

State of Colorado
Energy & Carbon Management Commission

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Document Number:
402806948
Date Issued:
09/09/2021
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

OGCC Operator Number: <u>96850</u>	Contact Name and Telephone:
Name of Operator: <u>TEP ROCKY MOUNTAIN LLC</u>	Name: <u>JEFFREY KIRTLAND</u>
Address: <u>PO BOX 370</u>	Phone: <u>(970) 263-2736</u> Fax: <u>()</u>
City: <u>PARACHUTE</u> State: <u>CO</u> Zip: <u>81635</u>	Email: <u>jkirtland@terraep.com</u>

Well Location, or Facility Information (if applicable):

API Number: 05- - -00 Facility or Location ID: 479988
Name: MV 9-32-696 Tank Battery Number: _____
QtrQtr: NESW Sec: 32 Twp: 6S Range: 94W Meridian: 6
County: GARFIELD

ALLEGED VIOLATION

Rule: 304.
Rule Description: Form 2A, Oil and Gas Location Assessment Application
Initial Discovery Date: 05/11/2021 Was this violation self-reported by the operator? Yes
Date of Violation: 05/11/2021 Approximate Time of Violation: _____
Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 304.a, TEP Rocky Mountain, LLC ("Operator") will submit a completed Form 2A, Oil and Gas Location Assessment as part of their Oil and Gas Development Plan application, as required by Rule 303.a.(2). Operator will submit and obtain approval of a Form 2A prior to:

- (1) Surface disturbance at a site previously undisturbed by Oil and Gas Operations;
- (2) Surface disturbance for purposes of expanding an existing Working Pad Surface or Oil and Gas Location; or
- (3) Any significant change to the design and operation of an Oil and Gas Location, including but not limited to the addition of a Well or a Pit, except an Emergency Pit or a lined Plugging Pit. The Director will determine if a Form 2A is required for significant changes at an existing Oil and Gas Location made in response to new requirements or regulations from other state or federal agencies or the Relevant Local Government.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment.

COGCC staff conducted an inspection of the spill/release on May 26, 2021 (document no. 699700256), and observed a Land Treatment area constructed partially off-site, increasing the land disturbance area to an area previously undisturbed by oil and gas operations.

Operator submitted a Form 19, Supplemental Spill/Release Report (document no. 402703455) on June 1, 2021, indicating 140 yards of impacted soils are being landfarmed onsite. Operator submitted a Form 27, Initial Site Investigation and Remediation Workplan (document no 402703249) on June 1, 2021, indicating 140 yards of soil that contained lower TPH concentrations were placed within a landfarm onsite as shown in the landfarm map. The Form 27 explained that soils within the landfarm will be tilled on a monthly basis and samples collected in June/July to determine hydrocarbon concentrations.

Surface disturbances, by the Operator for construction of a Land Treatment area at a site previously undisturbed by Oil and Gas Operations, expanded the existing Oil and Gas Location without the submission and prior approval of a Form 2A, violating Rule 304.a.

Abatement or Corrective Action Required to be Performed by Operator: _____ Corrective Action Due Date: 09/24/2021

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

Operator will submit a Form 2A documenting the changes to Location ID #335087.

Rule: 603.

Rule Description: Operational and Safety Requirements

Initial Discovery Date: 05/11/2021 Was this violation self-reported by the operator? Yes

Date of Violation: 05/11/2021 Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 603.o., TEP Rocky Mountain, LLC ("Operator") will design, construct, and maintain secondary containment devices around new and significantly modified crude oil, condensate, and produced water storage tanks. (1) Operators will design secondary containment structures to be sufficiently sized to contain at least 150% of the volume of the largest single Tank within the containment. (2) Operators will construct secondary containment of steel, or other engineered material, designed and installed to prevent leakage and resist degradation from erosion or routine operation. (3) To prevent leakage, Operators will line secondary containment areas with an impervious synthetic or engineered liner that underlays all primary containment vessels including partially buried vessels. The liner will be sufficiently impervious so that any discharge from a primary containment system will not escape containment before cleanup occurs. The liner will be attached to secondary containment and any equipment penetrating the liner will have a sealed connection. (4) Secondary containment will prevent Spills or Releases from primary containment vessels, process vessels, or pipelines from migrating horizontally or vertically prior to clean-up. (5) For locations within 500 feet and upgradient of a surface water body or wetland, tertiary containment, such as a compacted earthen berm, is required around Production Facilities.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment.

COGCC staff conducted an inspection of the spill/release on May 25, 2021 (document no. 699700255), and observed Operator installed two new 200 bbl AST condensate tanks that appeared to be operational for the wells associated with the tank battery. Staff also observed the secondary containment for the two new 200 bbl ASTs was in disrepair and the northwest area of the tank battery is missing the metal support for the liner. Staff required a corrective action to repair or install berms or other secondary containment devices and install liner material to ensure spill or released materials will be contained within the structure.

