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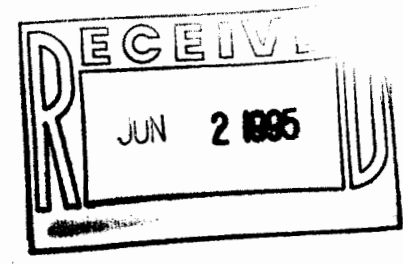
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June 1, 1995

BY FACSIMILE TO 827-2836

Tracy M. Hughes, Esq.  
General Counsel  
New Mexico Environment Department  
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Post Office Box 26110  
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Transwestern Pipeline Company

Dear Tracy:

As we discussed by phone yesterday, transmitted herewith is a copy of a letter dated May 30, 1995 from ENRON Operations Corporation on behalf of Transwestern Pipeline Company ("TPC") to the Hazardous and Radioactive Materials Bureau of NMED regarding the status of TPC's compressor station No. 9, located near Roswell. I direct your attention to Section 10 of the TPC letter, entitled "Permit Status", which discusses questions concerning the regulatory status of the TPC facility.


TPC requests that your office review the Hazardous and Radioactive Materials Bureau's apparent decision to require a RCRA permit for this facility. TPC would like to meet with appropriate representatives of NMED prior to issuance of a public notice (currently scheduled for this month) to discuss the regulatory status of this facility.

Tracy M. Hughes, Esq.  
June 1, 1995  
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Please give me a call to discuss this matter after you have had a chance to read TPC's letter and review this matter.

Very truly yours,

TAICHERT, WIGGINS, VIRTUE & NAJJAR

By   
Richard L.C. Virtue  
Santa Fe Office

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cc: Barbara Hoditschek  
Lou Soldano, Esq.

# **ENRON OPERATIONS CORP.**

P. O. Box 1188 Houston, Texas 77251-1188 (713) 853-6161

May 30, 1995

**VIA FEDERAL EXPRESS - PROOF OF DELIVERY REQUESTED**

Ms. Barbara Hoditschek  
New Mexico Environment Department  
Hazardous & Radioactive Materials Bureau  
525 Camino de Los Marquez  
P.O. Box 26110  
Santa Fe, NM 87502

**RE: Summary for the March 30, 1995 meeting between TPC and the NMED HRMB -  
Transwestern Pipeline Company (TPC) Compressor Station No. 9, Roswell, New  
Mexico**

Dear Ms. Hoditschek,

The purpose of this letter is twofold: 1) to summarize TPC's current understanding of what was discussed and/or resolved during our March 30, 1995 meeting, and 2) to present additional comments relevant to these issues.

Present at the meeting were the following:

Representing TPC:

Bill Kendrick	ENRON Operations Corp. (TPC's parent company)
George C. Robinson	Cypress Engineering Services
Kathleen O'Reilly	Cypress Engineering Services
Jeff Forbes	Daniel B. Stephens & Associates

Representing NMED HRMB:

Barbara Hoditschek	NMED HRMB
Ron Kern	NMED HRMB
Teri Davis	NMED HRMB
Cornelius Amindyas	NMED HRMB

The following is a summary of each issue discussed along with any other pertinent comments made during the discussion. In addition to the summary of what was discussed during our meeting, we have included additional comments relevant to each issue.

Ms. Barbara Hoditschek

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Summary for the March 30, 1995 meeting between TPC and the NMED HRMB

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**1. Constituent monitoring list and analytical methods for waste characterization****Discussion Summary**

Teri Davis has requested that the monitoring list include those constituents listed for petroleum refining in List 4 of RFI guidance. George Robinson and Jeff Forbes suggested the list include the volatile organic compounds normally reported for analysis by EPA Method 8240, semi-volatile organic compounds normally reported for analysis by Method 8270, PCB compounds by Method 8080, the seventeen Appendix IX metals, cyanide, and sulfide. It was agreed that TPC would submit a table of constituents comparing each suggested monitoring list and the rationale for inclusion or exclusion of each constituent.

**Additional TPC Comments**

TPC is in receipt of the NMED's letter dated April 28, 1995, requesting, among other items, a waste unit characterization constituent monitoring list. This list has been prepared and submitted to the NMED attached to a transmittal letter dated May 10, 1995. This list includes all constituents listed in the RFI guidance "List 4" with the exception of three volatile organic compounds. An explanation for the exclusion of these three compounds is presented in the transmittal letter.

