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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 24, 2010

James R. Schmaltz
Environmental Manager
Western Refining Southwest, Inc
Bloomfield Refinery.
P.O. Box 159
Bloomfield, NM 87413

**RE: NOTICE OF DISAPPROVAL
NORTH AND SOUTH AERATION LAGOONS
CLOSURE CERTIFICATION REPORT
WESTERN REFINING SOUTHWEST INC., BLOOMFIELD REFINERY
EPA ID # NMD089416416
HWB-GRCB-09-007**

Dear Mr. Schmaltz:

The New Mexico Environment Department (NMED) has reviewed Western Refining Southwest Inc., Bloomfield Refinery's (Western) *North and South Aeration Lagoons Closure Certification Report* (Closure Report), dated September 2009. NMED hereby issues this Notice of Disapproval (NOD). Western must address the comments below in a response letter.

Comment 1

In Section 4.1 (Sludge Characterization, Removal, and Disposal) on pages 5 and 6, Western references the aeration lagoons as follows: South Aeration Lagoon (#1 Aeration Lagoon), the Northwest Aeration Lagoon (#2 Aeration Lagoon), and the Northeast Aeration Lagoon (#3 Aeration Lagoon). The Report does not include a figure that identifies each aeration lagoon by name. Western must submit a figure that labels the aeration lagoons as described above.

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Comment 2

In Section 4.1 (Sludge Characterization, Removal, and Disposal), pages 5 and 6, Western describes the sludge removal and disposal process for each Aeration Lagoon (AL). In the response letter, Western must describe how the sludge samples were collected (e.g., shovel, Encore ® sampler) and indicate for each AL the volume of sludge removed and transported off-site for recycling or disposal.

Comment 3

In Section 4.1 (Sludge Characterization, Removal, and Disposal), pages 5 and 6, Western states the sludges from the Northwest Aeration Lagoon and the Northeast Aeration Lagoon were “removed via vacuum truck, mixed with fly ash, transported and disposed of at the San Juan County Landfill in Aztec, New Mexico.” In the response letter, Western must discuss if the San Juan County Landfill required chemical analyses for the sludge and any analyses related to the fly ash before acceptance for disposal. Western must provide documentation that demonstrates the landfill accepted the waste and verify that all waste manifests are available for review at the refinery.

Comment 4

In Section 4.1 (Sludge Characterization, Removal, and Disposal), page 6, Western states “[o]n October 21, 2008, eight sludge samples were collected in a grid pattern from the Northeast ABT unit (#3 Aeration Lagoon)” and in the following paragraph states “[t]he sludge sample location map is presented in Attachment 5.” The sludge location map show and the laboratory results report seven sample locations, not eight as indicated in the text. In the response letter, Western must clarify this discrepancy and submit replacement pages with modified text and revise the sludge location map accordingly.

Comment 5

In Section 4.3 (Collection of Soil and Flush Water Samples), page 8, Westerns states “[s]tained soil was discovered underneath the discharge piping from the South ABT unit to the Northwest ABT unit when the piping was replaced. The soil was removed, placed on containment, and sampled. The characterization samples were placed on ice for preservation, and shipped to HEAL for analysis of TCLP Metals (EPA Method 6010B) and Benzene (EPA Method 8260B). Analytical results indicate non-detect on all analyses. The soil was used as backfill. Stained soil was found under the discharge piping from the Northeast ABT unit to the suction of P-616. The soil was removed, placed on containment, and sampled. The characterization samples were placed on ice for preservation, and shipped to HEAL for analysis of TCLP Metals (EPA Method 6010B) and Benzene (EPA Method 8260B). Analytical results indicate non-detect on all analyses. The soil was used as backfill. Laboratory reports are provided in Attachment 6.”

Because the stained soil was used as backfill and not disposed of off-site, additional chemical analyses should have been conducted in addition to the toxicity characteristic leaching procedure

(TCLP) analytical method for metals and benzene. Even though a sample is not hazardous, it does not mean the sample is not contaminated; before the soil was used as backfill, the soil samples should have also been analyzed for diesel range organics (DRO), gasoline range organics (GRO), volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and total metals. In the future, if soils are considered for reuse on-site, these additional chemical analyses must be conducted and reported to NMED prior to use as backfill. The analytical results must be compared to NMED's Soil Screening Levels in order to determine if the soil can be reused on-site and the location of the soil reuse must be approved by NMED. In the response letter, Western must indicate how much soil was removed and used as backfill and identify where the soil(s) was placed.

Comment 6

The Closure Report did not address well development or describe the collection of soil samples during the installation of the monitoring wells. In the response letter, Western must provide a description of the well development process and explain how the soil samples were collected during the installation of the monitoring wells (e.g., new monitoring wells were developed within 10 days of installation and developed by pumping/surging; soil samples placed in four ounce jars provided by the laboratory, no headspace was left in the jar to avoid the volatilization of VOCs).

Comment 7

In Section 5.7 (Investigation Derived Waste management), page 18, Western states “[f]ollowing completion of all drilling activities, all soil and sampling fluids were disposed of in compliance with the approved IDW Management Plan. A composite sample of the soil cuttings was collected and sent to Hall Environmental Analytical Laboratories for analysis. The soil cuttings were characterized as non-hazardous and disposed of off-site in compliance with the approved IDW management plan.”

- a. It is not clear what “approved IDW Management Plan” Western is referring to. The *Closure Plan North and South Aeration Lagoons* (Closure Plan), dated May 2008, does not have an IDW Management Plan. In the response letter, Western must discuss the IDW Management Plan and what protocols were followed.
- b. In reference to the composite sample, Western must provide a list of the laboratory analyses conducted and include the laboratory results. Western must also describe how the composite sample was collected (e.g., a small amount of soil was collected from five drums and placed in a four ounce jar provided by the laboratory or soil was collected from five drums and homogenized before placement in a sample container). This information must be included in the response letter.

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Comment 8

Western has completed partial closure of the Aeration lagoons. Final Closure to achieve compliance with 40 CFR 264 subpart G and specifically 40 CFR 264.111 and 114 will be conducted in conjunction with corrective action under the July 27, 2007 Order. However, Western must still comply with the requirements of 40 CFR 264.112, which requires submittal of a plan for final closure and establishment of financial assurance to complete closure in accordance with 40 CFR 264 subpart H.

Since final closure will be conducted in conjunction with the Order (Group 9, SWMU 13 Process Area) and no final remedy has been selected for the Process Area(which includes the Aeration Lagoons), Western must provide a cost estimate for final closure (40 CFR 264.112(b)(8)) that assumes complete removal of the lagoons and all underlying contaminated soils. The estimate must include all costs for removal of equipment and contaminated soils, sampling and chemical analyses, monitoring, reporting, transport and disposal of removed materials, backfilling and any engineering or other related costs. The cost estimates must include complete descriptions of the assumptions made for each activity (e.g., volumes, unit costs) and be submitted under a separate cover.

Western must submit a response letter to NMED addressing Comments 1-7 in this NOD on or before April 26, 2010. The closure cost estimate must be submitted under separate cover by May 3, 2010.

Please contact Hope Monzeglio of my staff at (505) 476-6045, should you have any questions.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: J. Kieling, NMED HWB
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File: Reading File and GRCB 2010 File