

**GW - \_\_\_\_\_028\_\_\_\_\_**

# **FINANCIAL ASSURANCE**

**2010 - Present**



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Hazardous Waste Bureau***

2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Phone (505) 476-6000 Fax (505) 476-6030  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



DAVE MARTIN  
Secretary

BUTCH TONGATE  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 24, 2012

Johnny Lackey  
Senior Environmental Manager  
Navajo Refining Company, L.L.C.  
501 East Main Street, P.O. Box 159  
Artesia, New Mexico 88211-0159

Doug Aron  
Chief Financial Officer &  
Executive Vice-President  
HollyFrontier Corporation  
100 Crescent Court, Suite 1600  
Dallas, Texas 75201-6927

RE: **FINANCIAL ASSURANCE  
LIABILITY COVERAGE, CLOSURE AND POST-CLOSURE CARE COSTS  
NAVAJO REFINING COMPANY, ARTESIA REFINERY  
EPA ID # NMD048918817  
HWB-NRC-MISC**

Dear Messrs. Lackey and Aron:

The New Mexico Environment Department (NMED) has completed its review of the Navajo Refining Company's Artesia Refinery (the Permittee) financial assurance submittal dated March 26, 2012. The Permittee has met the requirements to submit financial assurance information for 2012.

**Comment 1**

The numbers used in the Chief Financial Officer's (CFO) letter are identical to the company's audited financial statements with the exception of tangible net worth, which is higher in the CFO's letter (\$3,452,913,000) than that calculated from the company's audited financial statements (\$3,340,435,000). We note that the Special Report from the company's Certified Public Accountant (CPA) does not provide any additional information regarding this discrepancy. Comment 3 from NMED's June 7, 2011 Notice of Disapproval (NOD) required the Permittee to provide an explanation for the same discrepancy. The Permittee must include a breakdown of their calculation of tangible net worth in the Special Report from the

Messrs. Lackey and Aron  
Navajo Refining Company  
May 24, 2012  
Page 2 of 2

company's independent CPA in all future submittals where the tangible net worth in the CFO's letter are greater than the calculated value of company's audited financial statements.

If you have any questions, please contact Leona Tsinnajinnie of my staff at 505-476-6057.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Kieling". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John E. Kieling  
Chief  
Hazardous Waste Bureau

JEK:lt

cc: D. Cobrain, NMED HWB  
L. Tsinnajinnie, NMED HWB  
C. Chavez, OCD  
R. Combs, NRC

File: NRC 2012 Reading and HWB-NRC-MISC



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

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DAVE MARTIN  
Secretary

BUTCH TONGATE  
Acting Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

September 2, 2011

Darrell Moore  
Environmental Manager for Water & Waste  
Navajo Refining Company  
501 East Main Street, P.O. Box 159  
Artesia, New Mexico 88211-0159

Bruce R. Shaw  
Chief Financial Officer  
Holly Corporation  
100 Crescent Court, Suite 1600  
Dallas, Texas 75201-6927

RE: **FINANCIAL ASSURANCE  
LIABILITY COVERAGE, CLOSURE AND POST-CLOSURE CARE COSTS  
NAVAJO REFINING COMPANY, ARTESIA REFINERY  
EPA ID # NMD048918817  
HWB-NRC-MISC**

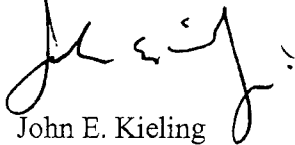
Dear Messr. Moore and Shaw:

The New Mexico Environment Department (NMED) has completed its review of the Navajo Refining Company's Artesia Refinery (the Permittee) financial assurance submittal dated March 25, 2011 and the Permittee's response to the NMED's June 25, 2011 Notice of Disapproval (NOD). The Permittee has complied with the requirements to submit financial assurance information for 2011.

Messrs. Moore and Shaw  
Navajo Refining Company  
September 2, 2011  
Page 2 of 2

If you have any questions, please contact Leona Tsinnajinnie of my staff at 505-476-6057.

Sincerely,

A handwritten signature in black ink, appearing to read 'John E. Kielling', with a stylized flourish at the end.

John E. Kielling  
Acting Chief  
Hazardous Waste Bureau

JEK:lt

cc: D. Cobrain, NMED HWB  
L. Tsinnajinnie, NMED HWB  
C. Chavez, OCD  
J. Lackey, NRC

File: NRC 2011 Reading and HWB-NRC-MISC



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Hazardous Waste Bureau***

2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Phone (505) 476-6000 Fax (505) 476-6030  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



DAVE MARTIN  
Secretary

RAJ SOLOMON, P.E.  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

June 7, 2011

Darrell Moore  
Environmental Manager for Water & Waste  
Navajo Refining Company  
501 East Main Street, P.O. Box 159  
Artesia, New Mexico 88211-0159

Bruce R. Shaw  
Chief Financial Officer  
Holly Corporation  
100 Crescent Court, Suite 1600  
Dallas, Texas 75201-6927

**RE: NOTICE OF DISAPPROVAL  
FINANCIAL ASSURANCE SUBMITTAL  
NAVAJO REFINING COMPANY, ARTESIA REFINERY  
EPA ID# NMD048918817  
HWB-NRC-MISC**

Dear Messrs. Moore and Shaw:

The New Mexico Environment Department (NMED) has completed its review of Navajo Refining Company's Artesia Refinery (the Permittee) financial assurance submittal dated March 25, 2011. NMED hereby issues this Notice of Disapproval (NOD). The Permittee must address the deficiencies identified below.

