



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

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MAR 18 1992

NM ENVIRONMENT DEPARTMENT
OFFICE OF THE SECRETARY

March 10, 1992

Ms. Kathleen M. Sisneros, Director
Water and Waste Management Division
New Mexico Environment Department
P.O. Box 26110
Santa Fe, New Mexico 87502

RE: Bloomfield Refinery, Inc. RCRA §3008(h) Administrative Order

Dear Ms. Sisneros:

The Environmental Protection Agency is preparing to send a RCRA § 3008(h) Administrative Order on Consent to Bloomfield Refinery, Inc. (EPA ID No. NMD089416416). Enclosed, please find one (1) copy of the Order for your review. Please review this Order and provide comments to the EPA within ten (10) days of receipt.

If you have any questions, please feel free to call me or have your staff contact Greg Lyssy of my staff at (214) 655-6480. We look forward to working with NMED on this enforcement action.

Sincerely yours,

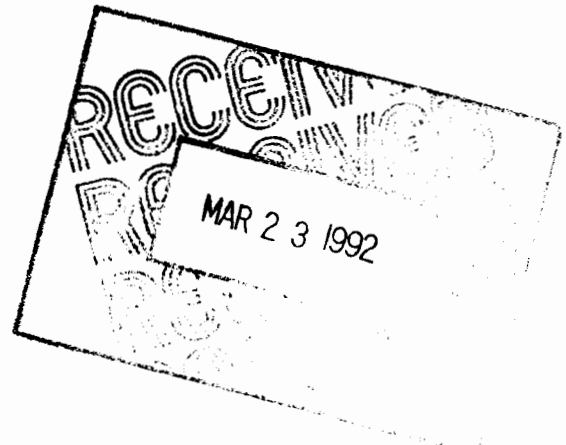
Allyn M. Davis

Allyn M. Davis, Director
Hazardous Waste Management Division (6H)

Enclosure

cc: Mr. Benito Garcia, Chief
Hazardous and Radiation Waste Bureau
New Mexico Environment Department

Mr. Ed Horst, Program Manager
Hazardous and Radiation Waste Bureau
New Mexico Environment Department



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF:)	
)	
Bloomfield Refining Co., Inc.)	ADMINISTRATIVE
Gary-Williams Energy Corporation)	ORDER ON CONSENT
Bloomfield Refinery)	
P.O. Box 159)	
Bloomfield, New Mexico)	
)	U.S. EPA DOCKET NO.
EPA I.D. NO. NMD039416416)	VI-____-H
)	
RESPONDENT)	
)	PROCEEDING UNDER SECTION
)	3008(h) OF THE RESOURCE
)	CONSERVATION AND RECOVERY
)	ACT, AS AMENDED, 42
)	U.S.C. Section 6923(h).
)	

XI

I. JURISDICTION

1. This Administrative Order on Consent (Order) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 3003(h) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, (RCRA), and further amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6923(h). The authority to issue this Administrative Order has been delegated to the Regional Administrator by EPA Delegation Nos. 8-31 and 8-32, dated April 16, 1985, and further delegated to the Director of the Hazardous Waste Management Division, Region 6 (Director).

2. This Order is issued to Gary-Williams Energy Corporation (Respondent), owner/operator at the Bloomfield Refinery Co., Inc. facility, Highway 44 South, Bloomfield, New Mexico (Facility). Respondent admits EPA's jurisdiction to issue this Order and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction to: compel compliance with this Order in any subsequent enforcement proceedings, either administrative or judicial; require Respondent's full or interim compliance with the terms of this Order; or impose sanctions for noncompliance with this Order.

II. PARTIES BOUND

1. This Order shall apply to and bind Respondent, its officers, directors, employees, agents, trustees, receivers, successors, assigns, and all other persons, including, but not limited to,

firms, corporations, subsidiaries, contractors, consultants acting under or on behalf of Respondent.

2. No change in ownership, corporate, or partnership status relating to the facility will in any way alter the status or responsibility of the Respondent under this Order. Respondent will be responsible for and liable for any failure to carry out all activities required of the Respondent by the express terms and conditions of this Order, irrespective of its use of employees, agents or consultants to perform any such tasks.
3. Each undersigned representative of the parties to this Order certifies that he or she is fully authorized to enter into the terms and conditions of this Order.
4. Respondent shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Order within seven (7) calendar days of the effective date of this Order or date of such retention of services and shall condition all such contracts on compliance with the terms of this Order.
5. Respondent shall give notice of this Order to any successors in interest prior to transfer of ownership or operation of the facility and shall notify EPA no later than thirty (30) days prior to such transfer.

