



Certified Mail - Return Receipt Requested

October 19, 2022

R. Dane Marley
R. Marley, LLC
400 N. Pennsylvania Avenue, Suite 840
Roswell, NM 88201
dane@rmarley.com

RE: Notice of Noncompliance, R. Marley, LLC, ENTS 16286

Dear R. Dane Marley:

The purpose of this letter is to notify you that the New Mexico Environment Department (NMED) has determined that R. Marley, LLC has operated in noncompliance with the New Mexico Water Quality Act (WQA) and Water Quality Control Commission (WQCC) regulations (20.6.2 New Mexico Administrative Code; 20.6.4 NMAC) adopted pursuant to the WQA. Based on NMED's review of the facts associated with R. Marley's discharge of asphalt emulsifier into Jaybird Canyon, NMED's notice of noncompliance covers the following:

- Unreported discharge of asphalt emulsifier on September 26, 2022, resulting in the discharge of approximately 2,000 gallons of asphalt emulsifier directly into Jaybird Canyon in the Gila National Forest north of Pinos Altos, New Mexico. The discharge impacted a surface water of the State. [20.6.2.1203 NMAC; 20.6.4.13 NMAC; 20.6.4.98 NMAC]
- Disposal of refuse in Jaybird Canyon. [20.6.2.2201 NMAC]
- Failure to take timely corrective actions to contain the unauthorized discharge and mitigate damages to the environment and relieve the potential public health threat. [20.6.2.1203]

NMED is exploring appropriate enforcement actions pursuant to state law, including, but not limited to, the alleged violations listed above. NMED observed significant surface water impacts during our initial site visit on October 4, 2022. Violations of State water quality standards can lead to penalties under the New Mexico Water Quality Act. Section 74-6-10 NMSA 1978.

NMED reserves the right to require corrective actions and/or assess penalties to ensure compliance with New Mexico surface water quality standards and other legal requirements. Nothing in this letter shall be construed as relieving R. Marley, LLC of its obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders. It is the responsibility of the discharger to be familiar with and comply with the requirements and regulations of the State of New Mexico. Please contact me with any questions.

Sincerely,

Shelly Lemon
Surface Water Quality Bureau Chief

Cc: John Rhoderick, Acting Water Protection Division Director (NMED), john.rhoderick@env.nm.gov
Andrew Knight, Assistant General Counsel (NMED), andrew.knight@env.nm.gov
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