

March 21, 2016

Jenna Keller
Keller Law LLC
P.O. Box 771222
Steamboat Springs, CO 80477

Re: Final Resolution - Complaint 200438243 and 200438244
Complainant: Scott Hutt
NW Graylin D Sand Unit #12 (API #075-06129)

Dear Ms. Keller,

The Colorado Oil and Gas Conservation Commission (COGCC) received the subject complaints filed via email on behalf of your client, Mr. Scott Hutt. The complaints were regarding poor berm maintenance and lack of production reporting at NW Graylin D Sand Unit #12 (API #075-06129). The subject complaints are documented in COGCC document numbers 200438243 and 200438244, which can be found on the "Complaints" page, off of our main website <http://cogcc.state.co.us/>. The COGCC investigated these complaints and documented the results in COGCC document numbers 200438722 and 200439223.

At the time that the complaint was filed, the operator of the locations, Benchmark Energy LLC (Benchmark) was already the subject of an ongoing investigation by the COGCC by which COGCC staff sought penalty enforcement action due to compliance violations and environmental impacts at several facilities.

The following actions were taken by COGCC staff to resolve conditions reported in the complaint, with some actions having been completed before receipt of the complaint:

- On 08/19/2015 COGCC Inspector Craig Quint conducted an inspection of the location and issued Field Inspection Report (FIR) # 680000079 with action required to remove and control weeds on berms and around tanks and treater, and to repair berms to contain 300 barrels plus precipitation (attached).
- COGCC Production Supervisor Teri Ikenoyue reviewed well status and production reports and determined that although the well file reported the well as in production, production reports had not been received since December of 2014. This finding typically would have resulted in a letter to the operator requesting production reports be submitted, but this action was not completed due to the pending enforcement action in the COGCC January 2016 hearing.
- Due to a perceived pattern of non-compliance and reporting violations at multiple locations, COGCC Staff pursued an Order Finding Violation (OFV) hearing against the operator;
- The OFV hearing was held on January 26, 2016 seeking penalty enforcement action against Benchmark for compliance issues and environmental impacts at several facilities. At the hearing



the Commission ruled in favor of the relief recommended by staff, authorizing foreclosure on Benchmark's existing financial assurance and the use of funds from the Oil and Gas Conservation and Environmental Response Fund to address environmental impacts resulting from Benchmark's violations, after a thirty-day period granted to the operator to bring the facilities into compliance.

- On February 3, 2016 COGCC Director Matthew Lepore issued notice that Benchmark's Certificate of Clearance had been revoked, thereby suspending Benchmark's authority to sell or transport produced hydrocarbons from any of its permitted wells and locations in Colorado.

Complaint numbers 200438243 and 200438244 have been formally closed with the issuance of COGCC Order 1V-564, which can be found on the "Regulation" page of the COGCC website.

The COGCC is currently in the process of recovering the financial assurance on file for Benchmark. Once the financial assurance is recovered, the COGCC will create a plan for the proper plugging and abandonment of the wells in addition to the reclamation of impacted locations. Locations will be prioritized based on actual and threatened impact as well as the availability of personnel and equipment. Reclamation efforts will be scheduled according to the priority assigned to each location

Please advise Mr. Hutt to feel free to contact the COGCC directly to discuss the reclamation schedule.

If you have questions regarding this complaint or the investigation, please contact me.

Sincerely,



Megan Adamczyk, Complaint Specialist
Phone: 888-235-1101
Email: dnr_cogcc.complaints@state.co.us

**FORM
INSP**Rev
05/11**State of Colorado
Oil and Gas Conservation Commission**1120 Lincoln Street, Suite 801, Denver, Colorado 80203
Phone: (303) 894-2100 Fax: (303) 894-2109

DE	ET	OE	ES
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Inspection Date:

08/19/2015

Document Number:

680000079

Overall Inspection:

ACTION REQUIRED**FIELD INSPECTION FORM**

Location Identifier	Facility ID	Loc ID	Inspector Name:	On-Site Inspection	2A Doc Num:
	219280	312179	QUINT, CRAIG	<input type="checkbox"/>	

Operator Information:OGCC Operator Number: 10380Name of Operator: BENCHMARK ENERGY LLCAddress: PO BOX 8747City: PRATT State: KS Zip: 67124

- ☒ THIS IS A FOLLOW UP INSPECTION
- ☒ FOLLOW UP INSPECTION REQUIRED
- ☐ NO FOLLOW UP INSPECTION REQUIRED
- ☐ INSPECTOR REQUESTS FORM 42 WHEN CORRECTIVE ACTIONS ARE COMPLETED

Contact Information:

Contact Name	Phone	Email	Comment
Ferrin, Jeremy		jeremy.ferrin@state.co.us	
Nash, Jerry	(620) 672-9700	lferrell@profsecservices.com	
Murphy, Julie		julie.murphy@state.co.us	

Compliance Summary:QtrQtr: SENW Sec: 5 Twp: 8N Range: 53W

Insp. Date	Doc Num	Insp. Type	Insp Status	Satisfactory /Action Required	PA P/F/I	Pas/Fail (P/F)	Violation (Y/N)
01/20/2015	668303037	SI	SI	ACTION REQUIRED			No
11/18/2014	667200665	PR	PR	ACTION REQUIRED			No
07/23/2014	668602884	PR	PR	ALLEGED VIOLATION			Yes
11/09/2011	664000115	PR	PR	ACTION REQUIRED	P		No
12/27/2010	200292955	PR	PR	SATISFACTORY	I		No
10/25/2010	200292925	PR	PR	ACTION REQUIRED	F		Yes
12/06/2001	200022151	PR	PR	ACTION REQUIRED		Fail	Yes
12/05/2001	200022153	CA	PA	ACTION REQUIRED	F	Fail	Yes
01/05/1996	500152880	PR	PR			Pass	No

Inspector Comment:**STAINED SOILS HAVE BEEN CLEANED UP, TREATER REPAIRED, SIGNS AND LABELING INSTALLED AND DEBRIS AND UNUSED EQUIPMENT REMOVED.****Related Facilities:**

Facility ID	Type	Status	Status Date	Well Class	API Num	Facility Name	Insp Status
219280	WELL	PR	01/19/2015	OW	075-06129	NW GRAYLIN D SAND UNIT 12	PR

Equipment:Location Inventory

Inspector Name: QUINT, CRAIG

Special Purpose Pits: _____	Drilling Pits: _____	Wells: _____	Production Pits: _____
Condensate Tanks: _____	Water Tanks: _____	Separators: _____	Electric Motors: _____
Gas or Diesel Mortors: _____	Cavity Pumps: _____	LACT Unit: _____	Pump Jacks: _____
Electric Generators: _____	Gas Pipeline: _____	Oil Pipeline: _____	Water Pipeline: _____
Gas Compressors: _____	VOC Combustor: _____	Oil Tanks: _____	Dehydrator Units: _____
Multi-Well Pits: _____	Pigging Station: _____	Flare: _____	Fuel Tanks: _____

Location

Lease Road:

Type	Satisfactory/Action Required	comment	Corrective Action	Date
Access	SATISFACTORY	GRAVEL ROAD THROUGH FARM GROUND		

Signs/Marker:

Type	Satisfactory/Action Required	Comment	Corrective Action	CA Date
WELLHEAD	SATISFACTORY	LEASE SIGN MOUNTED ON UNIT		
BATTERY	SATISFACTORY	LEASE SIGN MOUNTED ON STAIRS AS REQUIRED BY PREVIOUS INSPECTION.		
TANK LABELS/PLACARDS	SATISFACTORY	STICKERS ON TANKS AS REQUIRED BY PREVIOUS INSPECTION.		

