

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

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Cabinet Secretary

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Deputy Cabinet Secretary

Adrienne Sandoval
Director, Oil Conservation Division



BY ELECTRONIC AND CERTIFIED MAIL

April 20, 2022

Mr. John Moore, PE
Western Refining Southwest LLC
92 Giant Crossing Road
Gallup, NM 87301

RE: Discharge Permit GW-032 for Western Refining Southwest LLC, Marathon Gallup Refinery

Dear Mr. Moore:

Pursuant to 20.6.2.3109 NMAC, the New Mexico Oil Conservation Division (OCD) hereby issues Discharge Permit GW-032 to Western Refining Southwest LLC (Western), Marathon Gallup Refinery. This permit specifies the terms and conditions for Western's remediation of groundwater contamination at the facility.

Western must notify the OCD if it intends to expand the facility, resume refinery operations, increase production, and/or modify a process that would result in a significant modification in the discharge of water contaminants.

This permit expires on **April 20, 2027**. Pursuant to 20.6.2.3106(G) NMAC, if Western submits a renewal application at least 120 days before the discharge permit expires, and is not in violation of the permit, then the existing discharge permit will not expire until OCD has approved or disapproved the renewal application.

Western must pay a permit fee of \$6,900.00 by check made payable to the "Water Quality Management Fund" no later than thirty (30) days after receipt of this letter at the following mailing address:

Oil Conservation Division
Attn: Administrative Permitting Supervisor
1220 South St. Francis Dr.
Santa Fe, NM 87505

If you have any questions, please contact Leigh Barr of my staff at (505) 670-5684 or by email at LeighP.Barr@state.nm.us.



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Respectfully,



Todd Leahy
Deputy Secretary

Discharge Permit GW-032
Western Refining Southwest LLC – Marathon Gallup Refinery

1. GENERAL PROVISIONS:

- A. PERMITTEE AND PERMITTED FACILITY:** The Oil Conservation Division (OCD) within the Energy, Minerals and Natural Resources Department hereby issues Discharge Permit GW-032 (Discharge Permit) to Western Refining Southwest LLC – Marathon Gallup Refinery (Permittee) located at I-40, Exit #39, Jamestown, New Mexico 87347 (Sections 28 and 33, Township 15 North, Range 15 West, and Section 4, Township 14 North, Range 15 West, McKinley County, New Mexico).

The Permittee's refinery operations were indefinitely idled in August 2020. Product is no longer stored at the refinery and all refinery processes have been temporarily shut down as part of the refinery's indefinite idling status; associated equipment no longer stores or contains material. The Permittee does however operate a wastewater treatment plant (WWTP); the WWTP is utilized to treat collected groundwater at the facility for remediation purposes. The treated/remediation water flows to a series of twelve on-site evaporation ponds where water is allowed to evaporate. The WWTP processes on average 2.1 million gallons per month. Groundwater that may be affected by a spill, leak, or accidental discharge occurs at a depth of approximately 16 to 29 feet below ground surface with total dissolved solids (TDS) concentration ranging from 4,500 milligrams per liter (mg/L) to 4,900 mg/L.

The issuance of this Discharge Permit does not relieve the Permittee from the responsibility of complying with the provisions of the Water Quality Act, any applicable regulations or water quality standards of the Water Quality Control Commission (WQCC), or any applicable federal laws, regulations, or standards.

- B. SCOPE OF PERMIT:** OCD has been granted authority to administer the Water Quality Act (Chapter 74, Article 6 NMSA 1978) as it applies to refineries by statute and by delegation from the WQCC pursuant to Section 74-6-4(E) NMSA 1978.

The Water Quality Act and the rules promulgated under that Act protect groundwater and surface water of the State of New Mexico by providing that, unless otherwise allowed by rule, no person shall cause or allow effluent or leachate to discharge so that it may move directly or indirectly into groundwater unless such discharge is pursuant to an approved discharge permit (See WQCC Regulations: 20.6.2.3104 NMAC and 20.6.2.3106 NMAC).

This Discharge Permit does not convey any property rights of any sort nor any exclusive privilege and does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of state, federal, or local laws, rules, or regulations.

The Permittee shall operate in accordance with the Discharge Permit conditions to comply with the Water Quality Act and the rules issued pursuant to that Act, so that

neither a hazard to public health nor undue risk to property will result (See 20.6.2.3109C NMAC); so that no discharge will cause or may cause any stream standard to be violated (See 20.6.2.3109H(2) NMAC); so that no discharge of any water contaminant will result in a hazard to public health (See 20.6.2.3109H(3) NMAC); and, so that the numerical standards specified of 20.6.2.3103 NMAC are not exceeded.

- C. DISCHARGE PERMIT CONDITIONS:** The Permittee agrees to the specific provisions set out in this document, and the commitments made in the approved Discharge Permit Application and the attachments to that application, which are incorporated into this Discharge Permit by reference.
- D. DEFINITIONS:** Terms not specifically defined in this Discharge Permit shall have the same meanings as those in the Water Quality Act or the rules adopted pursuant to the Act, as the context requires.
- E. FEES:** Pursuant to 20.6.2.3114 NMAC, every facility that submits a discharge permit application for initial approval or renewal shall pay the permit fees specified in Table 1 and the filing fee specified in Table 2 of 20.6.2.3114 NMAC. The required filing fee is \$100; OCD has received this fee. The permit fee of \$6,900 (Industrial 100,000 to 999,999 gpd) is due within 30-days of permit issuance. Checks must be payable to the "Water Quality Management Fund" and not to the OCD and sent to the below mailing address:
- Oil Conservation Division
Attn: Administrative Permitting Supervisor
1220 South St. Francis Dr.
Santa Fe, NM 87505
- F. EFFECTIVE DATE, EXPIRATION, RENEWAL CONDITIONS, AND PENALTIES FOR OPERATING WITHOUT A DISCHARGE PERMIT:** This Discharge Permit is effective from the date the Permittee receives the discharge permit, all fees are paid, or until the permit is terminated. This Discharge Permit shall **expire on April 20, 2027**. The Permittee shall submit an application for renewal no later than 120 days before the Discharge Permit expiration date, pursuant to 20.6.2.3106(G) NMAC. If a Permittee submits a renewal application at least 120 calendar days before the Discharge Permit expires, and is following the approved Discharge Permit, then the existing Discharge Permit will not expire until OCD has approved or disapproved the renewal application. A discharge permit continued under this provision remains fully effective and enforceable. Operating with an expired discharge permit may subject the Permittee to civil and/or criminal penalties (See Section 74-6-10.1 NMSA 1978 and Section 74-6-10.2 NMSA 1978).
- G. MODIFICATIONS:** The Permittee shall notify the OCD of *recommencement of any refinery operations*, any facility expansion, production increase, or process modification that would result in any significant modification in the discharge of water contaminants (See 20.6.2.3107C NMAC). OCD may require the Permittee to submit a permit modification pursuant to 20.6.2.3109E NMAC and may modify or terminate a permit pursuant to Section 74-6-5(M) through (N) NMSA 1978.

- H. TRANSFER OF DISCHARGE PERMIT:** Prior to any transfer of ownership, control, or possession (whether by lease, conveyance or otherwise) of the Facility, the transferor shall notify the transferee in writing of the existence of this Discharge Permit and shall deliver or send by certified mail to the OCD a copy of such written notification, together with a certification or other proof that such notification has been received by the transferee pursuant to 20.6.2.3111 NMAC. Upon receipt of such notification, the transferee shall inquire into all the provisions and requirements contained in the Discharge Permit, and the transferee shall be charged with notice of all such provisions and requirements as they appear of record in OCD's file(s) concerning the Discharge Permit. Upon assuming either ownership or possession of the Facility, the transferee shall have the same rights and responsibilities under the Discharge Permit as were applicable to the transferor (See 20.6.2.3111 NMAC).

Transfer of the ownership, control, or possession of the Facility does not relieve the transferor of responsibility or liability for any act or omission which occurred while the transferor owned, controlled, or was in possession of the Facility (See 20.6.2.3111E NMAC).

- I. CLOSURE PLAN AND FINANCIAL ASSURANCE:** The Permittee shall notify the OCD in writing when operations of the Facility are to be discontinued for a period of more than six months. Upon review of the Permittee's notice, OCD will determine whether to modify this Discharge Permit, pursuant to 20.6.2.3107 NMAC and 20.6.2.3109E NMAC, to require the Permittee to submit a closure plan and/or post-closure plan, including financial assurance.
- J. COMPLIANCE AND ENFORCEMENT:** If the Permittee violates or is violating a condition of this Discharge Permit, OCD may issue a compliance order requiring compliance immediately or within a specified time-period, suspending or terminating this Discharge Permit, and/or assessing a civil penalty (See Section 74-6-10 NMSA 1978). The OCD may also commence a civil action in district court for appropriate relief, including injunctive relief (See Section 74-6-10(A)(2) NMSA 1978 and Section 74-6-11 NMSA 1978). The Permittee may be subject to criminal penalties for discharging a water contaminant without a discharge permit or in violation of a condition of a discharge permit; making any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the Water Quality Act; falsifying, tampering with or rendering inaccurate any monitoring device, method or record required to be maintained under the Water Quality Act; or failing to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation (See Section 74-6-10.2 NMSA 1978).

2. GENERAL FACILITY OPERATIONS:

- A. CONTINGENCY PLAN:** The Permittee shall implement its contingency plan to cope with failure of the Discharge Permit or system.
- B. INSPECTION AND MAINTENANCE PLAN:** The Permittee shall implement its inspection and maintenance plan to prevent a failure of the Discharge Permit or system.

- C. OPERATIONAL MONITORING:** The Permittee shall comply with its approved monitoring programs pursuant to 20.6.2.3107 NMAC.
- a. **Groundwater Monitoring System:** The Permittee shall monitor and remediate groundwater in accordance with the Facility Wide Groundwater Monitoring Work Plan (FWGMWP). The Permittee shall monitor for applicable constituents listed in 20.6.2.3103 NMAC following the procedures specified in the FWGMWP.
- D. RECORD KEEPING:** The Permittee shall maintain monitoring records required by this Discharge Permit at its Facility office for a minimum of five years and shall make those records available for inspection by OCD.
- E. POST-CLOSURE MONITORING:** The Permittee shall comply with its approved post-closure monitoring program pursuant to 20.6.2.3107 NMAC (Continuation of monitoring after cessation of operations).
- F. CLOSURE:** After completing abatement of all groundwater and vadose zone contamination required under Permit Condition 2.H, the Permittee shall perform the following closure measures:
- a. Remove or plug all lines leading to and from the extraction wells so that a discharge can no longer occur.
- b. Remove all remediation system components from the site, if applicable.
- c. After receiving notification from the OCD that post-closure may cease, the Permittee shall plug and abandon the monitoring well(s).
- G. RELEASE REPORTING:** The Permittee shall comply with the following permit conditions, pursuant to 20.6.2.1203 NMAC, and shall report or provide notification of a release verbally to OCD within 24 hours after having knowledge of a release. The Permittee shall report major and minor releases as defined in 19.15.29 NMAC according to 19.15.29.10 NMAC which requires the completion and electronic filing of a C-141 form for the release event. The Permittee shall report unauthorized releases of water contaminants in accordance with any additional commitments made in its approved Contingency Plan. If the Permittee determines that any groundwater constituent exceeds the standards specified at 20.6.2.3103 NMAC, then it shall report a release to OCD.
- 1. Initial Notification:** As soon as possible after learning of such a release, but in no event more than twenty-four (24) hours thereafter, the Permittee shall notify OCD of a release. The Permittee shall provide the following:
- a. the name, address, and telephone number of the person or persons in charge of the facility, as well as of the Permittee;
- b. the name and location of the facility;
- c. the date, time, location, and duration of the release;
- d. the source and cause of the release;
- e. a description of the release, including its chemical composition;
- f. the estimated volume of the release; and,
- g. any corrective or abatement actions taken to mitigate immediate environmental damage from the release.

- 2. Written Notification:** The Permittee shall report major and minor releases as defined in 19.15.29 NMAC according to 19.15.29.10 NMAC which requires the completion and electronic filing of a C-141 form for the release event.
- 3. Corrective Action:** The Permittee shall undertake such corrective actions as are necessary and appropriate to contain and remove or mitigate the damage caused by the release along with the filing/notification of subsequent correction action reports with the OCD.

H. ABATEMENT: Pursuant to 20.6.2.4105(A)(6) NMAC, the Permittee is exempt from the requirement to obtain and implement an Abatement Plan if abatement is conducted under the authority of an approved groundwater discharge plan. This Discharge Permit requires that abatement be consistent with the requirements and provisions of Sections 20.6.2.4101, 20.6.2.4103, Subsections C and E of Section 20.6.2.4106, Sections 20.6.2.4107 and 20.6.2.4112 NMAC.

