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NEW MEXICO
ENVIRONMENT DEPARTMENT

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 8, 2013

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

**RE: RELEASE DISCOVERY NEAR TANKS 101 AND 102
WESTERN REFINING SOUTHWEST INC., GALLUP REFINERY
EPA ID # NMD000333211
HWB-WRG-MISC**

Dear Mr. Riege:

The New Mexico Environment Department (NMED) received a telephone notification from Western Refining Southwest, Inc. (the Permittee) on June 27, 2013 regarding the discovery of hydrocarbons in soil about 150 yards to the west of Tanks 101 and 102 on June 26, 2013. Tanks 101 and 102 are single-walled crude oil tanks with secondary containment consisting of soil and gravel. Upon discovery, a vacuum truck was deployed to the site to remove hydrocarbons from the soil and at the time of notification, approximately 5 to 10 barrels (bbls) had been recovered. The Permittee noted that a C141 form will also be submitted as required by the Oil Conservation Division (OCD).

The Permittee's current RCRA Permit (August 2000), Section II.F.2 (Twenty-four Hour Reporting), requires that:

"a. The Permittee shall report orally to the [Department] any noncompliance that may endanger human health or the environment. Such report shall be made

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within 24 hours from the time the Permittee becomes aware of the circumstances and shall include:

- i. Information concerning the release of any hazardous waste or hazardous constituents that may endanger public drinking supplies;
- ii. Information concerning the release or discharge of any hazardous waste or hazardous constituents, or of a fire or explosion at the facility, which could threaten the environment or human health at and outside the facility [20.4.1.900 NMAC (incorporating 40 CFR §270.30(1)(6)(i))].

b. The description of the occurrence and its cause shall include:

- i. Name, address, and telephone number of the Permittee and the Facility;
- ii. Date, time, and type of incident;
- iii. Name and quantity of material involved;
- iv. The extent of injuries, if any;
- v. And assessment of actual or potential hazards to the environment and human health at and outside the Facility; and
- vi. Estimated quantity and disposition of recovered material that resulted from the incident. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(1)(6)(ii))]

c. The Permittee shall also submit a written notice to the [Department] within five calendar days of the time the Permittee becomes aware of the circumstances under Permit Condition II.F.2.a above. The written notice shall contain the following information:

- i. A description of the noncompliance and its cause;
- ii. The period(s) of noncompliance (including exact dates and times), and, if the noncompliance has not been corrected, the anticipated time it is expected to be corrected; and
- iii. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance or imminent hazard.

The [Department] may waive the five-day written notice requirement in favor of a written report within 15 days. [20 4.1.900 NMAC (incorporating 40 CFR §270.30(1)(6)(iii))”

In the past, NMED has accepted phone notifications from the Permittee and the C141 reporting form required by the OCD for spill reporting, because the C141 form generally includes the

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information required by RCRA Permit Section II.F.2. In order to keep the release notification process streamlined, the Permittee may continue to notify NMED in this manner.

However, under the RCRA Permit, the Permittee is also required to determine the source of the hydrocarbons discovered in the soil. RCRA Permit Section IV.B.2 (Notification and Assessment Requirements for Existing and Newly Identified SWMUs and AOCs) requires that the Permittee "notify the [Department] in writing within fifteen (15) calendar days of discovery of any suspected new SWMU or AOC. The notification shall include, at minimum, the location of the SWMU or AOC and all available information pertaining to the nature of the release (e.g., media affected, hazardous constituents released, magnitude of release, etc.)." RCRA Permit Section IV.B.2.b goes on to state that "[t]he Permittee shall prepare and submit to the [Department], within ninety (90) calendar days of notification, a SWMU Assessment Report (SAR) for each SWMU or AOC identified under Permit Section IV.B.2 above." The RCRA Permit outlines the information that must be included in the SAR. Permit Section IV.B.2.c then states that "[b]ased on the results of the SAR, the [Department] will determine the need for further investigations at the SWMUs or AOCs covered in the SAR. The [Department] will notify the Permittee in writing of the final determination of the status of the suspected SWMU or AOC. If the [Department] determines that further investigation is needed, the Permittee shall submit a Work Plan for such investigation. If the [Department] determines that further investigation of a SWMU or AOC is required, the Permit will be modified in accordance with 20 4.1.901 NMAC and 40 CFR 270 Subpart D, incorporated at 20 40.1.900 NMAC." As the Permittee is aware, Tanks 101 and 102 are currently listed as an AOC in the Draft RCRA Permit. The Permittee is still required to submit a SAR.

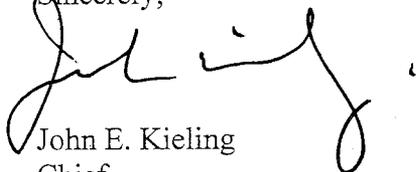
The Permittee must treat any soil removed from the site as hazardous waste until such time as analytical results are available. If the source of the release is determined to be from a unit at the facility that does not contain hazardous waste, the Permittee may treat the soil according to standard practices. If the source of hydrocarbons in the soil are Tanks 101 and 102, any generated waste must be managed as listed hazardous waste (K169).

The Permittee must follow the RCRA Permit as stated above and submit a written report describing the clean-up actions and any analytical results collected to NMED no later than **July 19, 2013**.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Kieling". The signature is fluid and cursive, with a large initial "J" and "K".

John E. Kieling
Chief
Hazardous Waste Bureau

cc: T. Blaine, P.E., NMED HWB
D. Cobrain, NMED HWB
N. Dhawan, NMED HWB
A. Haines, WRG
A. Allen, WRG
C. Chavez, OCD
G. von Gonten, OCD

File: Reading File and WRG 2013 File
HWB-WRG-MISC