**Comment 1**

The wording of the Corporate Guarantee for Closure or Post-Closure does not comply with the regulatory requirements stipulated in 40 CFR 264.151(h)(1). In Recital 4, the reference to "closure" was omitted in the phrase "fails to perform [closure and] post-closure care of the above facility in accordance with..." Revise the Corporate Guarantee text accordingly to include the term closure.

Messrs. Moore and Shaw  
Navajo Refining Company  
June 7, 2011  
Page 2 of 2

**Comment 2**

The wording of the Guarantee for Liability Coverage does not comply with the regulatory requirements stipulated at 40 CFR 264.151(h) (2). Specifically, Recital 2 under the EPA ID number states the guarantee is: "for closure or post-closure care." However, this Guarantee is for liability coverage; not closure or post-closure care. The Permittee must revise the Guarantee for Liability Coverage to state "Guarantee is for liability coverage."

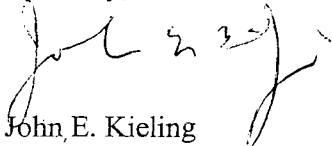
**Comment 3**

The numbers used in the CFO's letter are identical to the company's audited financial statements for FY2010, with one exception. The tangible net worth calculation presented in the CFO's letter is higher (\$1,158,060,000) than calculated from the audited financial statements: net worth (\$1,288,139,000) minus intangible assets (\$241,349,000) equals \$1,046,790,000. We note that the Special Report from the company's independent CPA does not provide any additional information explaining the discrepancy. The Permittee must provide an explanation for this discrepancy in the response letter or correct the networth calculation.

The Permittee must address all comments contained in this NOD in a response letter. The Permittee must submit a revised Corporate Guarantee and a Guarantee for Liability Coverage with the changes described above submit to NMED on or before July 20, 2011. The revised letters must be submitted with a response letter that details where all revisions have been made, cross-referencing NMED's numbered comments and include a response to Comment 3.

If you have any questions, please contact Hope Petrie of my staff at 505-476-6045.

Sincerely,



John E. Kieling  
Acting Chief  
Hazardous Waste Bureau

JEK:hp

cc: D. Cobrain, NMED HWB  
H. Petrie, NMED HWB  
L. Tsinnajinnie, NMED HWB  
C. Chavez, OCD  
J. Lackey, NRC  
HWB-NRC-MISC, NRC 2011 Reading File



# New Mexico Energy, Minerals and Natural Resources Department

**Susana Martinez**  
Governor

**Bill Brancard**  
Acting Cabinet Secretary

**Daniel Sanchez**  
Acting Division Director  
Oil Conservation Division



January 18, 2011

Navajo Refining Company, LLC  
100 Crescent Court #1600  
Dallas, TX 75230

Re: \$650,000 Waste Management Facility Bond  
Navajo Refining Company, LLC, Principal  
Liberty Mutual Insurance Company, Surety  
Bond No. 022-029-522

Dear Sir:

The New Mexico Oil Conservation Division hereby approves the above-captioned Waste Management Facility Bond.

Sincerely,



DAVID K. BROOKS  
Assistant General Counsel

DKB/dp

cc: Liberty Mutual Insurance Company  
175 Berkley Street  
Boston, MA 02116





**Energy, Minerals and Natural Resources Department**  
**Oil Conservation Division**  
**Surety Bond For Waste Management Facilities**  
**(File with Oil Conservation Division, 1220 S. Saint Francis, Santa Fe, New Mexico 87505)**

**BOND NO. 022-029-522**  
**(For Surety Company Use)**

KNOW ALL MEN BY THESE PRESENTS:

That Navajo Refining Company, L.L.C., (an individual, partnership, or a corporation organized in the State of Delaware, with its principal office in the City of Dallas, State of Texas, and authorized to do business in the State of New Mexico), as PRINCIPAL, and Liberty Mutual Insurance Company a corporation organized and existing under the laws of the State of Massachusetts and authorized to do business in the State of New Mexico as SURETY, are held firmly bound unto the State of New Mexico, for the use and benefit of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (the "Division") pursuant to NMSA 1978, Section 70-2-12 as amended, in the sum of Six Hundred Fifty Thousand & NO/100----- (\$650,000.00) Dollars for the payment of which PRINCIPAL and SURETY hereby bind themselves, their successors and assigns, jointly and severally.

The conditions of this obligation are such that: Navajo Refining Company, L.L.C. is to maintain the performance bond until released by the Oil Conservation Division of the Energy, Minerals and Natural Resources Department.

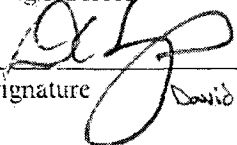
WHEREAS, the above PRINCIPAL has heretofore or may hereafter enter into a 30 year post closure ground water monitoring program required by the Oil Conservation Division Discharge Permit GW-028 in SE/4 of Section 1, E/2 of Section 8, W/2 of Section 9, N/2 of Section 12, Township 17 South, Range 26 East, NMPM, Eddy County, New Mexico.

NOW, THEREFORE, this \$ 650,000.00 performance bond is conditioned upon substantial compliance with all applicable statutes of the State of New Mexico and all rules and orders of the Oil Conservation Commission and the Division. Upon clean-up of the facility site to standards of the Division, the Division will release this bond; otherwise, the principal amount of the bond is to be forfeited to the State of New Mexico.

