

State of New Mexico  
Energy, Minerals and Natural Resources Department

Susana Martinez  
Governor

John Bemis  
Cabinet Secretary

Brett F. Woods, Ph.D.  
Deputy Cabinet Secretary

Jami Bailey  
Division Director  
Oil Conservation Division



August 22, 2012

Mr. Cirilo Cortez  
Cortez Trucking LLC  
P.O. Box 5096  
Carlsbad, NM 88221

Certified Mail: # 7009 2820 0003 9518 3067

Email: [truckincortez@yahoo.com](mailto:truckincortez@yahoo.com)  
[zsavoie@bajabb.com](mailto:zsavoie@bajabb.com)

**Re: Denial of Form C-133 Authorization to Move Produced Water**  
**Applicant: Cortez Trucking LLC**

Dear Mr. Cortez:

The Oil Conservation Division (OCD) **hereby denies** your Form C-133 Authorization to Move Produced Water for the following reasons.

**I. Applicable OCD Rules:**

OCD Rule 19.15.34.9 NMAC states in relevant part:

**19.15.34.9 DENIAL OF A FORM C-133:** The division may deny approval of a form C-133 if:

**D.** 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; . . . .

OCD Rule 19.15.34.10 NMAC states:

**19.15.34.10 CANCELLATION OR SUSPENSION OF AUTHORIZATION TO MOVE LIQUID WASTES:** A transporter's vehicular movement or disposition of produced water, drilling fluids or other liquid oil field wastes in a manner contrary to division rules is a ground for denial of approval of form C-133 in addition to the those specified in Subsection D of 19.15.34.9 NMAC. It is also cause, after notice and an opportunity for hearing, for the division to cancel or suspend a transporter's authorization to move liquid wastes.

## **II. Relevant Facts:**

In the Summer of 2009 the OCD investigated a complaint of a produced water release that occurred, on or about June 22, 2009, from one of the water transport trucks of the company that you owned and operated as Cortez Trucking and Oilfield Service. The release occurred in a residential area. According to you, 60 barrels of produced water was released from the truck. You indicated that the release occurred when one of your employees was rinsing out the tank of a water transport truck at your residential property. The release flowed down your driveway and alongside the shoulder of the roadway outside your property where it destroyed a neighbor's grassy area. According to you, you dug up the soil and disposed of it at your ranch. You said you were in the business of transporting produced water, and admitted to regularly transporting produced water, even though you did not have an approved Form C-133 Authorization to Move Produced Water.

## **III. Violation of OCD Rules**

### **a. Transporting Produced Water Without an Approved Form C-133 Authorization to Move Produced Water**

OCD Rule 19.15.34.8(A) NMAC states:

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.

You violated OCD Rule 19.15.34.8(A) NMAC when your company, Cortez Trucking and Oilfield Service, was transporting produced water without an approved Form C-133 Authorization to Move Produced Water.

### **b. Unauthorized Disposition of Produced Water**

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 . . . .

You violated OCD Rule 19.15.34.11 NMAC when your company willfully released produced water onto the ground in a residential neighborhood.

**c. Not Timely Reporting Release or Completing Corrective Action**

OCD Rule 19.15.29 NMAC requires persons who operate or control the release or the location of the release to report to the OCD the unauthorized release of produced water or other oilfield waste that occur during drilling, producing, storing, disposing, injecting, transporting, servicing or processing. OCD Rule 19.15.29 NMAC has certain notification requirements for major and minor releases. The 60 barrels release was a "major release" under OCD Rule 19.15.29.7 NMAC ("Major release" means an unauthorized release of a volume, excluding gases, in excess of 25 barrels."). OCD Rule 19.15.29 NMAC requires persons to give immediate verbal notification to the OCD of a major release within 24 hours of discovery, and written notice by filing a Form C-141 Release Notification and Corrective Action within 15 days. OCD Rule 19.15.29.11 NMAC requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment.

