

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A
COMPLIANCE ORDER IMPOSING PENALTIES AND CANCELLING OR
SUSPENDING THE AUTHORITY OF QUANNAH, INC. TO TRANSPORT
LIQUID WASTES.**

CASE NO. 14110
De Novo

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**RESPONSE OF THE OIL CONSERVATION DIVISION
TO QUANNAH, INC.'S REQUEST FOR A STAY**

The Oil Conservation Division (OCD) opposes the request of Quannah, Inc. (Quannah) for a stay of Order R-12977.

1. On August 7, 2008 the OCD issued Order R-12977 in the above-captioned compliance case against Quannah. The order found Quannah had dumped produced water into another operator's disposal system without that operator's permission, assessed a \$1,000 civil penalty, and suspended Quannah's C-133 permit to transport oilfield waste for a term of six months, running from August 15, 2008 to February 14, 2009.

2. On September 5, 2008, Quannah filed a request for de novo hearing and a request for a stay of Order R-12977.

3. Quannah cited two reasons for issuing the stay: 1) Quannah attacked the evidence presented at the division hearing; and 2) Quannah represented that a six-month suspension of its permit would cause it to go into bankruptcy and its employees to lose their jobs.

4. In response to Quannah's attack on the evidence presented at the hearing, the OCD directs the Oil Conservation Commission's (OCC's) attention to pages 10-12 of Order R-12977, which outline the division's evidence, the evidence Quannah presented in response, and the hearing examiner's analysis of that evidence.

5. Quannah's request for a stay took particular issue with the OCD's evidence that unauthorized disposal of produced water could overload the disposal system and cause spillage, and that if the water were incompatible, it could cause corrosion. Quannah characterizes that testimony as conjecture. The OCD brought this case under several legal theories. One theory was that Quannah's unauthorized dumping violated 19.15.2.52(A)(2) NMAC, which prohibits disposal "in a manner that may constitute a hazard to fresh water, public health, safety or the environment." (Emphasis added.) The rule does not require the OCD to prove that fresh water, public health, safety or the environment were actually harmed, but only that the unauthorized dumping may constitute such a hazard. Quannah's complaint that the OCD did not allege or prove actual harm is misplaced.

6. In support of its claim that a six-month suspension of its permit would cause it to go into bankruptcy, Quannah provided a list of its liabilities as of September 10, 2008 (Exhibit B to the Request); a payroll summary for August 2008 (Exhibit C to the Request); and a balance sheet as of August 29, 2008 (Exhibit C to the Request).

7. Quannah did not provide its accounts receivable, to show the business it is allegedly losing. Without an accounts receivable sheet showing Quannah's customers, it is impossible to determine whether the work Quannah performs for those customers

would require an authorization to transport oilfield waste, and it is impossible to determine what business would be lost if the authorization is suspended.

8. In addition, evidence available to the OCD suggests that the owners of Quannah have disbanded Quannah, started a new trucking company and are conducting business under a new C-133 authorization to transport oilfield waste:

a. According to their testimony in Case 14110, Louis Edgett and Greg Lopez are co-owners of Quannah. Quannah's address, as registered with the OCD, is 1009 West Broadway, Hobbs, NM 88260.

b. On March 25, 2008 (shortly before the April 17, 2008 hearing in Case 14110) Mr. Louis G Edgett and Mr. Gregorio Lopez organized "G&L Trucking LLC," listing a principal address and mailing address as 1009 W. Broadway, Hobbs, NM 88240. A copy of the Public Regulation Commission "Corporations Information Inquiry" screen for G&L Trucking LLC is attached as Ex. 1.

c. On March 31, 2008, G&L Trucking LLC applied for a C-133 authorization to move produced water. The application was filed by Gregorio Lopez. The OCD approved the application on April 1, 2008 and issued the permit. A copy of the permit is attached as Ex. 2.

d. On September 5, 2008 -- after Order R-12977 was issued and Quannah's authority to transport suspended -- OCD employee Mark Whitaker saw a Quannah truck hooked up to a tank battery operated by Louray Oil Company, LLC. Louray is operated by Louis Edgett, who is a co-owner of Quannah. The driver of the truck told Mr. Whitaker that he was taking a load of produced water from the tank, and that he was operating under a permit issued to Quannah, Inc. The driver called Mr. Greg Lopez, and handed the phone to Mr. Whitaker. Mr. Lopez told Mr. Whitaker that he had purchased the trucks from Quannah, and was operating them under a different company. He later brought the "G&L Trucking LLC" C-133 to the Hobbs district office and gave it to Mr. Whitaker. Mr. Whitaker's affidavit is attached as Ex. 3.

e. OCD staff manager Larry "Buddy" Hill called Mr. Louis Edgett to ask him about the Quannah truck at the Louray tank battery. Mr. Edgett told Mr. Hill that he had sold Quannah, Inc. to his ex-partner Mr. Lopez, and that Quannah, Inc. was no longer in business. Mr. Hill's affidavit is attached as Ex. 4.