Signed and sealed this 7th day of January, 2011.

Navajo Refining Company, L.L.C.  
PRINCIPAL

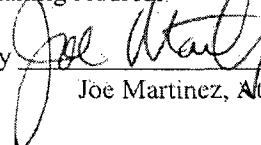
100 Crescent Court, #1600, Dallas, TX 75230  
Mailing Address

By   
Signature David Lamp Title President

Note: If Principal is a corporation, affix corporate seal here.

Liberty Mutual Insurance Company  
SURETY

175 Berkley Street, Boston, MA 02116  
Mailing Address

By   
By Joe Martinez, Attorney-in-Fact

Note: If corporate surety, affix corporate seal here.

---

**ACKNOWLEDGMENT FORM FOR NATURAL PERSONS**

STATE OF \_\_\_\_\_ )  
 )SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by

My commission expires:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary Public

---

**ACKNOWLEDGMENT FORM FOR A CORPORATION, INCORPORATED ASSOCIATION OR PARTNERSHIP**

STATE OF Texas )  
 )SS.  
COUNTY OF Dallas )

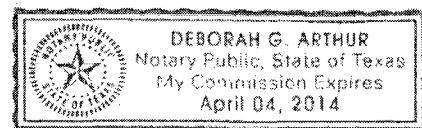
The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of January, 2011, by

David L Lamp as (title) President  
of Navajo Refining Company, L.L.C., a corporation,  
incorporated association, or partnership. limited liability company.

My commission expires:

April 4, 2014  
Date

\_\_\_\_\_  
Notary Public



THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

LIBERTY MUTUAL INSURANCE COMPANY  
BOSTON, MASSACHUSETTS  
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS: That Liberty Mutual Insurance Company (the "Company"), a Massachusetts stock insurance company, pursuant to and by authority of the By-law and Authorization hereinafter set forth, does hereby name, constitute and appoint

**DONALD R. GIBSON, SANDRA PARKER, MELISSA HADDICK, TERRI L. MORRISON, TANNIS MATTSON,  
GINA A. RODRIGUEZ, JOE MARTINEZ, MARY PENNA, AMY FOWLER, ALL OF THE CITY OF HOUSTON,  
STATE OF TEXAS**

, each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations in the penal sum not exceeding **TWENTY FIVE MILLION AND 00/100\*\*\*\*\* DOLLARS (\$ 25,000,000.00\*\*\*\*\*)** each, and the

execution of such undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company in their own proper persons.

That this power is made and executed pursuant to and by authority of the following By-law and Authorization:

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

By the following instrument the chairman or the president has authorized the officer or other official named therein to appoint attorneys-in-fact:

Pursuant to Article XIII, Section 5 of the By-Laws, Garnet W. Elliott, Assistant Secretary of Liberty Mutual Insurance Company, is hereby authorized to appoint such attorneys-in-fact as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

That the By-law and the Authorization set forth above are true copies thereof and are now in full force and effect.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Company and the corporate seal of Liberty Mutual Insurance Company has been affixed thereto in Plymouth Meeting, Pennsylvania this 4th day of November, 2009.

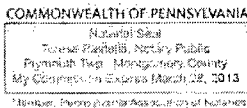
LIBERTY MUTUAL INSURANCE COMPANY

By Garnet W. Elliott  
Garnet W. Elliott, Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA ss  
COUNTY OF MONTGOMERY

On this 4th day of November, 2009, before me, a Notary Public, personally came Garnet W. Elliott, to me known, and acknowledged that he is an Assistant Secretary of Liberty Mutual Insurance Company; that he knows the seal of said corporation; and that he executed the above Power of Attorney and affixed the corporate seal of Liberty Mutual Insurance Company thereto with the authority and at the direction of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



By Teresa Pastella  
Teresa Pastella, Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of Liberty Mutual Insurance Company, do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the officer or official who executed the said power of attorney is an Assistant Secretary specially authorized by the chairman or the president to appoint attorneys-in-fact as provided in Article XIII, Section 5 of the By-laws of Liberty Mutual Insurance Company.

This certificate and the above power of attorney may be signed by facsimile or mechanically reproduced signatures under and by authority of the following vote of the board of directors of Liberty Mutual Insurance Company at a meeting duly called and held on the 12th day of March, 1980.

VOTED that the facsimile or mechanically reproduced signature of any assistant secretary of the company, wherever appearing upon a certified copy of any power of attorney issued by the company in connection with surety bonds, shall be valid and binding upon the company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said company, this 7th day of January, 2011.



By David M. Carey  
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

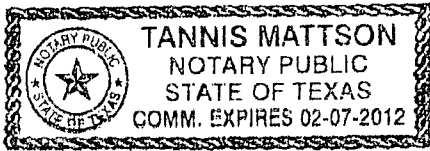
State of Texas

County of Harris

On January 7, 2011 before me, Tannis Mattson, Notary Public  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Joe Martinez  
NAME(S) OF SIGNER(S)

☐ personally known to me - OR - ☒ 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.



