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July 16, 2013

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Hazardous Waste Bureau***Via Email and Certified Mail, Return Receipt Requested***

Mr. John E. Kieling
Chief, Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 2
Santa Fe, NM 87505-6303

**Re: Hydrocarbon Release Notification (June 26, 2013)
Western Refining Company Southwest, Inc. ("Western")
Gallup Refinery
EPA ID #NMD000333211**

Dear Mr. Kieling:

On July 8, 2013, you sent a letter concerning oral notification of a hydrocarbon release provided by Western to the Hazardous Waste Bureau ("Bureau") on June 27, 2013. Your letter noted that Western should satisfy certain requirements under Section II.F.2 of Western's August 2000 RCRA Permit by providing a copy of the Release Notification and Corrective Action Form C-141 submitted to the Oil Conservation Division ("OCD") of the New Mexico Energy, Minerals and Natural Resources Department. Accordingly, without making any admissions concerning the potential applicability of the RCRA Permit to this release, Western sent a copy of the C-141 to the Bureau on July 11, 2013 concurrent with submission of the form to OCD. This hydrocarbon release is regulated by the OCD under the Oil and Gas Act, and therefore, consistent with past practice, please be advised that Western will work with OCD to assess and respond to the hydrocarbon release.

Your letter also cited to Section IV.B.2 of the Refinery's RCRA Permit and instructed Western to take certain actions under that provision including submission of a SWMU Assessment Report. However, Section IV.B.2 of the RCRA Permit is not applicable to the subject hydrocarbon release for the following reasons:

First, based on currently available information, the release is an on-site release of fresh, refined gasoline. There is no documented release of a hazardous waste or a hazardous constituent derived from a hazardous waste, historical or otherwise, to which

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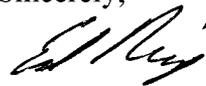
RCRA corrective action requirements are intended to apply. As you know, Western believes that this type of release, and any cleanup, is subject to an ongoing regulatory program under the jurisdiction of the OCD.

Second, even if the release was a hazardous waste, Section VI.B.2 of the RCRA permit is inapplicable. As quoted in your letter, Section IV.B.2 requires written notification within 15 days of discovery of any suspected "new" SWMU or AOC. However, as we think you will agree, it is not the case that every spill creates a new SWMU or AOC. This release is not currently suspected to be a new SWMU or AOC subject to Section IV.B.2, including without limitation, the SWMU Assessment Report requirements.

Finally, we note that your letter appears to make the assumption that Tanks 101 and 102 are the source of the release. We have no information that would suggest this is correct. In addition, please note that we disagree with the assertion that any generated materials would be listed K169 hazardous wastes. The K169 listing is only for crude oil tank *sediment* from petroleum refining operations. Even if Tanks 101 and 102 were the source of the release, the release would be expected to be crude oil itself, not the sediment formed by gravity in those tanks. Any soils removed from the site, of course, will be characterized and managed according to NMED hazardous waste management regulations.

Please note Western reserves all applicable rights and defenses relevant to this matter, including supplementation or modification of the preceding information as appropriate. If you have any questions, please contact me. In addition, we stand ready to meet with you and your staff should the Bureau have any concerns regarding the preceding response.

Sincerely,



Ed Riege
Environmental Manager

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