

State of Colorado  
Oil and Gas Conservation Commission

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Phone: (303) 894-2100 Fax: (303) 894-2109



Document Number:

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Date Issued:

09/20/2017

**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: 200077  
Name of Operator: CHARLES P DUNNING LLC  
Address: PO BOX 1365  
City: FORT MORGAN State: CO Zip: 80701

Contact Name and Telephone:  
Name: Chuck Dunning  
Phone: (303) 408-2575 Fax: ( )  
Email: chuck.dunning@me.com

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

API Number: 05- - -00 Facility or Location ID: 319643  
Name: JOLLY-PLATTS-63S58W Number: 34SWSW  
QtrQtr: SWSW Sec: 34 Twp: 3S Range: 58W Meridian: 6  
County: ADAMS

**ALLEGED VIOLATION**

Rule: 204

Rule Description: General Functions of Director

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:

Pursuant to Rule 204, the Director and the authorized deputies shall have the right at all reasonable times to go upon and inspect any oil or gas properties, and wells for the purpose of making any investigation or tests to ascertain whether the provisions of the Act or these rules or any special field rules are being complied with, and shall report any violation thereof to the Commission. On August 30, 2017, COGCC Staff attempted to inspect Charles P Dunning LLC's (Operator's) Jolly-Platts #1 location, Location ID 319643 (Document #681700831). Upon arriving at the location, COGCC Staff encountered a new lock on the access road and attempted to procure the combination from Operator's pumper, who informed the Inspector he was under specific instruction to not provide the lock combination (Document #681700832). COGCC Staff followed up on this with a phone call to Dunning's principal agent, Mr. Charles Dunning, who also refused to provide the combination for the lock citing issues with the landowner, and further refused to provide the landowner's contact information to Staff (Document #681700833). Operator refused to allow COGCC Staff to enter and inspect an oil and gas operation at a reasonable time, violating Rule 204 and Rule 205.g.

Abatement or Corrective Action Required to be Performed by Operator: \_\_\_\_\_ Corrective Action Due Date: 08/30/2017

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

Operator shall guarantee COGCC staff has access to its oil and gas properties to perform inspections as required by Rule 204 and Rule 205.g.

Rule: 205

Rule Description: Access to Records

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:

Pursuant to Rule 205.g., all operators shall permit the Director, or authorized deputy, to come upon any lease, property, or well operated or controlled by the operator, and to inspect the record and operation of such wells. On August 30, 2017, COGCC Staff attempted to inspect Charles P Dunning LLC's (Operator's) Jolly-Platts #1 location, Location ID 319643 (Document #681700831). Upon arriving at the location, COGCC Staff encountered a new lock on the access road and attempted to procure the combination from Operator's pumper, who informed the Inspector he was under specific instruction to not provide the lock combination (Document #681700832). COGCC Staff followed up on this with a phone call to Dunning's principal agent, Mr. Charles Dunning, who also refused to provide the combination for the lock citing issues with the landowner, and further refused to provide the landowner's contact information to Staff (Document #681700833). Operator refused to allow COGCC Staff to enter and inspect an oil and gas operation at a reasonable time, violating Rule 204 and Rule 205.g.

Abatement or Corrective Action Required to be Performed by Operator: \_\_\_\_\_ Corrective Action Due Date:   08/30/2017  

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

Operator shall guarantee COGCC staff has access to its oil and gas properties to perform inspections as required by Rule 204 and Rule 205.g.

Rule:   303  

Rule Description:   Requirements for Form 2, Application for Permit-to-Drill, Deepen, Re-enter, or Recomplete and Operate; Form 2A, Oil and Gas Location Assessment  

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:

Pursuant to Rule 303.b., a completed Form 2A, Oil and Gas Location Assessment, approved by the Director or the Commission is required for the addition of a well or a pit, except an Emergency Pit or a Flare Pit where there is no risk of condensate accumulation, and for surface disturbances for the purpose of modifying or expanding an existing Oil and Gas Location. Based on COGCC Staff observations and aerial imagery, between June 24, 2009 and August 18, 2011, Charles P Dunning LLC (Operator) added a production pit to the west of the existing pits at the Jolly-Platts #1 location, Location ID 319643 (Western Pit). Based on COGCC Staff observations and aerial imagery, between September 6, 2013 and February 24, 2015 (Document #666900239 and Document #666900250), Operator conducted a surface disturbance to construct a new pit area that enlarged an existing production pit (Eastern Pit Complex) at Location ID 319643 and modified the existing location. Operator failed to submit a Form 2A for COGCC consideration and potential approval prior to the construction of the Western Pit and expansion of the Eastern Pit Complex, violating Rule 303.b.

Abatement or Corrective Action Required to be Performed by Operator: \_\_\_\_\_ Corrective Action Due Date:   10/20/2017  

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

Operator shall submit a completed Form 2A, Oil and Gas Location Assessment, to COGCC that accurately portrays the current layout of the location and includes all of the information required by Rule 303.b.(3).

