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NEW MEXICO
ENVIRONMENT DEPARTMENT

ENTERED

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DAVE MARTIN
Secretary

RAJ SOLOMON, P.E.
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 26, 2011

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

**RE: APPROVAL WITH MODIFICATIONS
REMEDY COMPLETION REPORT
RAILROAD RACK LAGOON (SWMU No. 8) REVISED REPORT
WESTERN REFINING COMPANY SOUTHWEST, INC., GALLUP REFINERY
EPA ID # NMD000333211
HWB-GRCC-06-001**

Dear Mr. Riege:

The New Mexico Environment Department (NMED) has reviewed Western Refining Company Southwest Inc., Gallup Refinery's (Permittee) *Response to NMED's Notice of Disapproval Remedy Completion Report Railroad Rack Lagoon (SWMU No. 8) Revised Report*, dated January 10, 2010 (received January 12, 2010) submitted in response to NMED's *Notice of Disapproval (NOD)* dated November 2010. NMED hereby issues this approval with the following modifications.

The Permittee's responses to NMED's NOD comments 1, 2, and 4 are adequate. However, the Permittee's response to Comment 3 requires clarification. The Permittee states "[u]pon further clarification in a letter from the NMED HWB dated December 17, 2010, Western Refining would like to seek corrective action complete without controls for the lagoon area. Western would like to request until March 1, 2011 to conduct the boring and sampling near RR-1A-91505 needed to comply with Comment 3. Western will also conduct a similar boring and sampling at sample location W-1-WALL-S which indicated a DRO of 310 mg/kg as shown in Figure 1."

Ed Riege
Gallup Refinery
January 26, 2011
Page 2

NMED did not direct the Permittee in the December 17, 2010 letter to conduct additional work and in fact stated that the Permittee had the option whether to comply with Comment 3, "[b]ecause the Permittee was unable to excavate the contaminated soil to residential levels in the fan-out area, the SWMU will only qualify for a correction action complete with controls status (the Permittee must petition NMED for correction 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*."

In order to achieve corrective action complete without controls all contaminated soil must meet residential standards (200 mg/kg DRO) throughout the entire SWMU. If the Permittee chooses to clean up all of the contaminated soils to residential levels to achieve corrective action complete without controls, the Permittee must submit to NMED a work plan to complete the work. Otherwise, since the site currently qualifies for corrective action complete with controls status, the Permittee may petition NMED for a corrective action complete determination for SWMU 8.

If you have questions regarding this NOD 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 2011 File
GRCC-06-001