

**GW - 032**

**Bonds**

## Chavez, Carl J, EMNRD

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**From:** Brooks, David K., EMNRD  
**Sent:** Wednesday, June 01, 2011 8:40 AM  
**To:** Smith, Rodney  
**Cc:** Chavez, Carl J, EMNRD; Phillips, Dorothy, EMNRD  
**Subject:** RE: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

Dear Mr. Smith

This will confirm that I indicated OCD would accept from Gallup Refinery a letter of credit for a one-year term, provided it contains an "evergreen" clause in substantially the form we require in oil and gas bonds.

This action constitutes no precedent for waiving the five-year term requirement for oil and gas bonds, as that requirement is provided by oil and gas rules that do not specifically apply to facility bonds.

David K. Brooks

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**From:** Smith, Rodney [mailto:Rodney.Smith@wnr.com]  
**Sent:** Tuesday, May 31, 2011 11:34 AM  
**To:** Brooks, David K., EMNRD  
**Subject:** RE: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

David,

Understood. I think it has more to do with our bank facility agreement with BofA versus standard BofA policy. Please advise. Thanks!

Rodney Smith  
Assistant Treasurer

Western Refining  
123 W. Mills Avenue, Suite 200  
El Paso, TX 79901

(915) 534-1630  
(915) 433-6631  
rodney.smith@wnr.com

---

**From:** Brooks, David K., EMNRD [mailto:david.brooks@state.nm.us]  
**Sent:** Tuesday, May 31, 2011 11:31 AM  
**To:** Smith, Rodney  
**Subject:** RE: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

Dear Mr. Smith  
I know we hold letters of credit from B of A that contain that language.  
David Brooks

---

**From:** Smith, Rodney [mailto:Rodney.Smith@wnr.com]  
**Sent:** Tuesday, May 31, 2011 11:08 AM

**To:** Brooks, David K., EMNRD

**Subject:** FW: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

David,

We are not allowed those terms within our banking facility. The term can be one year with an auto renewal. Please advise. Thanks!

Rodney Smith

Assistant Treasurer

Western Refining

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El Paso, TX 79901

(915) 534-1630

(915) 433-6631

rodney.smith@wnr.com

---

**From:** Regina, Joann [mailto:joann.regina@baml.com]

**Sent:** Tuesday, May 31, 2011 10:34 AM

**To:** Smith, Rodney

**Cc:** Torres, Zoila; Aledia, Josephine

**Subject:** RE: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

Hi Rodney

In accordance with the terms of our credit agreements, Standby Letters of Credit can only be issued for a period of one year. They can have an auto renewal provision but not an upfront expiry of five years.

In order for me to accept this I would have to look to Mike Wills for approval who would mostly likely have to get approval from the bank group as this would be treated as an exception.

Let me know if you would like me to draft an amendment with the one year expiry and the auto renewal clause or speak to Mike further and see if this exception can be approved.

Thanks

***JoAnn Regina***

Vice President, Operations Manager

Bank of America Merrill Lynch

Bank of America, N.A.

Business Capital-Trade & International Services Group

450 B Street, Suite 430

San Diego, CA 92101

Ph 619-515-5793

Fax: 619-515-7022

Email: Joann.Regina@BAML.COM

---

**From:** Smith, Rodney [mailto:Rodney.Smith@wnr.com]

**Sent:** Tuesday, May 31, 2011 8:34 AM

**To:** Regina, Joann

**Cc:** Torres, Zoila; Aledia, Josephine

**Subject:** FW: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

Joann,

Please review the language below to see if we can amend LC # 3093772 to the State of New Mexico. Please let me know so we can amend today. Thanks!

Rodney Smith

Assistant Treasurer

Western Refining

123 W. Mills Avenue, Suite 200

El Paso, TX 79901

(915) 534-1630

(915) 433-6631

rodney.smith@wnr.com

## Chavez, Carl J, EMNRD

---

**From:** Brooks, David K., EMNRD  
**Sent:** Tuesday, May 31, 2011 9:03 AM  
**To:** Smith, Rodney  
**Cc:** Chavez, Carl J, EMNRD  
**Subject:** RE: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

Dear Mr. Smith

Carl Chavez has asked that I respond to your inquiry.

Normally we require a five-year term with automatic renewal (evergreen) clause. Our standard renewal language is the following:

This Letter of Credit will expire on \_\_\_\_\_ **[not less than five (5) years from the effective date of the Letter of Credit]**; unless sooner released by written notice to the ISSUER by the DIVISION. Upon the expiration date, this Letter of Credit shall be automatically renewed for an additional term of five years commencing on such expiration date, and likewise for successive terms of five years each upon the occurrence of each subsequent scheduled expiration date, unless the ISSUER has, at least thirty days prior to any scheduled expiration date, mailed written notice of non-renewal, by certified mail, return receipt requested, to the DIVISION. This Letter of Credit may be forfeited and collected by the DIVISION if not replaced by approved financial assurance at least 30 days before the expiration date hereof.