III. STATEMENT OF PURPOSE

In entering into this Order, the mutual objectives of EPA and Respondent are: (1) to perform Interim Measures (IM) at the facility to mitigate potential threats to human health or the environment; (2) to perform a RCRA Facility Investigation (RFI) to determine fully the nature and extent of any release(s) of hazardous waste or hazardous constituents at or from the facility; (3) to perform a Corrective Measure Study (CMS) to identify and evaluate alternatives for corrective action(s) to prevent or mitigate any migration of release(s) of hazardous wastes or hazardous constituents at or from the facility, and to collect any other information necessary to support the selection of corrective measures at the facility; and (4) to perform a Corrective Measure Implementation (CMI) implementing the corrective measure or measures selected by EPA for the facility.

IV. FINDINGS OF FACT

1. Respondent is Gary-Williams Energy Corporation, (henceforth referred to as Gary Energy), 115 Inverness Drive East, Englewood, Colorado, 80112. Gary Energy is a corporation incorporated under the laws of the State of New Mexico, and is a person as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15). Gary Energy is a wholly-owned subsidiary of Gary Williams Oil Producer, Inc.. Bloomfield Refinery Company, Inc., is a Colorado Corporation, 115 Inverness Drive East,

Englewood, Colorado, 80112, and is a wholly-owned subsidiary of Gary-Williams Energy Corporation, Inc. Both are hereinafter collectively referred to as "Respondent."

2. The facility is located east of Sullivan Road, Bloomfield, San Juan County, New Mexico, at 36 degrees, 58 minutes and 50 seconds latitude and 107 degrees, 58 minutes, and 20 seconds longitude. This location is one mile south of Bloomfield, New Mexico, on Highway 44.
3. Plateau, Inc., the former owner of the facility, operated the hazardous waste management units at the facility after November 19, 1980. Plateau, Inc. is located at 334 Madison Avenue, Morristown, New Jersey, 07960. Plateau, Inc., is a wholly-owned subsidiary of Suburban Propane Gas Corporation, a New Jersey corporation.
4. On or about October 31, 1984, Suburban Propane Gas Corporation sold the facility to Respondent.
5. Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), requires any person generating or transporting any listed or characteristic hazardous waste, or owning or operating a facility for treatment, storage or disposal of such substance, to file with the EPA a notification stating the location and general description of such activity or the listed or characteristic hazardous wastes handled by such persons.
6. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), on August 13, 1980, Plateau, Inc., notified EPA of its hazardous waste activity. In this notification, Plateau, Inc., identified itself as a generator, treater, storer and/or disposer of hazardous waste at the facility.
7. Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), provides that any person who complies with the provisions of Section 3005(e) shall be treated as having been issued a permit. Such a facility shall be considered to be under interim status, and shall be required to meet all applicable requirements of RCRA.
8. In its RCRA Part A permit application (permit application) dated November 19, 1980, Plateau, Inc., notified the Administrator of EPA and the New Mexico Environmental Improvement Division (NMEID), that it was engaged in the generation and storage at the facility of hazardous wastes identified and listed in 40 CFR Part 261 and used surface impoundments for the treatment, storage, or disposal (process code S04) of hazardous wastes at the facility.
9. The facility, comprised of 287 acres, consists of petroleum refining operations having five (5) RCRA-regulated hazardous waste management units which received the following hazardous wastes or hazardous waste constituents as identified in the facility's permit application:

- a) hazardous wastes from specific sources identified at 40 CFR § 261.32;
 - i) K049 - Slop oil emulsion solids from the petroleum refining industry,
 - ii) K050 - Heat exchanger bundle cleaning sludge from the petroleum refining industry,
 - iii) K051 - API separator sludge from the petroleum refining industry,
 - iv) K052 - Tank bottoms (leaded) from the petroleum refining industry.
10. Plateau, Inc., pursuant to 40 CFR Parts 261.20 and 260.22, submitted a Delisting Petition to the U.S. EPA on May 21, 1982, for the following hazardous wastes:
 - a) waste code K049;
 - b) waste code K050;
 - c) waste code K051.
11. On May 3, 1983, the U.S. EPA denied the Delisting Petition.
12. In accordance with 40 CFR, Part 265, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, on October 8, 1981, Plateau, Inc., submitted a ground water monitoring waiver demonstration to EPA and NMEID for their review.
 - a) In its comments to the waiver, NMEID stated that the demonstration was inadequate to justify a waiver. The comments further stated that it was probable that seepage from the facility was flowing into the Hammand Ditch and/or the San Juan River. The possible contamination of surface water bodies by toxic pollutants undermined Plateau's ability to demonstrate that there was a low potential for migration of pollutants to surface water.
 - b) In a letter to Plateau, Inc., dated March 12, 1984, NMEID denied the ground water monitoring waiver demonstration and required Plateau, Inc., to comply with all applicable ground water monitoring requirements found at 40 CFR § 265.90 et seq.
13. Although Plateau, Inc., asserted in its waiver demonstration that no ground water is known to exist in or above the impermeable Nacimiento formation, the Nacimiento is overlain by a highly permeable cobble bed which allows ground water flow, which also underlies the facility.

14. During May and June, 1983, EPA personnel conducted inspections that revealed significant seepage of ground water from the contact of the cobble bed and the Nacimiento formation at the face of the bluff above the San Juan River.
15. Analysis of samples of these seeps taken during a May, 1984, inspection showed a high level of organic and inorganic contamination (Attachment I - Table I) released from the facility to the San Juan River.
16. On July 15, 1982, May 10, 1983, June 7-8, 1983, March 19-23, 1984, and May 4, 1984 EPA conducted Compliance Evaluation Inspections (CEIs) to assess the facility's compliance with the RCRA Hazardous Waste Management regulations.
17. The May 10, 1983, inspection was conducted to also assess potential adverse environmental impacts, including endangerment to human health, welfare, or the environment pursuant to the Comprehensive Environmental Response and Liability Act (CERCLA) 42 U.S.C. § 9601 et seq.
18. In addition to the hazardous wastes listed above, on or about the date of the 1984 inspection, Plateau, Inc., treated, stored, or disposed of at its facility, the following hazardous wastes:
 - a) waste code D001, ignitable hazardous waste;
 - b) waste code D002, corrosive hazardous waste (pH greater than 12.5) stored in a tank located near the API separator;
 - c) waste code D003, reactive hazardous waste located near the API separator, in the South Oily Water Pond (SOWP), the South Evaporation Pond, the North Evaporation Pond, and the Landfill Pond;
 - d) waste code F002.
19. During the May, 1984 sampling event, soil and water samples were collected upstream and downstream on the San Juan River of the present location of the facility:
 - a) The upstream samples exhibited 225 ppb of unknown organics in the water samples, 430 ppb 1,1,2, - trichloroethane, 320 ppb 1,1,2,2, - tetrachloroethane, and 7,700 ppb of unknown Acid Base/Neutral organics in the soil samples. Inorganics were not detected in either the water or soil samples.
 - b) Downstream samples exhibited 26 ppb of unknown trichloroethane, 950 ppb 1,1,2,2 - tetrachloroethane, 680 ppb 1,1,2-trichloroethane, 680 ppb di-n-octyl phthalate, and 2,460 ppb of

unknown Acid/Base/Neutral organics in the soil samples.

20. Inspections and information collected during 1982-1983 determined that API Separator Sludge (Waste Code K049, K050, K051) came to be located in the South Oily Water Pond (SOWP) and the North Oily Water Pond (NOWP) immediately downstream of the API Separator.
- a) In its 1982 Delisting Petition, Plateau, Inc., described samples of K051 waste as having been collected from the oily water pond (surface impoundment) downstream of the API separator.
 - b) In the Delisting Petition, representative samples of the API separation sludge collected from the oily water pond downstream of the API separator showed proportionate amounts of the three subject listed wastes.
 - c) In the Delisting Petition, the manufacturing processes or other operations and feed materials producing the waste found in the pond downstream containing API separator sludge were described.
 - d) On July 14, 1982, Oscar Simpson, of the New Mexico Oil Conservation Division (NMOCD), conducted a sampling event at the Plateau, Inc., facility. As noted in the sample descriptions from the inspection, the effluent from the API separator was very hot and oily.
 - e) In a letter dated October 29, 1982, regarding the review of Plateau, Inc., Updated Discharge Plan from Hydro Science Engineers, Inc. to Oscar Simpson of NMOCD, George V. Sabol of Hydro Science Engineers, stated that among factors considered to evaluate the operation of API separators, "removal [of sludges] is temperature dependent" (high temperature reduces removal efficiency).
 - f) On or about July 12-14, 1982, Oscar Simpson of NMOCD conducted sampling visits of the facility. The samples of the API effluent were analyzed to determine the levels of hazardous waste, or hazardous waste constituents, flowing into the SOWP immediately downstream from the API separator. The analytical results are exhibited in Attachment I, Table II.
 - g) In a memorandum dated April 1, 1983, to Raymond R. Sisneros, Health Program Manager, Permit Section, NMEID, Jack Ellvinger of NMEID stated that "while at Plateau, Inc., with EPA for the last two inspections, I observed that the API separator was

