



February 12, 2016

Kenny Custer
Johnny B Transport LLC
2535 N 15th E
Idaho Falls, ID 83401

RE: Violation of the Montana Solid Waste Management Act [CVID #18957]

Dear Mr. Custer,

On January 25, 2016, the Enforcement Division (ENFD) of the Montana Department of Environmental Quality (DEQ) received a report that approximately 50 gallons of asphalt oil spilled to the ground as the result of a semi-truck accident along Highway 191 near mile marker 37, Gallatin County, Montana.

As of the date of this letter, ENFD has not received any written documentation that indicates the site has been fully assessed and all diesel fuel and motor oil-affected soils have been cleaned up and properly disposed of.

This letter is to inform you that the spill of asphalt oil at the above-referenced location is an improper disposal of a solid waste and therefore constitutes a violation of the Montana Solid Waste Management Act (SWMA).

In accordance with the SWMA and the Administrative Rules of Montana (ARM):

- It is unlawful to dispose of solid waste except as permitted. *See* Section 75-10-212, Montana Code Annotated (MCA);
- Disposal is defined as the discharge, injection, deposit, dumping, spilling, leaking, or placing of any solid waste into or onto the land. *See* Section 75-10-203(3), MCA; and
- Contaminated soil means soil, rocks, dirt, or earth that has been made impure by contact, commingling, or consolidation with petroleum hydrocarbons. *See* ARM 17.50.502(8).
- Waste is defined as useless, unwanted, or discarded materials in any physical form. *See* ARM 17.50.502(41).
- Contaminated soils are Group II wastes that require disposal at a Class II solid waste management system. *See* ARM 17.50.503.

In order to return to compliance, ENFD requests that the following corrective actions be conducted:

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- By March 12, 2016, hire a qualified environmental consultant and complete assessment and remedial actions, including proper disposal of all petroleum hydrocarbon-impacted media. It is recommended that a copy of this letter be provided to your environmental consultant and they contact me prior to initiating on-site activities. A list of environmental consulting firms is located at: <http://deq.mt.gov/lust/downloadables/Consultlist/consultantlist.mcpX>

Since this incident occurred on a highway right-of-way, an encroachment permit (Permit) may be required. For information on obtaining a Permit, please contact the Montana Department of Transportation Maintenance Area Office or the applicable county road department.

- By May 12, 2016, submit a cleanup report meeting ENFD's Standardized Cleanup Report (Report) format. Please refer to the Report for information on submitting the cleanup report to ENFD. The cleanup report can also be submitted using Montana's File Transfer Service (FTS). For information and instructions on using FTS, please visit <https://transfer.mt.gov/Home/Instructions>

The Standardized Cleanup Report and Soil Sampling Guidance, as well as DEQ's Spill Reporting Policy can be accessed on ENFD's web site under Spill Cleanup and Reporting Information at: <http://deq.mt.gov/enf/default.mcpX>. Please note that cleanup reports not submitted in the Standardized Cleanup Report format or providing the requested information will no longer be accepted by ENFD.

Please reference CVID 18957 on any future correspondence related to this incident.

If you have questions related to this matter or feel the information provided to ENFD regarding this spill is not factually accurate, please contact me at either ssteinweden@mt.gov or the telephone number listed below.

Sincerely,



Shasta Steinweden
Environmental Enforcement Specialist
Enforcement Division
(406) 444-3109; fax (406) 444-1923
email: ssteinweden@mt.gov

cc via email: Gallatin County Sanitarian
Gallatin County DES
Joe Radonich, MDT