Thanks

David Brooks  
Legal Examiner

---

**From:** Smith, Rodney [<mailto:Rodney.Smith@wnr.com>]  
**Sent:** Friday, May 27, 2011 9:42 AM  
**To:** Chavez, Carl J, EMNRD; Brooks, David K., EMNRD  
**Subject:** RE: Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

Attached is a copy of the original LC put in place that looks like it had basically a 3 year term. To ensure proper handling I am correct in understanding that you do not want a term on the LC but would rather have it auto extend each year. Please advise. Once received amendment will be done most likely Tuesday. Thanks!

Rodney Smith  
Assistant Treasurer

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123 W. Mills Avenue, Suite 200  
El Paso, TX 79901

(915) 534-1630  
(915) 433-6631  
[rodney.smith@wnr.com](mailto:rodney.smith@wnr.com)

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**From:** Chavez, Carl J, EMNRD [<mailto:CarlJ.Chavez@state.nm.us>]  
**Sent:** Friday, May 27, 2011 8:29 AM

**To:** Brooks, David K., EMNRD

**Cc:** Smith, Rodney

**Subject:** Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

David:

Yesterday, I placed on your desk the recent LOC deadline from Bank of America for Western Refining SW (Western).

This communiqué is to inform you that Western is working with Bank of America on an Amended LOC, which will include "automatic renewal" language to ensure that the LOC does not expire in OCD's Financial Assurance Files. We should receive the amended LOC by next Tuesday, 5/31 and I expect that OCD will send out an approval letter if the amended LOC is acceptable.

Please contact me if you have questions. Thank you.

Carl J. Chavez, CHMM

New Mexico Energy, Minerals & Natural Resources Dept.

Oil Conservation Division, Environmental Bureau

1220 South St. Francis Dr., Santa Fe, New Mexico 87505

Office: (505) 476-3490

Fax: (505) 476-3462

E-mail: [CarlJ.Chavez@state.nm.us](mailto:CarlJ.Chavez@state.nm.us)

Website: <http://www.emnrd.state.nm.us/ocd/index.htm>

"Why not Prevent Pollution; Minimize Waste; Reduce the Cost of Operations; & Move Forward with the Rest of the Nation?" To see how, go to "Pollution Prevention & Waste Minimization" at:

<http://www.emnrd.state.nm.us/ocd/environmental.htm#environmental>)

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David Brooks

Legal Examiner

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Please contact me if you have questions. Thank you.

Carl J. Chavez, CHMM

New Mexico Energy, Minerals & Natural Resources Dept.

Oil Conservation Division, Environmental Bureau

1220 South St. Francis Dr., Santa Fe, New Mexico 87505

Office: (505) 476-3490

Fax: (505) 476-3462

E-mail: CarlJ.Chavez@state.nm.us

Website: <http://www.emnrd.state.nm.us/ocd/index.htm>

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<http://www.emnrd.state.nm.us/ocd/environmental.htm#environmental>)

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<http://www.bankofamerica.com/emaildisclaimer>. By messaging with Sender you consent to the foregoing.

## Chavez, Carl J, EMNRD

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**From:** Chavez, Carl J, EMNRD  
**Sent:** Friday, May 27, 2011 8:29 AM  
**To:** Brooks, David K., EMNRD  
**Cc:** 'Rodney.Smith@wnr.com'  
**Subject:** Gallup Refinery (GW-032) \$1M Letter of Credit (LOC) Amendment for Treatment Ponds

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Carl J. Chavez, CHMM  
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# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

**Joanna Prukop**  
Cabinet Secretary  
**Reese Fullerton**  
Deputy Cabinet Secretary

July 7, 2008

**Mark Fesmire**  
Division Director  
Oil Conservation Division



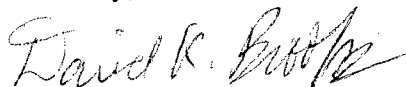
Mr. Hermann Schutterle  
Vice President  
Bank of America, N.A.  
1000 W. Temple Street  
M/C CA9-705-07-05  
7<sup>th</sup> Floor  
Los Angeles, CA 90012

Re: \$1,000,000 Letter of Credit No. **3093772**  
Bank of America, N.A., Issuer  
Western Refining Southwest, Inc., Customer

Dear Mr. Schutterle:

The New Mexico Oil Conservation Division hereby approves the above-captioned Letter of Credit No. **3093772** which will expire on **May 28, 2011**.