WITNESS my hand and official seal.  
Tannis Mattson  
SIGNATURE OF NOTARY

**OPTIONAL**

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

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

Surety Bond # 022-029-522  
TITLE OR TYPE OF DOCUMENT

- TITLE(S)  
☐ PARTNER(S) ☐ LIMITED  
☐ ATTORNEY-IN-FACT ☐ GENERAL

- ☒ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER: \_\_\_\_\_

4 pages  
NUMBER OF PAGES

**SIGNER IS REPRESENTING:**

NAME OF PERSON(S) OR ENTITY(IES)

Liberty Mutual Insurance Company

January 7, 2011  
DATE OF DOCUMENT

N/A  
SIGNER(S) OTHER THAN NAMED ABOVE

## Chavez, Carl J, EMNRD

---

**From:** Chavez, Carl J, EMNRD  
**Sent:** Tuesday, January 04, 2011 2:08 PM  
**To:** 'christopher.moss@ctcplc.com'  
**Cc:** Brooks, David K., EMNRD; Lackey, Johnny; 'Moore, Darrell'; VonGonten, Glenn, EMNRD  
**Subject:** RE: FW: Navajo Refinery in Artesia (GW-028) Financial Assurance

Mr. Moss:

The information is available at OCD online at  
<http://ocdimage.emnrd.state.nm.us/imaging/AEOrderFileView.aspx?appNo=pENV000GW00029>

(enter "Order Type" as "GW" and "Order Number" as "28" and go to any "Permits, Renewals & Mods" thumbnail to view the discharge permit with information that you are requesting).

Also, the dollar amount of the bond was sent to the Navajo Refining Company (NRC) and the OCD amount of the bond was set at \$650,000.

Please contact me if you need further assistance. The deadline is 30 days from the date the OCD sent the amount to the NRC. From recollection, OCD is expecting it by January 7, 2011. 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>  
(Pollution Prevention Guidance is under "Publications")

CC: OCD Online File "Financial Assurance"

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

From: [christopher.moss@ctcplc.com](mailto:christopher.moss@ctcplc.com) [<mailto:christopher.moss@ctcplc.com>]  
Sent: Monday, January 03, 2011 10:11 AM  
To: Chavez, Carl J, EMNRD  
Cc: Brooks, David K., EMNRD  
Subject: Re: FW: Navajo Refinery in Artesia (GW-028)

Mr. Chavez,

I am the risk manager for Navajo Refining Co.

Could you provide the details for the identity of the monitoring program so that we can complete the bond? Attached is a copy of the bond for the Lovington facility, and we were told the language would be similar. I'm looking for the permit #, etc similar to the details found in the Lovington bond that reads "30 Year Post Closure ground water monitoring program. Permit # Gw-014 in SW/4 of Section 31, Township 16 South, Range 37 East; the SE/4 of Section 36, Township 16 South, Range 36 East; the NW/4 of Section 6, Township 17 South, Range 37 East; and the NE/4 of Section 1, Township 17 South, Range 36 East, NMPM, Lea County, New Mexico"

Also, is there an online file "Bond/Financial Assurance" thumbnail at OCD Online for Artesia similar to the one below for Lovington?

Thank you and best regards,

Chris Moss, ARM AIC

Charles Taylor Risk Consulting  
(a Charles Taylor Consulting Company)  
8144 Walnut Hill Lane, Suite 1650  
Dallas, TX 75231 USA

Tel: +1 972-447-2053  
Fax: +1 972-248-1729  
Cell: +1 214-850-2401

christopher.moss@ctcplc.com  
www.charlestaylorconsulting.com

(See attached file: 20100127084540919.pdf)

"Jelmini, David"  
<Dave.Jelmini@hol  
lycorp.com>  
To  
"christopher.moss@ctcplc.com"  
12/07/2010 01:46 <christopher.moss@ctcplc.com>  
PM cc  
"Harrison, John"  
<John.Harrison@hollycorp.com>  
Subject  
FW: Navajo Refinery in Artesia  
(GW-028)

Chris, can you work with John Harrison to obtain the necessary bond – this is the same as last year with Lovington.

David Jelmini  
Holly Corporation  
VP, Environmental Health & Safety  
985 West 500 South  
West Bountiful, Utah 84087  
Office: 801-294-4569 Cell: 801-554-6036  
Fax: 214-242-5068  
dave.jelmini@hollycorp.com

----- Message from "Chavez, Carl J, EMNRD" <CarlJ.Chavez@state.nm.us> on Tue, 7 Dec 2010 12:23:49 -0600 -----

To: "Harrison, John" <John.Harrison@hollycorp.com>

cc: "Moore, Darrell" <Darrell.Moore@hollycorp.com>, "Jelmini, David"  
<Dave.Jelmini@hollycorp.com>, "Brooks, David K., EMNRD"  
<david.brooks@state.nm.us>, "VonGonten, Glenn, EMNRD"  
<Glenn.VonGonten@state.nm.us>

Sub RE: Navajo Refinery in Artesia (GW-028)

jec  
t:

Mr. Harrison:

Good morning.

The OCD requests a bond amount of \$650,000.00 with a financial instrument similar to the Lovington Refinery (GW-014).

It is important to note that the financial instrument should not expire, and/or perhaps could be acceptable with an automatic expire and restart, but OCD does not want to be in a position of retaining an expired financial instrument for the facility. Please remit to the OCD (me) the original or original duplicate copy of the financial instrument for the OCD's records.

Please contact Mr. David Brooks (OCD Attorney) at (505) 476-3450 if you have questions on the financial instrument. 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>  
(Pollution Prevention Guidance is under "Publications")

From: Harrison, John [<mailto:John.Harrison@hollycorp.com>]  
Sent: Monday, December 06, 2010 12:18 PM  
To: Chavez, Carl J, EMNRD  
Cc: Moore, Darrell; Jelmini, David; Brooks, David K., EMNRD; VonGonten, Glenn, EMNRD  
Subject: RE: Navajo Refinery in Artesia, NM

Carl,

I've attached our cost estimate. Let us know what additional info you need to calculate the bond amount.

