

REM#: 7938
PIT FAC ID#: 292430
Doc#: 2452190
Date: 08/02/2016

From: Spry ORourke, Linda
To: [Spry ORourke, Linda; "jchristi@blm.gov"](mailto:jchristi@blm.gov)
Cc: [Fischer, Alex](#); [Canfield, Chris](#)
Subject: RE: Black Hills 35-2 compliance questions for you
Date: Thursday, June 30, 2011 5:37:00 PM

Julia,

Thanks for chatting with me today.

I just wanted to memorialize in writing that what I told you in that the email below is in error. The surface development policy only applies to non-operators (like developers building subdivisions, schools, etc.) that discover E&P waste.

Since Black Hills is an operator, whether the E&P waste they discovered was theirs or from some other operator's historic operations, they would be required to report the discovery to the COGCC and remediate the E&P waste to current standards, since they disturbed the E&P waste. These requirements are via our rules 201.a and 906.b.1; not via a policy as I mis-stated below.

As it turns out, the original pit was permitted with the COGCC via a Form 15 Pit permit, and was required to be closed under a Form 27 Site Investigation and Remediation Workplan. The pit was not closed in the required manner.

I put a call in to Alan Vrooman (left a voice mail) letting him know you and I had spoken, that our rules do apply, and asking if their position was going to be one of working with us to get into compliance, and that I was interested in their sample results. I will collect samples on Tuesday regardless.

I'm out of the office tomorrow per my flex schedule, returning Tuesday (information I also told Alan).

Have a good holiday.

Linda Spry O'Rourke

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From: Spry ORourke, Linda
Sent: Wednesday, June 29, 2011 9:31 AM
To: 'jchristi@blm.gov'
Cc: Fischer, Alex; Canfield, Chris
Subject: RE: Black Hills 35-2 compliance questions for you

Hi Julia,

The operator is required to report the discovery of that old pit to the COGCC. I've enclosed the link to your policy and an excerpt from the policy. It is not a new policy. I would guess that the operator is already out of compliance with this policy, because if they have lab data back, it has probably been more than 10 days since they discovered the waste.

Please provide your contact information, because I'll need to contact them if they are not willing to voluntarily report their discovery.

Thanks for letting me know about this; I'm guessing we'll be discussing it further.

Linda

REQUIREMENTS FOR E&P WASTE DISCOVERED DURING SURFACE DEVELOPMENT EXCAVATION:

If E&P waste is discovered, with the exception of water based bentonitic drilling fluid, during a Phase I or Phase II analysis or soil investigation or during excavation operations related to surface development, such discovery shall be reported to the Director by the surface developer or its designee on a COGCC Spill/Release Report, Form 19 within ten (10) days. Any new spills that occur as a result of a surface developer's activities must be reported in accordance with Rule 906. If de minimis amounts of E&P

waste are encountered during excavation operations, a surface developer or its designee may excavate and properly dispose of the waste and no reporting shall be required.

The surface developer or its designee may, at its discretion, collect samples for chemical analysis to determine if the allowable concentrations listed in Table 910-1 in the 900 Series Rules have been exceeded. **The analytical results from the initial samples shall be reported on a COGCC Soil Analysis Report, Form 24 and Water Analysis Report, Form 25, whichever is applicable, which shall be submitted along with a Spill/Release Report, Form 19.** The Director may conduct sampling and analysis if the surface developer or its designee does not.

If the analytical results indicate that soil or ground water has been impacted by E&P waste in concentrations that exceed those listed in Table 910-1 in the 900 Series Rules, and the surface developer or its designee intends to initiate voluntary remediation, then the surface developer or its designee shall submit a Site Investigation and Remediation Workplan, Form 27 to the Director. Approval of the Remediation Workplan, Form 27 shall be obtained from the Director prior to commencement of remediation operations. As an alternative to voluntary remediation by the surface developer or its designee, the Director may identify a responsible party, if they exist, or expend monies from the Environmental Response Fund to remediate E&P waste. For the purpose of voluntary remediation, the surface developer or its designee shall not be required to be registered as an operator with the COGCC.

