



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

July 27, 2023

Cabinet Secretary James C. Kenney
Harold Runnels Building
1190 St. Francis Drive
Suite N4050
Santa Fe, NM, 87505

Dear Secretary Kenney, Jim:

I understand there is a long history on the Bulk Fuels Facility (BFF) corrective action project with many starts and stops in the cleanup process. I'm told that at one point in time, the "aspirational" goal was to start Corrective Measures Evaluation (CME) in 2021. While 2021 has come and gone, I continue to share your commitment to accelerating the cleanup. I believe BFF is that rare cleanup "win" we can both point to as a mutual success story. I hope you see it the same way.

Since neither of us were here for much of the BFF history, I asked my staff to provide a brief overview of how we got to the present day, which will help illustrate my current primary concerns about the working relationship between the Department of the Air Force and the New Mexico Environment Department (NMED) staff. Little progress was made in the early days of the release response from November 2009 through spring 2015. Community stakeholders and local, state, and federal elected officials were extremely frustrated with both NMED and the Air Force regarding the pace of the remedial investigation (RI) and the failure to implement an interim measure to stop the migration of the off-base ethylene dibromide (EDB) plume.

In response to these legitimate community and political concerns, both the Air Force and NMED agreed to shake up the status quo and focus on results over process, consistent with the U.S. Environmental Protection Agency's (U.S. EPA's) results-based corrective action guidance. The Air Force brought on an experienced restoration program manager, and a highly qualified expert. It also increased contract support and funding. Former NMED Secretary [REDACTED] appointed a Chief Scientist to serve as the BFF technical expert, engage with stakeholders, and review and approve work plans and reports submitted by the Air Force under Kirtland Air Force Base's (KAFB's) Resource Conservation and Recovery Act (RCRA) permit. The amount of work implemented from spring 2015 to winter 2018 was impressive and demonstrated to concerned residents that both parties were committed to addressing public concerns. For example, the first phase of the highly successful groundwater pump and treat system was built in less than six months. This EDB interim measure, which has contracted the EDB plume almost to the base boundary, is a prime example of how collaboration between the Air Force and NMED, with input from advisory technical working groups and community stakeholders, resulted in meaningful progress.

KAFB5320



On February 21, 2023, I welcomed the opportunity to virtually meet with you [REDACTED]. I genuinely appreciated your comment about "no surprises". We shared authentic optimism regarding overlapping goals and interests at all Air Force installations in New Mexico and I was looking forward to meeting with you and your team in person.

Now, a few months later, I am quite concerned. It appears any intent for positive momentum on our shared commitment to a collaborative partnership seems to have stalled or worsened. For example, the Hazardous Waste Bureau (HWB) publicly posted a number of very surprising and troubling emails. I view the misinformation, personal attacks and lack of professionalism evidenced therein as extraordinary. I assume you are not aware of these documents, which is why I am bringing them to your attention. I have attached a copy of this web post and the link: <https://hwbdocuments.env.nm.gov/Kirtland%20AFB/KAFB5297.pdf>. Here are just a few of the more troubling examples:

- (1) The April 11, 2023, email from [REDACTED] regarding an April 5, 2023, meeting [REDACTED] from the Albuquerque Bernalillo County Water Utility Authority (ABCWUA) and [REDACTED] the Office of Natural Resources Trustee (ONRT) discussed a statement [REDACTED] made in the ABCWUA Board meeting.
 - In the April 11 email, [REDACTED] stated the period with management of the project by NMED [REDACTED] was an exercise in "*experimental management*". This is a curious description of NMED's internal decision-making. (Atch 1, page 21).
 - The State of New Mexico is authorized by U.S. EPA to implement the federal RCRA program via a state application, public notice, and then EPA approval of New Mexico's program. This process ensures national consistency and minimum standards while providing flexibility to states in enacting their own rules. [REDACTED] "experimental management" statement contradicts the intent and substance of the federally delegated authority. During the referenced time period, the Air Force spent nearly \$63 million dollars on work scope certified by the Kirtland Base Commander under the RCRA permit and approved by NMED. While the Air Force is committed to complying with the federally delegated RCRA program, we cannot spend taxpayer dollars implementing an "experimental" program outside of RCRA. It is deeply concerning the [REDACTED] Division would make such a clearly erroneous statement to the Board of the ABCWUA. This type of statement cannot help but undermine the credibility of both the Air Force and NMED.

