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**FACT SHEET  
SEPTEMBER 16, 2011**

**INTENT TO ISSUE A HAZARDOUS WASTE FACILITY PERMIT  
UNDER THE NEW MEXICO HAZARDOUS WASTE ACT**

**WESTERN REFINING SOUTHWEST, INC. GALLUP REFINERY (WRG)  
MCKINLEY COUNTY, NEW MEXICO**

**Facility Name:** Western Refining Southwest, Inc, Gallup Refinery

**EPA Identification Number:** NMD 000333211

**Type of Facility:** Western Refining Southwest, Inc's Gallup Refinery (WRG or the Facility) is an operating refinery that has been in service since the 1950's. The Facility has a crude oil capacity of approximately 32,000 barrels (bbls) per day. The current and historic operations of the Facility are practices related to processing crude oils into final products which include propane, butane, naphtha, unleaded gasoline, diesel (low sulfur and ultra-low sulfur), and residual fuel.

**Location:** The Facility is located in McKinley County, New Mexico approximately 17 miles east of Gallup, NM at Exit 39 of Interstate 40 (I-40), Jamestown, New Mexico. The refinery is situated on an 810 acre tract of land. Specifically, the Gallup Refinery located in Township 15 North, Range 15 West, Sections 28 and 33 and the northern one-third of Section 4 of the New Mexico coordinate system.

**Owner:** Western Refining Southwest, Inc.

**Operator:** Western Refining Southwest, Inc.

## **Introduction**

NMED has tentatively decided to issue a permit to conduct post-closure care activities at *the Resource Conservation and Recovery Act (RCRA) regulated Land Treatment Unit (LTU)* under the New Mexico Hazardous Waste Act (HWA). Western Refining Southwest, Inc as the owner and operator of Gallup Refinery currently has a Hazardous Waste Facility Permit for Post-Closure Care issued by NMED to manage hazardous waste pursuant to the HWA and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA, 42 U.S.C. 6901 et seq.). Prior to issuing the permit renewal, the NMED is required by regulation to issue a draft permit for public comment, pursuant to 20.4.1.901.A(3) NMAC. NMED is also required to issue a fact sheet which serves as two functions: 1) to facilitate public review of that draft permit; and 2) to provided the basis for any requirements not specified in state regulations. This fact sheet contains all required information under 20.4.1.901 (a) through (f).

The Permit implements post-closure care requirements for soil contamination left in place after closure of the LTU previously used for treatment of RCRA-regulated hazardous waste. The LTU consists of three approximately 480-foot x 240-foot treatment cells located in the vicinity of the evaporation ponds at the west side of the refinery. The waste materials were periodically tilled to a depth of approximately one-foot below the ground surface to enhance biodegradation. Hazardous refinery process waste (D001, D007, K049, K050, K051, and K052) was disposed at the LTU between October 1980 and November 1990. In addition, non-hazardous waste was applied at the LTU between 1990 and 1993. Treatment of the applied waste continued through 1999. Residual contamination is present in the surface soils at the LTU in the form of total petroleum hydrocarbons at concentrations less than New Mexico Department of Energy and Minerals Oil Conservation Division cleanup standards (total ranking score 10-19) and metals (chromium, lead and arsenic) at concentrations greater than background levels.

## **WRG PERMIT HISTORY**

February 25, 2010 - WRG submitted the Permit Application Parts A and B (Volumes 1 through 3) for the permit renewal

June 28, 2010 – NMED determined the permit application to be administratively complete.

## **Regulatory Background**

A permit implementing a land treatment demonstration was issued in December 1986. An operating permit for land treatment at the LTU was issued in November 1988 and expired in November 1998. The terms of the operating permit remain in effect until the effective date of this Post-closure Care Permit. Post-closure care requirements will remain in place for 30 years after closure, unless the post-closure period is shortened or lengthened pursuant to 40 CFR §264.117(a)(2). A groundwater monitoring program, consisting of monitoring and sampling wells in the vicinity of the LTU, is required to remain in place until completion of corrective action, i.e., demonstration of attainment of cleanup standards for three years, pursuant to 40 CFR §§264.97 and 264.98.

Post closure-care at the LTU includes conducting scheduled soil and groundwater monitoring during the term of the Post-closure Care Permit. In addition, the LTU is covered by approximately six inches of clean soil and re-vegetated using plants native to the area to reduce the possibility airborne migration of residual waste constituents from the unit. The details of post-closure care are presented in Part III and Attachment D of the Post-closure Care Permit.

**The following are additional terms related to the Regulatory Background:**

Subtitle C of RCRA provides “cradle to grave” environmental regulation for the management of hazardous waste at hazardous waste treatment, storage, and disposal facilities. The United States Environmental Protection Agency (EPA) has authorized the State of New Mexico to implement and enforce Subtitle C requirements, including corrective action requirements, under its own hazardous waste management program. The State’s enabling authority for the program is the HWA, which authorizes the State’s Environmental Improvement Board (EIB) to adopt regulations and NMED to implement and enforce the provisions of the HWA and regulations.

