

**Air Pollution Control  
Title V Permit to Operate  
Statement of Basis for Final Permit No. V-SU-0047-07.00**

**Transit Waste, LLC  
Bondad Landfill  
Southern Ute Indian Reservation  
La Plata County, Colorado**

**1. Facility Information**

a. Location

The Bondad Recycling Center and Depository (Bondad Landfill), owned and operated by Transit Waste, LLC, is located in La Plata County in southwestern Colorado, within the Southern Ute Indian Reservation. The site address is 1500 County Road 318, and the exact site location is 37 ° 3' 18.71''N latitude and 107 ° 51' 45.92''W longitude. The site mailing address is:

Bondad Recycling Center and Depository (Bondad Landfill)  
P.O. Box 215  
Bloomfield, NM 81301

b. Company contacts

Facility Contact: Mr. Dave Jaeger, Site Manager  
Bondad Landfill  
P.O. Box 215  
Bloomfield, NM 81301  
(970) 247-8295

Responsible Official: Mr. Steve Seed, Vice President  
Transit Waste, LLC  
P.O. Box 895  
Fort Mead, FL 33841  
(863) 581-0018

Tribal Contact: Mr. James Temte  
Air Program Manager  
Southern Ute Indian Tribe  
(970) 563-4705

c. Process description

The Bondad Landfill, owned and operated by Transit Waste, is a municipal solid waste (MSW) disposal site that accepts non-hazardous residential, commercial, and industrial waste. The facility is located approximately 15 miles south of Durango, Colorado, and has been in operation since 1997.

d. Permitting history

The Bondad Landfill has been in operation since 1997 without prior permits from the State of Colorado or the U.S. Environmental Protection Agency, Region 8 (EPA). It has been determined that the landfill triggered the requirement for a title V operating permit and this action, once final, will fulfill that requirement.

The facility was initially considered to be located on land outside of the Southern Ute Indian Reservation, and therefore, subject to the permitting requirements of the Colorado Department of Public Health and Environment (CDPHE). While processing the application for a part 70 operating permit, CDPHE discovered that the landfill was within the Southern Ute Indian Reservation and subject to Federal part 71 operating permit requirements. On May 16, 2007 the permittee submitted a part 71 application and requested that the part 70 application, dated October 25, 2006, be incorporated by reference into the permittee's part 71 application.

Based on the emissions calculations submitted by Transit Waste the Bondad Landfill is a minor source with respect to new source review (NSR) preconstruction permitting requirements. Currently there is no federal regulation granting EPA authority to issue minor NSR preconstruction permits in Indian Country; therefore, the Bondad Landfill is only required to obtain a part 71 operating permit.

The fee requirements of the part 71 permitting program have been fulfilled. Currently the facility is believed to be in compliance with all Clean Air Act (CAA) requirements.

e. List of all units and emission-generating activities

In the permit application, Transit Waste provided the information shown in Tables 1 and 2 below. Table 1 lists emission units and emission generating activities.

**Table 1 - Emission Units  
Transit Waste, LLC  
Bondad Landfill**

<b>Emission Unit ID</b>	<b>Description</b>	<b>Control Equipment</b>
E001	Landfill Gas Emissions	None, NMOC <50 Mg/year
E002	Fugitive Dust Emissions	Fugitive Dust Plan
E003	20 kW Diesel Generator	None

Part 71 allows sources to separately list in the permit application units or activities that qualify as “insignificant” based on potential emissions below 2 tons per year (tpy) for all regulated pollutants that are not listed as hazardous air pollutants (HAPs) under section 112(b) and below 1000 lb/year or the de minimis level established under section 112(g), whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee. Units that qualify as “insignificant” for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

