

STATE OF NEW MEXICO)
CITY OF CLOVIS) ss.

The City of Clovis Water Policy Advisory Committee met in regular session at 8:30 a.m., Monday, January 9, 2023 in the North Annex, Clovis-Carver Library, 701 N. Main in full conformity with the laws of the State of New Mexico and the ordinances and resolutions of said city with the following members present:

Mayor Pro Tem Chris Bryant, Chairman
Commissioner Lauren Rowley
Mr. Harry Pomeroy, City resident
Mr. Raymond Mondragon, City resident
Dr. Marcus Smith, City resident
Mr. Vince Demaio, County resident

EX-OFFICIO PRESENT:

Mr. Justin Howalt, City Manager
Mr. Mark Huerta, EPCOR

ALSO PRESENT:

Ms. Vicki Reyes, Assistant City Clerk
Members of the public

Mayor Pro Tem Bryant called the meeting to order at 8:30 a.m. and established the presence of a quorum.

Agenda Item 3 – Approval of minutes of July 11, 2022

Mr. Mondragon made a motion to approve the minutes of July 11, 2022 as presented; Commissioner Rowley seconded the motion, which passed by acclamation.

Agenda Item No. 4 – Update regarding PFOS/PFOA at Schaap Dairy

Mr. Art Schaap gave a brief background on Highland Dairy. He advised in September they had their water tested and the State of New Mexico sent a violation letter stating there was PFOS in the water. NMED responded to a letter that they received to take required action. While NMED understood that the Air Force was addressing the PFOS contamination they still had to comply with the specific requirements that New Mexico has.

The WQA defines the term “water pollution” as “introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.” NMSA 1978, § 72-6-2(C). The statutory definition is not limited to human health, and explicitly includes animal and plant life and property.

To the extent that the PFAS water contaminants emanating from Cannon Air Force Base (“CAFB”) have injured or threaten to injure human health, animal or plant life, or property, or have unreasonably interfered with public welfare or the use of property such as water wells, farms and dairies, such injuries and interferences are clearly subject to the abatement requirements of the Water Quality Act and the Ground and Surface Water Protection Regulations.

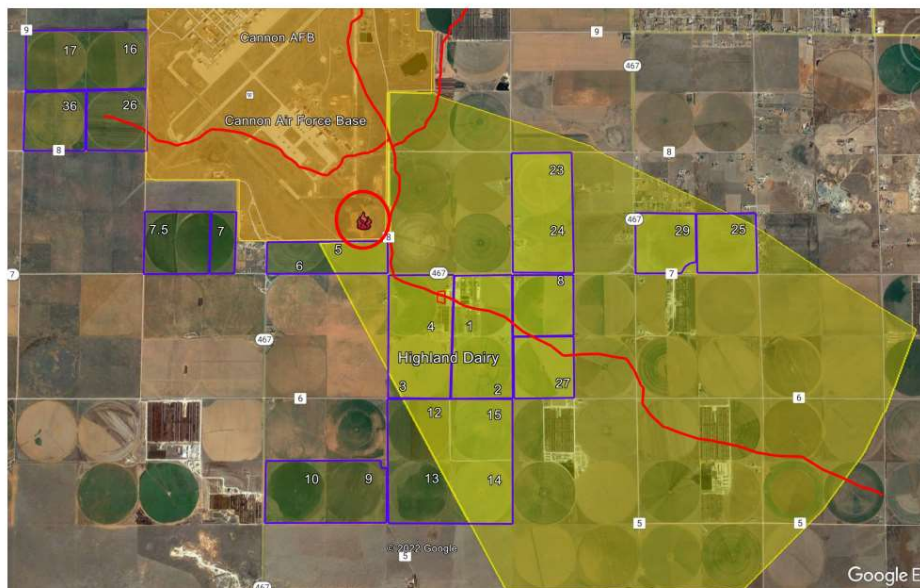
The Air Force has failed to sample all water supply wells (domestic drinking water, irrigation, dairy, industrial) located southeast of, and within four miles of, the base. The Air Force has failed in its most recent water well testing to analyze and report all PFAS compounds that are included in EPA Test Method 537. The Air Force has failed to submit a proposal, subject to NMED approval, to conduct a hydrogeologic investigation to define the extent of groundwater contamination by PFAS emanating from CAFB. The Air Force has failed to correct the erroneous statement in Section 4.2.2 of the CAFB Site Investigation Report.

