



February 12, 2018

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

RE: Violation of the Montana Solid Waste Management Act [CVID #20410]

Dear Mr. Custer,

The Enforcement Division (ENFD) of the Montana Department of Environmental Quality (DEQ) received a report of a Johnny B Transport, LLC, semi-truck accident that caused the release of 550 gallons of asphalt to the ground along Highway 20, near mile marker 3, Gallatin County, Montana. The semi-truck accident occurred on February 2, 2018.

As of the date of this letter, ENFD has not received any written documentation that indicates the site has been fully assessed and the contaminated soils have been cleaned up and properly disposed of.

This letter is to inform you that the spill of diesel 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.

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

- By March 12, 2018, complete assessment and remedial actions, including proper disposal of all petroleum hydrocarbon-impacted media.

As this incident occurred on a public 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 at:

http://www.mdt.mt.gov/mdt/organization/maint_sites.shtml

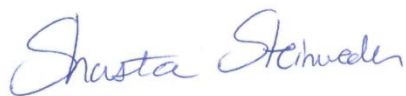
- By May 12, 2018, submit a cleanup report meeting ENFD's Standardized Cleanup Report (Report) format. The Report can be submitted by email or by using Montana's File Transfer Service (FTS). For information and instructions on using FTS, please visit <https://transfer.mt.gov/Home/Instructions>

DEQ's Standardized Cleanup Report, Soil Sampling Guidance, and Spill Reporting Policy can be accessed on ENFD's web site under Policy & Resources at: <http://deq.mt.gov/DEQAdmin/ENF>. Please note that cleanup reports not submitted in the Standardized Cleanup Report format will no longer be accepted by ENFD.

Please reference **CVID 20410** 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
Kenny Custer, Idaho Asphalt Supply