COGCC staff conducted an inspection of the spill/release the following day, May 26, 2021 (document no. 69970256) and made additional observations of the secondary containment in disrepair. Staff observed multiple tears and holes of various sizes in the liner, marked by orange spray paint.

Operator installed two 200 bbl ASTs and failed to construct secondary containment to prevent leakage and resist degradation from erosion or routine operation and ensure the liner for the secondary containment is sufficiently impervious, violating Rule 603.o.(1-5).

Abatement or Corrective Action Required to be Performed by Operator: _____ Corrective Action Due Date: 10/09/2021

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

The Operator will provide as-built plans for the modification of the secondary containment structure, as well as all integrity testing results, on a Form 2A.

Rule: 608.e.

Rule Description: Mechanical Conditions

Initial Discovery Date: 05/11/2021 Was this violation self-reported by the operator? Yes

Date of Violation: 05/11/2021 Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 608.e, TEP Rocky Mountain, LLC ("Operator") will keep all Production Facilities, valves, pipes, fittings, and vessels securely fastened or sealed, inspected at regular intervals, and maintained in good mechanical condition. All equipment will be engineered, operated, and maintained within the manufacturer's recommended specifications.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment.

Operator submitted a Form 19, Supplemental Spill/Release Report (document no. 402703455) on June 1, 2021, indicating the root cause of the release was caused by internal corrosion of the 300 bbl condensate AST.

Operator failed to ensure the AST was maintained in good mechanical condition, violating Rule 608.e.

Abatement or Corrective Action Required to be Performed by Operator: Corrective Action Due Date: 10/09/2021

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

The Operator will conduct regularly scheduled inspections as outlined in Rule 609 to ensure the mechanical integrity of all equipment used on Oil and Gas Locations. The Form 2A, to be submitted to document upgrades resulting from Spill/Release Point ID #479989, will include technical specifications of new equipment installed at this Location.

Rule: 905.e.

Rule Description: Oily Waste

Initial Discovery Date: 05/11/2021 Was this violation self-reported by the operator? Yes

Date of Violation: 05/11/2021 Approximate Time of Violation:

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 905.e.(2)A, TEP Rocky Mountain, LLC ("Operator"), prior to commencing any Land Treatment, will submit and obtain approval of a Form 27. The Form 27 will include, at a minimum:
i.A site diagram depicting the location of the planned Land Treatment area;
ii.The duration of the planned treatment; and
iii.The Operator's plan for final disposition of the treated Oily Waste.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment. The Form 19 indicated all contaminated soils will be identified, cleaned up, and disposed of at an approved off-site disposal facility.

On May 25, 2021, COGCC staff conducted an inspection (document no. 699700255) of the spill/release at the Tank Battery and observed the Operator excavating the impacted soil from the spill release area. Staff observed multiple stockpiles of potentially impacted material located adjacent to the excavation sidewalls and a detectable hydrocarbon odor present around the excavation.

Operator submitted a Form 19, Supplemental Spill/Release Report (document no. 402703455) on June 1, 2021, indicating impacted soils have been excavated and 140 yards were hauled off site for disposal and 140 yards are being landfarmed onsite.

Operator submitted a Form 27, Site Investigation and Remediation Workplan (document no. 402703249) on June 1, 2021, providing the plan for Land Treatment of the impacted soil.

The Operator commenced Land Treatment of impacted soil from a spill/release without submitting and obtaining approval of a Form 27, violating Rule 905.e.(2).

Abatement or Corrective Action Required to be Performed by Operator: Corrective Action Due Date: 09/24/2021

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

Operator will provide the information required by Rule 905.e.(2).A on a Supplemental Form 27.

Rule: 912.b.

Rule Description: Reporting Spills or Releases of E&P Waste, Gas, or Produced Fluids

Initial Discovery Date: 05/11/2021 Was this violation self-reported by the operator? No

Date of Violation: 05/21/2021

Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 912.b.(10), at the same time the TEP Rocky Mountain, LLC ("Operator") submits a Form 19 – Initial, the Operator will provide verbal or written notification to CPW if the Spill or Release occurred within 300 feet of surface Waters of the State, or within High Priority Habitat.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment.

In an email (document no. 402722309) on June 15, 2021, Operator notified CPW of the spill/release that occurred on May 11, 2021. The GPS coordinates provided by the Operator on the Form 19, Initial Spill/Release Report indicate the spill/release occurred within 300 feet of the South Fork of Starkey Gulch and within a High Priority Habitat.

