

**STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION**

<u>Water Protection Division of the</u>	)
New Mexico Environment Department,	)
Complainant,	)
	)
	)
v.	)
	)
Cannon Air Force Base,	)
Respondent.	)
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**No. WQCC 20-08 (CO)**

**RESPONDENT’S FIRST SET OF INTERROGATORIES TO THE COMPLAINANT**

Pursuant to 20.1.3.19.I NMAC, Respondent, Cannon Air Force Base, propounds the following First Set of Interrogatories upon the Complainant, the Water Protection Division of the New Mexico Environment Department. Respondent requests that the Complainant respond to these Interrogatories as instructed by the Hearing Officer authorizing these Interrogatories under 20.1.3.19.I NMAC.

**DEFINITIONS**

All words in these Requests shall be read to have both their ordinary meaning and, where applicable, their meanings as defined in the New Mexico Water Quality Act, NMSA 1978 §§ 74-6-1 to -17 (1967, as amended through 2019), or Ground and Surface Water Protection Regulations, 20.6.2 NMAC (01/04/1968 as amended through 12/21/2018). The following definitions apply to the use of the following words or terms as used herein, whether or not capitalized.

1. “2014 Permit” means New Mexico Ground Water Discharge Permit Number 873, dated March 31, 2014.

2. “Compliance Order” means the Administrative Order Requiring Compliance and Assessing a Civil Penalty issued by Complainant to Respondent signed January 9, 2020.

3. “Document” and “documents” means documents as provided in 20.1.3.19(F)(1) NMAC.

4. “Include” and “including” shall mean “include without limitation” and “including without limitation,” respectively.

5. “Letter” means the March 29, 2019 correspondence between Complainant and Colonel Stewart Hammonds signed by Ms. Michelle Hunter.

6. “Person” and “Persons” mean “person” as defined in 20.6.2.7.P(2) NMAC.

7. “Permit Application” means Respondent’s September 10, 2018 application to renew the 2014 Permit, as determined by the Complainant to be administratively complete on September 26, 2018.

8. “PFCs” means perfluorinated-chemicals as defined under 20.6.2.7.T(2)(s) NMAC.

9. “Relating to,” “Referring to,” “Regarding,” “Concerning,” or “With respect to” refers to, without limitation, the following concepts: discussing, describing, reflecting, concerning, relating to, referring to, regarding, concerning, dealing with, pertaining to, analyzing, evaluating, estimating, constituting, studying, surveying, projecting, assessing, recording, summarizing, criticizing, reporting, commenting, or otherwise involving, in whole or in part.

10. “WQA” means the New Mexico Water Quality Act, NMSA 1978 §§ 74-6-1 to -17 (1967, as amended through 2019).

11. “You” and “Your,” unless otherwise indicated, mean the Complainant, as well as

any director, employee or former employee, independent contractor, agent, attorney or other Person acting or purporting to act on behalf of the Complainant.

### **GENERAL INSTRUCTIONS**

1. Scope of Requests. These Interrogatories are directed to the Complainant and apply to all information and items within the knowledge, possession, custody, or control of the Complainant and any other agents, representatives and employees acting on behalf of the Complainant.

2. Supplemental Responses. These Interrogatories are continuing; supplemental productions must be provided pursuant to and in accordance with 20.1.3.19.D(3) NMAC.

3. Incomplete Response. If any Interrogatory cannot be answered fully, You shall provide as full an answer as possible and include:

- a. the reason for providing an incomplete answer.
- b. the responsive information currently available;
- c. the responsive information currently unavailable; and
- d. when You anticipate receiving the information currently unavailable.

4. Estimates. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

5. Identification of an Organization. Whenever in these Interrogatories there is a request to identify a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), set forth the full name of the organization, the address and phone number of the organization's principal place of business, and its legal form (e.g., corporation (including state of incorporation), partnership, etc.), a brief

description of its business, and indicate whether or not it is still in existence and, if it is no longer in existence, explain how its existence was terminated and indicate the date on which it ceased to exist.

6. Identification of a Document. Whenever in these Interrogatories there is a request to identify a Document, set forth, for each Document, its date, type (e.g., letter, memorandum, chart, etc.), present location or custodian, Bates number(s), and title or description of the responsive information contained therein. If such Document is no longer in Your possession, custody, or Control, state what disposition was made of it. If You do not know, or cannot recall, whether particular responsive Documents exist, or if such Documents are missing, state the efforts that You or others made to ascertain their existence.

7. For each of the Interrogatories below, identify (i) each Person who provided You information upon which You based Your answer, (ii) the number of each interrogatory for which that Person provided You information upon which you based Your answer, and (iii) for any interrogatory that involved more than one Person providing You information upon which You based Your answer, each specific part(s) of the interrogatory that each Person was relied upon for Your answer.

