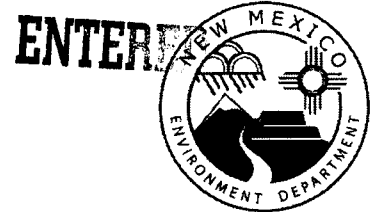




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ENVIRONMENT DEPARTMENT



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Secretary

SARAH COTTRELL
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 14, 2010

Mr. Randy Schmaltz
Environmental Manager
Western Refining, Southwest, Inc.
Bloomfield Refinery
P.O. Box 159
Bloomfield, New Mexico 87413

**RE: NOTICE OF DISAPPROVAL
FINAL CLOSURE PLAN NORTH AND SOUTH AERATION LAGOONS
WESTERN REFINING SOUTHWEST, INC., BLOOMFIELD REFINERY
EPA ID # NMD089416416
HWB-WRB-10-007**

Dear Mr. Schmaltz:

The New Mexico Environment Department (NMED) has reviewed Western Refining Southwest, Inc., Bloomfield Refinery (Western) *Final Closure Plan North and South Aeration Lagoons* (Closure Plan) dated May 2010. NMED hereby issues this Notice of Disapproval (NOD). The Permittee must address the following comments.

Comment 1

In Section 2.2 (ABT Unit Operations), page 6, Western describes the liner system for the Aeration Lagoons (ABT Units) from top to bottom. Western states in bullet 2 that the liner includes “[a] geonet for collecting leaks that drain to a sump equipped with a 6” observation pipe.” Western must revise the Closure Plan to include details for the sump, including the design, dimensions, observation pipe and location (e.g., the sump is a concrete structure x feet by x feet by x feet deep, and located x feet below ground surface adjacent to the South ABT Unit). See also Comment 4.

Comment 2

In Section 3.3 (Flushing of Leachate Collection System), page 12, Western states “[p]ursuant to the previous Closure Plan, after repairs to the upper liner of the South ABT unit were completed, the geonet between the upper 100-ml liner and the lower 60-ml liner was flushed with clean water. The flush water was sampled using a bailer in the 6” observation pipe. Analytical results indicated that the flush water did not exhibit any hazardous characteristics.” Although the flush water did not exhibit hazardous characteristics, Western must indicate if the flush water was analyzed for hazardous constituents, and if so, list the detected constituents. Western must include appropriate documentation (e.g., laboratory reports). Western must revise the Closure Plan accordingly.

Comment 3

In Section 4.1.1 (Sludge/Sediment Removal), page 14, Western states “[t]he sludge /sediment that remains in the ABT units above the top liner after removal [of] the free liquids will be allowed to dry for up to four weeks...At the conclusion of these activities, the material will be sampled for hazardous characteristics in accordance with 40 CFR Part 261, Subpart C - Characteristics of Hazardous Waste, including reactivity, corrosivity, ignitability, TCLP RCRA metals, TCLP semi-volatiles (SVOCs), and total volatiles (VOCs). If the material is non-hazardous, then it may be disposed at a landfill permitted by the NMED to accept Special Waste (e.g., the San Juan County Regional Landfill).” The disposal facility may require analyses in addition to what is discussed above (e.g., total RCRA metals, TCLP volatiles). Western must comply with all waste characterization required by the disposal facility.

The Closure Plan discusses the removal of liquids, sludges, sediments, various liner materials, and investigation derived wastes (media) that will be analyzed for hazardous characteristics in accordance with 40 CFR 261 Subpart C. Western must revise the Closure Plan to clearly indicate that all media determined to be non hazardous and to be disposed offsite will meet the waste acceptance requirements of the disposal facility. The waste disposition must also be documented in the closure report.

Comment 4

In Section 4.1.2 (RCRA Liner Removal), page 14, Western states “[t]he RCRA liners, which include an upper 100 mil HDPE liner, a geonet, and a lower 60 mil HDPE liner, will be removed and disposed at a landfill permitted by the NMED to accept Special Waste (e.g., the San Juan County Regional Landfill),” and on page 15 states “[t]he liners and geonet will be cut into manageable sized pieces and then rolled/folded to facilitate loading into trucks/roll-off boxes for transport off-site disposal.” Western does not discuss the disposal of the sump or six inch pipe associated with these liners. Western must revise this section of the Closure Plan to address the removal and disposal of the sump piping and any other associated debris. See also Comment 1.

Comment 5

In Section 4.1.2 (RCRA Liner Removal), page 15, Western states “[i]f the liquid is non-hazardous, then it will be disposed through the on-site permitted discharge system.” Western does not identify the on-site permitted discharge system nor address its associated components.

