

FORT WINGATE DEPOT ACTIVITY POST-CLOSURE PERMIT COMMENTS SUMMARY AND RESPONSES						
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1	First paragraph of TPL's General Comments on page 2	TPL, Inc. (TPL)	General	The commenter indicates that the current draft Permit does not acknowledge or recognize that TPL has certain ongoing operations at Ft. Wingate.	The Permit was issued to the Army, and was based on the Army's permit application. The Army, as the Permittee, is responsible for all hazardous waste management activities at Fort Wingate Depot Activity (FWDA), including corrective action at sites where contaminants were released. TPL is a lessee and is not identified on the Permit as either an owner or operator of FWDA. The Army is responsible for actions undertaken by any lessees or subcontractors conducting operations at the Facility for activities conducted under the Permit.	No
2	Second paragraph of TPL's	TPL	General	The commenter states that the Permit and its attachments should be	The Permittee (Army) is required to conduct closure, post-closure, and corrective	No

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	General Comments on page 2			modified to ensure that TPL's operations are not negatively impacted by activities required under the Permit.	action activities under the Permit. The Permit does not address operations conducted by lessees or subcontractors. TPL did not apply for a permit, nor did the Army list TPL as a co-owner or co-operator. The Permit governs the Army's activities in taking corrective action and closing Ft. Wingate. Any disputes arising between the Army and TPL regarding the Army's obligations under the Permit and TPL's activities at Ft. Wingate must be resolved between the Army and TPL. While TPL is not a permittee under this permit, both TPL and the Army, jointly and individually, are under a continuing obligation to comply with all local, state,	

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					and federal laws and may be subject to future enforcement actions for failure to comply with those laws.	
3	Third paragraph of TPL's General Comments on page 2	TPL	General	The commenter requests that the NMED take administrative notice of the Response to the Request for Information dated July 29, 2004 that was submitted to the NMED on October 18, 2004".	NMED has no record of a request for information dated July 29, 2004 or submitted to the NMED on October 18, 2004. NMED did respond to a Public Records Act Information Request from TPL, dated September 30, 2005, on October 25, 2005. Mr. Rick Snow of TPL acknowledged receipt of the requested information on October 26, 2005.	No
4	First paragraph on page 3	TPL	I.B Permitted Activity	The commenter recommends that this subsection be modified to specifically reference TPL's lease and operations and make it	The Permittee is responsible for all closure, post-closure, and corrective action activities required under the Permit regardless of current or future site use by lessees	No

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				clear that any required closure, post-closure or corrective action activities are not applicable with respect to TPL or its operations.	or future Permittees. Also see comment responses # 1 and # 2.	
5	Second and third paragraph on page 3	TPL	I.F.4 Transfer of Land Ownership & I.I.2 The Transfer of Permit	The commenter indicates that the Permit should be modified to clarify that the proposed conditions and requirements on the 'transfer of ownership' of Ft. Wingate do not apply to any existing or potential future leases with TPL or any future acquisition by TPL. The commenter also states that the Permit should be modified to clarify that the lease of any portion of Ft. Wingate by TPL does not constitute a transfer	The Permit recognizes the Army as the owner of FWDA, irrespective of lessees. When land is transferred at FWDA, the status of any leases must be determined by the Army and the receiving entity. The Permit addresses the Army's obligations at the facility; these obligations do not change should TPL or any other lessee's status, leases, or interest in the facility change.	No

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				in ownership or operational control.		
6	Forth paragraph on page 3	TPL	I.I.9.a Reporting Planned Changes	The commenter requests that this section be clarified to specifically exclude any alterations or additions that may be effected by TPL at Ft. Wingate.	See comment responses #1, 2, and 4.	No
7	Fifth paragraph on page 3 & first full paragraph on page 4	TPL	I.L.1 Public Safety Program & I.L.2 Military Munitions Map and Table	The commenter believes that they should be exempt from any requirements relating to the disclosure of the location of munitions in its control or custody. The commenter also believes that any munitions under its custody or control should be specifically exempt from security requirement.	NMED manages confidential information in accordance with 20.4.1.900 NMAC, incorporating 40 CFR 270.12.	No

