



New Mexico Energy, Minerals and Natural Resources Department



Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



July 30, 2009

Mr. Mark B. Turri
Refinery Manager
Western Refining Southwest- Gallup Refinery
Route 3 Box 7
Gallup, New Mexico 87301

**Re: Discharge Permit "Modification" to Discharge (GW-032)
Western Refining Southwest- Gallup Refinery
McKinley County, New Mexico**

Dear Mr. Turri:

The New Mexico Oil Conservation Division (OCD) recently renewed the discharge permit (permit) for the Gallup Refinery, which is a "Zero Discharge" permit consistent with the OCD's permitting program to protect ground water and surface waters under 20.6.2 NMAC (Ground and Surface Water Protection) and/or 20.6.4 NMAC (Standards for Interstate and Intrastate Surface Waters).

OCD was copied on the Western Refining Southwest (WRSW) - Gallup Refinery's National Pollutant Discharge Elimination System (NPDES) Application (application) submitted to the U.S. Environmental Protection Agency (EPA), Region 6 Office dated June 25, 2009. Since WRSW's Discharge Permit does not allow a discharge and you are now requesting to discharge by submittal of an NPDES Application to the EPA, OCD has determined pursuant to 20.6.2.1201(A) NMAC (Notice of Intent to Discharge); 20.6.2.3107 NMAC (Monitoring, Reporting, and Other Requirements); and 20.6.2.3109 NMAC (Secretary Approval, Disapproval, Modification or Termination of Discharge Permits, and Requirement for Abatement Plans) that WRSW must submit a "Major Modification" request to OCD. Therefore, a "Modification" request along with a fee of \$8400 and compliance with the public notice requirements under 20.6.2.3108 NMAC shall be required if WRSW seeks to discharge to the environment or "Waters of the State" at the facility.

WRSW's discharge permit specifies in Section 5 (Modifications), "The owner/operator shall notify the OCD of any facility expansion, production increase or process modification that would result in any significant modification in the discharge, or potential of discharge of water contaminants. The Division Director may require a permit modification if any water quality standard specified at 20.6.2.3103 NMAC is being or will be exceeded, or if a toxic pollutant as defined in 20.6.2.7 NMAC is present in ground water at any place of withdrawal for present or



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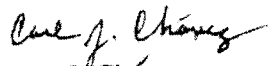
reasonably foreseeable future use, or that Water Quality Standards for Interstate and Intrastate streams as specified in 20.6.4 NMAC are being or may be violated in surface water in New Mexico." WRSW's modification request shall provide OCD with the information that it needs to modify the permit to address discharges that may impact ground water and surface water from the facility.

In the meeting held in Santa Fe on July 1, 2009, the OCD and NMED- HWB alerted WRSW that the proposed NPDES discharge may require additional controls to ensure protection of ground water quality, and only after a detailed review of the modification request is made, will the OCD be able to fully evaluate the affect(s) that an NPDES discharge would have on water quality at the facility.

Subsequent to the two meetings held with WRSW in early July of 2009, WRSW sent an e-mail message dated July 13, 2009 with attachments from the Federal Register related to NPDES Permits at "upstream" facilities (well heads, tank batteries, etc.). Please note that OCD regards the Gallup refinery to be a "downstream" facility (gas plants, refineries, etc.).

If there are any questions regarding this matter, please do not hesitate to contact me at (505) 476-3490 or via E-mail: carlj.chavez@state.nm.us.

Sincerely,



Carl J. Chávez
Environmental Engineer

CJC/cjc

xc: Willie Lane, USEPA- Region 6
Marcy Leavitt, NMED- SWQB
Hope Monzeglio, NMED- HWB
OCD District III Office, Aztec