Thanks

John Harrison  
Credit Manager  
Holly Corporation  
214-871-3504

From: Chavez, Carl J, EMNRD [<mailto:CarlJ.Chavez@state.nm.us>]  
Sent: Friday, December 03, 2010 5:51 PM  
To: Harrison, John  
Cc: Moore, Darrell; Jelmini, David; Brooks, David K., EMNRD; VonGonten, Glenn, EMNRD  
Subject: RE: Navajo Refinery in Artesia, NM

John:

Similar to the Lovington Closure Plan, Navajo must submit a cost estimate for post monitoring, etc.

OCD will review to see if it looks accurate and reflective of the facility and will then derive a figure to NRC for the bond.

You may view Lovington's file "Bond/Financial Assurance" thumbnail at OCD Online ("GW-14") at <http://ocdimage.emnrd.state.nm.us/imaging/AEOrderFileView.aspx?appNo=pENV000GW00015>

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/oed/index.htm>  
(Pollution Prevention Guidance is under "Publications")

From: Harrison, John [<mailto:John.Harrison@hollycorp.com>]  
Sent: Friday, December 03, 2010 9:31 AM  
To: Chavez, Carl J, EMNRD  
Cc: Moore, Darrell; Jelmini, David  
Subject: Navajo Refinery in Artesia, NM

Carl,

I spoke with you and David Brooks last year about a post closure bond for our Lovington, NM refinery. I understand we need to issue a similar bond for our Artesia, NM refinery by the end of this year. Can you let me know how the bond amount is calculated? I have been unable to find the formula on the OCD website. Attached is our overall cost estimate.

Appreciate your help.

John Harrison  
Credit Manager  
Holly Corporation  
214-871-3504

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## Chavez, Carl J, EMNRD

---

**From:** Chavez, Carl J, EMNRD  
**Sent:** Tuesday, December 07, 2010 11:24 AM  
**To:** 'Harrison, John'  
**Cc:** Moore, Darrell; Jelmini, David; Brooks, David K., EMNRD; VonGonten, Glenn, EMNRD  
**Subject:** RE: Navajo Refinery in Artesia (GW-028)

Mr. Harrison:

Good morning.

The OCD requests a bond amount of \$650,000.00 with a financial instrument similar to the Lovington Refinery (GW-014).

It is important to note that the financial instrument should not expire, and/or perhaps could be acceptable with an automatic expire and restart, but OCD does not want to be in a position of retaining an expired financial instrument for the facility. Please remit to the OCD (me) the original or original duplicate copy of the financial instrument for the OCD's records.

Please contact Mr. David Brooks (OCD Attorney) at (505) 476-3450 if you have questions on the financial instrument.  
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/oecd/index.htm>  
(Pollution Prevention Guidance is under "Publications")

---

**From:** Harrison, John [<mailto:John.Harrison@hollycorp.com>]  
**Sent:** Monday, December 06, 2010 12:18 PM  
**To:** Chavez, Carl J, EMNRD  
**Cc:** Moore, Darrell; Jelmini, David; Brooks, David K., EMNRD; VonGonten, Glenn, EMNRD  
**Subject:** RE: Navajo Refinery in Artesia, NM

Carl,

I've attached our cost estimate. Let us know what additional info you need to calculate the bond amount.

Thanks

John Harrison  
Credit Manager  
Holly Corporation  
214-871-3504

---

**From:** Chavez, Carl J, EMNRD [<mailto:CarlJ.Chavez@state.nm.us>]  
**Sent:** Friday, December 03, 2010 5:51 PM  
**To:** Harrison, John  
**Cc:** Moore, Darrell; Jelmini, David; Brooks, David K., EMNRD; VonGonten, Glenn, EMNRD  
**Subject:** RE: Navajo Refinery in Artesia, NM

John:

Similar to the Lovington Closure Plan, Navajo must submit a cost estimate for post monitoring, etc.

OCD will review to see if it looks accurate and reflective of the facility and will then derive a figure to NRC for the bond.

You may view Lovington's file "Bond/Financial Assurance" thumbnail at OCD Online ("GW-14") at <http://ocdimage.emnrd.state.nm.us/imaging/AEOrderFileView.aspx?appNo=pENV000GW00015>.

Please contact me if you have questions.

Thank you.

Carl J. Chavez, CHMM  
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1220 South St. Francis Dr., Santa Fe, New Mexico 87505  
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Website: <http://www.emnrd.state.nm.us/ocd/index.htm>  
(Pollution Prevention Guidance is under "Publications")

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**Subject:** Navajo Refinery in Artesia, NM

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Appreciate your help.

John Harrison  
Credit Manager  
Holly Corporation  
214-871-3504

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## Chavez, Carl J, EMNRD

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**Cc:** Moore, Darrell; Jelmini, David; Brooks, David K., EMNRD; VonGonten, Glenn, EMNRD  
**Subject:** RE: Navajo Refinery in Artesia, NM  
**Attachments:** Artesia Closure Plan.doc

Carl,

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Thanks

John Harrison  
Credit Manager  
Holly Corporation  
214-871-3504

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Please contact me if you have questions.

Thank you.