The Operator failed to notify CPW of a release that occurred within 300 ft. of surface Waters of the State and located within High Priority Habitat at the same time the Form 19, Initial Spill/Release Report was submitted, violating Rule 912.b.(10).

Abatement or Corrective Action Required to be Performed by Operator: _____

Corrective Action Due Date: 10/09/2021

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

Operator shall comply with Rule 912.b.(10). Reporting requirements on all subsequent Spills/Releases at all of their Locations and Facilities.

Rule: 912.b.

Rule Description: Reporting Spills or Releases of E&P Waste, Gas, or Produced Fluids

Initial Discovery Date: 05/11/2021

Was this violation self-reported by the operator? Yes

Date of Violation: 05/21/2021

Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 912.b.(4), TEP Rocky Mountain, LLC ("Operator") will, in addition to the Form 19 – Initial, file a Form 19 – Supplemental not more than 10 days after the Spill or Release is discovered that includes:

- A. A topographic map showing the governmental section and location of the Spill or Release, or an aerial photograph showing the location of the specific Spill or Release site.
- B. All pertinent information about the Spill or Release known to the Operator that has not been reported previously, including photo documentation showing the source of the Spill or Release, the impacted area, and initial cleanup activity; and
- C. Information relating to the initial mitigation, site investigation, and Remediation measures conducted by the Operator.
- D. Global Positioning System data that meets the requirements of Rule 216 if latitude and longitude data provided pursuant to Rule 912.b.(2).A did not meet the requirements of Rule 216.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment. Conditions of Approval ("COA") on the Form 19 reminded the Operator about the requirement to submit a Form 19, Supplemental Spill/Release Report within 10 days after discovery of the spill/release. Operator submitted the Form 19, Supplemental Spill/Release Report (document no. 402703455) on June 1, 2021.

The Operator did not submit a Form 19, Supplemental Spill/Release Report within 10 days after discovery of a spill or release, violating Rule 912.b.(4).

Abatement or Corrective Action Required to be Performed by Operator: _____

Corrective Action Due Date: 10/09/2021

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

Operator shall comply with Spill/Release reporting requirements on all subsequent Spills/Releases at all of their Locations and Facilities.

Rule: 913.

Rule Description: Site Investigation, Remediation, and Closure

Initial Discovery Date: 05/11/2021

Was this violation self-reported by the operator? No

Date of Violation: 05/11/2021

Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 913.b.(5).B, when conducting Remediation activities, TEP Rocky Mountain, LLC ("Operator") will conform to the following standards:

- i. Operators will fence or cover open excavations to prevent access when sites are not attended.
- ii. Operators will protect topsoil, consistent with the Commission's 1000 Series Rules.
- iii. Operators will minimize surface disturbance.
- iv. Operators will properly store, handle, and manage all E&P Waste to prevent contamination of stormwater, surface water, Groundwater, and soil.
- v. If Remediation occurs within High Priority Habitat, the Operator will incorporate Best Management Practices protective of the relevant wildlife species or habitat in the Operator's Form 27.

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment.

COGCC staff conducted an inspection of the spill/release on May 26, 2021 (document no. 699700256), and observed a Land Treatment area constructed partially off-site, increasing the land disturbance area to an area previously undisturbed by oil and gas operations. Staff also observed no fence around the Land Treatment area and fencing did not completely go around the excavation providing the potential for access and safety concerns.

The GPS coordinates provided by the Operator on the Form 19, Initial Spill/Release Report indicate the spill/release occurred within 300 feet of the South Fork of Starkey Gulch and within a High Priority Habitat.

Operator submitted a Form 27, Site Investigation and Remediation Workplan (document no. 402703249) on June 1, 2021, providing the plan for Land Treatment of the impacted soil.

Operator failed to follow Best Management Practices, including fencing, while failing to minimize surface disturbance by constructing a Land Treatment area, within 300 ft. of surface Waters of the State and located in High Priority Habitat, for impacted soil from a spill/release without submitting and obtaining approval of a Form 27, violating Rule 913.b.(5).B.

Abatement or Corrective Action Required to be Performed by Operator: _____ Corrective Action Due Date: 10/09/2021

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

Operator shall comply with Rule 913.b.(5).B. Reporting requirements on all subsequent Spills/Releases at all of their Locations and Facilities.

Rule: 913.

