

State of Colorado  
Oil and Gas Conservation Commission

1120 Lincoln Street, Suite 801, Denver, Colorado 80203  
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Document Number:  
400939440

Date Issued:  
12/11/2015

## NOTICE OF ALLEGED VIOLATION - ISSUED

Per Rule 522, the Director has reasonable cause to believe that a violation of the Act, or of any Commission rule, order, or permit has occurred, the Director will require the operator to remedy the violation and may commence an enforcement action seeking penalties by issuing a Notice of Alleged Violation (NOAV). Per Rule 523, an operator who violates the Act, or a Commission rule, order, or permit may be subject to a penalty imposed by Commission order.

### OPERATOR INFORMATION

OGCC Operator Number: 10380

Name of Operator: BENCHMARK ENERGY LLC

Address: PO BOX 8747

City: PRATT State: KS Zip: 67124

Contact Name and Telephone:

Name: Jerry Nash

Phone: (316) 617-1147 Fax: ( )

Email: jerry@benchmarkenergy.us

### Well Location, or Facility Information (if applicable):

API Number: 05- -00

Facility or Location ID: \_\_\_\_\_

Name: \_\_\_\_\_

Number: \_\_\_\_\_

QtrQtr: \_\_\_\_\_ Sec: \_\_\_\_\_

Twp: \_\_\_\_\_ Range: \_\_\_\_\_

Meridian: \_\_\_\_\_

County: \_\_\_\_\_

### ALLEGED VIOLATION

Rule: 906.a.

Rule Description: Spills and Releases - General

Initial Discovery Date: \_\_\_\_\_

Was this violation self-reported by the operator? No

Date of Violation: \_\_\_\_\_

Approximate Time of Violation: \_\_\_\_\_

Was this a discrete violation of obvious duration? No

Description of Alleged Violation:

Benchmark Energy LLC (Benchmark) reported spill #'s 438043, 438744, 438746, 439362, 442501, 442770, and 442803 at oil & gas facilities in Logan County. In addition, Benchmark failed to notify or report a spill discovered by COGCC staff at Facility ID #437485 on October 27, 2015, hereinafter the "Unreported Spill" (reference Field Inspection Report Document #s 680000194 and 681700006). The spill events referenced in this paragraph shall collectively be referred to as "the Spills." Operators are required upon discovery to immediately control and contain all spills/releases of E&P waste or produced fluids to protect the environment and to investigate, clean up, and document impacts resulting from the Spills as soon as practicable. To date Benchmark has failed to provide COGCC with confirmation sample results that document impacts resulting from the Spills were properly investigated and cleaned up, violating Rule 906.a. See attached Table for spill date, location and document information (Attachment 1).

Abatement or Corrective Action Required to be Performed by Operator:

Corrective Action Due Date: 01/08/2016

**Proper and timely abatement does not preclude the assessment of penalties and an Order Finding Violation.**

Benchmark shall perform sampling and analysis as required by Rules 909 and 910 at each referenced spill location including the Unreported Spill, and submit the results by January 8, 2015 along with the eForm 19 Supplemental Report submissions required for the Spills in the Corrective Action below. Benchmark shall provide the following documentation: 1) Sample location diagrams depicting the location and depth of each sample collected 2) Summary tables of the analytical results compared to Table 910-1 standards and 3) Complete copies of the laboratory reports with chain-of-custody documentation.

Rule: 906.b

Rule Description: Spill Reporting

Initial Discovery Date: \_\_\_\_\_

Was this violation self-reported by the operator? No

Date of Violation: _____	Approximate Time of Violation: _____
Was this a discrete violation of obvious duration? <u>  No  </u>	

Description of Alleged Violation:

Benchmark failed to timely complete reporting required pursuant to Rule 906.b. for the Spills. Benchmark failed to submit Form 19 Initial Reports for spill #'s 438043, 438744, 438746 and the Unreported Spill within 72 hours of discovery, violating Rule 906.b. Operator failed to submit Form 19 Supplemental Reports for all of the Spills within 10 calendar days also a violation of Rule 906.b. Benchmark failed to notify the Surface Owner within 24 hours for spill #'s 438746, 439362, 442770, 442803, and the Unreported Spill violating Rule 906.b.(3).

Abatement or Corrective Action Required to be Performed by Operator:	Corrective Action Due Date: <u>  01/08/2016  </u>
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**Proper and timely abatement does not preclude the assessment of penalties and an Order Finding Violation.**

Benchmark shall submit eForm 19 Supplemental Reports for all of the Spills to COGCC and notify the Surface Owner(s) of the spills by January 8, 2016. Benchmark shall provide written documentation that each surface owner was notified including the person contacted, date and phone number. Documentation shall be submitted with the eForm 19 Supplemental Reports.

