

ASD SHIPPING REQUEST FORM

TODAY'S DATE	REQUESTED SHIP DATE	REQUESTED DELIVERY DATE	
6/9/2023	6/9/2023	6/12/2023	

DELIVERY INFORMATION

FROM SENDER		TO RECIPIENT		CHECK BOX IF RESIDENTIAL
NAME	Sheila Apodaca	NAME	Huxley Song, CEO	
DIVISION	Oil Conservation Division	COMPANY	Forty Acres Energy, LLC	
ADDRESS	1220 S. St. Francis Drive	ADDRESS	11757 Katy Fwy	
ADDRESS	Third Floor	ADDRESS	Suite 725	
CITY	Santa Fe	CITY	Houston	
STATE	NM	STATE	TX	
ZIP CODE	87505	ZIP CODE	7707-9173	
PHONE	(505) 699-8358	PHONE		
EMAIL	sheila.apodaca@emnrd.nm.gov	EMAIL	huxley@faenergyus.com	

SHIPPING METHOD

****ALL UPS SHIPMENTS REQUIRE THE RECIPIENTS PHYSICAL ADDRESS, WILL NOT SHIP TO A PO BOX****

<input type="checkbox"/>	UPS GROUND	<input type="checkbox"/>	OTHER BOX (SEALED)
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EXPRESS SERVICES

UPS EXPRESS SHIPPING SERVICES		UPS BOX	
<input type="checkbox"/>	NEXT DAY AIR next business morning	<input type="checkbox"/>	SMALL
<input checked="" type="checkbox"/>	STANDARD OVERNIGHT next business afternoon	<input type="checkbox"/>	MEDIUM
<input type="checkbox"/>	2 DAY AIR	<input type="checkbox"/>	LARGE
<input type="checkbox"/>	3 DAY EXPRESS SAVER	<input type="checkbox"/>	
<input type="checkbox"/>	SATURDAY DELIVERY	<input checked="" type="checkbox"/>	UPS LETTER

INSURANCE optional

<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	YES If shipment insurance added, please indicate monetary value:	
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SPECIAL INSTRUCTIONS optional

SENDERS SIGNATURE: *Sheila Apodaca*

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Dylan Fuge, Division Director
Oil Conservation Division



BY CERTIFIED AND ELECTRONIC MAIL

Huxley Song, CEO
Forty Acres Energy LLC
11757 KATY FWY - STE 725
HOUSTON, TX 77079173
HUXLEY@FAENERGYUS.COM

NOTICE OF VIOLATION
VARIOUS LOCATIONS (see table below)

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC. A process is available to informally discuss and resolve the NOV. OCD will not request a hearing on the NOV until the end of this process, which runs for 30 days from the date of your receipt of this letter. OCD will extend this process if it would facilitate informal resolution of the NOV. To initiate this process, contact the OCD employee identified at the end of this letter.

(1) *Alleged Violator:* Forty Acres Energy, LLC (OGRID 371416) (“FAE”).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violations:*

19.15.2.7 DEFINITIONS

(O)(3) “Oil field waste” means non-domestic waste resulting from the exploration, development, production or storage of oil or gas.

(R)(6) “Responsible person” means the owner or operator who shall complete a division-approved corrective action for pollution from releases.

19.15.29.7 DEFINITIONS

A. “Major Release” means:

- (1) an unauthorized release of a volume, excluding gases, of 25 barrels or more;
- (2) an unauthorized release of a volume that:
 - (a) results in a fire or is the result of a fire;
 - (b) may with reasonable probability reach a watercourse;
 - (c) may with reasonable probability endanger public health; or

(d) substantially damages property or the environment;
(3) an unauthorized release of gases exceeding 500 MCF; or
(4) a release of a volume that may with reasonable probability be detrimental to fresh water.

B. “Minor release” means an unauthorized release, which is not a major release and is a volume greater than five barrels but less than 25 barrels.

