

Venegas, Victoria, EMNRD

From: Herrmann, Keith, EMNRD
Sent: Thursday, January 24, 2019 5:40 PM
To: Bratcher, Mike, EMNRD; Wade, Gabriel, EMNRD; Griswold, Jim, EMNRD; Sanchez, Daniel J., EMNRD
Cc: Hernandez, Christina, EMNRD; Hamlet, Robert, EMNRD; Venegas, Victoria, EMNRD
Subject: RE: OGRID Required for Crude Haulers?

Mike:

I had a chance to talk to COG/Holly attorney, and they told me that Transwood may not have an OGRID but they are not some fly by night operation. I checked and it is registered with the NM SOS, and the USDOT. They have agreed to perform the cleanup and I am under the impression that they have someone on the way out there on Monday. I understand the C-141 was submitted and you entered Holy as the RP. That is fine, though if Transwood registers as a transporter, we could substitute its ORGID once it gets one. After speaking with you several folks here, no one has any strong opinions over who does the cleanup, so long as it gets done.

But as for these types of releases in the general sense, I would like to give you an easy answer, but I think they will all be case specific. I told Holly's attorney that if this case were different, we would probably hold Holly accountable, and that they would not be able to absolve themselves of responsibility of an unlicensed sub-contractor. When determining if a party is responsible for the harm done by a sub-contractor, there are many factors that need to be considered and can be a complex analysis regarding their true independence. I think it will also matter where the release occurs, and how it happened.

If you have any more specific incidents to review, feel free to contact me.

Keith

From: Bratcher, Mike, EMNRD
Sent: Wednesday, January 16, 2019 10:15 AM
To: Wade, Gabriel, EMNRD <Gabriel.Wade@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Sanchez, Daniel J., EMNRD <daniel.sanchez@state.nm.us>; Herrmann, Keith, EMNRD <Keith.Herrmann@state.nm.us>
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Subject: OGRID Required for Crude Haulers?

Good Morning,

I have an issue that has popped up several times, very recently. It has been discussed some in the Environmental group, but no real clear resolution. The issue is transport companies that haul crude oil not having an OGRID number. It looks to me like they should have one, but who is responsible to insure that they do, if it is required? There have been a couple of spills due to a crude transport overturning on the highway, sending a C-141, but the system will not allow us to enter it without the OGRID. The crude haulers do not know what an OGRID is.

A more specific, and more entailed incident is a recent release on a COG location. Transwood (the transport company) was picking up a load for Holly (Navajo) at a COG battery. The driver apparently failed to unhook the load hose and drove off creating the spill. Holly reps have said they refuse to send the C-141 because they believe it isn't their oil until it is delivered to their facility and they take physical control of the product. COG is checking with their legal counsel. The

C-104 for this well lists two transporters, Navajo (OGRID 15694) and DCP (OGRID 35785). It appears to me, that since Navajo is listed as transporter on the C-104, if they contract Transwood to pick up the oil, Transwood is acting on Navajo's (Holly) behalf, so once the oil is loaded on the transport, Holly has taken control of the oil, and would be responsible for it at that point. If Holly then wants to require Transwood to foot the bill for cleanup, that would be between Holly and Transwood, but Holly should be accountable to OCD for submitting all relative documents. Then we still have the issue of the transport company needing an OGRID or not, if they are acting as contractor to another entity.

Looking for some guidance.

Thanks,

Mike Bratcher
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