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NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Hazardous Waste Bureau*

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DAVE MARTIN  
Secretary

RAJ SOLOMON, P.E.  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

March 8, 2011

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

**RE: SECOND NOTICE OF DISAPPROVAL  
FINANCIAL ASSURANCE  
GALLUP REFINERY EPA ID# NMD000333211  
BLOOMFIELD REFINERY EPA ID # NMD089416416  
WESTERN REFINING SOUTHWEST, INC.  
HWB-WRG-MISC AND HWB-WRB-MISC**

Dear Ms. Allen:

The New Mexico Environment Department (NMED) has reviewed the Western Refining, Southwest, Inc. (Western) January 21, 2011 financial assurance submittal and hereby issues this Second Notice of Disapproval (NOD). Western must address the deficiencies identified below in the next financial assurance submittal due March 31, 2011.

1. In the cover letter, Western cites regulations that refer to a surety bond. Western is using a performance bond as provided at 40 CFR 264.143(c) and 264.145(c) for Gallup and 265.143 (c) for Bloomfield. Ensure the next submittal references the correct regulatory citations.

Western Refining Southwest, Inc.

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## 2. Hazardous Waste Facility Certification of Liability Insurance:

The wording of the Hazardous Waste Facility Certification of Liability Insurance (HWFCLI) does not contain the same wording found at 40 CFR 264.151(j). Western must revise the HWFCLI as indicated below in the March 2011 submittal.

- a. Number 2, item (b) of the HWFCLI states “[t]he Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the Insured for such payment made by the Insurer.” The term “any” is missing from the sentence. In accordance with 40 CFR 264.151(j), the sentence must state “[t]he Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the Insured for **any** such payment made by the Insurer.” Revise the HWFCLI to include the word any in the sentence.
- b. Number 2, Item (c) of the HWFCLI states “[w]henever requested by the U.S. EPA, the Insurer agrees to furnish to the Regional Administrator a signed duplicate original of the policy and all endorsements.” The term “a Regional Administrator of the” is missing from the sentence. In accordance with 40 CFR 265.151(j), this sentence must state “[w]henever requested by **a Regional Administrator of the** U.S. Environmental Protection Agency (EPA), the Insurer agrees to furnish to the Regional Administrator a signed duplicate original of the policy and all endorsements.” Revise the HWFCLI accordingly.
- c. Number 2, item (d) of the HWFCLI states “[c]ancellation of the insurance, whether by the Insurer **or** the Insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Secretary of the New Mexico Environment Department.” This sentence included the word or and is missing the term “a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the hazardous waste management facility.” In accordance with 40 CFR 265.151(j), this sentence must state “[c]ancellation of the insurance, whether by the insurer, the insured, **a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the hazardous waste management facility,** will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Secretary of the New Mexico Environment Department.” Revise the HWFCLI accordingly.

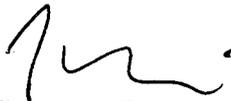
Western Refining Southwest, Inc.  
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**3. Cost Estimates for the Land Treatment Unit:**

In the March 2011 submittal, include updated detailed written cost estimates, in current dollars, of the cost for post-closure care of the Land Treatment Unit. Refer and comply with the cost estimate for post-closure found at 40 CFR 264.144.

All comments must be addressed in the March 31, 2011 financial assurance submittal. If you have any questions, please contact Hope Petrie of my staff at 505-476-6045.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

BRZ:hp

cc: R. Solomon, Acting Director, NMED WWMD  
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WRB & WRG 2010 Reading File  
HWB-WRG-MISC, HWB-WRB-MISC