8. To the extent that You withhold or redact any Documents or other information responsive to these Interrogatories provide a log in accordance with the requirements of in accordance with the requirements of § 20.1.3.19.F(2) NMAC. If You believe that any information requested by any of the following Interrogatories is privileged, please identify such information, state the privilege asserted, and state the facts giving rise to such privilege.

9. Document Production in Lieu of Written Response. Whenever a full and complete answer to any Interrogatory or part of an Interrogatory is contained in one or more

Documents, the Document(s), if properly identified as answering a specific numbered Interrogatory or part of an Interrogatory, may be supplied in place of a written answer, provided that the specific sections or pages from the Document(s) that are responsive to the Interrogatory are identified.

10. Relation to Particular Document Requests. For each Document produced, indicate the Interrogatory to which it responds.

11. Vague or Burdensome. It is anticipated that You may object to a particular discovery request as vague or burdensome. Respondent cannot always determine in advance which requests might truly be burdensome to You. It is anticipated that You will respond to all discovery requests to the best of Your abilities and in good faith, preserving any bona fide objections if necessary. It is further anticipated that You will attempt to obtain clarification or delimiting of Respondent's discovery requests from the undersigned (who stands ready and willing to do so) if the facts of the particular situation so require.

### **INTERROGATORIES**

**Interrogatory No. 1:** Provide all of the facts supporting the allegation in the Letter that Respondent was "out of compliance" with Condition 2 of the 2014 Permit.

**Interrogatory No. 2:** Identify the legal basis supporting the allegation in the Letter that Respondent was "out of compliance with" Condition 2 of the 2014 Permit.

**Interrogatory No. 3:** Provide all of the facts supporting the allegation in the Letter that Respondent was "out of compliance" with Condition 41 of the 2014 Permit.

**Interrogatory No. 4:** Identify the legal basis supporting the allegation in the Letter that Respondent was "out of compliance with" Condition 41 of the 2014 Permit.

**Interrogatory No. 5:** Provide all of the facts supporting the allegation in the Letter that

Respondent was out of compliance with the 2014 Permit on March 29, 2019.

**Interrogatory No. 6:** Identify the legal basis supporting the allegation in the Letter that Respondent was out of compliance with the 2014 Permit on March 29, 2019.

**Interrogatory No. 7:** Provide all of the facts supporting the allegation in paragraph 10 of the Compliance Order that the 2014 Permit expired on March 31, 2019.

**Interrogatory No. 8:** Identify the legal basis supporting the allegation in paragraph 10 of the Compliance Order that the 2014 Permit expired on March 31, 2019.

**Interrogatory No. 9:** Identify all of the facts that support the allegation in Paragraph 15 of the Compliance Order that effluent discharge from the “Treatment Plant” contains “water contaminants such as nitrate, chloride, total Kjeldahl nitrogen, dissolved solids, PFCs, and dissolved metals.”

**Interrogatory No. 10:** Identify all of the facts supporting the allegation in paragraph 15 of the Compliance Order that the “water contaminants” identified in Interrogatory 9 may exceed the standards of 20.6.2.3103 NMAC.

**Interrogatory No. 11:** Provide all of the facts supporting the allegation in paragraph 19 of the Compliance Order that “the presence of PFCs in the discharge constitutes a significant change in the discharge quality.”

**Interrogatory No. 12:** Identify all effluent discharges from the “Treatment Plant” known to You to contain PFCs and the basis for such knowledge.

**Interrogatory No. 13:** Identify the legal basis supporting the allegation in paragraph 19 of the Compliance Order that “the presence of PFCs in the discharge constitutes a significant change in the discharge quality.”

**Interrogatory No. 14:** Provide all of the facts supporting the allegation in paragraph 28

of the Compliance Order that “[s]ince April 1, 2019, Respondent has been continually discharging effluent . . . without a valid discharge permit.”

**Interrogatory No. 15:** Identify the legal basis supporting the allegation in paragraph 28 of the Compliance Order that “[s]ince April 1, 2019, Respondent has been continually discharging effluent . . . without a valid discharge permit.”

**Interrogatory No. 16:** Provide all of the facts considered to determine the amount of the civil penalty assessed in paragraph 34 of the Compliance Order.

**Interrogatory No. 17:** Identify the legal basis supporting the amount of the civil penalty assessed in paragraph 34 of the Compliance Order.

**Interrogatory No. 18:** Identify the legal authority under which You ordered Respondent in the Letter to submit “a permit renewal/modification as soon as practicable but no later than April 28, 2019.”

Respectfully submitted,



Major Mark E. Coon, Regional Counsel  
United States Air Force Legal Operations Agency  
1492 First Street, Ste 213  
Dobbins Air Reserve Base, Georgia 30069  
Phone: 678-655-9535

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing United States Air Force's First Set of Interrogatories to the Complainant was sent on May 14, 2020 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