



Michelle Lujan Grisham
Governor

Howie C. Morales
Lt. Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Phone (505) 476-6000 Fax (505) 476-6030
www.env.nm.gov



James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 11, 2019

Mark Patterson
BRAC Environmental Coordinator
Fort Wingate Depot Activity
13497 Elton Road
North Lima, OH 44452

Steve Smith
USACE
CESWF-PER-DD
819 Taylor Street, Room 3B06
Fort Worth, TX 76102

**RE: EXTENSION REQUEST FOR THE GROUNDWATER
SUPPLEMENTAL RCRA FACILITY INVESTIGATION REPORT
FORT WINGATE DEPOT ACTIVITY
MCKINLEY COUNTY, NEW MEXICO
EPA # NM6213820974
HWB-FWDA-15-001**

Dear Messrs. Patterson and Smith:

The New Mexico Environment Department (NMED) is in receipt of the Fort Wingate Depot Activity (Permittee) request for an extension (Request) to submit the Groundwater Supplemental RCRA Facility Investigation Report (Report), dated April 5, 2019 and received April 10, 2019.

The Permittee states that “[t]his request for an extension is based upon the fact that the Army had to procure a new contract to conduct this work due to the expiration of the Period of Performance (POP) of the then contract as a result of lengthy document review time.” NMED assumes that the Permittee is referring to the Army’s internal review time, since the facts indicate that the Permittee’s documents were reviewed by NMED well within the “Review Time” published in the *Hazardous Waste Permit and Corrective Action Fees* (20.4.2 NMAC).

The initial submittal of the Groundwater Supplemental RCRA Facility Investigation Work Plan (Plan) was provided to NMED on February 6, 2015. An invoice was sent to the Permittee on February 17, 2015. The Permittee paid the invoice on March 30, 2015, thereby starting the review time clock. NMED issued a Disapproval on October 1, 2015, 85 days before the review

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time specified in 20.4.2.208 NMAC expired. The Disapproval required the Permittee to revise the Plan and submit a revision no later than March 31, 2016, allowing six months for the changes to be made.

On March 29, 2016, one day before the revision was due, NMED received a letter from the Permittee requesting an extension of the submittal date from March 31, 2016 to August 30, 2016. Because the Permittee had requested multiple extensions of time for many documents during this period, NMED granted the requested extension and added an additional five months to the request. The date for submittal was moved to January 31, 2017.

Revision 1 of the Plan was submitted to NMED on October 31, 2016. The Permittee provided inadequate responses to many of the 2015 Disapproval comments and a second Disapproval letter was issued by NMED on March 21, 2017. The second Disapproval required that a revision of the Plan be submitted no later than September 29, 2017.

On September 18, 2017, the Permittee submitted Revision 2 of the Plan. Due in part to insufficient responses to NMED's March 2017 Disapproval comments, the Permittee was issued a third Disapproval letter on October 31, 2017. The Permittee was required to submit a revision of the Plan no later than February 3, 2018.

On December 8, 2017, the Permittee submitted Revision 3 of the Plan. Again, largely due to inadequate responses to the NMED's October 2017 Disapproval comments, NMED issued another Disapproval of the Plan. The Permittee was required to submit a revision of the Plan no later than March 23, 2018.

The Permittee submitted Revision 4 of the Plan on March 26, 2018. NMED issued an Approval with Modifications that required additional work to characterize a potential two-aquifer system on April 18, 2018. NMED completed its review of the Plan 63-days in advance of the schedule presented in the Plan by the Permittee. The Permittee was required to submit a replacement figure and a work plan to investigate the two-aquifer system no later than June 17, 2018.

On May 29, 2018, NMED received a letter from the Permittee stating that they would not perform the work required to characterize the two-aquifer system. Since the Approval with Modifications requires that the modifications are carried out, NMED subsequently revoked the approval in a letter dated June 26, 2018.

On July 12, 2018, NMED received a letter from the Permittees indicating that they would comply with the modifications and provide a work plan, as required. On July 19, 2018, NMED re-approved the Plan.

Revision 4 of the Plan included a Project Schedule that indicated work would begin in June of 2018 and be completed by October 2018. The Permittee would have to have known the terms of the contract when the Plan was submitted to NMED and the Permittee created the schedule. The fact that the Permittee did not account for the contract expiring and then implied that NMED review times were responsible is not accurate. The Permittee is responsible for ensuring that

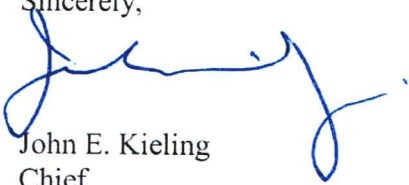
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contracts are in place as necessary to complete proposed work. Based on the schedule provided in the NMED-approved Plan, the Permittee's schedule proposed a time span of 296-days between the approval of the Work Plan and the submittal of the Report. In the Request, the Permittee is asking for a period of time that is over three times the 296-days with no justification.

The Permittee has not provided adequate justification for the extension. Therefore, the request for an extension is denied. The Report is required to be submitted per the approved schedule.

If you have any questions regarding this letter, please contact Ben Wear at (505) 476-6041.

Sincerely,



John E. Kieling
Chief
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB
B. Wear, NMED HWB
M. Suzuki, NMED HWB
C. Hendrickson, U.S. EPA Region 6
T. Lederle, BRAC Division
T. Perry, Navajo Nation
S. Begay-Platero, Navajo Nation
M. Harrington, Pueblo of Zuni
C. Seoutewa, Southwest Region BIA
G. Padilla, Navajo BIA
J. Wilson, BIA
E. Stevens, BIA
R. White, BIA
C. Esler, Sundance Consulting, Inc.

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