**2. Media specific action levels for waste characterization constituent monitoring list****Discussion Summary**

George Robinson suggested development of action levels subsequent to completion of waste characterization. This would allow TPC to develop action levels only for those constituents detected and their degradation products. Teri Davis reiterated that the NMED will require action levels developed prior to waste characterization. George Robinson commented that published action levels or toxicity data may not be available for all constituents on the monitoring list. Ron Kern commented that he would like to see the algorithms and assumptions used in calculating action levels reprinted as supporting data to whatever TPC prepares for submittal. George Robinson asked about action levels for total petroleum hydrocarbon (TPH) concentrations. The NMED responded that this will be coordinated with the NMOCD.

**Additional TPC Comments**

TPC is in receipt of the NMED's letter dated April 28, 1995 requesting, among other items, action levels developed subsequent to waste unit characterization. However, TPC was also requested to supply action levels for those constituents listed in selected tables from the closure plan within a week of receipt of the April 28th letter. These tables were revised and submitted to the NMED attached to a transmittal letter dated May 10, 1995. However, rather than provide "action levels", TPC provided reference concentration levels in the modified tables. An explanation for this response is presented

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in the transmittal letter.

### 3. Background concentrations for metals

#### Discussion Summary

Jeff Forbes presented the information he obtained from a USGS study for all but three of the metals included in List 4 of the RFI guidance. This information represents background concentrations of metals based on soil samples collected within the United States. Teri Davis said she would prefer more local data. Kathleen O'Reilly asked how many samples were necessary to adequately establish background concentrations. Teri Davis replied it would be up to TPC to demonstrate that a statistically significant number of samples were collected and analyzed. George Robinson suggested that the three metals for which background data were not available (cadmium, silver, and thallium) be eliminated from the constituent monitoring list since they have not been constituents of concern at other ENRON facilities nor are expected to be constituents of concern at this facility. Ron Kern responded that the NMED could require that background concentrations be assumed equal to zero. Jeff Forbes said that he will continue to look for other sources of information for background concentrations of the three metals in question.

#### Additional TPC Comments

TPC is in receipt of the NMED's letter dated April 28, 1995 requesting, among other items, background concentrations of metals in soil to be submitted subsequent to waste unit characterization. Jeff Forbes (DBS) is continuing to work on this issue.

### 4. Assessment plan for storm water runoff areas

#### Discussion Summary

Teri Davis indicated that the NMED will request an assessment plan for sample collection and analysis of potential releases to storm water runoff areas.

#### Additional TPC Comments

TPC is in receipt of the NMED's letter dated April 28, 1995, requesting, among other items, a sampling and analysis plan to address potential releases to storm water runoff areas. The NMED has requested that this plan is submitted subsequent to waste unit characterization.

### 5. Compliance schedule

#### Discussion Summary

Teri Davis indicated that the NMED will request a compliance schedule for implementation of the closure plan. Barbara Hoditschek suggested a 90 day compliance

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time frame for submittal of the waste characterization report.

#### Additional TPC Comments

TPC is in receipt of the NMED's letter dated April 28, 1995, requesting, among other items, a compliance schedule for implementation of the closure plan. The NMED has requested that this schedule is submitted within a week of receipt of the April 28th letter. This was submitted to the NMED attached to a transmittal letter dated May 10, 1995.

### 6. Response time for items 1-5 above

#### Discussion Summary

Barbara Hoditschek indicated that TPC would have 30 days to respond, from the date of receipt, to a letter from the NMED requesting items 1-5 above.

#### Additional TPC Comments

TPC is in receipt of the NMED's letter dated April 28, 1995, requesting a response to seven items. TPC was requested to respond to the first four items within a week of receipt of the letter and the remaining three items within thirty days of completion of the waste unit characterization. A response to the first four items requested was submitted to the NMED attached to a transmittal letter dated May 10, 1995.

### 7. Waste characterization prior to public notice

#### Discussion Summary

George Robinson suggested implementation of the waste characterization plan prior to finalizing the Phase I soil assessment plan. This information could be used to limit the development of action levels to only those constituents detected during waste characterization. This information could also be used to establish indicator parameters and/or constituents and the most effective analysis methods to be used during the soil assessment. Bill Kendrick indicated that, regardless of whether or not there is an approved closure plan, TPC will complete its own waste characterization prior to a closure plan going to public notice. This would be required in order for TPC to answer questions the public may potentially ask.