C. “Responsible party” means the operator, as defined in 19.15.2 NMAC. Notwithstanding the foregoing, the division, in its sole discretion, may also consider a person causing the release, or controlling the location of the release as the responsible party.

19.15.29.8 RELEASES

A. Prohibition. Except as provided in 19.15.27 NMAC or 19.15.28 NMAC, major releases and minor releases are prohibited.

B. Requirements. For all releases regardless of volume, the responsible party shall comply with 19.15.29.8 NMAC and shall remediate the release. For major and minor releases, the responsible party shall also comply with 19.15.29.9, 19.15.29.10, 19.15.29.11, 19.15.29.12 and 19.15.29.13 NMAC.

C. Initial response. The responsible party must take the following immediate actions unless the actions could create a safety hazard that would result in injury.

(1) **Source elimination and site security.** The responsible party must take appropriate measures to stop the source of the release and limit access to the site as necessary to protect human health and the environment.

(2) **Containment.** Once the site is secure, the responsible party must contain the materials released by construction of berms or dikes, the use of absorbent pads or other containment actions to limit the area affected by the release and prevent potential fresh water contaminants from migrating to watercourses or areas that could pose a threat to public health and environment. The responsible party must monitor the containment to ensure that it is effectively containing the material and not being degraded by weather or onsite activity.

(3) **Site stabilization.** After containment, the responsible party must recover any free liquids and recoverable materials that can be physically removed from the surface within the containment area. The responsible party must deliver material removed from the site to a division-approved facility. [...]

19.15.29.9 RELEASE NOTIFICATION

A. The responsible party must notify the division on form C-141 of a major or minor release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of oil, gases, produced water, condensate or oil field waste. [...]

19.15.29.10 RELEASE NOTIFICATION REPORTING REQUIREMENTS

The responsible party must notify the division of releases in 19.15.29.9 NMAC as follows.

A. Reporting of a major release.

(1) The responsible party must notify the divisions environmental bureau chief and the appropriate division district office verbally or by e-mail within 24 hours of discovery of the release. The notification must provide the information required on form C-141.

(2) The responsible party must also notify the appropriate division district office in writing within 15 days of discovering the release by completing and filing form C-141. The written notification must verify the prior verbal or e-mail notification and include additions or corrections to the information contained in the prior verbal or e-mail notification.

B. Reporting a minor release. The responsible party must notify the appropriate division district office in writing within 15 days of discovery of the release by completing and filing form C-141.

19.15.29.11 SITE ASSESSMENT/CHARACTERIZATION

After the responsible party has removed all free liquids and recoverable materials, the responsible party must assess soils both vertically and horizontally for potential environmental impacts from any major or minor release containing liquids.

OCD FINDINGS

1. FAE owns and operates the sites listed in Table 1.
2. FAE is the operator and responsible party for the releases identified in Table 1.

Table 1:

API (If Available)	Named Description	Location	Incident ID-Date of Discovery
30-025-45479	WEST EUMONT UNIT #522	ULSTR: M-26-20S-36E Lat. 32.5368 Long. -103.3287	NAPP2222156433 7/27/2022 (Operator)
	West Eumont Injection Station (Adjacent to WEU 515 API: 30-025-04404)	ULSTR: L-35-20S-36ELat. 32.527933 Long. -103.329817	NAPP2222148803 7/22/2022 (Operator)
30-025-44254	WEST EUMONT UNIT #417	U LSTR: O-34-20S-36E Lat. 32.524159 Long. -103.340043	
30-025-03401	GM STATE BATTERY (west of the WEU 203)	ULSTR: A -2-21S-35ELat. 32.5170Long. -103.3332	NAPP2228734147 8/12/2022 (OCD), 10/13/2022 (Operator)
	Federal D Battery	ULSTR: E-26-20S-36ELat. 32.544316Long. -103.330628	
	West Eumont Seale Battery	ULSTR: N-34-20S-37ELat. 32.525961 Long. -103.346619	NAPP2222254057 8/10/2022 (OCD), 8/10/2022 (Operator)
	State WE H Battery	ULSTR: N-2-21S-35ELat. 32.510994Long. -103.341513	
30-025-03508	Atlantic State Well #3	ULSTR: I-25-21S-35ELat.	