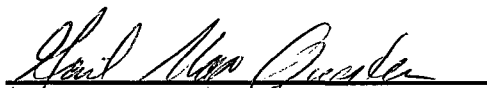
Conclusion

The OCD requests that the OCC deny Quannah's request for a stay because Quannah has not provided adequate justification to support the issuance of a stay. Its attacks on the division's evidence are unsupported and it has not provided evidence to demonstrate that Quannah will suffer harm if a stay is not issued.

It has not provided an accounts receivable sheet to demonstrate the loss of business. Instead, it appears that the owners of Quannah, perhaps foreseeing the suspension of Quannah's C-133, created a new company, obtained a new permit, and transferred Quannah's business to the new company. The very day Quannah's counsel filed its request for stay, arguing that Order R-12977 would put Quannah into bankruptcy and cause its employees to lose their jobs, Mr. Lopez and Mr. Edgett were telling OCD personnel that Quannah no longer existed, and an individual who thought he was working for Quannah was hauling water under G&L Trucking LLC's C-133. If Quannah is no longer in business, there is no need for a stay of Order R-12977.

Before considering the issuance of a stay, the OCC should require Quannah to provide an accounts receivable sheet identifying its existing customers and contracts and identifying any contracts transferred to G&L; an updated list of Quannah's assets, showing which assets have been transferred to G&L; and a list identifying Quannah's current employees and G&L's current employees.

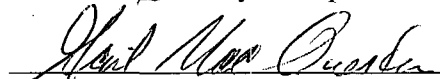
RESPECTFULLY SUBMITTED,
this 10th day of September 2008 by


Gail MacQuesten

Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to Mr. Ernest L. Padilla, attorney for Quannah, Inc. at 505 988-7592, and a hard copy of the foregoing was mailed to Mr. Padilla at Padilla Law Firm PA, P.O. Box 2523, Santa Fe, NM 87504-2523 this 10th day of September, 2008.


Gail MacQuesten

New Search

G&L TRUCKING LLC

SCC Number: 4016986
Tax & Revenue Number:
Organization Date: MARCH 25, 2008, in NEW MEXICO
Organization Type: DOMESTIC LIMITED LIABILITY
Organization Status: EXEMPT
Good Standing:
Purpose: N/R

ORGANIZATION DATES

Taxable Year End Date:
Filing Date:
Expiration Date:

SUPPLEMENTAL POST MARK DATE

Supplemental:

MAILING ADDRESS

1009 W BROADWAY HOBBS , NEW MEXICO 88240

PRINCIPAL ADDRESS

1009 W BROADWAY HOBBS NEW MEXICO 88240

PRINCIPAL ADDRESS (Outside New Mexico)

REGISTERED AGENT

GREGORIO LOPEZ

Exhibit 1

1234 W COCHITI AVE HOBBS NEW MEXICO 88240

Agent Designated:

Agent Resigned:

COOP LICENSE INFORMATION

Number:

Type:

Expiration Year:

ORGANIZERS

GREGORIO LOPEZ

LOUIS G EDGETT

DIRECTORS

Date of Election of Directors:

Submit a single copy to
Santa Fe Office

State of New Mexico
Energy Minerals and Natural Resources

Form C-133
Revised May 27, 2007

RECEIVED

2008 APR 1 PM 2 15

Oil Conservation Division
1220 South St. Francis Dr.
Santa Fe, NM 87505

AUTHORIZATION TO MOVE PRODUCED WATER

Transporter Name

G & L Trucking LLC

Address

PO BOX 1390
Longton NM 88260

Office Location (If different)

1009 W Broadway
Hobbs NM 88240

Phone Number(s)

(505) 391-0501

State Corporation Commission Permit No.

