

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

2011 JUL -3 P 3:26

NMOCD – ACO- 283

IN THE MATTER OF G & L Trucking, LLC.,

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended, and the Water Quality Act, NMSA 1978, Sections 74-6-1 through 74-6-17 as amended, the Director of the Oil Conservation Division ("OCD") and G & L Trucking, LLC. ("G & L") enter into this Agreed Compliance Order ("ACO") under which G & L agrees to verify future compliance with OCD Rule 19.15.34 NMAC and WQCC Rule 20.6.2 NMAC, cooperate with current and future investigations, and pay a monetary fine pursuant to Section 74-6-10 of the Water Quality Act, in accordance with the following agreed schedule and procedures, and understands that the OCD may decide not to enter into any further ACO's with G & L if G & L fails to meet the schedule set out in this ACO.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the New Mexico Oil and Gas and Water Quality Acts, and rules and orders adopted pursuant to each Act.
2. G & L is a corporation doing business in the state of New Mexico under New Mexico Secretary of State Corporation No. 4016986.
3. OCD Rule 19.15.34.8 NMAC states, in relevant part:

“A. A person shall not transport produced water, drilling fluids or other liquid oil field waste, including drilling fluids and residual liquids in oil field equipment, except for small samples removed for analysis, by motor vehicle from a lease, central tank battery or other facility without an approved form C-133, authorization to move liquid waste. The transporter shall maintain a photocopy of the approved form C-133 in the transporting vehicle.

B. A person may apply for authorization to move produced water, drilling fluids or other liquid oil field waste by filing a complete form C-133 with the division's Santa Fe office. Authorization is granted upon the division's approval of form C-133.

C. An owner or operator shall not permit produced water, drilling fluids or other liquid oil field waste to be removed from its leases or field facilities, except for small samples removed for analysis, by motor vehicle except by a person possessing an approved form C-133. The division shall post a list of currently approved form C-133s, authorization to move liquid waste, on its website. The list of form C-133s posted on the division's website on the first business day of each month shall be deemed notice of valid form C-133s for the remainder of that month."

4. OCD Rule 19.15.34.11 NMAC states, in relevant part:

"Except as authorized by 19.15.30 NMAC, 19.15.17 NMAC, 19.15.36 NMAC, 19.15.29 NMAC or 19.15.26.8 NMAC, persons, including transporters, shall not dispose of produced water or other oil field waste:

- (1) on or below the surface of the ground; in a pit; 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; or
- (3) in a permitted pit or registered or permitted surface waste management facility without the permission of the owner or operator of the pit or facility."

5. WQCC Rule 20.6.2.3104 NMAC states, in relevant part:

"Unless otherwise provided by this Part, no person shall cause or allow effluent or leachate to discharge so that it may move directly or indirectly into ground water unless he is discharging pursuant to a discharge permit issued by the secretary. When a permit has been issued, discharges must be consistent with the terms and conditions of the permit. In the event of a transfer of the ownership, control, or possession of a facility for which a discharge permit is in effect, the transferee shall have authority to discharge under such permit, provided that the transferee has complied with Section 20.6.2.3111 NMAC, regarding transfers."

6. Between the dates of 11/4/2013-11/14/2013, G & L, and/or their sub-contractors were witnessed discharging waste water on and around Santa Fe County Road 57A.
7. The New Mexico Environment Department (NMED) Surface Water Quality Bureau conducted an onsite investigation and observed waste water on the surface and in the nearby arroyo. NMED compiled a report on the discharge identifying G & L, as the lead trucking sub-contractor for the project.

