



December 18, 1997

Route 3, Box 7
Gallup, New Mexico
87301

Dr. Robert Dinwiddie, Manager
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo
Santa Fe, NM 87502

Re: Closure of the Ciniza Refinery's Land Treatment Unit

Dear Dr. Dinwiddie:

This letter is in response to your correspondence of October 26, 1997 (copy attached). As you know, Giant Refining has been working with the Bureau for approximately four years to develop an acceptable closure plan for the Ciniza Refinery's Land Treatment Unit (LTU). During that time, the closure plan has been through several iterations and major re-writes that have addressed the Bureau's expressed desires and concerns regarding the closure criteria and procedures to be followed. With the most recent closure plan and supporting data submissions, it was felt by Giant's environmental staff that an acceptable showing had been made for clean closure of the LTU. This, of course, was the basis for the public hearing and public comments periods conducted by both Giant and the Bureau regarding this project. No adverse comments were received by either Giant or the Bureau during or following these public participation periods. However, after reviewing the Bureau's most recently expressed reservations regarding Giant's proposal for clean closure of the LTU and the Bureau's decision to abandon its previous agreement (copy attached), which Giant has been using as its guide to the LTU closure, Giant now feels it necessary to abandon its efforts to clean close the LTU.

Giant is planning to follow the Bureau's recommended course of action regarding the LTU, i.e., closure followed by extended post-closure care. In this way, it is hoped that we will be able to minimize the review time and efforts required of the HRMB's limited staff resources and bring this process to completion as expeditiously as possible.

It is Giant's intention to submit a Closure Plan and Post-Closure Permit Application based on the approved Closure and Post-Closure requirements contained in the existing RCRA operating permit for this facility. The reasons for this are: a) the relative difficulty faced by Giant's staff in being able to adequately address all of the HRMB's concerns to the Bureau's ultimate satisfaction within a reasonable timeframe, and b) the relatively tight time restrictions imposed by the need to submit a permit renewal application six months prior to the existing permit's expiration.

Because of the upcoming permit deadlines and the extremely tight time schedule faced by Giant in preparing these submittals, we would appreciate it if the Bureau would advise Giant's environmental staff of the likelihood that these submittals can be

reviewed and approved in the time remaining before the operating permit renewal application deadline in May, 1997.

Thank you very much for your time and assistance in our efforts to resolve this matter in as timely and efficient a manner as possible.

Sincerely,



David C. Pavlich
Manager- Health, Safety & Environment
Giant Refining Company

Enc.

cc: Dick Platt, Refinery Manager (w/o Attachments)
Dorinda Mancini, Environmental Manager (w/o Attachments)
Kathleen O'Leary, Corporate Counsel
Benito J. Garcia, Chief, HRMB



GARY E. JOHNSON
GOVERNOR

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MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

October 26, 1997

Ms. Dorinda Mancini
Environmental Manager
Giant Refining - Ciniza
Route 3, Box 7
Gallup, NM 87301

Dear Ms. Mancini:

RE: LTU Clean Closure Performance Standards

The New Mexico Environment Department (NMED) writes this letter to inform Giant Refining Company - Ciniza (Giant) of NMED's recent activities regarding Giant's RCRA Operating Permit (OP) for the Land Treatment Area (LTA). Giant's July 1996 amended Closure Plan (CP) has been the primary focus of NMED's efforts.

The NMED/Hazardous and Radioactive Materials Bureau (HRMB)/RCRA Permits Management Program (RPMP) has re-evaluated and deemed inappropriate the clean closure contaminant level criteria provided to Giant by the HRMB in a letter to Mr. Edward Horst, dated July 19, 1996 (attached). Giant's CP incorporated the suggested clean closure criteria into the closure performance standards (Section 3.1) while also citing the appropriate regulations. The use of the improper closure criteria causes the CP to be contradictory and ultimately makes closure certification impossible. Documents associated with the CP, such as the Characterization Plan and the Sampling and Analysis Plan, are also based on the inappropriate closure criteria and are thus also contradictory.

HRMB's July 1996 letter mistakenly states that clean closure would be considered attained when waste concentrations degrade to either New Mexico Water Quality Standards, the National Drinking Water Maximum Contaminant Levels, or the most conservative EPA guidance criteria. The two above referenced water standards are improper for clean closure criteria for two reasons. First, because the standards pertain only to waters and do not address soil contaminant levels found at the LTA, and second and more important, because they conflict with the regulations. Conservative EPA guidance criteria is inappropriate as a closure performance standard because it is simply too ambiguous.

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The RPMP does believe that the timeline requirements detailed in the second paragraph of the 1996 letter would appropriately apply to the LTA clean closure determination.

The hazardous waste regulations (264.280(d)) regarding closure for land treatment units (LTUs) state that "... the operator is not subject to ... (post-closure care) ... if the ... levels of hazardous constituents in the treatment zone do not exceed the background value" Therefore, the clean closure performance standard must be those constituent concentrations not affected by either facility or waste treatment unit operations. The LTU closure requirement of attaining background concentrations are unique among RCRA operable units because LTUs are the only units discussed in the regulations at which hazardous wastes are intentionally placed on the land for treatment.

