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Mr. John E. Kieling, Program Manager  
New Mexico Environment Department  
Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505

Subject:  
Comments on the Draft RCRA Permit NMD048918817 for the Navajo Refining  
Company Artesia, New Mexico Refinery

ENVIRONMENT

Dear Mr Kieling:

Date:  
August 27, 2010

On November 13, 2009, ARCADIS submitted a Class 3 Permit Modification Request (PMR) to the New Mexico Environment Department (NMED) on behalf of Navajo Refining Company (Navajo) pertaining to the Resource Conservation and Recovery Act (RCRA) Post-Closure Care Permit NMD0489188187 (Permit). Navajo has reviewed the Draft Permit published by the NMED on June 30, 2010 for public comment. The proposed modifications to the Permit include changes that were not in the submitted PMR. This letter contains a request for clarification and rationale for specific changes to the Permit.

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The comments below are cross-referenced to specific sections of the Draft Permit published by NMED. Language proposed by NMED in the Draft Permit is provided in italics font below. Language proposed by Navajo is provided in underline font below.

Our ref:  
TX000852

### **3.2.3 POST-CLOSURE CARE OF REGULATED UNITS**

This section of the Draft Permit addresses Post-closure Care of Regulated Units and Section 3.2.3.a covers the requirements for the Post-closure Care of the North Colony Landfarm (NCL).

In Section 3.2.3.a.k, NMED has added requirements for product level measurements for the purpose of inventory control. Specifically, this section includes the following:

*At a minimum, Tank 815 must also be gauged once per day to determine the product level in the tank to check for inventory losses. The product level measurements shall be conducted using a method capable of detecting inventory losses of less than one gallon per day.*

Imagine the result

In the PMR, Navajo stated that the tank is gauged at least once per day. In actuality, the level gauge is electronically monitored nearly continuously and entries are placed into the facility operating record at least once daily. The purpose of that gauging is not for inventory control but to prevent overtopping of the tank. The level gauge installed in the tank is capable of measuring changes of 0.1 foot of level within the tank. The interior diameter of the tank is 116 feet. Therefore, the gauge sensitivity is approximately 7,900 gallons of product. The changes in temperature throughout a single day can cause volume changes of greater than 0.1 foot due to expansion and contraction of the liquids within the tank. It is not possible to gauge an 80,000 barrel tank to the accuracy required.

Navajo described the leak detection system for Tank 815 in detail in the PMR. The leak detection system includes an impermeable liner installed beneath the raised floor of the tank. The liner is sloped toward the exterior ringwall of the tank foundation where "tattle-tales" were installed which allow for visual inspection and identification of any leakage. Navajo asserts that the leak detection system combined with the level gauge monitoring system is adequate to determine if the tank leaks and to prevent overtopping of the tank.

Navajo contends that it is highly unlikely that a leak could occur that would not be identified through the leak detection system, but in the event that such an event did occur, the monitoring requirements for the NCL include both soil and groundwater sampling on a routine basis. The current level of impacts beneath Tank 815 has been quantified and will continue to be monitored throughout the post-closure care period. Section 3.2.3.a.g requires notification of the NMED and Oil Conservation Division (OCD) in the event that monitoring sampling results indicate the presence of a leak from Tank 815 that was not detected by the leak detection system.

This section requires that Navajo submit a plan for such gauging by July 31, 2010:

*The Permittee must provide to the Secretary a plan pertaining to ultrasonic or other Department and OCD-approved product level monitoring for Tank 815 no later than July 31, 2010.*

It is inappropriate for NMED to impose a schedule for submittal of a plan that is prior to the effective date of the Permit. Furthermore, NMED has not provided sufficient rationale for imposing such a stringent inventory requirement for Tank 815.

Navajo requests that section 3.2.3.a.k be revised to remove the inappropriate requirements. The initial clause of this section is appropriate. Thus, Navajo requests that the section be modified to:

3.2.3.a.k: Inspect Tank 815 daily for signs of deterioration, leaks, or accumulations inside the containment area.

#### 4.1.1 GROUND WATER, SOIL AND SURFACE WATER CLEANUP LEVELS

This section is a new section inserted by NMED and provides the cleanup levels that should be attained when implementing closure, post-closure and corrective action requirements of the Permit. Navajo requests that the following amendments to various subsections in this section be made.