8. G & L was sent a Letter of Violation from the OCD on May 12th, 2014, requiring submittal of additional information regarding the incident, and requiring attendance at a Compliance Conference with the Compliance and Enforcement Manager and the Environmental Bureau Chief at 9:00 AM, June 11 at the OCD's Santa Fe office, located at 1220 S. Saint Francis Drive, Santa Fe, New Mexico 87501.
9. G & L timely submitted the information requested by the OCD and has fully cooperated with the OCD in this matter.
10. The information revealed a total of 150 unauthorized discharges of contaminated water on the County Road and the Enterprise ROW.
11. The information also revealed that G & L subcontracted trucking services to transporters who did not have all authorizations from the OCD, the New Mexico Public Regulation Commission, or the New Mexico Secretary of State to operate in the state of New Mexico. Those transporters are: Polanco Trucking; Rockin Eight Services; DCD Services, LLC; De La Sierra Trucking; Cardinal Transportation; Legacy, LLC; and 3hree C's Services Inc.
12. Further investigation concluded that G & L was operating without an approved Warrant from the NMPRC.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding under both the Oil and Gas Act and Water Quality Act.
2. The actions taken between 11/4/2013-11/14/2013 violated both the Oil and Gas Act and Water Quality Act.
3. G & L is responsible for the discharges by themselves and their subcontractors and has agreed to enter into this order to resolve the violations.
4. G & L complied fully with the investigation by the OCD. As a result the OCD and G&L agreed to the penalties in this order proportional to the harm done and the remedial actions taken by G & L.

ORDER

1. Pursuant to the Water Quality Act, Section 74-6-10 NMSA 1978 G & L agrees to a fine of \$500 per truckload, a total of \$75,000, for violations of the Water Quality Act, Section 74-6-5 NMSA 1978 to be paid to the general fund in accordance with the following schedule:

- a) 30 days after the execution of this order, G & L agrees to pay the amount of \$37,500 to be deposited to the general fund.
 - b) If the operator fails to comply with any of items 2-5, the remaining \$37,500 will be due within 14 days and be subject to additional penalties for the new offense. The new offense will be considered a repeat offense for the purposes of calculating fines.
 - c) If G & L fully complies with items 2-5 of this order, the remaining amount will be commuted.
2. G & L agrees to supplement their C-133 filing with an approved Warrant issued by the NMPRC within 90 days of the execution of this agreement.
3. G & L agrees to verify the any contractor hired for trucking services possesses a valid C-133 issued by the OCD. The current list of approved Transporters can be found on the OCD website at: <http://www.emnrd.state.nm.us/OCD/statistics.html> under "useful information."
4. G & L agrees to verify all required permits when contracted to do any dust control or other surface discharge.
5. G & L agrees to testify to the facts of this incident before either the WQCC, Oil Conservation Commission, or the OCD if requested by the OCD.
6. G & L agrees to submit quarterly compliance report summarizing their trucking services operations in compliance with items 2-5 above. The first report will be due on September 1, 2014. The remaining reports will be submitted by the first of the month of the following December, March, and June respectively.
7. G & L understands that if it fails to meet the terms of this Order, the OCD may decide not to enter into any further agreed compliance orders with G & L, and may take further enforcement actions against G & L.
8. By signing this Order, G & L expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to pay the fine of \$37,500 within 30 days of the execution of this agreement;
 - (c) agrees to submit quarterly compliance report summarizing their trucking services operations in compliance with items 2-5 above, and if found in violation of any of items 2-5 will pay the remaining amount of the total fine within 14 days of discovery of the violation;
 - (d) waives any right, pursuant to the Oil and Gas Act, Water Quality Act or otherwise, to an appeal from this Order, or to a hearing either prior to or subsequent to the entry of this Order; and

(e) agrees that the Order may be enforced by OCD, Water Quality Control Commission, or the Oil Conservation Commission, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Water Quality Control Commission entered after notice and hearing in accordance with all terms and provisions of the Water Quality Act.

9. This Order applies only to the enforcement of OCD Rule 19.15.34.8 NMAC, Rule 19.15.34.11 NMAC, and WQCC Rule 20.6.2.3104 NMAC against the G & L for the discharge on 11/4/2013-11/14/2013, on and around Santa Fe County Road 57A. Other discharges by G & L may be subject to immediate enforcement action under the Water Quality Act, Oil and Gas Act, and WQCC and OCD Rules.

Done at Santa Fe, New Mexico this 3rd day of July, 2014

By:

Jammi Bailey

Director, Oil Conservation Division

ACCEPTANCE

G & L Trucking, LLC. hereby accepts the foregoing Order and agrees to all of the terms and provisions set forth in that Order.

G & L Trucking, LLC.,

By:

(Please print name)

Title:

Date:

Greg Lopez
Greg Lopez
OWNER
7-2-14