

October 10, 2022

Mr. Ricky Serna, Secretary
New Mexico Department of Transportation
1120 Cerrillos Road
Santa Fe, NM 87504-1149

Sent via email to: Secretary Serna via Jolene Casados, Executive Administrator at
Jolene.Casados2@state.nm.us

Dear Secretary Serna,

As you are no doubt painfully aware, a tanker truck operated by NMDOT contractor R. Marley, LLC overturned on State Route 15 on September 26, eventually resulting in the release of thousands of gallons of HFE-100P asphalt emulsion into Jaybird Canyon in the Gila National Forest. The canyon feeds into Sapillo Creek which is part of the Gila River Watershed and is home to threatened Gila Trout.

Although State Police were at the accident site within minutes and witnesses reported the accident and spill of the asphalt emulsion immediately to 9-1-1, no official action was taken to contain or remove the material until October 6, some eleven days later. That delay would undoubtedly have been even 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.

The undersigned organizations request your department conduct a thorough investigation into your employees' actions related to this incident, including whether they followed relevant laws, regulations, and departmental policies. We further request the results of this investigation be made public and that employees found to have failed to follow required procedures be held accountable and any identified gaps in agency or contractor procedures and employee training be remedied.

Specific questions we believe should be answered by this investigation include:

- 1) What was the exact destination of the truck and trailer? Had the NMDOT authorized the contractor 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) Were NMDOT employees on the scene following the accident/spill and for the removal of the truck?
- 3) Were NMDOT employees involved in making the determination regarding whether to report the spill to the New Mexico Environment Department?
- 4) Did NMDOT employees authorize or direct that the tank be emptied to facilitate removal of the tanker trailer?
- 5) Were the appropriate federal, state and local agencies notified of the accident and the potential release of material into the environment?

- 6) Were appropriate steps taken to notify local leaders and the public of the situation and any plans for mitigation?

We further request that your Department review its policies and procedures related to road and highway maintenance in ecologically sensitive areas and make an effort to coordinate more closely with the U.S. Forest Service – Gila National Forest on special considerations for these areas. 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 investigation.

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