You did not provide timely notification of the release to the OCD as required by OCD Rule 19.15.29 NMAC. You only provided a C-141 after prompting by the OCD.

Additionally, you have not completed corrective action for the release as required by OCD Rule 19.15.29 NMAC. On September 25, 2009, the OCD District 2 Office sent you a copy of the attached letter that required you to submit a corrective action work proposal (plan) for the release by October 16, 2009. You did not respond to the letter and provide the required corrective action work proposal (plan).

**IV. Violation of Water Quality Control Commission Rules**

**a. Discharging Without a Permit**

Water Quality Control Commission (WQCC) Rule 20.6.2.3104 NMAC requires that 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.

You violated WQCC Rule 20.6.2.3104 NMAC when your company willfully discharged produced water without having a discharge permit.

**b. Not Timely Reporting Release or Completing Corrective Action**

WQCC Rule 20.6.2.1203 NMAC provides that with respect to any discharge from any facility of oil or other water contaminant, in such quantity as may with reasonable probability injure or be detrimental to human health, animal or plant life, or property, or unreasonable interfere with the public welfare or the use of property, the person in charge of a "facility" ("facility" means any structure, installation, operation, storage tank, transmission line, motor vehicle, rolling stock, or activity of any kind, whether stationary or mobile") shall orally notify the OCD within 24 hours of discovery of the discharge, and provide written notification within one week of discovery. A release reported pursuant to OCD Rule 19.15.29 NMAC would not have to be reported pursuant to WQCC Rule 20.6.2.1203 NMAC, since the reporting requirements are not meant to be duplicative of OCD Rule 19.15.29 NMAC. WQCC 20.6.2.1203 requires the owner/operator of the "facility" to complete OCD-approved corrective action.

As described in Section III.c., you did not provide timely notification of the release to the OCD, and have not completed OCD-approved corrective action for the release.

For the reasons described above, the OCD **hereby denies** your Form C-133 Authorization to Move Produced Water.

You may re-submit a Form C-133 Authorization to Move Produced Water for approval by the OCD once you have completed OCD-approved corrective action for the produced water release described in this letter. Questions or concerns about the corrective action for the release should be directed to Mike Bratcher of the OCD District 2 office in Artesia at (575) 748-1283 ext. 108 or email: [mike.bratcher@state.nm.us](mailto:mike.bratcher@state.nm.us). Please be advised that approval of your re-submitted Form C-133 Authorization to Move Produced Water remains subject to OCD rules.

**YOU ARE NOT AUTHORIZED TO TRANSPORT PRODUCED WATER.**

If you transport produced water without an approved Form C-133 Authorization to Move Produced Water, then you will be subject to a court order requiring you to pay civil penalties in the amount of \$1,000 per violation pursuant to Section 70-2-28 and 70-2-31, NMSA 1978, a court order prohibiting you from transporting produced water pursuant to Section 70-2-28, NMSA 1978, and future denial of any Form C-133 Authorization to Move Produced Water.

Please call me at (505) 476-3493 to discuss this matter further. Your prompt attention to this matter would be appreciated.

Sincerely,

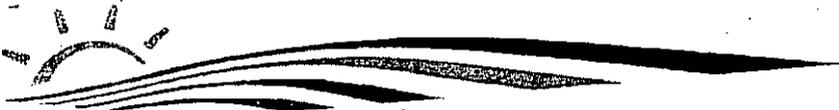


Daniel Sanchez  
OCD Compliance and Enforcement Manager

Cc: Brad Jones, OCD, Santa Fe  
Glenn von Gonten, OCD, Santa Fe  
Mike Bratcher, OCD District II  
Randy Dade, OCD District II

Denial of Cortez Trucking LLC's Form C-133 Authorization to Move Produced Water  
August 22, 2012  
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Sonny Swazo, OCD Assistant General Counsel  
Theresa Duran-Saenz, OCD, Santa Fe