not functioning properly and a great deal of the material was passing on to the ponds."

- h) On April 4, 1983, Jack Ellvinger of NMEID wrote a Record of Communication (ROC) to the facility file documenting a phone conversation he had with Oscar Simpson of the NMOCD. The ROC stated that Mr. Simpson, while conducting an inspection of the facility for NMOCD, had observed that the API separator was not being properly operated, allowing API separator sludge and other wastes to flow into the pond immediately downstream of the API separator.
- 21. On or about October 29 through November 1, 1982, Plateau, Inc.'s, contractor, Energy Extractors Inc., removed K051 from the two unlined surface impoundments, SOWP and the NOWP. Approximately 89,852 gallons of this material were removed and pumped to trucks owned or contracted by Pacific Intermountain Express Company (P.I.E.). These fourteen (14) shipments were then transported, at the facility's direction, by P.I.E. to Overthrust Tool and Supply Inc. (Overthrust Tool) in Vernel, Utah, on or about October 30 through November 2, 1982.
 - 22. On March 22, 1983, the U.S. EPA, Region VIII, Denver, Colorado, was notified by the Utah Solid and Hazardous Waste Committee (USHWC), that Plateau, Inc., had possibly illegally transported K051 to Vernel, Utah.
 - 23. On or about April 21, 1983, USHWC issued a Notification of Violations and Order of Compliance to Plateau requiring that it remove hazardous waste (waste code K051) from the storage tank located at the Overthrust Tool facility in Vernel, Utah, to an approved hazardous waste treatment, storage and disposal facility within sixty (60) days of the Order.
 - 24. Investigations by National Enforcement Investigation Center of the EPA (NEIC) in 1983 found that facility personnel dumped or land-treated hazardous wastes, waste codes K051, K050, and/or K049, on the facility, in violation of RCRA, § 3008(2), 42 U.S.C. § 6928(2).
 - a) In April 1983, the NEIC implemented an investigation predicated upon receipt of information that approximately 90,000 gallons of a listed hazardous waste (waste code K051), were transferred and/or disposed of by the facility.
 - b) Preliminary investigations determined that Plateau, Inc. shipped approximately 90,000 gallons of "pit sludge" (API separator sludge waste code K051) to Overthrust Tool & Supply, Vernel, Utah, without the proper hazardous waste manifests as required by RCRA. The preliminary findings determined that the transfer of the pit sludge by the facility to

Overtrust Tools violated RCRA by shipping a hazardous waste to an unlicensed facility.