*4.1.1.a.1: The Permittee shall attain the following cleanup levels for all hazardous waste and hazardous constituents in groundwater:*

Navajo requests that this clause be modified to clarify that the cleanup levels apply for all hazardous waste and hazardous constituents in groundwater that are demonstrated to be present in groundwater due to impacts emanating from the Facility. The recommended language is:

4.1.1.a.1: The Permittee shall attain the following cleanup levels for all hazardous waste and hazardous constituents demonstrated to be present in groundwater due to impacts emanating from the Facility:

*4.1.1.a.1.a: For any contaminant for which EPA has adopted a maximum contaminant level (MCL) for drinking water under 40 CFR parts 141 and 143, the MCL shall be the cleanup level;*

Navajo requests that this clause be modified to clarify that the MCL applies only to those contaminants emanating from the Facility into groundwater which would otherwise be classified as a drinking water source. The recommended language is:

4.1.1.a.1.a: For any contaminant emanating from the Facility into groundwater, which is classified as a drinking water source, for which EPA has adopted a maximum contaminant (MCL) for drinking

water under 40 CFR parts 141 and 143, the MCL shall be the cleanup level;

**4.1.1.a.1.b:** *For any contaminant for which the New Mexico Water Quality Control Commission (WQCC) has adopted numeric standards for ground water listed in 20.6.2.3103 NMAC, the ground water standard shall be the cleanup level; and*

20.6.2.3103 NMAC contains “Standards for Ground Water of 10,000 mg/L TDS Concentration or Less”. Navajo requests that this clause be modified to clarify that the WQCC numeric standards apply only to those contaminants emanating from the Facility into groundwater which contains 10,000 mg/L TDS or less. The recommended language is:

4.1.1.a.1.b: For any contaminant, emanating from the Facility into groundwater, which contains 10,000 mg/L Total Dissolved Solids (TDS) or less, for which the New Mexico Water Quality Control Commission (WQCC) has adopted numeric standards for ground water listed in 20.6.2.3103 NMAC, the ground water standard shall be the cleanup level; and

**4.1.1.a.1.c:** *For any contaminant that the WQCC has identified as a toxic pollutant listed in 20.6.2.7.WW NMAC, the level approved by NMED under paragraph 2 or 3 below shall be the cleanup level;*

Navajo requests that this clause be modified to clarify that the cleanup levels apply only to those toxic pollutants emanating from the Facility. The recommended language is:

4.1.1.a.1.c: For any contaminant emanating from the Facility that the WQCC has identified as a toxic pollutant listed in 20.6.2.7.WW NMAC, the level approved by NMED under paragraph 2 or 3 below shall be the cleanup level;

**4.1.1.a.2:** *If a cleanup level under Item 1 above does not exist for a carcinogenic hazardous waste or hazardous constituent, then the Permittee shall use the most recent version of the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites (RSLs) for tap water and a target*

*excess cancer risk level of  $10^{-5}$  to develop a proposed cleanup level for NMED approval....*

Navajo requests that this clause be modified to clarify that the cleanup levels apply only to those carcinogenic hazardous waste or hazardous constituents emanating from the Facility. The recommended language is:

**4.1.1.a.2:** If a cleanup level under Item 1 above does not exist for a carcinogenic hazardous waste or hazardous constituent emanating from the Facility, then the Permittee shall use the most recent version of the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites (RSLs) for tap water and a target excess cancer risk level of  $10^{-5}$  to develop a proposed cleanup level for NMED approval....

**4.1.1.a.3:** *If a cleanup level under Item 1 above does not exist for a noncarcinogenic hazardous waste or hazardous constituent, then the Permittee shall use the most recent version of the EPA RSLs for tap water and a Hazard Index (HI) of one (1.0) to develop a proposed cleanup level for NMED approval....*

Navajo requests that this clause be modified to clarify that the cleanup levels apply only to those noncarcinogenic hazardous waste or hazardous constituents emanating from the Facility. The recommended language is:

**4.1.1.a.3:** If a cleanup level under Item 1 above does not exist for a noncarcinogenic hazardous waste or hazardous constituent emanating from the Facility, then the Permittee shall use the most recent version of the EPA RSLs for tap water and a Hazard Index (HI) of one (1.0) to develop a proposed cleanup level for NMED approval....

**4.1.1.a.4:** *The Permittee must use the most recent version of NMED's Total Petroleum Hydrocarbon (TPH) Screening Guidelines (as it may be updated) to determine cleanup levels for petroleum hydrocarbons detected in groundwater.*

Navajo requests that this clause be modified to clarify that the cleanup levels apply only to those petroleum hydrocarbons emanating from the Facility. The recommended language is:

**4.1.1.a.4:** The Permittee must use the most recent version of NMED's Total Petroleum Hydrocarbon (TPH) Screening Guidelines (as it may be updated) to determine cleanup levels for petroleum hydrocarbons emanating from the Facility and detected in groundwater.

**4.1.1.b Soil Cleanup Levels:** *The Permittee shall attain the following cleanup levels for hazardous waste and hazardous constituents in soil:*

Navajo requests that this clause be modified to clarify that the cleanup levels apply only to those hazardous waste and hazardous constituents in soil due to impacts from the Facility. The recommended language is:

**4.1.1.b Soil Cleanup Levels:** The Permittee shall attain the following cleanup levels for hazardous waste and hazardous constituents in soil due to impacts from the Facility:

**4.1.1.c Land Use Determination:** *All soil cleanup levels shall be based on a residential land use scenario unless NMED determine that an alternate land use is appropriate (e.g., subsistence farming, cultural, or industrial). The Permittee may only propose an alternate land use with less stringent cleanup levels (e.g., industrial) if NMED or EPA can legally and practicably enforce the institutional controls limiting the land use....*

Navajo intends to continue operation of the Refinery for the foreseeable future, and thus contends that the application of industrial land use and associated soil cleanup levels is appropriate. Navajo understands the requirement that institutional controls must be enforceable by NMED and/or EPA. Navajo requests clarification of the types of institutional controls that will be acceptable to meet the definition of legally and practicably enforceable.

**4.1.1.d Surface Water Cleanup Levels** *The Respondents shall comply with the surface water quality standards outlined in the Clean Water Act (33 U.S.C. §§ 1251 to 1387),....*

For consistency, Navajo recommends that the reference to “Respondents” be modified to “Permittee”. Thus, this clause should read:

**4.1.1.d Surface Water Cleanup Levels** The Permittee shall comply with the surface water quality standards outlined in the Clean Water Act (33 U.S.C. §§ 1251 to 1387),....

**4.1.1.g Variance from Cleanup Levels:** *The Permittee may seek a variance from a cleanup level for soil or ground water as follows:*

This section describes the procedures for seeking a variance from a cleanup level under the WQCC standards in accordance with 20.6.2.4103 and under the NMED guidance documents *Technical Background Document for Development of Soil Screening Levels, Assessing Human Health Risks Posed by Chemicals: Screening Level Risk Assessment*, and *Guidance for Assessing Ecological Risks Posed by Chemicals: Screening-Level Ecological Risk Assessment*, as updated. Navajo contends that this section is redundant as Section 4.3 (Risk Analysis) outlines the same procedures and references the same regulations and guidance documents. Therefore, to avoid future conflicts, Navajo recommends that Section 4.1.1.g be deleted.

#### 4.4.4 REMEDY COMPLETION

This section provides the requirements for submittal of a Remedy Completion Report and the steps required to obtain a Certification of Completion. NMED added the following sentence to the end of Section 4.5.5.b:

*The Permittee may then petition the Secretary for a Corrective Action Complete determination.*

Navajo requests clarification regarding the need to petition for a Corrective Action Complete determination after receiving a Certification of Completion. It would appear that the certificate conveys the determination and that the remaining step would be to document the status change in the Permit. Due to the industrial nature of the Refinery and the likelihood of deed recordation for portions of the Refinery for industrial use only, it is likely that some units will be closed with institutional controls. Therefore, Navajo may petition for certification of completion with controls for some units. Navajo recommends that the language be modified, as follows:

The Permittee may then petition the Secretary for a Class 3 Permit Modification reflecting the status of a specific unit as Corrective Action Complete or as Corrective Action Complete with Controls, as appropriate.

#### 4.6.1 CORRECTIVE ACTION FOR PERMITTED UNITS

This section contains specific requirements for corrective action for permitted units. NMED inserted cross-references to the cleanup level requirements of Section 4.1.1 of the Draft Permit in various subsections of this section.

