

TWP 97

# Memorandum

**To:** Jerry Bober, Supervisor, DOD/O section

**From:**  Susan Hoines

**Date:** July 15, 1997

**Subject:** Transwestern Pipeline Company (ENRON)

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I could not make any progress reviewing the Workplan for Phase III Soil and Ground Water Assessment for Roswell Compressor Station No. 9 Surface Impoundments due to activities with Navajo Refining Company and my annual leave from July 16 through July 18.

I was able to talk to Susan McMichael (OGC) on July 11 during our flight to Dallas, Tx. Susan said that Enron had filed a lawsuit against NMED during the summer of 1996. The lawsuit challenged NMED authority over the surface impoundments. Enron had not served the lawsuit, so no legal action has been taken. During the past year, Susan had corresponded with Enron attorneys regarding a consent order. The Enron attorneys wanted to include language that would state that NMED and Enron agreed that they would disagree on whether NMED had regulatory authority over the surface impoundments. Susan said that was clearly unacceptable. Since then, Susan has been waiting for the lawsuit to expire before proceeding further. She said that since the lawsuit is only on file and has never been served, it has a life of only one year. Therefore, she decided that NMED should wait until she could ascertain that the lawsuit is expired before proceeding with the consent order. As you can imagine, she has very little time this month to do so.

HRMB has previously reviewed Transwestern Pipeline Company's Corrective Action Plan in February, 1997. HRMB sent it's recommendations to Susan McMichael at that time. The Corrective Action Plan is supposed to be a part of the consent order. The Workplan for Phase III Soil and Ground Water Assessment for Roswell Compressor Station No. 9 Surface Impoundments was submitted to OCD as part of OCD's corrective action program. OCD's corrective action requirements don't always meet RCRA's corrective action requirements. Should HRMB be reviewing OCD workplans? I believe the consent order will require Transwestern to submit workplans to meet RCRA requirements, regardless of what OCD may require.