

State of Nevada
Nevada Division of Environmental Protection
Bureau of Waste Management

901 So. Stewart Street, Suite 4001, Carson City NV 89701-5249

Summary of Western Elite Inc. (WEI) Status

- Consent Decree signed 6/6/2005
- Permit issued 8/19/2005
- WEI begins accepting Permitted waste 12/2/2005
- A revised Stipulation and Order will be issued in March of 2008 clarifying some of the requirements for the timelines related to the movement of the excess waste and submission of documentation

The Western Elite Facility is approximately 65 miles North East of Las Vegas on Hwy 93

- WEI began moving "Excess Material" (~1,100,000 yds) to the permitted Class III Landfill immediately after the issuance of the Permit as agreed
- Currently (as of 2/1/08) approximately 880,000 yd³ have been moved with approximately 120,000 yds left to move (~80% moved)
- NDEP expects the remaining excess material to be moved by the end of 2008 (Revised Stipulation and Order requires all waste be moved by November 30, 2009) and all material (Gate Waste) to be disposed of in the permitted Class III Landfill

See next Slide





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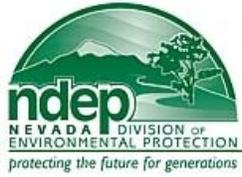


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Previous state of the Facility

Western Elite was accepting waste under the auspices of recovery of material for the purposes of landscaping and use as a soil amendment from 1996 to 2000. The waste had been managed in an uncontrolled fashion without substantive compliance with the regulations



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Previous Management of Waste



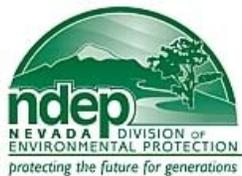


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Previous Management of Waste



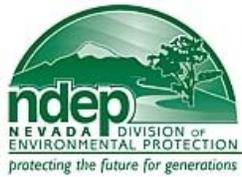


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Excess Waste in the process of being moved



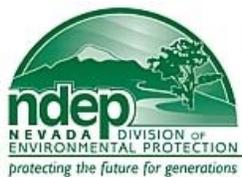


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Excess Waste in the process of being moved



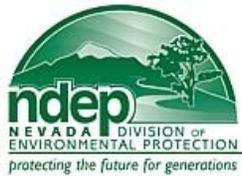


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Excess Waste being placed into Permitted Landfill





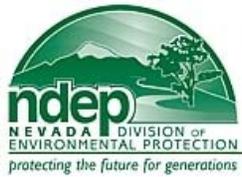
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Liner and Waste in Permitted Landfill



06/05/2006

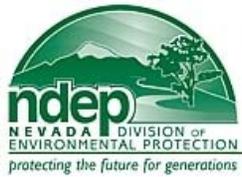


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Current Disposal Practice at Permitted Landfill





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Current Disposal Practice at Permitted Landfill



Coverage of Excess Waste



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Current status of the Western Elite Inc. Facility Permitted Landfill

- The disposal practice at the Landfill is consistent with Permit #SW277REV02
 - Wastes accepted are Auto Shredder Residue and Construction and Demolition Waste
 - The Facility is inspected regularly (quarterly)by Las Vegas Staff and has been found to have no significant Compliance Issues
 - The NDEP is maintaining approximately \$200,000 as the remaining portion of the funding for the closure and removal of the Excess Waste from the unpermitted portion of the Landfill in a Trust Fund
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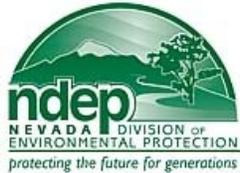


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1996 to 2000

- November 1996 - Feb. 1997: Western Elite, Inc. (WEI) begins accepting construction waste at Lincoln County site. NDEP issues FOAV and Order for operation of a solid waste disposal site without a permit, settles for \$2,000 penalty and issues approval to operate a Salvage Yard.
 - April 1997 - Oct. 1997: NDEP issues FOAV and Order for operation of a disposal site without a permit and violation of salvage yard requirements, including failure to remove non-salvageable material within one week. WEI appeals. State Environmental Commission (SEC) hears WEI appeal and upholds NDEP findings, but directs NDEP to work out new terms of operation.
 - Dec. 1997 - April 1998: NDEP approves WEI application to operate a Solid Waste Processing Facility and Compost Plant. NDEP estimates volume of shredded construction waste at 116,000 cubic yards.
 - Aug. 1998 - April 1999: NDEP issues FOAV/ORDER for operating disposal site without permit, failing to comply with conditions of approval, etc. WEI appeals. SEC upholds FOA V IORDER after 2 days of hearings, ordering WEI to remove all ground or un-ground material in excess of 15,000 cubic yards.
 - 2000
 - May 2000: After one year of motions, petitions and responses, the 9th Judicial District Court in Ploche denies WEI's petition for judicial relief from SEC Order.
 - June 2000 - July 2001: WEI appeals to Nevada Supreme Court. Through preliminary mediation WEI and NDEP finally negotiate a settlement which is filed with the 7th Judicial District Court as a Consent Decree and Order. In Sept. 2001 NDEP issues approval of new operating plan and waste acceptance pursuant to Consent Decree and Order.
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2001

