DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR COMBAT COMMAND
LANGLEY AIR FORCE BASE VIRGINIA

25 SEP 2001

MEMORANDUM FOR State of New Mexico - Environment Department
Office of the Secretary - Harold Runnels Building
Attention: Dr. Gedi Cibas
1190 St. Francis Drive – P O Box 26110
Santa Fe NM 87502-6110

FROM: HQ ACC/CEVP
129 Andrews Street, Suite 102
Langley AFB VA 23665-2769

SUBJECT: Draft Environmental Assessment (DEA) for Cannon Air Force Base (AFB), New Mexico, Defensive Training Initiative (DTI) (NMED File No. 1489ER)

1. We would like to thank you for your letter of September 5, 2001 transmitting your department's comments and concerns regarding the DEA for Cannon AFB's DTI and appreciate the opportunity to provide you with additional information on this proposed action.

2. Based on the following responses to your concerns regarding Surface Water Quality and Hazardous Waste, we request your concurrence that no permits are required and, based on the best available data, a Finding Of No Significant Impact is warranted .

a. Surface Water Quality. The Air Force does not consider this action as one that would require a National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-sector General Permit. The proposed action and alternatives include only an increase in the amount of airspace available for training with chaff and flares. No change is being proposed for Melrose Range or Cannon AFB proper. There are no construction, industrial, or other activities being proposed that would be expected to affect the quality of storm water discharges.

b. Hazardous Waste.

(1) The DEA did not discuss the applicability of the Resource Conservation and Recovery Act (RCRA), the Hazardous Waste Act (HWA), or the Cannon AFB Operating Permit at Melrose Air Force Range. Under the proposed action and alternatives, no changes to operations on Melrose Range are anticipated. Impacts to hazardous waste management at Cannon AFB are analyzed in Section 4.3 of the EA.

(2) The Air Force agrees that flares fit the definition of military munitions in 20.4.1.100 NMAC and 40 CFR 260.10. 40 CFR 266.202 (a)(1)(i) and its NMAC counterpart 20.4.1.700 explain that "a military munition is not a solid waste when: (1) used for its intended purpose, including: (i) use in training military personnel..." Aircrews expending flares are training. The flares--even if they malfunction, as a few always do--are being used for their intended purpose.

(3) We do not disagree that 40 CFR 266.220(d) and its New Mexico counterpart apply in this case. The Air Force is responsible for abating imminent and substantial endangerments when that standard is met, and the Air Force could conceivably have corrective action responsibilities under the RCRA sections cited in your letter. Nonetheless, the Air Force would not be engaging in the activities contemplated by DTI if it believed there was any real possibility of subjecting itself to corrective action or imminent and substantial endangerment authorities. A useful analogy is to a farmer's use of hazardous pesticides on his crops. These pesticides may be dangerous to human health but the farmer is using them for their intended purpose. While it is theoretically possible that certain environmental conditions such as a shallow water table could result in the farmer being liable for an imminent and substantial endangerment, it is highly unlikely.

(4) An alternative to the first fire mixture, which contains the potassium perchlorate, has been authorized. It is a "dip coat" which does not contain any potassium perchlorate. The dip coat is made up of the same chemicals, but different percentages, as the flare pellets (i.e., teflon, magnesium, and fluoroelastomer). The two companies that manufacturer the M-206 flare have adopted the alternative.

(5) Environmental Effects of RF Chaff, A Select Panel Report to the Under Secretary of Defense for Environmental Security, was developed by a group of independent scientists (Spargo 1999) who concluded that 1) adverse effects of chaff on animals due to ingestion or inhalation are considered negligible to non-existent. These conclusions were based on assessments of realistic chaff exposure levels (up to12 grams per hectre per year [g/ha/year)] as compared to less than 4.23 g/ha/year under the proposed action), and well-supported estimates of exposure levels required to produce toxicity, disease, or reduced growth rates in terrestrial animals and freshwater organisms. Proposed chaff dispersal rates for this project (1.71 g/acre, or 4.23 g/h, annually) are lower than rates examined in the review and would not pose a threat to livestock health.

3. Due to recent events, we have been asked to expedite this environmental analysis process as it is critical that our pilots have the best available training in defensive tactics. Should you have any questions or need any additional information, please contact Ms. Linda DeVine at 757-764-9434.

ALTON CHAVIS
Chief, Environmental Analysis Branch