

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EMERGENCY PERMIT

FOR A HAZARDOUS WASTE MANAGEMENT FACILITY

ISSUED TO

OGLALA SIOUX TRIBE

PINE RIDGE RESERVATION, SOUTH DAKOTA

PERMIT NUMBER: SD-97-02

DATE: April 14, 1997

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EMERGENCY PERMIT

PERMITTEE: OGLALA SIOUX TRIBE OF THE PINE RIDGE RESERVATION

PERMIT NUMBER: SD-97-02

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq., commonly known as RCRA,) as amended by the Hazardous and Solid Waste Amendments of 1984 (commonly known as HSWA) and regulations promulgated thereunder by the U.S. Environmental Protection Agency (EPA) (codified and to be codified in Title 40 of the Code of Federal Regulations), a permit is issued to Oglala Sioux Tribe of the Pine Ridge Reservation (hereinafter called the Permittee), for the treatment of explosive hazardous waste by means of open detonation.

The Permittee must comply with all terms and conditions of this Permit. This Permit consists of the conditions contained herein (including those in any attachments) and the applicable regulations contained in 40 CFR Parts 260 through 266, 268, 270, and 271, as specified in the Permit. Applicable regulations are those which are in effect on the date of issuance of the Permit, in accordance with 40 CFR Section 270.32(c).

Any inaccuracies found in the submitted information may be grounds for the termination, revocation and reissuance, or modification of this Permit in accordance with 40 CFR Sections 270.41, 270.42, and 270.43 and for enforcement action. The Permittee must inform EPA of any deviation from or changes in the information in the application which would affect the Permittee's ability to comply with the applicable regulations or permit conditions.

This Permit is effective as of April 14, 1997 and shall remain in effect until April 17, 1997 unless revoked and reissued under 40 CFR Section 270.41, terminated under 40 CFR 270.43, or continued in accordance with 40 CFR Section 270.51(a).

Date

Kerrigan G. Clough
Assistance Regional Administrator
Office of Pollution Prevention,
State and Tribal Assistance

MODULE I. STANDARD PERMIT CONDITIONS

A. EFFECT OF PERMIT

This permit is a three (3) day emergency permit that was issued orally to Emma Featherman-Sam, Director of the Badlands Bombing Range Project for the Oglala Sioux Tribe to treat, by means of open detonation, the following wastes:

- o Five (5) - U.S. Free Firing Armed Rockets (FFAR) Warheads, 2.75 inch;
- o Five (5) - 50 caliber projectiles;
- o Thirty eight (38) - 20mm cannon projectiles;
- o Two (2) - U.S. FFAR Rocket Bodies, 2.75 inch;
- o Sixty three (63) - 50 caliber Ball Ammunition; and
- o Various pieces of anti-tank grenades.

These waste explosives were found at various locations throughout the reservation. This emergency permit was approved and issued due to the imminent and substantial endangerment to human health of tribal members of the Pine Ridge Reservations.

Any management of hazardous waste not authorized in this Permit is prohibited. Subject to 40 CFR Section 270.4, compliance with this Permit constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA, except for self-implementing statutory or regulatory requirements of RCRA or violations of RCRA, which occurred prior to the effective date of this Permit. Issuance of this Permit does not convey any property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local law or regulations. Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; Sections 106(a), 104 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., commonly known as CERCLA), or any other law providing for protection of public health and/or the environment. [40 CFR Sections 270.4, 270.30(g)]

B. PERMIT ACTIONS

Permit Modification, Revocation and Reissuance,
and Termination

This Permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR Sections 270.41, 270.42, and 270.43. The filing of a request for a Permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any Permit Condition. [40 CFR Sections 270.4(a), 270.30(f)]

C. DUTIES AND REQUIREMENTS

1. Duty to Comply

The Permittee shall comply with all conditions of this Permit. Any Permit noncompliance, constitutes a violation of RCRA and is grounds for: enforcement action; Permit termination, revocation and reissuance, or modification; or denial of a Permit renewal application. [40 CFR Section 270.30(a)]

2. Permit Expiration

Pursuant to 40 CFR Section 270.50, this Permit shall be effective from April 14, 1997 at 11:30 am. Mountain Daylight Time (MDT) until 11:59 pm. (MDT) April 17, 1997.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee, in an enforcement action, that it would have been necessary to halt or reduce the Permitted activity in order to maintain compliance with the conditions of this Permit. [40 CFR Section 270.30(c)]

4. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures, as are reasonable, to prevent significant adverse impacts on human health and/or the environment. [40 Section 270.30(d)]

5. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the Permit application or submitted incorrect information in a Permit application or any report to the Director, the Permittee shall promptly submit such facts or information.[40 CFR Section 270.30(1)(11)]

D. SIGNATORY REQUIREMENT

All applications, reports, or information submitted to or requested by the Director, his designee, or authorized representative, shall be signed and certified in accordance with 40 CFR Sections 270.11 and 270.30(k).

E. SUBMISSIONS TO THE DIRECTOR

1. Unless otherwise notified by the Director, the final report required by this Permit shall be sent by Certified Mail to:

Kerrigan G. Clough
Assistance Regional Administrator
Office of Pollution Prevention,
State and Tribal Assistance
999 18th Street, Suit 500
Denver, Colorado 80202-2405

F. CONFIDENTIAL INFORMATION

In accordance with 40 CFR Section 270.12, the Permittee may claim confidential any information required to be submitted by this Permit.

MODULE II. GENERAL PERMIT CONDITIONS

A. WASTE ALLOWED TO BE TREATED UNDER THIS PERMIT

The Permittee shall only treat the following waste by means of open detonation under this permit:

- o Five (5) - U.S. Free Firing Armed Rockets (FFAR) Warheads, 2.75 inch;
- o Five (5) - 50 caliber projectiles;
- o Thirty eight (38) - 20mm cannon projectiles;
- o Two (2) - U.S. FFAR Rocket Bodies, 2.75 inch;
- o Sixty three (63) - 50 caliber Ball Ammunition; and
- o Various pieces of anti-tank grenades.

B. LOCATION OF TREATMENT SITE

The open detonation must be performed on the Pine Ridge Reservation in the area that is specified by the following geographical coordinates:

Latitude: 43° 40' 00.66" Longitude: 102° 30' 32.15"

C. PROCEDURE TO BE USED

The Permittee is permitted to open detonate six (6) sets of blasting caps for the purposes of treatment. A detonating charge consisting of twelve (12) blocks of approximately 1.25 lbs of C-4 type explosives. The munitions will be detonated at the following location of Pine Ridge, South Dakota:

Latitude: 43° 40' 00.66" Longitude: 102° 30' 32.15"

D. TRAINED PERSONNEL

The open detonation must be performed by trained personnel from the 74th Explosive Ordnance Detachment (EOD) of Fort Riley.

E. SAFETY

A clear zone which adequately insures the safety of all persons and wildlife is to be established and all roads into the detonation area are to be secured.

F. INSPECTION

After the open detonation is performed, the immediate area must be inspected for the presence of waste residues. Any waste residues discovered will be removed and properly managed as hazardous waste or destroyed, on site, by the EOD team.

G. FINAL REPORT

The Permittee shall submit a final report that includes a summary of the inspection's findings and EOD's report of the treatment and any other pertinent information will be submitted to this office within 30 days following the date of open detonation.

H. DURATION OF PERMIT

This Permit shall be effective from April 14, 1997 at 11:30 am. Mountain Daylight Time (MDT) until 11:59 pm. (MDT) April 17, 1997.