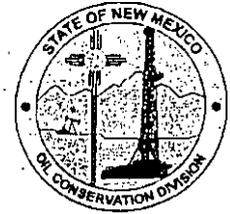


New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

**Joanna Prukop**  
Cabinet Secretary

**Mark Fesmire**  
Division Director  
Oil Conservation Division



Cortez Trucking & Oilfield Service  
2403 Los Alamos  
Carlsbad, NM 88220  
ATTN: Cirilo Cortez

September 25, 2009

Reference: Produced Water Dumping Incident Residence/Trucking Facility 2403 Los Alamos  
Carlsbad, Eddy County, New Mexico Sec14-Twn22S-Rng26E

Mr. Cortez,

The New Mexico Oil Conservation Division District 2 Office (OCD) is in receipt of an initial report Form C-141 reporting a release of produced fluids at the above referenced location. The release reportedly occurred on or about June 22, 2009. Please submit a corrective action work plan proposal (plan) for remediation and/or removal of contaminants that may be present at this site. The plan is to be formulated based on vertical and horizontal delineation of contamination, site ranking, and OCD rules, regulations and guidelines.

A publication is available to you on the OCD website to aid in formulation of this plan. The publication may be found as follows:

<http://www.emnrd.state.nm.us/ocd>

Click on each of the following items as they appear:

- Publications
- Environmental Handbook
- Miscellaneous Guidelines
- Remediation of Leaks, Spills and Releases

Please submit this plan to the OCD District 2 Office not later than **October 16, 2009**. Please include any remedial or clean up actions that have been already performed to mitigate impact from this release.

Clean up/remediation requirements may be subject to other federal, state, local laws and/or regulations.

If you have any questions or concerns, please contact me.

Sincerely,

Mike Bratcher  
NM OCD District 2  
1301 W. Grand Ave.  
Artesia, NM 88210  
575-748-1283 Ext.108  
[mike.bratcher@state.nm.us](mailto:mike.bratcher@state.nm.us)

2RP-331

Distribution: Email - Cirilio Cortez, Daniel Sanchez, Sonny Swazo, Randy Dade  
USPS (Certified) - Cirilio Cortez (Cortez Trucking & Oilfield Service)



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

2012 07 23 10:35

**AUTHORIZATION TO MOVE PRODUCED WATER**

Transporter Name: Cortez Trucking LLC

Business (Physical) Address in New Mexico: 2403 Los Alamos  
Carlsbad NM 88220  
Contact Mailing Address (If different): PO Box 5096  
Carlsbad, NM 88221

Business Phone: 575-706-1190 Contact Phone: 575-706-1190  
Business Fax: \_\_\_\_\_ Contact Fax: \_\_\_\_\_

1. Attach a copy of the applicant's New Mexico Public Regulation Commission (PRC) Warrant for Transportation Services.
2. Identify the form of the applicant's business entity: (Example: corporation, limited liability company [LLC], limited partnership, limited liability partnership, partnership, sole proprietor): Limited Liability Co.
  - A. If the applicant is a corporation or LLC, provide the PRC NMSCC number: 4574087
  - B. If the applicant is a limited partnership or limited liability partnership, provide the Secretary of State registration number: \_\_\_\_\_
  - C. If the applicant is any other form of partnership, identify all partners: \_\_\_\_\_
  - D. If the applicant is a sole proprietor, provide the name of the sole proprietor: \_\_\_\_\_

*(Note: If the form of your business entity changes, the name of your business changes, or the business address changes, you must re-apply for authorization.)*

It is the responsibility of each holder of an approved Form C-133 to comply with 19.15.34 NMAC and familiarize its personnel with that rule's requirements. Failure to move or dispose of produced water in accordance with 19.15.34 NMAC may be cause for cancellation of the Form C-133.