Carl J. Chavez, CHMM  
New Mexico Energy, Minerals & Natural Resources Dept.  
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Appreciate your help.

John Harrison  
Credit Manager  
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	Anions x 130 wells	Dissolved metals x 130 wells	Metals x 130 wells	TDS x 130 wells	Tph/dro/oro x 130 wells
Cost per event	\$9750	\$11700	\$19500	\$1300	\$5850
Cost per year	\$19500	\$23400	\$39000	\$2600	\$11700
Total cost 30 years	\$585,000	\$702,000	\$1,170,000	\$78,000	\$351,000

\* Cost per well per event is \$370

Therefore, the total cost to sample 130 wells semiannually for 30 years for the above analytes is \$2,886,000 at today's prices.

We anticipate having to add 60 additional wells in the future. We have no idea WHEN in the future. These wells will cost \$4,000 each to add for an additional \$240,000. Assume we have to sample these wells for 20 years, adds an additional \$888,000.

Labor for sampling, measuring and reporting on these wells is \$31,000 per event or \$62,000 per year. Multiply by 30 years and you get \$1,860,000.

Finally, with a total of 190 wells (130 currently + the 60 that will be added), at some time in the future Navajo anticipates having to replace each well one time in the 30 years at \$4,000 each. That will be a total of \$760,000.

To pull all this together is as follows:

<b>1) Cost to sample current 130 wells for 30 years</b>	<b>\$2,886,000</b>
<b>2) Cost to add 60 additional wells at some point in the future</b>	<b>\$ 240,000</b>
<b>3) Cost to sample these 60 wells for 20 years</b>	<b>\$ 888,000</b>
<b>4) Labor for sampling, measuring and reporting for 30 yrs</b>	<b>\$1,860,000</b>
<b>5) Cost to replace each of the 190 wells once in 30 years</b>	<b><u>\$ 760,000</u></b>
<b>Total</b>	<b>\$6,634,000**</b>

*\*\* This total is in today's dollars. An inflation factor will be used each year to adjust these numbers. In addition, these numbers will be adjusted each year based on actual events and the yearly draw-down of the 30 year monitoring cycle.*



BILL RICHARDSON  
Governor

DIANE DENISH  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Hazardous Waste Bureau***

**2905 Rodeo Park Drive East, Building 1**

**Santa Fe, New Mexico 87505-6303**

**Phone (505) 476-6000 Fax (505) 476-6030**

**[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)**



RON CURRY  
Secretary

SARAH COTTRELL  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

September 21, 2010

Darrell Moore  
Navajo Refining Company  
501 East Main Street, P.O. Box 159  
Artesia, New Mexico 88211-0159

**RE: FINANCIAL ASSURANCE SUBMITTAL  
NAVAJO REFINING COMPANY, ARTESIA REFINERY  
EPA ID# NMD048918817  
HWB-NRC-MISC**

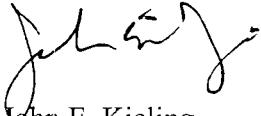
Dear. Mr. Moore:

The New Mexico Environment Department (NMED) has completed its review of Navajo Refining Company's Artesia Refinery (the Permittee) Financial Assurance response to NMED's June 30, 2010 Notice of Disapproval (NOD). The Permittee has complied with the requirements to submit financial assurance information for 2010.

Mr. Moore  
Navajo Refining Company  
September 21, 2010  
Page 2 of 2

If you have any questions, please contact Hope Monzeglio of my staff at 505-476-6045.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Kieling". The signature is fluid and cursive, with the first name "John" being more prominent.

John E. Kieling  
Program Manager  
Permits Management Program  
Hazardous Waste Bureau

JEK:hm

cc: D. Cobrain, NMED HWB  
H. Monzeglio, NMED HWB  
C. Chavez, OCD  
J. Lackey, NRC  
HWB-NRC-MISC, 2010 Reading File





BILL RICHARDSON  
Governor

DIANE DENISH  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Hazardous Waste Bureau***

2905 Rodeo Park Drive East, Building 1  
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[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RON CURRY  
Secretary

SARAH COTTRELL  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

August 9, 2010

Darrell Moore  
Environmental Manager for Water and Waste  
PO Box 159  
Navajo Refining Company  
Artesia, New Mexico 88211-0159

**RE: EXTENSION REQUEST APPROVAL  
FOR THE SUBMITTAL OF THE RESPONSE TO THE NOTICE OF  
DISAPPROVAL FOR 2010 FINANCIAL ASSURANCE  
NAVAJO REFINING COMPANY, ARTESIA REFINERY  
EPA ID # NMD048918817  
NRC-MISC**

Dear Mr. Moore:

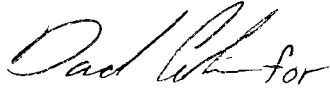
The New Mexico Environment Department (NMED) has received Navajo Refining Company's (the Permittee) submittal *Notice of Disapproval Financial Assurance Submittal*, dated August 6, 2010. In the letter, the Permittee requests an extension to submit the response to NMED's June 30, 2010 Notice of Disapproval (NOD) due August 9, 2010 because of staff absence and the time needed to acquire the necessary documents. The Permittee requests an extension until August 23, 2010 to submit their NOD response.

The Permittee has shown good cause for the requested extension. NMED hereby approves the extension; the financial assurance NOD response must be submitted to NMED on or before August 23, 2010.

Darrell Moore  
August 9, 2010  
Page 2

If you have questions regarding this letter please contact Hope Monzeglio of my staff at 505-476-6045.

