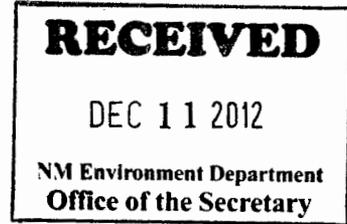




December 5, 2012



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City of Albuquerque
Councilor, District 1

Vice Chair

Wayne Johnson
County of Bernalillo
Commissioner, District 5

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Executive Director
Mark S. Sanchez

Website
www.abcwua.org

Colonel John Kubinec
Base Commander
377 Air Base Wing
2000 Wyoming Blvd. SE
Kirtland Air Force Base
NM 87117-5606

RE: Water Authority Resolution WUA F/S R-12-13

Dear Colonel Kubinec:

As you know, the Albuquerque Bernalillo County Water Utility Authority (Water Authority) Governing Board unanimously passed WUA F/S R-12-13 at their November 28 meeting. The resolution, a copy of which is enclosed for your records, communicates our desire to move forward in a spirit of cooperation and urgency where remediation of the Kirtland Air Force Base (KAFB) jet fuel spill is concerned. This legislation authorizes the execution of a Memorandum of Agreement (MOA) between the Air Force and the Water Authority for contingency planning. As you know, the MOA was prepared at the behest of the Air Force Civil Engineering Center and finalized through the diligent efforts and negotiations of our respective staffs.

Per the MOA, the Water Authority will now be utilizing the U.S. Geological Survey to both locate and drill monitoring well(s) that will serve as early warning sampling points for our currently threatened Ridgecrest Well Field and potentially other wells in the future. These proposed monitoring wells will have the added benefit of serving as important regional aquifer study locations. Our staff will focus on working with the USGS, the New Mexico Environment Department (NMED) and KAFB to identify locations for and install these wells. It is the expectation of the Water Authority, as noted in the MOA, that we will receive reimbursement from the Air Force for the costs associated with placing these early warning wells if they fit into the early warning system.

In addition to authorizing the MOA, Resolution WUA F/S R-12-13 urges KAFB to work with their contractor and NMED to accelerate cleanup of the contaminated soil and ground water emanating from the base and endangering the aquifer that serves the community and the base alike. On June 20th of this year, Mr. Tom Berardinelli of your staff communicated to the Water Authority Board that the public could expect an approved final remedy in place for this site in "late 2015 or early 2016." Given the current understanding of the contamination and its impact to the aquifer, the Water Authority requests a more expedient solution.



The resolution proposes that a work plan for an aggressive final remedial strategy be submitted to NMED and available for public review no later than December 31, 2013, which provides multiple quarters of data and more than a year of remediation technology options from this point to be evaluated by your contractor. This should provide sufficient time for a final work plan to be publically and technically reviewed, negotiated, and approved by the NMED by June 30, 2013. It is the Water Authority's hope that this collaborative and expedited effort will result in a final remedy in place and ready to operate by the end of 2014.

We understand and appreciate the shift in priorities and resources that an accelerated schedule will demand. However, the Water Authority is willing to fully assist and collaborate in whatever ways we can to make possible this expedited approach to remediating the contamination.

Sincerely,



Mark S. Sanchez
Executive Director

Enclosure

C: Senator Jeff Bingaman, U.S. Senate
Senator Tom Udall, U.S. Senate
Senator-Elect Martin Heinrich, U.S. Senate
Representative-Elect Michelle Lujan Grisham, U.S. House of Representatives
Senator Timothy M. Keller, NM State Senator
Assistant Secretary Terry Yonkers, U.S. Air Force
Colonel Jeffrey Lanning, Kirtland Air Force Base
Linda Weiss, U.S. Geologic Survey
Secretary F. David Martin, New Mexico Environment Department
Jim Davis, New Mexico Environment Department
Mayor Richard R. Berry, City of Albuquerque
Mr. Robert J. Perry, City of Albuquerque
Councilor Ken Sanchez, Chair, Water Authority Board
Commissioner Wayne A. Johnson, Vice Chair, Water Authority Board
Commissioner Art De La Cruz, Bernalillo County
Councilor Rey Garduño, City of Albuquerque
Councilor Trudy E. Jones, City of Albuquerque
Commissioner Maggie Hart Stebbins, Bernalillo County
Pablo R. Rael, Trustee, Village of Los Ranchos de Albuquerque

1 PASSED AND ADOPTED THIS 28th DAY OF November, 2012
2 BY A VOTE OF: 6 FOR 0 AGAINST.

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Yes: De La Cruz, Hart-Stebbins, Johnson, Jones, Perry, Sanchez
No:
Excused: Garduno



Ken Sanchez, Chair

ATTEST:


Mark S. Sanchez, Executive Director

1 WHEREAS, KAFB has not proposed to contain or extract the dissolved phase
2 plume; and

3 WHEREAS, the Water Authority, KAFB and the New Mexico Environment
4 Department (NMED) have been working cooperatively and productively towards
5 ensuring that the drinking water supply for the City of Albuquerque and Bernalillo
6 County is safe for consumption; and

7 WHEREAS, the U.S. Air Force has pledged to fund contingency projects, in the
8 event a Water Authority well or wells are impacted by the fuel plume; and

9 WHEREAS, the Water Authority and KAFB have executed an existing
10 Memorandum of Agreement providing the Water Authority the provision to receive
11 reimbursements for costs related to additional well sampling related to the KAFB Bulk
12 Fuel Facility Spill; and

13 WHEREAS, the U. S. Geological Survey (USGS) is recognized as an
14 independent agency with experts having broad knowledge and research experience
15 with the geological and water resources of the Albuquerque Basin.

16 **BE IT RESOLVED BY THE WATER AUTHORITY:**

17 Section 1. Water Authority will enter into an agreement with KAFB to include
18 activities related to monitoring, treatment technologies, contingency planning, and
19 implementation in the event that a Water Authority production well or wells is affected by
20 the KAFB Bulk Fuel Facility spill.

21 Section 2. Water Authority will work with KAFB, NMED and the USGS on the
22 placement of additional monitoring wells, including sentinel wells within the wellhead
23 protection areas, to assist with the projection of the dissolved phase plume towards the
24 Water Utility's Ridgecrest Well Field and production zone.

25 Section 3. Water Authority will determine the cost of wellhead treatment, well
26 replacement, and related infrastructure costs to be considered in the contingency and
27 implementation plan.

28 Section 4. Water Authority will request KAFB to submit a work plan for an
29 aggressive final remedy for cleanup of the spill in the vadose zone and the ground water
30 for public review and NMED approval by December 31, 2013, to receive NMED's
31 approval of the work plan by June 30, 2014, and installation and startup of the final
32 remedy by December 31, 2014.

1 Section 5. The Executive Director is authorized to enter into an agreement
2 (Exhibit A) with KAFB to provide funding by KAFB for costs related to contingency
3 planning and implementation projects.

4 Section 6. The Executive Director is authorized to amend the existing Joint
5 Funding Agreement with the USGS for water resources investigations to include
6 activities related to sighting and drilling wells to augment the regional monitoring well
7 network in the area of the Ridgecrest Well Field.

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**MEMORANDUM OF AGREEMENT
BETWEEN THE
DEPARTMENT OF THE AIR FORCE, KIRTLAND AIR FORCE BASE
AND THE
ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**

1. PURPOSE

This Memorandum of Agreement (MOA) sets forth the agreement between the United States Air Force, by and through Kirtland Air Force Base, hereinafter referred to as Kirtland AFB, and the Albuquerque Bernalillo County Water Utility Authority, hereinafter referred to as the Water Authority, for development of a water-supply contingency plan.

2. AUTHORITY

10 USC §§ 2701 et seq., Environmental Restoration;
DoDI 4000.19, Inter-service and Intra-governmental Support (9 Aug 1995);
Air Force Instruction 25-201, Support Agreement Procedures (1 May 2005, as amended);
Air Force Instruction 32-7020, The Environmental Restoration Program (7 Feb 2001); and
Air Force Policy Directive 25-2, Support Agreements (1 Nov 2001).

3. SCOPE

This MOA sets forth the general terms and conditions under which Kirtland AFB and the Water Authority (the Parties) will jointly support the development of a contingency plan(s) for maintaining the safety of drinking water supplies potentially placed at risk by groundwater contamination associated with the Kirtland Bulk Fuels site.

The Parties acknowledge that Kirtland AFB's participation will depend on the ability of the Air Force Civil Engineering Center (AFCEC) to award and administer an engineering services contract. The services contract statement of work used during contract acquisition will be jointly developed by AFCEC with the Water Authority with the goal of awarding a contract to a technically qualified engineering services firm that demonstrates experience with and understanding of Water Authority infrastructure by Jan 28, 2013 .

The contingency plan will be a contract deliverable and will include the following:

- a. Current water supply system characteristics and existing plans and procedures,
- b. Evaluation of new or alternative water supplies,
- c. Ranking of proposed alternative water supplies based on cost and feasibility. Feasibility of proposed alternative water supplies will be evaluated in the context of the recommended early warning system (i.e. trigger points), and hydrogeological modeling and EDB fate/transport predictions developed as part of Kirtland AFB's characterization of the bulk fuels plume,
- d. Implementation schedule for contingency actions based on the early warning system and trigger points

After Kirtland AFB and the Water Authority mutually agree upon its adequacy, the draft contingency plan shall be made available for public review and comment. The final plan may incorporate comments received from the public and other State and Federal agencies.

