



MICHELLE LUJAN GRISHAM
GOVERNOR



ENTERED
PATRICK KENNEY
CABINET SECRETARY

Certified Mail - Return Receipt Requested

February 3, 2023

Ms. Maryann T. Mannen
Executive VP and CFO
Marathon Petroleum Corporation LP
539 South Main Street
Findley, Ohio 45840

**RE: DISAPPROVAL
2022 RCRA FINANCIAL ASSURANCE COST ESTIMATE AND
RESPONSE TO DISAPPROVAL, 2020 AND 2021 FINANCIAL ASSURANCE
COST ESTIMATES
WESTERN REFINING SOUTHWEST LLC – GALLUP REFINERY
MCKINLEY COUNTY, GALLUP, NEW MEXICO
EPA ID # NMD000333211
HWB-WRG-MISC**

Dear Ms. Mannen,

The New Mexico Environment Department (NMED) has completed its review of the Marathon Petroleum Company LP dba Western Refining Southwest, LLC - Gallup Refinery (the Permittee) *2022 Financial Assurance Cost Estimate and Response to Disapproval, 2020 and 2021 Financial Assurance Cost Estimates (2022 Cost Estimate)* dated March 30, 2022 and received April 1, 2022. Although the Permittee has met the requirements for the 2020 and 2021 financial assurance submittals by the submission of the 2022 financial assurance cost estimate, there were still several issues associated with the information presented in the 2022 cost estimate. NMED hereby issues this Disapproval with the following comments.

Comment 1

There is a typographical error on page 1, paragraph 1 of the cover letter when referencing the contents of the attachments. The Permittee states that Attachment A is the 2022 Financial Assurance (FA) Cost Estimate and Attachment B is the *Response to Comments*. However, Attachment A is the table with the *Response to Comments* and Attachment B has the 2022 FA Cost Estimate tables. The letter also makes references to "Table 1, Table 1A, Table 1B, and Table 1C" but all of the corresponding tables are labeled as "Attachment B-1, Attachment B-2, Attachment B-3, and Attachment B-4." Ensure all references are correct in the 2023 and future submittals.

Comment 2

Page 1, paragraph 3 of the cover letter reports that the 2021 estimate (\$1,482,201) was multiplied by an annual inflation factor (AIF) of 1.03 using AIF from the Bureau of Economic Analysis (BEA) Table 1.1.9 (Implicit Price Deflators for GDP). The Permittee also states that “[t]he AIF is calculated by taking the previous year’s AIF and dividing by the current year’s AIF.” AIFs are not reported in Table 1.1.9. They are calculated from the Gross Domestic Product (GDP) values which are reported quarterly or annually in Table 1.1.9. The AIF is calculated using the following formula: *Implicit price deflator* for GDP end of current fiscal year divided by the *Implicit price deflator* for GDP end of previous fiscal year. For example, to calculate the 2020 AIF: *Implicit price deflator* for GDP 2019 (111.562) divided by *Implicit price deflator* for GDP 2018 (109.320) = 1.021. It is also important that the GDP values are reported from the same quarter if the quarterly GDP is utilized. The GDP 2018 and 2019 values in the example calculation above were reported in the first quarter of Table 1.1.9 (last revised on November 30, 2022). In the response letter, provide the GDP values used to calculate the AIF and state which quarter the GDP values were reported from and the date the GDP values were referenced. Include this information in future cost estimate submittals and the cover letter. It would also be helpful to provide a printout of the version of Table 1.1.9 that was used to reference the GDP values so that NMED can verify the values and calculations during the review process (see attached printout for example).

Comment 3

Page 2, paragraph 2 of the cover letter states that “[a] revised FA estimate for post-closure care of the [Land Treatment Unit (LTU)] was prepared in 2010, reflecting the work that had been completed since the first RCRA permit issued in 2000. The 2022 FA includes revision for updated laboratory and labor costs (Table 1A). The FA estimate for 2022 is \$164,061.” There is a typographical error in reporting the 2022 cost estimate for the LTU. The 2022 FA Estimate for the LTU was reported as \$168,861 in Attachment B-2 (Land Treatment Unit Detailed Cost), rather than \$164,061. Based on NMED’s review of the table, the costs do not appear to have changed significantly. Explain how the new laboratory and labor costs were determined.

