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NEW MEXICO  
ENVIRONMENT DEPARTMENT **ENTERED**

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BUTCH TONGATE  
Cabinet Secretary - Designate

J. C. BORREGO  
Deputy Secretary

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

February 16, 2017

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

**RE: CLARIFICATION  
HAZARDOUS WASTE MANAGEMENT UNIT DETERMINATION  
AERATION BASIN  
WESTERN REFINING SOUTHWEST INC., GALLUP REFINERY  
EPA ID # NMD000333211  
HWB-WRG-MISC**

Dear Mr. Riege:

The New Mexico Environment Department (NMED) sent Western Refining Southwest, Inc. Gallup Refinery (the Permittee) correspondence dated February 6, 2017 titled *Notification of Determination Hazardous Waste Management Unit Aeration Basin* stating that, based on evidence in the Administrative Record, Solid Waste Management Unit (SWMU) 1 (the Aeration Basin) received listed hazardous waste after July 26, 1982 which means that under the Resource Conservation and Recovery Act (RCRA) regulations the unit is a Hazardous Waste Management Unit (HWMU). The NMED arrived at this conclusion in the process of evaluating closure options for the Aeration Basin.

Prior to receipt of the correspondence, NMED discussed the letter briefly with the Permittee during a phone call and stated the need to meet to discuss the options to achieve closure within the framework of the regulations once the Permittee had received and read the correspondence. The letter also stated that NMED, "will assist the Permittee in determining the most cost effective closure process that meets regulatory requirements and is protective of human health and the environment".

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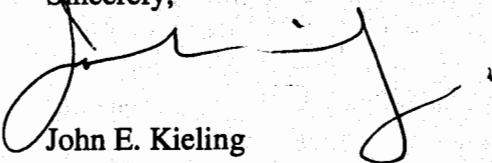
The Permittee expressed concern at receipt of the letter to NMED General Counsel Jennifer Hower in a phone conversation on February 13, 2017. The HWB would like to invite Western representatives to meet with the HWB to discuss the classification of SWMU 1 as a HWMU so that Western can understand why the determination was made, and so that Western has an opportunity to provide any additional evidence or clarify any misunderstandings that may ultimately impact that determination. The HWB also invites Western to collaboratively discuss with the Bureau what the appropriate remedy should be for SWMU 1 so that it is addressed in the most effective, yet cost efficient, manner.

The HWB encourages Western to contact the Bureau as soon as possible to arrange an in-person meeting to discuss the aforementioned issues. The HWB suggests that this should be a technical and managerial meeting, as opposed to a meeting in which counsel is present. The HWB commits to issuing a subsequent formal correspondence after the close of the meetings clarifying its stance on the classification of SWMU 1 and correlated remedy selection after additional information is received and discussion occurs at the meeting(s). The HWB will discuss the contents of any future communications regarding this unit with Western before such communications are issued.

The Permittee planned to conduct an additional investigation at the Aeration Basin and is in receipt of a letter dated, January 24, 2017, *Disapproval Investigation Work Plan Solid Waste Management Unit (SWMU) No. 1 Aeration Basin and SWMU No. 14 Old API Separator*, which the HWB and the Permittee discussed and agreed that a technical meeting was needed to determine the options to move forward with an investigation. Any meetings scheduled can incorporate this topic, as well.

To schedule a meeting, you may contact me at (505) 476-6035 or at [John.Kieling@state.nm.us](mailto:John.Kieling@state.nm.us) or Kristen Van Horn at (505) 476-6046 or at [Kristen.VanHorn@state.nm.us](mailto:Kristen.VanHorn@state.nm.us) at your convenience. HWB looks forward to hearing from you.

Sincerely,



John E. Kieling  
Chief  
Hazardous Waste Bureau

Cc: J.C. Borrego, Deputy Secretary, NMED  
D. Cobrain, NMED HWB  
K. Van Horn, NMED HWB  
C. Chavez, EMNRD OCD  
A. Allen, WRG  
A. Hains, WRG  
G. Tidmore, EPA Region 6  
L. King, EPA Region 6

File: Reading File and WRG 2017 File  
HWB-WRG-MISC