- (2) The April 11, 2023, email also contained a troubling response [REDACTED] to a question [REDACTED] about taking immediate enforcement action against the Air Force.
- [REDACTED] the Governor “wants to give *DAS Balkus of Energy Infrastructure at the AF Pentagon*, the benefit of the doubt first and wants to try to work with her. She said Secretary: is willing to let the AF hang themselves”. (Atch 1, page 22, also on page 25).
 - Clearly statements like these do not foster a collaborative working relationship between the Air Force and the State of New Mexico.
- (3) An April 6, 2023, email [REDACTED] regarding the denial of the KAFB BFF Air Force request for extensions for the soil vapor and groundwater monitoring plans and the groundwater sampling system plan made patently false statements regarding the alleged Air Force’s “threatening tactics”.
- For example, [REDACTED] “... the [Air Force] threat that if they had to clean up the BFFS site, they would BRAC KAFB. They also threatened at one point that they could either work on the BFFS site or on PFAS at Cannon AFB, but they couldn't do both”. (Atch 1, page 25, also page 20).
 - I assure you [REDACTED] never made such statements. It is irresponsible for NMED HWB staff to perpetuate such misinformation.
- (4) [REDACTED] you are not immune from the lack of professionalism and personal attacks in these emails.
- For example, in the April 6, 2023, email [REDACTED] stated: “... our senior management is not interested in enforcement or has direction from the governor's office not to enforce. No enforcement at this point means no actual intent to clean up. The desire to contract sampling on our own has more to do with the Secretary's desire to spend HW fund money that's accumulating because he hasn't allowed us to expand the bureau as planned under the 2020 fee regs... After four years of this administration where nothing new has really happened to address cleanup at the BFFS, it appears that the policy remains the same but public pressure requires that actions be taken to support the image that something is being done.” (Atch 1, page 24)

These collective statements make it difficult for me and my staff to have confidence we can engage in positive negotiations and decision-making with NMED that must ultimately be implemented by the HWB personnel cited here.

So how does this play out at Kirtland? You may be aware that on November 8, 2022, **NMED HWB staff indicated it was going to disregard six years of groundwater monitoring data that was fully approved by NMED and in accordance with applicable EPA guidance** and require the Air Force to submit a new work plan for essentially re-doing the groundwater portion of the remedial investigation at Kirtland.

BOTTOM LINE: Our remediation expert estimates the HWB's direction would extend the CME an additional 10 years, out to 2039 at the earliest, rather than the current estimated completion date in 2029.

On July 31, 2023, Kirtland AFB will submit a response to NMED's November 8, 2022, letter respectfully declining to submit a revised groundwater monitoring work plan at this time. The basis for this denial is the Air Force's right to rely on the prior approvals provided by NMED unless the NMED HWB can demonstrate a significant change in site conditions. The approvals of these certified work plans and other documents by the NMED Chief Scientist or the Director of the Resource Protection Division from 2015 through 2018 are valid, meet the requirements of the Permit, and are consistent with the federal authorization of New Mexico's RCRA program.

The Air Force has defined the nature and extent of contamination in all affected media to the degree necessary to evaluate potential remedies in the CME and make recommendations to NMED HWB. More importantly, I would hope it's our shared goal to move cleanup actions forward through approval of a CME in a timely manner, which is what we jointly led the public to believe would happen in the near future. And of course, deferring cleanup is the antithesis of protecting human health and the environment. This cleanup is so important to the residents of the International District and adjoining neighborhoods, **we should be finding ways to accelerate it rather than slowing it down**. I hope you will join me in resetting this project to ensure we do not snatch defeat from the jaws of victory.

I would appreciate the opportunity to discuss my concerns and potential way forward with you in the near future. I am confident BFF could be the positive legacy-making project you and Governor Lujan Grisham could point to as evidence of your joint mission to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations. I look forward to resuming our collaborative partnership discussions if we can acknowledge to address and root out unprofessional conduct that is preventing forward progress. Please contact my Executive Officer, [REDACTED] when you are ready to discuss. I would also propose including [REDACTED] the Kirtland Installation Commander.

Sincerely,

Nancy J. Balkus

Digitally signed by
BALKUS.NANCYJ.1082115974
Date: 2023.07.27 21:49:59 -04'00'

NANCY J. BALKUS, P.E., SES
Deputy Assistant Secretary of the Air Force
(Environment, Safety, and Infrastructure)

Attachment:

1. KAFB5297

cc:

SAF/GCN

AF/JAO

377 ABW/CC