

State of New Mexico
Energy, Minerals and Natural Resources Department

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Ben Shelton
Deputy Secretary (Acting)

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Oil Conservation Division



BY CERTIFIED ELECTRONIC MAIL

PRODUCTION WASTE SOLUTIONS LLC [371912]
1101 SE Mustang Dr
Andrews, TX 79714
James Varner
lhearon@oeswd.com

NOTICE OF VIOLATION

The Oil Conservation Division ("OCD") issues this Notice of Violation ("NOV") pursuant to 19.15.5.10 NMAC.

(1) Alleged Violator: PRODUCTION WASTE SOLUTIONS LLC, OGRID # [371912] ("PWS").

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

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 volume that:

(a) results in a fire or is the result of a fire....

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

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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.
- (4) Remediation. The responsible party may commence remediation immediately.

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:

A. Reporting a major release.

- (1) The responsible party must notify the division's 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.

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19.15.34.8 REQUIREMENTS FOR DISPOSITION BY USE, RECYCLING FACILITIES OR DISPOSAL OF PRODUCED WATER:

A. Recycling or disposition by use of produced water.

(6) All releases from the recycling and re-use of produced water shall be handled in accordance with 19.15.29 NMAC.

19.15.34.9 RECYCLING FACILITIES:

E. The operator of a recycling facility shall keep accurate records and shall report monthly to the division the total volume of water received for recycling, with the amount of fresh water received listed separately, and the total volume of water leaving the facility for disposition by use on form C-148.

2RF-165 - SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319]

1. On October 25, 2023, a member of the public reached out to OCD, via email, to inquire about a fire observed at mile marker 47, HWY 62/180 outside of Carlsbad, NM. Internal review of OCD communications and records could not locate any reporting of a fire occurring at or near the location described.
2. On November 1, 2023, OCD staff conducted a site visit and observed remnants of a fire at a facility later identified as permitted recycling facility 2RF-165 - SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319]. OCD staff took photographs of the location and observed multiple unauthorized releases onsite.
3. On November 1, 2023, OCD staff made contact with Ricky Smith (Delaware Basin Manager) with PWS. Mr. Smith stated that the facility fire ignited on October 29, 2023, at around 1:40 PM. Mr. Smith further stated that he received a call from the facility that a HVCP motor had flames emitting that caused the closest tank to ignite and while on the phone he heard the first tank explode and proceeded to move safely off location, and no injuries were reported. Mr. Smith also stated that the facility's containment and floor is made of concrete where all fluids were contained. Mr. Smith estimated the amount of fluid at that time to be 3000 bbl and that the tanks were still leaking. Mr. Smith also indicated that The Operator is recovering around 150 bbl every other day.
4. Eddy County Fire Rescue responded to the fire. OCD received a copy of the Eddy County Fire and Rescue report which confirmed the date of the fire to have been on October 22, 2023. The report stated that "These were 1000-barrel steel tanks with fire blowing from the vents and around the hatches. One Tank from the other side of the fire had already blown up and leaked all its fluid on the ground causing a ground fire into the two surrounding structures."

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5. On November 3, 2023, OCD staff spoke with Terry Townsend (General Manager) with PWS to request process flow diagrams, operational descriptions, and associated permits/registrations for the facility that caught on fire and for the saltwater disposal (SWD) well located next to the facility. During the conversation, OCD staff determined that C-148 submittals had been submitted incorrectly. The OCD also requested corrected C-148 Forms to determine the amount of produced water being recycled at this facility versus reclaimed oil.

On November 6, 2023 a hard copy of C-141 was received at OCD's Artesia District Office. An OCD representative emailed Mr. Townsend notification that the form was not reviewed as it was not submitted via OCD's e-permitting portal.

6. Production Waste Solutions is the operator and responsible party for the 2RF-165 – SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319].
7. The fire and release of liquids at the 2RF-165 – SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319] on October 22, 2023, was a major release as is defined by 19.15.29.7.A NMAC and was in violation of 19.15.29.8 NMAC.
8. The Operator did not comply with the initial response requirement in violation of 19.15.29.8.C NMAC.
9. The Operator did not notify the OCD verbally or by e-mail within 24 hours of discovery of the major release at the 2RF-165 - SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319] on October 22, 2023, as required by 19.15.29.10(A)(1) NMAC.
10. The Operator did not notify OCD in writing by file Form C-141 within 15 days of discovery of the major release at the 2RF-165 - SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319] on November 6, 2023, as required 19.15.29.10(A)(2) NMAC. To date, PWS has not provided the required notification.
11. The Operator failed to keep accurate records of materials received at 2RF-165 - SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319] and failed to provide accurate monthly C-148 Forms as required by 19.15.34.9(E) NMAC.

(3) *Compliance*: The Operator shall immediately, but in no event later than fourteen (14) days after receipt of this letter:

- File a complete and accurate C-141 for the major release at the 2RF-165 SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319] on October 22, 2023.
- Provide OCD with a detailed summary of all remedial activities to date, including volume of materials recovered, method and location of disposal and investigative determinations, or corrective actions the operator has identified.

(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

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- shutting in a well or wells
- 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
- any other remedy authorized by law

For the alleged violations described above and consistent with applicable law, OCD proposes the following sanctions (one or more of which may ultimately be selected):

- Civil Penalty:

OCD proposes a cumulative total of \$828,050.00 for 6 separate violations related to the 2RF-165 - SANDPOINT RECLAMATION FACILITY PWS [fVV2130741319] as detailed in the civil penalty calculations, attached and incorporated as Exhibit A. The civil penalties were calculated as of July 31, 2024. 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.

(5) Informal Review and Resolution: A process is available for the informal review and resolution of the alleged violations in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) Hearing: If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on October 3, 2024. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Chris Moander , Assistant General Counsel, (505) 476-3441 or Chris.Moander@emnrd.nm.gov.

Regards,



Gerasimos Razatos
Director (Acting)

8/1/2024

Date

cc: EMNRD-OGC

Sante Fe Main Office
Phone: (505) 476-3441

General Information
Phone: (505) 629-6116

Online Phone Directory
<https://www.emnrd.nm.gov/oed/contact-us>

State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

CONDITIONS

Action 549186

CONDITIONS

Operator: PRODUCTION WASTE SOLUTIONS LLC 1101 SE Mustang Dr Andrews, TX 79714	OGRID: 371912
	Action Number: 549186
	Action Type: [C-147] Water Recycle Long (C-147L)

CONDITIONS

Created By	Condition	Condition Date
vvenegas	None	2/2/2026