Sincerely,



DAVID K. BROOKS  
Assistant General Counsel

DKB/cc

cc: Western Refining Southwest, Inc.  
23733 N. Scottsdale Road  
Scottsdale, Arizona 85225

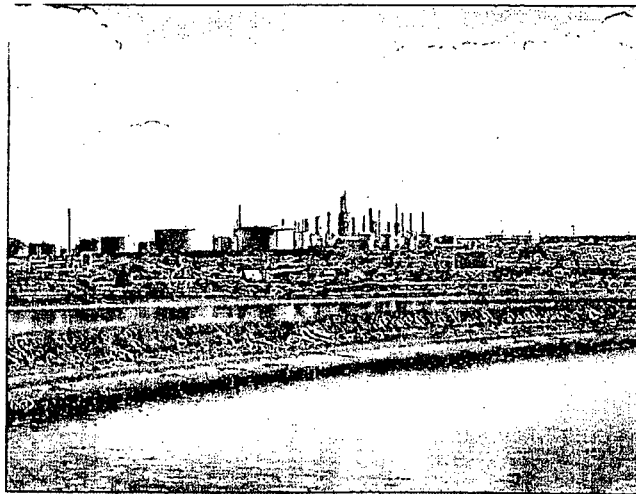


# EVAPORATION POND CLOSURE PLAN

## Giant Ciniza Refinery

December 2007

Prepared for



Prepared By:



***Gannett Fleming West, Inc.***

2155 Louisiana Blvd NE, Suite 7000

Albuquerque, New Mexico 87110

Office (505) 265-8468

Fax (505) 881-2513

**Phillips, Dorothy, EMNRD**

---

**From:** Brooks, David K., EMNRD

**Sent:** Monday, July 07, 2008 10:13 AM

**To:** Phillips, Dorothy, EMNRD

**Subject:** RE: 1,000,000 Letter of Credit - Western Refining Southwest, Inc.

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**From:** Phillips, Dorothy, EMNRD

**Sent:** Monday, July 07, 2008 9:12 AM

**To:** Brooks, David K., EMNRD

**Subject:** 1,000,000 Letter of Credit - Western Refining Southwest, Inc.

David, do I issue an OGRID for this company. NO

Do they have to be registered with NMPRC? YES

I don't enter into ONGARD right? RIGHT

New Search

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# WESTERN REFINING SOUTHWEST, INC.

(ARIZONA Corporation)

SCC Number: 0796037  
Tax & Revenue Number:  
Qualification Date: FEBURARY 20, 1974, in NEW MEXICO  
Corporation Type: FOREIGN PROFIT  
Corporation Status: ACTIVE  
Good Standing: In GOOD STANDING through 3/15/2010  
Purpose: RETAIL SALES AND REFINING

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## CORPORATION DATES

Taxable Year End Date: 12/31/07  
Filing Date: 01/30/08  
Expiration Date:

## SUPPLEMENTAL POST MARK DATE

Supplemental: 03/14/03

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## MAILING ADDRESS

23733 N SCOTTSDALE RD SCOTTSDALE , ARIZONA 85255

## PRINCIPAL ADDRESS

RR 3 P O BOX 7 GALLUP NEW MEXICO 87301

## PRINCIPAL ADDRESS (Outside New Mexico)

23733 N SCOTTSDALE RD SCOTTSDALE ARIZONA 85255

---

## REGISTERED AGENT

### THE CORPORATION PROCESS COMPANY

205 E BENDER STE 150 HOBBS NEW MEXICO 88240

**Agent Designated:** 06/02/06

**Agent Resigned:**

---

## COOP LICENSE INFORMATION

Number:

Type:

Expiration Year:

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## OFFICERS

President: **PAUL FOSTER**

Vice President: **JEFF STEVENS**

Secretary: **LOWRY BARFIELD**

Treasurer: **MARK COX**

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## DIRECTORS

Date of Election of Directors:

**FOSTER , PAUL**



RECEIVED

2008 JUN 27 1 PM 2 52

BANK OF AMERICA - CONFIDENTIAL

DATE: JUNE 20, 2008

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: 3093772

ISSUING BANK  
BANK OF AMERICA, N.A.  
1000 W. TEMPLE STREET  
7TH FLOOR, CA9-705-07-05  
LOS ANGELES, CA 90012-1514

BENEFICIARY  
STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL  
RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

APPLICANT  
WESTERN REFINING SOUTHWEST, INC.  
23733 N. SCOTTSDALE ROAD  
SCOTTSDALE, AZ 85255

1220 SOUTH SAINT FRANCIS  
SANTA FE, NM 87505

AMOUNT  
NOT EXCEEDING USD 1,000,000.00  
NOT EXCEEDING ONE MILLION AND 00/100'S US DOLLARS

EXPIRATION  
MAY 28, 2011 AT OUR COUNTERS

BANK OF AMERICA, NATIONAL ASSOCIATION, AS ISSUER, HEREBY ESTABLISHES THIS IRREVOCABLE LETTER OF CREDIT FOR THE USE AND BENEFIT OF THE OIL CONSERVATION DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OF THE STATE OF NEW MEXICO (THE DIVISION), PURSUANT TO NMSA 1978, SECTION 70-2-12, AS AMENDED, FOR AN AGGREGATE AMOUNT NOT TO EXCEED ONE MILLION AND 00/100 U.S. DOLLARS (U.S.\$1,000,000.00) (FACE AMOUNT) EFFECTIVE IMMEDIATELY. THIS LETTER OF CREDIT IS ESTABLISHED FOR WESTERN REFINING SOUTHWEST, INC. WHOSE ADDRESS IS 23733 N. SCOTTSDALE ROAD, SCOTTSDALE, AZ 85225 AS APPLICANT.