Comment 4

Page 2, paragraph 3 of the cover letter states that “[t]he FA estimate reflects this Facility-Wide Ground Water Monitoring Work Plan (Work Plan), updated for 2022 (submitted February 4, 2022). Historically, the previous years’ Work Plan has been used, however, the 2022 Work Plan was submitted in January 2022 and incorporated new sampling locations, sampling analysis and frequency prior to the first quarter 2022 sampling. The Facility-Wide Ground Water Monitoring was estimated for 2022 [(Attachment B-3)] and the years following 2022 [(Attachment B-4)].” Although the 2022 Work Plan was Approved with Modifications on April 25, 2022, it is not recommended to submit the FA cost estimate with a work plan that has not been approved. There may be comments and changes to the Work Plan that affect the cost estimate calculations. Going forward, the Permittee must only use approved Work Plans to generate the cost estimate calculations. In addition, explain why there are two tables (Attachment B-3 and

Attachment B-4) with the same information. It appears that the information from the tables can be submitted as one table with additional notes for those sections that require more explanation.

Comment 5

In Attachment A (Response to Comments), NMED's Comment 1 from NMED's February 16, 2022 Disapproval letter required the Permittee to "[e]xplain why the cost of the filters are excluded from the *Level 4 Data Packet Cost per Year* calculation." Address the following:

- a. The Permittee did not provide an explanation about why the cost of the filters was excluded from the calculation. Provide an explanation in the response letter.
- b. The "Level 4 Data Package" cost that was calculated from 10% of the routine analytical cost subtotals appear to have been removed from the 2022 cost estimate tables. Notes 3 and 4 from Tables 1C and 1B, respectively, of the 2021 Cost Estimate state that "[t]he laboratory charges and additional 10% beyond their routine analytical costs to prepare the Level 4 data packages." Furthermore, Section IV.J.3.a.iv (Laboratory Deliverables) of the October 2013 RCRA Post-Closure Permit requires that "[t]he laboratory analytical data package kept on file at the Facility shall be prepared in accordance with EPA-established Level III or IV analytical support protocol." Explain why the "Level 4 Data Package" cost was removed from the calculations of Attachments B-3 and B-4.

Comment 6

On Page 4 of 4, Attachment B-1 (January 2022 Cost Estimate for RCRA Post-Closure Permit), the *Notes* Column under *Other Costs*, the Permittee states "2021 at \$1,482,201 adjusted by the annual inflation factor of 1.033 to adjust to 2022." Based on NMED's calculations, $\$1,482,201 \times 1.033 = \$1,531,114$. Verify that the adjusted 2022 cost estimate was correctly reported in the response letter. It would facilitate NMED's review if the Permittee provided the excel spreadsheet so that NMED can verify the calculations for the cost estimates. Furthermore, it would also be helpful to include the equation and values used to calculate the AIF (*see also Comment 2*) and include it in the *Notes* section at the bottom of the appropriate tables for the 2023 Cost Estimate submittal and all future cost estimate submittals.

Comment 7

In the *Notes* sections of Attachments B-2, B-3, and B-4, clarify that the numbers reported in superscripts 1 and 2 (i.e., 8260, 8270, and 8015) are analytical methods in all future cost estimate table submittals.

Comment 8

In Attachment B-3 ((2022) Facility-Wide Groundwater Monitoring Annual Cost Estimate), under the *Semi-Annual Sampling Events*, in the *# of Sampling Locations* column, the number of sample locations reported for the *Semi-Annual Sampling Event* for each analysis are reported as "12,

Ms. Mannen
February 3, 2023
Page 4

12, 12, 12, 12, 12, 11, 1, 12, 12.” Based on Table 4-1 (2022 Groundwater Monitoring Network and Sampling Frequency) from the Permittee’s February 11, 2022 *Facility-Wide Groundwater Monitoring Work Plan*, there are only 11 sampling locations reported for the semi-annual sampling event and they are all located in the Evaporation Ponds. Explain why there are 12 sample locations reported in Attachment B-3 in the response letter or correct the number as necessary. In addition, there is a typographical error in the title of Attachment B-3; *Attachment* is spelled incorrectly.

