

STATE OF NEW MEXICO

**NEW MEXICO ENVIRONMENT DEPARTMENT
WATER QUALITY CONTROL COMMISSION**

_____)
Water Protection Division of the)
New Mexico Environment Department,)
Complainant,)
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Cannon Air Force Base,)
Respondent.)
 _____)

v.

No. GWQB 20-08 (CO)

REQUEST FOR CONTINUANCE OF CONTESTED HEARING

COMES NOW Cannon Air Force Base (“Respondent”), by and through its counsel of record, Major Mark E. Coon, USAF, and hereby requests that the contested hearing docketed for the June 9, 2020 meeting of the New Mexico Water Quality Control Commission (“Commission”) be continued until the regularly scheduled meeting of the Commission in August 2020.

On January 9, 2020, the New Mexico Environment Department (“Complainant”) issued an Administrative Compliance Order (“ACO”) to Respondent (together with Complainant, the “Parties”), alleging violations of the New Mexico Water Quality Act, NMSA 1978 74-6-1 to 74-6-17 (“WQA”) and the Ground and Surface Water Protection Regulations 20.6.2 NMAC (“Regulations”) requiring compliance and assessing a civil penalty.

On February 7, 2020, Respondent filed a formal Answer to the ACO and Requested a Hearing on the matter pursuant to NMSA 1978 74-6-10(G) and 20.1.3.19.A(1)-(2) NMAC.

On March 18, 2020, Commission Chairperson Jennifer Pruett ordered a hearing on the matter to be held at the June 9, 2020 regular meeting of the Commission and appointed Max Shepherd to serve as the Hearing Officer and perform the functions described in 20.1.3.10(B)(2) NMAC.

The Hearing Officer may issue procedural orders in response to requests from the Parties. 20.1.3.10.A(1); 20.1.3.10.B(2)(b); 20.1.3.12.B NMAC.

Respondent hereby requests Hearing Officer continue the docketed hearing until the regularly scheduled meeting of the Commission in August 2020. The basis for this request is that on March 11, 2020, the Secretary of Defense issued a memorandum entitled “Travel Restrictions for DoD Components in Response to Coronavirus Disease 2019.” That memorandum and its progeny ordered a “Stop Movement for Domestic Travel” for all DoD personnel until May 11, 2020.

On April 20, 2020, the Secretary issued an extension of that order, prohibiting the domestic travel of all DoD personnel through June 30, 2020.

In light of this order, it will not be possible for Respondent’s counsel, or for DoD witnesses critical to the cases of both the Complainant and the Respondent to travel to Santa Fe for the June 9, 2020 hearing. Due to the complexity of the case, holding the hearing via video teleconference will not be sufficient. We anticipate this hearing will amount to much more than oral arguments, and will involve fully litigated, trial-type procedures. Furthermore, this case will require extensive discovery and counsel need the opportunity to inspect documents and interview witnesses in person prior to the hearing. If the hearing were continued just until July, counsel for the Parties would have inadequate time between July 1, 2020 and the regularly scheduled meeting of the Commission on July 7, 2020 to personally interview the myriad witnesses that

will be required for this hearing. This is especially true in light of the fact that the Independence Day holiday falls within that timeframe.

Accordingly, we respectfully request the Hearing Officer grant a continuance until the August meeting of the Commission.

Furthermore, in light of the Commission's need to post public notice of the hearing at least 30 days in advance, we respectfully request a ruling on this motion by May 7, 2020.

Respectfully submitted,

CANNON AIR FORCE BASE



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing United States Air Force's Request for Continuance of Contested Hearing was sent on May 4, 2020, via electronic mail, to:

Cody Barnes, Commission Administrator
Water Quality Control Commission
P.O. Box 5469
Santa Fe, New Mexico 87502

Christopher N. Atencio
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Ste. 1000
Albuquerque, New Mexico 87102



Signature: _____
Major Mark Coon