Sincerely,

A handwritten signature in cursive script, appearing to read "John E. Kieling".

John E. Kieling,  
Program Manager  
Permits Management Program  
Hazardous Waste Bureau

JEK:hm

cc: J. Kieling, NMED HWB  
D. Cobrain, NMED HWB  
H. Monzeglio, NMED HWB  
C. Chavez, OCD  
J. Lackey, Navajo  
File: Reading and WSMR 2010  
NRC-MISC



BILL RICHARDSON  
Governor

DIANE DENISH  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Hazardous Waste Bureau***

**2905 Rodeo Park Drive East, Building 1**

**Santa Fe, New Mexico 87505-6303**

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***www.nmenv.state.nm.us***



RON CURRY  
Secretary

SARAH COTTRELL  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

June 30, 2010

Darrell Moore  
Navajo Refining Company  
501 East Main Street, P.O. Box 159  
Artesia, New Mexico 88211-0159

**RE: NOTICE OF DISAPPROVAL  
FINANCIAL ASSURANCE SUBMITTAL  
NAVAJO REFINING COMPANY, ARTESIA REFINERY  
EPA ID# NMD048918817  
HWB-NRC-MISC**

Dear. Mr. Moore:

The New Mexico Environment Department (NMED) has completed its review of Navajo Refining Company's Artesia Refinery (the Permittee) financial assurance submittal dated March 25, 2010. NMED hereby issues this Notice of Disapproval (NOD). The Permittee must address the deficiencies identified below.

**Comment 1**

The wording of the Financial Guarantee Bond (FGB) does not meet the explicit wording requirements found in 40 CFR 264.151(b). The following discrepancies have been identified:

- a. Page 1, paragraph 1 of the FGB states "Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the State of New Mexico, New Mexico Environment Department (hereinafter called NMED), in the above penal sum..." The rest of the FGB references the New Mexico Environment Department as the "New Mexico Environment Secretary" instead of "NMED" as

Mr. Moore  
Navajo Refining Company  
June 30, 2010  
Page 2 of 6

indicated above. The Permittee must revise the FGB to be consistent and use the term that is specified in the document (i.e., either consistently use New Mexico Environment Department Secretary or NMED).

- b. Page 2, paragraph 1 of the FGB states “[w]hereas said Principal is required, under the New Mexico Hazardous Waste Act, to have a permit or interim status in order to own or operate each hazardous waste management facility identified above, and.” The wording in 40 CFR 264.151(b) does not reference the New Mexico Hazardous Waste Act but states “under the Resource Conservation Recovery Act as amended (RCRA).” The Permittee must revise the FGB to use the specific wording in the regulations.
- c. Page 2, paragraph 5 of the FGB states “Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin closure is issued by the New Mexico Environment Department Secretary or a New Mexico district court or other court of competent jurisdiction.” The regulations do not reference the “New Mexico district court.” The Permittee must revise the wording of this paragraph to be the same as indicated in 40 CFR 264.151(b) and state “or a U.S. district court.”
- d. Page 2, paragraph 9 of the FGB states “[t]he Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the New Mexico Environment Department Secretary, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the New Mexico Environment Department Secretary, as evidenced by the return receipts.” This paragraph is missing the wording “for Region(s) in which the facility(ies) is (are) located” as stated in 40 CFR 264.151(b). The Permittee must revise the paragraph in accordance with the specific wording found in 40 CFR 264.151(b).
- e. Page 3, paragraph 1 of the FGB states “[t]he Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the New Mexico Environment Department Secretary.” This paragraph does not comply with the wording found in 40 CFR 264.151(b). The Permittee must revise this paragraph to state “[t]he Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the New Mexico Environment Department Secretary in which the bonded facility is located.”

Mr. Moore  
Navajo Refining Company  
June 30, 2010  
Page 3 of 6

**Comment 2**

The following items address the Standby Trust Agreement (STA) and the regulations identified in 40 CFR 264.151(a)(1). The Permittee must revise the language so it is compliant with the regulations. The following discrepancies have been identified:

- a. The title of 40 CFR 264.151(a)(1) states "Trust Agreement." The title of the Permittee's document states "Standby Trust Agreement." The Permittee must revise the text to remove the term "standby" and use the exact wording as indicated in 40 CFR 264.151(a)(1) (Trust Agreement).
- b. The first paragraph of the STA does not comply with the wording and formatting found in CFR 264.151(a)(1); the Permittee must revise the paragraph to compliant with the regulations (e.g., the paragraph contains extra words and underlining and parentheses where they are not needed). The Permittee must revise the first paragraph to be compliant with 40 CFR 264.151(a)(1).
- c. The third paragraph of the STA states "WHEREAS, the New Mexico Environment Department (the "NMED") an agency of the state of New Mexico, is charged with the responsibility to administer and enforce the hazardous waste management regulations adopted by the EIB." This paragraph is not found in 40 CFR 264.151(a)(1) and must be removed.
- d. In the STA, "***Section 4. Payment for Closure and Post-Closure,***" pages 1 and 2 states "...expenditures in such amounts as the Secretary of shall direct in writing." The Permittee is missing the term "NMED" after Secretary of (Secretary of the NMED). The Permittee must revise this paragraph to include "NMED." (See Comment 1.a)
- e. The first word in **Section 14. Instructions for the Trustee**, page 4 of the STA states "Ail." This should state "all" as indicated in the wording found in 40 CFR 264.151(a)(1). The Permittee must revise this section accordingly.
- f. **Section 14. Instructions for the Trustee**, page 4 of the STA states "[a]ll orders, requests, and instructions by the Secretary of NMED to the Trustee shall be in writing, signed by the Secretary of NMED, or his designee, and the Trustee shall not act..." This sentence does not comply with the wording of 40 CFR 264.151(a)(1). The Permittee must revise this section to state "[a]ll orders, requests, and instructions by the Secretary of NMED to the Trustee shall be in writing, signed by the Secretary of NMED of the State of New Mexico, in which the facilities are located, or their designees,..." and comply with Comment 1.a.

