

TWP 97

MEMO

To: Benito Garcia, Chief, HRMB
From: Susan Hoines *SH*
Through: Jerry Bober, Supervisor, DOD/O Team *JB*
Through: Stu Dinwiddie, Manager, RPMP *MD*
Subject: Transwestern Pipeline Company
Date: September 23, 1997

This memo is in response to your inquiry dated September 19, 1997 regarding Transwestern Pipeline company (ENRON).

I have attached a copy of a memo dated July 15, 1997 that I sent to Jerry Bober regarding Transwestern Pipeline Company. That memo references a discussion I had with Susan McMichael on July 11, 1997. Susan informed me that she was in the middle of negotiating a consent order with ENRON when ENRON filed a lawsuit against NMED. She said that since the lawsuit had been merely filed, not served, the lawsuit could not proceed. If the lawsuit was not served within a year it would expire. Therefore, she decided that NMED should wait until she could ascertain that the lawsuit is expired before proceeding with the consent order. At the time of our discussion, Susan thought the lawsuit would expire sometime in the summer of 1997. She did not mention which court the lawsuit was filed under or any other details on the lawsuit.

Since July 11, Susan McMichael has been assigned as the legal counsel for our permitting efforts with regards to WIPP. She has had no time to work on other cases. She had given away a few of her cases to other coworkers (such as the Navajo Refining Company). If you recall the meeting on September 15 with Ed Kelley and Nick Persampieri regarding the proposed fee regs and Navajo Refining Company, we asked Nick and Ed if they knew which counsel was working on the consent order for Transwestern Pipeline Company. Nick and Ed said they didn't know. I have left messages for Susan McMichael and Richard Mertz to call me and let me know who is assigned to the Transwestern Pipeline Company consent order. I suspect that no one in the OGC is working on Transwestern Pipeline Company at this time.

An order of some sort will be necessary when requiring corrective action at this facility. ENRON has continually questioned RCRA authority over the Transwestern Pipeline Company.

HRMB has 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 part of the consent order.

Meanwhile, Transwestern Pipeline company (ENRON) has been busy complying with the Oil Conservation Division (OCD) requirements. ENRON had submitted a work plan for the Phase

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Benito Garcia, Chief, HRMB

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III Soil and Ground Water Assessment on February 13, 1997 to OCD. Due to my time commitments with Navajo Refining Company and NASA, I have not been able to review it. OCD approved the workplan on April 17, 1997 and required that the completed report be submitted by August 29, 1997. The field work was performed this summer. The latest submittal from ENRON to OCD was a letter dated September 8, 1997 (copy is attached to this memo). The letter informs OCD that the report will be submitted on October 15, 1997. I called Bill Olson of the OCD today. He said ENRON called him and asked him for an extension of time. He approved the extension over the phone. Bill said ENRON ended up chasing a petroleum product plume and had to install two more wells in addition to the wells required in the workplan.

The OCD emphasis appears to be free product recovery. I am not sure if OCD workplans would meet RCRA corrective action requirements. In any case, OCD does not need HRMB approval to approve of these workplans or reports. HRMB review of these workplans or reports would only serve as an aid in review of the Corrective Action Plan.

In summary:

1. The expiration of the lawsuit needs to be verified. This was the recommendation of Susan McMichael on July 11.
2. The consent order must be completed. Past experience with this facility suggests that it will not address RCRA concerns voluntarily. The Corrective Action Plan is an integral part of the consent order and must be modified to meet RCRA requirements.

Memorandum

To: Jerry Bober, Supervisor, DOD/O section
From:  Susan Hoines
Date: July 15, 1997
Subject: Transwestern Pipeline Company (ENRON)

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.



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*John -
Jenny B -
Where do we stand
on this project?
Prints 9/19/97
pls let me know
by memo -*

September 8, 1997

Mr. William C. Olson
Environmental Bureau
New Mexico Oil Conservation Division
2040 S. Pacheco St.
Santa Fe, New Mexico 87505

RE: Phase III Soil and Ground Water Assessment
Roswell Compressor Station
Transwestern Pipeline Company

Dear Bill,

Transwestern completed implementation of the Phase III assessment field activities on August 8, 1997. These activities were completed as outlined in our most recent correspondence dated June 23, 1997. Transwestern's consultants, Cypress Engineering and Daniel B. Stephens & Associates, are currently in the process of preparing a report of assessment activities and results. A copy of the report will be submitted to your office for review by October 15, 1997.

If you have any questions or comments regarding the scheduled submittal date for the report, please contact me at (713) 646-7644 or George Robinson at (713) 646-7327.

Sincerely,

Bill Kendrick
Manager, Environmental Affairs

gcr/BK

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|-------------------|-----------------------|
| xc: Benito Garcia | NMED HRMB |
| Lou Soldano | ENRON GPG Legal |
| Richard Virtue | Virtue & Najjar, P.C. |
| Larry Campbell | Transwestern |
| George Robinson | Cypress Engineering |