



TWP 95

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502

GARY E. JOHNSON
GOVERNOR

OFFICE OF GENERAL COUNSEL
PHONE 505-827-2990
FAX 505-827-1628

MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

December 21, 1995

Mr. Richard Virtue, Esq.
Taichert, Wiggins, Virtue & Najjar
119 East Marcy Street, Suite 100
P.O. Box 4265
Santa Fe, New Mexico 87502-4265

Re: Transwestern Pipeline Company (TPC)

Dear Mr. Virtue:

This letter responds to the position of Transwestern Pipeline Company (TPC) that the New Mexico Environment Department (NMED) is not the proper regulatory authority for closure of the surface impoundments at the Roswell Compressor Station. We have carefully considered your position and have concluded that at this time closure is required pursuant to the New Mexico Hazardous Waste Act (HWA). Further, as discussed below, we do not believe that closure under the authority of the New Mexico Oil Conservation Division (OCD) will achieve the same remediation goals or adequately protect human health and the environment.

As you are aware, TPC submitted three RCRA closure plans for the surface impoundments in question which NMED staff concluded were either incomplete or inaccurate. (see attached letters from NMED regarding Notices of Deficiencies). Based upon the available information, we must conclude that hazardous wastes were disposed of at the facility during the time period in question (including 100% 1,1,1 TCA) and that proper closure can only be accomplished pursuant to the HWA's requirements. Further, there is substantial ground water contamination at this site. Solvents have been detected at 22,400 times the New Mexico Water Quality Control Commission (WQCC) standard for 1,1 DCA and three times the WQCC standard for 1,1,1 TCA.

As a technical, legal or practical matter, we do not agree that cleanup under OCD standards would be equally protective of human health and the environment. TPC's position appears to be premised upon an assumption that no hazardous wastes or constituents were

disposed of at the surface impoundments in question. As stated, the facts of this site do not support this conclusion. Contrary to your position, there are significant differences between the cleanup criteria and goals under OCD and NMED. For example, cleanup required by NMED under the HWA involves health based standards and other media not addressed by OCD. Further, OCD does not oversee solvent plume characterization and cleanup of hazardous waste sites or other RCRA concerns.

This letter will confirm that NMED intends to issue the modified closure plan for public comment no later than January 31, 1996. If you have any additional information which supports the position of TPC, we would appreciate receiving it as soon as possible and prior to January 31, 1996. Specifically, we request any information such as manifests or other documentation which demonstrate that no hazardous wastes were disposed of at this facility. Further, we would appreciate any area photos of the surface impoundments taken during the time period in question.

If we do not receive any further information from TPC, we will proceed with public comment to avoid any further delay with cleanup at this site. We are confident that proper cleanup may be achieved through the regulatory oversight of NMED with, as necessary, the coordination of OCD. If you have any questions, do not hesitate to call.

Sincerely,



SUSAN M. McMICHAEAL
Assistant General Counsel

Enclosure(s)

cc: Ed Kelley
Benito Garcia
Barbara Hoditscheck
Ron Kern
Bill Kendrick
Rodger Anderson
David Neleigh, EPA Region 6 (PD-N)