



Re: Maralex Roan Creek Evaporation Pond

1 message

Lujan - DNR, Carlos <carlos.lujan@state.co.us>

Tue, Jul 16, 2013 at 5:13 PM

To: Naomi <naomi@maralexinc.com>

Cc: Alex Fischer <alex.fischer@state.co.us>, Chris Canfield <Chris.Canfield@state.co.us>, "D. Craig Heydenberk" <esi.craig@sopris.net>

Naomi,

First and foremost, I want to be perfectly clear that my objective is to help you and work with you so that you take the necessary actions to bring Maralex into compliance with COGCC. Thursday may be a good opportunity to talk face to face and try to establish a path forward so that eventually Maralex can start operations again.

MARALEX is out of compliance for several reasons, and there is more than one reason for you to submit a Form 27 pit closure work plan. Let me try to explain.

1) Pit Facility ID # 116525 (Maralex evaporation pond) is currently registered under Piute Energy, but it is currently owned by Maralex. Maralex should have submitted a Form 10 to notify COGCC of the change of ownership. It has not been done, and that is a violation. You need to submit a Form 10 to change the ownership name from PIUTE ENERGY to MARALEX.

2) As far as I know, Maralex has been operating the pit without permit. MARALEX needed BLM's approval to operate in their land (BLM is the landowner.) Independently, MARALEX must get COGCC's approval to conduct Oil&Gas operations in the State of Colorado because COGCC has the Legal Mandate of regulating the Oil&Gas Industry in the State. According to a Memo of Understanding between BLM and COGCC, dated July 1, 2009, Oil&Gas operators must operate under and comply with COGCC Rules (even in BLM's Land).

Maralex should have submitted a Form 15 to operate a production pit or a Form 28 to get an E&P Waste Management Permit. Maralex did not submit a Form 15. Maralex submitted a Form 28 in May 2011 that was rejected. This is a second issue in which Maralex is out of compliance. (See Rule 335. COGCC Form 15. PIT CONSTRUCTION REPORT/PERMIT.)

3) The pit has been out of operation for more than a year. Rule 1003 b says explicitly that all disturbed areas affected by drilling or subsequent operations, shall be reclaimed as early and as nearly as practicable to their original condition or their final land used ..., except areas reasonably needed for production operations to be commenced within twelve (12) months. Clearly, Maralex did not remediate and backfilled the pit, which constitute a 3rd violation of COGCC's Rules.

4) Following point 3) that establishes that the pit should have been closed, Rule 905 a), and b) establish that pits not used exclusively for drilling operations (i.e. production pits) shall be closed in accordance with an approved Site Investigation and Remediation Workplan, Form 27. An approved Site Investigation will require sampling below the liner, which in turns required removing the liner.

5) Finally, COGCC staff has the authority to require additional work or investigation or shut-sown operations if they consider that the operator is performing any act or practice which threatens the environment and/or the waters of the State:

Rule 901 c:

"Additional requirements. Whenever the Director has reasonable cause to believe that an operator, in the conduct of any oil or gas operation, is performing any act or practice which threatens to cause or causes a violation of Table 910-1 and with consideration of water quality standards or classifications established

by the Water Quality Control Commission ("WQCC") for waters of the state, the Director may impose additional requirements, including but not limited to, sensitive area determination, sampling and analysis, remediation, monitoring, permitting and the establishment of points of compliance. Any action taken pursuant to this Rule shall comply with the provisions of Rules 324A. through D. and the 500 Series rules."

I hope this helps,
Carlos

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On Tue, Jul 16, 2013 at 1:34 PM, Naomi <naomi@maralexinc.com> wrote:

Hi Carlos,

I looked through the regs and I don't see where it specifies that we need to close the pond before applying for a current permit. Can you please point me in the right direction? I know that you are busy, but I'd appreciate a response as soon as possible so that we can move forward on this matter.

Naomi

Lujan - DNR, Carlos wrote:

Naomi,

Thanks for checking if I had received the Form 27 you sent recently.

Yes, I received a copy of the Form 27 that Craig Heydenberk submitted on Maralex' behalf back on February 10, 2010. That form 27 was related to the spill that reached the natural drainage (REM # 5681). That project is still open, pending Maralex submittal of remediation and reclamation confirmation, as well as copy of tickets corresponding to the removal of soil to South Canyon landfill. See Linda Spry O'Rourke's conditions of approval (COAs).