- c) Subsequent investigations by NEIC disclosed that the facility, in violation of RCRA, § 3008(a), 42 U.S.C. § 6928(a), disposed of hazardous wastes (waste codes K051, K050, and/or K049) following the clean out of the SOWP and NOWP in November 1982. Plateau removed approximately eight (8) dump truck loads of contaminated soils from the ponds, disposed of them in an on-site depression (landfill) and covered them.
25. In a letter dated December 4, 1984, to EPA, Plateau, Inc., admitted that it contributed waste code F001 or F002 observed in the effluent of the API separator to the refinery sewer system which leads to the API separator.
26. On or about March 29, 1985, EPA issued a Compliance Order and Notice of Opportunity for Hearing pursuant to RCRA Section 3008(a), 42 U.S.C. § 6928(a), to Respondent for failure to meet the RCRA requirements for treatment, storage and disposal facilities.
27. On or about November 26, 1985, EPA issued an Administrative Order pursuant to Section 3008(a) of the RCRA, 42 U.S.C. § 6928(a), to the Respondent for failure to meet the RCRA requirements for treatment, storage and disposal facilities.
28. According to an EPA RCRA Facility Assessment Evaluation (RFA) conducted June 27, 1987, the facility has thirteen (13) Solid Waste Management Units (SWMUs), five (5) of which are considered to be RCRA-regulated SWMUs and are listed below:
- a) South Oily Water Pond (SOWP) (immediately downstream of the API separator);
 - b) North Oily Water Pond (NOWP) (immediately downstream of the SOWP);
 - c) Evaporation Ponds (2);
 - d) Landfill; and
 - e) Landfill Runoff Ponds.
29. The RCRA § 3013 42 U.S.C. § 6934, Final report was received by the EPA by the Respondent on or about July 29, 1988. The presence of hydrocarbon-contaminated groundwater was observed at monitoring wells MW#4, MW#9, and MW#10 documenting a release to the groundwater from the facility. The sampling results are listed in Attachment I, Table III.
30. Attachment I, Table IV lists the carcinogenic chemicals found in the groundwater at the facility and the carcinogenicity

classification based on the weight of evidence for these chemicals.

31. On September 12-14, 1989, a Comprehensive Ground Water Monitoring Evaluation (CME) by the EPA was conducted at the facility. The CME was conducted to assess the facility's compliance with RCRA ground water monitoring requirements found at 40 CFR § 265.90 et seq. The following violations were found:
- a) The NOWP and SCWP have only one (1) downgradient well in place. According to 40 CFR § 265.91, at least three (3) downgradient wells are required to detect any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate to the uppermost aquifer;
 - b) The landfill and landfill pond have only one (1) downgradient well in place. These areas are separate units and are required to be monitored separately. According to 40 CFR § 265.91, at least three (3) downgradient wells are required to detect any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate to the uppermost aquifer;
 - c) The facility did not have a sampling and analysis plan on file. 40 CFR § 265.92 requires that the operator must develop and follow a ground water sampling and analysis plan. The plan is required to be available at the facility;
 - d) The facility could not produce an outline of a ground water assessment program. 40 CFR § 265.93 requires that an owner or operator must prepare an outline of a ground water quality assessment program, and that the plan be available at the facility;
 - e) The facility did not have records or reports concerning initial background values for the separate waste management areas. 40 CFR § 265.94 requires that these records be available at the facility.
32. During the CME, samples were taken of the monitoring wells at the facility. The sample results are listed in Attachment I, Table V.
33. On September 25, 1990, EPA promulgated the Toxicity Characteristic Rule, 40 CFR § 261.24 (TC Rule).
34. On September 25, 1990, Respondent submitted an Amended Notification and Part A Application (Amended Notification) to

EPA identifying itself as a treater, storer or disposer of hazardous waste.

35. In the Amended Notification, Respondent identified the SOWP and NOWP as Hazardous Waste Aeration Impoundments (Aeration Impoundments).
36. In the Amended Notification, Respondent identified the Aeration Impoundments as units regulated under the TC Rule specifically for benzene concentrations (D018).
37. This Order is based upon the Administrative Record compiled by EPA, which is available for public examination at the Region 6 offices, 1445 Ross Avenue, Dallas, Texas, during normal business hours, Monday through Friday.
38. Based on the release of hazardous waste or hazardous waste constituents into the environment from Respondent's facility, the actions ordered below are necessary to protect human health or the environment.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set out above, and the administrative record, the Director has determined that:

1. Respondent is the operator/owner of the facility, as that term is defined at 40 CFR § 260.10;
2. The location at Bloomfield, New Mexico, where Respondent is doing business, is a "facility" as that term is defined at 40 CFR § 260.10;
3. Respondent is a person defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15);
4. The facility is authorized to operate under interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e);
5. There have been releases of hazardous wastes or hazardous waste constituents into the environment from the facility as defined by § 3001 of RCRA, 42 U.S.C. § 6921.
6. The interim measures and comprehensive corrective actions (actions) required by this Order are consistent with RCRA and are necessary to protect human health and the environment.

VI. WORK TO BE PERFORMED

Based on the foregoing, it is hereby ORDERED that Respondent shall perform, undertake, continue to take, and complete each of the following actions to the satisfaction of EPA and in accordance with the terms, procedures and schedules set forth in Attachment II - Corrective Action Plan (CAP) in the manner and by the dates specified below: