



November 1, 2022

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

Fellow New Mexicans,

The state is eager to address your concerns regarding the September 26 tanker truck spill on NM-15 resulting in the discharge of asphalt emulsion into Jaybird Canyon and Sapillo Creek. The New Mexico Department of Transportation welcomes the opportunity to provide clarity to the situation and explain the role the department played in the incident along with answers to your specific questions.

1. As you may know, NM-15 is a narrow, winding, steep road that ascends into the Gila National Forest. The NMDOT has identified, NM-15 is difficult for most drivers with, especially those with larger vehicles to navigate. Standard practice when work must be completed to maintain the integrity of the road, is to meet delivery drivers near the bottom of NM-15. Delivery drivers are specifically instructed by the NMDOT, through the Vendor to pull off the road at milepost 7.4 north of Pinos Altos at the "Araspa" site which is the designated "offloading" site. The NMDOT transfers the asphalt emulsion into department distributor trucks. The department then distributes the emulsion onto the road and returns to reload when needed. The exact location of the "chip seal" maintenance project was between milepost 7.4 to the intersection of NM-35. The road was scheduled for closure beginning Sept. 26, Monday through Thursday from 8 a.m. until 4 p.m. until complete, weather permitting. However, due to rain, the project was suspended On September 25, and the department called the vendor who provides the asphalt emulsion and canceled the delivery. The vendor was responsible for conveying the cancelation to their subcontracted delivery trucking company. The trucking company or specifically the delivery driver did not receive the cancelation information and showed up to deliver the asphalt. Due to our scheduled cancelation, NMDOT was not present at the transfer site to receive the delivery. The truck driver continued past the designated pull off "Araspa" site at milepost 7.4 and continued up NM-15 where he subsequently crashed near milepost 16.

**Michelle Lujan
Grisham**
Governor

Ricky Serna
Cabinet Secretary

Trent Doolittle
Deputy Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
District 1

Bruce Ellis
Commissioner
District 2

Hilma E. Chynoweth
Commissioner
District 3

Walter G. Adams
Commissioner, Chairman
District 4

Thomas C. Taylor
Commissioner
District 5

Charles Lundstrom
Commissioner, Secretary
District 6

2. Yes, the NMDOT (Silver City Maintenance Patrol) was on site following the crash. After the crash, the contracted delivery driver called 9-1-1 and state police were dispatched to the scene. Standard practice when there is a crash on any state road, State Police respond to the crash site and make the determination to close roads. At this time, NMDOT may be asked to help with traffic control which means the department provides cones, barricades, and portable message boards. NMDOT employees were *not* on scene for the removal of the truck on NM-15. Once the wrecking truck arrived, department employees left the scene.

3. NMDOT employees were *not* involved in making the determination to report the spill to the New Mexico Environment Department. Per department protocol, when there is a spill/crash of potentially hazardous or toxic material transported in a vehicle that is not owned by the NMDOT, the Department of Public Safety (DPS) (State Police) are trained to report the incident to the New Mexico Environment Department. However, NMDOT employees *are* trained to report any spill/leak that happens when department drivers' and or vehicles involved. The department is now looking into creating new protocol to either confirm with State Police a notification has been made from DPS to the proper channels or the NMDOT calls the spill in regardless of whether DPS notifies the Environment Department, even if there is redundancy.

4. The NMDOT did *not* authorize or direct the tank be emptied to facilitate removal of the tanker truck.

5. Yes, eventually the appropriate federal, state and local agencies were notified of the accident and the potential release of material into the environment.

6. Yes, eventually appropriate steps were taken to notify local leaders and the public of the situation and plans for mitigation.