

State of New Mexico  
County of Grant

RESOLUTION R09-04

Opposition to Senate Bill 491

**WHEREAS** THE Southwest Solid Waste Authority (SWSWA) is a permitted regional landfill, established in 1996 under the Joint Powers Act of the State of New Mexico, consisting of Grant County, Hidalgo County, and the municipalities of Town of Silver City, Bayard, Santa Clara, Hurley and Lordsburg; and,

**WHEREAS** there exists proposed legislation which would amend the Solid Waste Act of the State of New Mexico to create an annual permit fee of up to \$100,000 which would be assessed upon permitted landfills such as the type operated by SWSWA; and,

**WHEREAS** if such Amendment were made, there would of necessity be a consequential and significant increase in operating costs of SWSWA, and other permitted landfills throughout the State, requiring the increase in dumping fees assessed upon the residential and commercial customers within the respective service areas; and,

**WHEREAS** it appears that the proposed annual fee will likely be used to subsidize certain responsibilities of the State of New Mexico Solid Waste Bureau which have nothing to do with the inspection and administration of permitted landfills, including the regulation of unpermitted landfills, registered landfills and illegal dumping; and,

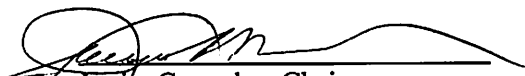
**WHEREAS** the present regulatory system involving the administration and regulation of unpermitted landfills, registered landfills and illegal dumping relies upon funding from the State's General Fund, which is a fair allocation of the costs to the public for activities which directly affect the public at large; and,


**WHEREAS** the proposed Amendment is against the public interest because it unfairly places the burden of funding the Solid Waste Bureau's general administration upon a small group of entities who are in compliance with State requirements at great costs to themselves, as well as having the more profound effect of encouraging illegal dumping by those seeking to avoid the increase in dumping fees that will result as a consequence of the proposed Amendment.

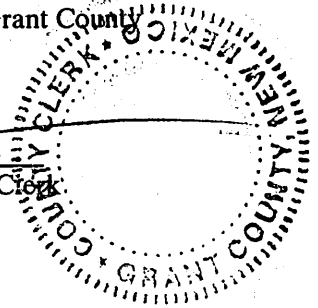
**NOW THEREFORE BE IT RESOLVED** that the Grant County Board of Commissioners does hereby express its opposition to Senate Bill 491 which seeks to establish an annual permit fee schedule for each holder of a permit for solid waste processing, transformation, and disposal facilities. The Commission supports the continuation of the funding for inspections and other activities undertaken by the division from the State's general fund, as has been the case.

Approved and adopted on this 5th Day of March, 2009, in a regular meeting of the Grant County Commission.

Attest:

  
Joyita Gonzales, Chairman

  
Robert Zamarripa, County Clerk



  
Mary Ann Sedillo, Commissioner

  
Christy Miller, Commissioner

underscored material = new  
[bracketed material] = delete

SENATE BILL 491

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE SOLID WASTE ACT TO  
INCREASE FEES CHARGED FOR PROCESSING SOLID WASTE PERMITS;  
RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW  
IN LAWS 1991 BY REPEALING LAWS 1991, CHAPTER 185, SECTION 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-9-8 NMSA 1978 (being Laws 1990,  
Chapter 99, Section 8, as amended by Laws 1991, Chapter 185,  
Section 2 and also by Laws 1991, Chapter 194, Section 3) is  
amended to read:

"74-9-8. BOARD ADOPTION OF ~~[INITIAL]~~ REGULATIONS.--~~[No~~  
~~later than December 31, 1991]~~ The board shall adopt regulations  
under the authority of this section to:

A. implement, administer and enforce a program for  
the cost-effective and environmentally safe siting,

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1 construction, operation, maintenance, closure and post-closure  
2 care of solid waste facilities, including financial  
3 responsibility requirements for solid waste facility owners and  
4 operators and also including requirements that assure that the  
5 relative interests of the applicant, other owners of property  
6 likely to be affected and the general public will be considered  
7 prior to the issuance of a permit for a solid waste facility;