Rule:   903  

Rule Description:   Pit Permitting/Reporting Requirements  

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:

Pursuant to Rule 903, Operator shall submit a Form 15, Earthen Pit Report/Permit, and receive Director approval prior to constructing a production pit. Based on COGCC Staff observations and aerial imagery, between June 24, 2009 and August 18, 2011, Operator constructed a new production pit to the west of the existing pits at the Jolly-Platts #1 location, Location ID 319643 (Western Pit). Based on COGCC Staff observations and aerial imagery, between September 6, 2013 and February 24, 2015 (Document #666900239 and Document #666900250), Operator constructed a new pit area to enlarge an existing production pit at Location ID 319643 (Eastern Pit Complex). Operator failed to submit a Form 15, Earthen Pit Report/Permit, for the production pit newly constructed in or before 2011 or for the enlargement of the existing pit in or before 2015 prior to construction of these pits, violating Rule 903. COGCC Staff inspections of Location ID 319643 on March 12, 2015 (Document #673900776); April 7, 2016 (Document #681700115); and September 13, 2016 (Document #681700239) resulted in the issuance of Corrective Action Required Reports that all required Operator to submit a Form 15, Earthen Pit Report/Permit, for the three unpermitted production pits at Location ID 319643, including the production pit newly constructed between June 24, 2009 and August 18, 2011 (Western Pit) and the enlarged pit constructed between September 6, 2013 and February 24, 2015 (Document #666900239 and Document #666900250) (Eastern Pit

Complex), with the latest corrective action deadline of October 16, 2016. On May 2, 2016, Dunning submitted an incomplete Form 15, Earthen Pit Report/Permit, to COGCC for a 75'x25' pit. After review of the submission COGCC Staff determined that no pit on location met this description as conveyed to Dunning through the the Document #681700239. On August 11, 2017, Operator submitted a Form 15, Earthen Pit Report/Permit for the Western Pit, with incorrect information and no supporting attachments. No complete and accurate Form 15, Earthen Pit Report/Permit, has been submitted for the Eastern Pit Complex to date.

Abatement or Corrective Action Required to be Performed by Operator: \_\_\_\_\_ Corrective Action Due Date: 08/31/2017

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

Operator shall submit a complete and accurate Form 15, Earthen Pit Report/Permit, submissions for all unpermitted pits at Location ID 319643 to COGCC. Operator shall work with the OGLA unit to correct the deficiencies in the Form 15 submitted for the Western Pit.

Rule: 904

Rule Description: Pit Lining Requirements and Specifications

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:

Pursuant to Rule 904.a., production pits constructed on or after April 1, 2009 on non-Federal lands must be lined unless Operator demonstrates to the Director's satisfaction that the quality of the produced water is equivalent to or better than that of the underlying groundwater or the operator can clearly demonstrate by substantial evidence, such as by appropriate percolation tests, that seepage will not reach the underlying aquifer or waters of the state at contamination levels in excess of applicable standards. Between June 24, 2009 and August 18, 2011, Operator constructed a new production pit to the west of the existing pits at the Jolly-Platts #1 location, Location ID 319643 (Western Pit). Operator failed to properly permit the pit prior to construction and the pit was constructed unlined, violating Rule 904.a. COGCC Staff inspected Location ID 319643 on April 7, 2016 and, based on Staff's observation that the Western Pit appeared to be constructed on a drainage near surface water, Document #681700115 required Operator to submit a Form 27, Site Investigation and Remediation Workplan, outlining a proposed process for completing a Sensitive Area Determination (SAD) by May 13, 2016. On May 19, 2016, Dunning submitted a Form 27, Site Investigation and Remediation Workplan (Remediation Project #9678). On August 31, 2016, Dunning submitted a SAD to the COGCC, one month after the July 31, 2016 deadline stated by COGCC Staff in a May 25, 2016 letter to Dunning (Document #1727427). COGCC Staff conducted soil sampling on September 13, 2016 to obtain information necessary to complete the evaluation of the SAD (Document #681700239) and on October 12, 2016 a letter was issued (Document #2527035) requiring Operator to submit a Form 27, Site Investigation and Remediation Workplan, by November 12, 2016 stating Operator's plans to either permit and line the Western Pit in accordance with Rule 904 or close the pit in accordance with Rule 905. Operator failed to submit the Form 27 stating its plans to install a liner until December 27, 2017 (Remediation Project #10003). A series of conditioned deadlines and extensions were offered to Operator by COGCC Staff, culminating with a deadline for Operator to install a pit liner, pursuant to an approved Form 15, Earthen Pit Report/Permit, by August 31, 2017. Operator failed to comply with numerous conditions required by the offered deadlines and extensions and, to date, Operator has not successfully permitted the Western Pit or successfully completed installation of a liner per the requirements of Rule 904.

Abatement or Corrective Action Required to be Performed by Operator: \_\_\_\_\_ Corrective Action Due Date: 08/31/2017

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

Operator shall work with the OGLA unit to correct the deficiencies in the Form 15 submitted for the Western Pit and complete the lining installation in accordance with Rule 904.


**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: <u>09/20/2017</u>
COGCC Representative Signature: 
COGCC Representative: <u>John Axelson</u> Title: <u>East Environmental Superv</u>
Email: <u>john.axelson@state.co.us</u> Phone Num: <u>(303) 894-2100x5115</u>

**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>
401408673	NOAV COVER LETTER
401408674	NOAV CERTIFIED MAIL RECEIPT

Total Attach: 2 Files