In the permit application, Transit Waste stated that the emission units in Table 2, below, are insignificant. The application provided emission calculations using AP-42 emission factors as well as emissions estimations from the TANKS 4.0.9D program (for the 2,000 gallon diesel storage tank, IE001). This supporting data justifies the source’s claim that these units qualify as insignificant. The four 300 gallon tanks store engine lubrication oil, antifreeze, and hydraulic fluid and/or oil. The five 55 gallon tanks store diesel fuel, antifreeze, hydraulic fluid and/or oil, and engine lubrication oil. Because these tanks are substantially smaller than the 2,000 gallon diesel tank and because their contents are equally volatile or less volatile than the contents of the 2,000 gallon tank the emissions from IE002 and IE003 have been assumed to be less than the emissions from IE001. Because the TANKS program calculation shows 1.03 pounds per year (lb/year) total emissions from IE001, the emissions from IE002 and IE003 are expected to be well below 2 tpy for regulated pollutants and 1000 lb/year for HAP.

**Table 2 - Insignificant Activities/Emitting Units  
Transit Waste, LLC  
Bondad Landfill**

<b>Activity/ Emission Unit ID</b>	<b>Description</b>
IE001	(1) 2,000 gallon diesel storage tank
IE002	(4) 300 gallon storage tanks (storing engine lubrication oil, antifreeze, hydraulic fluid and/or oil)
IE003	(5) 55 gallon storage tanks (storing engine lubrication oil, antifreeze, hydraulic fluid and/or oil)

f. Potential to emit

Table 3 below shows potential to emit (PTE) data for the Bondad Landfill in the year 2038, which is the year the landfill is predicted to close, and therefore, has the highest predicted air pollutant emissions.

Under 40 CFR 52.21, PTE is defined as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect it would have on emissions, is federally enforceable.

**Table 3 - Potential to Emit (predicted year 2038)**  
**Transit Waste, LLC**  
**Bondad Landfill**

Emission Unit ID	Regulated Air Pollutants (tpy)									
	SO <sub>2</sub>	PM <sub>10</sub>	PM (TSP) <sup>1</sup>	CO	VOC	NO <sub>x</sub>	Lead	HAP	NMOC	H <sub>2</sub> S
<b>E001</b>	NA	NA	NA	1.48	6.04	NA	NA	3.82	130.48	0.46
<b>E002</b>	NA	22.9	79.6	NA	NA	NA	NA	NA	NA	NA
<b>E003</b>	0.24	0.26	0.26	0.79	0.30	3.67	NA	0.0011	NA	NA
<b>Insignificant Activities/ Units</b>	0	0	0	0	0	0	NA	0	NA	0
<b>TOTAL</b>	0.24	23.16	79.86	2.27	6.34	3.67	NA	3.82	130.48	0.46

<sup>1</sup>total suspended particulate matter (TSP)

Transit Waste submitted supplemental information to EPA on December 14, 2007 in which they listed a revised speciation of HAPs that the landfill is estimated to emit in the year 2038. This information is provided in Table 4.

**Table 4 - Hazardous Air Pollutant Potential Emission (tpy)**  
**Bondad Landfill**  
**(predicted year 2038)**

Hazardous Air Pollutant	Emission Unit ID		
	E0001	E0002	TOTAL
1,1,1-Trichloroethane	0.024	0	0.024
1,1,1,2-Tetrachloroethane	0.070	0	0.070
1,1-Dichloroethane	0.090	0	0.090
1,1-Dichloroethene	0.007	0	0.007
1,2-Dichloroethane	0.015	0	0.015
1,2-Dichloropropane	0.008	0	0.008
Acrylonitrile	0.127	0	0.127
Benzene	0.056	0	0.056
Carbon Disulfide	0.017	0	0.017

Hazardous Air Pollutant	Emission Unit ID		
	E0001	E0002	TOTAL
Carbon Tetrachloride	0.000	0	0.000
Carbonyl Sulfide	0.011	0	0.011
Chlorobenzene	0.043	0	0.043
Chloroethane	0.032	0	0.032
Chloroform	0.001	0	0.001
Dichlorobenzene	0.012	0	0.012
Dichloromethane	0.450	0	0.450
Ethylbenzene	0.185	0	0.185
Ethylene Dibromide	0.000	0	0.000
Hexane	0.215	0	0.215
Mercury	0.000	0	0.000
Methyl Isobutyl Ketone	0.072	0	0.072
Perchloroethylene	0.232	0	0.232
Toluene	1.360	0	1.360
Trichloroethylene	0.139	0	0.139
Vinyl Chloride	0.173	0	0.173
Xylenes	0.482	0	0.482
<b>TOTAL</b>	<b>3.821</b>	<b>0</b>	<b>3.821</b>

