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NEW MEXICO  
ENVIRONMENT DEPARTMENT

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ENTERED



RON CURRY  
Secretary

SARAH COTTRELL  
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 17, 2010

Ed Riege  
Environmental Manager  
Western Refining, Southwest Inc., Gallup Refinery  
Route 3, Box 7  
Gallup, New Mexico 87301

**RE: RESPONSE  
RESPONSE TO NMED'S APPROVAL WITH MODIFICATIONS  
REVISED RAILROAD RACK LAGOON OVERFLOW DITCH AND FAN-OUT  
AREA, SWMU No. 8 SUBSURFACE INVESTIGATION FINAL REPORT  
AND REMEDY COMPLETION REPORT RAILROAD RACK LAGOON  
(SWMU No. 8) REVISED REPORT  
WESTERN REFINING COMPANY SOUTHWEST, INC., GALLUP REFINERY  
EPA ID # NMD000333211  
HWB-WRG-10-002  
HWB-GRCC-06-001**

Dear Mr. Riege:

The New Mexico Environment Department (NMED) received Western Refining Company Southwest Inc., Gallup Refinery's (the Permittee) *Response to NMED's Approval with Modifications Revised Railroad Rack Lagoon Overflow Ditch and Fan-Out Area, SWMU No.8 Subsurface Investigation Final Report* (Letter), dated November 24, 2010. This memo responds to the Letter as well as to a December 3, 2010 email regarding NMED's November 9, 2010 *Notice of Disapproval Remedy Completion Report for Railroad Rack Lagoon (SWMU No. 8) Revised Report*.

The Permittee's responses to NMED's comments included in the *Approval with Modifications Railroad Rack Lagoon Overflow Ditch and Fan-Out Area* are adequate regarding the disposition

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of investigation derived waste and the source of backfill material for the excavation. At this time, the Permittee may backfill the B-8 excavation with the clean fill described in the Letter.

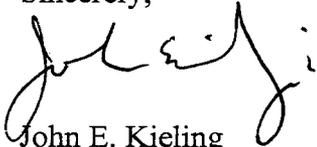
In the December 3, 2010 email correspondence the Permittee states, "[i]n the second paragraph of Comment 2 of the attached Approval With Modification of the Revised Railroad Rack Lagoon Overflow Ditch and Fan Out Area Report, the HWB lets Western demonstrate compliance that residual contamination with the industrial standard of 890 mg/kg for #3 and #6 fuel oil. In the attached NOD report for the Railroad Rack Pipeline; Comment 3 requires Permittee to excavate soil to residential/industrial levels of DRO (200 mg/kg). Since the fuel oil that passed through the pipeline addressed in the NOD was the same as what was cleaned up from the lagoon and fanout area, Western would like to request the use of the industrial fuel oil standard (890 mg/kg) also for the pipeline cleanup." During the original investigation, the Permittee used the residential screening level of 200 mg/kg from NMED's *TPH Screening Guidelines*, Table 2a (TPH Screening Guidelines for Potable Groundwater (GW-1)). This was the basis for Comment 3 in NMED's *Notice of Disapproval for the Remedy Completion Report* dated November 2010. The industrial standard of 890 mg/kg (Table 2a, #3 and #6 Fuel Oil) came about when the Permittee extended the excavation to the fan-out area (as required by Comment 26 in NMED's June 2006 NOD for the Remedy Completion Report).

The Permittee's reasoning that the fuel oil that passed through the pipeline was the same as what was cleaned up in the fan-out area and should be subject to the 890 mg/kg cleanup level is not justified. Because the Permittee was unable to excavate the contaminated soil to residential levels in the fan-out area, the SWMU will only qualify for a corrective action complete with controls status (the Permittee must petition NMED for corrective action complete determination for SWMU 8). The Permittee is not required to collect additional samples at the lagoon as required by Comment 3 in the November 9, 2010 *NOD for the Remedy Completion Report* if the objective is only to achieve corrective action complete with controls for the site. The Permittee must still address Comments 1 and 4 by January 10, 2011 as required by the NOD.

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If you have questions regarding this letter, please contact Kristen Van Horn of my staff at 505-476-6046.

Sincerely,



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

cc: D. Cobrain, NMED HWB  
K. Van Horn, NMED HWB  
C. Chavez, OCD

File: Reading File and WRG 2010 File  
GRCC-06-001  
WRG-10-002