

November 25, 2009

VIA EMAIL AND CERTIFIED MAIL No. 7008 2810 0000 4726 2038

Mr. James Bearzi, Chief
Hazardous Waste Bureau
New Mexico Environmental Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303

Joel Dougherty (6EN-HE)
Hazardous Waste Enforcement Branch
U.S. EPA Region 6, Suite 1200
1445 Ross Ave.
Dallas, TX 75202-2733

RE: **REVISED INTERIM MEASURES WORKPLAN, WESTERN REFINING
SOUTHWEST INC., GALLUP REFINERY; EPA ID #NMD000333211**

Dear Mr. Bearzi,

Enclosed please find the Western Refining Gallup Refinery's (Gallup) Revised Interim Measures Work Plan (Work Plan) pursuant to Section IV item 100. D of the Consent Agreement and Final Order ("CAFO) among Western, NMED and U.S. EPA Region 6. This letter and Work Plan address the Notice of Disapproval letter from NMED dated October 22, 2009 (see attached copy). This letter details where all revisions have been made, cross-referencing the numbered comments in the October 22 NMED letter.

Comment 1

Western agrees that strippers one, two, or four may be removed from service only for maintenance purposes. If Gallup wishes to remove these benzene strippers from service for any other reason, it will seek prior approval from NMED in writing, including the justification for removal. The Work Plan has been revised to address these changes in the Executive Summary, page III, bullet 1 and the last paragraph of Section 3.1 on page 4.

Comment 2

The "filter pots" are two vessels that will be placed upstream of the new benzene stripper. The filter pots are vessels that will be used to remove large particles and help in reducing fouling in the strippers. These two vessels will be operated one at a time with one on stand by with a clean filter inside. When the first filter fouls, the second one will be put on-line and the fouled vessel's

filter element will be cleaned or changed. Section 3.1 of the plan has been revised to reflect the above description.

Comment 3

Gallup has removed all text referring to a rolling average. Western Refining understands NMED's concerns regarding the importance of collecting, analyzing, and responding to benzene concentrations in representative wastewater samples entering Aeration Lagoon 1 (AL-1). Based upon Comments 3, 4, 5, and 6 in the October 22 NMED letter, we have re-examined our approach to verifying waste characteristics for AL-1 influent and effluent samples. Our overarching objective is to collect appropriate representative samples per Section 20.4.1.100 NMAC and 40 CFR 260.10, wherein "*Representative sample* means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole." The sampling, analysis, evaluation, reporting, and response(s) for AL-1 influent and effluent will be described in a Waste Analysis Plan (WAP). The WAP will be developed consistent with EPA's guidance manual titled "Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes (OSWER 9938.4-03), as applicable. The anticipated principal components of the Gallup Refinery WAP will include:

- Facility Description
- Waste Analysis Parameters
- Sampling Procedures
- Laboratory and Testing Procedures
- Waste Evaluation/Re-Evaluation Frequency
- Reporting and Response

In addition, the WAP will draw heavily upon the appropriate portions of EPA SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." Waste characteristic measurement data will be evaluated per the statistical methods in Chapter 9 of SW-846 pertaining to the upper confidence interval (CI) of the population mean for the waste analyses. When AL-1 is taken out of service and the new treatment unit is operating, we will amend our WAP to sample the influent to Evaporation Pond 1 (EP-1).

Comment 4

- a. Section 3.2.3 has been revised to indicate that if any of the effluent samples collected from effluent entering AL-1 during "Period 2" of implementation of the Work Plan meet or exceed the discharge limit at or above 0.5 mg/l for benzene, beginning on day 121, Gallup must implement the sampling requirements established in NMED's August 27, 2009 letter (Interim Measures Work Plan Requirements).
- b. Section 3.2.3 has been revised to indicate that if all wastewater effluent samples collected from effluent entering AL-1 during "Period 2" are below the discharge limit of 0.5 mg/l for benzene, Gallup must continue to follow the sampling requirements for "Period 2" for an additional 30 days. If benzene concentrations in all effluent samples collected from AL-1 during the additional 30 days are below the discharge limit, then Gallup must resume sampling effluent entering into AL-1 once a week until notified otherwise by

NMED. The effluent samples will be analyzed for benzene, toluene, ethylbenzene, and total xylenes plus MTBE. If at any time benzene concentrations detected in any effluent sample meet or exceed the discharge limit, Gallup must implement the sampling requirements established in NMED's August 27, 2009 letter (Interim Measures Work Plan Requirements).

