



Certified Mail - Return Receipt Requested

November 29, 2022

John Moore
Environmental Superintendent
Western Refining, Southwest Inc., Gallup Refinery
92 Giant Crossing Road
Gallup, New Mexico 87301

**RE: APPROVAL WITH MODIFICATIONS
REQUEST FOR A "CONTAINED-IN" DETERMINATION FOR CONTAMINATED MEDIA
ASSOCIATED WITH SWMU 1, AERATION LAGOONS AL-1 AND AL-2,
AND EVAPORATION POND EP-1
WESTERN REFINING SOUTHWEST INC., GALLUP REFINERY
MCKINLEY COUNTY, GALLUP, NEW MEXICO
EPA ID # NMD000333211**

Dear Mr. Moore:

The New Mexico Environment Department (NMED) has received Western Refining Southwest LLC (D/B/A Marathon Gallup Refinery's (Permittee) *Request for a No Longer Contained-In Determination* (Request) for contaminated media generated during implementation of corrective action at Solid Waste Management Unit (SWMU) 1, the former wastewater aeration lagoons (AL-1 and AL-2) and one evaporation pond (EP-1) (the Site), at the Marathon Gallup Refinery, dated September 4, 2022.

The Permittee is requesting that NMED apply U.S. EPA's "contained-in" policy and issue a No Longer Contained-In (NLCI) determination to dispose of Investigation Derived Waste (IDW) comprised of contaminated media as part of corrective action activities at SWMU-1. NMED has reviewed the analytical data obtained during previous site investigations that is presented in the Request. Based on the data collected, the soils do not: 1) exhibit properties of a characteristic hazardous waste per 40 Code of Federal Regulations (CFR) Part 261 Subpart C and 2) do not contain contaminants in concentrations sufficient to be considered as listed hazardous waste under 40 CFR Part 261 Subpart D. However, potentially hazardous wastes could be present in contaminated media as a result of various releases to AL-1, AL-2, and EP-1.

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NMED has reviewed the Request and determined that IDW generated during removal activities at SWMU-1 may be managed as a non-hazardous waste unless waste is identified as characteristic hazardous waste by post excavation sampling conducted prior to off-site shipment of the waste for disposal. The IDW may be managed as solid waste and disposed at an appropriate facility.

NMED hereby issues this Approval with Modifications with the following comments:

Comment 1

Page 8, Post-Excavation Sampling, the Permittee states "Western proposes a sampling frequency for purposes of NLCI verification of at least one (1) 3-point composite sample per 300 yds³ stockpiled." In order to assure that representative verification samples are collected the Permittee must instead collect (1) 5-point composite sample from every 250 yds³ of stockpiled waste.

Comment 2

On page 8, Post-Excavation Sampling, the Permittee states "[c]omposite samples will be analyzed for pH, VOCs, SVOCs, TCLP (benzene, lead, and mercury), TPH-GRO, TPH-DRO, and TPH-ORO." According to Table 1 (TCLP Analyte List - SWMU-1) Arsenic, Carbon Disulfide, Chromium, Zinc, were detected from 66.7% to 100% of the samples analyzed for, all results below the TCLP screening levels. To assure that TCLP exceedances do not occur in NLCI conformation samples the Permittee must perform TCLP analyses for all detected analytes shown on Table 1. The Permittee may use the "20 times rule" to evaluate the need for TCLP analysis. In addition, the Permittee must also add analyses for ignitability and corrosivity to the confirmation sampling analytical suite to confirm that samples from generated IDW do not contain characteristic hazardous waste.

Comment 3

The Permittee must add the waste acceptance criteria for the designated landfill(s) to the IDW confirmation sampling analytical suite.

The Permittee must address the comments above and submit a response letter, replacement pages, and an electronic version of the revised Request no later than **December 31, 2022**.

This approval is based on the information presented in the document as it relates to the objectives of the work identified by NMED at the time of review. Approval of this document does not constitute agreement with all information or every statement presented in the document.

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If you have questions regarding this letter, please contact Lane Andress of my staff at 505-690-5286.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Cobrain". The signature is fluid and cursive, with the first name "Dave" and last name "Cobrain" clearly distinguishable.

Dave Cobrain
Program Manager
Hazardous Waste Bureau

cc: L. Tsinnajinnie, NMED HWB
L. Andress, NMED HWB
H. Jones, Trihydro
L. King, EPA Region 6 (6LCRRC)

File: Reading File and WRG 2022 file