

## Jones, Brad A., EMNRD

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**From:** Jones, Brad A., EMNRD  
**Sent:** Friday, February 9, 2018 9:25 AM  
**To:** 'Doescher, Shelly'; Herrmann, Keith, EMNRD  
**Cc:** Griswold, Jim, EMNRD; Ahrens, Mickey; Striegel, Bonita; Barton, Keith  
**Subject:** RE: EnerVest Operating, LLC C-133  
**Attachments:** 2018 0209 C133-245 Enervest Operating LLC approval.pdf; RULE 19.15.34.17 NMAC effective 3-31-15-17.pdf

### **Enervest Operating LLC, C-133-245**

OCD hereby approves the Form C-133, Authorization to move Produced Water, with the following conditions:

It is the responsibility of each holder of an approved Form C-133 to familiarize its personnel with the content of 19.15.34.17 NMAC and to assure operations in compliance therewith. Failure to move and dispose of produced water in accordance with 19.15.34.17 NMAC are cause for cancellation of Form C-133 and the authority to move produced water.

Please be advised that approval of this request does not relieve the owner/operator of responsibility should operations result in pollution of surface water, ground water or the environment. Nor does approval relieve the owner/operator of its responsibility to comply with any other applicable governmental authority's rules and regulations.

*Your Order Number is: 245, this is an internal tracking number. The Applicant can use this number to locate their approved form C-133 application online, see directions below.*

- A copy of your approved Form C-133 is located online here:

<http://ocdimage.emnrd.state.nm.us/imaging/AEOrderCriteria.aspx>

- Open the link and the following options will display.
  - Select **ORDER TYPE**: "Authorization to Transport Oilfield Liquids – (C-133)", within the pull down menu.
  - THEN, within the **ORDER NUMBER**: type in the C-XXX number located on the upper right hand corner of approved permit.
  - Once entered, select "Search", the screen will change to data pertaining to your Form C-133. All Thumbnails noted are in PDF format.
- Your approved Form C-133 and the Authorization to Move Produce Water rules (19.15.34.17 NMAC) are attached to this e-mail.
  - A **COPY** of your Approved Form C-133 shall be placed in **EACH** of your Transport Vehicles.
  - If the TRANSPORTER changes their contact information or location/Contact-Mailing address, notify the OCD Santa Fe office of the changes @ 505-476-3487

- If the TRANSPORTER changes their Transporter Name then their previously approved C-133 is nullified and is no longer active. Contact the OCD Santa Fe office if there is a Transporter name change @ 505-476-3487.

**Brad A. Jones**  
*Environmental Engineer*  
*EMNRD Oil Conservation Division*  
*1220 S. Saint Francis Drive*  
*Santa Fe, New Mexico 87505*  
*E-mail: [brad.a.jones@state.nm.us](mailto:brad.a.jones@state.nm.us)*  
*Office: (505) 476-3487*  
*Fax: (505) 476-3462*

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**From:** Doescher, Shelly [mailto:[sdoescher@EnerVest.net](mailto:sdoescher@EnerVest.net)]  
**Sent:** Friday, January 19, 2018 3:23 PM  
**To:** Herrmann, Keith, EMNRD <[Keith.Herrmann@state.nm.us](mailto:Keith.Herrmann@state.nm.us)>; Jones, Brad A., EMNRD <[brad.a.jones@state.nm.us](mailto:brad.a.jones@state.nm.us)>  
**Cc:** Griswold, Jim, EMNRD <[Jim.Griswold@state.nm.us](mailto:Jim.Griswold@state.nm.us)>; Gutierrez, Avelino A., PRC <[Avelino.Gutierrez@state.nm.us](mailto:Avelino.Gutierrez@state.nm.us)>; Ahrens, Mickey <[MAHrens@EnerVest.net](mailto:MAHrens@EnerVest.net)>; Striegel, Bonita <[BStriegel@enervest.net](mailto:BStriegel@enervest.net)>; Barton, Keith <[kbarton@EnerVest.net](mailto:kbarton@EnerVest.net)>  
**Subject:** RE: EnerVest Operating, LLC C-133

Dear Mr. Herrmann and Mr. Jones,

EnerVest Operating, LLC is actively pursuing the warrant for transportation required by rule 19.15.34.18 NMAC. The paperwork is currently with our insurance company and should be completed and delivered to the NMPRC in the near future. If necessary to expedite the process, we will hand deliver.

Best regards,  
Shelly Doescher  
Agent  
EnerVest Operating, LLC  
505-320-5682

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**From:** Herrmann, Keith, EMNRD [mailto:[Keith.Herrmann@state.nm.us](mailto:Keith.Herrmann@state.nm.us)]  
**Sent:** Friday, January 05, 2018 5:22 PM  
**To:** Doescher, Shelly  
**Cc:** Griswold, Jim, EMNRD; Jones, Brad A., EMNRD; Sanchez, Daniel J., EMNRD; Ahrens, Mickey; Striegel, Bonita; Barton, Keith; Gutierrez, Avelino A., PRC  
**Subject:** RE: EnerVest Operating, LLC C-133

Dear Ms. Doescher:

Brad Jones referred this matter over to me for review. My understanding is that Enervest was updating information for an existing C-133, when it was discovered that no warrant for transportation was included with Enervest's C-133. In response, Enervest presented a letter from the PRC stating no warrant was required because Enervest is moving only product that it owns.