Western must revise the Closure Plan to discuss the on-site permitted discharge system and address its associated components (e.g., fluids will flow through the API separator to the injection well or flow through the API separator and the benzene strippers to the injection well). Western must also identify the sampling requirements associated with the “on-site permitted discharge system,” if applicable. This comment applies to all sections of the Closure Plan that reference the on-site permitted discharge system.

Comment 6

In Section 4.1.3 (Non-RCRA Liner/Leachate Collection System Removal), page 15, Western discusses the removal of the “non-RCRA Liner” and states “[t]he uppermost layer beneath the RCRA lower 60 mil liner is a composite geotextile/geonet, which will be cut into manageable pieces and placed into roll-off boxes for off-site disposal. Beneath this composite geotextile/geonet layer is a 6” layer of cement amended sand. The sand layer will be excavated and stockpiled on-site pending waste characterization sampling. Beneath the sand layer is a 100 mil HDPE liner, which will be removed and handled with the previously removed composite geotextile/geonet layer. The lowermost layer consists of approximately 6 inches of bentonite amended soil with a French drain system.” Western must revise the Closure Plan to address the removal of the four-inch observation pipe associated with the composite geotextile/geonet described in Section 2.2 (ABT Unit Operations).

Comment 7

In Section 4.1.3 (Non-RCRA Liner/Leachate Collection System Removal), page 15, Western states “[t]he French drain system will be checked for the presence of liquids prior to removal. Any liquids that are present will be containerized. The liquid will be sampled and analyzed for hazardous characteristics in accordance with 40 CFR Part 261, Subpart C – Characteristics of Hazardous Waste. If the liquid exhibits hazardous characteristics, then it will be disposed offsite as hazardous waste. If the liquid is nonhazardous, then it will be disposed through the facilities on-site permitted discharge.” If liquids are detected and determined to be non-hazardous, there is still a potential for the liquids to contain contaminants. If liquids are found in the French drain system and determined to be non-hazardous, Western must meet the discharge limits for the on-site permitted discharge system. Western must revise the Closure Plan to discuss disposal of liquids in the on-site discharge system and the associated discharge concentration limits. Western must also explain the additional analysis requirements if liquids are detected in the French drain system. See also Comment 5.

Comment 8

In Section 4.1.3 (Non-RCRA Liner/Leachate Collection System Removal), page 15, Western states “[i]f the liquid is nonhazardous, then it will be disposed through the facilities on-site permitted discharge. Soil will be physically removed from the drain system piping and if the liquid present in the drain system is characteristically hazardous, then the piping will be triple rinsed with potable water prior to offsite disposal.” Western indicates that soil will be physically removed, but does not discuss the disposition of the soil once it has been removed. Western must revise the Closure plan to address the disposition of soils removed from the French drain system and indicate how the soil(s) will be characterized.

Comment 9

In Section 4.1.3 (Non-RCRA Liner/Leachate Collection System Removal), page 16, Western states “[i]f all concentrations of constituents are below the applicable NMED residential soil screening levels, then the soil may be reused for backfill.” Meeting the NMED numerical residential soil screening levels does not necessarily allow Western to reuse the soil as backfill. The soils must also meet the cumulative target residential risk of 1E-05 for carcinogens and a hazard index of 1 for noncarcinogens. If the soil is used as backfill, Western must be able to demonstrate it meets the requirements of the NMED Technical Background for Development of Soil Screening Levels, as updated. Western must revise the Closure Plan to state excavated soils will be used as backfill only if it is demonstrated that the soils meet residential cleanup standards, the cumulative target residential risk of 1E-05 for carcinogens, and a hazard index of 1 for noncarcinogens.

Comment 10

In Section 4.2 (Soil Investigation), page 16, Western discusses the soil borings and the collection of discrete soil samples from various depths. In addition to the sampling described, Western must also collect a sample from the bottom of each boring for laboratory analyses. Western must revise the Closure Plan accordingly.

Comment 11

In Section 4.2.4 (Collection and Management of Investigation Derived Waste), page 20, Western states “[a]ll decontamination water will be characterized prior to disposal unless it is disposed in the refinery wastewater treatment system upstream of the API Separator.” Western also states in Appendix A (Management of Investigation Derived Waste) “[t]he fluids will be pumped directly into suitable storage containers (e.g., labeled 55-gallon drums), which will be located at satellite accumulation areas until the fluids are disposed in the refinery wastewater treatment system upstream of the API separator.” With the removal of the ABT Units, Western’s wastewater treatment system will not operate as it did in the past. Western must revise all applicable sections of the Closure Plan to describe all components of the wastewater treatment system that will be in operation once the ABT Units are taken out of service. Western must also describe how it will demonstrate that the decontamination water and fluids stored in containers are acceptable for discharge to the wastewater treatment system once the ABT Units are not in operation. Prior to closure of the ABT units, Western must clean and remove all K051 sludges from the API Separator. Western must revise the Closure Plan accordingly.

