.

*BTS will submit a post-closure report to the Department within 60 days after post-closure period expires. The report will include a summary of post-closure activities and be certified by a New Mexico registered professional engineer that post-closure requirements, and if required any corrective action requirements, have been completed and all conditions of the approved post-closure care plan have been satisfied. Refer to **Attachment 11, BTS Closure and Post- Closure Plan.***

- 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.

BTS acknowledges the requirement.

- 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.

BTS acknowledges the requirement.

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:
 - (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.

*The BTS will comply with all the requirements outlined in Paragraphs (1) through (4) of Subsection A of 20.9.6.12 NMAC. For details on the cleanup, removal, testing, and additional conditions that will be met, refer to **Attachment 11, BTS Closure and Post-Closure Plan.***

- 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.

The BTS understands that post-closure inspection and maintenance shall not be required of the facility if the owner or operator demonstrates to the department that all requirements of closure have been met and there is no evidence of contamination. The BTS will complete all the necessary requirements to waive post-closure requirements for the Transfer Station.

**TITLE 20
CHAPTER 9
PART 7**

**ENVIRONMENTAL PROTECTION
SOLID WASTE
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.

Not applicable to transfer stations.

- 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.);

*Operators at the BTS will complete each requirement previously listed in paragraphs 1 through 5 of this subpart. Certified operators receive operator certification training through the Department. Refer to **Attachment 5, Operations and Maintenance Plan, Section 2.8.***

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

BTS acknowledges the period of certification.

- 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.

BTS acknowledges the requirement.

- E. A person holding certification in a particular facility type may operate any facility of that type.

BTS acknowledges the requirement.

20.9.7.9 OPERATOR CERTIFICATION TRAINING COURSES.

- A. All operator certification training courses, with the exception of the transformation facility operator training course, will be offered by the department or other approved authority at least once every twelve months.

- B. All operator certification training courses shall, at a minimum, address:
- (1) composition of wastes;
 - (2) facility design;
 - (3) facility staffing and operations;
 - (4) transportation requirements;
 - (5) traffic flow control;
 - (6) environmental monitoring;
 - (7) handling of special wastes;
 - (8) identification of unauthorized wastes, including hot waste, hazardous wastes and materials, and PCB's;
 - (9) environmental health and safety;
 - (10) waste diversion;
 - (11) applicable laws and rules;
 - (12) the permitting process;
 - (13) documentation, including manifests, operating records, and reports;
 - (14) pollution prevention; and
 - (15) environmental justice.
- D. In addition to the requirements of Subsection B of this section, the recycling facility operator training course shall address:
- (1) equipment operation and technology;
 - (2) materials flow;
 - (3) quality control; and
 - (4) distribution and marketing.
- G. In addition to the requirements of Subsection B of this section, the transfer station operator training course shall address:
- (1) controls and operations;
 - (2) equipment operation and technology;
 - (3) waste flow;
 - (4) vehicle operations and safety;
 - (5) large waste item handling;
 - (6) odor control; and
 - (7) vector control;

BTS acknowledges the training requirements.

20.9.7.10 EXAMINATION.

- A. A written examination shall be administered at the conclusion of each training course. Certification requires a score of at least 70 percent on the examination.
- B. Results of the examination shall be forwarded to the trainee within 60 days after the date of the examination. A certificate shall be forwarded to the trainee within 60 days after the trainee provides documentation that he has met all the applicable requirements of Subsection B of 20.9.7.8 NMAC.

BTS acknowledges the statements.

20.9.7.11 RECIPROCITY. The department may issue certificates without examination to applicants who hold valid certificates or licenses issued by any state, territory, or foreign jurisdiction, provided, the department determines the requirements for such certification are equivalent to those set forth in 20.9.7.8 - 20.9.7.10 NMAC.

BTS acknowledges the reciprocity requirements.

20.9.7.12 RECERTIFICATION.

- A. To maintain certification, certified operators shall apply for recertification at least 30 days prior to the expiration date of their certification.
- B. Recertification shall be obtained by making application to the department and successfully completing:
 - (1) an operator certification training course offered by the department or its designated agent;
 - (2) an alternate training course which has been approved by the department; or
 - (3) 24 hours of course work which has been approved by the department.

BTS acknowledges the recertification requirements.