#### Additional TPC Comments

The letter received from the NMED dated April 28, 1995, indicates that the NMED does not wish to consider completing the waste unit characterization plan prior to submitting the modified closure plan to public notice. In order to be in a position to respond to any inquiries that the notice may generate as well as to further develop information which is relevant to the redemption of the site, TPC may implement a self directed waste characterization program which will include collection of soil samples from locations within the two confirmed former surface impoundment areas and the installation and

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sampling of two downgradient ground water monitor wells. TPC will notify the NMED at least two weeks prior to field activities so that the NMED has the opportunity to split samples if the NMED should so desire.

#### 8. Scope for delineation during soil assessment

##### Discussion Summary

Teri Davis presented a conceptual plan for the lateral delineation of affected soil. Teri Davis and Ron Kern suggested TPC provide input into final development of the soil assessment plan. George Robinson is to contact Teri Davis to discuss this issue further. Teri Davis asked that TPC present QA/QC information for a mobile lab prior to implementation of field work. Teri Davis and Ron Kern asked that TPC present information supporting a correlation between TPH concentration and potential constituents of concern.

##### Additional TPC Comments

TPC is in receipt of the NMED's letter dated April 28, 1995, requesting, among other items, a Standard Operating Procedure and QA/QC information for use of a mobile laboratory during implementation of the soil assessment program. This information was obtained from Analytical Technologies Inc. (ATI) of Phoenix, Arizona and submitted to the NMED attached to a transmittal letter dated May 10, 1995.

#### 9. Scope for delineation during ground water assessment

##### Discussion Summary

This issue was not discussed in much detail, although, Teri Davis did express her opinion that ground water contaminants have likely migrated a distance of 1.5 miles from the site. George Robinson responded with his opinion that ground water contaminants have likely migrated a distance of less than 900 feet from the site.

##### Additional TPC Comments

We believe it is in the best interest of both TPC and the NMED that any discussions regarding the distance to which contaminants may have migrated off-site be limited to discussions between TPC, the NMED, and the NMOCD until confirmation of such information is available.

#### 10. Permit status

##### Discussion Summary

Bill Kendrick inquired about the status of the Part A permit application which TPC has on file with the NMED. Barbara Hoditschek and Cornelius Amindyas indicated that they were not aware that a Part A permit application was on file. Bill Kendrick pointed out

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that the Part A permit application was specifically discussed in previous meetings between TPC and the NMED. Barbara Hoditschek indicated that she would look into this issue. George Robinson asked where does the RFA fit into the process if the facility is not a permitted facility. Teri Davis responded that it was to assess other areas of concern. TPC was still not clear on this issue.

Barbara Hoditschek made it clear that the NMED intended to modify the most recent closure plan submitted by TPC and to submit the modified plan for public notice. Initially, it was indicated that TPC would not be allowed to review the modified closure plan prior to public notice. However, after further discussion, it was indicated that the NMED would consider making the modified plan available to TPC for review prior to public notice. Barbara Hoditschek and Cornelius Amindyas indicated that a modified plan would be ready for public notice no later than June 1995.

#### Additional TPC Comments

From the discussion at the March 30, 1995 meeting and the history of this matter, it is apparent to TPC that the regulatory status of the facility is unclear and subject to debate as to the applicable law and regulations. Subsequent to the March 30, 1995 meeting, TPC has received the April 10, 1995 letter from NMED addressing the status of the facility. That letter indicates that NMED believes that 40 CFR Section 265 applies to the facility. NMED indicates that that section cites the "minimum standards for acceptable hazardous waste management until certification of a final closure". However, the April 10, 1995 letter does not cite any underlying facts upon which to base the conclusion that 40 CFR part 265 applies to this facility. TPC is continuing to conduct its analysis of the appropriate regulatory treatment for this facility, and requests that NMED provide it with the underlying factual basis for its proposed regulatory treatment of the facility.

Because of the uncertainty of the regulatory status of the facility, TPC requests that NMED postpone its current plan to submit a modified closure plan for public notice no later than June, 1995, so that NMED and TPC can attempt to arrive at a mutually acceptable regulatory treatment of the facility.

If you have any questions and/or comments regarding the information presented in this document, please contact me at (713) 646-7644.

Sincerely,

*Bill Kendrick (KMT)*

Bill Kendrick  
Projects Group Manager  
EOC Environmental Affairs