

State of Colorado
Energy & Carbon Management Commission

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Date Issued:
10/12/2023
Date Resolved:

NOTICE OF ALLEGED VIOLATION - ISSUED

Per Rule 523, 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 525, 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

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|--|--|
| OGCC Operator Number: <u>52530</u> | Contact Name and Telephone: |
| Name of Operator: <u>MAGPIE OPERATING INC</u> | Name: <u>JAMES M WARNER</u> |
| Address: <u>2707 SOUTH COUNTY RD 11</u> | Phone: <u>(970) 669-6308</u> Fax: <u>()</u> |
| City: <u>LOVELAND</u> State: <u>CO</u> Zip: <u>80537</u> | Email: <u>jwarner105@gmail.com</u> |

Well Location, or Facility Information (if applicable):

API Number: 05- - -00 Facility or Location ID: 111980
Name: WARNECKE LEASE Number: _____
QtrQtr: SESE Sec: 30 Twp: 8N Range: 53W Meridian: 6
County: LOGAN

ALLEGED VIOLATION

Rule: 1004.b
Rule Description: Reclamation - Pit Closure
Initial Discovery Date: 10/24/2022 Was this violation self-reported by the operator? No
Date of Violation: 10/24/2022 Approximate Time of Violation: _____
Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 1004.b., Magpie Operating, Inc. ("Operator") shall comply with the 900 series rules for the removal or treatment of E&P waste remaining in a production or special purpose pit before the pit may be closed for final reclamation.

On June 10th, 2019, Operator Submitted Form 6, "Subsequent Report of Well Abandonment" (document no 402068760) stating the Warnecke #1 was plugged and abandoned on April 22nd, 2019.

Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan on October 4, 2022 (document no. 403180663), regarding the closure of the produced water pit (Facility No. 111980, "Facility"), under Remediation Project no. 13484 ("Remediation Project"), which included a soil map showing analytical results at each sample location. Analytical results contained Table 915-1 exceedances, indicating the vertical and horizontal extent of impacts had not been determined.

On October 24, 2022, ECOM staff conducted an inspection (document no. 696105548) of the Remediation Project and observed remediation activities for the Facility were ongoing. Staff provided corrective actions instructing Operator to comply with the 900 Series Rules and determine the vertical and horizontal extent of an contamination in excess of the cleanup concentrations in Table 915-1 by November 16, 2022.

Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan for the Facility and Remediation Project on November 14, 2022 (document no. 403227439), that included analytical results from soil samples with Table 915-1 exceedances. Staff's Conditions of Approval ("COAs") included, in part, for Operator to comply with the 900 Series Rules and determine the vertical

and horizontal extent of any contamination in excess of the cleanup concentrations in Table 915-1.

ECMC staff conducted a follow-up inspection on November 22, 2022 (document no. 696105620), which included corrective actions referencing the October 24th inspection and the November 14th Form 27 COAs, requiring Operator to comply with the 900 Series Rules and determine the vertical and horizontal extent of any contamination in excess of the cleanup concentrations in Table 915-1.

On May 11, 2023, Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan (document no. 403400235) for the Facility and Remediation Project that included analytical results with Table 915-1 exceedances, indicating the vertical and horizontal extent of impacts had not been determined.

Operator failed to comply with the 900 Series Rules for the removal or treatment of E&P waste remaining in a production or special purpose pit, violating Rule 1004.b.

Abatement or Corrective Action Required to be Performed by Operator: _____ Corrective Action Due Date: 10/26/2023

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

Operator will complete a full delineation of the impacted areas and perform remediation as well as final reclamation. A plan for defining vertical and lateral extents of impacts shall be provided within 14 days of issuance and implementation of the plan within 30 days of issuance of the NOAV.

Rule: 34-60-121(1) C.R.S.

Rule Description: Statutory violation

Initial Discovery Date: 11/14/2022

Was this violation self-reported by the operator? No

Date of Violation: 11/14/2022

Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to the Conditions of Approval ("COAs") for Magpie Operating, Inc. ("Operator"), in Operator's Supplemental Form 27, Site Investigation and Remediation Workplans, Operator is required to comply with the 900 Series Rules and determine the vertical and horizontal extent of any contamination in excess of the cleanup concentrations in Table 915-1, and continue quarterly reporting until the site investigation is complete and the implementation schedule can be updated.

