

TWP 98

FAX TRANSMISSION

NEW MEXICO ENVIRONMENT DEPARTMENT,
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To: Stephanie Kruse **Date:** August 20, 1998
Fax #: 505 827-1544 **Pages:** 9, including this cover sheet.
From: Susan Hoines
Subject: Transwestern Pipeline Co.

COMMENTS:

This fax contains copies of 3 memos from the first quarter of 1997- they discuss scheduling the review of the Transwestern Corrective Action Plan; a memo dated July 15, 1997 describing my discussion with Susan McMichael; a memo dated September 23, 1997 that describes the state of affairs with Transwestern Pipeline Company at that time; and a memo dated January 22, 1998 that gives a very brief summary of NMED actions regarding Transwestern Pipeline Company for Jerry Bober's benefit.

It is my understanding that you have a copy of the memo that contained my comments on Transwestern's Corrective Action Plan dated February 1997.

Note I referenced a pink file folder in the January 22, 1998 memo. This folder is now missing and contains signed copies of these memos.

Memorandum

To: Jerry Bober, Supervisor, DOD/O section

From: Susan Hoines

Date: July 15, 1997

Subject: Transwestern Pipeline Company (ENRON)

I could not make any progress reviewing the Workplan for Phase III Soil and Ground Water Assessment for Roswell Compressor Station No. 9 Surface Impoundments due to activities with Navajo Refining Company and my annual leave from July 16 through July 18.

I was able to talk to Susan McMichael (OGC) on July 11 during our flight to Dallas, Tx. Susan said that Enron had filed a lawsuit against NMED during the summer of 1996. The lawsuit challenged NMED authority over the surface impoundments. Enron had not served the lawsuit, so no legal action has been taken. During the past year, Susan had corresponded with Enron attorneys regarding a consent order. The Enron attorneys wanted to include language that would state that NMED and Enron agreed that they would disagree on whether NMED had regulatory authority over the surface impoundments. Susan said that was clearly unacceptable. Since then, Susan has been waiting for the lawsuit to expire before proceeding further. She said that since the lawsuit is only on file and has never been served, it has a life of only one year. Therefore, she decided that NMED should wait until she could ascertain that the lawsuit is expired before proceeding with the consent order. As you can imagine, she has very little time this month to do so.

HRMB has previously reviewed Transwestern Pipeline Company's Corrective Action Plan in February, 1997. HRMB sent it's recommendations to Susan McMichael at that time. The Corrective Action Plan is supposed to be a part of the consent order. The Workplan for Phase III Soil and Ground Water Assessment for Roswell Compressor Station No. 9 Surface Impoundments was submitted to OCD as part of OCD's corrective action program. OCD's corrective action requirements don't always meet RCRA's corrective action requirements. Should HRMB be reviewing OCD workplans? I believe the consent order will require Transwestern to submit workplans to meet RCRA requirements, regardless of what OCD may require.

Benito Garcia, Chief, HRMB

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commitments with Navajo Refining Company and NASA, I have not been able to review it. OCD approved the workplan on April 17, 1997 and required that the completed report be submitted by August 29, 1997. The field work was performed this summer. The latest submittal from ENRON to OCD was a letter dated September 8, 1997 (copy is attached to this memo). The letter informs OCD that the report will be submitted on October 15, 1997. I called Bill Olson of the OCD today. He said ENRON called him and asked him for an extension of time. He approved the extension over the phone. Bill said ENRON ended up chasing a petroleum product plume and had to install two more wells in addition to the wells required in the workplan.

The OCD emphasis appears to be free product recovery. I am not sure if OCD workplans would meet RCRA corrective action requirements. In any case, OCD does not need HRMB approval to approve of these workplans or reports. HRMB review of these workplans or reports would only serve as an aid in review of the Corrective Action Plan.

In summary:

1. The expiration of the lawsuit needs to be verified. This was the recommendation of Susan McMichael on July 11.
2. The consent order must be completed. Past experience with this facility suggests that it will not address RCRA concerns voluntarily. The Corrective Action Plan is an integral part of the consent order and must be modified to meet RCRA requirements.

MEMO

To: Benito Garcia, Chief, HRMB
From: Susan Hoines
Through: Jerry Bober, Supervisor, DOD/O Team
Through: Stu Dinwiddie, Manager, RPMP
Subject: Transwestern Pipeline Company
Date: September 23, 1997

This memo is in response to your inquiry dated September 19, 1997 regarding Transwestern Pipeline company (ENRON).