On November 19, 1980, the RCRA regulations became effective, and it became unlawful to treat, store, or dispose of hazardous waste without having, or having applied for, a permit. For existing treatment, storage, or disposal facilities (TSDFs), the requirement to submit an application is satisfied by submitting the “Part A” portion of the application; the “Part B” portion may be submitted at a later time. The roles of these Parts are clarified in 40 CFR § 270.10.

As part of the State’s program, the EIB has adopted regulations relating to, among other things, the issuance of hazardous waste permits. These regulations incorporate by reference pertinent sections of the code of federal regulations – 40 CFR parts 260 through 270, and 273 – and are codified in the Hazardous Waste Management Regulations (HWMR), 20.4.1 NMAC.

The HWA and HWMR require each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste to have a permit. *See* 42 U.S.C. 6925 and 20.4.1.900 NMAC (incorporating 40 CFR 270.1). A treatment, storage or disposal facility in existence on November 19, 1980 is eligible for “interim status.” Interim status authorizes an existing facility to operate, subject to the interim status standards set forth in 20.4.1.600 NMAC, incorporating 40 CFR part 265, until NMED issues or denies a RCRA permit or until interim status is otherwise terminated.

The HWA and HWMR further require corrective action for all releases of hazardous waste or constituents from any SWMU at a facility seeking a permit, regardless of the time at which waste was placed in such unit. [42 U.S.C. 6924(u), Section 74-4-4.2(B), NMSA 1978, and 20.4.1.500 NMAC incorporating 40 CFR 264.101(a)]. Corrective action is also required beyond the facility boundary. [42 U.S.C. 6924(v) and 20.4.1.500 NMAC incorporating 40 CFR 264.101(c)].

On January 26, 1983, RCRA subjected “units” managing and disposing of hazardous waste to the closure and post-closure standards of 40 CFR Part 264, Subpart G and Part 265, Subpart G and required a post-closure care permit in some circumstances.

On January 25, 1985, the State received from EPA authorization to implement its hazardous waste program under the HWA. 50 Fed. Reg. 1515 (Jan. 11, 1985). Subsequent program

revisions were approved effective on April 10, 1990, July 25, 1990, December 4, 1992, August 23, 1994, December 21, 1994, July 10, 1995, January 2, 1996, March 10, 1997, July 13, 1998, October 9, 2001, and October 16, 2007. On January 2, 1996, the State received from EPA authorization to implement the corrective action program under the HWA. See 60 Fed. Reg. 53708 (Oct. 17, 1995); 61 Fed. Reg. 2450 (Jan. 26, 1996).

## **PERMIT ORGANIZATION**

The Permit is comprised of four Parts and Attachments A through J. The Permit parts contain general permit and facility conditions and post-closure care and corrective action requirements.

Permit terms are established to ensure compliance with New Mexico's HWA and HWMRs and are derived from applicable regulatory requirements, the Permittees' commitments, or requirements established by NMED to ensure adherence with the regulations or to protect human health or the environment as provided at 20.4.1.900 NMAC, incorporating by reference 40 CFR § 270.32(b)(2).

This Fact Sheet and the draft Permit generally refer to regulations by citing the federal hazardous waste management regulations, 40 CFR Parts 260 through 273, rather than the New Mexico Hazardous Waste Management Regulations, 20.4.1 NMAC, which incorporate by reference the federal regulations, with certain exceptions. Where relevant, the New Mexico HWMRs are cited directly.

**Permit:** The Parts and Attachments of the Permit are described below:

**Part 1: *General Permit Conditions*** contains permit conditions that apply to all hazardous waste management units, most of which are based on mandatory permit conditions set forth in 40 CFR Part 270.

**Part 2: *General Facility Conditions*** contains mandatory permit conditions the Permittee must follow for operation of hazardous waste management facilities set forth in 40 CFR 264, subpart B through E.

**Part 3: *Post-Closure Care for Land Treatment Unit*** contains permit conditions the Permittee must follow for post-closure care of the Land Treatment Unit (LTU).

**Part 4: *Corrective Action*** contains the conditions and requirements for corrective action for releases from SWMUs and AOCs, and includes: notification and assessment requirements for releases; confirmatory sampling requirements; investigations requirements; interim measures; remedy selection; and permit modification requirements. SWMUs are any discernable units at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units may include any area at the Facility at which solid wastes has been routinely and systematically released, but does not include one-time accidental spills that are immediately remediated or areas in which waste has not been managed (e.g., product storage areas). AOCs are considered to be any discernable area at the facility, or off-site, determined by the Secretary to be impacted by migration of contamination from the facility, where hazardous waste or hazardous constituent(s) are present, or are suspected to be present, as a result of a release from the facility, and that pose a current or potential threat to human health or the environment. The regulatory justifications for imposing corrective action are contained in the NMED's technical support documents filed in the administrative record.

