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COGCC Follow Up - Kinder Morgan Pit Variance

Tue, Jan 22, 2019 at 2:06 PM

Deranleau - DNR, Greg <greg.deranleau@state.co.us>

To: Kelsey Wasylenky <kwasylenky@jostenergylaw.com>

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Kelsey et al,

Thank you for your patience as this took longer than it should have for me to reply.

I am including responses in **bold** font to the questions below.I hope this provides the clarity you need. I've dropped Director Murphy from the distribution list, but I will brief our current Acting Director (Jeff Robbins) at our next weekly Managers' Meeting.
Greg

On Tue, Nov 13, 2018 at 2:09 PM Kelsey Wasylenky <kwasylenky@jostenergylaw.com> wrote:

Good afternoon,

Following up on Jessica's previous email regarding the agreed upon path forward between Kinder Morgan, the COGCC and the CDPHE, we wanted to follow up directly with you all regarding some outstanding COGCC-related items applicable to the variance request.

First, the 11 sites physically closed prior to April 1, 2009 on non-irrigated land will not require a variance to Rule 905, and will be closed by the COGCC upon submission of written landowner permission to leave the pit liner in place **and** completion of remediation to the current Table 910-1 standards.**COGCC concurs with this for the following sites: YA-4, HB-5, YE6, YF3, MC8, YA-5, DC2, DC8, GP11, GP13, GP9. Sites YE6, DC2, DC8, GP13, GP9 have documented elevated TPH in addition to elevated EC and liner material. DC5 had all drilling waste (E&P Waste plus liner) removed. (emphasis intentionally added to above paragraph)**

Second, following communication between COGCC and BLM, Kinder Morgan would appreciate it if the COGCC would confirm closure of the 14 BLM sites (summarized on the attached table). As we discussed in our meeting on November 9th, the 5 pits closed after 2009 on federal lands have been fully removed and the BLM considers all 14 sites to be closed. Please see the attached written acknowledgement from the BLM that interim reclamation is satisfactory to the BLM, and the BLM has no intention of requiring Kinder Morgan to excavate and verify closing procedures. This email was previously submitted to the agency with Form 4s but we recognize that not all of you have seen it. We understand that you will be conducting further outreach to the BLM to confirm the closure of these sites.

COGCC has reviewed the correspondence from BLM to Kinder Morgan regarding the pits closed on Federal lands. As is clear in the correspondence, there is no representation from BLM that the pits were closed satisfactorily, in accordance with BLM's COAs. COGCC concurs that on these sites, COGCC does not intend to require excavation or remediation of waste where interim reclamation has been successful; however, COGCC will reserve the right to require full cleanup should significant adverse impacts related to the pit be identified at a later date. (sites: YB-4, HE-5, SC10, HC-4, DC3, DC4, HF-3, SC11, DC6, GP20, GP21, GP22, GP23, GP25)

Third, upon finalization of the Environmental Covenant with the CDPHE, and confirmation of these outstanding points above, we will submit individual variance requests to leave the pit liner in place for each of the seven (7) sites to the COGCC using individual Form 4 variance requests to Rule 905.b.(3)A.

COGCC Concurs (sites: GP12, GP14, GP15, GP16, GP17, GP-19, YE7)

Based on our conversation at our October 25, 2018 meeting, we would like to confirm your agreement that a variance is not required to the timing of interim remediation per Rule 1003.b (3 months on crop land, 6 months on non-crop land) for the seven sites, as the variance to Rule 905 encompasses the variance to Rule 1003.b.

Kinder Morgan should review recent reclamation inspections for comments and outstanding corrective actions related to interim or final reclamation and take appropriate action to ensure that reclamation progresses to completion in a timely manner. (sites: GP12, GP14, GP15, GP16, GP17, GP-19, YE7)

Please confirm your understanding of these outstanding points, and we look forward to working with you all to bring these sites to final closure. We would like to reiterate our appreciation for your time and efforts on this matter.

Thank you,

Kelsey

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9/30/2020

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Greg Deranleau

Environmental Manager

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