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November 6, 1996

Mr. Howard E. Moffitt
Deputy Base Civil Engineer
49 CES/CEV
550 Tabosa Avenue
Holloman Air Force Base, NM 88330-8458

RE: Institutional control mechanisms and stakeholder involvement
in future land use determinations.

Dear Mr. Moffitt:

The New Mexico Environment Department (NMED) would like to clarify two criteria the Department uses to evaluate the appropriateness of remedial proposals for contaminant release sites at RCRA regulated facilities. Those two criteria are; first - for sites proposed for no-further-action (NFA) (i.e. cessation of the environmental restoration process) NMED requires that institutional controls be in place that would insure that any residual contamination and its associated risks will never be overlooked, and second - for sites where a remedial proposal is risk based, NMED requires that any future land use exposure scenario used to estimate future environmental risks has had sufficient stakeholder involvement.

Regarding institutional controls, when final remedies rely on something other than the most conservative exposure assumptions (i.e. non-residential), steps must be taken to ensure these assumptions remain valid and that mechanisms, or institutional controls, exist that would ensure additional cleanup would happen should the exposure scenario change and an unacceptable arise. NMED's preferred institutional control is to place a deed notice or restriction on the property.

NMED understands that HAFB has other institutional controls in place that could replace or work in conjunction with deed restrictions. These controls include, but may not be limited to;

- the use of the Base Comprehensive Plan to track sites,
- the base National Environmental Protection Act (NEPA) requirements,
- the use of the Environmental Impact Analysis Process (EIAP) at base construction sites,
- the base realignment and closure process including;
 - the development of an environmental assessment,
 - an environmental impact statement
 - and an environmental baseline survey.

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NMED will be unable to process NFA proposals on relevant sites until the issue of institutional controls has been resolved at HAFB. Please provide a detailed description of the any controls and describe how they might be used, either together with or in leu of deed restrictions. Please also highlight any regulatory oversight of the controls.

Regarding stakeholder involvement in future land use determinations, NMED is committed to supporting meaningful public participation in all aspects of RCRA corrective action, particularly the determination of future land use and the selection of a final remedy at a contaminated site. NMED considers stakeholders to include, but not be limited to, local land use planning authorities and the general public. NMED will unable to process pending risk based remediation proposals without evidence that sufficient opportunity has been provided for stakeholder involvement, particularly regarding the future land use issue.

If you have any question about these or any other RCRA related issues, please don't hesitate to contact myself or my staff at 827-1558.

Sincerely,



Jerry Bober, Supervisor
RCRA Permit Management Section, HRMB

xc: Robert Dinwiddie, HRMB
Steve Pullen, HRMB
Julie Jacobs, GWQB
David Neleigh, EPA
Warren Neff, HAFB