		32.449019Long. - 103.313624	
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West Eumont Unit #522, API 30-025-45479

3. On August 1, 2022, OCD received a complaint that a release occurred on WEST EUMONT UNIT #522 and that the release had been covered with unimpacted soils.
4. On August 2, 2022, a representative of OCD located a leaking buried line located at WEST EUMONT UNIT #522. The OCD observed that the leak from the buried line came to the surface.
5. During the site visit, OCD observed impacted soils had been moved around the area of the release and mixed with non-impacted soils. OCD notified FAE of the release.
6. FAE submitted Notice of release (Incident no. NAPP2222156433) on 8/9/2022, indicating the incident occurred on 7/27/2022.
7. FAE submitted Form C-141 on 8/10/2022, identifying the incident as a minor release.
8. FAE has not submitted a subsequent C-141 since August 15, 2022.
9. FAE failed to characterize the release within 90 days as required under 19.15.29.11 A.
10. FAE failed to remediate the release.

West Eumont Injection Station, Facility: Adjacent to API 30-025-04404

11. On August 2, 2022, OCD discovered a release at the West Eumont Injection Station (Adjacent to WEU 515).
12. An OCD representative spoke with James Martinez of FAE who stated that it was a 50bbls release.
13. FAE submitted Notice of release (Incident no. NAPP2222148803) on 8/9/2022, reporting that the incident occurred on 7/22/2022.
14. FAE submitted Form C-141 on 8/9/2022, reporting that the incident was a major release.
15. FAE has not submitted a subsequent C-141 since August 10, 2022.
16. The release occurred prior to August 2, 2022, was a major release as is defined by 19.15.29.7 NMAC, and was in violation of 19.15.29.8.A NMAC.
17. FAE did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
18. FAE failed to notify OCD of the major release within 24 hours in violation of 19.15.29.10.A NMAC.
19. FAE failed to characterize the release within 90 days as required under 19.15.29.11 A.
20. FAE knew or should have known about the releases of oil, produced water, condensate or oil field waste in proximity to the West Eumont Injection Station.

West Eumont Unit #417, API 30-025-44254

21. On August 2, 2022, OCD discovered a release at the WEST EUMONT UNIT #417.
22. A Notice of Release has not been submitted for this release.
23. On August 26, 2022, OCD and a third-party contractor observed evidence of a release at this location, took three 3-point composite samples, and observed the placement of caliche overlying the area observably affected by the release.
24. The three samples indicate contamination which are two orders of magnitude beyond the regulatory limit for TPH (16,640 mg/kg, 14,590 mg/kg, and 28,856 mg/kg, respectively). OCD contends that the level of contamination poses an immediate risk to public health and the environment.

25. The release occurred prior to August 2, 2022, was a major release as is defined by 19.15.29.7 NMAC, and was in violation of 19.15.29.8.A NMAC.
26. FAE did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
27. FAE failed to notify OCD of the major release within 24 hours and failed to submit form C-141 within 15 days of discovery of the release, in violation of both 19.15.29.10.A (1) & (2) NMAC.
28. FAE violated 19.15.29.11 NMAC by failing to characterize and remediate the release of oil, produced water, condensate or other oil field waste at WEST EUMONT UNIT #417 API 30-025-44254.
29. FAE willfully failed to remediate the release.