Western must address all of the comments and provide a response letter for the 2022 Cost Estimate and provide a correct version of the submittal for 2022 no later than **30 days** after the submittal date for the upcoming 2023 financial assurance submittal. This submission is to be treated as separate from the upcoming 2023 financial assurance submittal and will require a separate cover letter. Furthermore, all of NMED’s comments from this Disapproval must also be addressed and incorporated in the upcoming 2023 Cost Estimate submittal for Gallup Refinery.

If you have any questions, please contact Leona Tsinnajinnie of my staff at (505) 690-7820.

Sincerely,

Rick
Shean
Rick Shean

Chief

Hazardous Waste Bureau

Digitally signed by
Rick Shean
Date: 2023.02.08
09:33:17 -07'00'

cc: D. Cobrain, NMED HWB
L. Tsinnajinnie, NMED HWB
R. Cade, Western Refining Southwest, Inc. – Gallup Refinery
R. Hanks, Western Refining Southwest, Inc. – Gallup Refinery
J. Moore, Western Refining Southwest, Inc. – Gallup Refinery
K. Luka, Marathon Petroleum Company, LP
J. Chen, Marathon Petroleum Company, LP
L. King, EPA Region 6 (6LCRRC)

File: WRG 2023 Readings
HWB-WRG-MISC

Table 1.1.9. Implicit Price Deflators for Gross Domestic Product

[Index numbers, 2012=100] Seasonally adjusted

Last Revised on: November 30, 2022 - Next Release Date December 22, 2022

Line		2018	2018	2018	2018	2019	2019	2019	2019	2020	2020	2020	2020
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Gross domestic product	109.320	110.258	110.629	111.132	111.562	112.184	112.550	112.963	113.418	112.993	113.971	114.692
2	Personal consumption expenditures	107.584	108.162	108.549	108.959	109.186	109.854	110.140	110.536	110.935	110.431	111.347	111.799
3	Goods	95.353	95.553	95.336	95.097	94.787	95.218	94.877	94.909	94.717	93.403	94.331	94.448
4	Durable goods	88.146	87.911	87.458	87.293	87.360	87.122	86.693	86.108	85.823	85.228	86.226	86.685
5	Nondurable goods	99.113	99.561	99.481	99.202	98.682	99.495	99.206	99.598	99.455	97.730	98.612	98.511
6	Services	113.929	114.712	115.428	116.193	116.716	117.514	118.155	118.762	119.507	119.507	120.408	121.080
7	Gross private domestic investment	106.229	107.524	107.239	107.643	108.451	108.993	109.135	109.436	109.609	109.611	110.286	111.075
8	Fixed investment	107.150	107.799	108.235	108.526	109.187	109.731	109.939	109.924	110.348	110.822	111.389	112.114
9	Nonresidential	102.421	102.720	102.980	103.161	103.798	104.318	104.346	104.150	104.484	104.999	104.981	105.338
10	Structures	112.941	113.596	114.160	115.812	116.974	118.598	119.446	120.076	120.683	120.398	120.424	119.963
11	Equipment	97.548	97.596	97.895	97.798	98.147	98.062	97.670	97.469	97.710	97.758	97.170	96.790
12	Intellectual property products	102.200	102.603	102.612	102.273	102.944	103.596	103.688	103.076	103.440	104.882	105.434	106.938
13	Residential	127.982	130.166	131.386	132.181	132.956	133.597	134.608	135.379	136.141	136.445	139.512	141.811
14	Change in private inventories	---	---	---	---	---	---	---	---	---	---	---	---
15	Net exports of goods and services	---	---	---	---	---	---	---	---	---	---	---	---
16	Exports	98.183	99.437	99.663	99.287	98.466	99.310	98.688	98.304	97.785	93.137	96.057	97.528
17	Goods	92.331	93.702	93.868	93.173	91.953	92.528	91.553	91.197	90.115	84.660	87.859	89.401
18	Services	111.249	112.223	112.586	112.944	113.050	114.504	114.689	114.254	115.099	112.429	114.686	115.996
19	Imports	91.249	91.522	91.663	91.201	90.151	90.650	89.696	89.375	89.073	86.210	87.902	88.517
20	Goods	88.194	88.433	88.497	87.930	86.620	87.161	86.083	85.629	85.208	82.101	83.841	84.380
21	Services	107.000	107.461	108.005	108.111	108.436	108.712	108.444	108.878	109.294	108.036	109.351	110.495
22	Government consumption expenditures and gross investment	109.904	110.955	111.831	112.499	112.758	112.993	113.284	113.717	114.614	114.610	115.518	116.585
23	Federal	107.550	108.335	108.964	109.767	110.942	110.206	110.482	110.926	111.297	111.387	112.106	112.789
24	National defense	106.116	106.916	107.538	107.972	108.336	108.701	109.038	109.521	109.779	109.487	110.306	110.991
25	Nondefense	109.810	110.575	111.214	112.580	115.029	112.576	112.758	113.143	113.689	114.328	114.916	115.602
26	State and local	111.452	112.667	113.698	114.282	113.967	114.810	115.113	115.544	116.777	116.714	117.746	119.061
	Addendum:												
27	Gross national product	109.308	110.242	110.614	111.117	111.544	112.166	112.531	112.943	113.399	112.976	113.953	114.673

