



April 4, 2022

Councilman Daniel Tso
Navajo Nation Health, Education and Human Services
24th Navajo Nation Council
danieltson@navajo-nsn.gov

Dear Councilman Tso:

We are responding to your letter of March 23, 2022, regarding alleged application of oil and gas wastewater (produced water) in Eastern Navajo Agency, by Kanalis, in partnership with oil and gas operator HPOC, LLC (HPOC).

The New Mexico Environment Department (NMED) and the New Mexico Energy, Minerals, and Natural Resources Department (EMNRD) take this allegation very seriously. We are aware of the location referenced in your letter and Kanalis and HPOC's interest to gain permission to apply treated produced water for agricultural purposes. **To be clear, neither NMED nor EMNRD have authorized land application by Kanalis or HPOC, nor do we have applications or notices of intent before us from either Kanalis or HPOC for any discharge or other use of produced water.** Furthermore, the United States Bureau of Land Management (BLM) has communicated with EMNRD that BLM has not received any application from HPOC. The enclosed map shows the location of the two wells, the federally owned parcels, and the allotted lands held in trust for the Navajo Nation by the United States Government. On March 30, 2022, the Oil Conservation Division (OCD) of ENMRD conducted an onsite visit and verified that there is no evidence of unauthorized land application of produced water at the site.

NMED is the regulatory authority for discharges, including land irrigation, of produced water for uses that are unrelated to the oil and gas sector, including activities on federal lands. EMNRD is the regulatory authority for oil and gas activity for the two wells identified in your letter. Kanalis/HPOC would also likely need authorization from the BLM given the potential location of their proposed project. However, identifying the full suite of approvals is beyond the scope of this letter because there is no formal application pending.

To date, NMED has not authorized the discharge of treated or untreated produced water anywhere in New Mexico for activities unrelated to the oil and gas sector. NMED is in the early stages of developing a prohibitive rule and anticipates presenting the draft rule to the Water Quality Control Commission (WQCC) in 2023 following public and tribal government engagement later this year.


The New Mexico Produced Water Research Consortium (Consortium) is implementing a research plan to fill gaps in the existing science associated with potential reuse of treated produced water for activities unrelated to the oil and gas industry. All Consortium research projects must comply with applicable federal, state, tribal and local laws. At this time, consistent with a January 2022 memo from NMED to the Consortium (available at <https://www.env.nm.gov/new-mexico-produced-water/nmsu-mou/>), the Consortium cannot authorize any research pilot project that involves land application outside of the oilfield.

Recently, in conjunction with our investigation into the allegations in your letter, NMED and OCD reinforced our message to HPOC and Kanalis, as well as the Consortium, that HPOC and Kanalis must obtain all requisite permissions and approvals before proceeding with such a pilot project. Furthermore, consistent with the State and Tribal Collaboration Act, NMED and OCD will consult with Navajo Nation leadership before making any regulatory decision that may affect the Navajo Nation associated with future applications from these or other companies seeking authorization to land apply treated produced water on lands adjacent to Navajo Nation lands.

Please be in touch if you have further questions or to share any evidence of past or active land application of treated or untreated produced water on or near Navajo Nation lands. You can reach Acting Director John Rhoderick at john.rhoderick@state.nm.us or (505) 819-8284 and Director Sandoval at Adrienne.sandoval@state.nm.us or (505) 231-3316.

Sincerely,

John Rhoderick
Digitally signed by John Rhoderick
Date: 2022.04.04 17:09:46 -06'00'
John Rhoderick, Acting Director
Water Protection Division
New Mexico Environment Department


Adrienne Sandoval, Director
Oil Conservation Division
Energy, Minerals and Natural Resources Department

cc:

Secretary Sarah Cottrell Propst
New Mexico Energy, Minerals and Natural Resources Department

Deputy Secretary and Tribal Liaison Todd Leahy
New Mexico Energy, Minerals and Natural Resources Department

Deputy Secretary Rebecca Roose
New Mexico Environment Department

Tribal Liaison Kathryn S. Becker
New Mexico Environment Department

Executive Director Valinda Shirley
Navajo Nation EPA

Director Tracy Stone-Manning
Bureau of Land Management, Washington D.C.

Deputy Director of Policy and Programs Nada Culver
Bureau of Land Management, Washington D.C.

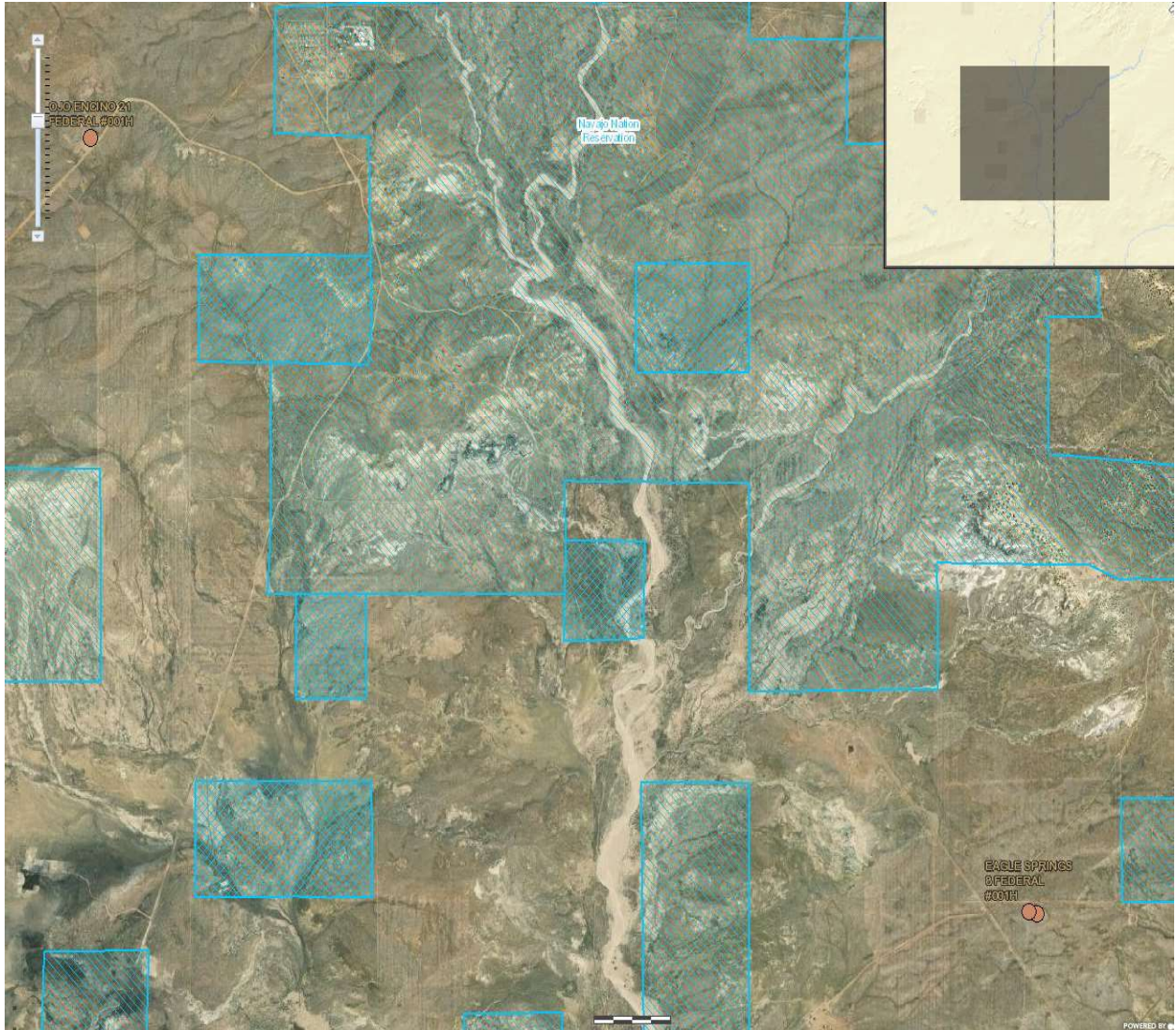
Acting Director Dave Mankiewicz
Bureau of Land Management, Farmington Field Office

Acting District Manager Mark Matthews
Bureau of Land Management, Albuquerque District Office

Field Manager Kymm Gresset
Bureau of Land Management, Rio Puerco Field Office

Program Director Mike Hightower
New Mexico Produced Water Research Consortium

Enclosure: Map of Area Related to the HPOC and Kanalis Proposed Project



Well locations (orange dots) shown in relation to checkerboard land area confirming wells are not on Tribal Trust lands (blue hatched areas).