

June 13, 2011

Mr. John Axelson, P.G.
Colorado Oil & Gas Conservation Commission
1120 Lincoln St., Suite 801
Denver, CO 80203

Project No. 0104362

Subject: Response to Notice of Alleged Violation 200300772
for Schwake A-2
Facility ID 100305
Peetz West (68300)
Logan County, Colorado

Dear Mr. Axelson,

Merchant Energy Partners (Merchant) is responding to the Colorado Oil & Gas Conservation Commission (COGCC) Notice of Alleged Violation (NOAV) 200300772 dated March 14, 2011. The scope of the NOAV is paraphrased below along with a summary of proposed course of action to address each of the alleged violations:

- *Oily soil located at the tank battery and pumping unit.* Merchant is preparing to investigate and remove the oily soil from each area. The sampling work is schedule to be completed in June 2011 and the removal will be completed July 2011, weather permitting. The Schwake facilities will be decommissioned and removed concurrent with soil removal this summer.
- *Removal of trash debris and vegetation maintenance.* Merchant has hired a local Construction Manager to maintain their lease sites in the area. Trash was removed on May 20, 2011. The area will be maintained in accordance with COGCC Rules.
- *Stabilization of disturbed work areas.* Starting in June 2011, Merchant has hired a third party contractor to implement Best Management Practices (BMP) to stabilize the disturbed areas during landfarm construction.
- *Localized oily soil remaining on the west wall of the water pit excavation.* Merchant has inspected the west wall and compared the observations with the confirmation samples collected for the area. Additional clarification is sought regarding this alleged violation and the required course of action. This is the topic of the remainder of this transmittal.

Soil Conditions on the West Wall of the Main Pit

On March 24, 2011, Merchant submitted to the COGCC a Remedial Construction Completion Report for the Schwake A-2 Tank Battery summarizing the completed remedial field activities. The report documented that the remedial activities at the site were completed in accordance with the approved work plan. Confirmation soil samples were collected within the west wall of the Main Pit to evaluate whether or not residual concentrations were compliant with COGCC requirements specified in Table 910-1. Merchant collected eight soil confirmation samples from the Main Pit excavation side walls and bottom. The sample locations were selected based on several criteria:

- A review of the analytical data and sampling locations from the site investigation;
- A review of the operational process of the pits, including the areas where oily waste accumulation were likely to occur;
- A review of the aerial survey indicating physical limits of the pits; and
- Visual inspection for staining and the potential for elevated concentrations of Total Petroleum Hydrocarbons (TPH).

Merchant collected a confirmation soil sample in the stained area along the west wall. The analytical result for TPH at location CS-121210-8 was 433 milligram per kilogram (mg/kg), which was below the COGCC Table 910-1 limit of 500 mg/kg. The analytical results from the remaining soil confirmation samples were also below the COGCC regulatory levels. Attached for reference is the corresponding Table 3-2 and Figure 3-1 from the report.

Merchant has traveled to the site and observed the conditions on the west wall of the Main Pit to re-assess the visual appearance of the soil. The staining observed by COGCC was apparent to Merchant. The samples collected in the west wall were representative of the staining. Based on the analytical results, the staining does not contain sufficient concentrations of TPH to pose a significant risk to human health and the environment because the TPH concentrations were below the COGCC regulatory limits. Merchant respectfully requests the COGCC to clarify if, based on the information provided in this letter, further excavation or additional sampling is warranted for aesthetic reasons, or the stained soil can be closed in-place in compliance with the TPH standard of 500 mg/kg.

In conclusion, Merchant has initiated activities to address the alleged violations. The alleged violations will be closed by August 31, 2011, we respectfully request an extension of the deadline to complete the corrective actions in accordance with COGCC regulations. We look forward to your clarification regarding the proper course of activities for the west wall of the Main Pit. If you have any questions or need any additional information, please call me at 713-447-3513.

Sincerely,

Merchant Energy Partners

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Megan Tallent

MT/skd

cc: Paul Stefan, Environmental Resources Management
Dennis Schilly, Environmental Resources Management