

**From:** [jchristi@blm.gov](mailto:jchristi@blm.gov)  
**To:** [Spry ORourke, Linda](#)  
**Subject:** RE: Black Hills 35-2 compliance questions for you  
**Date:** Wednesday, June 29, 2011 6:00:18 PM

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Linda, thank you so much for your attention and assistance.

I believe it is BH's position is that the discovery consists solely of cuttings, in other words, bentonite and drilling fluids, per the regs. The soil I got into had pit liner bits and strong stinky hydrocarbon smells, so I'm not going with Black Hills' casual "just cuttings" verbal report, especially since they didn't inform BLM or COGCC when they got into it. I found it on the 21st, they probably found it the week before, but I don't know how one would document that. The bulldozer operator told me he'd just been scraping it up and including it in the soil storage piles.

Alan Vrooman stopped by here yesterday to visit and told me that BH wasn't going to report to COGCC, although BLM ordered them to do so as part of bringing the site into compliance with all appropriate permits, one of our standard Conditions of Approval. I informed BH by email yesterday that I was bringing COGCC into the loop, so unless they jumped to self-report today, it is my reasoned conclusion that they have no intention of doing so. I find it appropriate for you to contact them directly now. I think BLM's next step is to go from issuing an Order to issuing an Incident of Non-Compliance (INC). I will get that going tomorrow.

Here is the contact info for Black Hills.

Black Hills Plateau Production, LLC  
1515 Wynkoop St, Ste 500, Denver 80202-1730

Corporate, Regulatory: Alan Vrooman, [alan.vrooman@blackhillscorp.com](mailto:alan.vrooman@blackhillscorp.com),  
303-903-7520

Local Operations Lead:  
Stan Lindholm, [stan.lindholm@blackhillscorp.com](mailto:stan.lindholm@blackhillscorp.com), 970-640-0494

Julia Christiansen | Natural Resource Specialist  
BLM, Grand Junction Field Office  
2815 H Road, Grand Junction, CO 81506  
Desk: 970-244-3093 Fax: 970-244-3083  
[jchristi@blm.gov](mailto:jchristi@blm.gov) <-- Please note new address!

"May your trails be crooked, winding, lonesome, dangerous... leading to the most amazing views."

"Spry ORourke,  
Linda"  
<[Linda.SpryORourke@state.co.us](mailto:Linda.SpryORourke@state.co.us)> To  
<[jchristi@blm.gov](mailto:jchristi@blm.gov)> cc  
06/29/2011 09:30 AM "Fischer, Alex"  
<[Alex.Fischer@state.co.us](mailto:Alex.Fischer@state.co.us)> ,

"Canfield, Chris"  
<Chris.Canfield@state.co.us>  
Subject  
RE: Black Hills 35-2 compliance  
questions for you

Hi Julia,

The operator is required to report the discovery of that old pit to the COGCC. I've enclosed the link to your policy and an excerpt from the policy. It is not a new policy. I would guess that the operator is already out of compliance with this policy, because if they have lab data back, it has probably been more than 10 days since they discovered the waste.

Please provide your contact information, because I'll need to contact them if they are not willing to voluntarily report their discovery.

Thanks for letting me know about this; I'm guessing we'll be discussing it further.

Linda

#### REQUIREMENTS FOR E&P WASTE DISCOVERED DURING SURFACE DEVELOPMENT EXCAVATION:

If E&P waste is discovered, with the exception of water based bentonitic drilling fluid, during a Phase I or Phase II analysis or soil investigation or during excavation operations related to surface development, such discovery shall be reported to the Director by the surface developer or its designee on a COGCC Spill/Release Report, Form 19 within ten (10) days. Any new spills that occur as a result of a surface developer's activities must be reported in accordance with Rule 906. If de minimis amounts of E&P waste are encountered during excavation operations, a surface developer or its designee may excavate and properly dispose of the waste and no reporting shall be required.

The surface developer or its designee may, at its discretion, collect samples for chemical analysis to determine if the allowable concentrations listed in Table 910-1 in the 900 Series Rules have been exceeded. The analytical results from the initial samples shall be reported on a COGCC Soil Analysis Report, Form 24 and Water Analysis Report, Form 25, whichever is applicable, which shall be submitted along with a Spill/Release Report, Form 19. The Director may conduct sampling and analysis if the surface

developer or its designee does not.

