



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

ENTERED

FEB 10 2011

CERTIFIED MAIL: RETURN RECEIPT REQUESTED - 7004 1160 0003 0351 3859

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



Dear Mr. Turri,

This letter is in response to Western's request for consideration of *Force Majeure* regarding Western's failure, on January 1-2, 2011, to achieve discharge limits for benzene contaminated wastewater. The United States Environmental Protection Agency, Region 6, finds no justification to waive penalties for noncompliance with the terms of the Complaint, Consent Agreement and Final Order ("CAFO") filed August 26, 2009, and the CAFO Modification filed September 1, 2010, as Western's failure to achieve the benzene discharge limits was not beyond its anticipation or control.

If you have any questions, or if you object to this decision, please contact me, or Joel Dougherty of my enforcement staff.

Sincerely,

Mark Hansen
Associate Director
Hazardous Waste Enforcement Branch

cc: ✓ James Bearzi, Chief
Hazardous Waste Bureau
New Mexico Environment Department