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8	Second full paragraph on page 4	TPL	II.C.1 General Security Requirements	The commenter recommends that the Permit should be clarified to reflect that TPL is not to be considered an unauthorized person or entity so long as TPL has a lease in effect with the Army or other owner of Ft. Wingate.	The term “unauthorized person” or “ unauthorized entity” is not defined in the Permit. See also comment #4.	No
9	Third full paragraph on page 4	TPL	III.C.3 Remedy Selection Work Plan NOTE: Should be III.B.3	The commenter indicates that the Permit should be modified to specifically reference TPL’s lease and specify that any remedial activities shall be conducted in such a manner so as to minimize any interference with TPL’s occupancy and operation at Ft. Wingate.	See comment responses e #1 and 2.	No

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10	First paragraph on page 5	TPL	V.A Interim Plan	The commenter states that this section of the Permit should be amended to reference their leasehold areas and operations and that monitoring required under this section be conducted in such a manner so as to minimize any interference with TPL's occupancy and operations at Ft. Wingate.	See comment responses # 1 and # 2	No
11	Second paragraph on page 5	TPL	VI.A.1 Groundwater Investigation Work Plan	The commenter believed that the Permit should specify that any required investigation work be conducted in such a manner so as to minimize interference with TPL's occupancy and operations at Ft. Wingate.	See comment response # 2	No

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12	Third paragraph on page 5	TPL	VI.A.1.a Monitoring Wells	The commenter states that the location and operation of the monitoring wells should be implemented to minimize interference with TPL's activities.	See comment response # 2	No
13	Forth paragraph on page 5	TPL	VI.B Ground Water Corrective Action Program	The commenter states that the Permit should be modified to indicate that any corrective action program should take this occupancy and operation into account and minimize any negative impacts on such occupancy and operations.	See comment response # 2	No
14	First paragraph on page 6	TPL	VI.B.1 Well Location, Installation, and Construction	The commenter recommends that the Permit be modified to reflect that any installation and operation of the required groundwater	See comment response # 2	No

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				monitoring system should minimize interference with TPL's operations at Ft. Wingate.		
15	Paragraphs 4 and 5 on page 6	TPL	VI.B.2.a Hazardous Waste and Hazardous Constituents	The commenter expresses concern that the clean-up standards for soils is excessively stringent and that the future use of Ft. Wingate as a residential site appears extremely unlikely. The commenters recommends that the clean-up standards for soils should be based on an anticipated future land use of Ft. Wingate for industrial purposes.	Permit Attachment 7 addresses cleanup levels. Permit Attachment 7 Section 7.3 addresses land use determination. The Permittee and potential future landowners of the facility (i.e., U.S. Department of Interior, Navajo Nation, Pueblo of Zuni) have an opportunity under the Permit to comment on cleanup standards and requirements for each parcel prior to transfer.	No
16	Page 7	TPL	VII.A Applicability	The commenter states that the Permit should be modified to note that TPL currently leases	See comment response # 1	No

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				portions of the facilities and areas identified on Table 1, page 7 of TPL's comments.		
17	Second paragraph on page 14	TPL	VII.D Notification and Assessment for Newly Identified SWMUS AND AOCS	The commenter states that the Permit should include provisions that TPL be notified in a timely fashion if any of the newly identified SWMUs or AOCs are likely to impact their operations.	Provisions for informing stakeholders and the community are provided in Section I.L of the Permit. As stated above, the Army is the permittee and is responsible for the activities of TPL and any other Army lessee or subcontractor under the Permit. TPL should contact the Army with any questions regarding how its activities will be affected by the Permit.	No
18	Third paragraph on page 14	TPL	VII. E Notification Requirements for Newly Discovered Releases from	The commenter also believes that the Permit should include provisions that TPL be notified when a release is identified relating to a new or subsequently	See comment response # 17.	No

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			SWMUS or AOCs	identified SWMU or AOC impacting TPL leased property.		
19	Forth Paragraph on page 14	TPL	VII. G Interim Measures	The commenter recommends that the Permit be modified to provide that interim measures be conducted in such a manner so as to minimize any interference with TPL operations and occupancy.	See comment response # 1 and 4.	No
20	First paragraph on page 15	TPL	VII.G.3 Permittee-initiated Interim Measures	The commenter believes that the Permit should be modified to specify that interim measures initiated by the Permittee be carried out in such a way so as to minimize any interference with TPL's operations.	See comment response # 4.	No
21	Second paragraph	TPL	VII. G.4 Emergency	The commenter indicates that the Permit	See comment response # 17.	No