- c. Sections 3.2.2 and 3.2.3 have been revised to reflect that beginning with Period 2, unless otherwise notified by NMED, all analytical laboratory reports will be submitted to NMED within 5 business days of sample collection.
- d. Appendix A: (Sampling Methodology) of the Work Plan has been revised to include a detailed description of how all effluent samples entering AL-1 will be collected.

Comment 5

Gallup agrees that the laboratory reports for all samples collected during "Period 2" and thereafter will be submitted to NMED within 5 business days of sample collection. Section 3.2.2 of the Work Plan has been revised to reflect this.

Comment 6

No comment required as it has been addressed in comments 3 and 4.

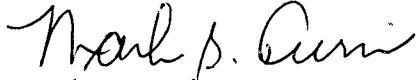
Comment 7

Gallup has taken note of NMED's four reminders in Comment 7. Appendix A of the revised Work Plan addresses Comment 7a regarding the definition of "daily wastewater effluent sample". In keeping with Comment 7b, all laboratory reports submitted will contain copies of relevant chain of custody forms as noted in the revised Work Plan. As clarified in Comment 7c, we recognize that NMED reserves the right to collect effluent samples; however, Western notes that NMED's reservation of rights is (i) independent of the CAFO, (ii) does not create CAFO obligations for Western, and (iii) does not subject Western to stipulated penalties. As stated in Comment 7d, Western recognizes its liabilities related to the stipulated penalties in Section V of the CAFO.

I certify that the information contained in or accompanying this submission is true, accurate and complete. As to those identified portions of this submission for which I cannot personally verify the truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting upon my direct instructions, made the verification, that this information is true, accurate, and complete.

Thank you for your review of this revised Work Plan. Please feel free to contact Ed Riege at 505-722-0217 with any questions.

Sincerely,



Mark B. Turri
Refinery Manager

cc: Hope Monzeglio NMED HWB
Carl Chavez OCD
Ann Allen Western Refining
Ed Riege Western Refining



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RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 22, 2009

Mr. Ed Riege
Environmental Superintendent
Western Refining, Southwest Inc., Gallup Refinery
Route 3, Box 7
Gallup, New Mexico 87301

**RE: NOTICE OF DISAPPROVAL
INTERIM MEASURES WORK PLAN TO COMPLY WITH RCRA STANDARDS
FOR DISCHARGE OF WASTEWATER TO SURFACE IMPOUNDMENTS
WESTERN REFINING COMPANY, SOUTHWEST, INC., GALLUP REFINERY
EPA ID # NMD000333211
HWB-GRCC-09-005**

Dear Mr. Riege:

The New Mexico Environment Department (NMED) has received Western Refining Southwest Inc., Gallup Refinery (the Permittee) *Interim Measures Work Plan to Comply with RCRA Standards for Discharge of Wastewater to Surface Impoundments* (Work Plan), dated September 2009. NMED has identified deficiencies with the Work Plan, and hereby issues this Notice of Disapproval (NOD).

Comment 1

In the Executive Summary, page iii, bullet 1, the Permittee states "Western will install a fourth benzene stripper as an interim measure. However, Western Refining proposes that it retain the discretion not to implement measures that would, therefore, be unnecessary to achieve compliance. For example, if improved performance of our existing two strippers meets compliance, the fourth rental stripper may be discontinued" [this was also stated in the last paragraph of Section 3.1 on page 4]. In Section 3.1 (Physical/Design Changes), pages 3 and 4, the Permittee states "[o]nce the new rental stripper system is installed we will have an enhanced stripper system made up of three strippers – a single stripper in series with two others in parallel. Flow from the API separator will first flow to one of two filter pots followed by the rental

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stripper. Flow will then be split between the two existing strippers, treated further, and then discharged to AL-1. If Gallup can achieve continuous compliance using the rental stripper, then Western Refining proposes that it retains the discretion not to run one or both of the existing strippers.”

NMED Response

Due to the Permittee’s inability to consistently achieve compliance with the discharge limit of 0.5 mg/L for benzene in the past, the Permittee may not eliminate the use of any of the benzene strippers, and so must operate all three benzene strippers in series. Strippers one, two, or four may be removed from service only for maintenance purposes. If the Permittee wishes to remove any benzene strippers from service for any other reason, it must seek prior approval from NMED in writing, and including justification for the removal. The Permittee must revise the Work Plan to address these changes.

Comment 2

In Section 3.1 (Physical/Design Changes), pages 3 and 4, the Permittee states “[o]nce the new rental stripper system is installed we will have an enhanced stripper system made up of three strippers – a single stripper in series with two others in parallel. Flow from the API separator will first flow to one of two filter pots followed by the rental stripper.”

NMED Response

It is unclear what the “filter pots” are and what their purpose is. The Permittee must revise the Work Plan to provide a detailed description of the “filter pots” and their intended purpose.

Comment 3

In Section 3.2 (Monitoring and Reporting), page 4, the Permittee states “[w]e believe compliance is best demonstrated by calculating a rolling annual average of weekly grab samples which is the standard applied to other refineries (see Appendix A for a detailed discussion).”

NMED Response

Use of a rolling average is not appropriate for demonstrating compliance with the discharge limit below 0.5 mg/L for benzene (discharge limit) for effluent entering Aeration Lagoon 1 (AL-1) as all wastewater entering AL-1 must be below the discharge limit. The Permittee must revise the Work Plan to remove all text referring to a rolling average.

Comment 4

NMED does not approve Sections 3.2.3 (Period 3: 120 days from the Effective Date of the Interim Measures Work Plan to start up of new upgraded wastewater treatment system) and 3.2.4

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(Contingency Sampling and Reporting) of the Work Plan. The Permittee must revise the Work Plan to reflect the following requirements:

- a. If **any** of the effluent wastewater samples collected from AL-1 during "Period 2" of [implementation of] the Work Plan meet or exceed the discharge limit at or above 0.5 mg/L for benzene, beginning on day 121, the Permittee must implement the sampling requirements established in NMED's August 27, 2009 letter (Interim Measures Work Plan Requirements).
- b. If **all** wastewater effluent samples collected from AL-1 during "Period 2" are below the discharge limit of 0.5 mg/L for benzene, the Permittee must continue to follow the sampling requirements for "Period 2" for an additional 30 days. If benzene concentrations in all effluent samples collected from AL-1 during the additional 30 days are below the discharge limit, then the Permittee must resume sampling effluent entering into AL-1 once a week until notified otherwise by NMED. The effluent samples must be analyzed for benzene, toluene, ethylbenzene, and total xylenes plus MTBE. If at any time benzene concentrations detected in any effluent sample meet or exceeds the discharge limit, the Permittee must implement the sampling requirements established in NMED's August 27, 2009 letter (Interim Measures Work Plan Requirements)
- c. Beginning with Period 2, unless otherwise notified by NMED, all analytical laboratory reports must be submitted to NMED within five business days of sample collection.
- d. The Work Plan must be revised to include a detailed description of how all effluent samples will be collected. The effluent samples must be collected using valid techniques to minimize the loss of the volatile organic compounds (VOCs) within each sample (i.e., the sample location must have a sample port that allows for samples to be collected at a low flow rate to minimize volatilization).

Comment 5

In Section 3.2.2 (Period 2: 75 days to 120 days from the Effective Date of the Interim Measure Work Plan), the Permittee states "[t]he analytical results for each sample will be submitted to NMED within five (5) business days of receipt of report from the external laboratory during Period 2."

NMED Response

The laboratory reports for all samples collected during "Period 2" and thereafter must be submitted to NMED within five business days of sample collection. See Comment 4 item c above. The Permittee must revise the Work Plan accordingly.

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Comment 6

In Section 5.0, the Permittee summarizes the major requests for approval. Bullet two requests approval to "sample at different frequencies and report on corresponding different schedules during three (3) discrete periods identified in this plan" and bullet three requests approval for compliance to be demonstrated by calculating a rolling average on an annual basis for weekly grab samples of strippers' effluent tested for benzene."

NMED Response

The above requests have been addressed in comments 3 and 4.

Comment 7

The following are general reminders for the Work Plan and compliance with the CAFO:

- a. Daily wastewater effluent sample is defined as an effluent sample collected from any effluent entering into AL-1 at any time wastewater is discharged to AL-1.
- b. All laboratory reports submitted to NMED must contain copies of the chain of custody forms.
- c. NMED reserves the right to collect effluent samples in accordance with Section I.E.8 of the Post-Closure Care Permit and 20.4.1.900 NMAC (incorporating 40 CFR 270.30(i)).
- d. Beginning on day 121 following NMED's approval; any effluent samples collected from the wastewater entering into AL-1 that contain benzene concentrations that are equal to or exceed the discharge limit of 0.5 mg/L for benzene are subject to the stipulated penalties found in Section V. (Civil Penalty and Terms of Settlement), item B (General Provisions) 110 of the CAFO.

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The Permittee must address all comments contained in this NOD and submit a revised Work Plan to NMED on or before November 30, 2009. The revised Work Plan must be submitted with a response letter that details where all revisions have been made, cross-referencing NMED's numbered comments. In addition, the Permittee must include an electronic version of the revised Work Plan that include all edits and modifications in redline strikeout format.

If you have questions regarding this letter please contact Hope Monzeglio of my staff at 505-476-6045.