Line		2021	2021	2021	2021	2022	2022	2022
		Q1	Q2	Q3	Q4	Q1	Q2	Q3
1	Gross domestic product	116.120	117.922	119.712	121.708	124.174	126.907	128.242
2	Personal consumption expenditures	113.033	114.810	116.382	118.142	120.290	122.426	123.710
3	Goods	95.794	97.877	99.684	101.921	104.985	107.668	108.400
4	Durable goods	86.993	90.051	92.250	94.092	95.991	96.572	97.402
5	Nondurable goods	100.563	101.941	103.467	105.943	109.752	113.834	114.490
6	Services	122.222	123.757	125.144	126.563	128.081	129.830	131.443
7	Gross private domestic investment	111.837	112.770	114.650	117.112	120.001	123.031	125.310
8	Fixed investment	113.098	114.258	116.284	118.765	121.633	124.641	126.956
9	Nonresidential	105.508	105.603	106.807	108.798	110.633	112.919	114.971
10	Structures	120.387	122.791	125.846	132.480	137.679	143.345	150.006
11	Equipment	97.646	96.560	97.575	99.121	100.959	103.206	104.669
12	Intellectual property products	106.206	106.543	107.143	107.706	108.224	109.268	110.263
13	Residential	146.097	151.539	156.969	161.523	168.658	174.737	178.192
14	Change in private inventories	---	---	---	---	---	---	---
15	Net exports of goods and services	---	---	---	---	---	---	---
16	Exports	102.228	106.736	109.172	110.844	115.359	120.736	117.609
17	Goods	94.819	100.219	102.939	104.719	110.265	116.976	112.549
18	Services	118.709	120.780	122.459	123.836	125.588	127.428	127.754
19	Imports	91.261	94.040	95.458	96.929	100.058	103.216	102.172
20	Goods	87.310	90.128	91.482	92.965	96.385	99.569	98.139
21	Services	111.817	114.179	115.961	117.308	118.479	121.333	122.646
22	Government consumption expenditures and gross investment	118.555	120.513	122.277	124.432	127.052	130.575	131.765
23	Federal	113.933	115.097	116.348	117.594	119.229	120.978	122.500
24	National defense	112.416	113.625	114.855	116.121	117.986	120.129	121.006
25	Nondefense	116.356	117.467	118.750	119.974	121.316	122.552	124.940
26	State and local	121.584	124.080	126.184	128.944	132.220	136.915	137.888
27	Addendum: Gross national product	116.099	117.899	119.688	121.684	124.147	126.878	128.215