4016986

*Please attach a copy of the New Mexico Public Regulation Commission (PRC) Warrant for Transportation Services, if a corporation name or LLC has not been established with the PRC or a partnership has not been established with the New Mexico Secretary of State Office. In accordance with Section 51 of 19.6.2 NMAC, "the division may deny approval of a form C-133 if:

(1) the applicant is a corporation or limited liability company, and is not registered with the public regulation commission to do business in New Mexico;

(2) the applicant is a limited partnership, and is not registered with the New Mexico secretary of state to do business in New Mexico;

(3) the applicant does not possess a carrier permit under the single state registration system the public regulation commission administers, if it is required to have such a permit under applicable statutes or rules; or

(4) the applicant or an officer, director or partner in the applicant, or a person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that possesses or has possessed an approved form C-133 that has been cancelled or suspended, has a history of violating division rules or other state or federal environmental laws; is subject to a commission or division order, issued after notice and hearing, finding such entity to be in violation of an order requiring corrective action; or has a penalty assessment for violation of division or commission rules or orders that is unpaid more than 70 days after issuance of the order assessing the penalty."

NOTE:

It is the responsibility of each holder of an approved Form C-133 to familiarize its personnel with the content of Sections 51 and 52 of 19.15.2 NMAC and to assure operations in compliance therewith. Failure to move and dispose of produced water in accordance with Sections 51 and 52 of 19.15.2 NMAC are cause for cancellation of Form C-133 and the authority to move produced water.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

Signature

Gregorio Lopez

Date

3/31/08

Printed Name

Gregorio Lopez

Title

Managing Member

E-mail Address

lcomcqueen@yahoo.com

(This space for State Use)

Approved by

[Signature]

Title

ERC

Date

4/1/08

Exhibit 2

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

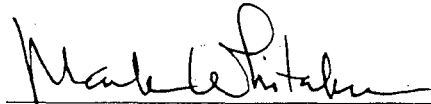
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CASE NO. 14110

AFFIDAVIT

I, Mark Whitaker, having been duly sworn, state

1. I am employed by the Oil Conservation Division of the Energy, Minerals and Natural Resources Department as a compliance officer advanced in the Hobbs district office.
2. On Friday, September 5, 2008 at about 2:30 p.m. I was driving by the tank battery serving the Sarah Sue wells operated by Louray Oil Company, LLC. The Sarah Sue wells are located in Lea County, New Mexico.
3. I saw a truck with a Quannah, Inc. sign hooked up to the tank at the Sarah Sue tank battery. I took a picture of the truck. The picture is attached to this affidavit as Exhibit A.
4. I spoke to the driver of the Quannah truck, and asked him what he was doing. He said that he was taking a load of produced water from the tank.
5. I asked him whose permit he was operating under, and he told me he was operating under Quannah, Inc.'s permit.
6. I was aware that Quannah, Inc.'s C-133 "Authorization to Move Produced Water" had been suspended. After I left the location I called Buddy Hill in the Hobbs district office to tell him that Quannah, Inc. was transporting without authority. Mr. Hill instructed me to go back to the location and obtain additional information.
7. The driver of the Quannah, Inc. truck called Mr. Greg Lopez, and handed the phone to me. Mr. Lopez told me that he had purchased the trucks from Quannah, Inc. and was operating them under a different company. He said he would bring the C-133 permit to the office.
8. Mr. Lopez came to the office and gave me a copy of a C-133 issued to "G&L Trucking LLC" on April 1, 2008.

