

February 17, 2015

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FEB 23 2015

Mr. John E. Kieling, Chief  
New Mexico Environment Department  
Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Bldg. 1  
Santa Fe, New Mexico 87505-6303

NMED  
Hazardous Waste Bureau

RE: Extension Request from RCRA Permit Corrective Action Submittal Schedule  
Solid Waste Management Units (SWMUs) No. 7, No. 9, and No. 11  
RCRA Post-Closure Permit  
Western Refining Southwest, Inc., Gallup Refinery  
EPA ID # NMD000333211  
HWB-WRG

Dear Mr. Kieling:

The purpose of this letter is to request, on behalf of Western Refining Southwest, Inc. - Gallup Refinery ("Western"), an extension from the Corrective Action Submittal Schedule (Table E-2) of the October 2013 RCRA Post-Closure Permit ("Permit"). This request pertains to all submittals scheduled in 2015.

**Background**

Western is in receipt of your letter, dated November 18, 2014, that discusses two issues which directly affect the Table E-2 schedule. First, the letter explains that the existing No Further Action (NFA) petitions submitted to the New Mexico Environment Department (NMED) relate to units that are currently in use (i.e. "active sites") and, therefore, will not be reviewed. The second issue is that NMED is currently reviewing pending No Further Action (NFA) petitions for solid waste management units (SWMUs) on the 2015 submittal schedule and may be requesting additional information in conjunction with that review.

Although Western (i) objects to NMED's decision not to take action on pending NFAs associated with active sites and (ii) believes that NMED's position on review of the pending NFAs effectively precludes Western from proceeding with a major part of the corrective action process at the Gallup refinery, we believe that these NMED's decisions leave Western with no choice other than to request the extensions for all submissions for the units discussed in more detail below.

## **Affected SWMUs and Justification For Requested Extension**

### SMWU No. 7 – Fire Training Area

The current schedule requires that Western submit a SMWU No. 7 Investigation Work Plan by March 31, 2015. This is pointless and impractical because NMED has clearly stated there will be no review of any information related to SWMU No. 7 at this time because it is an active area and NMED has stated elsewhere that it will require further assessment at the time currently active units cease to operate.

### SWMU No. 9 - Drainage Ditch and Inactive Landfarm

The current schedule requires that Western submit a SMWU No. 9 Investigation Work Plan by June 30, 2015. As noted in your letter, NMED is in the process of reviewing documents previously provided for SWMU No. 9. Western's efforts to prepare investigation work plans for SWMUs for which NMED has not completed review of previously submitted NFA petitions is premature and not an effective use of time and resources for both parties.

### SWMU No. 11 – Secondary Oil Skimmer

The current schedule requires that Western submit a SMWU No. 11 Investigation Work Plan by December 31, 2015. A NFA Petition and Supplemental Information (SI) for this SWMU was submitted in 2002. According to the SI, this SWMU was investigated, cleaned up, capped, and closed. It is unclear whether NMED received additional information that was not provided in the SI. If this information is found in the record or is provided otherwise, Western will request a review of the existing NFA petition. In the meantime, Western's efforts to prepare an investigation work plan for a SWMU which was apparently closed and a NFA petition submitted for review appears to be unnecessary and duplicative.

For the foregoing reasons, Western must request an extension to the Table E-2 schedule. Western proposes a suspension of 2015 due dates until such time as it is appropriate to review existing information for these SWMUs. Should NMED not be inclined to grant the requested extension, Western requests that it be afforded an opportunity to engage in informal dispute resolution consultations with the agency prior to any final determination.

As always, Western reserves all applicable rights, claims, and defenses relevant to this matter, particularly any associated with Western's pending appeal of its RCRA Post-Closure Permit. If there are any questions, then please contact me at 505-722-0202.

Sincerely,



Mr. William Carl McClain, Jr.  
Refinery Manager  
Western Refining Southwest, Inc. - Gallup Refinery

cc A. Allen, Western El Paso  
Ed Riege, Western Gallup  
Allen Hains, Western El Paso