I have attached a copy of a memo dated July 15, 1997 that I sent to Jerry Bober regarding Transwestern Pipeline Company. That memo references a discussion I had with Susan McMichael on July 11, 1997. Susan informed me that she was in the middle of negotiating a consent order with ENRON when ENRON filed a lawsuit against NMED. She said that since the lawsuit had been merely filed, not served, the lawsuit could not proceed. If the lawsuit was not served within a year it would expire. Therefore, she decided that NMED should wait until she could ascertain that the lawsuit is expired before proceeding with the consent order. At the time of our discussion, Susan thought the lawsuit would expire sometime in the summer of 1997. She did not mention which court the lawsuit was filed under or any other details on the lawsuit.

Since July 11, Susan McMichael has been assigned as the legal counsel for our permitting efforts with regards to WIPP. She has had no time to work on other cases. She had given away a few of her cases to other coworkers (such as the Navajo Refining Company). If you recall the meeting on September 15 with Ed Kelley and Nick Persampieri regarding the proposed fcc regs and Navajo Refining Company, we asked Nick and Ed if they knew which counsel was working on the consent order for Transwestern Pipeline Company. Nick and Ed said they didn't know. I have left messages for Susan McMichael and Richard Mertz to call me and let me know who is assigned to the Transwestern Pipeline Company consent order. I suspect that no one in the OGC is working on Transwestern Pipeline Company at this time.

An order of some sort will be necessary when requiring corrective action at this facility. ENRON has continually questioned RCRA authority over the Transwestern Pipeline Company.

HRMB has reviewed Transwestern Pipeline Company's Corrective Action Plan in February 1997. HRMB sent it's recommendations to Susan McMichael at that time. The Corrective Action Plan is supposed to be part of the consent order.

Meanwhile, Transwestern Pipeline company (ENRON) has been busy complying with the Oil Conservation Division (OCD) requirements. ENRON had submitted a work plan for the Phase III Soil and Ground Water Assessment on February 13, 1997 to OCD. Due to my time

TRANSWESTERN PIPELINE COMPANY (TPC)

Permitting

this folder is missing
No permit yet. Still at the attorney stage. See summary stapled to pink folder in my files. Still the same basically. Every once in a while Benito says we need to do something. However, since the facility is challenging NMED authority every step of the way, we need an attorney to hammer out a consent order. When I finally did get a hold of Richard Mertz of the OGC, he informed me that they won't work on it at all until they receive a request in writing from Benito that this case was a high priority and that they would be allowed to drop a lower priority case. I don't think will happen.

M E M O R A N D U M

TO: Jerry Bober, Supervisor, DoD/O
 FROM: Susan Hoines, DoD/O
 DATE: January 22, 1998
 SUBJECT: Summaries

*This memo has 6 pages.
 I have only faxed you the
 first page and the last page
 The last page has references
 Transwestern
 pipelines Co.*

These are summaries of all the projects I have been working on and suggestions on what needs to be done next.

National Aeronautics and Space Administration (NASA)

Permits

Note

Phil Solano can answer most of the general permitting questions you may have.

Post Closure Care Permit

Sent the Class I permit modification to NASA on 1-15-98. This permit modification allows them to replace a compliance well. 90 days after they receive the modification, they must notify everyone on their mailing list that this modification is in effect. You must check to make sure they notified everyone on their mailing list.

NASA submitted its 1996 annual Post-Closure Care Report in March 1997. It needs to be reviewed. NASA will submit another report in March 1998. That will need to be reviewed. When I reviewed the draft RFI and CMS reports in 1995, I reasoned that they contained most of the information in the 1995 annual report and so I did not review the 1995 annual report. We did not have enough staff to review it at that time. We probably still don't have enough staff to review it.

A friendly note about monthly reports

If you look carefully at the Administrative Order on Consent (incorporated directly into the HSWA module of the operating permit), you will note that NASA is required to mail to the EPA and the NMED a monthly report that incorporates all the sampling done for that month (both RFI and Permit-Required wells) and a summary of all RFI activities for that month. I have marked those passages with green tabs for your convenience. You will need this. It does not matter if NMED wants these reports or not, NASA will continue to send NMED these reports because they are liable to fines from the EPA if they do not. No amount of begging will get them to stop doing it. The package comes with two cover letters, one addressed to the EPA (acknowledging NASA's HSWA obligations) and one addressed to the NMED (acknowledging NASA's RCRA obligations) Put the letter addressed to EPA in the HSWA file under NASA GMR and put the letter addressed to NMED in the NASA Red file. Put the report in a three ring binder Marked