



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



Response Required-Deadline Enclosed

July 30, 2009

Cortez Trucking & Oilfield Services
ATTN: Mr. Cirilo Cortez
2403 Los Alamos
Carlsbad NM 88220

Certified Mail: 7002 2030 0003 3687 5374

Dear Mr. Cortez,

On or about June 22, 2009, fluids were seen gushing out the back of your transport truck as it sat parked outside your trucking facility located at the above address. The fluids traveled across your trucking facility and down the shoulder of Los Alamos Street. A grassy area where the fluids ran onto was dead the following day. The manner and time frame in which the fluids killed the grass are indicative of high-salt content such as those fluids associated with water from oil field production. Oil Conservation Division (OCD) records do not show Cortez Trucking & Oilfield Services as having an approved form C-133 authorization to move produced water.

Water Quality Control Commission (WQCC) Rule 20.6.2.3104 NMAC (copy enclosed) 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.

WQCC Rule 20.6.2.1201 NMAC (copy enclosed) requires any person intending to make a new water contaminant discharge to file a notice with the Ground Water Quality Bureau of the New Mexico Environment Department (NMED) for discharges that may affect ground water, and / or the Surface Water Quality Bureau of the NMED for discharges that may affect surface water. Notice regarding discharges from facilities for the production, refinement, pipeline transmission of oil and gas or products thereof, the oil field service industry, oil field brine well production wells, geothermal installations and carbon dioxide facilities shall be filed instead with the OCD.



WQCC Rule 20.6.2.1203 NMAC (copy enclosed) requires the Chief of the Ground Water Quality Bureau of the NMED or the appropriate constituent agency to be promptly notified of 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 Rule describes the requirements for notice. The Rule also requires the owner / operator of the facility to promptly take such corrective actions as are necessary or appropriate to contain and remove or mitigate the damage caused by the discharge.

The New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended, give the OCD regulatory authority over oil and gas operations within New Mexico.

OCD Rule 19.15.34.8 NMAC (copy enclosed) 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.

OCD Rule 19.15.34.11 NMAC (copy enclosed) 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

OCD Rule 19.15.29 NMAC (copy enclosed) requires persons who operate or control the release or the location of the release to notify the OCD of the unauthorized release of oil, gases, produced water, condensate or oil field waste including regulated NORM, or other oil field related chemicals, contaminants or mixtures of those chemicals or contaminants that occur during drilling, producing, storing, disposing, injecting, transporting, servicing or processing. The Rule describes the requirements for notice. OCD Rule 19.15.29 NMAC also requires the responsible person to complete OCD-approved corrective action for releases that endanger public health or the environment.

OCD "Guidelines for Remediation of Leaks, Spills and Releases" is available on the Internet at: www.emnrd.state.nm.us/ocd/documents/7C_spill1.pdf.

Please contact me **within 10 days of the date of this letter** at (505) 476-3493 to schedule an administrative conference. OCD legal counsel may be present for the conference, and you may bring legal counsel if you wish.

A person whom is a responsible agent for Cortez Trucking & Oilfield Services is required to attend the administrative conference and bring the following:

- A copy of your New Mexico waste hauler permit and requirements.
- The date, time, location and duration of the release.
- An estimated volume of the release.
- Any records associated with the release.
- The name and source of the chemicals your truck was hauling 48 hours before and during the time when the fluids were released from the truck.
- The reason why the fluids were released where they were released.
- The name and contact information of the company your truck was hauling for at the time of the release.
- The names of all companies you are or have hauled for in New Mexico.
- Any actions taken to mitigate immediate damage from the release.
- A description of the efforts you took to notify the appropriate enforcement agencies of the release.

If this matter cannot be resolved administratively, the OCD may take additional enforcement action against Cortez Trucking & Oilfield Services, which may include seeking an administrative order requiring Cortez Trucking & Oilfield Services to take corrective action, obtaining injunctive relief requiring Cortez Trucking & Oilfield Services to remediate the release, or seeking a district court order requiring Cortez Trucking & Oilfield Services to pay civil penalties.

Cortez Trucking & Oilfield Services

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Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Sanchez". The signature is stylized with large, flowing loops and a long horizontal stroke at the end.

 Daniel Sanchez,
Enforcement & Compliance Manager, OCD

CC: Mark Fesmire, Director, OCD
Sherry Bonham, Acting District 2 Supervisor, OCD
Mike Bratcher, District 2 Compliance Officer, OCD
Glenn VonGonten, Acting Environmental Bureau Chief, OCD
Sonny Swazo, Assistant General Counsel, OCD
Bill Olson, Ground Water Quality Bureau Chief, NMED
Glenn Saums, Acting Surface Water Quality Bureau Chief, NMED

Enclosures: 20.6.2 NMAC
19.15.29 NMAC
19.15.34 NMAC