Emergency Contact Number (S/A/V): SATISFACTORY

Corrective Date: _____

Comment: _____

Corrective Action: _____

Good Housekeeping:

Type	Satisfactory/Action Required	Comment	Corrective Action	CA Date
WEEDS	ACTION REQUIRED	WEEDS ON BERMS AROUND TANKS AND TREATER	REMOVE AND CONTROL WEEDS	09/15/2015
DEBRIS	SATISFACTORY	DEBRIS HAS BEEN REMOVED AS REQUIRED BY PREVIOUS INSPECTION.		

Spills:

Type	Area	Volume	Corrective action	CA Date
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☐ Multiple Spills and Releases?

Equipment:					
Type	#	Satisfactory/Action Required	Comment	Corrective Action	CA Date
Veritcal Heater Treater	1	SATISFACTORY	WITH SHED, TREATER HAS BEEN REPAIRED AS REQUIRED BY PREVIOUS INSPECTIONS		
Pump Jack	1	SATISFACTORY	MARK II		
Prime Mover	1	SATISFACTORY	ELEC MOTOR		
Deadman # & Marked	4	SATISFACTORY			
Gas Meter Run	1	SATISFACTORY			
Ancillary equipment	2	SATISFACTORY	ELEC PANEL, PROPANE TANK		

Facilities: ☐ New Tank Tank ID: _____

Contents	#	Capacity	Type	SE GPS
CRUDE OIL	3	300 BBLS	STEEL AST	40.690290,-103.329570

S/A/V: SATISFACTORY Comment: 1 TANK IS DISCONNECTED AND OUT OF SERVICE

Corrective Action: _____ Corrective Date: _____

Paint

Condition	
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Other (Content) _____

Other (Capacity) _____

Other (Type) _____

Berms

Type	Capacity	Permeability (Wall)	Permeability (Base)	Maintenance
Earth	Inadequate	Walls Sufficent	Base Sufficent	Inadequate

Corrective Action: REPAIR BERMS TO CONTAIN 300 BBLS PLUS PRECIPITATION. Corrective Date: 09/20/2015

Comment: _____

Venting:

Yes/No	Comment
NO	

Flaring:

Type	Satisfactory/Action Required	Comment	Corrective Action	CA Date

Predrill

Location ID: 219280

Site Preparation:

Lease Road Adeq.: _____ Pads: _____ Soil Stockpile: _____

S/A/V: _____

Corrective Action: _____ Date: _____ CDP Num.: _____

Form 2A COAs:**S/A/V:** _____ **Comment:** _____**CA:** _____ **Date:** _____**Wildlife BMPs:****S/A/V:** _____ **Comment:** _____**CA:** _____ **Date:** _____**Stormwater:****Comment:** _____**Staking:****On Site Inspection (305):**Surface Owner Contact Information:

Name: _____ Address: _____

Phone Number: _____ Cell Phone: _____

Operator Rep. Contact Information:

Landman Name: _____ Phone Number: _____

Date Onsite Request Received: _____ Date of Rule 306 Consultation: _____

Request LGD Attendance: _____

LGD Contact Information:

Name: _____ Phone Number: _____ Agreed to Attend: _____

Summary of Landowner Issues:Summary of Operator Response to Landowner Issues:Onsite Inspection Memorandum Summarizing Discussions at Inspection as Attachment:**Facility**

Facility ID: 0 Type: _____ API Number: - Status: _____ Insp. Status: _____

Environmental**Spills/Releases:**

Type of Spill: _____ Description: _____ Estimated Spill Volume: _____

Comment: _____

Corrective Action: _____ Date: _____

Reportable: _____ GPS: Lat _____ Long _____

Proximity to Surface Water: _____ Depth to Ground Water: _____

Water Well:

DWR Receipt Num: _____	Owner Name: _____	GPS : _____	Lat _____ Long _____
Field Parameters:			
Sample Location: _____			
Emission Control Burner (ECB): _____			
Comment: _____			
Pilot: _____ Wildlife Protection Devices (fired vessels): _____			