**2. Tribe Information**

a. Indian country

The Bondad Landfill is located within the exterior boundaries of the Southern Ute Indian Reservation and is thus within Indian Country as defined at 18 U.S.C. §1151. The Southern Ute Tribe does not have a federally-approved CAA title V operating permits program nor does EPA's approval of the State of Colorado's title V program extend to Indian country. Thus, EPA is the appropriate governmental entity to issue the title V permit to this facility.

b. The reservation

The Southern Ute Indian Reservation is located in Southwestern Colorado adjacent to the New Mexico border. Ignacio is the headquarters of the Southern Ute Tribe, and Durango is the closest major city, just 5 miles outside of the northern boundary of the Reservation. Current information indicates that the population of the Tribe is about 1,305 people with approximately 410 tribal members living off the Reservation. In addition to Tribal members, there are over 30,000 non-Indians living within the exterior boundaries of the Southern Ute Reservation.

c. Tribal government

The Southern Ute Indian Tribe is governed by the Constitution of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado adopted on November 4, 1936 and subsequently amended and approved on October 1, 1975. The Southern Ute Indian Tribe is a federally recognized Tribe pursuant to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat.984), as amended by the Act of June 15, 1935 (49 Stat. 378). The governing body of the Southern Ute Indian Tribe is a seven member Tribal Council, with its members elected from the general membership of the Tribe through a yearly election process. Terms of the Tribal Council are three years and are staggered so in any given year two members are up for reelection. The Tribal Council officers consist of a Chairman, Vice-Chairman and Treasurer.

d. Local air quality

The Tribe maintains an air monitoring network consisting of two stations equipped to measure ambient concentrations of oxides of nitrogen (NO, NO<sub>2</sub>, and NO<sub>x</sub>), ozone (O<sub>3</sub>), and carbon monoxide (CO), and to collect meteorological data. The Tribe has collected NO<sub>2</sub> and O<sub>3</sub> data at the Ignacio, Colorado station (also known as the Ute 1 station, with AQS identification number 08-067-7001) and the Bondad, Colorado station (also known as Ute 3, with AQS identification number 08-067-7003) since June 1, 1982, and April 1, 1997, respectively. The CO channel at the Ignacio station has been reporting to AQS since January 1, 2000, and both stations began reporting NO and NO<sub>x</sub> data to AQS on the same day. Also in 2000, both stations initiated meteorological monitors measuring wind speed, wind direction, vertical wind speed, outdoor temperature, relative humidity, solar radiation, and rain/snowmelt precipitation. Reporting of vertical wind speed data from both stations terminated on July 1, 2007. Particulate data (PM<sub>10</sub>) was collected from December 1, 1981 to September 30, 2006 at the Ignacio station and from April 1, 1997 to September 30, 2006 at the Bondad station. The Tribe reports hourly data to AQS for the criteria pollutants being monitored (NO<sub>2</sub>, O<sub>3</sub>, and CO), allowing AQS users to retrieve data that can be compared to any of the National Ambient Air Quality Standards for these pollutants.

### **3. Applicable Requirements**

#### a. Applicable requirement review

The following discussion addresses applicable requirements, and requirements that may appear to be applicable but are not. All applicable and non-applicable requirements addressed here are included in the Code of Federal Regulations (CFR) at Title 40.

#### **Chemical Accident Prevention Program**

The goal of the Chemical Accident Prevention and Risk Management Program is to prevent accidental releases of substances that can cause serious harm to the public and the environment from short-term exposures and to mitigate the severity of releases that do occur. This rule applies to any source that has more than a threshold quantity of a regulated substance as identified at 40 CFR 68.130. 40 CFR part 68 requires that facilities subject to the rule develop and implement a risk management program, submit a risk management plan (RMP) to EPA, and maintain documentation of the program at the site.

