



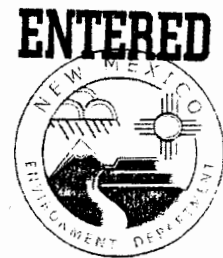
BILL RICHARDSON
Governor

DIANE DENISH
Lieutenant Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 4, 2009

Ms. Leslie Ann Allen
Senior Vice President
Health, Safety, Environment and Regulatory Affairs
Western Refining Company
123 W. Mills Avenue, Suite 200
El Paso, TX 79901

**RE: NOTICE OF DISAPPROVAL
FINANCIAL ASSURANCE
WESTERN REFINING SOUTHWEST INC.
GALLUP REFINERY EPA ID# NMD000333211 AND THE
BLOOMFIELD REFINERY EPA ID # NMD 089416416
HWB-GRCC-MISC AND HWB-GRCB-MISC**

Dear Ms. Allen:

The New Mexico Environment Department (NMED) has reviewed Western Refining, Southwest, Inc., (Western) letter dated September 14, 2009, which was submitted in response to NMED's August 14, 2009 comments pertaining to Westerns' annual financial assurance submittal. NMED, in consultation with the U.S. Environmental Protection Agency (EPA), has determined that Western does not pass the financial test.

In the September 14, 2009 submittal, Western added a non-cash charge of \$61,005,000.00 related to lower-of-cost or market inventory write-down when calculating the net income plus depreciation, depletion, and amortization in Item 8 of Alternative 1 of the financial test. This inclusion of the \$61,005,000.00 resulted in Western passing two of the three ratios under 40 CFR 264.143(f)(1)(i)(A), therefore passing the financial test. The regulation under 40 CFR 264.143(f)(1)(i)(A) allows a company to add back the sum of depreciation, depletion, and amortization to net income when calculating Ratio 2 (net income divided by total liabilities), but

Ms. Ann Allen
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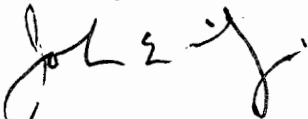
the regulations do not allow a company to add back other non-cash accounting line items, including inventory write-downs. In addition, inventory write-downs are not reflected in the financial accounting definitions for depreciation, depletion, and amortization. Therefore, NMED does not consider that Western passed the financial test. Further, Western does not pass Alternative 2 of the financial test because of their bond rating with Moody's and Standard and Poor's (S&P).

In lieu of Western closing the Bloomfield Refinery, Western is still responsible for financial assurance for investigation and cleanup and for the closure and post-closure cost estimates for the surface impoundments. Closure of these units has not yet been approved by NMED.

Since Western's submission of the financial test is non-compliant, in accordance with 40 CFR 264.143(f)(7); Western must submit a revised financial test within thirty days from receipt of this letter clearly demonstrating their ability to pass or submit a financial assurance mechanism other than the financial test in accordance with 40 CFR 264.143 and 264.145.

If you have any 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

cc: J. Bearzi, NMED HWB
D. Cobrain, NMED HWB
H. Monzeglio, NMED HWB
L. King EPA Region 6 (6PD-N)
R. Schmaltz, Western Bloomfield
E. Riege, Western Gallup
Reading File and GRCB 2009 and GRCC 2009