Subsection 4.6.1.b.a.i(d) contains a cross-reference to section 4.6.1.b.a. To remain consistent with other subsections of the Permit, Navajo recommends that this subsection be revised, as follows:

4.6.1.b.a.i(d): The Permittee shall continue to conduct compliance monitoring until the post-closure care period is complete pursuant to 20.4.1.900 NMAC incorporating 40 CFR 264.99(b) and 270.14(c)(7). Compliance monitoring shall continue until the groundwater protection standard as defined in 4.6.a.b.a.i(b) has been achieved for a period of three years. [20.4.1.500 NMAC incorporating 40 CFR 264.100(f)]

Subsections 4.6.1.b.a.vi, 4.6.2.b.a.vi and 4.6.3.b.a.vi (Record Keeping and Reporting) all state:

*The Permittee shall submit a written report to the Secretary summarizing the results of the groundwater monitoring and sampling program [20.4.1.500 NMAC incorporating 40 CFR 264.77(c) and 264.100(g)] within 90 days after the completion of field activities for each monitoring event or an alternate date specified by the Secretary...*

Section 4.7.6.b provides the requirements for submittal of an annual groundwater monitoring report. Navajo recommends that the three subsections refer to this section to avoid confusion between submittal of a report 90 days after completion of field activities or on an annual basis. Navajo recommends that each of the three referenced subsections be modified to read:

The Permittee shall submit a written report to the Secretary summarizing the results of the groundwater monitoring and sampling program [20.4.1.500

NMAC incorporating 40 CFR 264.77(c) and 264.100(g)] on an annual basis as required by Section 4.7.6.b...

#### 4.6.3 EVAPORATION PONDS

Section 4.6.3.c(iii) contains requirements for submittal of a closure plan and/or post-closure care plan for the Evaporation Ponds. This requirement includes a reference to 40 CFR 111. Currently, there is no regulation at 40 CFR 111. Navajo believes this is a typographical error and that the proper reference is 40 CFR 265.111. Navajo requests a clarification of the correct regulatory reference.

#### 4.7.6 GROUNDWATER MONITORING

Section 4.7.6.a requires submittal of an annual Facility-Wide Groundwater Monitoring Work Plan (FWGMWP). The requirement states:

*The Permittee shall submit an updated revised FWGMWP to the Secretary on an annual basis by June 30<sup>th</sup> of each respective year.*

Navajo would like to clarify that the annual updated revised FWGMWP will apply to the following calendar year monitoring program. For example, the FWGMWP submitted in 2011 will apply to the monitoring program for 2012. Navajo will implement the updated revised FWGMWP if it is approved by NMED by the beginning of the calendar year to which the FWGMWP applies. In the event that NMED does not approve the updated revised FWGMWP by January 1<sup>st</sup> of the calendar year to which the FWGMWP applies, Navajo will continue the monitoring program following the most recently approved FWGMWP.

Furthermore, this section includes a reference to Appendix C of the Permit, which outlines sampling procedures and analytical methods:

*The wells shall be monitored and sampled in accordance with the methods described in Appendix C of this Permit.*

Appendix C outlines specific sampling procedures and states that the Permittee may request a variance from those procedures if the request is submitted in writing no later than 90 days prior to the schedule sampling activities. Navajo requests clarification that if sampling methods other than those contained in Appendix C are

proposed in the FWGMWP, and the Secretary approves the FWGMWP, then no additional notification or request for variance in sampling methods will be required.

The section also states that the FWGMWP shall comply with the OCD's groundwater monitoring requirements. Navajo requests clarification that any potential conflicts between the Permit and the OCD groundwater monitoring requirements will be identified and resolved in the FWGMWP. Groundwater monitoring will then be conducted according to the approved FWGMWP.

Finally, this section states that the Secretary may change the date for submittal of the FWGMWP based on progress of other activities. Navajo would like to clarify that in the event that the submittal date for the FWGMWP is changed and in the event that NMED does not approve the updated revised FWGMWP by January 1<sup>st</sup> of the calendar year to which the FWGMWP applies, Navajo will continue the monitoring program following the most recently approved FWGMWP.

