



BRUCE KING
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Bulding
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-2850

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUDITH M. ESPINOSA
SECRETARY

RON CURRY
DEPUTY SECRETARY

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July 29, 1991

Colonel Jack Martines
Director, Environmental Management
Headquarters 1606 ABW/EM
Kirtland Air Force Base, NM 87117-5000

RE: ADMINISTRATIVE ORDER
Docket Number 910701

Dear Colonel Martines:

On June 13, 1991 the New Mexico Environment Department (NMED) issued a Notice of Violation (NOV) to Kirtland Air Force Base (KAFB) citing that KAFB was in violation of HWMR-6 for failure to submit approvable Closure Plans for the Sewage Lagoons and Golf Course Main Pond. The NOV required KAFB to submit approvable Closure Plans within thirty (30) days of receipt of the NOV. Thirty (30) days have elapsed and no approvable Closure Plans have been submitted to the NMED.

NMED considers this a serious matter and is therefore, through the attached Compliance Order, ordering KAFB to submit approvable Closure Plans for the sewage lagoons and golf course main pond to NMED by September 10, 1991. If KAFB should fail to comply with this Order, NMED may seek relief through District Court pursuant to §74-4-10 of NMSA 1978.

Inquiries should be directed to Tracy Hughes at (505) 827-2987.

Sincerely,

Ms. Kathleen Sisneros
Director, Water and Waste Management Bureau

KS/jk

cc: Benito Garcia, Chief, Hazardous/Radioactive Waste Bureau
Edward Horst, Program Manager
Lynn Prince, U.S. EPA Region VI (6H-HS)





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STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT

IN THE MATTER OF:
Kirtland Air Force Base,
Kirtland Air Force Base, New Mexico 87117-5000

DOCKET NUMBER
NMHW 910701

COMPLIANCE ORDER/SCHEDULE

This Compliance Order/Schedule is issued pursuant to the New Mexico Hazardous Waste Act, Section 74-4-10 NMSA 1978, (as amended) under the authority of the Secretary of the New Mexico Environment Department (NMED) and delegated to the Director of the Water and Waste Management Division.

FINDINGS

The Director of the Water and Waste Management Division of the NMED has determined that Kirtland Air Force Base (KAFB), has violated the New Mexico Hazardous Waste Act and the regulations promulgated thereunder, as outlined below.

1. KAFB notified EPA on July 8, 1980, that it generated, treated, stored and/or disposed of hazardous wastes at Kirtland Air Force Base, New Mexico.
2. On February 17, 1987, EID conducted a Compliance Evaluation Inspection (CEI) at KAFB.
3. On May 19, 1987, EID issued a Notice of Violation (NOV) to KAFB. This NOV listed seventeen violations of the New Mexico Hazardous Waste Regulations (HWMR-3). Among these violations,

NMED cited KAFB for failure to have a complete closure plan (NOV items 12-14).

4. On or about June 10, 1987, EID received the results of analyses of water from KAFB's sewage lagoon Number 1 (the north lagoon) which indicated the presence of 1,1,1 trichloroethane at 0.08 ppm.
5. An NOV was written to KAFB on August 6, 1987, notifying KAFB that EID had received information verifying that 1,1,1 trichloroethane (TCA) had been identified in the analyses of KAFB's sewage lagoon samples. EID required KAFB to evaluate all waste streams directed into the sewage lagoons which might contain TCA.
6. KAFB submitted a response to EID's August 6, 1987, NOV on November 9, 1987, which identified two possible sources of the TCA in KAFB's sewage lagoons. As a result of this information the sewage lagoons at KAFB were deemed hazardous waste management units.
7. KAFB applied water from the sewage lagoons via the golf course ponds to the golf course area; therefore, the golf course was designated a hazardous waste land treatment area.
8. On January 15, 1988, amendments to HWMR-3 were incorporated into HWMR-4. All provisions of HWMR-3 and HWMR-4 pertinent to this Compliance Order/Schedule are identical.
9. On April 4, 1988, EID issued an NOV to KAFB. The NOV advised KAFB that it had violated several provisions of the New Mexico Hazardous Waste Act and the New Mexico Hazardous Waste Management Regulations (HWMR-4). Among these violations, KAFB was cited for failure to have an acceptable closure plan (NOV Item 4).
10. On or about May 20, 1988, EID received KAFB's response to EID'S April 4, 1988, NOV. This submittal did not address KAFB's failure to have an adequate Closure Plan.
11. EID met with representatives of KAFB on July 13, 1988, to provide additional guidance and information on KAFB's response to the April 4, 1988 NOV.
12. On or about August 1, 1988, EID participated in an Environmental Protection Agency CEI. During this inspection no further progress was observed toward resolving the violations cited in EID's April 4, 1988, NOV. Additionally, during this inspection repeat violations were noted with respect to EID's October 6, 1987, CO.