The Bondad Landfill currently has no regulated substances above the threshold quantities. Therefore, it is not subject to the requirement to develop and submit a risk management plan. However, the Bondad Landfill has an ongoing responsibility to submit this plan if the source has a listed substance in quantities over the threshold amount or if the source ever increases the amount of any regulated substance above the threshold quantity.

#### **Stratospheric Ozone and Climate Protection - Subpart F**

The Bondad Landfill has an air conditioning unit that qualifies as a small appliance with less than 5 pounds of refrigerant that has been sealed by the manufacturer. The unit is located in the gatehouse and is used for human comfort. Transit Waste does not service, maintain, repair or dispose of appliances pursuant to 40 CFR part 82, subpart F. Only certified contractors are used to provide these services. If Transit Waste ever services, repairs, maintains, or disposes of any air conditioning unit or other appliance containing an ozone depleting substance regulated under subpart F, then Transit Waste must comply with the standards of subpart F, specifically, §82.156, §82.158, §82.161, and §82.166(i), and request a significant modification to this part 71 permit.

#### **Stratospheric Ozone and Climate Protection - Subpart H**

The Bondad Landfill does not have fire extinguishers on site that use halon, so 40 CFR part 82, subpart H for halon emissions reduction does not apply. If Transit Waste ever decides to use fire extinguishers that use halon and use its personnel to service, maintain, test, repair, or dispose of equipment that contains halons or use such equipment during technician training, then it must comply with the standards of 40 CFR part 82, subpart H for halon emissions reduction and request a significant modification to this part 71 permit.

## **Federal Emission Guidelines for Existing Facilities**

40 CFR Part 62, Subpart GGG: Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to May 30, 1991 and Have Not Been Modified or Reconstructed Since May 30, 1991.

The Bondad Landfill began operation in 1997 and is therefore not subject to the Federal Emissions Guidelines at subpart GGG.

## **National Emissions Standards for Hazardous Air Pollutants (NESHAP)**

40 CFR Part 63, Subpart A: General Provisions. Part 63 contains national emission standards for HAPs that regulate specific categories of sources that emit one or more regulated HAP under the Clean Air Act. The general provisions under subpart A apply to sources that are subject to the specific subparts of part 63.

The Bondad Landfill installed a new compression ignition (CI) engine (E003) to which the requirements of 40 CFR part 63, subpart ZZZZ apply as described below. Although a specific subpart of part 63 does apply to unit E003, because the permittee operates a stationary RICE located at an area source of HAP emissions, the general provisions of part 63 do not apply to the Bondad Landfill (E003) as stated at 40 CFR 63.6665.

40 CFR Part 63, Subpart AAAA: National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills. This subpart was promulgated on January 16, 2003, (68 FR 2238) and applies to MSW landfills that have accepted waste since November 8, 1987 or have additional capacity for waste deposition and meet any one of three criteria: (1) the MSW landfill is a major source as defined in 40 CFR 63.2 of subpart A; (2) the MSW landfill is collocated with a major source as defined in 40 CFR 63.2 of subpart A; or (3) the MSW landfill is an area source landfill that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and has estimated uncontrolled emissions equal to or greater than 50 megagrams per year of non-methane organic compounds (NMOC).

The Bondad Landfill does have a design capacity greater than 2.5 million megagrams and 2.5 million cubic meters; however, it does not currently have estimated uncontrolled NMOC emissions equal to or greater than 50 megagrams per year. It has been predicted using LandGEM Version 3.02 that the Bondad Landfill will emit the threshold value of 50 megagrams per year NMOC in the year 2013.

Upon such time as the NMOC yearly emissions, as calculated pursuant to 40 CFR part 60, subpart WWW, reach a level greater than or equal to 50 megagrams per year the Bondad Landfill shall be required to submit an application for permit modification to incorporate 40 CFR part 63, subpart AAAA.