Reclamation - Storm Water - Pit

Interim Reclamation:

Date Interim Reclamation Started: _____ Date Interim Reclamation Completed: _____

Land Use: _____

Comment: _____

1003a. Debris removed? _____ CM _____

CA _____ CA Date _____

Waste Material Onsite? _____ CM _____

CA _____ CA Date _____

Unused or unneeded equipment onsite? _____ CM _____

CA _____ CA Date _____

Pit, cellars, rat holes and other bores closed? _____ CM _____

CA _____ CA Date _____

Guy line anchors removed? _____ CM _____

CA _____ CA Date _____

Guy line anchors marked? _____ CM _____

CA _____ CA Date _____

1003b. Area no longer in use? _____ Production areas stabilized ? _____

1003c. Compacted areas have been cross ripped? _____

1003d. Drilling pit closed? _____ Subsidence over on drill pit? _____

Cuttings management: _____

1003e. Areas no longer needed for drilling or subsequent operations for have been re-vegetated to 80% of pre-existing? _____

Production areas have been stabilized? _____ Segregated soils have been replaced? _____

RESTORATION AND REVEGETATIONCropland

Top soil replaced _____ Recontoured _____ Perennial forage re-established _____

Non-Cropland

Top soil replaced _____ Recontoured _____ 80% Revegetation _____

1003 f. Weeds Noxious weeds? _____

Comment: _____

Overall Interim Reclamation _____

Final Reclamation/ Abandoned Location:

Date Final Reclamation Started: _____

Date Final Reclamation Completed: _____

Final Land Use: _____

Reminder: _____

Comment: _____

Well plugged _____

Pit mouse/rat holes, cellars backfilled _____

Debris removed _____

No disturbance /Location never built _____

Access Roads Regraded _____

Contoured _____

Culverts removed _____

Gravel removed _____

Location and associated production facilities reclaimed _____

Locations, facilities, roads, recontoured _____

Compaction alleviation _____

Dust and erosion control _____

Non cropland: Revegetated 80% _____

Cropland: perennial forage _____

Weeds present _____

Subsidence _____

Comment: _____

Corrective Action: _____

Date _____

Overall Final Reclamation _____

Well Release on Active Location ☐Multi-Well Location ☐**Storm Water:**

Loc Erosion BMPs	BMP Maintenance	Lease Road Erosion BMPs	Lease BMP Maintenance	Chemical BMPs	Chemical BMP Maintenance	Comment

S/A/V: _____ Corrective Date: _____

Comment: _____

CA: _____

Pits: ☐ NO SURFACE INDICATION OF PIT**Attached Documents**You can go to COGCC Images (<https://cogcc.state.co.us/weblink/>) and search by document number:

Document Num	Description	URL
680000103	BERMS AND WEEDS	http://ogccweblink.state.co.us/DownloadDocumentPDF.aspx?DocumentId=3666994

ACTION REQUIRED

ANY ACTION REQUIRED items listed on this report indicate that the oil and gas facility or the oil and gas operations listed on the report may be in violation of the rules and regulations of the Colorado Oil and Conservation Commission (“COGCC”) and corrective action is required.

There is reasonable cause to believe that a violation of the Oil and Gas Conservation Act, or of any rule, regulation, or order of the Commission, or of any permit issued by the Commission, has occurred. The Operator’s compliance with this Inspection Report is required to resolve these alleged violations. This document requires the Operator to timely respond to the COGCC and to comply with directives as listed by the **Corrective Action Deadline Date**. Failure to do so will result in the issuance of a Notice of Alleged Violation and initiation of enforcement proceedings in which COGCC will seek monetary penalties for the alleged violations pursuant to § 34-60-121, C.R.S. and Rule 523, COGCC Rules of Practice and Procedure, 2 CCR 404-1. (Please note that the COGCC's penalty authority was recently increased to a maximum of \$15,000 per day and penalties are no longer capped at a maximum of \$10,000 per violation.)