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GOVERNOR

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ENVIRONMENT DEPARTMENT

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RON CURRY  
SECRETARY

DERRITH WATCHMAN-MOORE  
DEPUTY SECRETARY

January 18, 2005

Colonel John D. Posner  
Commander  
100 D.L. Ingram Blvd., Suite 100  
Cannon Air Force Base, New Mexico 88103-5003

**RE: ALLEGED DISPOSAL OF WASTE MATERIALS AT EL BIGOTE CATTLE RANCH, DEBACA COUNTY, NEW MEXICO**

Dear Col. Posner:

The New Mexico Environment Department (NMED) has become aware of alleged improper disposal of refuse by Air Force personnel on private property in DeBaca County, New Mexico. Specifically, Mr. A.S. Elliot, Managing General Partner of El Bigote Cattle Company, alleges that certain Air Force exercises have resulted in dropping of flare and chaff materials on his and other properties, and that the Air Force has not properly cleaned up the material.

Cannon Air Force Base (CAFB) conducted an environmental assessment (EA) on its Defensive Training Initiative intended to address any adverse environmental concerns that may result from the activities. NMED's comments on the EA included, but was not limited to, the following:

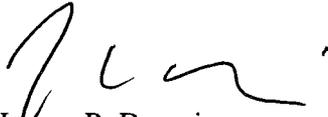
1. Flares and chaff could be "military munitions", as defined in 20.4.1.100 NMAC, incorporating 40 CFR 260.10 (*Definitions*). According to 20.4.1.700 NMAC, incorporating 40 CFR 266.202(d), military munitions are, at a minimum, solid waste and "...therefore, [are] potentially subject to RCRA corrective action authorities under sections 3004(u) and (v), and 3008(h), or imminent and substantial endangerment authorities under section 7003, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known)."

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2. Although CAFB's EA indicates that chaff and flares do not contain listed hazardous constituents, one of the constituents (potassium perchlorate) could potentially pose a risk to human health or the environment in sufficient concentrations. Perchlorate contamination of groundwater in New Mexico is an emerging and serious problem. CAFB's operational practices described above could be contributing to this problem.
3. Other risks that could be of concern to the general public include the risk of fire and the ingestion of chaff and/or flare components by cattle. Although NMED recommended that CAFB more completely address the results of the ingestion effects of chaff on animals, NMED is not aware that CAFB or the federal government ever conducted such studies. NMED repeats its request that CAFB either provide a toxicological study or more completely address the results of such a study.

NMED respectfully requests that CAFB fully document any operational activities that may have resulted in releases of chaff, flares, or other solid waste. CAFB should also have documented any cleanups conducted to mitigate the hazards posed by the debris to human or animal health and the environment. Copies of any extant documentation should be forwarded to David Cobrain of my staff at the address on the letterhead. Mr. Cobrain can be reached at 505.428.2553.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

cc: David Cobrain, HWB  
Sandra Martin, HWB