

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,

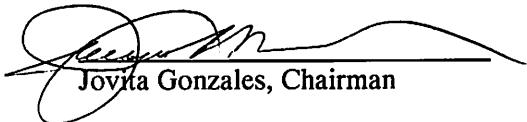
WHEREAS it appears that the proposed annual fee will likely be used to subsidize certain responsibilities of the State of New Mexico Solid Waste Bureau which have nothing to do with the inspection and administration of permitted landfills, including the regulation of unpermitted landfills, registered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

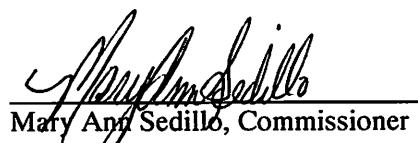
WHEREAS the proposed Amendment is against the public interest because it unfairly places the burden of funding the Solid Waste Bureau's general administration upon a small group of entities who are in compliance with State requirements at great costs to themselves, as well as having the more profound 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.



Jovita Gonzales, Chairman

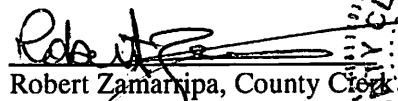


Mary Ann Sedillo, Commissioner

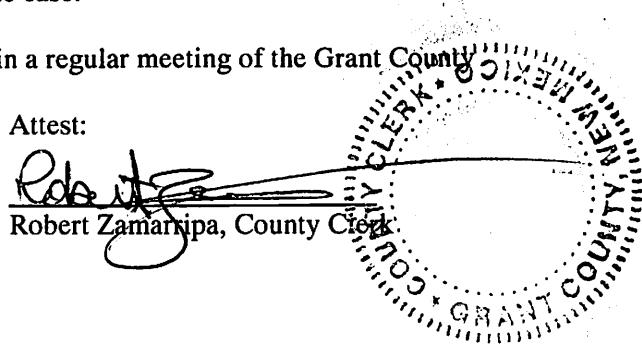


Christy Miller, Commissioner

Attest:



Robert Zamarripa, County Clerk



1 SENATE BILL 491

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 Dede Feldman

10 AN ACT

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

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

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

21 "74-9-8. BOARD ADOPTION OF [INITIAL] REGULATIONS.--[No
22 ~~later than December 31, 1991~~] The board shall adopt regulations
23 under the authority of this section to:

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

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underscored material = new
[bracketed material] = delete

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

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;

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:

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.

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