1. WESTERN REFINING SOUTHWEST, INC. HAS OR MAY ENTER INTO THE COLLECTION, DISPOSAL, EVAPORATION, REMEDIATION, RECLAMATION, TREATMENT OR STORAGE OF PRODUCED WATER, DRILLING FLUIDS, DRILL CUTTINGS, COMPLETION FLUIDS, CONTAMINATED SOILS, BS&W, TANK BOTTOMS, WASTE OIL OR OTHER OIL FIELD RELATED WASTE IN NW 1/4 SECTION 33, TOWNSHIP 15 N. RANGE 15 W, NMPM, MCKINLEY COUNTY, NEW MEXICO, SPECIFICALLY THE WASTEWATER EVAPORATION PONDS AT GALLUP REFINERY ("FACILITY SITE").

2. THIS LETTER OF CREDIT IS IRREVOCABLE FOR THE TERM HEREOF, AND IS FURNISHED AS FINANCIAL ASSURANCE FOR THE SUBSTANTIAL COMPLIANCE BY WESTERN REFINING SOUTHWEST, INC. WITH ALL APPLICABLE STATUTES OF THE STATE OF NEW MEXICO AND WITH ALL RULES AND ORDERS OF THE OIL

ORIGINAL



THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

CONSERVATION COMMISSION AND DIVISION, INCLUDING REQUIREMENTS TO CLEAN UP THE FACILITY SITE BY THE APPLICANT TO THE STANDARDS SET BY THE DIVISION.

3. THIS LETTER OF CREDIT WILL EXPIRE ON MAY 28, 2011; OR THE DATE UPON WHICH SUFFICIENT DOCUMENTS ARE EXECUTED BY THE DIVISION TO RELEASE THE APPLICANT FROM FURTHER LIABILITY FOR CLOSURE OF THE FACILITY WITH NOTICE TO ISSUER BY THE DIVISION ACCOMPANIED BY THE ORIGINAL LETTER OF CREDIT WITH DIRECTIONS FOR CANCELLATION. THIS LETTER OF CREDIT SHALL BE FORFEITED AND COLLECTED BY THE DIVISION IF NOT REPLACED BY APPROVED FINANCIAL ASSURANCE AT LEAST 90 DAYS BEFORE THE EXPIRATION DATE.

4. THIS LETTER OF CREDIT WILL REMAIN EFFECTIVE UNTIL: (A) THE EXPIRATION DATE; (B) THE APPLICANT REPLACES THIS LETTER OF CREDIT WITH ANOTHER ACCEPTABLE FORM OF FINANCIAL ASSURANCE; OR (C) THE DIVISION RELEASES THE LETTER OF CREDIT PURSUANT TO PARAGRAPH 3 ABOVE.

5. FUNDS UNDER THIS LETTER OF CREDIT ARE AVAILABLE AGAINST THE DIVISION'S SIGHT DRAFT, IN THE FORM OF EXHIBIT A, SPECIFYING LETTER OF CREDIT NO. 3093772, DELIVERED TO THE OFFICE OF THE ISSUER AT 1000 W. TEMPLE STREET, M/C CA9-705-07-05, 7TH FLOOR, LOS ANGELES CA 90012, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT. AT THE DIVISION'S SOLE ELECTION, THE DIVISION MAY PRESENT SIGHT DRAFTS FOR LESS THAN THE FACE AMOUNT OF THIS LETTER OF CREDIT SO LONG AS THE AGGREGATE AMOUNT OF ALL SIGHT DRAFTS DOES NOT EXCEED THE FACE AMOUNT. EACH DRAFT MUST BE ACCOMPANIED BY A CERTIFICATE IN THE FORM OF EXHIBIT B, SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE DIVISION.

6. IF THE ISSUER RECEIVES THE DIVISION'S SIGHT DRAFT(S) AND CERTIFICATE(S) AS PROVIDED IN PARAGRAPH 5, ABOVE, ON OR BEFORE THE EXPIRATION DATE OR TERMINATION OF THIS LETTER OF CREDIT, THE ISSUER WILL PAY SUCH AMOUNT AS THE DIVISION MAY SPECIFY, UP TO THE AGGREGATE AMOUNT NOT TO EXCEED THE FACE AMOUNT OF THIS LETTER OF CREDIT AVAILABLE TO THE DIVISION NO LATER THAN 5 P.M., IN SANTA FE, NM ON THE SECOND BUSINESS DAY FOLLOWING THE ISSUER'S RECEIPT OF THE SIGHT DRAFT AND CERTIFICATE AND IN SUCH A MANNER AS THE DIVISION MAY SPECIFY.