GM State Battery, API 30-025-03041

30. On August 12, 2022, OCD observed a release at the GM STATE BATTERY (west of the WEU 203) API 30-025-03401 that had not been remediated.
31. On August 26, 2022, OCD and a third-party contractor observed evidence of multiple releases at this location, took one 3-point composite sample, and observed the placement of caliche overlying areas observably affected by the release. Additionally, new fencing, newly constructed caliche berm, and a 2-to-3-inch surface layer of recently spread caliche material around the tank battery was observed.
32. The sample contained high levels of chloride (1100 mg/kg) and TPH compounds of high molecular weight including diesel range organics and motor oil range organics (6900 mg/kg TPH-DRO, and 7200 mg/kg TPH-MRO, respectively). OCD contends that the level of contamination poses an immediate risk to public health and the environment.
33. FAE submitted Notice of Release (Incident no. NAPP2228734147) on 10/13/2022, reporting that an incident occurred on 10/13/2022. FAE also submitted Form C-141 on 10/13/2022, a minor release of 17BBL of produced water and 3BBL of crude oil was released due to equipment failure.
34. The release occurred prior to August 12, 2022, was a major release as is defined by 19.15.29.7 NMAC, and was in violation of 19.15.29.8.A NMAC.
35. FAE has not submitted a subsequent C-141 since October 14, 2022.
36. FAE did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
37. FAE failed to notify OCD of the major release within 24 hours and failed to submit form C-141 within 15 days of discovery of the release, in violation of both 19.15.29.10.A (1) & (2) NMAC.
38. FAE violated 19.15.29.11 NMAC by failing to characterize and remediate the release of oil, produced water, condensate or other oil field waste at GM STATE BATTERY (west of the WEU 203) API 30-025-03401.
39. FAE failed to characterize the release within 90 days as required under 19.15.29.11 A.
40. FAE willfully failed to remediate the release.

Federal D Battery

41. On August 2, 2022 OCD observed a release at the Federal D Battery that covered an area of approximately 24 feet by 60 feet.
42. No reporting has been received for this incident.
43. The release at Federal D Battery occurred prior to August 2, 2022. Based on surface area calculations, could be defined a major release as is defined by 19.15.29.7 NMAC.

However, OCD is currently classifying this release as minor until more volumetric information is obtained. The release is in violation of 19.15.29.8.A NMAC.

44. FAE did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
45. FAE failed to notify OCD of the major release within 24 hours and failed to submit form C-141 within 15 days of discovery of the release, in violation of both 19.15.29.10.A (1) & (2) NMAC.
46. FAE violated 19.15.29.11 NMAC by failing to characterize and remediate the release of oil, produced water, condensate or other oil field waste at Federal D Battery.
47. FAE knew or should have known about the release of oil, produced water, condensate or oil field waste.

West Eumont Seale Battery

48. On August 1, 2022, OCD received a complaint that a release occurred on West Eumont Seale Battery and that the release had been covered.
49. On August 2, 2022, a representative of OCD observed and spoke with a backhoe operator onsite who indicated that they were instructed to shovel dirt on the release.
50. FAE submitted Notice of Release (Incident no. NAPP2222254057) on 8/10/2022, reporting that the incident occurred on 8/10/2022.
51. FAE submitted Form C-141 on 8/10/2022, identifying the release as a minor release of 6BBL of produced water and 1BBL of crude oil.
52. FAE failed to characterize the release within 90 days as required under 19.15.29.11 A.
53. FAE violated 19.15.29.11 NMAC by failing to characterize and remediate the release of oil, produced water, condensate or other oil field waste.
54. FAE willfully failed to remediate the release.

State WE H Battery

55. On August 29, 2022, OCD received a complaint that an incident occurred on State WE H Battery and that the release had been covered. OCD observed a release at the Federal D Battery that covered an area of approximately 108 feet by 18 feet which had been covered with caliche.
56. No reporting has been received for this incident.
57. The release occurred prior to August 29, 2022. Based on surface area calculations, could be defined a major release as is defined by 19.15.29.7 NMAC. However, OCD is currently classifying this release as minor until more volumetric information is obtained. The release is in violation of 19.15.29.8.A NMAC.
58. FAE did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
59. FAE did not notify OCD in writing by file Form C-141 within 15 days of discovery of the release at the State WE H Battery as required 19.15.29.10(A)(2) NMAC. To date, FAE has not provided the required notification.
60. FAE violated 19.15.29.11 NMAC by failing to characterize and remediate the release of oil, produced water, condensate or other oil field waste.
61. FAE knew or should have known about the release of oil, produced water, condensate or oil field waste.
62. FAE willfully failed to remediate the release.