"I hereby certify that the information above is true and complete to the best of my knowledge and belief." (Application must be signed by person who is authorized to obligate the company applying for the permit)

Signature: [Signature] Date: 07-23-12  
Printed Name: Cirilo Cortez Title: Sole Member  
E-mail Address: truckincortez@yahoo.com zsaudio@bajabb.com

*(This space for State use)*  
Approved by: DENIED Title: \_\_\_\_\_  
Date: 8-22-12

CASE NO. 12-00247-TRM



AMENDED  
WARRANT/PRC NO. 54361

# NEW MEXICO PUBLIC REGULATION COMMISSION

## Commissioners

District 1 Jason Marks District 2 Patrick H. Lyons District 3 Douglas J. Howe  
District 4 Theresa Becenti-Aguilar District 5 Ben L. Hall

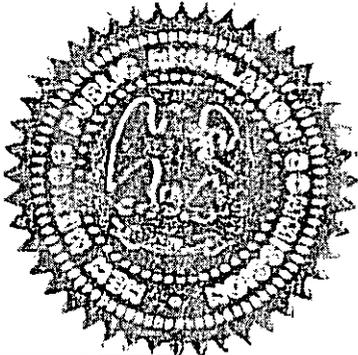
## Warrant for Transportation Services

**CORTEZ TRUCKING, LLC**  
**2403 LOS ALAMOS**  
**CARLSAD, NEW MEXICO 88220**

TRANSPORTATION OF GENERAL COMMODITIES EXCLUDING THE TRANSPORTATION OF HOUSEHOLD GOODS AS THAT TERM IS DEFINED IN 49 SECTION 13102(10), BETWEEN POINTS AND PLACES THROUGHOUT THE STATE OF NEW MEXICO.

This Warrant shall remain in effect until suspended or revoked by the Commission. The holder of this warrant is subject to the New Mexico Motor Carrier Act and the Motor Transportation Rules.

DONE THIS 24<sup>th</sup> DAY OF July, 2011.



ATTEST:

A handwritten signature in black ink, appearing to read "Larry L. Lujan".  
Larry L. Lujan, Director  
Transportation Division

<b>Corporations Division</b>		
<a href="#">Back to Search</a>		
<b>Corporation Detail</b> <b>CORTEZ TRUCKING, LLC</b> New Mexico Domestic Limited Liability Company		
<b>Filing Information</b>		<b>Address Information</b>
<b>CorpNmssc</b>	4574087	<b>Corp Mailing Address</b> 2403 Los Alamos Carlsbad, NM - 88220
<b>Corporation Status</b>	Ex-Exempt	
<b>Date Of Incorporation</b>	12/23/2011	
<b>State Of Incorporation</b>	NM	
<b>FiscalYearDate</b>		
<b>Report Duedate</b>		
<b>Agent Information</b>		<b>Director(s) Information</b>
<b>Cirilo Cortez</b> 2403 Los Alamos Carlsbad, NM - 88220		
<b>Officer(s) Information</b>		
<b>Organizer</b>	Cirilo Cortez	
<b>Instrument Information</b>		
<b>InstrumentNumber</b>	4574087	
<b>Filing Date</b>	12/23/2011	
<b>Instrument Type</b>	Certificate Of Organization	
<b>Instrument Text</b>	Cortez Trucking, Llc	
<small>Note: This is not official record. Please contact NMPRC if question or conflict.</small>		

## **Bratcher, Mike, EMNRD**

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**From:** Swazo, Sonny, EMNRD  
**Sent:** Thursday, August 23, 2012 1:29 PM  
**To:** truckingcortez@yahoo.com; zsavoie@bajabb.com  
**Cc:** Sanchez, Daniel J., EMNRD; Jones, Brad A., EMNRD; VonGonten, Glenn, EMNRD; Bratcher, Mike, EMNRD; Dade, Randy, EMNRD; Duran-Saenz, Theresa, EMNRD  
**Subject:** Denial of Form C-133 Authorization to Move Produced Water, Cortez Trucking LLC  
**Attachments:** 2012 8-22 Denial of C-133 Letter.pdf; 2012 8-22 Cortez Trucking, LLC C-133 denial.pdf