40 CFR Part 63, Subpart ZZZZ: National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. This rule establishes national emission limitations and operating limitations for HAPs emitted from stationary reciprocating internal combustion engines (RICE).

This rule applies to owners or operators of new and reconstructed stationary RICE of any horsepower rating which are located at a major or area source of HAP emissions. While all stationary RICE located at major or area sources are subject to the final rule (promulgated January 18, 2008, amending the final rule promulgated June 15, 2004), there are distinct requirements for regulated stationary RICE depending on their design, use, horsepower rating, fuel, and major or area HAP emission status.

#### Major HAP Sources:

The standard now applies to engines with a horsepower rating of less than or equal to 500 hp in addition to those engines with a horsepower rating greater than 500 hp. The standard continues to have specific requirements for new or reconstructed RICE and for existing spark ignition 4 stroke rich burn (4SRB) stationary RICE located at a major HAP facility.

With the exception of the existing spark ignition 4SRB stationary RICE, other types of existing stationary RICE (i.e., spark ignition 2 stroke lean burn (2SLB), spark ignition 4 stroke lean burn (4SLB), CI, stationary RICE that combust landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, emergency, and limited use units located at a major source of HAP emissions are not subject to any specific requirement under the final rule.

**Existing RICE:** A stationary RICE with a site rating of greater than 500 hp is existing at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced before December 19, 2002. A stationary RICE with a site rating of less than or equal to 500 hp is existing at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced before June 12, 2006.

**New RICE:** A stationary RICE with a site rating of greater than 500 hp is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after December 19, 2002. A stationary RICE with a site rating of less than or equal to 500 hp is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after June 12, 2006.

#### Area (Minor) HAP Sources:

The standard now has specific requirements for new and reconstructed stationary RICE located at minor sources of HAPs, for engines with horsepower ratings less than, equal to, or greater than 500 hp. The area source standards for new stationary RICE reference the requirements of NSPS JJJJ, for Spark Ignition Internal Combustion Engines, and/or NSPS IIII,

for Compression Ignition Internal Combustion Engines. Existing RICE located at an area HAP source are not subject to any specific requirement under the final rule.

**Existing RICE:** A stationary RICE is existing at an area source of HAP emissions if construction or reconstruction of the unit commenced before June 12, 2006. The area source standards do not apply to existing stationary RICE.

**New RICE:** A stationary RICE is new at an area source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after June 12, 2006.

Applicability of 40 CFR Part 63, Subpart ZZZZ to the Bondad Landfill:

The Bondad Landfill is an area source of HAP emissions (3.82 tpy total HAP) and the 20 kW diesel generator (E003) is a stationary CI RICE. Therefore, 40 CFR part 63, subpart ZZZZ applies to the generator, E003.

The Bondad landfill operated a 15 kW diesel generator at the gate house which failed around January 1, 2008 and was replaced on January 4, 2008. The generator that was purchased as a replacement is a Tier 2 emission compliant, MQ Power 20 kW diesel generator, model AA-4LE2. The engine is a 2007 model and has a displacement of 2.2 liters per cylinder. The engine serial number is 3806575. For this class of CI engines the requirements of subpart ZZZZ must be met by complying with the CI NSPS at 40 CFR part 60, subpart IIII [40 CFR 63.6590(c)].

### **New Source Performance Standards (NSPS)**

40 CFR Part 60, Subpart A: General Provisions. This subpart applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication of any standard in part 60. The general provisions under subpart A apply to sources that are subject to the specific subparts of part 60.

As explained below, the Bondad Landfill is subject to a specific subpart of 40 CFR part 60; therefore, the general provisions of 40 CFR part 60, subpart A apply.

40 CFR Part 60, Subpart Cc: Emission Guidelines and Compliance Time for Municipal Solid Waste Landfills. This rule applies to existing MSW landfills for which construction, reconstruction or modification was commenced before May 30, 1991. The Bondad Landfill commenced operation in 1997 and is therefore not subject to subpart Cc because it commenced construction after May 30, 1991.

