

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

ACO No. 259

IN THE MATTER OF QUALITY TRANSPORT, INC.,

Respondent.

AGREED ORDER RESOLVING COMPLIANCE ACTION

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), and the rules promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico ("OCD") and Quality Transport, Inc. (hereinafter, "Respondent") hereby enter into this Agreed Order (hereinafter, "Order") to resolve the violations asserted in Notice of Violation (hereinafter, "NOV") 01-08-06.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and the rules promulgated under the Act.
2. According to the Public Regulation Commission's ("PRC's") Corporation Information Inquiry database, Respondent is registered to do business in New Mexico under SCC No. 2499036. Respondent is an active domestic for-profit corporation not in good standing whose purpose is water transporting. Randy Crawford is Respondent's President and Amy Crawford is Respondent's Vice-President and Secretary. Respondent's principal address, mailing address, and the address of its registered agent — Amy Crawford — is 7 Crawford Lane, Jal, New Mexico 88252.
3. Respondent's address of record with OCD is 7 Crawford Lane, Jal, New Mexico 88252. Respondent's President Randy Crawford resides and operates an oil and gas services facility at this address (hereinafter, "Jal facility").
4. Respondent holds a valid Form C-133 Authorization to Move Produced Water. The OCD approved Respondent's Form C-133 on August 15, 2008.
5. On November 13, 2008, OCD District I Supervisor Larry "Buddy" Hill observed Respondent's truck purposely releasing oil field waste directly onto the ground at Respondent's Jal facility. The amount of fluids released appeared to be in excess of 25 barrels. The fluids were draining to a nearby playa. The fluids had the appearance of produced water as they were being released. The fluids had a bad odor and taste. Supervisor Hill spoke with Respondent's pusher about the release over the telephone. Respondent's pusher admitted that the fluids should not have

been released. Supervisor Hill obtained a sample of the water from the truck's tank for sampling and submitted them to an independent laboratory for analysis.

6. On November 14, 2008, OCD District I Environmental Inspector Larry Johnson sampled the soils at the release site and submitted them to an independent laboratory for analysis.
7. The results of the analysis indicate the water and soils were contaminated with salts and petroleum hydrocarbons.
8. OCD Rule 19.15.2.52.A NMAC (since re-numbered 19.15.34.11 NMAC) states in relevant part:

Except as authorized by 19.15.1.19 NMAC, 19.15.2.50 NMAC, 19.15.2.53 NMAC, 19.15.3.116 NMAC or 19.15.9.701 NMAC, no person, including a transporter, shall dispose of produced water or other oil field waste:

- (1) on or below the surface of the ground; . . . or in a pond, lake, depression or watercourse;
 - (2) in another place or in a manner that may constitute a hazard to fresh water, public health, safety or the environment; . . .
9. OCD Rule 19.15.3.116 NMAC (since re-numbered and categorized in 19.15.19 NMAC) requires OCD to be notified of any unauthorized release involving produced water or oil field wastes. The person operating or controlling the release or location of the release is required to give notice to OCD of the release. A major release must be reported by giving immediate verbal notice and timely written notice to OCD's district office for the area in which the release takes place, and to the OCD's Environmental Bureau Chief. A major release is a release of a volume in excess of 25 barrels; or an unauthorized release of any volume that will reach a watercourse, may with reasonable probability endanger public health, or results in substantial damage to property or the environment; or a release of any volume which may with reasonable probability be detrimental to water. Immediate verbal notice must be given within 24 hours of discovery. The verbal notice must provide the information required on Form C-141. Timely written notice must be made within 15 days by completing and filing Form C-141. The responsible person must complete OCD approved corrective action for releases which endanger public health or the environment.

10. OCD Rule 19.15.2.51.E NMAC (since re-numbered 19.15.34.10 NMAC) states:

Vehicular movement or disposition of produced water, drilling fluids or other liquid oil field wastes in a manner contrary to division rules, or a ground for denial of approval of form C-133 specified in Subsection D of 19.15.2.51 NMAC, shall be cause, after notice and an opportunity for hearing, for cancellation or suspension of a transporter's authorization to move liquid wastes.

11. On November 20, 2008, OCD sent Respondent NOV 01-08-06, which alleged violations of OCD Rule 19.15.2.51 NMAC, Rule 19.15.2.52 NMAC, and Rule 19.15.3.116 NMAC.
12. In NOV 01-08-06 OCD advised Respondent that OCD Rule 19.15.3.116 NMAC required OCD to be notified of any unauthorized release. The OCD indicated that the release would be considered a major release under OCD Rule 19.15.3.116 NMAC because of the release volume and location. OCD indicated that as such, the release should have been reported by giving both immediate verbal notice and timely written notice. The OCD stated that as the responsible party, Respondent was required to complete OCD-approved corrective action, and that releases are to be addressed in accordance with a remediation plan submitted to and approved by OCD. The OCD instructed Respondent to submit a corrective action plan for the remediation of the release to OCD.
13. According to Respondent's President Randy Crawford, the driver of the truck knew the truck contained produced water but decided to release the produced water there because he was in a rush to go home. Mr. Crawford admitted receiving the NOV sometime around November/December 2008. Mr. Crawford admitted that as of April 21, 2009, the date of OCD's second administrative conference with Respondent, Respondent had not filed a Form C-141 for the release with OCD. Mr. Crawford admitted that as of April 21, 2009, Respondent also had not filed a corrective action plan for remediation of the site with OCD.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. NMSA 1978, Section 70-2-31(A) provides that any person who knowingly and willfully violates any provision of the Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation, and that in the case of a continuing violation, each day of violation shall constitute a separate violation.
3. NMSA 1978, Section 70-2-31(A) further provides that the penalties provided in this subsection shall be recoverable by a civil suit filed by the Attorney General in the name and on behalf of the commission or the division in the district court of the county in which the defendant resides or in which any defendant resides if there be more than one defendant or in the district court of any county in which the violation occurred.
4. NMSA 1978, Section 70-2-33(A) defines "person" to mean "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity."
5. Respondent is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).

6. Respondent is subject to civil penalties under NMSA 1978, § 70-2-31(A) for knowing and willful violations of OCD Rule 19.15.2.52 NMAC and OCD Rule 19.15.3.116 NMAC.

ORDER

1. Respondent agrees to pay a civil penalty of Three Thousand Dollars (\$3,000.00).
2. Respondent shall pay the civil penalty upon its execution of this Order. Respondent shall pay the civil penalty by certified or cashiers check made payable to the "New Mexico Oil Conservation Division." Respondent shall either mail or hand-deliver the civil penalty to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
3. By **Friday May 15, 2009**, Respondent shall submit **acceptable** discharge permit applications to the OCD for Respondent's Jal facility and Carlsbad facility.
4. By signing this Order, Respondent expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with the Order;
 - c. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order;
 - d. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a Final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act;
5. Should Respondent fail to properly remediate the release, Respondent will be subject to additional enforcement action, which may include a civil action brought by the Attorney General to recover additional civil penalties, an administrative compliance order requiring remediation, or suspension or cancellation of Respondent's Form C-133 Authorization to Move Produced Water.
6. Nothing in this Order relieves Respondent of its liability should its operators fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Respondent of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 20th day of May 2009.

By: _____

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^u Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

Quality Transport, Inc., hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

QUALITY TRANSPORT, INC.

By: Randy Crawford

Title: Owner

Date: 5-18-09