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District Judge Denies Petition by Camino Real Environmental concerning Camino Real Landfill in Sunland Park

(Santa Fe, NM) District Court Judge James A. Hall dismissed a petition by Camino Real Environmental Center, Inc. requesting that the court issue a writ of mandamus requiring Secretary Curry to issue a 10-year permit for Camino Real Landfill in Sunland Park.

Secretary Curry in July rejected the 10-year permit and instead renewed the permit for one year http://www.nmenv.state.nm.us/OOTS/documents/PR-CaminoRealFinal-7-24-08_2_.pdf.

"The first step of the judicial process affirmed my decision," said New Mexico Environment Department Secretary Ron Curry. "I am pleased Judge Hall ruled in our favor."

Camino Real filed the petition for writ of mandamus on August 7. If issued, the writ would have compelled the performance of an act that the law specifically directs.

Camino Real argued that according to the State Solid Waste Act, Secretary Curry did not have the discretion to narrow the term of the permit to one year.

The court concluded "the petition fails to allege sufficient facts to establish the legal basis for issuance of either a peremptory or alternative writ of mandamus," according to the court's order. "Mandamus is not a method for adjudicating rights between parties; instead, mandamus is a method for enforcement of existing rights."

Under New Mexico law, a writ of mandamus shall not be issued in "any case where there is a plain, speedy and adequate remedy in the ordinary course of law," according to the court's order. The Solid Waste Act provides for judicial review of decisions of the Secretary by appeal to the state Court of Appeals.

The landfill lies on the border of New Mexico, Texas and Mexico. Secretary Curry, in shortening the term of the permit, considered community members' concerns that the continued existence of the landfill will hamper sustainable development in the area. In setting the short term limit on the permit Secretary Curry also

expressed a desire to review the cumulative impacts of other future industrial development in the area, including the potential reopening of the Asarco Inc. copper smelter in nearby El Paso and a proposed large maquiladora plant near the landfill.

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