

M E M O R A N D U M

*file CAFB
Melrose
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From: Judith M. Espinosa, Secretary



To: Bruce King, Governor

Subject: Briefing on why it is being proposed to deny a hazardous waste management permit to Cannon Air Force Base for the Melrose Air Force Bombing Range

Date: March 17, 1993

Upon recommendation from the Hazardous & Radioactive Materials Bureau (HRMB), I am proposing to deny a Resource Conservation and Recovery Act (RCRA) hazardous waste management permit to Cannon Air Force Base (CAFB) for their failure to supply required environmental and waste management information within specified time-frames. Rather than to continue addressing information deficiencies, CAFB has elected to wait until after this permit determination is proposed.

CAFB has indicated in telephone conversations with HRMB that they are not certain if it is cost effective to continue paying the price for generating the required information with as little wastes that are treated at the facility. Alternative treatment and disposal methods, such as shipping wastes off to Holloman or Kirtland Air Force Bases, may make more economic sense.

This proposal places the decision on CAFB for whether or not to continue to seek a permit as there is a 45 day public comment period in which CAFB may reverse the proposed decision by supplying all and complete requested information. So far CAFB has not demonstrated "good faith" in their willingness (and/or ability) to cooperate. CAFB is being dealt with in the same manner as with other hazardous waste management facilities in New Mexico.

Attached for your additional information is the public notice Fact Sheet.

FACT SHEET**Intent to Deny a Permit and Terminate Interim Status Under the New Mexico Hazardous Waste Regulations (HWMR-7) and the Resource Conservation and Recovery Act (RCRA)**

Type of Facility: Subpart X Unit - Open Burn/Open Detonation (OB/OD) Treatment

Facility Name: Melrose Air Force Range (MAFR)

EPA ID Number: NM5572124456

Location: About 8 miles southwest from the village of Melrose

Land Owner and Facility Operator: Cannon Air Force Base (CAFB)

Reasons Supporting the Proposal to Deny an Operating Permit:

CAFB met its obligation to attain interim status by submitting a Part A Resource Conservation and Recovery Act (RCRA) permit application in 1980. In September 1984 the New Mexico Environment Department (NMED), Hazardous & Radioactive Materials Bureau (HRMB) formally requested CAFB to submit the Part B RCRA permit application. The application was received February 1985 and it addressed a Container Storage Unit at CAFB and the OB/OD treatment unit at the MAFR. A permit was issued for the Container Storage Unit, but the OB/OD Unit was deferred for further review until after July 1990 when NMED received authorization from the US Environmental Protection Agency to permit OB/OD units.

HRMB performs two separate reviews of the Part B RCRA permit application prior to preparing a draft permit. These are the administrative completeness review and the technical completeness review. In the administrative completeness review, all regulatory requirements from the New Mexico Hazardous Waste Management Regulations (HWMR-7) must be addressed. The degree to which regulatory requirements must be addressed and what additional information might be needed to make them technically complete is determined in the technical completeness review.

The HRMB found that during the administrative and technical completeness reviews, many parts of the latest Part B permit application update (December 1990) were not adequate for a completeness determinations. Missing components required by HWMR-7 were requested from CAFB in an October 1991 administrative review Notice of Deficiency (NOD). CAFB's response to this NOD was received in January 1992, providing necessary information to make an administrative completeness determination. Fee payment, required by NMED to begin the technical completeness review was received in February 1992.

The technical completeness review also resulted in a NOD which was submitted to CAFB in December 1992, allowing CAFB thirty days to respond. No time extensions were requested. CAFB's response to the technical completeness NOD was received in February 1993. CAFB did not supply all of the information received in the December 1992 NOD. Much of the information submitted was a duplication of previously submitted materials. The HRMB's review of the February 1993 response indicated that the Part B RCRA permit application remains deficient.

The HRMB proposes to terminate interim status at the MAFR's OB/OD unit by denying issuance of the permit because CAFB has failed to provide adequate technical information required for a complete Part B RCRA permit application in a timely manner. HRMB-7, Part IX, 40 CFR § 270.10(c) states that, "The Director (sic) shall not issue a permit before receiving a complete application for a permit ... The Director (sic) may deny a permit for the active life of a hazardous waste management unit before receiving a complete application for a permit." Part IX, 40 CFR § 270.10(e)(5) states that, "Failure to furnish a requested Part B application on time or to furnish in full the information required by the Part B RCRA application, is grounds for termination of interim status ..." The permit denial will not affect the requirement for a post-closure care permit if applicable, in accordance with HWMR-7, Part IX, 40 CFR § 270.1(c).

Closure of the Facility:

The facility is currently operating under interim status. If this tentative decision becomes the final administrative disposition for the permit application, interim status will terminate according to HWMR-7, Part IX, 40 CFR § 270.73(a), and if required, the administrative procedures for closure will begin as described below.

CAFB must submit the final closure plan (and if applicable, a post closure-plan), if not previously approved, to the HRMB no later than fifteen (15) days after termination of interim status, as required by HWMR-7, Part VI, 40 CFR § 265.112(d)(3)(i) and § 265.118(e)(1).

Comment Period:

All persons, including the applicant, who believe that the tentative decision to terminate CAFB's interim status at MAFR by denying a permit is inappropriate, must raise all ascertainable issues and submit all available arguments and factual grounds supporting their position between March 30 and May 14, 1993. Comments should be sent to Mr. Tom Tatkin at:

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New Mexico Environment Department
Hazardous & Radioactive Materials Bureau
Post Office Box 26110
Santa Fe, New Mexico 87502

Procedures for Requesting a Hearing:

A public hearing may be held if the NMED, HRMB receives a written request for a hearing by May 14, 1993. Any request for a hearing shall be in writing and state the nature of the issues proposed to be raised in the hearing. NMED, HRMB will provide a thirty (30) day notice for any hearing scheduled. Requests for a hearing should be sent to the above mailing address.