Sincerely,



James P. Bearzi
Chief

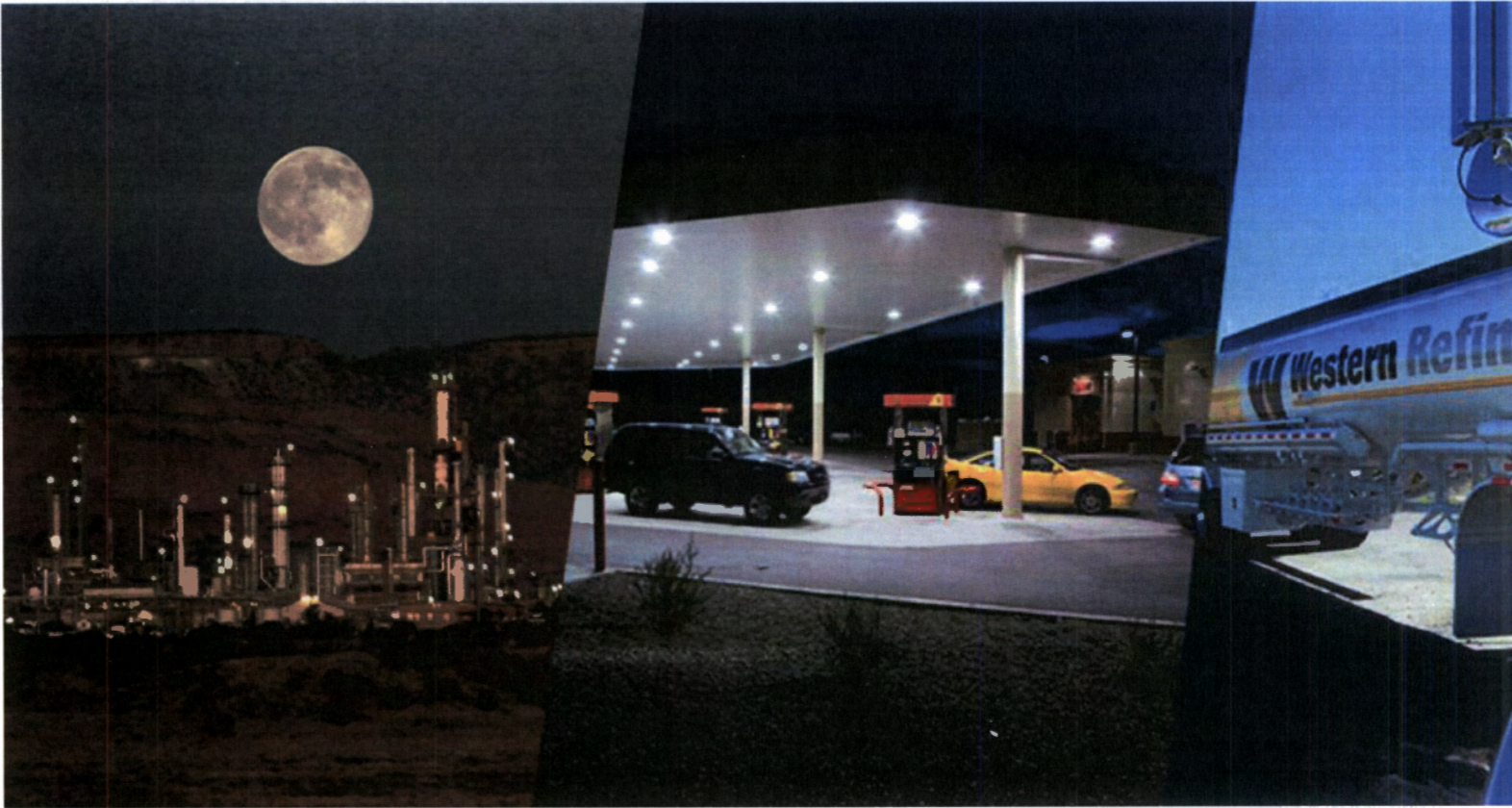
Hazardous Waste Bureau

cc: J. Kieling, NMED HWB
D. Cobrain NMED HWB
H. Monzeglio NMED HWB
D. McElroy, NMED AQB
C. Chavez, OCD
A. Allen, Western Refining Southwest, Inc.
D. Edelstein, EPA Region 6
J. Dougherty, EPA Region 6
File: Reading File and GRCC 2009 File
HWB-GRCC-09-005

Interim Measures Work Plan to Comply with RCRA Standards for Discharge of Wastewater to Surface Impoundments

Revision 1

**Western Refining
Gallup, New Mexico**



November 2009