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PUBLIC NOTICE NO. 04-02

**NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NM 87505
JANUARY 16, 2004**

**NOTICE OF PUBLIC COMMENT PERIOD
INTENT TO APPROVE AN AGENCY-INITIATED MODIFICATION
TO THE
HAZARDOUS WASTE FACILITY PERMIT
FOR
KIRTLAND AIR FORCE BASE
BERNALILLO COUNTY, NEW MEXICO
EPA ID NO. NMD9570024423**

The New Mexico Environment Department (NMED) proposes to approve an agency-initiated modification to the Hazardous Waste Facility Permit for the Kirtland Air Force Base (KAFB) pursuant to the New Mexico Hazardous Waste Act (HWA), NMSA 1978 §§ 74-4-1 et seq. (Repl. Pamph. 2000) and the New Mexico Hazardous Waste Management Regulations (HWMR), 20.4.1 NMAC. KAFB is owned and operated by the U.S. Department of Defense (DoD), and is located southeast of and adjacent to Albuquerque in Bernalillo County, New Mexico.

The federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 to 6992(k)), provides for the regulation of hazardous waste. Congress waived the immunity of the United States for actions brought under state hazardous and solid waste laws as well as under RCRA. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the U.S. Environmental Protection Agency (EPA) delegated to NMED, on April 16, 1985, the authority to enforce the HWA and its implementing regulations, the HWMR, in lieu of EPA enforcement through RCRA. NMED has maintained its delegation from EPA over hazardous waste management in New Mexico and from time to time has amended its state program to conform to statutory or regulatory changes in RCRA. The HWMR require corrective action at solid waste management units (SWMUs) where releases of hazardous waste or hazardous constituents have occurred. KAFB must comply with the HWA and the HWMR.

NMED issued a Hazardous Waste Facility Permit for storage of hazardous waste at Kirtland Air Force Base (KAFB) on January 24, 1990. The regulations at 20.4.1.900 NMAC incorporating 40 CFR 270.41 allow the NMED to modify the Permit if the agency determines there is cause for

modification. When a permit is modified, only the conditions subject to modification are reopened. Permits may be modified by the Secretary of the NMED (or his designee) if information was not available at the time of permit issuance, and the information would have justified the application of different permit conditions at the time of issuance.

On February 3, 2003, NMED instructed KAFB to conduct a Corrective Measures Study (CMS) for SWMU 6-1, Landfill 1 (LF-002); SWMU 6-2, Landfill 2(LF-002); and SWMU 6-4, Landfills 4, 5, and 6 (LF-008), hereinafter referred to as Landfills 1, 2, and 8, respectively. Subsequently, a CMS report has been prepared by KAFB that identifies corrective measures alternatives, evaluates the best alternatives, and recommends a preferred remedy for the three landfills. Three corrective measure alternatives received detailed evaluation: the No Action Alternative, the Evapotranspiration (ET) Cover, and Removal Action with Combination Disposal. Each alternative was evaluated for technical, environmental, human health, and institutional concerns and for the cost of implementation. The recommended remedy for each landfill is an evapotranspiration cover, described as Alternative 4 in the CMS Report. This information, which is crucial to arrive at a final decision to complete corrective action for these three landfills, was not available to the NMED at the time of permit issuance. Therefore, NMED has determined, based on this new information, there is cause to modify the permit by adding corrective measures for Landfills 1, 2, and 8 to Module IV of the KAFB RCRA Permit.

Landfill 1 is located on the west side of KAFB south of the main east-west runway and east of the former Federal Aviation Administration control tower. From as early as 1951 through 1975 603, 000 cubic yards of general refuse, construction and demolition debris and, possibly, hazardous waste that included chemical drums, oil-soaked insulation, and numerous five-gallon cans containing unknown liquid were disposed of at the 57-acre landfill. Ground water lies at approximately 410 feet below ground surface under the landfill.

