



BRUCE KING
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-2850

JUDITH M. ESPINOSA
SECRETARY

RON CURRY
DEPUTY SECRETARY

May 26, 1992

RED
Col. Thomas A. Norris, Director
Environmental Management
ABW/EM
Kirtland Air Force Base, New Mexico 87117-5000

RE: Sewage Lagoons Closure
NM9520024423

Dear Col. Norris:

Regarding closure activities at the sewage lagoons, based on the sample results of the sludge remaining in the unit, the only constituent present in the sludge which potentially is a regulated hazardous waste is fluoranthene, which can be a hazardous waste (U120) if it is a commercial chemical product. However, unless it is determined that fluoranthene was disposed of as a commercially pure grade product, off-specification chemical product, or as the sole active ingredient of a formulation, then it would not be regulated as a listed hazardous waste. Should Kirtland Air Force Base determine that the source of fluoranthene does not render it a hazardous waste, then the sludge and contaminated soil could be excavated and removed without being subject to the New Mexico Hazardous Waste Management Regulations (HWMR-6).

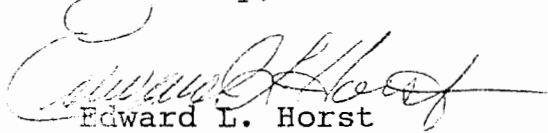
Concerning the land disposal restriction (LDR) regulations, the unit itself would not be subject to the LDR regulations unless it received a restricted waste prior to the effective date. The effective date for fluoranthene is May 8, 1990. However, excavation of a restricted waste subsequent to its effective date would be considered generation of a restricted waste. This would, of course, be applicable only to a waste that is in fact a listed or characteristic hazardous waste. Therefore, if the fluoranthene is not found to meet the U120 listing criteria, then the LDR regulations do not apply.



Col. Jack A. Martines
May 20, 1992
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If you have any questions regarding this interpretation, please contact Mr. Coby Muckelroy of my staff at (505)827-4300.

Sincerely,



Edward L. Horst
RCRA Program Manager
Hazardous and Radioactive Materials Bureau

ELH:CGM:cm

cc: Bruce Swanton, Technical Section, HRMB
Herb Grover, Permitting Group, HRMB