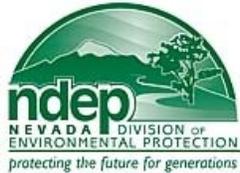
- July 19, 2001: WEI inspection by Les Gould indicates that non-source separated construction waste has recently been accepted at the site in violation of Order.
- July 26, 2001: Letter to WEI from Dave Emme reminding WEI them that the Decree of 7/10 prohibits acceptance of any solid waste until the operating plan has been approved by NDEP. The operating plan was rejected with comments on 7/3/01.

2002

- April 2002 - Oct. ~2002: After inspections showing that WEI has violated operating plan and failed to keep waste-on-site with agreed-upon caps, NDEP issues FOAV/Order revoking approval to operate. WEI appeals to SEC. Hearing set for March 5 & 6, 2003.
- 1/10/02: Inspection by Les Gould documents violations of Consent Decree.
- 0/1/02: NDEP notice of noncompliance with Consent Agreement sent to WEI on advice of Susan Gray, DAG, seeking \$250,000 in stipulated penalties.
- 10/11/02: NDEP Finding of Violation and Order issued, revoking all approval to operate.
- 10/30/02: WEI letter from Lamond Mills responding to 10/1 notice of noncompliance.
- Questions penalty amounts and states that WEI is shutting down commercial enterprise and only processing materials for agricultural use on site.
- 11/6/02: NDEP inspection documents WEI still accepting mixed construction waste.
- 11/7/02: SEC receives appeal of FOAV/Order issued on 10/11.
- 11/15/02: Letter from Susan Gray, DAG, notifying WEI of intent to file application for summary judgment for \$250,000 penalties.
- 11/21/02: NDEP inspection documents WEI still accepting mixed construction waste.
- 12/06/02: 8th Judicial District Court grants judgment against WEI of \$250,000 penalty.

2003

- March 4, 2003: WEI requests temporary restraining order to prevent March 5 appeal hearing. 9th Judicial District Court vacates hearing and holds that SEC has no jurisdiction over issues cited in FOAV - they are subject to court's jurisdiction pursuant to Consent Decree and Order.
- March 2003 - Oct. 2003 - NDEP aerial survey and volume measurement in progress to obtain clear evidence of violation of volume limits in Consent Order. Court has ruled that NDEP must have warrant to conduct inspections. No inspections conducted but it is clear that WEI continues to accept approx 1000 cubic yards construction waste per day. It does not appear that there is any recycling.
- 1/9/03: NDEP inspection documents WEI still accepting mixed construction waste.
- 2/4/03: NDEP inspection documents WEI still accepting mixed construction waste.



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2004

- During 2004 Western Elite and the NDEP had numerous discussions over Financial Assurance and the specific requirements related to assuring both the current landfill and the movement of the excess waste. The NDEP sent out a length Notice of Deficiency on October 20th 2004 detailing all the requirements the Western Elite has failed to meet. The NDEP issued a Public Notice of Intent to deny the Permit on 12/30/2004, Western Elite requested and obtained extensions in order to respond to the comments by the NDEP.

2005

- By June of 2005 Western Elite and the NDEP has worked out the problems associated with the application and published a Notice of Intent to issue a Permit on 6/23/05. The Final Permit was issued on 8/19/05.

- In December WEI requested a modification to their current permit to allow Auto Shredder Residue (Auto Fluff [ASR]).

2006

- The NDEP commented on the amendment and once WEI had fully completed their submittal the NDEP issued a public notice in September.
- WEI updated the Financial Assurance for the facility by continuing to fund the Trust Account.
- Western Elite requested a change in the language of the Consent Decree to include more time to move the Excess Waste into the Permitted Landfill. The NDEP responded and engaged in a dialogue to amend the Consent Decree.
- NDEP issued a revision to the Permit in November of 2006 to included the requested ASR

2007

- No specific actionable activity at the Facility other than the movement of waste and the ongoing discussion on amending the Consent Decree.

2008

- Currently (as of 2/1/08) approximately 880,000 yd³ have been moved with approximately 120,000 yds left to move (~80% moved). There remains some \$200,000 in the Trust Fund associated with the Excess Waste to be refunded at the point in time WEI removes the remaining waste.
- NDEP and WEI have signed (March 2008) a final amendment to the Consent Decree refining the language and extending the timeframe within which WEI may move the Excess Waste