Landfill 2 is located between the Trestle Aircraft Testing Facility and Advanced Research Electromagnetic Simulator facilities to the north and the active channel of the Tijeras Arroyo to the south. Landfill 2 was operated between 1942 and 1965; operations at the 57-acre landfill reportedly consisted of trench-and-fill operations. The volume of waste disposed of in the landfill is estimated to be 1,321,700 cubic yards. Depth to ground water is approximately 400 feet.

Landfill 8 is located on the northwest region of KAFB and is bounded by the Tijeras Arroyo on the north and the covered slope of the active landfill (about 150 feet east of Powerline Road) to the east. The site is made up of three formerly contiguous landfills (Landfills 4, 5, and 6) and covers an area of approximately 65 acres. From 1960 through 1989 approximately 2,346,000 cubic yards of mostly construction and demolition debris (plywood scrap, roofing insulation, tree limbs, cardboard, and scrap metal) were disposed of into Landfill 8. However, hazardous materials such as arsenic, chromium, lead, benzene, and xylene were also disposed of in Landfill 6 in 1985. Ground water lies at 350 feet (perched ground water) to 430 feet (regional ground water) beneath Landfill 8.

The proposed corrective measures are evapotranspiration covers for each of the three landfills.

The proposed permit modification is also updating contact information for the NMED and deleting the contact information for the EPA.

NMED announces the availability of the draft permit for public comment and the opportunity for any person to request a public hearing. NMED also announces the availability of a fact sheet that sets out the basis for NMED's decision to modify the permit, and the factual and regulatory issues considered in preparing the draft permit.

PUBLIC REVIEW OF THE DRAFT PERMIT

A copy of the KAFB draft permit and the fact sheet may be obtained by writing: New Mexico Environment Department, Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico, 87505, Attn: Mr. John Kieling. The draft permit and fact sheet are also available on the NMED's web site at www.nmenv.state.nm.us/HWB/kafbperm.html under Corrective Measures for Landfills. The entire administrative record for this action may be reviewed at the Hazardous Waste Bureau at above address.

PUBLIC HEARING

NMED will consider conducting a public hearing only if, prior to **March 1, 2004**, it receives a timely request for a public hearing as set forth below. All requests for a public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester represents; (3) a statement of any objections to the permit modification, including specific references; and (4) a statement of the issues which such persons proposes to raise for consideration at the hearing. Documents in the administrative record need not be resubmitted if expressly referenced by the commentator. Written requests for a public hearing must be filed with Mr. John Kieling on or before **March 1, 2004** at NMED Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico, 87505.

PUBLIC COMMENT

Any person, including the Permittees, wishing to submit written public comment shall do so according to these procedures. Written comments shall be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. The public comment period commences on the date of this notice and continues through **5:00 p.m., March 1, 2004**. Written comments must be filed with Mr. John Kieling on or before **March 1, 2004** at NMED Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico, 87505.

PROCEDURE OF ISSUANCE OF FINAL PERMIT DECISION

NMED will respond in writing to all significant public comments received and will notify all persons providing comments on the final decision of the Secretary. The Secretary will issue a final permit decision and the response to comments. This response shall:

(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(b) briefly describe and respond to all public comments on the draft permit raised during the public comment period.

The Secretary will make the final permit decision publicly available and shall notify the Permittees by certified mail; all persons presenting written comment shall be notified of the decision by first-class regular mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the Hazardous Waste Act.

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Judy Bentley at the following address: New Mexico Environment Department, Room N-4030, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502-6110, (505) 827-2844. TDD or TDY users please access Ms. Bentley's number via the New Mexico Relay Network. Albuquerque users may access Ms. Bentley's number at (505) 275-7333.

ADDITIONAL INFORMATION

Any person seeking additional information regarding this draft permit, or who would like to arrange for copies of the draft permit or part of the administrative record at 25 cents a page, may contact Mr. John Kieling at the Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, or by telephone at (505) 428-2500.