Comment 12

In Section 4.2.7 (Chemical Analyses), page 21, Western states “[s]oil samples will be analyzed by the following methods...” In the revised Closure Plan, Western must clarify if the methods also apply to the sludge/sediment samples as described in Section 4.1.1 or only the soil samples that will be collected from the borings and excavation limits shown in Figure 3 (Sample Location Map).

Comment 13

In Section 4.2.8 (Data Quality Objectives), page 21, Western states “[m]ethod detection limits should be 20 % or less of the applicable background levels, cleanup standards and screening levels.” If Western is unable to achieve the method detection limits, an explanation why they were not achieved must be included in the closure report. Western must revise this section indicating that an explanation will be provided if the method detection limits are not achieved.

Comment 14

In Section 4.3 (Soil Removal Action), page 22, Western states “[t]he preferred method to address any such releases from the ABT Units is to remove and dispose the impacted soils at a permitted off-site landfill so as to obtain Corrective Action Complete Without Controls [CACWC] and meet the requirements of 40 CFR §265.228 (a)(1) for clean closure. If the volume or depth of impacted soils is such that a complete removal action is financially or technically impracticable, then a revised Closure Plan will be submitted in accordance with 40 CFR §265.228 (a)(2).” Western must revise the Closure Plan to state that it will provide a demonstration of impracticability and proposed additional phases of work or post-closure care will be discussed in the Closure Report, rather than amending the Closure Plan at the time of discovery. NMED will determine the appropriate course of action after its review of the Closure Plan.

Comment 15

In Section 4.3.1 (Soil Excavation), page 23, Western states “[s]oil containing concentrations of constituents above the applicable NMED residential screening levels will be excavated for off site disposal. The soil will be excavated using back hoes, track hoes, long-reach excavators, or similar equipment. The excavated soil will either be stockpiled on poly sheeting within the footprint of the ABT Units or placed directly into roll-off boxes. The soil will be sampled and analyzed for waste characterization at a minimum of one sample per 20 cubic yards. The samples will be analyzed for hazardous characteristics in accordance with 40 CFR Part 261, Subpart C – Characteristics of Hazardous Waste, including reactivity, corrosivity, ignitability, TCLP RCRA metals, TCLP SVOCs, and total VOCs.” Western must revise the Closure Plan to clarify that samples analyzed for VOC analyses will be collected as discrete samples and include a statement that soil characterization will meet the requirements of the disposal facility.

Comment 16

Western describes confirmation sampling in Section 4.3.2. This Section does not indicate if the samples will be collected as discrete or composite samples, nor does it propose analytical methods. Western must revise the Closure Plan to discuss the sample collection methods as well as the applicable analytical methods.

Comment 17

In Section 4.4 (Closure Certification), page 23, Western states “[u]pon completion of all activities, a Closure Certification Report will be prepared in accordance with 40 CFR §265.115 Certification of Closure. The certification will [describe] how the ABT Units were closed in accordance with the approved Closure Plan.” Prior to certification of closure, Western must first submit a closure report that summarizes all work and presents all data related to closure. Once the closure report is approved by NMED, a certification of closure can then be completed in

Randy Schmaltz
October 14, 2010
Page 6

accordance with 40 CFR 265.115. Western must revise the Closure Plan to clarify that a closure report will be submitted and upon NMED approval, certification of closure will then be completed. Appendix B (Closure Cost Estimate) may need to be revised to include the cost associated with preparation of a closure report. Western must revise the Closure Plan accordingly.

Western must address all comments contained in this NOD and submit a revised Closure Plan to NMED on or before January 14, 2011. The revised Closure Plan must be submitted with a response letter that details where all revisions have been made, cross-referencing NMED's numbered comments. In addition, an electronic version of the revised work plan must be submitted that identifies where all changes have been made in redline strikeout format. If you have any questions regarding this letter, please contact Hope Monzeglio of my staff at (505) 476-6045.

Sincerely,



James P Bearzi
Chief
Hazardous Waste Bureau

JPB:hm

cc: J. Kieling, NMED HWB
D. Cobrain, NMED HWB
C. Chavez, OCD
A. Hains, Western
File: HWB-WRB-10-007 and Reading 2010