

October 10, 2022

Mr. Jason Bowie, Secretary
New Mexico Department of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628

Sent via email to: dps.pio@state.nm.us

Dear Secretary Bowie,

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 hundreds or thousands of gallons of 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 report the spill until at least October 4, some nine 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 employees 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 information did the initial State Police accident report contain?
- 2) Was an Incident Command team created and, if so, did a State Police Officer take charge as Incident Commander?
- 3) Was there a reason why the spill was not reported to the New Mexico Environment Department per the New Mexico Water Quality Act notification of discharge-removal requirements outlined in NMAC 20.6.2.1203?
- 4) Did State Police 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 spill and the 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 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