



STATE OF
COLORADO

EnviroScan - DNR, OGCC <dnr_ogcc.enviroscan@state.co.us>

Fwd: NOAV 200417500

1 message

Fischer - DNR, Alex <alex.fischer@state.co.us>
To: OGCC EnviroScan - DNR <dnr_ogcc.enviroscan@state.co.us>
Cc: Kris Neidel - DNR <kris.neidel@state.co.us>

Wed, Dec 31, 2014 at 8:56 AM

Please upload the attached with the following information:

Unique identifier (REM/Spill/NOAV #, etc.): REM 7058; Location ID: 324634; Pit
Facility IDs 112268 and 112269, NOAV 200417500
Document number (leave blank if one needs to be assigned):
Date received: 12/30/14
Is data entry needed (Y/N): N
Notes: please upload email

Thanks!

—

Alex Fischer, P.G.

Environmental Supervisor, Western Colorado



P 303.894.2100 x5138 | F 303.894.2109

1120 Lincoln Street, Suite 801, Denver, CO 80203

| alex.fischer@state.co.us www.colorado.gov/cogcc

----- Forwarded message -----

From: **Freeman, Roger** <Roger.Freeman@dgslaw.com>
Date: Tue, Dec 30, 2014 at 5:58 PM
Subject: NOAV 200417500
To: "Gowen - DNR, Peter" <peter.gowen@state.co.us>, "Alex Fischer - DNR (alex.fischer@state.co.us)" <alex.fischer@state.co.us>
Cc: "Curtis Ditzell (curtis@cmproductionllc.com)" <curtis@cmproductionllc.com>, James Hix <jhix@olssonassociates.com>

Peter/Alex - Thanks for meeting with us on December 17 to discuss the above referenced matter. I believe that we have a solid understanding of our respective positions and mutual path going forward for resolution of the NOAV, and have agreed that there is no need for lengthy follow-up emails before our next submission date of January 15, 2015. However, I thought it would be useful to briefly summarize our mutual plan to ensure that we are on the same page. We agreed that CM will submit by January 15, 2015 a concise, technically-focused discussion describing steps that will be taken to decommission the remaining five pits. This will include final dates by which closure and compliance with Table 910 standards will occur for each pit. We will try to account for all the uncertainties, changing weather conditions, and other factors that have proved difficult to assess in the past and propose dates that are realistic but as aggressive as possible. This submission will then be subject to COGCC comment and review and ultimately will be presented to the Director for final comment and approval. The approval vehicle will track the simple form and language developed in support of the previous COGCC extension granted on June 25, 2014.

We discussed pending rule changes briefly, and both parties recognize that the rules governing NOAVs, penalties and related matters are currently in flux. From CM's perspective, we would not expect that these prospective rules will apply to this pending NOAV, especially since the issues arise from a longstanding AOC which predates even the statutory changes. Nevertheless, we recognize that issues may arise (such as the vehicle through which the NOAV can be resolved without penalty) which may be informed by these pending rules. While agreeing to focus for the time being on technical issues, we agreed that (1) consistent with prior COGCC practices long established under the AOC, the time period during which we are negotiating this further resolution –including the time afforded to submit the January 15 response and subsequent COGCC review thereof – will not be considered to be continued days of alleged violation; and (2) the January 15 submission will be considered a timely interim response to Abatement/Corrective Action requirements of the NOAV itself as requested on page 1 of the NOAV.

Please let me know if you disagree with this summary or have any questions or comments, or if you feel the need to discuss this plan further. Otherwise, happy new year and will be back in touch by mid-January.

Roger L. Freeman

Davis Graham & Stubbs LLP

1550 Seventeenth Street, Suite 500

Denver, Colorado 80202-1500

(303) 892-7414 (phone)

(303) 893-1379 (fax)

(720) 341-3062 (Cellular)

This E-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply E-mail and destroy all copies of the original message.

--

Alex Fischer, P.G.

Environmental Supervisor, Western Colorado



P [303.894.2100](tel:303.894.2100) x5138 | F [303.894.2109](tel:303.894.2109)

1120 Lincoln Street, Suite 801, Denver, CO 80203

| alex.fischer@state.co.us www.colorado.gov/cogcc