Closure of the evaporation pond (pre-requisite to apply for a Centralized E&P Waste

management facility via Form 28) will require a Form 27 pit closure work plan (that has nothing to do with the form 27 submitted in 2010). I don't believe you have sent a Form 27 describing how you are going to remove the liner, sample the bottom of the pit and confirm (if that is the case) that no remediation is required. Sampling of areas around the pit (outside of fencing) will be required as well. Please see Rules 900 and 1000 on COGCC's Web site. I recommend you make a copy and keep it at hand.

As a final point, I would like to point out that the Form 28 that you sent recently was originally sent to Alex Fischer in June 2011 and was returned to Maralex because it was deemed inadequate. This facility has NOT been permitted as a Centralized E&P Waste Management Facility. A new Form 28 will be required to operate the pond. Please see Facility ID # 433509 on COGCC's database for more information.

I look forward to meeting you on Thursday on site during BLM's inspection.

Thanks,
Carlos

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On Fri, Jun 28, 2013 at 1:33 PM, Naomi <naomi@maralexinc.com> wrote:

Carlos,

I sent you a copy of that form the same day we spoke. Please have a look again and tell me if you can't find it.

Thanks.

Naomi

Lujan - DNR, Carlos wrote:

Naomi,

During our last phone conversation you asked me to clarify the steps required to start re-using the Roan Creek evaporation pond to support production. I would recommend that you read carefully COGCC Rules and particularly Rules 900 Series. Section 905 refers to pit closure and Form 27 workplan. Section 908 - Centralized E&P Waste Management Facilities and Form 28. You will need to work with both Forms (27 and 28). In short, this is what needs to be done:

1) The first step will be to close the pit using a Form 27 Work Plan. The work plan must include a description of the site assessment that will be conducted to demonstrate that there is no impact or to define the extent, depth and concentration in case there is an impact to the soil beneath and/or in the vicinity of the pond. Sampling should include sufficient number of discrete sample locations to adequately assess any potential impact. A minimum of 8 to 10 discrete samples should be taken from the bottom of the pit. Sides of the pit, beneath the liner should also be sampled, particularly the Northeast side that presents more than sixty (60) patches.

Although the perimeter of the pit was leveled and re-contoured, there are evident signs of spills on the Northeast and Southeast areas outside of the fencing.

Soil samples must be collected from these areas as well. All vegetation should be removed from the border of the pit.

The bottom of the pit must be cleaned and inspected. Wherever the integrity of the pit is compromised, soil sampling will be required (unless there are so many holes that a random sampling plan would make more sense).

2) When remediation is achieved (in case there was impact) and Form 27 process is completed as described in COGCC Rules, Form 27 remediation project will be closed and Maralex will then proceed with the Form 28 process. It may be necessary to remove completely the lining or to replace large portions of it. Having the pit dry for at least a couple of years, subject to the sun, and wind may have damaged the lining (as it apparently did on the Northwest side). In any case, Form 28 will require lining integrity inspection and may require a new Leak Detection System in case the existing one does not satisfy COGCC's requirements. For more details on the Form 28 process check section 905 of COGCC Rules and contact Alex Fischer, the Environmental Supervisor for the West Region of the State.

3) Closure of Remediation project # 5681 (doc # 2213334). See Linda Spry Conditions of Approval.

- This Remediation project corresponds to the spill occurred in 2010. Per Craig Heydenberk email dated April 2013, impacted material that had been removed from the natural drainage and tank surroundings was taken to an authorized landfill (South Canyon Landfill). Please submit the [Hazardous Waste Manifests](#).
- Provide correct coordinates of the pit (Center of one corner - i.e. Southeast corner coords). The current coords provided by Maralex correspond to a point Northwest and outside of the pad.

When I receive that information, I will close REM #5681.

Note 1: A new Remediation number will be generated when the Form 27 pit closure work plan is submitted.

Note 2: you mentioned during our phone conversation that you had in your hands a copy of the Form 28 that Maralex apparently submitted a year or two years ago. If you send us a copy, that will be a good start. I have checked COGCC's database and files and couldn't find a document or reference to that document.

Note 3: I joined Craig Heydenberk yesterday when he went to sample Mr. Werning water well (Rifle Walton #25-2 NOAV) for Maralex. Do you want me to copy him on communications related to the Roan Creek Evaporation Pond? Do you want to invite him to the BLM inspection of July 18th?

I hope this help. Please call or email if you have questions or comments.
Thanks,
Carlos

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