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Rule:   906.c  

Rule Description:   Surface owner Notice/Consultation  

Initial Discovery Date: _____	Was this violation self-reported by the operator? <u>  No  </u>
Date of Violation: _____	Approximate Time of Violation: _____
Was this a discrete violation of obvious duration? <u>  No  </u>	

Description of Alleged Violation:

On September 14, 2015, COGCC received a complaint (Document #200437201) from the landowner alleging surface impacts on his property resulting from Benchmark's recent produced water spills. A review of aerial photographs revealed historic surface damage that predates Benchmark's operation of the well. However, Benchmark had two spills, #'s 438746 and 439362, which have contributed to the surface impacts surrounding the well. Benchmark has taken no action to properly remediate those spills or reclaim the surface. In response to the complaint and in light of the unresolved spills, COGCC performed a field inspection (Document #681700008) to investigate the current conditions of the impacted area. Two soil samples were collected from the area and submitted for laboratory analysis. Analytical results (Document #2210312) confirmed the presence of impacted soil with Sodium Adsorption Ratio exceeding the Table 910-1 allowable concentration in soil. Benchmark failed to remediate spill #'s 438746 and 439362 at API 075-05971, violating Rule 906.c.(1).

Abatement or Corrective Action Required to be Performed by Operator:	Corrective Action Due Date: <u>  12/31/2015  </u>
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**Proper and timely abatement does not preclude the assessment of penalties and an Order Finding Violation.**

Benchmark shall submit a Form 27 Site Investigation and Remediation Workplan to COGCC. The Form 27 shall include a detailed plan and schedule to properly characterize and remediate impacts from Spill #'s 439362 and 438746. The plan must also include a detailed surface reclamation plan to restore the surface damage indicated on the attached aerial photograph (Attachment 2). Benchmark is required to consult with the landowner regarding the plan and schedule to perform the work. Benchmark must provide a description of the proposed seed mixture for revegetation to the landowner for their prior approval. The submission of the Form 27 to COGCC, the consultation with the landowner regarding the plan and schedule for the work, and the provision of the description of the proposed seed mixture to the land owner must be completed by January 8, 2015. Benchmark shall install appropriate stormwater controls and control weeds throughout the duration of the remediation and surface reclamation work. All work to characterize and remediate impacts as well as completion of surface reclamation shall be performed no later than May 31, 2016.

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Rule:   907.a  

Rule Description:   General E&P Waste management Requirements  

Initial Discovery Date: _____	Was this violation self-reported by the operator? <u>  No  </u>
Date of Violation: _____	Approximate Time of Violation: _____
Was this a discrete violation of obvious duration? <u>  No  </u>	

Description of Alleged Violation:

As noted in the Rule 906.b. violations above, Benchmark failed to submit Form 19 Supplemental Reports which further resulted in a failure to demonstrate that Benchmark has insured E&P Waste has been properly stored, handled, transported, treated, recycled or disposed to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources or to the extent necessary to ensure compliance with the concentration levels in Table 910-1 for the Spills, violating Rule 907.a.(1).

Abatement or Corrective Action Required to be Performed by Operator:	Corrective Action Due Date: <u>  01/08/2016  </u>
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**Proper and timely abatement does not preclude the assessment of penalties and an Order Finding Violation.**

For each location related to the Spills, Benchmark shall submit disposal documentation verifying that all E&P waste generated from each spill has been properly disposed. Include all information required by Rule 907.b.(2). If E&P waste has not been removed from the location then provide type of waste, volume, current location of storage including GPS coordinates. Benchmark shall submit this information by January 8, 2016 along with the eForm 19 Supplemental Report submissions required for all the Spills in the Corrective Action above.

### PENALTY

Penalties for violations alleged in this NOAV will be calculated pursuant to Rule 523, with daily penalties accruing pursuant to Section 34-60-121(1), C.R.S.

### ANSWER

Pursuant to Rule 522.d.(2), the operator must file an Answer to this NOAV within 28 days of its receipt, or a default judgement may be entered. Hard copy answers are filed with the Commission Secretary at the Commission's Denver office and should also be emailed to [dnr\\_cogccenforecment@state.co.us](mailto:dnr_cogccenforecment@state.co.us).

### NOAV ISSUED

NOAV Issue Date: 12/11/2015

COGCC Representative Signature: \_\_\_\_\_

COGCC Representative: Axelson, John

Title: East Environmental Superv

Email: john.axelson@state.co.us

Phone Num: (303) 894-2100x5115

### ATTACHMENT LIST

View Attachments in Imaged Documents on COGCC website (<http://ogccweblink.state.co.us/>) - Search by Document Number.

<u>Document Number</u>	<u>Description</u>
400952358	NOAV DOCUMENTATION
400952359	NOAV DOCUMENTATION

Total Attach: 2 Files