Navajo recommends that this section be revised, as follows:

4.7.6.a Facility-Wide Groundwater Monitoring: The Permittee is currently conducting on- and off-site groundwater monitoring at the Facility in accordance with an approved Facility-Wide Groundwater Monitoring Work Plan (FWGMWP). The Permittee must submit an updated revised FWGMWP to the Secretary on an annual basis by June 30<sup>th</sup> of each respective year. The updated revised FWGMWP shall apply to the subsequent calendar year (e.g. FWGMWP submitted in 2011 will apply to monitoring during calendar year 2012, if approved by NMED). In the event that the updated revised FWGMWP is not approved by the Secretary on or before January 1<sup>st</sup> of the calendar year to which the FWGMWP applies, the Permittee shall continued groundwater monitoring according to the provisions of the most recently approved FWGMWP.

Changes to the FWGMWP shall include, but are not limited to, an updated facility-wide site plan, new well installations or abandonments, changes to the sampling locations, modifications to the sampling methods and procedures, and changes to analytical suites. The wells shall be monitored and sampled in accordance with the methods described in Appendix C of this Permit and/or in accordance with the procedures described in the approved FWGMWP. The groundwater samples shall be submitted to an

analytical laboratory for chemical analysis using methods approved by the Secretary (e.g. those methods listed in the approved FWGMWP).

The FWGMWP shall also comply with OCD's groundwater monitoring requirements. In the event that there is a conflict between the requirements of this Permit and the OCD groundwater monitoring requirements, Permittee shall identify the conflict in the FWGMWP and propose a procedure by which the conflict will be resolved. Groundwater monitoring shall then be conducted in accordance with the approved FWGMWP.

The FWGMWP shall include a site plan that includes pertinent geographic and geologic features such as drainages, utility corridors, roads, watercourses, property boundaries, buildings, recovery trenches, oil and gas wells and other relevant structures. The FWGMWP must also include any new well installation and abandonment information. This information must include, but is not limited to, well construction diagrams, boring logs and certifications associated with well abandonment. All well plugging and abandonment methods and associated certifications must be conducted in accordance with *Rules and Regulations Governing Well Driller Licensing: Construction, Repair and Plugging of Wells* [19.27.4 NMAC]. If changes do not affect the facility-wide site plan, and/or no wells have been installed or abandoned in the reporting year, then this must be stated in the revision to the FWGMWP.

The Secretary may adjust the due date for the submittal of the FWGMWP based on the progress of other corrective action activities that occur at the facility. In the event that the submittal date is changed and a revised updated FWGMWP is not submitted and approved on or before January 1<sup>st</sup> of the calendar year to which the revised updated FWGMWP is to apply, the Permittee shall continued groundwater monitoring according to the provisions of the most recently approved FWGMWP.

## **APPENDIX A SWMU, AOC, AND HAZARDOUS WASTE MANAEMENT (*sic*) UNIT TABLES**

The Draft Permit contains a revised Appendix A with four tables, as follows:

- Table A-1: Solid Waste Management Units (SWMUs) & Areas of Concern (AOCs) Requiring Corrective Action

- Table A-2: SWMUs & AOCs Corrective Action Complete with Controls
- Table A-3: SWMUs & AOCs Corrective Action Complete without Controls
- Table A-4: SWMUs & AOCs Hazardous Waste Management Units

Navajo recommends that the typographical error in the heading of Appendix A be corrected.

**Table A-1:**

Table A-1 contains the previously identified SWMUs and AOCs and lists four (4) new SWMUs and 35 new AOCs, as well as modifications of the description of some entries. In Section 1.4 (Definitions) of the Permit, the following definitions are provided for AOC and SWMU:

*“AOC” means any area of concern that may have a release of hazardous waste or hazardous constituents, which is not from a solid waste management unit and is suspected or determined by the Secretary to pose a potential threat to human health or the environment.*

*“Solid waste management unit” or “SWMU” means any discernible unit at which solid wastes have been placed at any time, and from which the Secretary determines there may be a risk of a release of hazardous constituents, irrespective of whether the unit was intended for the management of solid or hazardous waste. Placement of solid waste includes one time and accidental events that were not remediated, as well as any unit or area at which solid waste has been routinely and systematically placed.*

The descriptions provided in Table A-1 are vague and insufficient to determine the reason for defining the area as a SWMU or AOC. Several of the entries are for units that do not exist yet and several refer to units in a manner that is not consistent with Navajo unit identifications.