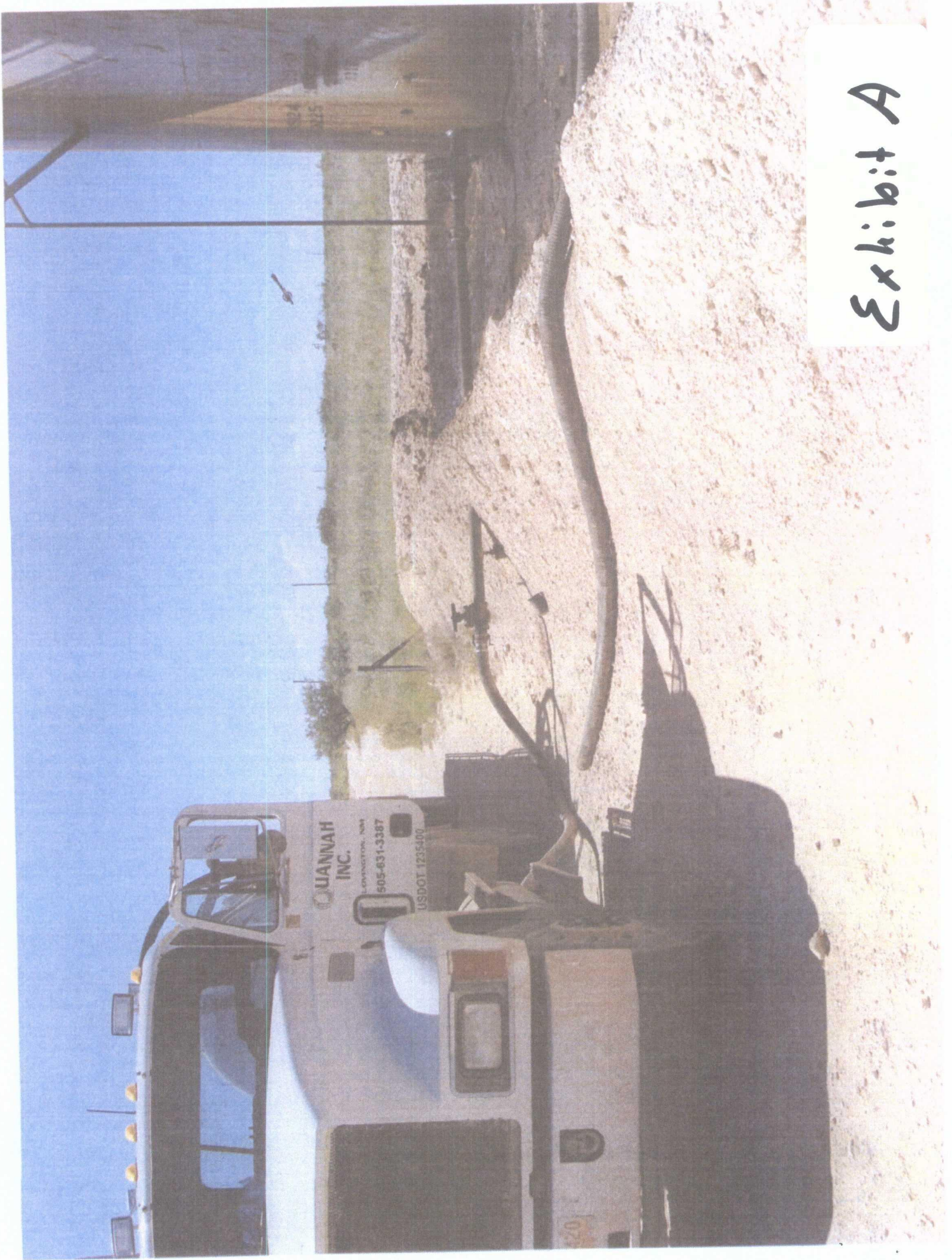

Mark Whitaker

SUBSCRIBED AND SWORN to before me this 9 th day of September 2008.



Exhibit 3

Exhibit A



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

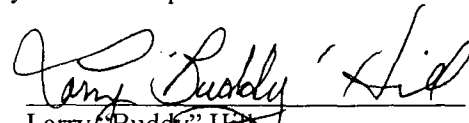
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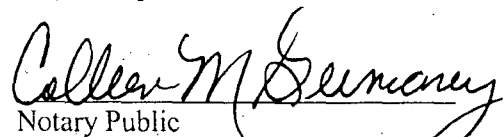
AFFIDAVIT

I, Larry "Buddy" Hill, having been duly sworn, state

1. I am employed by the Oil Conservation Division of the Energy, Minerals and Natural Resources Department as ~~Staff Manager~~ in the Hobbs district office.
2. On Friday, September 5, 2008 compliance officer advanced Mark Whitaker told me that he had seen a Quannah, Inc. truck at the tank battery serving the Sarah Sue wells operated by Louray Oil Company, LLC. Mr. Louis Edgett is the Oil Conservation Division's contact for Louray Oil Company, LLC. Mr. Louis Edgett is also the Oil Conservation Division's contact for Quannah, Inc., a trucking company.
3. I was aware that Quannah, Inc.'s C-133 authorization to transport produced water had been suspended.
4. I called Mr. Edgett to ask him about the Quannah, Inc. truck.
5. Mr. Edgett told me that he had sold Quannah, Inc. to his ex-partner Greg Lopez, and that Quannah, Inc. was no longer in business. Mr. Edgett said that Mr. Lopez was on his way to the Hobbs district office to show Mark Whitaker that Quannah, Inc. was no longer in business and that Mr. Lopez was now operating under a new company with a new permit.


Larry "Buddy" Hill

SUBSCRIBED AND SWORN to before me this 9 th day of September 2008.


Notary Public

My Commission Expires: 8-15-12