GW - ___014_

ENFORCEMENT

nergy, Minerals and Natural Resources Department New Mexico

dinadalas addin tankas ant marshall as an i Bill Richardson a londowner all prouch provider bathout using was to not the Governor and a line of the ment of on oe to accord which and the at the Joanna Prukop eciár Cabinet Secretary 1.11 **Oil Conservation Division**

Reese Fullerton

8

Deputy Cabinet Secretary CONSERVATION and the world to walkers to tradient a table is the propertient and a second to the second table and the and the set of the set

July 16, 2008

Mr. James Resinger Vice President, Refining Navajo Refining Company, LLC P.O. Box 159 Artesia, NM 88211-0159

中国的政治和自己的

A State of the second s

WENE WHE

tup 16, 2008

Renewal of Discharge Permit GW-014 for the Lovington Refinery Re: Renewal of Discharge Permit GW-028 for the Artesia Refinery Letter from Mr. James Resinger to Mr. Wayne Price dated May 20, 2008 REDUCTION

Dear Mr. Resinger,

Mr. Wayne Price of the Oil Conservation Division's Environmental Bureau asked me to respond to the questions raised by Navajo Refining Company LLC (Navajo) regarding the extent of the Oil Conservation Division's authority. I understand that these questions arose during Navaio's meetings and correspondence with the Oil Conservation Division (OCD) concerning the renewal of Navajo's discharge permits GW-014 for the Lovington Refinery and GW-028 for the Artesia Refinery.

In particular, Mr. Price has provided me with a copy of your letter of May 20, 2008, which questioned the OCD's authority to require the installation of liners under tanks and throughout bermed areas at Navajo's Lovington and Artesia Refineries, and to complete the retrofit of tanks as part of the renewal of the discharge permits for those refineries. In your letter, you cite Phelps Dodge Tyrone, Inc. v. New Mexico Water Quality Control Commission, 2006-NMCA-115, 140 N.M. 464, 470, 143 P.3d 502, 509 for the proposition that any conditions attached to a discharge permit must be reasonable. The OCD believes that its proposed conditions are reasonable due to the proximity of the refineries to population centers, the depth to ground water, and the type and volumes of chemicals of concern. The Water Quality Act gives the OCD broad power to prevent and abate water pollution. See NMSA 1978, Section 74-6-4, 20.6.2 NMAC (Ground and Surface Water Protection) and 21.6.4 NMAC (Standards for Interstate and Intrastate Surface Waters). The fact that there is ground water contamination at both the Lovington and Artesia Refineries illustrates the need to exercise that power to prevent further pollution and abate existing pollution.

I understand that Navajo also contests the OCD's position, as set out in Condition 17iii of the Artesia Refinery Discharge permit, that fires are "Major Releases" that must be reported to the OCD under 19.15.3.116 NMAC. The OCD's statutory powers extend to refineries. See, for example, NMSA 1978, Section 70-2-12(A), (B)(8) and (B)(22). The OCD is specifically charged

July 16, 2008 Page 2

New Maxico Engine Murgarals and Natural Keenauras with preventing fires. See NMSA 1978, Section 70-2-12(B)(5). OCD's notice rule requires inotification of any unauthorized release occurring during the servicing or processing of crude(oil. See 19:15.3.116.A(1) NMAC. "Major Releases" require both immediate verbal notice and timely written notice. 19.15.3.116 B(1) NMAC. And the rule defines "Major Release" to include an unauthorized release of any volume which results in a fire. 19.15.3.116.B(1)((b)(i) NMAC TRACT OFFICE

The OCD would like to thank Navajo for communicating with the OCD about its authority. We look forward to working together in good faith to protect public health, fresh water and the environment. Please contact me if you have additional questions.

BODS OF YOUR

andref same. M printer, indiant col: ULL VOIGNING COMMONY, LLC 0.81 KOM (* -#1210-11988 Mail 000000

lait More Ourde Gail MacQuesten **OCD** Attorney

Sincerely,

Wayne Price, OCD Environmental/Bureau to We that a character of tewarter 4.1-Cc: GW-01480CS of visit builds our server and of regulation comel, in montaned GW-028

isophesti na mod

bie Wayne Hroe of the OK Creman and Division's Briving coactor Reveau anter man custoon of the guardians needed by Neveria Melining Company LLC (Neveria) requiring the even of the are bruik and an access wrolled as early tail brishishing to whether statistic if had used to be normal and promotion and the second training and the order of the analysis of the second free second processes of a tricke value over a context equiptive? and of a GAVAG arrange epicatoral a setainally of Prefforer.

A whole French is realisted in the reason to react a relieve error bedatates and the second in needones the CEES autoeffy to readire the application of them, and a set and a set can be accessed by any standard a construction of the second provided and the construction of the control of a at the participation of concerns the condition accords to the second of the control of the control of the second Production Structure The active Market of Market Orbality Crantel Contactual 2018 MM active and we wanted a second out of the tradition of the second of se excelence to accelence of the COC Ben I alteriosers ad team I media provided on a population of the sector of the reference of several to parallel and the formation of the balance and the on a weight as you, and there are a required to a contraction of any respectively we can be a and the second of the second The Articonetical California (Constant Roberts Health Readers) (California) (California) (California) (California) the fact that we have - mensile least 2 of a sub- and that is the oper THE MEMORY AND STREAM OF THE STREAM PROPERTY AND STREAM AND A DRIVE STOLE STREAM OF THE STREAM AND A or with a preside grade line contribution within

with the first structure is a first series of the weather and the state state state of the Kell State Constantism. of a lateral point of the needed of the set of the set first dimonsion of the mention of the -OD ender 19.15.9.116 NMAC - The GOD'S Statistic powers - steam to enterem - Sec. En an and the contraction of the and the SPAR was selected at the second street. STAR A MARK SIGNAR

> تا معني تاريخ على ماريكة الهريج المتارك والأربي من الله المائخ 网络白色 网络白色 网络黄属白色 · 这些人,这些我的人,也都是一个"我们就是你是个很多好,不是我们不会吗" بالمراجع والمراجع