If the analytical results indicate that soil or ground water has been impacted by E&P waste in concentrations that exceed those listed in Table 910-1 in the 900 Series Rules, and the surface developer or its designee intends to initiate voluntary remediation, then the surface developer or its designee shall submit a Site Investigation and Remediation Workplan, Form 27 to the Director. Approval of the Remediation Workplan, Form 27 shall be obtained from the Director prior to commencement of remediation operations. As an alternative to voluntary remediation by the surface developer or its designee, the Director may identify a responsible party, if they exist, or expend monies from the Environmental Response Fund to remediate E&P waste. For the purpose of voluntary remediation, the surface developer or its designee shall not be required to be registered as an operator with the COGCC.

(4) If the analytical results indicate that soil or ground water has not been impacted by E&P waste in concentrations that exceed those listed in Table 910-1 in the 900 Series Rules, then any remediation operations conducted by the surface developer or its designee shall not be subject to COGCC jurisdiction.

ADOPTED AND EFFECTIVE THIS 3rd DAY OF DECEMBER, 2001.

Linda Spry O'Rourke

Environmental Protection Specialist, Northwest Region

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-----Original Message-----

From: jchristi@blm.gov [<mailto:jchristi@blm.gov>]

Sent: Tuesday, June 28, 2011 4:08 PM

To: Spry ORourke, Linda

Subject: Black Hills 35-2 compliance questions for you

Linda, hi. I have a compliance question to discuss with you.

I told Black Hills to contact COGCC regarding some reserve pit contents they turned up while digging a new fluids pit in supposedly virgin ground, on an existing pad, on private land (split estate). They are preparing to re-complete a federal well there and need a frac fluids pit.

The stuff they turned up was black and stinky, so I told them to segregate it on a liner and cover it, then contact you to mitigate it appropriately, which would include sampling it to your standards. I've told them twice (which counts as orders from BLM, in the category of Verbal Warning) but now they're telling me they've sampled it to COGCC standards and concluded on their own that there's no need to contact COGCC. I told them to document all their sampling to me, I thought they probably should fill out forms with you, etc, etc. Am I right? Is this 'pit closure'? Something else? They were actually removing soil to build a new pit, but will be putting it back when the pit is closed.

They didn't notify me when they turned up the contaminated soil (which also contained pieces of old pit liner), although they were aware of it. Until I discovered it during a construction inspection, they were just burying it with the rest of the subsoil coming out of the ground.

API is 050770940300S1

T9S R97W, Sec 35, SWSW

Federal well Shire Gulch 35-2, Lease COC 22503

What do you think about how to pursue this? I'll paste in my inspection notes below.

PS - just as a sidenote, the pad expansion was not constructed to BLM or CDPHE standards, and they're under orders to fix that immediately as well. Fill slopes loose/unstable and steep, insufficient SW BMPs, etc.

Julia Christiansen | Natural Resource Specialist

BLM, Grand Junction Field Office

2815 H Road, Grand Junction, CO 81506

Desk: 970-244-3093 Fax: 970-244-3083

jchristi@blm.gov <-- Please note new address!

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~~~~~ Surface Inspection Notes ~~~~~

Black Hills Shire Gulch 35-2, COC22503, expand existing pad for horizontal shale recomplete, JESC, 6/21/11

Pad has been expanded and new frac fluids pit constructed. Approved by Sundry.

Steep loose soil piles and fill slopes in places, lacking SW BMPs (notable at E and NW). Not track walked, seeded or otherwise stabilized.

Large frac water pit under construction. Stained soil and liner pieces (HC smelly) uncovered during pit construction, tho previous pit not located here. Presumably deposited by previous landowner who closed original reserve pit. Black Hills was notified of contaminated soils by construction and SW inspector but did not self-report to BLM or COGCC. Much of the bad soil was removed gradually during construction, mixing with subsoils in soils storage piles.

Julia Verbally Warned that remaining stained soil be removed and segregated. Liner to be installed under and cover installed over, per MB foreman Seely at site. Stan Lindholm of BH was informed at the site and instructed to manage soils as mentioned, also to self-report to COGCC and get into compliance with State regulations.

Stan was also Verbally Warned to get the site into compliance with stormwater regulations. Loose soils need to be stabilized and BMPs installed to prevent sediment from being transported. I asked Stan if he wanted Written Orders, but he wanted a reminder email, so I will record this as Verbal Warning JESC01111 and email to Jessica, Stan and Alan V..