

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

IN THE MATTER OF:)	
Water Protection Division of the)	WQCC 20-08 (CO)
New Mexico Environment Department,)	
)	
v.)	
)	
Cannon Air Force Base)	

**NEW MEXICO ENVIRONMENT DEPARTMENT’S
REQUEST FOR PRODUCTION OF DOCUMENTS AND ADMISSIONS**

Pursuant to 20.1.3.19(F) and (H) NMAC, the Water Protection Division of the New Mexico Environment Department (“NMED”), hereby submits the following requests for production and admissions to Cannon Air Force Base (“CAFB” or “Respondent”). NMED’s requests will not unreasonably delay the proceeding; the information to be obtained is not unreasonably cumulative or duplicative, or not otherwise obtainable; is not unreasonably burdensome; and there is substantial reason to believe that the information sought will be admissible at the hearing or will be likely to lead to the discovery of admissible evidence.

Requests for Production

Pursuant to 20.1.3.19(F) NMAC, NMED requests the following documents. Pursuant to 20.1.3.19(F)(2) NMAC, NMED requests that Respondent produce these documents no later than July 1, 2020. If Respondent claims that any document is protected by either attorney/client privilege or any other privilege, for each document, please state the following:

1. the title of the document;
2. the author of the document;

3. the date of the document;
4. a description of the substance of the document;
5. its present location; and
6. the privilege being asserted.

Requests

1. Any and all documents related to Respondent's or the United States Air Force's ("USAF") position on the 20.6.2 NMAC amendments to include three perfluoroalkyl substances ("PFAS") in the definition of a "toxic pollutant" in 20.6.2.7(T)(2) NMAC in the New Mexico Water Quality Control Commission's amendments to 20.6.2 NMAC which became effective December 21, 2018.

Response:

2. Any legal authority upon which Respondent intends to rely that states it does not have to comply with changes in the WQCC's toxic pollutants list found at 20.6.2.7(T)(2) NMAC.

Response:

3. Any and all legal authorities upon which Respondent intends to rely that support the argument that attorney's knowledge of a change in law is not imputed to client.

Response:

4. Any and all communications between the United States Environmental Protection Agency and USAF or Respondent regarding the PFAS toxicity and its threat to human health and the environment.

Response:

5. Any and all documents or legal authority upon which Respondent intends to rely demonstrating that its release of PFAS has not harmed public health or the environment, including USAF's evaluation of the severity of the risk to human health and the environment.

Response:

6. Any and all communications from USAF to service member families located at CAFB or other installations regarding PFAS.

Response:

7. All documents related to and containing CAFB Wastewater Treatment System influent and effluent water quality data obtained since 1992.

Response:

8. Any and all documents related to the sampling or testing of Respondent's wastewater treatment facility sludge for PFAS, management of Respondent's wastewater treatment facility sludge, and disposal of Respondent's wastewater treatment facility sludge.

Response:

9. Any and all documents related to Aqueous Film Forming Foam ("AFFF") use, storage, and releases at CAFB.

Response:

10. Any and all documents identifying USAF personnel (military or civilian) or civilian trainees that came into direct contact with AFFF at CAFB, including personnel or civilian trainees that conducted firefighting training activities at CAFB from 1942 to present.

Response:

11. Any and all documents containing information related to releases or discharges of AFFF to current or former sewage lagoons at or around CAFB.

Response:

12. Any and all documents identifying areas and types of non-AFFF PFAS discharges at CAFB.

Response:

13. Any and all documents identifying Respondent's and USAF's efforts to completely replace its inventory of AFFF.

Response:

14. Any and all draft or final environmental assessments, findings of no significant impact, or environmental impact statements related to firefighting activities or firefighting infrastructure at CAFB.

Response:

15. Any and all documents received by Respondent and USAF from manufacturers or distributors of any products used at CAFB that contain PFAS.

Response:

16. Any and all documents relating to USAF's preparation of its responses to NMED's letters of October 24, 2018, and March 29, 2019, including, but not limited to, any investigative plans or restructuring plans for the wastewater treatment facility effluent discharge and internal and external communications relating to plans for sampling.

Response:

17. Any and all documents relating to communications between Respondent or USAF and any wastewater treatment plant operators, military or civilian, discussing the presence of PFAS at the CAFB wastewater treatment plant.

