



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

NEW MEXICO  ENTERED
ENVIRONMENT DEPARTMENT

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone (505) 476-6000 Fax (505) 476-6030
www.nmenv.state.nm.us



RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 8, 2015

Mr. Ed Riege
Environmental Manager
Western Refining, Southwest Inc., Gallup Refinery
92 Giant Crossing Road
Gallup, New Mexico 87301

**RE: REQUIREMENT FOR
SUBMITTAL OF INTERIM MEASURES REPORT
HYDROCARBON SEEP
WESTERN REFINING SOUTHWEST INC., GALLUP REFINERY
EPA ID # NMD000333211
HWB-WRG-MISC**

Dear Mr. Riege:

Western Refining Southwest Inc., Gallup Refinery's (Permittee) discovered a hydrocarbon seep on June 26, 2013. The Permittee submitted a spill notification form, several updates regarding investigation and cleanup efforts of the seep, and presented groundwater monitoring well installation and results in an appendix in the Facility-Wide Groundwater Monitoring Work Plan (March 2014). In an effort to consolidate all of the information regarding the seep, the Permittee must submit an Interim Measures Report in accordance with RCRA Permit Section IV.H.2 (Interim Measures) that summarizes all activities conducted to address the hydrocarbon seep and includes the results of all investigations and cleanup efforts to date.

The New Mexico Environment Department's (NMED) November 8, 2013 letter required a solid waste management unit (SWMU) Assessment Report regarding the hydrocarbon seep. The Permittee's November 14, 2013 response states that "[a]s the source of the release is the wastewater collection system, which is already included as SWMU No. 12 – Contact Wastewater Collection System, a SWMU assessment report is not required under Permit Section IV.B.2.b, as

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this provision only applies to “new” SWMUs or [areas of concern] AOCs.” Because the Permittee has now determined the likely source of the seep, a SWMU Assessment Report is no longer required. However, the Permittee must submit a report that discusses corrective action measures and remediation conducted to address the release. NMED recognizes that the Permittee has responded piecemeal to requests for information; however, that information and any new information (since the November 14, 2013 letter) must be included in the Interim Measures Report in order to provide a more cohesive and comprehensive history of the seep discovery and cleanup efforts.

NMED’s November 8, 2013 letter raised concern regarding the characterization methods utilized for soil sample collection from the area affected by the hydrocarbon seeps. The Permittee’s November 14, 2013 response states, “[c]learly it is not possible to obtain a sample of soils for waste disposal purposes that have been excavated or generated during drilling operations that are ‘undisturbed samples.’ The purpose of these samples is only to characterize the concentrations of potential contaminants that may be present in in-situ soils. Also, waste characterization analysis using toxicity characteristic leaching procedure (TCLP) is a common practice for waste characterization.” NMED agrees that using TCLP for waste analysis is common practice. However, as part of RCRA corrective action, it is the Permittee’s responsibility to collect in-situ soil samples and analyze the soil (and groundwater) samples for the appropriate constituents of concern at an EPA-certified analytical laboratory. Once the soil is removed, then it is considered a waste and it is appropriate to use TCLP sampling to determine whether or not the waste needs to be managed as hazardous waste. It is not appropriate to use TCLP for site characterization or risk assessments. TCLP analysis is only appropriate to use for waste characterization.

The Permittee’s November 14, 2013 letter also states, “[t]he sampling conducted to-date has been focused on supporting emergency response efforts to; 1) identify the source of the hydrocarbons observed at the seep location and (2) to ensure that appropriate emergency measures are implemented to control the seep discharge and any significant migration of potential contaminants in the shallow groundwater. While the information being collected may facilitate preparation of a site investigation report, the sampling effort is not intended to supplant a RCRA facility investigation.” Please note that there is specific guidance in the Permittee’s RCRA Permit regarding situations such as this: Section IV.H.3 (Emergency Interim Measures). That section states, “[t]he Permittee may determine ... that emergency interim measures are necessary to address an immediate threat of harm to human health or the environment. The Permittee shall notify the NMED within one business day of discovery of the facts giving rise to the threat, and shall propose emergency interim measures to address the threat.” It is the Permittee’s responsibility to be aware of requirements in the RCRA Permit, notify NMED of releases to the environment (such as the hydrocarbon seep) and keep NMED informed of any corrective actions taken.

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Seeps were discovered in the same area in 2007 when additional soil contamination was discovered after a spill cleanup at Tank 102 (spill occurred December 31, 2006). It is likely that the seeps are related. It is not clear why the original investigation activities of the 2006 seep were discontinued. During the removal of spill impacted soils within the Tanks 101 and 102 berm in 2007, impacts to deeper soils were observed (the facility notified NMED that oil impacted soils were found during cleanup in an email dated June 11, 2007). Seeps west of the crude tanks were also observed and surface water samples were collected and analyzed at that time. These water samples contained chlorinated solvents, which were obviously not related to the crude oil tanks. In an informal email, provided by the Permittee during permit negotiations regarding AOCs, dated December 5, 2007 (which appears to have been between the facility and Trihydro) Trihydro stated that [electromagnetic] EM data “[b]ased on our field observations and the EM data, it looks like there might be something else going on near Seep 1 and to the north of seep one. We think there might be something else going on north of seep 1 because we don’t think that that conductivity change is solely related to is water because if you look at photos or are familiar with the area, it seems very dry in that area (EM data penetrated to about 3 meters).” The email points out that the results spreadsheet shows detections of methyl tertiary butyl ether (MTBE) and other chlorinated compounds in the water at Seep 1 and that it is possible the seep is not related to the tanks, but also notes that a sand lens encountered in test pits appears to be sloping downward leading Trihydro to believe that the sand lens could extend into the tank berm and that the seep could possibly originate from the berm area as well. There were also high concentrations of DRO and MRO in soils at Seep 1 and within the tank berm area. Trihydro recommended sampling at deeper intervals in the berm area, sample north of Seep 1, and run a fuel footprint to help track the source of the contamination. A letter report (Project Status Report) submitted to NMED on December 11, 2007 implies a formal report would be submitted (under the Photo Documentation section of the letter) and proposed to conduct additional investigation activities. It does not appear that a final report was submitted or that any other investigation activities were conducted. Submittal of the report and the completion of the proposed investigation may have prevented the present-day situation and allowed for a limited response action.

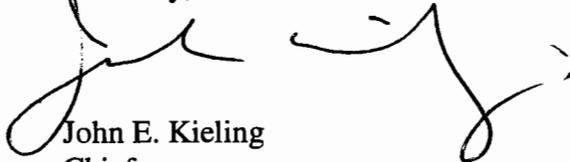
The requirements for an Interim Measures Report are detailed in RCRA Permit Section IV.H.4.a.iii (Interim Measures Reports) and include: (1) a description of interim measures implemented; (2) summaries of results; (3) summaries of all problems encountered during IM investigations; (4) summaries of accomplishments and/or effectiveness of interim measures; and, (5) copies of all relevant laboratory/monitoring data, maps, logs, and other related information. The Permittee must submit a report that contains all of this information and any other relevant data regarding site investigation, remediation, and cleanup.

The Permittee must submit an Interim Measures Report for NMED review no later than **July 10, 2015**. The submittal must include two paper copies and an electronic copy in accordance with Permit Section II.C.7 (Submissions to the Environment Department).

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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 a long horizontal stroke.

John E. Kieling
Chief
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB
N. Dhawan, NMED HWB
K. Van Horn, NMED HWB
A. Hains, WRG
C. Chavez, EMNRD OCD
L. King, EPA

File: Reading File and WRG 2015 File
WRG-MISC