(4) If the analytical results indicate that soil or ground water has not been impacted by E&P waste in concentrations that exceed those listed in Table 910-1 in the 900 Series Rules, then any remediation operations conducted by the surface developer or its designee shall not be subject to COGCC jurisdiction.

ADOPTED AND EFFECTIVE THIS 3rd DAY OF DECEMBER, 2001.

Linda Spry O'Rourke

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-----Original Message-----

From: jchristi@blm.gov [<mailto:jchristi@blm.gov>]

Sent: Tuesday, June 28, 2011 4:08 PM

To: Spry ORourke, Linda

Subject: Black Hills 35-2 compliance questions for you

Linda, hi. I have a compliance question to discuss with you.

I told Black Hills to contact COGCC regarding some reserve pit contents

they turned up while digging a new fluids pit in supposedly virgin ground,

on an existing pad, on private land (split estate). They are preparing to

re-complete a federal well there and need a frac fluids pit.

The stuff they turned up was black and stinky, so I told them to segregate

it on a liner and cover it, then contact you to mitigate it appropriately,

which would include sampling it to your standards. I've told them twice

(which counts as orders from BLM, in the category of Verbal Warning) but

now they're telling me they've sampled it to COGCC standards and concluded

on their own that there's no need to contact COGCC. I told them to document

all their sampling to me, I thought they probably should fill out forms

with you, etc, etc. Am I right? Is this 'pit closure'? Something else? They

were actually removing soil to build a new pit, but will be putting it back

when the pit is closed.

They didn't notify me when they turned up the contaminated soil (which also

contained pieces of old pit liner), although they were aware of it. Until I

discovered it during a construction inspection, they were just burying it

with the rest of the subsoil coming out of the ground.

API is 050770940300S1

T9S R97W, Sec 35, SWSW

Federal well Shire Gulch 35-2, Lease COC 22503

What do you think about how to pursue this? I'll paste in my inspection

notes below.

PS - just as a sidenote, the pad expansion was not

constructed to BLM or

CDPHE standards, and they're under orders to fix that immediately as well.

Fill slopes loose/unstable and steep, insufficient SW BMPs, etc.

Julia Christiansen | Natural Resource Specialist

BLM, Grand Junction Field Office

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jchristi@blm.gov <-- Please note new address!

"May your trails be crooked, winding, lonesome, dangerous... leading to

the most amazing views."

~~~~~ Surface Inspection Notes ~~~~~

Black Hills Shire Gulch 35-2, COC22503, expand existing pad for horizontal

shale recomplete, JESC, 6/21/11

Pad has been expanded and new frac fluids pit constructed. Approved by

Sundry.

Steep loose soil piles and fill slopes in places, lacking SW BMPs (notable

at E and NW). Not track walked, seeded or otherwise stabilized.

Large frac water pit under construction. Stained soil and liner pieces (HC

smelly) uncovered during pit construction, tho previous pit not located

here. Presumably deposited by previous landowner who closed

original

reserve pit. Black Hills was notified of contaminated soils by construction

and SW inspector but did not self-report to BLM or COGCC. Much of the bad

soil was removed gradually during construction, mixing with subsoils in

soils storage piles.

Julia Verbally Warned that remaining stained soil be removed and

segregated. Liner to be installed under and cover installed over, per MB

foreman Seely at site. Stan Lindholm of BH was informed and instructed to

manage soils as mentioned, also to self-report to COGCC and get into

compliance with State regulations.

Stan was also Verbally Warned to get the site into compliance with

stormwater regulations. Loose soils need to be stabilized and BMPs

installed to prevent sediment from being transported.

I asked Stan if he wanted Written Orders, but he wanted a reminder email,

so I will record this as Verbal Warning JESC01111 and send to Jessica, Stan

and Alan V..