The Air Force met with Secretary Heather Wilson to “work to protect New Mexico’s groundwater”. They created a list of commitments from the Air Force:

- Establishment of a “community-led Restoration Advisory Board” at the base
- Completion of a site inspection “to characterize the extent of the contamination”
- Identification of “statutory fixes needed to enable compensation and cleanup on agricultural lands”
- Increased communication and transparency on the process, including “a website and a point-of-contact at base.”

The only thing they have done was create a website.

Cannon AFB 2018 Notice of Contamination Threat



Contamination of Water, Silage, Soils



Mr. Schaap advised he received a letter from the Department of Agriculture stating that all milk produced by Highland Dairy must not enter the food chain until samples show that the level of PFOS and PFOA are below the level of concern. The Food Safety and Inspection Service (FSIS) sent a letter stating “Please be aware of dairy cattle from Highland Dairy near Clovis, New Mexico is not eligible to be slaughtered and processed for human food.”

Mr. Schaap advised he did receive compensation from the state to bury the dead cows. Mr. Mondragon asked if he received 100% compensation. Mr. Schaap advised he didn't. He stated he had to restructure with his bank and is paying a bankruptcy lawyer just in case.

Where they go from here:

1. Department of Defense

- 2020 National Defense Authorization Act:
 - Air Force Given Authority to Clean Agricultural Water
 - Has denied that it knows what is "agricultural water" and how to treat water
 - Air Force Given Authority to Purchase and Relocate Affected Farms
 - Has refused to consider using this authority

2. EPA

- Plans to Lower the Standard for Drinking Water:
 - 2009 Standard: 70 ppt (\$150 per test)
 - Lowest detectable limit is between 2 and 4 ppt
 - 2023 Standard: 0.02 ppt for PFOS and .004 ppt for PFOA (\$1,600 per test)
 - Your Dairy Could test "N/D" – Non-Detect with the cheaper test, but still have too much PFAS per the coming standard
- SUPERFUND Designation: Coming with Listing of PFAS as "Hazardous"

3. FDA

- Current Milk Standard (**200 ppt**) is "Advisory" but will shut you down
- There is no standard for cheese, yogurt, and other dairy products - yet
- We Do Not Know What the Milk Standard will be Following the EPA's lowering of limits in Drinking Water (we assume **0.06** ppt per EPA trend)
- Farmers are Subject to Immediate Cancellation of Dairy Permits

4. USDA

- DIP now provides for milk payments and for cows (below market value)
- There is No Dairy Testing Protocol for PFAS
- It is possible to filter PFAS, but purifying costs \$1,000 per gallon per minute (e.g. 150 gpm on Dairy Feed Lot = \$150,000 + maintenance per well)
- 2023 Farm Bill: We need a "DIP" program for contaminated land, dairies or filters (see Sen. Susan Collins (R-ME) 2022 bill: S. 5070 - Relief for Farmers Hit with PFAS Act)

5. States

- States Need to Work with the USDA to Implement a Dairy Buy-Out Program and Allow for Dairy Relocation
 - States are suing the federal government and can recover for damages to the environment
- States Need to Differentiate between Green Water and Drinking / Agricultural Water Standards
 - In New Mexico lagoons are tested to the same standard as drinking water

Bottom Line:
When the EPA sets its standard in March 2023 for this toxic poison, the industry will be in the regulators' cross-hairs; we will all be subject to a mandatory standard on PFAS in water, milk, land, feed, and beef.

In 2013 they did a study that stated it would take a year and a half to eliminate PFOS from cows after a 30-day exposure. His problem happened in 2018.

Mr. Mondragon advised he was sorry that Mr. Schaap was going through. They are limited to what they can do but can say that they support him and his family. Ms. Schaap advised the City of Clovis and Curry County have been great.

Mr. Howalt asked if he had filters on his sprinklers. Mr. Schaap advised they don't. They have the filters, but he lost his contract with the Coop and he won't be able to get another contract on the dairy.

Mr. Mondragon proposed a resolution of support to take with him to the legislature. Mayor Pro Tem Bryant advised they support what Mr. Schaap is doing with the legislature. Mr. Howalt advised if there was a general consensus they could draft something to take to the City Commission. The committee agreed. Mayor Pro Tem Bryant advised the next commission meeting would be January 19th. Mr. Mondragon asked if something could be ready by then. Mr. Howalt advised they would work on something.

