

granted a petition for designation of a Campo/Cottonwood Creek Sole Source Aquifer (SSA) on May 5, 1993. Notice of the designation was published in the **Federal Register** on May 28, 1993 (58 FR 31024). The petition was submitted for a 400-square mile area along the U.S./Mexico border in the vicinity of Campo, California.

Under section 1424(e) of the SDWA, once an area has been designated a SSA:

No commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health* * *

"Federal financial assistance" is defined in 40 CFR 149.101(g). Examples of projects include sewage treatment plants, funded in part by federal grant monies, and housing projects receiving federal loans. Neither EPA's approval of the Campo Band's solid waste program nor the proposed landfill meet the definition of a federal financially assisted project. Thus, the SDWA would not prohibit either the proposed landfill or program approval.

In reviewing state and tribal regulatory programs, EPA determines whether the programs will ensure compliance with EPA's landfill regulations in 40 CFR part 258. EPA believes that the Campo Band's landfill regulations, including its groundwater monitoring and corrective action regulations, will ensure compliance with the exacting groundwater monitoring and corrective action requirements contained in EPA's 40 CFR part 258 regulations. EPA also believes that the Campo Band's regulations will ensure compliance with 40 CFR 258.3 which requires owners and operators to comply with all other applicable federal rules, laws, regulations, or other requirements.

One commenter was concerned that there is no proposed mitigation if the groundwater supply is contaminated. Mitigation measures for individual landfills within the jurisdiction of a state or tribal program are not required or used as a basis for program decisions by EPA. However, EPA's 40 CFR part 258 requirements and the Campo Band's regulations contain strict standards for groundwater monitoring, corrective action and financial assurance. EPA believes protection of groundwater resources is of utmost importance. It is the responsibility of the Campo Band to ensure that landfills on the Reservation comply with its regulations and permits.

One commenter asked if the Campo Band takes over operations of the proposed landfill, will they qualify for

federal funding and will the landfill then fall under the definition of a federal financially assisted project. This comment would require EPA to speculate without any information about the legal or factual circumstances under which the Campo Band might apply for federal financial assistance. EPA cannot at this time make a determination as to whether the Campo Band would seek or qualify for financial assistance, whether the landfill would be a federal financially assisted project, or about the applicability of section 1424(e) of the SDWA to such potential future financial assistance.

E. United States-Mexico Border Issues

A number of commenters expressed concern about the potential environmental and economic impacts of the proposed landfill on the people and communities in Mexico. Commenters stated that the proposed landfill poses risks to the rights of the Mexican border communities to be free from threats to their health and natural resources. Specifically, commenters raised siting concerns related to EPA's responsibilities under Executive Order 12114 (E.O. 12114), entitled "Environmental Effects Abroad Of Major Federal Actions", and the Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area (La Paz Agreement).

E.O. 12114 calls for environmental assessment of major federal actions having significant effects on the environment outside the borders of the United States. EPA does not believe that approval of the Campo Band's regulatory program is a major action which will have significant environmental effects outside of the United States. As noted above, EPA's decision regarding the adequacy of the Campo Band's regulatory program is not a ruling on any landfill which might be proposed under their regulatory program. EPA notes that approval of state and tribal regulatory programs is not among the activities to which environmental review requirements apply under EPA's rules for implementing the Executive Order. 40 CFR 6.1002.

40 CFR 6.1002 states that review requirements apply to major permitting or licensing by EPA of facilities which affect the global commons or the environment of a foreign nation, including permitting under the Clean Air Act. 40 CFR 6.1004(c) provides that the information required to be submitted by the permit applicant satisfies the requirements of E.O. 12114.

EPA agrees that assessment and consideration of the transboundary impacts of sites in the border zone are extremely important. EPA has maintained open communications with Mexico regarding the proposed landfill and the regulatory program approval process. In June 1992, the Hazardous Waste Work Group, established under the La Paz Agreement, formally adopted a "Consultative Mechanism for Exchange of Information Between the United States and Mexico on Facility Siting." This consultative mechanism, although it is not legally binding, sets forth the intent of the United States and Mexican governments to notify each other of waste sites proposed for construction in the border area of their respective countries. The consultative mechanism was approved by the National Coordinators of the La Paz Agreement in 1992, and forms the basis upon which EPA has continued to inform counterpart officials in Mexico of developments regarding the proposed Campo municipal solid waste landfill. EPA has made every effort to provide Mexican officials with information on the proposed site and take their concerns about this matter into consideration.

The Binational Hazardous Waste Work Group, as established under the 1983 La Paz Agreement, is the forum through which the United States continues to notify and inform the government of Mexico of waste disposal sites proposed to be constructed within the border area of the United States which are subject to U.S. environmental regulatory review, and which might have a transboundary impact in the Mexico border zone. The Work Group is also the main forum for bilateral discussions of such proposed sites. These notifications, the provision of information by the United States to Mexico, and the nature of the discussions that take place at the Work Group meetings are reported to both governments at annual meetings of the National Coordinators, as specified in the La Paz Agreement. Moreover, the government of Mexico and its citizens were encouraged to participate in the public hearing as part of EPA's review process for approval of the Campo Band's regulatory program. EPA has sent Mexico extensive information on the proposed landfill and on EPA's actions related to the proposed landfill.

In the interest of furthering our efforts to communicate fully with Mexico on this site, EPA coordinated a meeting between U.S., Mexican and Campo Band government agencies on July 1, 1994. The purpose of that meeting was to share information on the roles and