40 CFR Part 60, Subpart WWW: Standards of Performance for Municipal Solid Waste Landfills. This rule applies to MSW landfills that commenced construction, reconstruction or modification on or after May 30, 1991.

The Bondad Landfill is a MSW landfill that commenced construction, reconstruction or modification on or after May 30, 1991; therefore, 40 CFR part 60, subpart WWW applies.

The Bondad landfill has a design capacity of 2.924 million cubic meters and 2.924 million megagrams (assumed weight to volume conversion factor of 1:1), which is greater than 2.5 million cubic meters and 2.5 million megagrams. Therefore, the landfill will be required to calculate the NMOC emission rate annually and compare the estimated emission rate with the threshold value of 50 megagrams per year [§60.752(b)(1)(i)-(ii)].

Additionally, pursuant to §60.752(c), “the owner or operator of a MSW landfill subject to [subpart WWW] with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to either part 70 or 71, becomes subject to the requirements of §§70.5(a)(1)(i) or 71.5(a)(1)(i).” 40 CFR 71.5(a)(1)(i) requires the submission of permit applications to obtain a part 71 operating permit. The Bondad landfill design capacity is greater than the threshold listed above, which triggered the requirement to apply for and obtain a part 71 operating permit. Absent the design capacity trigger the Bondad landfill, as is currently operated, would not be subject to part 71 permitting requirements.

NMOC emissions are projected to be below 50 megagrams per year until the year 2013. Therefore, there is not currently a requirement for the landfill to capture and control landfill gas emissions. If at any time the NMOC emission rate calculated by the procedure in subpart WWW is equal to or greater than 50 megagrams per year the permittee will need to comply with the applicable requirements for installing, operating, and maintaining a collection and control system, as well as applying for a significant permit modification to incorporate the requirements to capture and control landfill gas emissions pursuant to 40 CFR 60.752(b)(2).

40 CFR Part 60, Subpart IIII: Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. This rule applies, in part, to owners and operators of stationary CI internal combustion engines (ICE) that commence construction after July 11, 2005 where the stationary CI ICE are:

- a. Manufactured after April 1, 2006 and are not fire pump engines; or
- b. Manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006.

For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator.

This subpart also applies to owners and operators of stationary CI ICE that modify or reconstruct their stationary ICE after July 11, 2005.

Transit Waste operates one CI ICE (E003, 20 kW diesel generator) at the Bondad Landfill. Unit E003 is subject to 40 CFR part 63, subpart ZZZZ and must meet the requirements of that rule by complying with the requirements of the CI NSPS, subpart IIII. For the horsepower

range that engine E003 falls within, subpart III references 40 CFR part 89 for emission limitations. Transit Waste must also demonstrate compliance with fuel requirements of subpart III by complying with 40 CFR part 80, subpart I fuel requirements.

### **Prevention of Significant Deterioration (PSD)**

New major stationary sources of air pollution are required by the CAA to obtain a PSD permit before commencing construction. A major stationary source for purposes of PSD is any source belonging to a list of 28 source categories which emits or has the potential to emit 100 tpy of any pollutant regulated under the CAA or any other source type which emits or has the potential to emit such pollutants in amounts equal to or greater than 250 tpy. Furthermore, when a “minor” source, i.e., one that does not meet the definition of “major” source, makes a physical change or change in the method of operation that is by itself a major source (i.e., 250 tpy), that physical or operational change constitutes a major stationary source that is subject to PSD review.

MSW landfills are not listed as one of the 28 source categories with the 100 tpy major source threshold; therefore, the Bondad Landfill must have a potential to emit any regulated NSR pollutant equal to or greater than 250 tpy to be regulated under the PSD program. Table 3 lists the potential to emit for the Bondad Landfill. There are no pollutants for which emissions are greater than or equal to 250 tpy; therefore, PSD does not apply to the Bondad Landfill at this time.

### **Compliance Assurance Monitoring (CAM) Rule**

Pursuant to 40 CFR 64.2(a), the CAM rule applies to each Pollutant Specific Emission Unit (PSEU) that meets a three-part test. The PSEU must: (1) be subject to an emission limitation or standard; (2) use a control device to achieve compliance; and (3) have pre-control emissions that exceed or are equivalent to the major source threshold.