20.9.7.13 SUSPENSION OR REVOCATION OF CERTIFICATION.

- A. An operator's certification may be suspended or revoked by the secretary for:
 - (1) failure to comply with the terms or conditions of a solid waste facility permit or a facility registration;
 - (2) fraud, deceit or submission of inaccurate qualification information;
 - (3) violation of the Solid Waste Act or 20.9.2 - 20.9.10 NMAC by the certified operator; or
 - (4) failure to comply with the Parental Responsibility Act, NMSA 1978, Sections 40-5A-1 to 40-5A-13 (1998 Cum. Supp.).
- B. Suspension and revocation proceedings shall be conducted in accordance with the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to 61-1-33; 20.1.5 NMAC and if applicable, 20.1.7 NMAC.

BTS acknowledges the suspension or revocation 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.

BTS 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.

UWS, Inc. on behalf of BTS, has provided the Department proof of financial assurance and associated mechanisms as part of this permit renewal document for approval. Refer to Attachment 12, 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.

BTS will comply with the requirements of 20.9.10 NMAC.

- 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).

BTS acknowledges this requirement.

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.

- (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.

Not applicable to transfer stations.

- (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.

*BTS has provided 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 in **Attachment 12, Financial Assurance**. The estimate also includes 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.*

- (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.

BTS will adjust closure and post-closure cost estimates annually for inflation and any other factors affecting such costs. A copy of adjusted closure cost estimates will be 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.

If closure costs increase by greater than three percent, or facility conditions change the costs for closure during the remaining life of the facility, 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.

BTS will reduce financial assurance only as allowed.

- 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.

Universal Waste Systems, Inc. has established a financial assurance mechanism, which is in compliance with these Rules. The mechanism is Performance Bond.

UWS, Inc. 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.

20.9.10.10 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.
 - (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.

- (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.
 - (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.
 - (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.
- 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.

*The facility has established a Performance Bond as its financial assurance mechanism, which is in compliance with these Rules. See **Attachment 12, Financial Assurance.***

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.

*BTS utilizes a Performance Bond to comply with financial assurance requirements as indicated in **Attachment 12, Financial Assurance.** BTS 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.

BTS acknowledges this requirement.

20.9.10.15 SURETY BOND GUARANTEEING PAYMENT OR PERFORMANCE. An owner or operator may demonstrate financial assurance for closure, post-closure care, phase I and phase II assessments, or corrective action by obtaining a surety bond guaranteeing payment into a trust fund or standby trust fund established by the owner or operator. The surety bond and standby trust fund shall be worded as in the forms supplied by the department.

- A. In the case of closure, post-closure care, and phase I and phase II assessments, the surety bond shall be effective prior to the initial receipt of waste. In the case of corrective action, the surety bond shall be effective no later than 120 days after the corrective action remedy has been approved by the secretary.
- B. The owner or operator who uses a surety bond to satisfy its financial assurance requirements must also establish a trust fund or standby trust fund. Under the terms of the bond, all payments made thereunder must be deposited by the surety directly into the trust fund or standby trust fund in accordance with instructions from the secretary. A standby trust fund must meet all the requirements of the trust fund specified in 20.9.10.14 NMAC as applicable, except that, until the standby trust fund is funded pursuant to the requirements of this 20.9.10.14 NMAC and the surety agreement, annual payments into the standby trust fund are not required, updating of Schedule A to the trust agreement is not required, annual valuation as required by the trust agreement is not required, and notices of non-payment are not required.
- C. Companies providing surety bonds shall be admitted carriers, licensed carriers, or registered carriers of surplus lines of insurance and authorized in the state of New Mexico to do business and be among those listed as acceptable sureties on federal bonds in circular 570 of the U.S. department of the treasury.
- D. Except as provided in 20.9.10.23 NMAC, the penal sum of the bond shall be in an amount at least equal to the estimated costs to perform the activities assured by the bond.
- E. Under the terms of the bond, the surety shall become liable on the bond obligation when the secretary determines that the owner or operator has failed to perform as guaranteed by the bond.
- F. Payments made under the terms of the bond shall be deposited by the surety directly into the trust fund or standby trust fund in accordance with instructions by the secretary. No payments shall be made from the trust fund or standby trust fund unless approved in writing by the secretary.
- G. The bond shall remain in effect until the closure and post-closure care or phase I and phase II assessments or any corrective action for which the bond was acting as financial assurance is certified as complete, or until it is replaced by an alternate financial assurance mechanism.

BTS will obtain a Surety (Performance) Bond, and will comply with all requirements. See Attachment 12, Financial Assurance