The following entries include new entries in Table A-1 or modifications to previous definitions of SWMUs or AOCs with which Navajo generally concurs:

**SWMU 7 – Three Mile Ditch:** Previously, this SWMU included Evaporation Pond 1. Navajo concurs that Evaporation Pond 1 should be grouped with the other Evaporation Ponds as SWMU 1.

**SWMU 24 – PG Loading Racks:** Navajo recently reported a release at the PG Loading Racks located in the southwestern portion of the Refinery. Although Navajo generally concurs that this area constitutes an AOC and should be entered in Table A-1, it does not meet the definition of a SWMU. Therefore, Navajo requests that this entry be modified to be entered as an AOC.

**AOC 7 – West Tank Farm:** Tank 737 appears to be listed twice in this entry. Tank 902 is listed but there is no such tank at the Refinery. Tank 802 is located in this area and thus Navajo assumes that the reference to Tank 902 should be corrected to be a reference to Tank 802. Navajo generally concurs with this entry as an AOC but requests that the specific tank references be corrected.

**AOC 9 – Aggressive Biological Treatment Tanks:** These treatment tanks are part of the wastewater treatment process. Based on operational history, Navajo generally concurs that this area constitutes an AOC.

**AOC 17 – Alkylation Oil/Water Sep:** Navajo generally concurs that this area constitutes an AOC.

**AOC 38 – 2007 South Plant Mercury Release:** This release was investigated and remediated and the results were reported to NMED. Because cleanup was conducted, Navajo will petition for a status change to Corrective Action Complete, according to the requirements of Section 4.4.4. Until that petition has been submitted, Navajo concurs that this AOC should be listed in Table A-1.

The following entries all reference rail car or truck loading or off-loading racks. The designations referenced in Table A-1 generally correspond to the designations of these racks in the Refinery Title V Air Permit. In a few instances, there are typographical errors or incomplete descriptions of the units. Navajo requests clarification as to why each of these units is listed as an AOC. The entries include the following:

**AOC 18 – Railcar Loading and Off-Loading Rack (RLO-8) and Railcar Loading and Off-loading Rack (RLO-19)**

**AOC 19 – Asphalt Truck Loading Rack #2 (TL-2)**

**AOC 20 – LPG Truck Loading Rack (TL-5)**

**AOC 21 – Fuel Truck Loading Rack (TL-552):** Navajo does not currently list a fuels truck loading rack by this reference and requests clarification on the unit reference.

**AOC 22 – Truck Loading and Off-Loading Rack (TLO-17)****AOC 23 – Truck/Railcar Loading Off-Loading Rack (TRLO-9)**

**AOC 24 – Asphalt Truck Off-Loading Tack (TO-6):** This entry contains a typographical error “Tack” that should be corrected to “Rack”.

**AOC 25 – Gasoline Truck Off-Loading Rack (TO-10):** The proper reference for TO-15 is the “Gasoline Blends Truck Off-Loading Rack”.

**AOC 26 – Transmix Truck Off-Loading Rack (TO-11)**

**AOC 27 – HR Truck Off Loading Rack (TO-12):** The proper reference for TO-12 is the “HF Truck Off-Loading Rack”.

**AOC 28 – Ethanol Truck Off-Loading Rack (TO-15)****AOC 29 – TEL Truck Off-loading Rack (TO-16)****AOC 30 – Crude Truck Off-Loading Rack (TO-18)**

**AOC 31 – Gas Oil Truck Off-Loading Pot Pump (TO-21):** The proper reference for TO-21 is “Gas Oil Truck Off-Loading for use with a portable pump”.

**AOC 32 – Gas Oil Truck Off-Loading Tack (TO-551):** Navajo does not currently list a fuels truck loading rack by this reference and requests clarification on the unit reference.

**AOC 35 – Rail car loading and unloading facilities:** Rail car loading and unloading facilities have been listed above in separate AOCs. Navajo contends that it is inappropriate to list these facilities both individually and as a group. Navajo requests that this entry be removed from Table A-1.

**AOC 36 – Truck Loading racks:** Truck loading and unloading facilities have been listed above in separate AOCs. Navajo contends that it is inappropriate to list these facilities both individually and as a group. Navajo requests that this entry be removed from Table A-1.