Atlantic State Well #3, API 30-025-03508

63. On August 1, 2022, OCD received a complaint that an incident occurred on Atlantic State Well #3 OCD observed a release at the Federal D Battery that covered an area of approximately 78 feet by 64 feet which had been covered with caliche.

64. No reporting has been received for this incident.
65. The release occurred prior to August 1, 2022. Based on surface area calculations, could be defined a major release as is defined by 19.15.29.7 NMAC. However, OCD is currently classifying this release as minor until more volumetric information is obtained. The release is in violation of 19.15.29.8.A NMAC.
66. FAE did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
67. FAE did not notify OCD in writing by file Form C-141 within 15 days of discovery of the release at the Atlantic State Well #3 API 30-025-03508 as required 19.15.29.10.A (2) NMAC.
68. FAE violated 19.15.29.11 NMAC by failing to characterize and remediate the release of oil, produced water, condensate or other oil field waste.
69. FAE willfully failed to remediate the release.

(3) *Compliance*: No later than thirty (30) days after receipt of this NOV, for each release of oil, produced water, condensate or oil field waste identified by well site in Table 1, Forty Acres Energy LLC shall:

- (a) submit a complete Form C-141 for each release identified in Table 1, which includes calculation methods of release volumes;
- (b) characterize the release as required by 19.15.29.11(A) NMAC; and
- (c) remediate the release as required by 19.15.29.12 NMAC.

(4) *Sanction(s)*: OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization
- plugging and abandonment of a well
- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials
- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- shutting in a well or wells
- any other remedy authorized by law

For the alleged violations described above, OCD proposes the following sanctions:

- (a) Civil Penalties: OCD proposes to assess civil penalties as specified below. The attached civil penalty calculations are calculated as of June 7, 2023. OCD may recalculate the civil penalties for ongoing violations occurring on or after the date of issuance of this NOV and will take into consideration Operator's good faith effort to comply with the applicable requirements.

Proposed Civil Penalties by release and violation:

West Eumont Unit #522, API 30-025-45479


19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.11 NMAC:	\$ 24,000.00

West Eumont Injection Station, API 30-025-04404	
19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.10(B) NMAC:	\$ 37,500.00
19.15.29.11 NMAC:	\$ 24,000.00
West Eumont Unit #417, API 30-025-44254	
19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.10(A)(1) NMAC:	\$ 37,500.00
19.15.29.10(B) NMAC:	\$ 75,000.00
19.15.29.11 NMAC:	\$ 60,000.00
GM State Battery, API 30-025-03041	
19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.10(B) NMAC:	\$ 75,000.00
19.15.29.11 NMAC:	\$ 60,000.00
Federal D Battery	
19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.10(B) NMAC:	\$ 75,000.00
19.15.29.11 NMAC:	\$ 48,000.00
West Eumont Seale Battery	
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.11 NMAC:	\$ 60,000.00
State WE H Battery	
19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.10(B) NMAC:	\$ 75,000.00
19.15.29.11 NMAC:	\$ 60,000.00
Atlantic State Well #3, API 30-025-03508	
19.15.29.8(A) NMAC:	\$ 2,400.00
19.15.29.8 NMAC:	\$ 200,000.00
19.15.29.10(B) NMAC:	\$ 75,000.00
19.15.29.11 NMAC:	\$ 60,000.00

(5) *Hearing*: If this NOV cannot be resolved informally, OCD will request a hearing on August 17, 2023. Please see 19.15.5.10 NMAC for more information regarding the hearing. Even if OCD schedules a hearing, you can request an informal resolution at any time.

For more information regarding this NOV, contact Jesse Tremaine, Assistant General Counsel, (505) 231-9312 or JesseK.Tremaine@emnrd.nm.gov.

Regards,


Dylan M. Edge
Director

6/9/23

Date

cc: EMNRD-OGC