Mr. Moore  
Navajo Refining Company  
June 30, 2010  
Page 4 of 6

- g. The current wording in the Certificate of Acknowledgment portion of the STA does not comply with the wording found in 40 CFR 264.151(a)(2). The Permittee must revise the wording to comply with the regulations..

The following items address minor formatting errors within the STA. Although minor, the wording and formatting of the Agreement must be identical to the wording and formatting specified in CFR 264.151(a)(1). The following corrections must be incorporated.

- h. The second paragraph of the STA on page 1 capitalizes the word “WHEREAS” and the regulations in 40 CFR 264.151(a)(2) does not capitalize the whole word but states “Whereas.” The Permittee must revise the STA accordingly.
- i. In the STA, the Permittee, bolds, underlines, and italicizes the sections and the headings (e.g., **Section 1. Definitions**). In 40 CFR 264.151(a)(2), the wording bolds the sections and italicizes the titles to the sections (e.g., **Section 1. Definitions**). The Permittee must revise the section headings and titles accordingly.
- j. **Section 1. Definitions** found in CFR 264.151(a)(1) is broken into items (a) and (b). Section 1 of the STA is missing items (a) and (b) but contains the correct wording. The Permittee must revise the STA to include the identification of items (a) and (b).
- k. **Section 6. Trustee Management** of 40 CFR 264.151(a)(1), the end of the paragraph states “...enterprise of a like character and with the like aims; *except that*...” and italicizes *except that*; however, these words are not italicized in Section 6 of the STA. The Permittee must revise this Section accordingly.
- l. **Section 7. Commingling and Investment**, item (b) found in 40 CFR 264.151(a)(1) italicizes *et seq.*, which is not italicized in the STA. The Permittee must revise the STA accordingly.
- m. **Section 8. Express Powers of Trustee**, item (d) of the STA has a period after the word banking. This period is not present in the wording of the regulations; the Permittee must revise Section 8 accordingly.

### **Comment 3**

The following items address discrepancies with the Hazardous Waste Facility Certificate of Liability Insurance (LI). The wording of this document must comply with the precise wording found in 40 CFR 40 CFR 264.151(j).

- a. Number 2, items c, d, and e of the LI reference the Director of the Oklahoma Environmental Quality (DEQ) and the State of Oklahoma and do not mention the Secretary of New Mexico Environment Department or the State of New Mexico. The Permittee must correct this discrepancy.

Mr. Moore  
Navajo Refining Company  
June 30, 2010  
Page 5 of 6

- b. The last sentence in Number 2, item d is missing the wording “in which the facility(ies) (are) located.” The Permittee must revise the language as stated in the regulations.
- c. The last paragraph beginning with “I hereby certify that the wording of this statement...” does not comply with the wording found in 40 CFR 264.151(j) (e.g., the regulations do not mention “U.S. EPA approved amendment, for the State of Oklahoma, and the last word “state” is plural in the regulations). The Permittee must revise this paragraph to explicitly comply with the regulations.
- d. The Permittee must submit the certificate of insurance that is associated with the LI which is describe in 40 CFR 264.147(a)(1)(i) and (b)(1)(i).

**Comment 4**

In reference to the cost estimates provided at the end of the submittal for the “Estimated Post Closure Costs for the TEL” and “Estimated Post Closure Costs for Three Mile Ditch [TMD],” the monitoring must be based on 30 years due to the presence of groundwater contamination at and in the vicinity of Three Mile Ditch and the Tetra EthylLead (TEL) sites, ongoing investigations, and the uncertainty of when the groundwater contamination will be remediated. NMED does not view monitoring of these areas ending in three or 10 years as indicated in the estimates. The cost estimates for TMD and the TEL must be revised accordingly.

**Comment 5**

In the Financial Guarantee Bond, the Permittee addresses Navajo Refining Company as an L.L.C; however, the Hazardous Waste Facility Certificate of Liability Insurance does not reference Navajo as an L.L.C. The Permittee must correct this discrepancy and, if the wording is correct, the Permittee must provide an explanation for this in the response letter.

Mr. Moore  
Navajo Refining Company  
June 30, 2010  
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The Permittee must address all comments contained in this NOD and submit the revised financial assurance submittal to NMED on or before August 9, 2010. The revised financial assurance must be submitted with a response letter that details where all revisions have been made, cross-referencing NMED's numbered comments. In addition, an electronic version of the revised financial assurance documentation must be submitted that identifies where all changes have been made in redline strikeout format.

If you have any questions, please contact Hope Monzeglio of my staff at 505-476-6045.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

JPB:hm

cc: D. Cobrain, NMED HWB  
H. Monzeglio, NMED HWB  
L. King EPA Region 6 (6PD-N)  
C. Chavez, OCD  
J. Lackey, NRC  
HWB-NRC-MISC, NRC 2010 Reading File