

STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT COURT

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JAY MANAGEMENT COMPANY, LLC,

Plaintiff,

v.

Cause No. D-506-CV-2011-01034

TEJAS TRUCKING, INC., and
HOBBS ANCHOR, INC.,

Defendants.

SUBPOENA FOR PRODUCTION OR INSPECTION

SUBPOENA FOR:

[] DOCUMENTS OR OBJECTS
[] INSPECTION OF PREMISES

TO: New Mexico Oil Conservation Division
1220 South St. Francis Dr.
Santa Fe, New Mexico 87505

YOU ARE HEREBY COMMANDED ON:

DATE: July 28, 2014 TIME: 9:00 a.m.

TO: Madison & Mroz, P.A.
201 Third Street NW, Suite 1600
Albuquerque, NM 87102-3379

[] Produce the following described books, papers, documents or tangible things:

All documents, including those which are stored electronically, pertaining to or part of the Oil Conservation Division's file regarding, or relating to, any saltwater line spills and remediation efforts, from the years 1990 to the present date, near the State NBF #001 well (API No. 30-025-20891), in Lea County, New Mexico. Without limiting the request, it specifically includes the following:

- Any reports, diagrams, or notes created regarding, or relating to, saltwater line spills near the State NBF #00-1 well;
- Any photographs or video footage taken at the site of any saltwater line ruptures and

resulting spill;

- Correspondence to or from any person or entity regarding saltwater line spills near the State NBF #001 well; and
- Applications for remediation permits or approval of remediation plans.

[] permit the inspection of the premises located at:

ABSENT A COURT ORDER, THE ABOVE DATE SHALL NOT BE LESS THAN FIFTEEN (15) DAYS FROM THE DATE YOU RECEIVED THIS SUBPOENA. UNLESS ORDERED BY THE COURT, DO NOT RESPOND TO THIS SUBPOENA BEFORE THAT DATE.

DO NOT RESPOND TO THIS SUBPOENA FOR PRODUCTION OR INSPECTION IF YOU ARE SERVED WITH WRITTEN OBJECTIONS OR A MOTION TO QUASH UNTIL YOU RECEIVE A COURT ORDER REQUIRING A RESPONSE.

You may comply with this subpoena for production or inspection by providing legible copies of the items requested to be produced by mail or delivery to the attorney whose name appears on this subpoena. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of inspection and copying. You have the right to object to the production pursuant to this subpoena as provided below.

READ THE SECTION "DUTIES IN RESPONDING TO SUBPOENA."

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

DATE: July 10, 2014



Judge, clerk or attorney

CERTIFICATE OF SERVICE BY ATTORNEY

I HEREBY CERTIFY that I caused a copy of this subpoena to be served on the following persons or entities by mail, on this 10th day of July, 2014:

Adam F. Massey
Adams & Reese LLP
1221 McKinney, Suite 4400
Houston, TX 77010
Adam.Massey@arlaw.com
Counsel for Plaintiff

Barry C. Crutchfield
Templeman & Crutchfield PC
113 E. Washington Avenue
Lovington, NM 88260-4018
cbc.law@valornet.com
Counsel for Plaintiff

Lee M. Rogers, Jr.
Atwood Malone Turner & Sabin PA
400 N. Pennsylvania Ave., #1100
Roswell, NM 88201-4781
lrogers@atwoodmalone.com
Counsel for Defendant Tejas Trucking, Inc.


Minal P. Unruh

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the _____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena, a witness fee in the amount of _____ and mileage in the amount of \$ _____.

Deputy Sheriff

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ___ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena, the \$95.00 witness fee and mileage as provided by law in the amount of \$ _____.

Person making service

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____ (date).

Notary Public

THIS SUBPOENA issued by or at request of:

Minal P. Unruh, Esq.
Madison & Mroz, P.A.
201 Third St. NW, Suite 1600
Albuquerque, NM 87102
Telephone: (505) 242-2177

TO BE PRINTED ON EACH SUBPOENA

This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an officer or agency thereof. See Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. See Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for nonsalaried public officers. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. Payment of per diem and mileage for subpoenas issued by the state is made pursuant to regulations of the Administrative Office of the Courts. See Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.

PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties to the action. If an objection is served or a motion to quash is filed and served on the parties, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

DUTIES IN RESPONDING TO SUBPOENA

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
- (3) A person commanded to produce documents or material or to permit the inspection of premises shall not produce the documents or materials or permit the inspection of the premises if a written objection is served or a motion to quash has been filed with the court until a court order requires their production or inspection.