7. THE ISSUER WILL GIVE PROMPT NOTICE TO THE APPLICANT AND TO THE DIVISION DIRECTOR OF ANY NOTICE RECEIVED OR ACTION FILED ALLEGING THE INSOLVENCY OR BANKRUPTCY OF THE ISSUER, OR ALLEGING ANY VIOLATIONS OF REGULATORY REQUIREMENTS WHICH ARE REASONABLY LIKELY TO RESULT IN SUSPENSION OR REVOCATION OF THE ISSUER'S CHARTER OR LICENSE TO DO BUSINESS.

8. THIS LETTER OF CREDIT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW MEXICO, AND, TO THE EXTENT NOT INCONSISTENT WITH SUCH LAWS, BY INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600, ENTITLED

ORIGINAL



THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

"UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS" (2007 REVISION).

9. ALL COMMUNICATIONS REGARDING THIS LETTER OF CREDIT SHALL BE ADDRESSED TO THE ISSUER AT BANK OF AMERICA, N.A., 1000 W. TEMPLE STREET, M/C CA9-705-07-05, 7TH FLOOR, LOS ANGELES CA 90012, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT, REFERENCING LETTER OF CREDIT NO. 3093772, PHONE NUMBER (800)541-6096, OPTION 1.

VERY TRULY YOURS,

BANK OF AMERICA, N.A.

BY HERMANN SCHUTTERLE

(AUTHORIZED SIGNATURE)

TITLE: VICE PRESIDENT

EFFECTIVE: DATE JUNE 20, 2008.

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 20TH DAY OF JUNE 2008

BY \_\_\_\_\_ OF BANK OF AMERICA, N.A.

NOTARY PUBLIC

MY COMMISSION EXPIRES

*See Attached for Notary*

ORIGINAL





THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

EXHIBIT A - SIGHT DRAFT  
TO  
LETTER OF CREDIT NO. 3093772

DATE: \_\_\_\_\_

PAY TO THE ORDER OF NEW MEXICO OIL CONSERVATION DIVISION (\$\_\_\_\_\_) (INSERT AMOUNT IN WORDS)

TO: BANK OF AMERICA, N.A.  
1000 W. TEMPLE STREET  
MAILCODE: CA9-705-07-05  
7TH FLOOR  
LOS ANGELES, CA 90012

NEW MEXICO ENERGY MINERALS AND  
NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
1220 SOUTH ST. FRANCIS  
SANTE FE, NEW MEXICO 87505

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

INITIALS OF REPRESENTATIVE OF  
FINANCIAL INSTITUTION

\_\_\_\_\_

ORIGINAL



THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

EXHIBIT B  
TO  
LETTER OF CREDIT NO. 3093772

I, \_\_\_\_\_, A DULY AUTHORIZED REPRESENTATIVE OF THE NEW MEXICO OIL CONSERVATION DIVISION, HEREBY CERTIFY THAT: (1) THE DRAWING IN THE AMOUNT OF (INSERT AMOUNT IN WORDS) (U.S. \$ \_\_\_\_\_), BY SIGHT DRAFT ACCOMPANYING THIS CERTIFICATE, UNDER LETTER OF CREDIT NO. 3093772 DATED JUNE 20, 2008 ISSUED BY YOU, IS PERMITTED UNDER THE PROVISIONS OF THE LETTER OF CREDIT; (2) THE LETTER OF CREDIT HAS NEITHER EXPIRED NOR TERMINATED PURSUANT TO ITS TERMS; (3) THE AMOUNT OF THE SIGHT DRAFT, TOGETHER WITH ANY AMOUNTS PREVIOUSLY DRAWN UNDER THE LETTER OF CREDIT, DOES NOT EXCEED THE FACE AMOUNT OF THE LETTER OF CREDIT; AND (4) THE NEW MEXICO OIL CONSERVATION DIVISION HAS DIRECTED THE FORFEITURE OF THE LETTER OF CREDIT. PROCEEDS OF THIS DRAWING WILL BE UTILIZED IN FULL TO PAY EXPENSES RELATING TO THE CLOSURE LIABILITY FOR THE FACILITY DESCRIBED IN PARAGRAPH 1 OF THE LETTER OF CREDIT.

NEW MEXICO OIL CONSERVATION DIVISION

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

INITIAL OF REPRESENTATIVE  
OF FINANCIAL INSTITUTION

\_\_\_\_\_

ORIGINAL

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

SS.