On June 10th, 2019, Operator Submitted Form 6, "Subsequent Report of Well Abandonment" (document no 402068760) stating the Warnecke #1 was plugged and abandoned on April 22nd, 2019.

Operator submitted Supplemental Form 27s regarding the closure of the produced water pit (Facility No. 111980, "Facility"), under Remediation Project no. 13484 ("Remediation Project"), on November 14, 2022 (document no. 403227439) and May 11, 2023 (document no. 403400235), that included analytical results from soil samples with Table 915-1 exceedances. Staff's Conditions of Approval ("COAs") included, in part, for Operator to comply with the 900 Series Rules and determine the vertical and horizontal extent of any contamination in excess of the cleanup concentrations in Table 915-1, and for Operator to continue quarterly reporting until the site investigation is complete and the implementation schedule can be updated.

Operator failed to conduct sampling and analysis of soil pursuant to Rule 915 to determine the horizontal and vertical extent of any contamination in excess of the cleanup concentrations in Table 915-1, and to file quarterly reporting until the site investigation is complete and the implementation schedule can be updated, violating COAs in Operator's Supplemental Form 27s, subjecting Operator to enforcement under §34-60-121.(1)(a), C.R.S.

Abatement or Corrective Action Required to be Performed by Operator: _____ Corrective Action Due Date: 10/12/2023

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

Operator will immediately provide a quarterly update report in a Supplemental Form 27, that meets the requirements of COAs in Operator's previous Form 27s, and continue providing further quarterly Form 27s until the site investigation is complete and the implementation schedule can be updated.

Operator will complete a full delineation of the impacted areas and perform remediation as well as final reclamation. A plan for defining vertical and lateral extents of impacts shall be provided within 14 days of issuance and implementation of the plan within 30 days of issuance of the NOAV.

Rule: 913.

Rule Description: Site Investigation, Remediation, and Closure

Initial Discovery Date: 02/14/2023

Was this violation self-reported by the operator? No

Date of Violation: 02/14/2023

Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 913.e., Magpie Operating, Inc. ("Operator") will provide quarterly update reports in a Supplemental Form 27 to document progress of ongoing remediation projects.

On June 10th, 2019, Operator Submitted Form 6, "Subsequent Report of Well Abandonment" (document no 402068760) stating the Warnecke #1 was plugged and abandoned on April 22nd, 2019.

Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan on October 4, 2022 (document no. 403180663), regarding the closure of the produced water pit (Facility No. 111980, "Facility"), under Remediation Project no. 13484 ("Remediation Project").

Operator submitted additional Supplemental Form 27s for the Facility and Remediation Project on November 14, 2022 (document no. 403227439) and May 11, 2023 (document no. 403400235). Staff's Conditions of Approval ("COAs") included, in part, for Operator to continue quarterly reporting until the site investigation is complete and the implementation schedule can be updated.

As of October 10, 2023, Operator has not submitted a Supplemental Form 27 since May 11, 2023 (document no. 403400235).

Operator failed to provide quarterly update reports in a Supplemental Form 27 to document progress of site investigation and Remediation, violating Rule 913.e.

Abatement or Corrective Action Required to be Performed by Operator: Corrective Action Due Date: 10/12/2023

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

Operator will immediately provide a quarterly update report in a Supplemental Form 27, that meets the requirements of COAs in Operator's previous Form 27s, and continue providing further quarterly Form 27s until the site investigation is complete and the implementation schedule can be updated.

Rule: 913.

Rule Description: Site Investigation, Remediation, and Closure

Initial Discovery Date: 10/24/2022 Was this violation self-reported by the operator? No

Date of Violation: 10/24/2022 Approximate Time of Violation:

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 913.b.(2), Magpie Operating, Inc. ("Operator") will conduct sampling and analysis of soil and Groundwater pursuant to Rule 915 to determine the horizontal and vertical extent of any contamination in excess of the cleanup concentrations in Table 915-1.

On June 10th, 2019, Operator Submitted Form 6, "Subsequent Report of Well Abandonment" (document no 402068760) stating the Warnecke #1 was plugged and abandoned on April 22nd, 2019.

Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan on October 4, 2022 (document no. 403180663), regarding the closure of the produced water pit (Facility No. 111980, "Facility"), under Remediation Project no. 13484 ("Remediation Project"), which included a soil map showing analytical results at each sample location. Analytical results contained Table 915-1 exceedances, indicating the vertical and horizontal extent of impacts had not been determined.

On October 24, 2022, ECMC staff conducted an inspection (document no. 696105548) of the Remediation Project and observed remediation activities for the Facility were ongoing. Staff provided corrective actions instructing Operator to comply with the 900 Series Rules and determine the vertical and horizontal extent of an contamination in excess of the cleanup concentrations in Table 915-1 by November 16, 2022.

Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan for the Facility and Remediation Project on November 14, 2022 (document no. 403227439), that included analytical results from soil samples with Table 915-1 exceedances. Staff's Conditions of Approval ("COAs") included, in part, for Operator to comply with the 900 Series Rules and determine the vertical and horizontal extent of any contamination in excess of the cleanup concentrations in Table 915-1.

ECMC staff conducted a follow-up inspection on November 22, 2022 (document no. 696105620), which included corrective actions referencing the October 24th inspection and the November 14th Form 27 COAs, requiring Operator to comply with the 900 Series Rules and determine the vertical and horizontal extent of any contamination in excess of the cleanup concentrations in Table 915-1.

On May 11, 2023, Operator submitted a Supplemental Form 27, Site investigation and Remediation Workplan (document no. 403400235) for the Facility and Remediation Project that included analytical results with Table 915-1 exceedances, indicating the vertical and horizontal extent of impacts had not been determined.

Operator failed to conduct sampling and analysis of soil pursuant to Rule 915 to determine the horizontal and vertical extent of any contamination in excess of the cleanup concentrations in Table 915-1, violating Rule 913.b.(2).

Abatement or Corrective Action Required to be Performed by Operator:

Corrective Action Due Date: 10/26/2023

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

Operator will complete a full delineation of the impacted areas and perform remediation as well as final reclamation. A plan for defining vertical and lateral extents of impacts shall be provided within 14 days of issuance and implementation of the plan within 30 days of issuance of the NOAV.

PENALTY

Penalties for violations alleged in this NOAV will be calculated pursuant to Rule 525, with daily penalties accruing pursuant to Section 34-60-121(1), C.R.S.

ANSWER

Pursuant to Rule 523.c.(2), the operator must file an Answer to this NOAV within 28 days of its receipt, or a default judgment may be entered. Answers are filed by email to dnr_ecmc_enforcement@state.co.us.

NOAV ISSUED

NOAV Issue Date: 10/12/2023

COGCC Representative Signature: _____

COGCC Representative: Trent Lindley

Title: NOAV Specialist

Email: trent.lindley@state.co.us

Phone Num: (303) 894-2100x5143

CORRECTIVE ACTION COMPLETED

Rule: 1004.b

Rule Description: Reclamation - Pit Closure

Corrective Action Start Date: _____

Corrective Action Complete Date: _____

Has corrective action for this violation been performed as required? _____

Description of Actual Corrective Action Performed by Operator

Rule: 34-60-121(1)
C.R.S.

Rule Description: Statutory violation

Corrective Action Start Date: _____

Corrective Action Complete Date: _____

Has corrective action for this violation been performed as required? _____

Description of Actual Corrective Action Performed by Operator

Rule: 913.

Rule Description: Site Investigation, Remediation, and Closure

Corrective Action Start Date: _____

Corrective Action Complete Date: _____

Has corrective action for this violation been performed as required? _____

Description of Actual Corrective Action Performed by Operator

Rule: 913.

Rule Description: Site Investigation, Remediation, and Closure

Corrective Action Start Date: _____

Corrective Action Complete Date: _____

Has corrective action for this violation been performed as required? _____

Description of Actual Corrective Action Performed by Operator

FINAL RESOLUTION

Cause #: _____

Order #: _____

Docket #: _____

Enforcement Action: _____

Final Resolution Date: _____

Final Resolution Comments:

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> |
|------------------------|-----------------------------|
| 403558618 | NOAV CERTIFIED MAIL RECEIPT |
| 403558629 | NOAV ISSUED |

Total Attach: 2 Files