The following entries in Table A-1 are unclear, either due to the description provided or because the manner in which the units are constructed is such that potential releases are captured by secondary containment and there is no reason to believe that a release to the environment has or could occur. Navajo requests clarification for the inclusion of the following in Table A-1 and/or removal of the following from Table A-1:

**SWMU 25 – Above Ground API:** No known releases have occurred from this API Separator. This unit was constructed above ground on a concrete foundation and curb, with the bottom of the unit approximately 3 feet aboveground so that the underside can be inspected. Any liquids that could potentially be released would be captured on the foundation and would drain into the process sewer system and be captured. Navajo requests that this entry be removed from Table A-1.

**SWMU 26 – North Plant Process Area:** Although not clear in the Draft Permit, Navajo presumes that the NMED is referring to the process areas located north of the Crude Tank Farm (AOC 5) and south of Eagle Draw as it crosses the Refinery, excluding any other previously defined SWMUs and AOCs. Navajo requests clarification of the area encompassed by this newly defined SWMU and the discernable unit(s) from which the Secretary has determined that there may have been a release or releases.

**SWMU 27 – South Plant Process Area:** Although not clear in the Draft Permit, Navajo presumes that the NMED is referring to the process areas between Texas Avenue and the southern Refinery boundary (US Highway 82), and between Freeman Avenue and the Southeast Tank Farm, excluding any other previously defined SWMUs and AOCs. Navajo requests clarification of the area encompassed by this newly defined SWMU and the discernable unit(s) from which the Secretary has determined that there may have been a release or releases.

**AOC 6 – Northeast Tank Farm:** None of the tanks listed in this entry have been placed into service at this time. Tank 437 was previously in service at

a different location and was emptied and cleaned prior to being moved to the current location. Tank 437 and Tank 1225 contain crude oil and are currently in service. Both of these tanks have been constructed with underlying liners to prevent releases to the soil. Navajo assumes that the reference to Pitch Tank 1 and Pitch Tank 2 correspond to Tank 81 and Tank 82. Tank 81 is not yet in service and as such could not have had a release. Tank 82 is discussed separately below. Navajo requests this entry be removed from Table A-1.

**AOC 8 – South Tank Farm:** All of the tanks in this area have been used to store asphalt. In the event that asphalt is released from any of these tanks, it immediately hardens and is easily removed. Asphalt is commonly used for roadways and Navajo does not believe that this material should be considered as a potential threat to human health or the environment. Navajo does not concur that this area constitutes an AOC. Navajo requests that this entry be removed from Table A-1.

**AOC 10 – Old Dissolved air Flotation Unit (DAF):** No releases have occurred from the DAF. Navajo does not concur that this area constitutes an AOC. Navajo requests that this entry be removed from Table A-1.

**AOC 11 – DAF-806 Wastewater Treatment Plant Unit:** This unit was constructed on concrete containment in such a manner that any potential releases would be captured and returned to the process wastewater treatment system. No known releases have occurred. Navajo does not concur that this area constitutes an AOC. Navajo requests that this entry be removed from Table A-1.

**AOC 12 – New DAF Unit Future Tanks:** Navajo contends that it is not appropriate to define a future tank as an AOC. A tank that does not yet exist does not have the potential for a release of a hazardous waste or hazardous constituent. Navajo requests that this entry be removed from Table A-1.

**AOC 13 – New API Unit Future Tanks:** Navajo contends that it is not appropriate to define a future tank as an AOC. A tank that does not yet exist does not have the potential for a release of a hazardous waste or hazardous constituent. Navajo requests that this entry be removed from Table A-1.

**AOC 14 – Wastewater Collection System:** Navajo performs periodic testing of all below grade components of the wastewater collection system for compliance with the OCD Permit. The approved integrity testing plan includes testing of 20 percent of all underground lines, which includes wastewater collection system drain lines, each year. Under that approved program, any identified leaks are immediately uncovered, inspected and repaired. In the event that a release is identified, notification of the NMED and OCD is required by the integrity testing program and by the Permit. Navajo requests that this entry be removed from Table A-1.

**AOC 15 – WWTS – downstream of operating API separator:** This entry is vague and it is not clear which units or areas are included. There have been no known releases from the wastewater treatment system downstream of the API separators. Navajo requests clarification of the units and/or areas included in this entry. Navajo requests that this entry be removed from Table A-1.

**AOC 16 – New Wastewater Tank:** Navajo contends that it is not appropriate to define a future tank as an AOC. A tank that does not yet exist does not have the potential for a release of a hazardous waste or hazardous constituent. Navajo requests that this entry be removed from Table A-1.