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	on page 15		Interim Measures	should be modified to include the requirement that TPL be notified when emergency interim measures are implemented by the Permittee.		
22	Third paragraph on page 15	TPL	VII.H.1.a RFI Work Plan Submittal	The commenter recommends that the Permittee consult with TPL regarding the RFI work plan. The commenter also states that the work plan should be required to minimize interference with TPL's operations.	It is the Army's responsibility to communicate with any lessee or subcontractor conducting activities at FWDA. Also see comment response #4 and 17.	No
23	Forth paragraph on page 15	TPL	VII.H.1.b	The commenter believes that Section VII.H.1.b and Attachment 4 of the Permit should include references to TPL's ongoing operations.	Permit Section VII. H.1.b and Permit Attachment 4 refer to general requirements for site investigations and are not specific to any one site at FWDA. See also comment responses #1 and 2.	No

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24	Second paragraph on page 16	TPL	VII.I.1.b Corrective Measures Study Work Plan Requirements	The commenter states that the Permit should be modified to state that any corrective measures studies should be conducted in such a manner as to minimize impact on TPL's operations/	See comment response # 4.	No
25	Third paragraph on page 16	TPL	VII.I.3.6 Remedy Selection and Permit Modification	The commenter believes that the Permit be modified to state that NMED should be required to select a remedy that limits any negative impacts on TPL and its operations.	The Permittee is required to comply with the corrective action requirements as listed in the Permit regardless of site use. Remedies are based on protection of human health and the environment. TPL should inform the Army of its activities and discuss potential impacts with the Army prior to the Army recommending remedies under the Permit.	No
26	Forth paragraph	TPL	VII.K Work Plan	The commenters recommends that the	See comment response #4.	No

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	on page 16		Amendments	Permittee be required to consult with TPL when a work plan is modified and the modification may impact or interfere with TPL operations.		
27	First paragraph on page 17	TPL	VIII.A.1.d Submittal of Updated SWMU and AOC Lists	The commenter states that the Permit should be modified to include that the Permittee must notify TPL if any newly identified SWMUs or AOCs might have the potential to impact TPL operations.	See comment response #17.	No
28	Second paragraph on page 17	TPL	VIII.A.1.e Asbestos Evaluation	The commenter indicates that the asbestos evaluation report should be made available to TPL and that the evaluation be conducted with consultation with TPL and in a manner that minimizes impacts to	The asbestos evaluations required under Permit Section VIII.A.1.e will become part of the administrative record upon submittal and will be available for public review. The Permittee is required to conduct the asbestos evaluations regardless of	No

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				TPL's operations.	current site use. See also comment response #2.	
29	Third paragraph on page 17	TPL	VIII.B.1 Prior Consultation Requirements	The commenter believes that TPL should be included as a consulting party.	The consultation requirements are directed toward anticipated future landowners of the property and not lessees or Army subcontractors.	No
30	Forth paragraph on page 17	TPL	Attachment 1- General Facility Description	The commenter recommends that the facility description should include a description of those portions of Ft. Wingate that are leased by TPL, with a discussion of TPL's demilitarization operations.	The General Facility Description in Attachment 1 is designed to provide a general description of historical site use and was not intended to provide specifics associated with any Army subcontractors or lessees.	No
31	Fifth paragraph on page 17	TPL	Attachment 2 Facility Map	The commenter believes that the facility map should identify the portions of land that are under lease by TPL. The commenter also suggests that TPL has	Any site use by a lessee is temporary. Therefore, there is no need to include leased space on the facility map.	No

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				the right to provide comments to any facility map.		
32	Comment #1	US Army	Attachment 8	The commenter requests that SWMU 11A be removed from the SWMU/ AOC Table in Attachment 8.	NMED agrees that SWMU 11A is included with SWMU 10 and therefore, will be removed from Attachment 8 of the Permit.	Yes
33	Comment #2	US Army	Attachment 8	The commenter states that with the removed of SWMU 11A, SWMU 11B should be renumbered as SWMU 11	NMED agrees that SWMU 11B should be redesignated as SWMU 11.	Yes
34	Comment #3	US Army	Attachment 8	The commenter states that AOC 78 and AOC 82 are duplicate features.	NMED agrees that AOC 78 describes the four rectangular scars identified as Feature 18 on map API-5; however, the description of AOC 82 includes a drainage swale, swampy area, and arroyo east of Feature 18 on map API-5. NMED will change the description of AOC 82 to incorporate the	Yes

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					drainage swale, swampy area, and arroyo located east of Feature 18.	