

County of Grant  
I hereby certify that this instrument  
led for record on the 5<sup>th</sup>  
October A.D., 1989  
5:40'clock P. M. and duly  
filed of the records  
of the County of Grant.

## O R D I N A N C E

583

#89-05-25

An Ordinance prohibiting the establishment of any new  
State, or commercial landfills in Grant County  
until solid waste regulations proposed by New Mexico's  
Environmental Improvement Board have been adopted and  
the Grant County Commission has approved a land use  
plan or zoning ordinance.

WHEREAS, Section 4-37-1, NMSA 1978 Compilation, et seq.;  
provide that Counties in New Mexico have the powers necessary and  
proper to provide for the safety, preserve the health, promote  
the prosperity and improve the morals, order, comfort and  
convenience of any County or its inhabitants; and

WHEREAS, Section 4-37-1, NMSA 1978 Compilation, grants to  
Counties in New Mexico the same powers that are granted  
Municipalities except for those powers that are inconsistent with  
statutory or constitutional limitations placed on Counties; and

WHEREAS, Sections 3-1-1, NMSA 1978 Compilation, et seq.;  
enumerate the powers granted to Municipalities, including the  
power to prohibit the deposit of refuse on either public or  
private property as stated in Section 3-48-2C, NMSA 1978  
Compilation, et seq.; and

WHEREAS, Counties, pursuant to Sections 4-37-1 and 3-21-1,  
NMSA 1978 Compilation, et seq.; may enact zoning ordinances; and

WHEREAS, pursuant to Section 3-21-5, NMSA 1978 Compilation,  
et seq.; zoning must be in accordance with a comprehensive plan;  
and

WHEREAS, New Mexico is one of the least regulated states in  
regard to the issuance of landfill permits and the location and  
operation of waste disposal sites; and

WHEREAS, inexpensive land and the lack of comprehensive  
state laws, regulations, and local land use regulations have made  
areas of New Mexico attractive to applicants seeking to establish  
new landfills; and

WHEREAS, large and extensive landfills have been proposed  
for areas in Hidalgo County, which borders Grant County; and

WHEREAS, any large landfill could have a serious negative  
impact on land values, the environment, and the quality of life  
of Grant County residents; and

WHEREAS, landfill sites could be directly above the aquifers

which supply water for many private residences, farms, ranches, and businesses in Grant County; and

WHEREAS, the danger of permanent contamination of the aquifers by leachate and seepage from a landfill exists; and

WHEREAS, it is the responsibility of the Grant County Commission to safe-guard the health, safety, and general welfare of citizens residing in the County; and

WHEREAS, the Board of Commissioners of Grant County believe it may be in the best interests of the health, safety, and general welfare of the citizens of Grant County to consider development of a land use plan and comprehensive zoning; and

WHEREAS, during the period that the County is developing comprehensive planning and zoning ordinances, there may be development of landfills that could cause irreversible environmental and other problems which the comprehensive planning and zoning ordinances are intended to prevent, thus adversely affecting the health, safety, and general welfare of the citizens of Grant County;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Grant County, New Mexico, that this ordinance be adopted and enacted as follows:

1. A moratorium is hereby declared on the establishment and operation of new landfills, both public and private, within the area of the Commission's jurisdiction.

2. This temporary ban includes all landfills, both public and private, which have not received approval to operate from the Environmental Improvement Division of the State of New Mexico on or before the effective date of this ordinance.

3. Also prohibited are all actions associated with site preparation including, but not limited to, the grading of roads, the construction of fences, the drilling of wells and test holes, and the transportation of equipment or construction materials to the proposed location of said landfill.

4. The moratorium shall remain in effect until such time as two conditions have been met: It shall last until the Environmental Improvement Board implements its new regulations and the Grant County Commission has passed a land use plan and zoning ordinance which defines legally permissible uses for all public and private land in Grant County but in no event after March 19, 1990.

5. Should the Environmental Improvement Board's approval of the proposed regulations result in legal action which delays their implementation, they shall not be considered to have been adopted until the legal action and any appeals resulting

therefrom have been resolved; and in those circumstances the Board of Commissioners of Grant County may extend the term of the moratorium.

6. The Board of Commissioners of Grant County reserves the right to maintain and alter as necessary existing landfills currently operated by the County.

7. The penalty for violation of this ordinance shall be a fine of three hundred dollars (\$300.00) and imprisonment for ninety days for each offense. Each day of operation of a landfill in violation of this ordinance shall be considered a separate violation.

8. The Board of Commissioners of Grant County reserves the right to enforce this ordinance by all legal means available, including the seeking of injunctions against violations of this ordinance, in addition to the imposition of any penalty for violation of this ordinance.

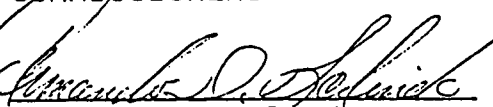
9. The provisions of this ordinance are severable, and if any provision, sentence, clause, section, or any part thereof is found to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any remaining provision, sentence, clause, section, or part of this ordinance or its application to other persons or circumstances. It is hereby declared to be the intent of the Board of Commissioners of Grant County that this ordinance would have been adopted; if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included and if the person or circumstance to which the ordinance or any part thereof is held inapplicable had been specifically exempted.

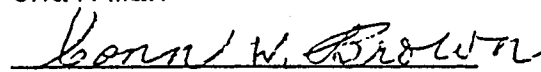
ADOPTED THIS 25<sup>TH</sup> DAY OF MAY, 1989.

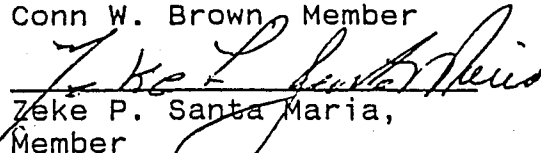
ATTEST:

  
Mary Ann Carrillo, Co. Clerk

BOARD OF GRANT COUNTY  
COMMISSIONERS

  
Armando D. Galindo,  
Chairman

  
Conn W. Brown, Member

  
Zeke P. Santa Maria,  
Member