8 B. define the solid wastes that are considered  
9 special wastes;

10 C. establish specific requirements for the  
11 detoxification and disposal of special wastes;

12 D. establish classifications of solid waste  
13 facilities and define what types of solid waste may be  
14 processed or disposed of in each classification;

15 E. establish performance standards for the  
16 construction and operation of solid waste facilities that will  
17 assure protection of ground water quality from degradation by  
18 contaminants from solid waste facilities consistent with the  
19 provisions of the Water Quality Act and the regulations and  
20 standards established under that act by the water quality  
21 control commission, provided such regulations shall not allow  
22 permitting of any active solid waste facility larger than five  
23 hundred acres;

24 F. establish performance standards for  
25 transformation facilities that will assure protection of the

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1 state's environment;

2 G. establish requirements and procedures for the  
3 granting or denial of an application to modify a solid waste  
4 facility permit under Section 74-9-25 NMSA 1978;

5 H. establish requirements and procedures for  
6 commercial haulers to minimize littering and otherwise prevent  
7 degradation of the environment;

8 I. establish an applicant fee schedule for  
9 processing permit applications that is based on costs of  
10 application review incurred by the division and also costs  
11 incurred for investigations of applicants by state departments  
12 and agencies other than the division, which regulation shall  
13 provide for the reimbursement of these costs to the division or  
14 other department or agency from the fees charged and shall also  
15 limit the fee to be not greater than ~~[ten thousand dollars~~  
16 ~~(\$10,000)]~~ one hundred thousand dollars (\$100,000);

17 J. establish requirements and procedures for a  
18 person to obtain a variance from the application of a  
19 substantive regulation to the person if the person files a  
20 written application for a variance with the director and  
21 demonstrates to the director's satisfaction that:

22 (1) application of the regulation would result  
23 in an arbitrary and unreasonable taking of the applicant's  
24 property or would impose an undue economic burden upon any  
25 lawful business, occupation or activity; and

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1 (2) granting the variance will not result in  
2 any condition injurious to human health, safety or welfare or  
3 the environment;

4 K. assure that no variance will be granted under  
5 the provisions of Subsection J of this section until the  
6 director has considered the relative interests of the  
7 applicant, other owners of property likely to be affected and  
8 the general public and that any variance or renewal of a  
9 variance shall be granted for time periods and under conditions  
10 consistent with reasons for the [~~various~~] variance but within  
11 the following limitations:

12 (1) if the variance is granted on the grounds  
13 that there are no practicable means known or available for the  
14 adequate prevention of degradation of the environment or the  
15 risk to the public health, safety or welfare, it shall continue  
16 only until the necessary means for the prevention of the  
17 degradation or risk become known and available; or

18 (2) if the variance is granted on the grounds  
19 that it is justified to relieve or prevent hardship of a kind  
20 other than that provided for in Paragraph (1) of this  
21 subsection, it shall not be granted for more than one year;

22 L. establish a list of solid wastes that shall not  
23 be transferred, disposed of or transformed in a solid waste  
24 facility and prohibit the disposal or transformation of those  
25 solid wastes in solid waste facilities;

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1 M. establish recordkeeping procedures for solid  
2 waste transfer, landfill disposal and transformation facilities  
3 that shall include requirements for recording the type, amount  
4 and origin of solid waste transferred, disposed of or  
5 transformed at the facility and that require operators of  
6 landfill disposal, solid waste transfer and transformation  
7 facilities within the state to:

8 (1) maintain records in a form required by the  
9 division and file them with the division indicating the type,  
10 amount, origin and location in a landfill disposal facility of  
11 solid waste accepted by the facility;

12 (2) maintain copies of the records required  
13 under Paragraph (1) of this subsection after closure in a  
14 manner and for the length of time prescribed by the division;  
15 and

16 (3) make all required records available for  
17 inspection by the division and the general public during normal  
18 business hours; and

19 N. require the division to establish a solid waste  
20 facility operator certification program."

21 Section 2. REPEAL.--Laws 1991, Chapter 185, Section 2 is  
22 repealed.