I. OTHER REQUIREMENTS:

- 1. Inspection and Entry:** The Permittee shall allow any authorized representative of the OCD, upon the presentation of proper credentials, to:
 - a. Enter the Facility at reasonable times;
 - b. Inspect and copy records required by this Discharge Permit;
 - c. Inspect any treatment works, monitoring, and analytical equipment;
 - d. Sample any wastes, groundwater, surface water, stream sediment, plants, animals, or vadose zone material including vadose zone vapors;
 - e. Use the Permittee's monitoring systems and wells to collect samples; and,
 - f. Gain access to off-site property not owned or controlled by the Permittee, but accessible to the Permittee through a third-party access agreement, provided it is allowed by the agreement.
- 2. Advance Notice:** The Permittee shall provide OCD with at least four (4) working days advanced notice of any sampling to be performed, or any well plugging, and abandonment at the Facility.
- 3. Plugging and Abandonment:** The Permittee shall propose to plug and abandon a monitor well by email or mail to OCD for approval, along with approval from the State Engineer. The proposed action shall be designed to prevent water pollution that could result from water contaminants migrating through the well or borehole. The proposed action shall not take place without written approval from OCD.
- 4. Underground Process/Wastewater Lines:** The Permittee shall maintain underground process and wastewater pipeline schematic diagrams or plans showing all drains, vents, risers, valves, underground piping, pipe type, rating, size, and approximate location. The Permittee shall notify OCD by email or mail prior to the construction and/or modification of underground process and wastewater pipelines.

- J. ANNUAL REPORT:** For the sake of efficiency, the Permittee shall hereafter only submit one single report to the OCD on or before September 1st of each year. This report shall include all components of the Annual Groundwater Monitoring Report and a Section demonstrating compliance with this Discharge Permit. This Section shall include the following:
- a. A summary of all major Facility activities or events;
 - b. A summary of all leaks, spills, and releases and corrective actions taken;
 - c. A summary of any new discoveries of groundwater and/or vadose zone contamination. Include recommendations for further investigation and/or abatement.
 - d. A summary of any WQCC constituents found to exceed the groundwater standards.
 - e. A summary of all waste and wastewater disposed of, sold, or treated on-site, including a wastewater balance sheet and mass balance of the evaporation pond rates;
 - f. A summary of fluids detected in any leak detection system associated with the WWTP, STP-1, and Evaporation Ponds;
 - g. Closure of any UIC Class V wells;
 - h. Conclusions and recommendations; and
 - i. The Permittee shall submit this report in an acceptable electronic format for OCD review.
- K. COLLECTION AND EVAPORATION PONDS:** The Evaporation Ponds and STP-1 (Collection Pond) shall be inspected at a minimum once per week and after any major storm event or malfunction of the wastewater treatment system. Weekly records shall be maintained, as applicable, for all flow rates from all flow meters, fluid levels, freeboard, seepage, flow channels, pipes, valves, aerator operation, and berm or fire wall integrity. Ponds shall maintain a minimum freeboard of 3 feet to prevent over-topping of the treated wastewater. Any leaks or releases shall comply with Permit Condition 2.G.
- L. REGISTERED PROFESSIONAL ENGINEER:** All ponds, including modifications and retrofits, shall be designed by a registered professional engineer licensed in New Mexico and approved by the OCD prior to construction. In general, all ponds shall have approved hydrologic and geologic reports, location, foundation, liners, and secondary containment with leak detection, monitoring and closure plan(s). All ponds shall be designed, constructed, and operated to contain liquids and solids in a manner that will protect fresh water, public health, safety, and the environment for the foreseeable future.
- M. COMPLETION AND TERMINATION:** Pursuant to 20.6.2.4112 NMAC, abatement shall be considered complete when the standards and requirements set forth in Section 20.6.2.4103 NMAC are met. At that time, the Permittee shall submit an abatement completion report, documenting compliance with the standards and requirements set forth in Section 20.6.2.4103 NMAC, to OCD for approval. The abatement completion report shall also propose any changes to long term monitoring and site maintenance activities, if needed, to be performed after termination of abatement activities.

3. **CLASS V WELLS:** Pursuant to 20.6.2.5002B NMAC, leach fields and other wastewater disposal systems at OCD regulated facilities that inject non-hazardous fluid into or above an underground source of drinking water are Underground Injection Control (UIC) Class V injection wells. This Discharge Permit does not authorize the Permittee to use any UIC Class V injection well for the disposal of industrial waste at the Facility. Pursuant to 20.6.2.5005 NMAC, the Permittee shall close any UIC Class V industrial waste injection wells at its Facility that inject non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes (*e.g.*, septic systems, leach fields, dry wells, *etc.*) within 90 calendar days of the issuance of this Discharge Permit. The Permittee shall document the closure of any UIC Class V wells used for the disposal of non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes in its Annual Report. The Permittee must obtain a UIC Permit from the New Mexico Environment Department for other Class V wells, including wells used only for the injection of domestic wastes.