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13. On February 28, 1990 KAFB and EID signed a Federal Facilities Compliance Agreement. This agreement stated that KAFB would:

"submit Closure and Post-closure Plans for sewage lagoons, for golf course pond and for the "land treatment area as required under HWMR-4 Section 206.C.2."
14. On April 13, 1990 KAFB submitted a Base-wide Closure Plan and supplemental Unit Closure Plans for the sewage lagoons, the golf course main pond and the golf course to EID.
15. On July 7, 1990 EID issued a Notice of Deficiency to KAFB saying the closure plans submitted April 13, 1990 were inadequate.
16. On July 25, 1990 EID met with KAFB to provide additional guidance on what was needed for an approvable closure plan.
17. On September 4, 1990 EID issued an Extension of Deadline for approvable Closure Plan to KAFB which extended the deadline to November 31, 1990. The submitted closure plan was to include requirements established by EID at the meeting held July 25, 1990 between KAFB and EID.
18. On November 30, 1990 EID received Base-wide Closure Plan and Supplemental Unit Closure Plans for sewage lagoons, golf course main pond, and golf course from KAFB.
19. The New Mexico Environmental Improvement Division was elevated to departmental status on March 13, 1991 and renamed the New Mexico Environment Department (NMED).
20. After a review (November 30, 1990 to June 12, 1991), NMED deemed the KAFB Closure Plans to be unapprovable pursuant to 40 CFR §265.111.
21. On June 13, 1991 NMED issued a Notice of Violation (NOV) to KAFB explaining that KAFB was in violation of the New Mexico Hazardous Waste Management Regulations (HWMR-6). With the NOV was a letter explaining exactly what NMED required for approval of a closure plan. The NOV set a deadline of 30 days from receipt for KAFB to submit approvable closure plans. It was also stated in the letter that KAFB would not be allowed to close these units without NMED's approval of an adequate ground-water monitoring system pursuant to 40 CFR §265.90 through §265.93.
22. NMED met with KAFB on June 25, 1991 to provide additional guidance on what NMED required for an approvable closure plan.

Among the items that NMED required for an approvable closure plan were:

- 1) a contingency plan for closure in place must be included in the Unit Closure Plan for the Sewage Lagoons. This plan must include proven cover design sized to the sewage lagoons and must be in a simplified form for the general public to understand.
 - 2) a presentation of the results of health-based risk assessment calculations in tabular form with sampling results for soils and sludges for comparison.
 - 3) a commitment to 40 CFR §265.90 through 265.93.
23. On June 28, 1991 NMED received a proposal for an alternative ground-water monitoring system from KAFB pursuant to 40 CFR §265.90.
24. On July 3, 1991 NMED approved the alternate ground-water monitoring system proposed by KAFB.
25. On July 15, 1991 KAFB submitted closure plans that had typographical errors corrected; however, no other items listed in the letter that accompanied the June 13, 1991 NOV were corrected and therefore the KAFB closure plans for the sewage lagoons and golf course main pond remain unapprovable.

CONCLUSIONS

1. KAFB is a "person" within the meaning of the New Mexico Hazardous Waste Act, Section 74-4-3.J NMSA 1978, and therefore is subject to the provisions of that Act.
2. Section 6001 of the Resource Conservation and Recovery Act (as amended) provides that federal facilities and any instrumentalities thereof, are subject to state hazardous waste management regulations.
4. KAFB is the owner or operator of a hazardous waste facility that treats, stores or disposes of hazardous waste within the meaning of the New Mexico Hazardous Waste Act, Section 74-4-3-D.L., and O. NMSA 1978, and therefore is subject to the provisions of that Act.

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5. NMED has the authority to issue this Compliance Order/Schedule pursuant to Section 74-4-10.A NMSA 1978.

COMPLIANCE ORDER/SCHEDULE

Pursuant to the New Mexico Hazardous Waste Act Section 74-4-10 NMSA 1978, and under the authority of the Director of the Water and Waste Management Division of the NMED, KAFB is hereby ordered to conduct the following activity by the date set forth below:

KAFB must submit to NMED approvable Closure Plans for the sewage lagoons and the golf course main pond by September 10, 1991. These Closure Plans must satisfy the requirements of the June 13, 1991 NOV and accompanying letter, and the meeting between KAFB and NMED July 25, 1991, including:

- 1) a contingency plan for closure in place must be included in the Unit Closure Plan for the Sewage Lagoons. This plan must include a proven cover design sized to the sewage lagoons.
- 2) a presentation of the results of health-based risk assessment calculations in tabular form with sampling results for soils and sludges for comparison.
- 3) a commitment to compliance with 40 CFR §265.90 through 265.93.

This Compliance Order/Schedule is effective immediately, and will become final unless the Respondent submits a written request for a public hearing to the Secretary of the NMED no later than thirty (30) days after receipt of this Compliance Order/Schedule.

If, for any reason, the Respondent should fail to comply with the requirement of this Compliance Order/Schedule, NMED may seek relief in district court pursuant to §74-4-10 of NMSA 1978.

All correspondence relating to this Compliance Order/Schedule shall be sent by Registered Mail, or Certified Mail, return receipt requested, to the following address:

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Ms. Kathleen Sisneros
Division Director
Water and Waste Management Division
New Mexico Environment Department
1190 St Francis Drive
Santa Fe, New Mexico
87503

Compliance with this Order does not relieve the Respondent of its obligations to comply with HWMR-6, nor its obligations to comply with any other applicable laws and regulations.

Sincerely,



KATHLEEN SISNEROS
Director
Water and Waste Management Division

KS/jk

cc: Benito Garcia, Chief, Hazardous/Radioactive Waste Bureau
Edward Horst, Program Manager
Lynn Prince, U.S. EPA Region VI (6H-HS)
Garth Graves, District I Office
Tracy Hughes, NMED Office of General Counsel