Response:

18. Any and all documents associated with any discharge at the North Playa Lake located at CAFB.

Response:

19. Any and all documents relating to CAFB aquifer tests for on- and off-base water supply or monitoring wells collected since 1992.

Response:

20. Any and all documents related to and including monitoring, sampling, and reporting required by DP-873 (issued March 31, 2014) undertaken by Respondent since April 1, 2019.

Response:

21. Any and all volumetric meter readings for the effluent of CAFB's wastewater treatment facility since April 1, 2019.

Response:

22. Any and all documents USAF has regarding PFAS contamination in groundwater on site, including any remediation associated with monitoring wells MW-Oa, MW-Na, and NW-Pa from August 2018 to March 31, 2019.

Response:

23. Any and all documents related to the steps Respondent or USAF have taken to investigate and protect production wells at CAFB and at other installations around the country.

Response:

24. Any and all documents relating to USAF's actions taken at other installations that have PFAS present in their wastewater treatment plant influent.

Response:

25. Any and all documents related to the identification of potential downgradient PFAS receptor pathways at CAFB.

Response:

26. Any and all documents identifying the results of any initial and follow-up sampling of off-base public/private drinking water wells done between August 1, 2018 and present.

Response:

27. Any and all documents upon which Respondent intends to rely that indicates the Bureau's assessed civil penalty is excessive.

Response:

Requests for Admissions

Pursuant to 20.1.3.19(H) NMAC, the Department requests that Respondent admit or deny the following statements of law or fact. If objection is made, please state the reason for the objection. Please specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter.

Requests

1. USAF submitted the Final Site Inspection Report; Site Inspection of AFFF Release Areas Environmental Programs Worldwide; Cannon Air Force Base, Clovis, New Mexico, August 2018 to NMED in 2018.

Response:

2. Monitoring well MW-Oa at CAFB was sampled on December 5, 2017, and PFOS and PFOA were found at a combined concentration of 461 ppt.

Response:

3. Monitoring well MW-Na at CAFB was sampled on December 3, 2017, and PFOS and PFOA were sampled at a combined concentration of non-detect.

Response:

4. Monitoring well MW-Pa at CAFB was sampled on December 4, 2017, and PFOS and PFOA were found at a combined concentration of 479 ppt.

Response:

5. USAF has evidence that AFFF was released to the environment at the former two-stage unlined, facultative lagoon system located to the south of the current Wastewater Treatment Plant.

Response:

6. All treated effluent from the CAFB wastewater treatment facility is currently released primarily to the North Playa Lake at CAFB.

Response:

7. Since there is no accepted wastewater treatment process for PFAS, any PFAS in wastewater collected at the wastewater treatment facility flows on to the North Playa Lake at CAFB.

Response:

8. Any PFAS that is removed from the treated effluent and does not flow to the North Playa Lake is deposited with the wastewater treatment facility's other sludge.

Response:

9. AFFF was primarily used on USAF installations at fire training areas, but may have also been used, stored, or released from hanger fire suppression systems, at firefighting equipment testing and maintenance areas, and during emergency response actions for fuel spills and aircraft mishaps.

Response:

10. The potential exists for future contamination of groundwater by PFAS at CAFB until

Respondent completely replaces its inventory of AFFF with a product(s) that do not contain PFAS and investigates and discontinues any other PFAS use or discharge.

Response:

11. There are 21 potential AFFF release areas at CAFB.

Response:

12. USAF participated in the Ground and Surface Water Protection regulations revision process amending 20.6.2 NMAC and was aware of the outcome of the rule revision, including the addition of three perfluorinated compounds to the toxic pollutants list at 20.6.2.3103.A NMAC which became effective on December 21, 2018.

Response:

13. Respondent has continuously discharged treated effluent from the Wastewater Treatment Plant at CAFB since April 1, 2019.

Response:

14. CAFB's January 13, 2020 submission of a renewal/modification application included testing results from August 29, 2019, for influent to the wastewater treatment facility which detected perfluorinated compounds at the following concentrations: PFHxS at a value of 67.8 nanograms per liter (ng/L); PFOS at an estimated value of 7.85 ng/L; and PFOA at estimated value below the detection limit of 4.2 ng/L.

Response:

15. Respondent had knowledge or reason to suspect the presence of PFAS in groundwater at CAFB as early as December 31, 2016.

Response:

Signature: _____

Date: _____

Notarization:

Respectfully submitted,
WATER PROTECTION DIVISION

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