



File Code:

Date: October 25, 2022

Allyson Siwik
305A North Cooper St.
Silver City, NM 88061

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
7021 1970 0000 1650 8712

Dear Ms. Siwik:

I am responding to your inquiry regarding the spill of emulsified asphalt on National Forest System lands and your recommendations for avoidance of future delays in response to such incidents.

First, I want you to know that I and my staff are engaged and will continue to closely coordinate with the New Mexico Environment Department on the cleanup, restoration, and long-term monitoring of impacts from the asphalt emulsion spill. R. Marley Trucking has taken full responsibility for the spill and is working with their contractor, BRZ Consulting, to implement federal and state required corrective actions. BRZ Consulting has provided the attached 15-day report detailing what is known about the material spilled and cleanup effort thus far. Additional documentation and plans are being developed.

I have reviewed the events of the day of the accident to understand why the U.S. Environmental Protection Agency, the New Mexico Environment Department, and U.S. Forest Service were not informed of a material spill until October 4, 2022, eight days after the incident. Upon learning of the spill, the Forest Service contacted the U.S. Environmental Protection Agency (EPA). In this setting, EPA has immediate authority and jurisdiction over all spills but chose to defer to the New Mexico Environment Department (NMED) through a pre-existing delegation. My staff also informed the U.S. Fish and Wildlife Service and New Mexico Game & Fish, due to the downstream presence of Gila trout and other sensitive species' habitats.

Forest Service Law Enforcement and front desk staff received the report of a vehicle accident in the hairpin turns on New Mexico Highway 15 on the day of the accident. The report did not note that there was an associated material spill. The Forest Service law enforcement officer on duty was not in the vicinity and did not respond to the vehicle accident. Accidents on public highways across the Gila National Forest are a commonplace occurrence. It is not feasible to respond to every accident, especially when other professional law enforcement with jurisdiction is on scene.

New Mexico State Police and Grant County Sheriff's Office have authority related to traffic and accidents on New Mexico Highway 15. Grant County Sheriff's deputies, New Mexico State Police, and New Mexico State Highway & Transportation Department responded to the accident. These entities and R. Marley Trucking were in a position to be able to report the material release on September 26. It is not clear why no report of the release of material was made on that day, the date of the incident. With over 2.7 million acres of Gila National Forest to manage, we must



rely on agency and public partners to follow protocols for reporting issues and incidents demanding attention.

All means and methods of cleanup are presently under the control and guidance of the New Mexico Environment Department, with resource input from my staff, who have advised that any non-native materials to be used in the cleanup and restoration of the spill must be certified weed-free. The steep, narrow nature of the terrain and lack of designated access routes demand that the cleanup efforts be conducted with hand tools and on foot to minimize resource impacts. No machinery is being used off of designated forest roads at this time.

New Mexico State Highway & Transportation Department has full authority within their highway easement for New Mexico Highway 15 across National Forest System lands while coordinating with the Forest Service annually on their 5-year plan of work. Within their easement, they are authorized for such activities as emergency repairs; bridge work; minor realignment; resurfacing, adding shoulders and auxiliary lanes; controlling brush and roadside vegetation; drainage; slope stabilization and scaling; and hazard removal.

I appreciate your engagement in the management and activities of the Gila National Forest, and your recommendations for improved interagency coordination. My staff and I will continue to work with the New Mexico Environment Department, and other agency partners to ensure a safe, effective cleanup of this asphalt emulsion spill, while not causing greater resource damage in the process. With willing partners, we will conduct an after-action review to improve communication and coordination in the future.

Sincerely,



CAMILLE L. HOWES
Forest Supervisor

Enclosure: Written Report 20.6.2.1203.A(6) NMAC State Highway 15 Asphalt Emulsion Spill
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