The Bondad Landfill is subject to an emission limitation pursuant to 40 CFR part 60, subpart WWW, but is not currently required by the subpart to capture or control emissions. In addition, emissions are not equivalent to, nor do they exceed major source thresholds. Therefore, there are no control devices used to achieve compliance and CAM does not apply to this source.

#### **b. Conclusion**

Based on the information provided in Transit Waste’s application for the Bondad Landfill, this source is subject to those existing applicable federal CAA requirements discussed above. EPA has no evidence that this source is subject to any additional existing applicable federal CAA programs aside from those discussed in this statement of basis. Further, the Bondad Landfill is not subject to any implementation plan such as exist within state jurisdictions.

EPA recognizes that, in some cases, sources of air pollution located in Indian Country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in non-attainment areas and of minor sources in both attainment and non-attainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into part 71 permits. To establish additional applicable, federally enforceable emission limits, EPA Regional Offices will, as necessary and appropriate, promulgate Federal Implementation Plans (FIPs) that will establish Federal requirements for sources in specific areas. EPA will establish priorities for its direct Federal implementation activities by addressing, as its highest priority, the most serious threats to public health and the environment in Indian Country that are not otherwise being adequately addressed. Further, EPA encourages and will work closely with all tribes wishing to develop Tribal Implementation Plans (TIPs) for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

#### **4. EPA Authority**

##### **a. General authority to issue part 71 permits**

Title V of the CAA requires that EPA promulgate, administer, and enforce a Federal operating permits program when a state does not submit an approvable program within the time frame set by title V or does not adequately administer and enforce its EPA-approved program. On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR 71 setting forth the procedures and terms under which the Agency would administer a Federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing Federal operating permits to stationary sources in Indian Country.

As described in 40 CFR 71.4(a), EPA will implement a part 71 program in areas where a state, local, or tribal agency has not developed an approved part 70 program. Unlike states, Indian tribes are not required to develop operating permits programs, though EPA encourages tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253, February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian Country, EPA will administer and enforce a part 71 federal operating permits program for stationary sources until a tribe receives approval to administer their own operating permits program.

#### **5. Use of All Credible Evidence**

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations.

## **6. Public Participation**

### a. Public notice

As described in 40 CFR 71.11(a)(5), all part 71 draft operating permits shall be publicly noticed and made available for public comment. The public notice of permit actions and public comment period is described in 40 CFR 71(d).

There was a 30-day public comment period for actions pertaining to the draft permit. Public notice was given for the draft permit by mailing a copy of the notice to the permit applicant, the affected state, tribal and local air pollution control agencies, the city and county executives, the state and federal land managers and the local emergency planning authorities that have jurisdiction over the area where the source is located. A copy of the notice was also provided to all persons who have submitted a written request to be included on the mailing list. If you would like to be added to our mailing list to be informed of future actions on these or other CAA permits issued in Indian Country, please send your name and address to the address listed below:

Christopher Razzazian, Part 71 Permit Contact  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street (8P-AR)  
Denver, Colorado 80202-1129

Public notice was published in the Durango Herald on October 14, 2008, giving opportunity for public comment on the draft permit and the opportunity to request a public hearing.

### b. Opportunity for comment

Members of the public could review a copy of the draft permit prepared by EPA, the application, this statement of basis for the draft permit, and all supporting materials for the draft permit. Copies of these documents were available at:

La Plata County Clerk's Office  
1060 East 2nd Avenue  
Durango, Colorado 81302

and

Southern Ute Indian Tribe  
Environmental Programs Office  
116 Mouache Drive  
Ignacio, Colorado 81137

and

US EPA Region 8  
Air Program Office  
1595 Wynkoop Street (8P-AR)  
Denver, Colorado 80202

All documents were available for review at the U.S. EPA Region 8 office Monday through Friday from 8:00 a.m. to 4:00 p.m. (excluding federal holidays).