These permit conditions ensure that the Permittee appropriately address releases of hazardous waste and hazardous constituents to the environment.

**Field Exploration Activities** contains permit conditions for the minimum requirements for field investigations, sample collection, handling and screening procedures, field and laboratory sample analysis, and quality assurance (QA) procedures for samples of the medium being investigated or tested at the Facility.

**Cleanup Levels** contains permit conditions for groundwater and soil cleanup levels.

**Reporting Requirements** contains permit conditions for general reporting requirements and report formats for corrective action activities.

**Attachment A: General Facility Description** contains a general description of the geology, site background and the Facility's operations.

**Attachment B: Work Plan and Closure Plan Submittal Schedule** contains a table of SWMU and AOC work plan and closure plan due dates.

**Attachment C: Inspection Plan** contains the inspection plan for the LTU.

**Attachment D: Post Closure Care Plan** contains a general description of the post-closure care plan for the LTU.

**Attachment E: Compliance Schedule** contains particular requirements specified in the Permit and their associated due dates.

**Attachment F: Hazardous Waste Management Units** contains a general description of the LTU.

**Attachment G: Solid Waste Management Units and Areas of Concern Tables** contains a list of SWMUs and AOCs at the Facility.

**Attachment H: Post Closure Cost Estimates** contains a table of the cost estimates for post-closure care of the LTU.

**Attachment I: Long-term Monitoring and Maintenance** contains plans for the long-term monitoring and maintenance of SWMUs and AOCs with corrective action complete.

**Attachment J: Figures** contains figures associated with the Permit.

## **PUBLIC PARTICIPATION**

There are significant opportunities for the public to learn about and become involved in the regulation of hazardous waste at WRG, including the corrective action processes in the draft Permit. Documents pertinent to permitting and corrective action activities submitted to or issued by the Department are available for public review in the Department's administrative record at 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico. This Fact Sheet is in part an effort to involve the public, and at the end of this Fact Sheet is a description of how the public may comment on the draft Permit.

Regulations require public involvement any time there is a modification to change the Permit. That process involves public notices and may include an opportunity for public comment. Public notices are provided in local newspapers and letters to individuals on the facility mailing list are sent that include notification of requested modifications. The facility mailing list is maintained by the Department and any interested person may request to be placed on the list to be informed of such actions.

## **PUBLIC REVIEW OF THE DRAFT PERMIT**

The Administrative Record for this proposed action consists of the permit modification request, the draft Permit, this Public Notice, the Fact Sheet, and other supporting documentation the Department relied on to develop the draft permit. The Administrative Record may be reviewed, with prior appointment, at the following location during the public comment period.

NMED - Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Phone: (505) 476-6000  
*Monday – Friday: 8:00 a.m. to 5:00 p.m.*  
Contact: *Pam Allen*

A copy of the draft Permit, this Public Notice, and the Fact Sheet are also available on the Department's website at: <http://www.nmenv.state.nm.us/hwb/nrcperm.html> under WRG Draft Permit. To obtain a copy of the Administrative Record or a portion thereof, please contact Ms. Pam Allen at (505) 476-6000, or at address given above. The Department will provide copies, or portions thereof, of the Administrative Record at a cost to the requestor.

The Department issues this public notice on **September 16, 2011**, to announce the beginning of a 60-day comment period that will end at **5:00 p.m. MDT, November 15, 2011**. Any person who wishes to comment on the revised draft Permit or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and physical address to the respective address below. Only comments and/or requests received before **5:00 p.m. MDT on November 15, 2011** will be considered.

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Ref: WRG Draft Permit

Written comments must be based on reasonably available information and include, to the extent practicable, all referenced factual materials. Documents in the administrative record need not be re-submitted if expressly referenced by the commenter. Requests for a public hearing must provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and physical address of all persons whom the requestor represents; (3) a statement of any objections to the draft Permit, including specific references to any conditions; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. The Department will provide a thirty day notice of a public hearing, if one is scheduled.

The Department must ensure that the draft Permit is consistent with the New Mexico Hazardous Waste Management Regulations. All written comments submitted will be considered in formulating a decision on issuance of a final permit, or that may cause the draft Permit to be modified. The Department will respond in writing to all public comments. This response will specify which provisions, if any, of the draft Permit have been changed in the final permit and the reasons for the changes. All persons presenting written comments or who requested notification in writing will be notified of the decision by mail. These responses will also be posted on the Department's website.

After consideration of all the written public comments received the Secretary of the Department or his designee will make the final decision on this draft Permit. The decision will be publicly available, and shall be included in a notification to the Applicants by certified mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the HWA.

### **ARRANGEMENTS FOR PERSONS WITH DISABILITIES**

Persons having a disability and requiring assistance or auxiliary aid to participate in this process should contact Judy Bentley at the New Mexico Environment Department, Human Resources Bureau, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone number: (505) 827-9872. TDY users please access her number via the New Mexico Relay Network at 1-800-659-8331.