After discussion with Avelino Gutierrez of the NM PRC, Enervest may have oversimplified the facts here. Enervest is registered with the New Mexico Secretary of State as a foreign limited liability company incorporated in Delaware. It operates 758 oil and gas wells on private, state, federal and tribal mineral leases. The private carrier exemption cited by the PRC does not extend to interstate limited liability companies, who hire drivers to haul oil field waste, for commercial purposes.

A warrant for transportation is required by rule 19.15.34.18 NMAC. I understand getting a warrant is a simple matter, with no hearing required. Enervest is already registered with the USDOT, which will help facilitate the review. If you wish to avoid a hearing to revoke your C-133, this would be the simplest solution.

Additionally, upon review of Enervest's compliance status with OCD rules, Enervest is currently out of compliance with 19.15.5.9 NMAC because they currently have 8 wells that have been inactive in excess of one year plus ninety days. Pursuant to the provisions of 19.15.5.9(A)(4)(c), an operator of 501-1000 wells may only have 7 inactive wells. Enervest has an active Agreed Compliance Order for inactive wells (ACOI-2016-001) that does not include the eight wells I referenced. I have cc'd Daniel Sanchez, our Compliance and Enforcement Manager, so he may review Enervest's compliance with that order as well. If the requirements of ACOI-2016-001 have not been met, including testing, and reporting requirements, the order could expire and Enervest would be even further non-compliant with 19.15.5.9 NMAC.

Please contact myself or Daniel Sanchez if you have any additional questions.

Keith Herrmann

Office of the General Counsel

Energy, Minerals and Natural Resources Department

1220 S. St. Francis Dr.

Santa Fe, NM 87505

Tel: (505) 476-3463

Fax: (505) 476-2220

[Keith.Herrmann@state.nm.us](mailto:Keith.Herrmann@state.nm.us)

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**From:** Doescher, Shelly [<mailto:sdoescher@EnerVest.net>]

**Sent:** Tuesday, January 2, 2018 7:23 AM

**To:** Jones, Brad A., EMNRD <[brad.a.jones@state.nm.us](mailto:brad.a.jones@state.nm.us)>

**Cc:** Griswold, Jim, EMNRD <[Jim.Griswold@state.nm.us](mailto:Jim.Griswold@state.nm.us)>; Ahrens, Mickey <[MAhrens@EnerVest.net](mailto:MAhrens@EnerVest.net)>; Striegel, Bonita <[BStriegel@enervest.net](mailto:BStriegel@enervest.net)>; [avelino.gutierrez@state.nm.us](mailto:avelino.gutierrez@state.nm.us); Barton, Keith <[kbarton@EnerVest.net](mailto:kbarton@EnerVest.net)>

**Subject:** EnerVest Operating, LLC C-133

Good morning Brad.

This note is in reference to your conversations with Bonita Striegel at EnerVest Operating, LLC concerning the C-133 Application form.

The instructions on completing the C-133 Application, effective February 2018, state that all corporations, limited liability corporations, partnerships and limited partnerships must obtain a warrant. When EnerVest contacted the New Mexico Public Regulation Commission the response was that a warrant is not required for private carriage. (See attached letter). It is EnerVest's intention to make every effort to remain in compliance, but we seem to be caught in the proverbial catch-22. Bonita indicated she was told that you may not sign the C-133 2013 form, which would effectively cancel the approved C-133-245 under which we now operate. The rules state that the C-133 does not expire, and may only be cancelled after notice and opportunity for a hearing. While a hearing seems like a very burdensome and time consuming way to resolve the issue, EnerVest would request such a hearing before any action is taken.

As stated, it is EnerVest's desire to comply with all regulations. Your assistance in this matter is greatly appreciated, as it may be simply a lack of communication between NMOCD and the NMPRC concerning the new warrant requirements taking effect February 2018. Thank you in advance for your help.

Best wishes for a safe and happy new year,  
Shelly Doescher  
Agent  
EnerVest Operating, LLC  
505-320-5682

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

C-245

### AUTHORIZATION TO MOVE PRODUCED WATER

Transporter Name: EnerVest Operating LLC

Business (Physical) Address in New Mexico:

Contact Mailing Address (If different):

Jicarilla Field Office

2700 Farmington Ave, Bldg K, Ste 1

Mile Marker 18, Highway 537 Linderoth NM  
87029

Farmington, NM 87401

Business Phone: 505-325-0318

Contact Phone: 505-325-0318

Business Fax: 505-325-0328

Contact Fax: 505-325-0328

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): LLC

A. If the applicant is a corporation or LLC, provide the Secretary of State corporation number:

NOT FOR HIRE SCC # 2547982

B. If the applicant is a limited partnership or limited liability partnership, provide the Secretary of State file 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: Bonita Striegel

Date: 11-27-17

Printed Name: Bonita Striegel

Title: Manager - office Facilities

E-mail Address: bstriegel@enervest.net

(This space for State use)