On JUNE 20, 2008,  
Date

before me,

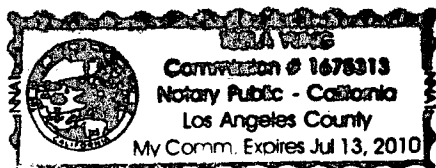
Jane Yuen, Notary Public  
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

Hermann Schmitt  
Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

## Chavez, Carl J, EMNRD

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**From:** Gutierrez, Carol [Carol.Gutierrez@wnr.com]  
**Sent:** Thursday, June 26, 2008 10:07 AM  
**To:** Chavez, Carl J, EMNRD  
**Cc:** Riege, Ed; Allen, Ann; Cox, Mark  
**Subject:** Letter of Credit #3093772

**Attachments:** img-626091956-0001.pdf



img-626091956-000  
1.pdf (197 KB...

Mr. Chavez:

Attached is a copy of the letter of credit issued by Bank of America to Western Refining Southwest, Inc. re: the State of New Mexico Energy, Minerals and Natural Resources Department Oil Conservation Division.

The original will be sent to your attention via Federal Express for delivery tomorrow morning. Thank you.

Carol Gutierrez  
Administrative Assistant  
Treasury/Risk Management/Communications

Western Refining  
Corporate Headquarters  
123 W. Mills Ave., Suite 200  
El Paso, Texas 79901  
915.534.1531  
carol.gutierrez@wnr.com  
www.wnr.com

-----Original Message-----

From: WorkCentre 7345 [mailto:sharp@westernrefining.com]  
Sent: Thursday, June 26, 2008 8:20 AM  
To: Gutierrez, Carol  
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Number of Images: 6  
Attachment File Type: PDF

Device Name: WorkCentre 7345  
Device Location:

For more information on Xerox products and solutions, please visit <http://www.xerox.com/>

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This inbound email has been scanned by the MessageLabs Email Security System.

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BANK OF AMERICA - CONFIDENTIAL

PAGE: 1

DATE: JUNE 20, 2008

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: 3093772

ISSUING BANK  
BANK OF AMERICA, N.A.  
1000 W. TEMPLE STREET  
7TH FLOOR, CA9-705-07-05  
LOS ANGELES, CA 90012-1514

BENEFICIARY  
STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL  
RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

APPLICANT  
WESTERN REFINING SOUTHWEST, INC.  
23733 N. SCOTTSDALE ROAD  
SCOTTSDALE, AZ 85255

1220 SOUTH SAINT FRANCIS  
SANTA FE, NM 87505

AMOUNT  
NOT EXCEEDING USD 1,000,000.00  
NOT EXCEEDING ONE MILLION AND 00/100'S US DOLLARS

EXPIRATION  
MAY 28, 2011 AT OUR COUNTERS

BANK OF AMERICA, NATIONAL ASSOCIATION, AS ISSUER, HEREBY ESTABLISHES THIS IRREVOCABLE LETTER OF CREDIT FOR THE USE AND BENEFIT OF THE OIL CONSERVATION DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OF THE STATE OF NEW MEXICO (THE DIVISION), PURSUANT TO NMSA 1978, SECTION 70-2-12, AS AMENDED, FOR AN AGGREGATE AMOUNT NOT TO EXCEED ONE MILLION AND 00/100 U.S. DOLLARS (U.S.\$1,000,000.00) (FACE AMOUNT) EFFECTIVE IMMEDIATELY. THIS LETTER OF CREDIT IS ESTABLISHED FOR WESTERN REFINING SOUTHWEST, INC. WHOSE ADDRESS IS 23733 N. SCOTTSDALE ROAD, SCOTTSDALE, AZ 85225 AS APPLICANT.

1. WESTERN REFINING SOUTHWEST, INC. HAS OR MAY ENTER INTO THE COLLECTION, DISPOSAL, EVAPORATION, REMEDIATION, RECLAMATION, TREATMENT OR STORAGE OF PRODUCED WATER, DRILLING FLUIDS, DRILL CUTTINGS, COMPLETION FLUIDS, CONTAMINATED SOILS, BS&W, TANK BOTTOMS, WASTE OIL OR OTHER OIL FIELD RELATED WASTE IN NW 1/4 SECTION 33, TOWNSHIP 15 N. RANGE 15 W, NMPM, MCKINLEY COUNTY, NEW MEXICO, SPECIFICALLY THE WASTEWATER EVAPORATION PONDS AT GALLUP REFINERY ("FACILITY SITE").

2. THIS LETTER OF CREDIT IS IRREVOCABLE FOR THE TERM HEREOF, AND IS FURNISHED AS FINANCIAL ASSURANCE FOR THE SUBSTANTIAL COMPLIANCE BY WESTERN REFINING SOUTHWEST, INC. WITH ALL APPLICABLE STATUTES OF THE STATE OF NEW MEXICO AND WITH ALL RULES AND ORDERS OF THE OIL

ORIGINAL



THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

CONSERVATION COMMISSION AND DIVISION, INCLUDING REQUIREMENTS TO CLEAN UP THE FACILITY SITE BY THE APPLICANT TO THE STANDARDS SET BY THE DIVISION.

