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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 11, 2008

Mr. Ed Riege
Environmental Superintendent
Western Refining Company Gallup Refinery
Route 3, Box 7
Gallup, New Mexico 87301

**RE: CLARIFICATION OF RCRA CORRECTIVE ACTION PROCESS
EVAPORATION POND CLOSURE PLAN
WESTERN REFINING COMPANY, GALLUP REFINERY
HWB-GRCC-MISC
EPA ID # NMD000333211**

Dear Mr. Riege:

The New Mexico Environment Department (NMED) received the *Evaporation Pond Closure Plan* (Closure Plan) dated, December 2007 submitted on behalf of Western Refining Company, Gallup Refinery (Permittee). The Closure Plan was submitted as a requirement of the Oil Conservation Division (OCD) Discharge Permit (GW-032). This letter does not provide comments regarding the Closure Plan; however, NMED has taken this opportunity to provide the RCRA requirements that must be followed at the time the Evaporation Ponds (EPs) are removed from service. This process also applies to Solid Waste Management (SWMU) Unit No. 1 Aeration Basin.

The EPs are SWMU Unit No. 2 based on NMED's Post-Closure Care Permit. When the EPs are removed from service, they must go through the RCRA corrective action process outlined below. Definitions to the terminology below can be found in 20.4.2.7 NMAC.

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- a. The Permittee must submit a RCRA Facility Investigation (RFI) work plan (investigation work plan) for the EPs to determine the extent of any releases. An RFI describes the proposed investigation activities to determine the nature and extent of contamination at a unit or facility.
- b. Upon completion of approved RFI activities, the Permittee must submit an RFI report (i.e., investigation report) that discusses the results of the investigation and provides conclusions and recommendations.
- c. If additional investigation activities are required, a subsequent Phase II RFI work plan and Phase II RFI report would be required by NMED.
- d. Once the Permittee determines the full extent of contamination, a Corrective Measures Evaluation (CME) to identify and evaluate potential corrective measures (remedy) and alternatives may be required by NMED.
- e. If a CME is required, NMED will evaluate the proposed remedies. When a remedy is selected by NMED, the Permittee would then be required to submit a Corrective Measures Implementation (CMI) work plan, which would present specifications to implement the approved remedy at the SWMU.
- f. After implementing the selected remedy, the Permittee must submit a CMI report describing implementation of the remedy to NMED.
- g. After completion of all remedial actions, the Permittee must submit a Remedy Completion Report, which summarizes the results of completion of the implementation of corrective measures.
- h. Once NMED has determined that no additional remedial activity is required at a unit, then the Permittee may petition for corrective action complete determination.

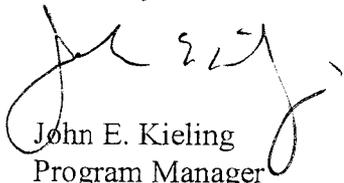
The EPs have not achieved no further action status (NFA) (i.e. Corrective Action Complete without Controls) as implied in the Closure Plan prepared for OCD. In addition, the Closure Plan discusses an investigation at the evaporation ponds conducted in the early 1990's where soil and groundwater samples were collected in the pond areas. The Permittee states in the Closure Plan that volatile organic compounds (VOCs) or semi-volatile organic compounds (SVOCs) were not detected in soil and groundwater at SWMU No. 2. The analytical data collected during the investigations at the EPs in the 1990s cannot be used to determine if further sampling is necessary for the following reasons:

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- a. Data collected during the investigations conducted in the early 1990's were not collected in accordance with standard sampling methods and procedures (e.g.; soil samples analyzed for VOC analysis were collected as composite samples);
- b. The data collected is 10 to 15 years old and the EPs have been in continuous operation since this time;
- c. The facility has had various releases of untreated wastewater to the aeration lagoons and EPs 1 and 2. Remedial actions to remove contaminated soil from the banks of EP 1 and 2 have been conducted twice since 2000. It is unknown whether contamination has migrated to the other ponds.

If you have questions regarding this letter, please contact Hope Monzeglio of my staff at 505-476-6045.

Sincerely,



John E. Kieling
Program Manager
Permits Management Program
Hazardous Waste Bureau

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