Approved by: 

Title: Environmental Specialist

Date: February 9, 2018

**19.15.34.17 TRANSPORTATION OF PRODUCED WATER, DRILLING FLUIDS AND LIQUID OIL FIELD WASTE:**

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

**B.** A person may apply for authorization to move produced water, drilling fluids or liquid oil field waste by motor vehicle 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 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 the month.  
[19.15.34.17 NMAC - Rp, 19.15.34.8 NMAC, 3/31/15]

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

**A.** the applicant is a corporation or limited liability company, and is not registered with the secretary of state to do business in New Mexico;

**B.** the applicant is a limited partnership, and is not registered with the New Mexico secretary of state to do business in New Mexico;

**C.** the applicant does not possess a warrant for transportation under the state registration system the public regulation commission administers, if it is required to have such a permit under the applicable statutes or rules; or

**D.** the applicant or officer, director or partner in the applicant, or a person with an interest in the applicant exceeding twenty-five percent (25%), is or was within the past five years an officer, director or partner in the applicant, or a person with an interest in the applicant exceeding twenty-five percent (25%) 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 or other state or federal environmental laws; is subject to a commission or division order, issued after notice and hearing, finding such entity to be in violation of an order requiring corrective action; or has a penalty assessment for violation of division or commission rules or orders that is unpaid more than 70 days after issuance of the order assessing the penalty.  
[19.15.34.18 NMAC - Rp, 19.15.34.9 NMAC, 3/31/15]

**19.15.34.19 CANCELLATION OR SUSPENSION OF AUTHORIZATION TO MOVE LIQUID**

**WASTES:** A transporter's vehicular movement or disposition of produced water, drilling fluids or liquid oil field waste in a manner contrary to division rules is ground for denial of approval of form C-133 in addition to those specified in Subsection D of 19.15.34.18 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.

[19.15.34.19 NMAC - Rp, 19.15.34.10 NMAC, 3/31/15]

**19.15.34.20 DISPOSITION OF PRODUCED WATER AND OTHER OIL FIELD WASTE:** Except as authorized by 19.15.17 NMAC, 19.15.26.8 NMAC, 19.15.30 NMAC, 19.15.34 NMAC or 19.15.36 NMAC, persons, including transporters, shall not dispose of produced water or other oil field waste:

**A.** on or below the surface of the ground, in a pit or in a pond, lake, depression or watercourse;

**B.** in another place or in a manner that may constitute a hazard to fresh water, public health, or the environment; or

**C.** in a permitted pit or registered or permitted surface waste management facility without permission of the owner or operator of the pit or facility.

[19.15.34.20 NMAC - Rp, 19.15.34.11 NMAC, 3/31/15]

**19.15.34.21 ENFORCEMENT:**

**A.** The operator of a recycling facility or recycling containment shall comply with all the requirements of 19.15.34 NMAC.

**B.** If the division determines that the registration of a recycling facility or recycling containment or that operations at a recycling facility or recycling containment violate the requirements of 19.15.34 NMAC, the division district office shall notify the operator in writing. If the violation threatens contamination of fresh water, public health, or the environment, the notice of violation shall be signed by the director, the operator shall immediately cease all operations at the recycling facility or containment and the director may require the operator to remove all fluids, if any, in the recycling facility or containment by a date determined by the director.

**C.** The operator shall have 60 days from the date it is notified of a violation to remove the recycling facility or recycling containment in accordance with 19.15.34 NMAC unless the violation is corrected or an agreed compliance order providing for corrective action is entered with the division. The operator may request an immediate stay of the division's order as part of an application for review of the notice of violation filed by the operator.

**D.** The provisions of 19.15.4 NMAC applicable to adjudicatory proceedings shall apply to these enforcement proceedings unless altered or amended by 19.15.5.10 NMAC or 19.15.34 NMAC.

**E.** The division may enter into an agreed compliance order prior to or after the filing of an application for an administrative compliance proceeding. An agreed compliance order shall have the same force and effect as a compliance order issued after an adjudicatory hearing.

**F.** After a notice of violation that threatens contamination of fresh water, public health, or the environment is issued, until the operator obtains an agreed compliance order, performs appropriate corrective action or is granted a stay, the division may not approve any permits for the operator.  
[19.15.34.21 NMAC - N, 3/31/15]

#### **HISTORY of 19.15.34 NMAC:**

**History of Repealed Material:** 19.15.2 NMAC, General Operating Practices, Wastes Arising from Exploration and Production (filed 04/21/2004) repealed 12/1/2008.

19.15.34 NMAC, Produced Water (filed 11/17/2008) repealed 3/31/2015.

#### **NMAC History:**

Those applicable portions of 19.15.2 NMAC, General Operating Practices, Wastes Arising from Exploration and Production (Sections 51 and 52) (filed 01/24/2007) were replaced by 19.15.34 NMAC, Produced Water, effective 12/1/2008.

19.15.34 NMAC, Produced Water (filed 11/17/2008) was repealed and replaced by 19.15.34 NMAC, Produced Water, Drilling Fluids and Liquid Oil Field Waste, effective 3/31/2015.