4. ROLES AND RESPONSIBILITIES

a. WATER AUTHORITY

Under the terms of this MOA, the Water Authority will have the following roles and responsibilities:

- i. Participate in scoping activities leading to a contract for engineering services. Participation will focus on mutually agreed recommendations in conjunction with the Air Force for the contract scope of work, and ensuring that contract deliverables adequately incorporate both Air Force and Water Authority inputs.
- ii. Provide the contractor with access to Water Authority operational data relevant to the contract scope of work.
- iii. Assure that Kirtland Bulk Fuels site data and remedial action plans provided by the Air Force are not released to the public prior to public release by the Air Force.
- iv. Organize and hold public meetings related to development of the contingency plan.
- v. Coordinate with Kirtland AFB, USGS and contractor during the development of the draft and final contingency plans and provide timely review comments.
- vi. Review the contractor scope of work, draft and final contingency plan and provide comments to ensure that Water Authority concerns are adequately addressed.

b. KIRTLAND AFB

Under the terms of this MOA, Kirtland AFB will have the following roles and responsibilities:

- i. Participate in scoping activities leading to a contract for engineering services. Participation will focus on mutually agreed recommendations in conjunction with the Water Authority for the contract scope of work, and ensuring that contract deliverables adequately incorporate both Air Force and Water Authority inputs.
- ii. Acquire engineering services through an appropriate contract vehicle to support development of mutually agreed upon contingency plan(s).
- iii. Incorporate all mutually agreed upon comments provided by the Water Authority as the result of collaborative reviews of the contract statement of work .
- iv. Provide the Water Authority and contractor with access to Kirtland Bulk Fuels site data and remedial action plans relevant to the contract scope of work.
- v. Provide fate and transport model to the USGS for review and comment.

- vi. Require the contractor to ensure that proprietary Water Authority operational data used by the contractor is appropriately protected from disclosure to third parties.
- vii. Provide technical review and comments on contract deliverables and reports. Obtain Water Authority concurrence on the content of the deliverables and reports and incorporate mutually agreed upon Water Authority comments.
- viii. Participate in public meetings and provide technical review of public comments, recommendations and revisions of the contingency plan.

c. Coordination

In addition to email and other informal exchanges of information, regular progress and coordination meetings or teleconferences will be held, at least, on a monthly basis. Participation in progress/coordination meeting will include technical staffs of the Water Authority, Kirtland AFB, United States Geologic Service (USGS) and the contractor.

5. REIMBURSEMENT

The Water Authority will be reimbursed for expenditures related to water supply contingency planning described in this Memorandum of Agreement as mutually agreed upon by the Water Authority and Kirtland AFB. For example, the Water Authority may install a new ground water monitoring well in advance of the final early warning system that could be reimbursed if the location and type of the well can be utilized as part of the final agreed upon early warning system.

6. CONTINGENCY PLAN IMPLEMENTATION

It is anticipated that subsequent to the approval and adoption of this contingency plan, a separate MOA between the parties will be prepared to address plan implementation and identify response action implementation requirements.

7. LIABILITY

This MOA is not intended to and does not create any right, benefit or trust obligation, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person or against the Water Board. As between the parties in performance of this MOA, each party shall be responsible for liability arising from personal injury, loss or damage to person or property occasioned by its own actions or those of its agents or employees.

8. NOTIFICATION AND COORDINATION

The Kirtland AFB points of contact for water supply contingency planning shall be:

Primary: Name, Title
 Organization
 Commercial phone

DSN phone
FAX number
Alternate: Name, Title
Organization
Commercial phone
DSN phone
FAX number

The Water Authority points of contact for water supply contingency planning shall be:

Primary: Name, Title
Organization
Commercial phone
FAX number
Email address
Alternate: Name, Title
Organization
Commercial phone
DSN phone
Email address

9. TERM AND EFFECTIVE DATE

This MOA shall remain in effect for a term of one (1) year beginning December 1, 2012 and ending November 30, 2013. Kirtland AFB and the Water Authority shall review the term of this MOA by September 30, 2013 to determine whether the MOA should be extended to facilitate completion of the contingency plan. If the term of the MOA is extended, it shall be reviewed by September 30 of each subsequent year and extended upon written supplement to this agreement approved by both parties.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, I have hereunto signed this Memorandum of Agreement this _____ day of _____, 2012.

MARK S. SANCHEZ
Executive Director, Albuquerque Bernalillo County
Water Utility Authority

IN WITNESS WHEREOF, I have hereunto signed this Memorandum of Agreement this _____ day of _____, 2012.

JOHN C. KUBINEC, Colonel, USAF
Commander