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State of New Mexico  
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October 13, 1993

MEMORANDUM

TO: Kathleen Sisneros, Director, WWMD  
Tracy Hughes, Office of General Counsel  
Gerald Silva, Solid Waste Bureau

FROM: *BJG* Benito J. Garcia, Bureau Chief  
Hazardous & Radioactive Materials Bureau

SUBJECT: Allegations of Illegal Disposal of Hazardous Wastes Near  
Holloman Air Force Base

The statement of the individual making allegations of illegal burial of solvents, paints, cleaners and unlabelled paint cans involves a contractor to the air force transporting the alleged hazardous wastes from Holloman Air Force Base to a third party for illegal burial.

Primary concerns are: 1) Does the air force base have any liability associated with the alleged illegal disposal if a Holloman contractor is the responsible party? 2) Does the third party have liability for accepting this waste for disposal? 3) If the waste is determined not to be hazardous is this then an illegal solid waste? 4) should the Solid Waste Bureau pursue this initially as an illegal solid waste disposal until characterization of the waste can be accomplished? How should we handle notification, e.g., through joint Solid Waste Bureau and Hazardous and Radioactive Materials Bureau letter or letter from Kathy's office? 5) Should the state consider compliance order to the air force base contractor for excavation of the waste for characterization? 6) Should the state consider expending funds from the hazardous waste fund for excavation and characterization of the alleged burial wastes?

My personal opinion on the approach would be to pursue the case as an illegal solid waste site until waste can be excavated and characterized to ascertain whether or not hazardous waste constituents exceeding allowable regulatory levels are present in the waste. It seems that the waste can readily be excavated since it is containerized in drums of some type. Overpack and legal disposal of this waste (if we assume this to be a hazardous waste) would seem to be a simple but perhaps somewhat expensive activity.

Please advise as how to proceed.

Ed and I are available, at your convenience, to discuss this matter.

BJG:cj