

STATE OF  
COLORADO

Rollins - DNR, Grace &lt;grace.rollins@state.co.us&gt;

**Fwd: [EXTERNAL]Re: [EXTERNAL]Re: [EXTERNAL]Re: NOT APPROVED\_Re: 48-hr Notice Prior to Backfill - Spill ID 487690 is**

1 message

**Brown - DNR, Kari** <kari.l.brown@state.co.us>

Thu, Oct 10, 2024 at 1:35 PM

To: Laurel Anderson - DNR &lt;laurel.anderson@state.co.us&gt;, Grace Rollins - DNR &lt;grace.rollins@state.co.us&gt;

FYI.

I think Greg has everything covered but keeping you in the loop since Nikki and I are both out Monday.

----- Forwarded message -----

From: **John Peterson** <JPeterson@kpk.com>

Date: Thu, Oct 10, 2024 at 9:08 AM

Subject: Re: [EXTERNAL]Re: [EXTERNAL]Re: [EXTERNAL]Re: [EXTERNAL]Re: NOT APPROVED\_Re: 48-hr Notice Prior to Backfill - Spill ID 487690 is

To: Deranleau - DNR, Greg &lt;greg.deranleau@state.co.us&gt;

Cc: **Landowner**, Graber - DNR, Nikki <nikki.graber@state.co.us>, kari.l.brown@state.co.us <kari.l.brown@state.co.us>, Jeremy Ferrin - DNR <jeremy.ferrin@state.co.us>, Jeffrey Kauffman <jkauffman@kpk.com>, Mani Silva <msilva@kpk.com>, Jeff Petersen <JPetersen@kpk.com>, Ross Watzman <rwatzman@kpk.com>, Juan Reyes <JReyes@kpk.com>

we wont be doing any work today or tomorrow at this site. the crews have been moved to another location

On Oct 10, 2024, at 8:57 AM, Deranleau - DNR, Greg &lt;greg.deranleau@state.co.us&gt; wrote:

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John,

I'm available to meet with whomever is responsible for directing KPK's operations onsite. It looks like I can get there between 10:30 and 11. Let me know.

Greg

On Thu, Oct 10, 2024 at 8:49 AM John Peterson &lt;JPeterson@kpk.com&gt; wrote:

i am not in colorado today or tomorrow

On Oct 10, 2024, at 8:48 AM, Deranleau - DNR, Greg &lt;greg.deranleau@state.co.us&gt; wrote:

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John,

Let's meet today. I'm trying to get an ETA and will provide that as soon as I can.

Greg

On Thu, Oct 10, 2024 at 8:30 AM John Peterson &lt;JPeterson@kpk.com&gt; wrote:

**Landowner**

its dissappointing to hear you are obstructing our crews work this morning.

We cant meet until monday on our end so Ive told the crews to leave the site. I also want to remind you that the excavation is wholly located within the road which you indicated was public. Can you explain further the limits of your surface ownership ?

please let me know if/when you can meet on monday.

On Oct 10, 2024, at 7:27 AM, Landowner wrote:

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I would like to suggest that we have a on-site meeting today so that we can all agree on a future course of action. I am available all day.

Landowner

Sent from my iPad

On Oct 9, 2024, at 9:46 PM, John Peterson <[JPeterson@kpk.com](mailto:JPeterson@kpk.com)> wrote:

Greg,

I appreciate you reaching out. I have spoken directly with the landowner about our intention and next steps. I explained that he is always welcome to contact an independent consultant for technical opinions about KPK's approach and generally accepted industry standards. Based on our field observations and organic vapor screening, KPK has removed all of the petroleum hydrocarbon impacted soil in the unsaturated zone. We have collected soil samples from the sidewalls and are awaiting results. There is no oil, staining, odor, nor elevated PID readings from the sidewalls. The floor has been excavated about 1 foot below the groundwater table. Hydrocarbon impacts remain at the base. There is no reason to collect floor soil samples that we can reasonably confirm exceed Table 915-1 levels at this time. The presence of residual impacts is not disputed by KPK. These impacts need to be defined further before blindly continuing to excavate soil.

It has been my understanding, and has been reiterated by ECMC staff multiple times in public forums, that "ECMC does not direct remedial activities". However, based on your email directives below, it appears that ECMC does wish to direct the remediation at this site. Please clarify.

In my expert opinion, dewatering an excavation and continuing to excavate soil is an extreme remedial

measure that is typically reserved for contaminated sites with an imminent threat to human health or the environment and/or is comprised of a significant magnitude and extent of contamination. That is not the case at this site. We have a small diameter low pressure flowline with a relatively small volume of oil released. We have groundwater impacts to a shallow alluvial aquifer (likely of limited extent) with no completed pathways for exposure. Furthermore, landfills will not accept waste that will fail the Paint Filter test for free liquids. If a dewater and excavate solution was to be implemented, a drying containment at the surface would likely need to be constructed. There is no usable surface area to construct a drying containment to implement your requested remedial design.