3. THIS LETTER OF CREDIT WILL EXPIRE ON MAY 28, 2011; OR THE DATE UPON WHICH SUFFICIENT DOCUMENTS ARE EXECUTED BY THE DIVISION TO RELEASE THE APPLICANT FROM FURTHER LIABILITY FOR CLOSURE OF THE FACILITY WITH NOTICE TO ISSUER BY THE DIVISION ACCOMPANIED BY THE ORIGINAL LETTER OF CREDIT WITH DIRECTIONS FOR CANCELLATION. THIS LETTER OF CREDIT SHALL BE FORFEITED AND COLLECTED BY THE DIVISION IF NOT REPLACED BY APPROVED FINANCIAL ASSURANCE AT LEAST 90 DAYS BEFORE THE EXPIRATION DATE.

4. THIS LETTER OF CREDIT WILL REMAIN EFFECTIVE UNTIL: (A) THE EXPIRATION DATE; (B) THE APPLICANT REPLACES THIS LETTER OF CREDIT WITH ANOTHER ACCEPTABLE FORM OF FINANCIAL ASSURANCE; OR (C) THE DIVISION RELEASES THE LETTER OF CREDIT PURSUANT TO PARAGRAPH 3 ABOVE.

5. FUNDS UNDER THIS LETTER OF CREDIT ARE AVAILABLE AGAINST THE DIVISION'S SIGHT DRAFT, IN THE FORM OF EXHIBIT A, SPECIFYING LETTER OF CREDIT NO. 3093772, DELIVERED TO THE OFFICE OF THE ISSUER AT 1000 W. TEMPLE STREET, M/C CA9-705-07-05, 7TH FLOOR, LOS ANGELES CA 90012, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT. AT THE DIVISION'S SOLE ELECTION, THE DIVISION MAY PRESENT SIGHT DRAFTS FOR LESS THAN THE FACE AMOUNT OF THIS LETTER OF CREDIT SO LONG AS THE AGGREGATE AMOUNT OF ALL SIGHT DRAFTS DOES NOT EXCEED THE FACE AMOUNT. EACH DRAFT MUST BE ACCOMPANIED BY A CERTIFICATE IN THE FORM OF EXHIBIT B, SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE DIVISION.

6. IF THE ISSUER RECEIVES THE DIVISION'S SIGHT DRAFT(S) AND CERTIFICATE(S) AS PROVIDED IN PARAGRAPH 5, ABOVE, ON OR BEFORE THE EXPIRATION DATE OR TERMINATION OF THIS LETTER OF CREDIT, THE ISSUER WILL PAY SUCH AMOUNT AS THE DIVISION MAY SPECIFY, UP TO THE AGGREGATE AMOUNT NOT TO EXCEED THE FACE AMOUNT OF THIS LETTER OF CREDIT AVAILABLE TO THE DIVISION NO LATER THAN 5 P.M., IN SANTA FE, NM ON THE SECOND BUSINESS DAY FOLLOWING THE ISSUER'S RECEIPT OF THE SIGHT DRAFT AND CERTIFICATE AND IN SUCH A MANNER AS THE DIVISION MAY SPECIFY.

7. THE ISSUER WILL GIVE PROMPT NOTICE TO THE APPLICANT AND TO THE DIVISION DIRECTOR OF ANY NOTICE RECEIVED OR ACTION FILED ALLEGING THE INSOLVENCY OR BANKRUPTCY OF THE ISSUER, OR ALLEGING ANY VIOLATIONS OF REGULATORY REQUIREMENTS WHICH ARE REASONABLY LIKELY TO RESULT IN SUSPENSION OR REVOCATION OF THE ISSUER'S CHARTER OR LICENSE TO DO BUSINESS.

8. THIS LETTER OF CREDIT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW MEXICO, AND, TO THE EXTENT NOT INCONSISTENT WITH SUCH LAWS, BY INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600, ENTITLED

ORIGINAL



THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

"UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS" (2007 REVISION).

9. ALL COMMUNICATIONS REGARDING THIS LETTER OF CREDIT SHALL BE ADDRESSED TO THE ISSUER AT BANK OF AMERICA, N.A., 1000 W. TEMPLE STREET, M/C CA9-705-07-05, 7TH FLOOR, LOS ANGELES CA 90012, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT, REFERENCING LETTER OF CREDIT NO. 3093772, PHONE NUMBER (800)541-6096, OPTION 1.

VERY TRULY YOURS,

BANK OF AMERICA, N.A.

BY HERMANN SCHUTTERLE

(AUTHORIZED SIGNATURE)

TITLE: VICE PRESIDENT

EFFECTIVE: DATE JUNE 20, 2008.

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 20TH DAY OF JUNE 2008

BY \_\_\_\_\_ OF BANK OF AMERICA, N.A.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES  
\_\_\_\_\_

*See Attached for Notary*

ORIGINAL



THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

EXHIBIT A - SIGHT DRAFT  
TO  
LETTER OF CREDIT NO. 3093772

DATE: \_\_\_\_\_

PAY TO THE ORDER OF NEW MEXICO OIL CONSERVATION DIVISION (\$\_\_\_\_\_) (INSERT AMOUNT IN WORDS).

