

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

NMOCD – ACO- 284

**IN THE MATTER OF De La Sierra Trucking, Inc.,**

**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 De La Sierra Trucking, Inc. ("Sierra") enter into this Agreed Compliance Order ("ACO") under which Sierra 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 Sierra if Sierra fails to meet the schedule set out in this ACO.

**FINDINGS**

1. The OCD is the state agency charged with administration and enforcement of the New Mexico Oil and Gas Act ("OGA") and Water Quality Act ("WQA") with regard to oil and gas activities, and rules and orders adopted pursuant to each Act.
2. Sierra is a corporation doing business in the state of New Mexico under New Mexico Secretary of State Corporation No. 4150645. *OGRID: 281883*
3. 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."

ACO

De La Sierra Trucking, LLC

Page 1 of 5

4. 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.”

5. On May 19, 2014, two Eddy County Employees witnessed Sierra, through their driver, Anier Perez, discharged a load of fluid on and around Old Cavern Highway/CR 748.
6. The Eddy County Employees tracked the runoff from the dumping. They found it was flowing into the nearby Black River.
7. Both Eddy County Employees stated that the fluid had a foul odor. One employee noted that his shoes smelled after walking through the fluid.
8. The Truck had DOT #1313032, Trailer License Plate #1883FTH, Cab license plate IRH9999, and PRC #54341 markings and was identified as Sierra Truck C30.
9. OCD was sent a report from the Bureau of Land Management (“BLM”) on May 22, 2014 regarding the illegal discharge.
10. The OCD sent Sierra a Letter of Violation from the OCD on May 29, 2014, describing the incident report and requesting further information.
11. Sierra submitted a formal response on July 2, 2014, including the information requested by the OCD.

### **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. Sierra’s discharge of fluid on May 19, 2014 violated the Water Quality Act.
3. Sierra failed to prove that the water was not contaminated to the satisfaction of the OCD.

4. Sierra is responsible for the illegal discharge and agrees to enter into this ACO to resolve the violation.

### **ORDER**

1. Sierra agrees to a total fine of \$10,000 for violations of the WQA, pursuant to Section 74-6-10 NMSA 1978. Sierra agrees to pay the fine in full within 30 days after the execution of this order.
2. Sierra understands that if it fails to meet the terms of this ACO, the OCD may decide not to enter into any further agreed compliance orders with Sierra, and may take further enforcement actions against Sierra.
3. By signing this ACO, Sierra expressly:
  - (a) acknowledges the correctness of the Findings and Conclusions set forth in this ACO;
  - (b) agrees to pay the fine of \$10,000 within 30 days of the execution of this ACO;
  - (c) waives any right, pursuant to the Oil and Gas Act, Water Quality Act or otherwise, to an appeal from this ACO, or to a hearing either prior to or subsequent to the entry of this ACO; and
  - (d) agrees that the ACO 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.
4. 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 Sierra for the discharge on 5/19/2014, on and around Old Cavern Highway/CR 748. Other discharges by Sierra may be subject to immediate enforcement action under the Water Quality Act, Oil and Gas Act, and WQCC and OCD Rules, and additional penalties will be assessed.

### **OTHER TERMS AND CONDITIONS**

**Enforcement.** The OCD retains the right to pursue any relief authorized by the WQA or WQCC Regulations for any violation not addressed herein. The OCD retains the right to enforce the ACO by administrative or judicial action, which decision shall be in its sole discretion. In the event that the OCD elects to file a judicial action to enforce the ACO, the parties agree that the action shall be heard by the district court for Santa Fe County, which shall have exclusive jurisdiction over the parties and ACO, and they

waive any right to challenge such jurisdiction in any forum. The laws of New Mexico shall govern the construction and interpretation of the ACO.

**Binding Effect.** The ACO shall be binding on the parties and their officers, directors, employees, agents, subsidiaries, successors, assigns, trustees, or receivers.

**Duration.** The ACO shall remain in effect until the OCD issues a written determination that Sierra has complied with all of the corrective action requirements of the ACO.

**Integration.** The ACO merges all prior written and oral communications between the parties concerning the subject matter of the ACO, and contains the entire agreement between the parties. The ACO shall not be modified without the express written consent of the parties.

**Reservation of Rights and Defenses.** The ACO shall not be construed to prohibit or limit in any way the OCD from requiring Sierra to comply with any applicable state or federal requirement. The ACO shall not be construed to prohibit or limit in any way the OCD from seeking any relief authorized by the WQA for violation of any state or federal requirement applicable to Sierra not resolved herein. The ACO shall not be construed to prohibit or limit in any way Sierra from raising any defense to an OCD action seeking such relief.

**Mutual Release.** The parties mutually release each other from all claims that each party raised or could have raised against the other regarding the facts and legal conclusions alleged above.

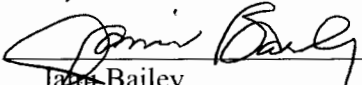
**Waiver of State Liability.** Sierra shall assume all costs and liabilities incurred in performing any obligation under the ACO. The OCD, on its own behalf or on the behalf of the State of New Mexico or any other state agency, shall not assume any liability for Sierra's performance of any obligation under the ACO.

**Authority to Bind.** The person executing this ACO on behalf of Sierra represents that s/he has the authority to execute this ACO on behalf of Sierra.

**Disclosure to Successor-In-Interests.** Sierra shall disclose the ACO to any successor-in-interest and shall advise such successor-in-interest that the ACO is binding on the successor-in-interest until such time as Sierra complies with its terms and conditions or it is terminated by written agreement of the parties.

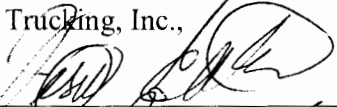
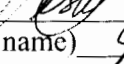
**Effective Date.** The ACO shall become effective upon the execution by the duly authorized representatives of both parties.

Done at Santa Fe, New Mexico this 2<sup>nd</sup> day of September, 2014

By:   
Jamie Bailey  
Director, Oil Conservation Division

**ACCEPTANCE**

De La Sierra Trucking, Inc. hereby accepts the foregoing ACO and agrees to all of the terms and provisions set forth in the ACO.

De La Sierra Trucking, Inc.,   
By:   
(Please print name) JAVIER ESTRADA  
Title: OWNER  
Date: 8/22/2014



Sierra Trucking Inc.  
Hobbs, New Mexico

(575) 738-0972  
3116 ROSE RD  
HOBBS, NM 88242

THE HOBBS NATIONAL BANK  
1101 JOE HARVEY BLVD.  
PO BOX 100  
HOBBS, NM 88240  
95-62-1122

8/21/2014

PAY TO THE  
ORDER OF State Of New Mexico \*

Ten Thousand and 00/100\*\*\*\*\*

\$ \*\*10,000.00

DOLLARS

State Of New Mexico \*  
1220 S. St. Francis Dr.  
Santa Fe, NM 87505

MEMO

AUTHORIZED SIGNATURE

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