Any interested person could submit written comments on the draft part 71 operating permit during the public comment period to the Part 71 Permit Contact at the address listed above. All comments would be considered and answered by EPA in making the final decision on the permit. EPA keeps a record of the commenters and of the issues raised during the public participation process. No comments were received by EPA during the public comment period.

Anyone, including the applicant, who believed any condition of the draft permit was inappropriate could raise all reasonable ascertainable issues and submit all arguments supporting their position by the close of the public comment period. Any supporting materials submitted must have been included in full and may not have been incorporated by reference, unless the material was already submitted as part of the administrative record in the same proceeding or consisted of state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference material.

c. Opportunity to request a hearing

A person could submit a written request for a public hearing to the Part 71 Permit Contact, at the address listed above, by stating the nature of the issues to be raised at the public hearing. Based on the number of hearing requests received, EPA will hold a public hearing whenever it finds there is a significant degree of public interest in a draft operating permit. EPA will provide public notice of the public hearing. If a public hearing is held, any person may submit oral or written statements and data concerning the draft permit. EPA did not receive any requests for a public hearing during the public comment period.

d. Appeal of permits

Within 30 days after the issuance of a final permit decision, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or participate in the public hearing may petition for administrative review, only if the changes from the draft to the final permit decision or other new grounds were not reasonably foreseeable during the public comment period. The 30-day period to appeal a permit begins with EPA's service of the notice of the final permit decision.

The petition to appeal a permit must include a statement of the reasons supporting the review, a demonstration that any issues were raised during the public comment period, a demonstration that it was impracticable to raise the objections within the public comment period, or that the grounds for such objections arose after such period. When appropriate, the petition may include a showing that the condition in question is based on a finding of fact or conclusion of law which is clearly erroneous; or, an exercise of discretion, or an important policy consideration which the Environmental Appeals Board should review.

The Environmental Appeals Board will issue an order either granting or denying the petition for review, within a reasonable time following the filing of the petition. Public notice of the grant of review will establish a briefing schedule for the appeal and state that any interested person may file an amicus brief. Notice of denial of review will be sent only to the permit applicant and to the person requesting the review. To the extent review is denied, the conditions of the final permit decision become final agency action.

A motion to reconsider a final order shall be filed within 10 days after the service of the final order. Every motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration shall be directed to the Administrator rather than the Environmental Appeals Board. A motion for reconsideration shall not stay the effective date of the final order unless it is specifically ordered by the Board.

e. Petition to reopen a permit for cause

Any interested person may petition EPA to reopen a permit for cause, and EPA may commence a permit reopening on its own initiative. EPA will only revise, revoke and reissue, or terminate a permit for the reasons specified in 40 CFR 71.7(f) or 71.6(a)(6)(i). All requests must be in writing and must contain facts or reasons supporting the request. If EPA decides the request is not justified, it will send the requester a brief written response giving a reason for the decision. Denial of these requests is not subject to public notice, comment, or hearings. Denials can be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts.

f. Notice to affected states/tribes

As described in 40 CFR 71.11(d)(3)(i), public notice was given by mailing a copy of the notice to the air pollution control agencies of affected states, tribal and local air pollution control agencies which have jurisdiction over the area in which the source is located, the chief executives of the city and county where the source is located, any comprehensive regional land use planning agency and any state or federal land manager whose lands may be affected by emissions from the source. The following entities have been notified:

State of Colorado, Department of Public Health and Environment  
State of New Mexico, Environment Department  
Southern Ute Indian Tribe, Environmental Programs Office  
Ute Mountain Ute Tribe, Environmental Programs  
Navajo Tribe, Navajo Nation EPA  
Jicarilla Tribe, Environmental Protection Office  
La Plata County, County Clerk  
Town of Ignacio, Mayor  
National Park Service, Air, Denver, CO  
U.S. Department of Agriculture, Forest Service, Rocky Mountain Region  
San Juan Citizen Alliance  
Rocky Mountain Clean Air Action  
Carl Weston