TO: BANK OF AMERICA, N.A.  
1000 W. TEMPLE STREET  
MAILCODE: CA9-705-07-05  
7TH FLOOR  
LOS ANGELES, CA 90012

NEW MEXICO ENERGY MINERALS AND  
NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
1220 SOUTH ST. FRANCIS  
SANTE FE, NEW MEXICO 87505

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

INITIALS OF REPRESENTATIVE OF  
FINANCIAL INSTITUTION

\_\_\_\_\_

ORIGINAL





THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3093772

EXHIBIT B  
TO  
LETTER OF CREDIT NO. 3093772

I, \_\_\_\_\_, A DULY AUTHORIZED REPRESENTATIVE OF THE NEW MEXICO OIL CONSERVATION DIVISION, HEREBY CERTIFY THAT: (1) THE DRAWING IN THE AMOUNT OF (INSERT AMOUNT IN WORDS) (U.S. \$ \_\_\_\_\_), BY SIGHT DRAFT ACCOMPANYING THIS CERTIFICATE, UNDER LETTER OF CREDIT NO. 3093772 DATED JUNE 20, 2008 ISSUED BY YOU, IS PERMITTED UNDER THE PROVISIONS OF THE LETTER OF CREDIT; (2) THE LETTER OF CREDIT HAS NEITHER EXPIRED NOR TERMINATED PURSUANT TO ITS TERMS; (3) THE AMOUNT OF THE SIGHT DRAFT, TOGETHER WITH ANY AMOUNTS PREVIOUSLY DRAWN UNDER THE LETTER OF CREDIT, DOES NOT EXCEED THE FACE AMOUNT OF THE LETTER OF CREDIT; AND (4) THE NEW MEXICO OIL CONSERVATION DIVISION HAS DIRECTED THE FORFEITURE OF THE LETTER OF CREDIT. PROCEEDS OF THIS DRAWING WILL BE UTILIZED IN FULL TO PAY EXPENSES RELATING TO THE CLOSURE LIABILITY FOR THE FACILITY DESCRIBED IN PARAGRAPH 1 OF THE LETTER OF CREDIT.

NEW MEXICO OIL CONSERVATION DIVISION

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

INITIAL OF REPRESENTATIVE  
OF FINANCIAL INSTITUTION

\_\_\_\_\_

ORIGINAL

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

SS.

On JUNE 20, 2008

Date

before me,

Teela Yuh, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

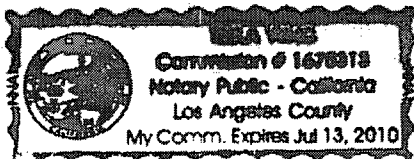
personally appeared

Hermann Schutterle

Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

**Chavez, Carl J, EMNRD**

---

**From:** Riege, Ed [Ed.Riege@wnr.com]  
**Sent:** Friday, June 20, 2008 1:32 PM  
**To:** Chavez, Carl J, EMNRD  
**Cc:** Price, Wayne, EMNRD; Hains, Allen; Allen, Ann  
**Subject:** RE: Western Refining Southwest- Gallup Refinery (GW-032) Status of Bond

Carl,  
Western Refining will be satisfying this financial assurance requirement with a letter of credit (LOC). The final draft was sent to the bank this morning. We hope to see it returned from the bank on Tuesday so we can forward to you by Wednesday of next week.

Thanks,  
Ed

Ed Riege  
Environmental Superintendent

Western Refining  
Gallup Refinery  
Route 3 Box 7  
Gallup, NM 87301  
(505) 722-0217  
[ed.riege@wnr.com](mailto:ed.riege@wnr.com)

---

**From:** Chavez, Carl J, EMNRD [mailto:CarlJ.Chavez@state.nm.us]  
**Sent:** Friday, June 20, 2008 11:35 AM  
**To:** Riege, Ed; Hains, Allen  
**Cc:** Price, Wayne, EMNRD  
**Subject:** Western Refining Southwest- Gallup Refinery (GW-032) Status of Bond

Ed and Allen:

Good morning. Could you please update me on the status of the bond for the facility? Thank you.

Carl J. Chavez, CHMM  
New Mexico Energy, Minerals & Natural Resources Dept.  
Oil Conservation Division, Environmental Bureau  
1220 South St. Francis Dr., Santa Fe, New Mexico 87505  
Office: (505) 476-3491  
Fax: (505) 476-3462  
E-mail: [CarlJ.Chavez@state.nm.us](mailto:CarlJ.Chavez@state.nm.us)  
Website: <http://www.emnrd.state.nm.us/ocd/index.htm>  
(Pollution Prevention Guidance is under "Publications")

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6/20/2008