We have completely removed the source area and repaired the flowline so that we can do the following:

1. Backfill the excavation and return the public road to service to reduce impacts to surface operations. A primary concern of the landowner.
2. Initiate monitored natural attenuation of residual impacts.
3. Install monitoring wells in the source area, sample the soil and define any residual extent, as well as define the magnitude and extent of impact to the groundwater.
4. Evaluate site assessment data to determine if additional excavation or other active remediation is needed or if monitored natural attenuation will be the most appropriate remedial solution.
5. Prepare a remedial design to reach closure.

Significant mass of hydrocarbon has already been removed to date. Based on site conditions and my experience, it is highly unlikely that additional excavation will be determined to be the most prudent technical remedial approach. If data prove otherwise, additional excavation will be performed by KPK.

The steps described above are well within documented industry best practices and are regularly accepted by the ECMC for other operators. As you also are well aware, the approach described above is regularly implemented at many contaminated sites in Colorado and across the US under other regulatory frameworks such as the CDPHE and EPA.

KPK intends to backfill the excavation tomorrow 10/10 and throughout the next several business days.

Thanks,

JP

<image001.png>

**John D. Peterson, P.G.**

Executive VP - EHS & Compliance

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**From:** Deranleau - DNR, Greg

<[greg.deranleau@state.co.us](mailto:greg.deranleau@state.co.us)>

**Sent:** Wednesday, October 9, 2024 2:36 PM

**To:** Graber - DNR, Nikki <[nikki.graber@state.co.us](mailto:nikki.graber@state.co.us)>

**Cc:** John Peterson <[JPeterson@kpk.com](mailto:JPeterson@kpk.com)>;

[kari.l.brown@state.co.us](mailto:kari.l.brown@state.co.us); Jeremy Ferrin - DNR

<[jeremy.ferrin@state.co.us](mailto:jeremy.ferrin@state.co.us)>;

**Landowner**; Jeffrey Kauffman

<[jkauffman@kpk.com](mailto:jkauffman@kpk.com)>; Mani Silva <[msilva@kpk.com](mailto:msilva@kpk.com)>;

Jeff Petersen <[JPetersen@kpk.com](mailto:JPetersen@kpk.com)>; Ross Watzman

<[rwatzman@kpk.com](mailto:rwatzman@kpk.com)>; Juan Reyes

<[JReyes@kpk.com](mailto:JReyes@kpk.com)>

**Subject:** [EXTERNAL]Re: NOT APPROVED\_Re: 48-hr Notice  
Prior to Backfill - Spill ID 487690

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John,

This issue was brought to my attention a few minutes ago when we received a call from an upset landowner who had been informed that you indeed still plan to backfill tomorrow.

ECMC's intent by not approving backfill is to ensure that KPK removes all significantly impacted material prior to backfill. Based on our staff's observations in the field, there is still significantly impacted material at the base of this excavation--our observations made last Thursday indicate that as material was removed from the bottom hydrocarbon laden liquids squeezed out of the soils. From ECMC's perspective, it would be most prudent to excavate and dispose of this type of material, dewatering the base of the excavation if necessary, so that the ultimate remediation of the site can be accomplished in a reasonable timeframe. Backfilling with the significantly impacted material in place will only prolong and exacerbate the impacts.

Please advise that you plan to continue excavation and collect additional samples from the base prior to backfilling. At this time, ECMC has not received any analytical data for this site, so our decision is primarily guided by our observations in the field.

Greg

On Tue, Oct 8, 2024 at 2:52 PM Graber - DNR, Nikki  
<[nikki.graber@state.co.us](mailto:nikki.graber@state.co.us)> wrote:

Mr. Peterson,

**In accordance with Rule 901.a, ECMC does not approve backfill at this location.**

ECMC inspected the location on Thursday 10/3/2024 and observed impacts remained insitu on the sidewalls to the west as well as on the floor (photos included of floor sample soil and free product released after sampling). ECMC visited the location on 10/8/2024 and observed that the sidewall had been extended but KPK had done nothing to address the heavily impacted soils on the floor. As such, KPK's responsibility is to comply with 912.a.(2) and address these impacts.

<image002.png>

<image003.png>

<image004.png>

<image005.png>

Best regards,

Nikki Graber, PG  
DJ Basin Region Environmental Supervisor

**COLORADO****Energy & Carbon Management  
Commission**

Department of Natural Resources

C 970.250.0543 | P 970.663.5719

[Nikki.Grabber@state.co.us](mailto:Nikki.Grabber@state.co.us) | [www.colorado.gov/ecmc](http://www.colorado.gov/ecmc)

On Mon, Oct 7, 2024 at 11:25 AM John Peterson  
<[JPeterson@kpk.com](mailto:JPeterson@kpk.com)> wrote:

Ms Brown and Ms. Graber:

Per the COA in doc 403906299 for Spill ID 487690, KPK  
is providing 48-hr notice prior to backfill. We will  
commence backfill activities on Wednesday 10/9/2024  
at 11:30 am.

JP

<image001.png>

**John D. Peterson, P.G.**

Executive VP - EHS & Compliance

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Greg Deranleau  
Environmental Manager

(he/him/his)



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Kari Brown  
Environmental Protection Specialist



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