Mr. Huerta advised the grant that EPCOR applied for is to do a feasibility study in regards to some of the Highland Dairy wells. These wells are within close proximity to existing infrastructure that EPCOR owns that would allow the water to be transported to the Thomas and Brady pump station.

Ms. Gayla Brumfield advised Mr. Schaap went to her to help him to move his project forward. They know that this is not just Cannon's problem, but they can't wait forever. This program that they are working on with EPCOR is for them to put a filtering system in and put in infrastructure that will connect to their facilities which will generate water. It will cost approximately \$30 million. They are going to the state and have spoken with the legislators.

Agenda Item No. 5 - Updates

City Update

Mr. Howalt advised they continue to work on the reuse pipeline project. They are working with the Water Trust Board to submit their readiness to proceed items. Through December they have delivered 91 million gallons of reuse water. They are still working with the schools to get connected. They have availability at Marshall Middle School, Los Ninos and Barry Elementary. He met with staff at the Central Office for the locations at the Freshman Academy, Cameo Elementary and Gattis Middle School. That will be in the next bid package with the Water Trust Board. Once that is fully constructed it will complete all of the phases that were in the initial study. They have capacity within the WWTP to deliver than what is being demanded at this current point.

EPCOR Update

Mr. Huerta advised they saw 4.5 million gallons per day in December and the 2022 max day was 9.3 million gallons on July 27th. The average day for summer demand was 7.5 million gallons.

They are close to completing the airport project, which is a 12 inch supply line from the intersection of CR 523 and CR G. They are waiting on a meter to fully complete the project. They recently finalized an agreement with the City to take over the those assets.

They are going to make improvements through out the project alignment on 7th Street to include replacing a section of 6 inch cast iron main with new 8 inch PVC that will go from Main to Prince. They have done full design for the US 60/84 project and are waiting on NMDOT. They saw an uptake in development on the residential side in 2022. They completed several water line extension projects in the Raintree Area, Iris Arbor area and Popeye's Chicken. They did a total of 178 new services. They installed an emergency generator at the Norris/Brady pump station.

EPCOR completed construction on their newest lease well, which will add an additional 375 gallons per minute. They are working on two wells in Hillcrest Park that will potentially add 600 gallons per minute. Their overall hope is to bring on approximately 300 gallons per minute annually until they have surface water available. They added four call center agents that are working out of the Clovis office. They have made moves to bring everything in house so now when someone calls the 800 number they will speak to an actual employee and not a third party vendor. They will also hire some remote workers.

Mr. Mondragon asked what the estimated date of completion was for the airport line. Mr. Huerta advised the meter they were waiting on is scheduled to be delivered the end of this month. Once they submit the completed package to NMED it should take around 30 for them to complete. Mr. Mondragon advised he met with the clerk in Texico and they were excited that this line could be extended as a possible connection from the ENMWUA pipeline project.

Mr. Mondragon asked if all the wells in the city being tested were good. Mr. Huerta advised the wells they have been testing haven't had a big change in either direction. Mr. Mondragon asked if there were any updates on the grant between the City and EPCOR. Mr. Huerta advised they submitted the paperwork needed to get acknowledged and there were requests for additional

information. Mr. Howalt advised the City of Clovis no longer has to be part of his process. The New Mexico Finance Authority stated they would accept an application directly from EPCOR.

Mr. Demaio asked for an explanation regarding PFOS levels. Mr. Huerta advised when they are pumping more the numbers tend to go down in some of the wells. As they shut off and the water comes back in to the effected wells, the levels will come back up. Mr. Howalt advised PFOS/PFOA is a topic of conversation all across the country. This is something that they will have to tackle as a nation.

Mr. Huerta advised they had severe cold weather recently and had employees out 3-4 at a time that put in a tremendous amount of hours. They had over 100 service orders during the Christmas weekend. The employees did a fantastic job.

Agenda Item No. 6 – For the good of the order

Mayor Pro Tem Bryant advised the next meeting would be at 8:30 a.m., Monday, October 10th. They will hear an update from the ENMWUA at that meeting.

Agenda Item No. 7 – Adjournment

There being no further business to come before the committee the meeting adjourned at 9:37 a.m.