

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

NMOCD - OGA 03-01

IN THE MATTER OF TRIPLE S TRUCKING CO., INC.,

Respondent.

**AGREED ORDER DIRECTING COMPLIANCE AND ASSESSING CIVIL
PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended. ("Act"), the Director of the Oil Conservation Division ("OCD") issues this Order to TRIPLE S TRUCKING CO., INC. ("Triple S"), to enforce the Act and the OCD Rules.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Triple S is a corporation incorporated in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 0978247, with a mailing address of P.O.Box 100, Aztec, New Mexico 87410, and a principal address at 900 S. Main Street, Aztec, New Mexico 87410.
3. Triple S holds a valid C-133 (Authorization to Move produced Water) issued by the OCD.
4. On September 3, 2002, the OCD received a report at approximately 10:30 AM from Melanie Snyder, a resident of San Juan County, New Mexico, that her

neighbors had witnessed a Triple S water truck dumping fluids on her vacant property on CR 5014 next to her residence at 1225 West River Road. This incident took place at approximately 5:30 PM on September 2, 2002. County Road 5014 is just off Mangum Road, south of the San Juan River, at Bloomfield, New Mexico.

5. Denny Foust, OCD Deputy Oil and Gas Inspector, arrived at the site at 1:15 PM on September 3, to find State Police Patrolman Jimmy Ramos at the site with Mitch Waggoner of Triple S.
6. An OCD investigation determined the following facts:
 - a. Bill Wilson of #14 CR 5014 and Tom Carey of 1121 Saiz Lane positively identified the Triple S logo as being on the truck that dumped fluids. They witnessed the truck dumping water on the West River Road portion of CR 5014 and turning around on the Snyder vacant property. Mr. Waggoner and Deputy Oil and Gas Inspector Foust identified the soil staining present to be coal fines.
 - b. Patrolman Ramos called Max Salas, State Police Hazardous Waste Response Officer, to the site. Officer Salas released the incident to OCD jurisdiction.
 - c. Mitch Waggoner cooperated fully with OCD personnel. No activity by Triple S drivers was identified from Triple S job tickets that suggested responsibility for the dumping. Triple S removed stained, contaminated material from the Snyder property on September 4, 2002.

- d. Onsite Technologies personnel sampled the excavated sites for BTEX and TPH analysis. This analysis showed BTEX concentrations of 133 and 55 ppm and TPH concentrations of 656 and 1930 ppm at the sample sites.
- e. An interview with Roberta Russell, resident of 1202 Chenault Space #2, CR 5014, on September 9, 2002, revealed the water truck driver visited with John Kounce of 1202 Chenault Space #3, after watering the road. The strong smelling water forced Ms. Russell to shut off the cooler and close the house to protect her husband who has breathing problems. When interviewed, Mr. Kounce admitted he had requested that a Triple S driver named Robert water his road for maintenance. A review of the Triple S roster of drivers revealed that they had a driver named Robert Stranger, who was their only driver named Robert.
- f. Robert Stranger was hauling water on the date of the incident to the Four Star Oil and Gas Company's H. J. Loe B Federal SWD Well No.2 (API No. 30-045-2455), located in Unit G, Section 23-29N-12W, from Four Corners Oil and Gas Company's Federal 3 S Com Well No. 1E (API # 30-045-24402) located in Unit J, Section 3-27N-12W, and the Navajo Tribe AA Well No. 2 (API # 30-045-28751) located in Unit L, Section 19-27N-11W, for his last load of record on Ticket 64606.
- g. Mr. Stranger claimed to have used fresh water on the road. Even if this is true, there was enough produced water in the truck to leave coal fines on a public road and on privately owned property, to cause the strong odors

reported to be associated with the water, and to contribute the hydrocarbons in the soil analysis from the Snyder property.

7. OCD Rule 710.A [19.15.9.710.A NMAC] states:

No person, including any transporter, may dispose of produced water on the surface of the ground, or in any pit, pond, lake, depression, draw, streambed, or arroyo, or in any watercourse, or in any other place or in any manner that will constitute a hazard to fresh water supplies.

8. OCD Rule 710.C [19.15.9.710.C NMAC] states:

The supervisor of the appropriate district office of the Division may grant temporary exceptions to Paragraph A. above for emergency situations, for use of produced water on roads in road construction or maintenance, or for use of produced waters for other construction purposes upon request and proper showing by a holder of an approved Form C-133 (Authorization to Move Produced Water).

9. OCD Rule 710.D [19.15.9.710.D NMAC] states:

Vehicular movement or disposition of produced water in any manner contrary to these rules shall be considered cause, after notice and hearing, for cancellation of Form C-133.

10. Triple S did not have permission from the District Supervisor or his representative to use produced water for road maintenance.

CONCLUSIONS

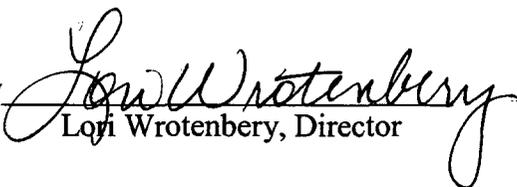
1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Triple S is a "person" as defined by OCD Rule 7.P [19.15.1.7.P NMAC].
3. NMSA 1978, Section 70-2-31.A. authorizes the assessment of civil penalties of up to one thousand dollars (\$1,000) per day per violation for any knowing or willful violation of any provision of the Act or of any rule adopted pursuant to the Act.

4. The dumping of water on the public road and on the property of Ms. Snyder constituted two (2) separate and distinct offenses.
5. Triple S's conduct warrants the assessment of civil penalties pursuant to NMSA 70-2-31.A. for the violations of OCD Rules described above. In view of the seriousness of the conduct the maximum penalty of Two Thousand Dollars (\$2,000) should be assessed.

CIVIL PENALTY

Having considered the nature of the above-described violations, the response of Triple S and extenuating circumstances deemed relevant, the Division hereby assesses a civil penalty against Triple S in the amount of Two Thousand Dollars (\$2,000). Triple S shall pay this penalty by remittance to "Director - Oil Conservation Division - Energy, Minerals and Natural Resources Department of the State of New Mexico." Payment shall be due not later than thirty (30) days after service upon Triple S of a fully executed copy of this Order.

3-14-03

By 
Lori Wrotenbery, Director

ACCEPTANCE

Triple S Trucking Co., Inc. hereby accepts the above and foregoing Order No. NMOCD - OGA 03-01, and agrees to all of the terms and provisions therein set forth.

Dated 3-6, 2003

TRIPLE S TRUCKING CO. INC.

By Jerry Sandel
Jerry Sandel
Its President