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DEPUTY SECRETARY

April 11, 1997

Colonel Gary D. Dills, Commander  
377th Air Base Wing  
2000 Wyoming Boulevard, S.E.  
Kirtland Air Force Base, NM 87117-5659

Dear Col. Dills:

This letter is a response to the concerns raised in your letter of March 31, 1997 regarding the New Mexico Environment Department's (NMED) relationship with Kirtland Air Force Base (KAFB) and NMED's performance of its obligations under the Defense/State Memorandum of Agreement (DSMOA). I would first like to say that the NMED shares your concern about our slow regulatory response to Kirtland KAFB and we are making every effort to rectify this situation.

On January 2, 1996, NMED's Hazardous and Radioactive Materials Bureau (HRMB) was authorized to administer the RCRA Corrective Action (CA) requirements of 40 CFR 264.101; however HRMB was not provided additional resources to address the added responsibilities of CA. These CA requirements had previously been incorporated into all NM military facilities' RCRA permits as a HSWA Module and had been overseen by the EPA. As you are undoubtedly aware, these RCRA CA requirements are in essence synonymous with the Department of Defense's (DOD) Installation Restoration Program (IRP) requirements. It is the regulatory review of these requirements that I believe you referred to in your letter of March 31.

NMED agrees that there is a backlog of documents needing review but wishes to assure you that the HRMB is moving expeditiously to fulfill its regulatory obligations. The Bureau has a major initiative underway to obtain the funding needed to perform CA oversight. NM state law requires that "fees" be the mechanism used to fund NM Hazardous Waste Management Regulations administration (NMSA 1978, § 74-4-4.2.J). A copy of these statutes is provided. In the near future, KAFB will be given an opportunity to review and provide comments on new proposed Fee Regulations.

Another HRMB initiative is to work with the DOD facilities in NM to standardize and streamline the CA process, and to identify how together we can diminish our backlog. All DOD facilities, their major command headquarters and the regional compliance offices for both the Air Force and the Army have been invited to a meeting at KAFB's Wing Conference Room on April 16, 1997 to discuss these issues. HRMB will propose at the meeting an accelerated CA process

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whereby lower priority sites will have considerably less regulatory oversight and thus move to no-further-action (NFA) status quicker. We hope that this and other mutually acceptable proposals will expedite the CA process.

Finally, HRMB's effort to keep pace with its regulatory duty is hampered by a current State administrative policy to maintain, and where possible diminish, state personnel numbers. The HRMB has made multiple inquiries into the possibility of expanding its staff level to meet its regulatory obligations.

Regarding your comment about the HRMB staff member that was removed from DSMOA funding and the resultant inaction by that Bureau in reviewing defense documents. In fact, that staff member is still reviewing DERA eligible defense documents, albeit fewer in number, **but at no monetary expense to the DOD under the DSMOA.** In addition to that, the HRMB has partially assigned three (3) additional individuals to work on NM DOD issues, currently at NMED's expense.

I would like to thank you for all your efforts towards improvement in New Mexico's environment. If you have any questions or comments regarding the above matters, please contact Dr. Robert S. (Stu) Dinwiddie, the RCRA Permits Management Program manager of the HRMB, at (505) 827-1558.

Sincerely,



Dr. Ed Kelley, Director  
Hazardous and Waste Management Division

Attachments: New Mexico Statutes 1978, Chapter 74 (Environmental Improvement) Article 4 (Hazardous Waste)

xc: Benito Garcia, Chief, HRMB  
Paul Lancer, ACOE  
Marcy Leavitt, Chief, GWQB  
Stu Dinwiddie, Manager, HRMB

File: HSWA, KAAB, G, M, G  
Track: KAAB, 4/11/97, NFA, Col. Dills, Dr. Kelley, Response to KAAB concerns.