**AOC 33 – New Property:** Navajo requests clarification as to which property is included in this listing and what portions of the property are considered to have the potential for release of hazardous wastes or hazardous constituents.

**AOC 34 – Talon Tank and Ancillary Equipment:** This unit was constructed on concrete containment in such a manner that any potential releases from the tanks would be captured and returned to the process wastewater treatment system. No known releases have occurred. Navajo does not concur that this area constitutes an AOC. Navajo requests that this entry be removed from Table A-1.

**AOC 37 – Empty Drum Storage Area (Old City of Artesia Trickling Bed Filter):** According to the requirements of the OCD Permit, all drums stored in the empty drum storage area are triple-rinsed prior to placement in the storage area. As a result, the potential for release of hazardous wastes or

hazardous constituents does not exist. Navajo requests that this entry be removed from Table A-1.

**AOC 39 – Bone Yard:** Navajo policy requires that any used items (units, piping, etc.) placed in the bone yard area must be drained, cleaned and triple-rinsed prior to placement in the area. As such, the Navajo does not concur that there is a potential threat to human health or the environment from this area. Navajo requests that this entry be removed from Table A-1.

**AOC 40 – Tank 82:** This tank was designed as an asphalt tank and caught fire during installation of insulation in March 2010. The tank did not contain waste or hazardous constituents at the time, but contained hydrotest water. Although no release of hazardous constituents occurred, OCD performed a soil investigation of the area surrounding the tank. Navajo collected split samples during that investigation and no hazardous constituents were present in the soil. Navajo requests that this entry be removed from Table A-1.

**AOC ? – Above and Underground Piping:** Navajo has an active underground pipeline integrity assessment program and performs routine inspections of aboveground piping. Any release of hazardous waste or hazardous constituents from piping identified during the integrity testing or inspections would be reported, as required by the Permit. It is inappropriate to identify all piping within the Refinery as an AOC. Navajo requests that this entry be removed from Table A-1.

**Note – any newly installed tank shall be included in the nearest Tank Farm/AOC area.** It is unclear why this note has been added to Table A-1. Any new SWMU or AOC will be properly identified according to Section 4.7.2 of the Permit. Navajo requests the rationale for adding this note to the table.

Although Navajo does not concur with the entries in Table A-1, it is understood that each new entry in Table A-1 constitutes a newly identified SWMU or AOC, which will require an assessment as per Section 4.7.2 of the Permit. Section 4.7.2 requires that such an assessment be submitted within 90 days of identification of the newly identified SWMU or AOC. Navajo proposes to submit a schedule for submittal of the assessments for newly identified SWMUs and AOCs within 30 days of issuance of the Permit.

**Table A-4:**

The title of Table A-4 appears to be incorrect in that it lists SWMUs, AOCs and Hazardous Waste Management Units. Navajo believes this may be a typographical error and requests that the words "SWMUs & AOCs" be removed from the title.

The current status of the Hazardous Waste Management Units is not included in Table A-4. Navajo requests that a column be added to Table A-4 to reflect the current status of each of these units. The table should be corrected, as follows:

TABLE A-4  
HAZARDOUS WASTE MANAGEMENT UNITS

NAME	UNIT DESCRIPTION	STATUS
SWMU 1	Evaporation Ponds 1, 2, 3, 5, and 6	Inactive since 1998 Investigation ongoing
SWMU 6	North Colony Landfarm (NCL)	Inactive since 1990 Closure certification filed January 2010
SWMU 8	Tetra Ethyl Lead Impoundment (TEL)	Closure approved in June 1989 Post-closure care underway

Navajo respectfully requests that the comments provided in this letter be addressed prior to issuing the Final Permit. If you have questions about the contents of this letter, please contact either Darrell Moore (575-746-5281) or Pam Krueger (713-953-4816).

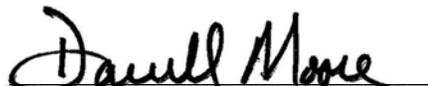
Sincerely,

ARCADIS U.S., Inc.



Pamela R. Krueger  
Senior Project Manager

Navajo Refining Company



Darrell Moore  
Environmental Manager,  
Water and Waste

Copies:

Johnny Lackey, Navajo  
Tim Wippold, ARCADIS  
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