The clean closure performance standard of attaining background concentrations will apply to the inorganic hazardous constituents contained within the wastes that are also listed in 40 CFR Part 261, Appendix VIII. This will apply to all waste metals and not just chromium or lead. The RPMP considers the constituents within the Modified Skinner List provided in Giant's amended Closure Plan (Tables 4C and 4D) appropriate.

By extension, the clean closure performance standards for organic hazardous constituents are the minimum quantification levels (MQL) as specified in the attached EPA "Region 6 Development of Minimum Quantification Levels." If Giant attains background or MQLs on all hazardous constituents while petroleum hydrocarbon concentrations that are not hazardous constituents continue to exist, the RPMP will consider its regulatory authority exhausted at this unit and will request that the Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department (EMNRD) work with Giant to finalize the abatement.

Finally, the above clean closure performance standards apply to all soils and groundwater within and below the LTA unless it can be shown to be from another source.

Giant's currently approved Closure Plan, Section 3.3.1, requires that "... in situ treatment continue until any residual hazardous waste has degraded below NMED-approved health based concentration limits." The RPMP wishes to establish for the first time these limits in this letter.

The RPMP proposes that the appropriate risk-based concentrations be the most currently available Human Health, Media-Specific Screening Levels provided by the Environmental Protection Agency, Region 6 (attached). The RPMP would insist that Giant use the more conservative of either the soil screening level for transfers from soils to groundwater or the risk-based screening level for soils

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based on an residential future land-use exposure scenario. If Giant believes that the EPA algorithm used to calculate the screening levels are inappropriate for the facility, Giant may petition for an alternative. Additionally, if a standard does not exist for a particular constituent, the RPMP would insist that Giant use MQLs.

Please keep in mind that treating hazardous wastes to risk based concentrations would be considered a "closure with waste in-place" and not clean closure. In this situation Giant would still be required to provide post-closure care through a separate post-closure care permit. The RPMP reminds Giant that it always has the option to "remove" all contaminated material to the above mentioned standards in order to stop treatment or attain clean closure.

Furthermore, because treatment must continue until acceptable risk levels have been attained, the RPMP believes that a vegetative cover would preclude the treatment process and be contrary to the closure process.

The RPMP requires that Giant revise the "LTA Closure Plan/Characterization Plan" and any associated documents by taking into account the regulatory requirements and the concerns identified in this letter. These revised documents must be provided to the RPMP within 180 days of receipt of this letter. In the interim Giant must continue all operations necessary to maximize degradation and continue to abide by its sampling and reporting requirements.

The RPMP defer determination as to whether there has been a substantial release for the LTA until the results of the Characterization plan have been submitted. Please contact Mr. Steve Pullen or myself at (505) 827-1558 if you have any questions regarding this letter.

Sincerely,



Robert (Stu) Dinwiddie, Ph.D., Manager
RPMP, HRMB

copy:
Roger Anderson, OCD, w/attach.
David Neleigh, EPA, w/o attach.

Attachments:
NMED July 1996 letter
MQLs
EPA Screening Levels



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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 19, 1996

Mr. Edward L. Horst, Environmental Manager
Giant Refining Company-Ciniza
Route 3, Box 7
Gallup, New Mexico 87301

Dear Mr. Horst:

RE: Timeline and Contaminant Levels for Clean Closure of RCRA
Land Treatment Area

Giant Refining Company-Ciniza (Giant) has requested that the New Mexico Environment Department (NMED) Hazardous and Radioactive Materials Bureau (HRMB) provide a clarification of the necessary timeline and the required contaminant levels to demonstrate clean closure of Giant's RCRA Land Treatment Area.

As discussed in the May 24, 1996 meeting between Giant and HRMB, RCRA Permits Management Program would accept two (2) consecutive years, i.e. four consecutive events of clean sample results as a demonstration of clean closure. Consecutive sampling events were agreed to be Giant's annual and semi-annual ground water sampling as required by Permit Attachment G, and soil sampling as required by Permit Module III.

As to contaminant levels to demonstrate clean closure, NMED policy dictates the use of either New Mexico Water Quality Control Commission (WQCC) Standards, or National Drinking Water Maximum Contaminant Levels (MCLs), whichever is more conservative. For those parameters in Giant's Permit for which there is neither an MCL or WQCC Standard, the most conservative EPA guidance will be used, such as the proposed 40 CFR 264 Subpart S levels.

HRMB further understands that Giant is aware of and appreciates the need to complete the Closure Plan approval process by the end of Fiscal Year 1996, which would be September 30, 1996. Giant has proposed and HRMB approves the following schedule:

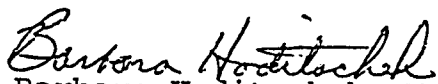
- 1) Giant receives the revised closure plan from their contractor: approximately July 3, 1996.

Edward L. Horst
July 19, 1996
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- 2) Giant submits the plan to HRMB: approximately July 15, 1996.
- 3) HRMB reviews the plan; the 45-day public comment period runs from approximately August 1, 1996 to September 15, 1996.
- 4) The Closure Plan is approved by the Secretary of NMED by September 30, 1996.

If there are any questions, please call Mr. Michael Chacón of my staff at (505) 827-1561.

Sincerely,



Barbara Hoditschek, Manager, RCRA Permits Management Program

cc: Benito J. Garcia, Chief, HRMB
David Neleigh, EPA (6PD-N)
Bob Sweeney, RCRA Permits Management Program
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