

FB2003



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, U. S. ARMY GARRISON COMMAND
2 SHERIDAN ROAD
FORT BLISS, TEXAS 79916-6816

ENTERED

April 14, 2003

Mr. James Bearzi
Chief, Hazardous Waste Bureau
State of New Mexico, Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303



New Mexico Environment Department

Dear Mr. Bearzi:

This responds to your letter, dated March 10, 2003, expressing your intent to deny the request for permit modification filed by this installation in September 2001. I respectfully request that you reconsider this action and grant the permit modification requested.

In previous correspondence to you, dated March 15, 2002, we pointed out that the analyses and data submitted in connection with the permit modification request conclusively establish that the New Mexico Ground Water Protection regulations are not applicable to the Doña Ana and Meyer Camp Range Camp ponds. This is confirmed by your Bureau's conclusion that "all six sites qualify for a NFA determination." We also explained that Congress has not waived sovereign immunity from state groundwater protection regulations. This has not changed since our letter of last March.

The Doña Ana and Meyer Camp Range Camp ponds are not, and have not been, the source of any release of hazardous waste or constituents. Likewise, these ponds are not, and have not been, used for treatment, storage or disposal of hazardous wastes or solid wastes subject to regulation under the Resource Conservation and Recovery Act. The ponds are used only for treatment of domestic sewage, which is expressly excluded from the definition of solid waste under RCRA. RCRA regulations do not apply to the use of the ponds for treatment of domestic sewage. There are no current activities at the ponds within the scope of RCRA regulation.

The Bureau's conclusion that the ponds "qualify for a NFA determination" is an express acknowledgement that the Bureau has no reason to believe that the ponds have released concentrations of hazardous constituents, or that contaminants present a threat to human health or the environment given site-specific exposure conditions. Moreover, the data and analyses already submitted to the Bureau have provided all of the information necessary to determine that no corrective measures are necessary. Accordingly, a Corrective Measures Study is not warranted.

We continue to believe your agency should grant this installation's request for permit modification. Based on the record before you, and your agency's previous written acknowledgement that the six sites included in the request for permit modification qualify for a NFA determination, denial of that request is unwarranted. For these reasons, I respectfully request that you reconsider this action.

Point of Contact is the undersigned at 915-568-3782.

Sincerely,



Keith Landreth
Director, Directorate of Environment
Fort Bliss

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