Rule Description: Site Investigation, Remediation, and Closure

Initial Discovery Date: 05/11/2021 Was this violation self-reported by the operator? No

Date of Violation: 05/11/2021 Approximate Time of Violation: _____

Was this a discrete violation of obvious duration? Unknown

Description of Alleged Violation:

Pursuant to Rule 913.c.(4): Operators will prepare and obtain the Director's approval of a Form 27 prior to conducting the following operations and Remediation activities:

- (4) Land Treatment of Oily Waste pursuant to Rule 905.e;

Operator submitted a Form 19, Initial Spill/Release Report (document no. 402688184) on May 13, 2021, to report a spill/release of 113 bbls of condensate from a 300 bbl Aboveground Storage Tank ("AST") (Tank Battery Facility ID: 479988). Operator reported approximately 88 bbls were recovered and approximately 2 bbls leaked through a failed patch on the bottom of the west sidewall of the secondary containment structure. The secondary containment structure, made up of sand ballast material, absorbed the condensate that was not recovered or did not travel outside the containment.

COGCC staff conducted an inspection of the spill/release on May 26, 2021 (document no. 699700256), and observed a Land Treatment area constructed partially off-site, increasing the land disturbance area to an area previously undisturbed by oil and gas operations.

Operator submitted a Form 19, Supplemental Spill/Release Report (document no. 402703455) on June 1, 2021, indicating 140 yards of impacted soils are being landfarmed onsite. Operator submitted a Form 27, Initial Site Investigation and Remediation Workplan (document no 402703249) on June 1, 2021, indicating 140 yards of soil that contained lower TPH concentrations were placed within a landfarm onsite as shown in the landfarm map. The Form 27 explained that soils within the landfarm will be tilled on a monthly basis and samples collected in June/July to determine hydrocarbon concentrations.

The Operator constructed a Land Treatment area for the treatment of Oily Waste from a spill/release without submitting and obtaining approval of a Form 27, violating Rule 913.c.(4).

Abatement or Corrective Action Required to be Performed by Operator: _____ Corrective Action Due Date: 10/09/2021

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

Operator will prepare and obtain the Director's approval of a Form 27 prior to conducting Land Treatment of Oily Waste pursuant to Rule 905.e. Comply with Rule 913.c.(4). reporting requirements on all subsequent Form 27, Site Investigation and Remediation Workplans at all of their Locations and Facilities.

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: 09/09/2021

COGCC Representative Signature: _____

COGCC Representative: Trent Lindley

Title: NOAV Specialist

Email: trent.lindley@state.co.us

Phone Num: (303) 894-2100 x5143

CORRECTIVE ACTION COMPLETED

Rule: 304.

Rule Description: Form 2A, Oil and Gas Location Assessment Application

Corrective Action Start Date: _____ Corrective Action Complete Date: _____

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

Description of Actual Corrective Action Performed by Operator

NOAV resolved pursuant to Order 1V-886.

Rule: 603.

Rule Description: Operational and Safety Requirements

Corrective Action Start Date: _____ Corrective Action Complete Date: _____

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

Description of Actual Corrective Action Performed by Operator

NOAV resolved pursuant to Order 1V-886.

Rule: 608.e.
Rule Description: Mechanical Conditions
Corrective Action Start Date: _____ Corrective Action Complete Date: _____
Has corrective action for this violation been performed as required? Yes
Description of Actual Corrective Action Performed by Operator
NOAV resolved pursuant to Order 1V-886.

Rule: 905.e.
Rule Description: Oily Waste
Corrective Action Start Date: _____ Corrective Action Complete Date: _____
Has corrective action for this violation been performed as required? Yes
Description of Actual Corrective Action Performed by Operator
NOAV resolved pursuant to Order 1V-886.

Rule: 912.b.
Rule Description: Reporting Spills or Releases of E&P Waste, Gas, or Produced Fluids
Corrective Action Start Date: _____ Corrective Action Complete Date: _____
Has corrective action for this violation been performed as required? Yes
Description of Actual Corrective Action Performed by Operator
NOAV resolved pursuant to Order 1V-886.

Rule: 912.b.
Rule Description: Reporting Spills or Releases of E&P Waste, Gas, or Produced Fluids
Corrective Action Start Date: _____ Corrective Action Complete Date: _____
Has corrective action for this violation been performed as required? Yes
Description of Actual Corrective Action Performed by Operator
NOAV resolved pursuant to Order 1V-886.

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? Yes
Description of Actual Corrective Action Performed by Operator
NOAV resolved pursuant to Order 1V-886.

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? Yes
Description of Actual Corrective Action Performed by Operator
NOAV resolved pursuant to Order 1V-886.

FINAL RESOLUTION

Cause #: <u>1V</u>	Order #: <u>886</u>	Docket #: <u>221000280</u>
Enforcement Action: <u>Administrative Order of Consent</u>		Final Resolution Date: <u>08/02/2023</u>
Final Resolution Comments:		
NOAV resolved pursuant to Order 1V-886.		

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>
402806989	NOAV ISSUED
402807003	NOAV CERTIFIED MAIL RECEIPT
402807006	NOAV IN PROCESS

Total Attach: 3 Files