

October 10, 2022

Camille Howes, Forest Supervisor  
Gila National Forest  
3005 E Camino del Bosque  
Silver City, NM 88061

Dear Supervisor Howes:

As you are no doubt aware, a tanker truck operated by NMDOT contractor R. Marley, LLC overturned on State Route 15 on September 26, resulting in the release of thousands of gallons of HFE-100P asphalt emulsion into Jaybird Canyon in the Gila National Forest (GNF). The delay would undoubtedly have been longer had residents of the area not noticed the problem, organized crews of volunteers to begin removing the material, and raised public alarm about the situation.

To avoid the potential for future delays in responding to these types of emergencies and due to the ecological sensitivity of this riparian area and the potential impact on at least one protected species, we urge you to take the following steps.

1. Examine the actions taken that day and subsequent days related to this incident and examine any gaps in agency procedures. Questions may include:
  - When did the GNF become aware that a large tractor trailer carrying asphalt emulsion had overturned on Forest Service lands?
  - Did a GNF Enforcement Officer report to the scene? If so, did they report back to the GNF?
  - Had the New Mexico Department of Transportation (NMDOT) notified the GNF that a contractor was authorized to utilize the type of truck and trailer involved in the accident on that stretch of State Route 15 despite it being signed as unsuitable for large loads?
2. Continue to work in collaboration with the New Mexico Environment Department to ensure corrective action plans and long-term restoration are developed, approved and implemented with appropriate U.S. Forest Service, US Fish and Wildlife Service and New Mexico Game and Fish biologists' input.
3. Ensure any hay, straw, or mulch used for containment, absorption, or revegetation be guaranteed free of weed seeds.

4. Help ensure all machinery used in the cleanup, if any, will not damage stream banks or soils in a way that would cause excessive erosion, sedimentation, or channelization of creeks and streams.
  
5. Initiate a plan for better coordination between the NMDOT and the GNF on road work on Forest Service land. This is especially true in the Signal Peak area where the road cuts through riparian habitat containing plant Species of Conservation Concern. The consequences of accidents or negligence in such areas can be much greater than they would be elsewhere, and routine practices relating to the storage of materials, the creation of staging areas, the transportation of materials and supplies, and the blading of shoulders may cause damage to sensitive areas that would not normally be considered by planners or equipment operators.

We appreciate your expedited attention to this serious situation and look forward to hearing back from you on the results of your assessment.

Sincerely,

Allyson Siwik, Executive Director  
Gila Resources Information Project

Patrice Mutchnick, Director  
Heart of the Gila

Donna Stevens, Executive Director  
Upper Gila Watershed Alliance

Todd Schulke, Co-founder  
Center for Biological Diversity

Cc: Senator Siah Correa Hemphill  
Lieutenant Governor Howie Morales  
Grant County Commission  
Silver City Town Council  
Jeff Schearer, Natural Resources Officer, Gila National Forest