

**From:** [Hix - DNR, James](#)  
**To:** [Jenna Behm](#)  
**Cc:** [Ashley Noonan](#); [Ryan Sullivan](#); [Joseph Rezendes](#); [Melissa Housey - DNR](#); [Julie Webb](#); [John Noto - DNR](#); [ANDERS ELGERD](#)  
**Subject:** Re: Misty 2-7 Form 2A Updates  
**Date:** Friday, June 12, 2020 10:45:10 AM  
**Attachments:** [image005.jpg](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image010.jpg](#)  
[image011.jpg](#)  
[image015.jpg](#)  
[image016.png](#)  
[image012.jpg](#)

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Jenna,

I will reject the KODA WHP Misty 2-7 well pad Form 2A (402149379). Keeping the WHP Misty 2-7 wellhead where it is currently planned, but downsizing the WHP Misty 2-7 Pad disturbance to 400 ft by 400 ft and shifting the pad to the south is an acceptable alternative to providing a construction drawing. We agree that this will move the location out of the critical creek slope. When Koda resubmits the Form 2A with the revised attached exhibits a construction drawing is not required as long as there are no slopes that are 10% or more on Location, which should be achieved by downsizing the pad disturbance and shifting the pad to the south as proposed.

James

On Thu, Jun 11, 2020 at 5:06 PM Jenna Behm <[jbehm@progressivepcs.net](mailto:jbehm@progressivepcs.net)> wrote:

Hi James,

Thank you for the feedback. After careful consideration, KODA has come to the conclusion that moving the WHP Misty 2-7 wellhead to the south is not realistic in regards to where the WHP Misty 2-7 location is currently planned. KODA would like to propose keeping the WHP Misty 2-7 wellhead where it currently is planned, but move forward with the plan to downsize the WHP Misty 2-7 Pad disturbance to 400 ft by 400 ft and shifting the pad to the south (see attached exhibits). This would still effectively move the location out of the critical creek slope. We understand that the Form 2A for the current Location will meet rejection criteria. If KODA was to re-submit a "new" Form 2A with the revised attached exhibits and only downsizing the pad disturbance and leaving the wellhead where it is currently planned, would you require a construction drawing?

Thank you for your time,

**Jenna Behm**

Regulatory Analyst

**Progressive Consulting**

o: (303) 309-1654

c: (720) 470-6112



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**From:** Hix - DNR, James <[james.hix@state.co.us](mailto:james.hix@state.co.us)>  
**Sent:** Wednesday, June 10, 2020 1:45 PM  
**To:** ANDERS ELGERD <[elgerd@comcast.net](mailto:elgerd@comcast.net)>  
**Cc:** Jenna Behm <[jbehm@progressivepcs.net](mailto:jbehm@progressivepcs.net)>; Ashley Noonan <[anoonan@progressivepcs.net](mailto:anoonan@progressivepcs.net)>; Ryan Sullivan <[rsullivan@state.co.us](mailto:rsullivan@state.co.us)>; Joseph Rezendes <[rezenjp@gmail.com](mailto:rezenjp@gmail.com)>; Melissa Housey - DNR <[melissa.housey@state.co.us](mailto:melissa.housey@state.co.us)>; Julie Webb <[jwebb@progressivepcs.net](mailto:jwebb@progressivepcs.net)>; John Noto - DNR <[john.noto@state.co.us](mailto:john.noto@state.co.us)>  
**Subject:** Re: Misty 2-7 Form 2A Updates

I mis-spoke. It would not be a "new" Form 2A - we would process the re-submitted Form 2A that was rejected.

On Wed, Jun 10, 2020 at 12:56 PM Hix - DNR, James <[james.hix@state.co.us](mailto:james.hix@state.co.us)> wrote:

Mr. Elgerd,

I have discussed with staff your proposed downsizing the WHP Misty 2-7 Pad disturbance to 400 ft by 400 ft and shifting it to the south. This is an acceptable alternative to providing the construction drawing since it will reduce the disturbance area and move the Location further from the intermittent drainage and steep slope on the northwest corner of the currently proposed 500 ft by 500 ft WHP Misty 2-7 Pad Location.

However, since multiple attachments will need to be revised, and it changes setback distances, the Form 2A for the current Location will meet rejection criteria. Koda Exploration will need to re-submit a new Form 2A with the revised attachments to show the revised location, dimensions, and distances. Koda's planned construction date is August 1, 2020. Since this is a short time frame, Koda Exploration can update and re-submit the 2A and add the new attachments. The re-submitted form will need to go through completeness again and a 20 day comment period again but that should be the only additional time component. We can fast track after the resubmission.

James

On Mon, Jun 8, 2020 at 11:45 AM ANDERS ELGERD <[elgerd@comcast.net](mailto:elgerd@comcast.net)> wrote:

James- Thanks for your reply and for providing clarification on this issue. We did some research on the map you referenced and understand where your area of concern is. We are committed to being good stewards of the land and are proud of our relationships with the landowners in the area. In this light, we would like to propose a more environmentally responsible solution. We have reviewed our seismic and the geology and believe we have some room to move the location to the south. We propose a combination of shifting the proposed well location 50-75 feet to the south in conjunction with shrinking the pad size to 400x400 feet, thereby shifting the northwest corner of the pad approximately 100' feet to the south. This combination would effectively move the location out of the critical creek slope and hopefully eliminate the need for construction drawings. Please see the map below and let us know your thoughts. We would hope that these changes could be made

with no further delays in the permitting process (Both Forms 2 and 2A). If you agree with these proposed changes we would be happy to provide revised drawings. We look forward to your thoughts.



Kind regards,

Amders

Anders Elgerd- CEO  
Koda Exploration LLC

11799 West 18th Ave

Lakewood, CO 80215

Tel: 303-915-2555

On 06/04/2020 5:33 PM Hix - DNR, James <[james.hix@state.co.us](mailto:james.hix@state.co.us)> wrote:

Hi Jenna,

The May 2020 Priority list shows the WHP Misty 2-7 as the first priority for Koda. Your question about when a Construction Drawings is required is a good question, and the answer is that each site is reviewed on a case by case basis. Rule 303.f - Information Requests after completeness determination gives us latitude to request additional information necessary to complete review of and make a decision on each application. Such information requests do

not affect Koda's ability to request a hearing pursuant to Rule 303.e. I don't know that a conference call will help, but know that I am working and trying to advance this application through our process.

In light of SB19-181 and pending the new rule making our mission has changed. We need to demonstrate that a Form 2A is protective of human health, welfare, safety, environment, and wildlife resources. Koda has provided information on Location topography and soil type that indicate greater than 10% slopes on the northwest corner of the proposed Location. The NRCS Map Unit Name 168 - Olney-Midway complex, indicates 3 to 12 percent slopes, underlie the Location. The topographic map shows the slope at approximately 5% parallel the ridge point; however, the topographic contours on the northwest corner of the Location from the wellhead indicate a slope between 10% and 12% toward an intermittent drainage located 180 feet from the edge of disturbance. This surface water feature must be protected during construction and after the Location is constructed. Aside from the Rule-based trigger for a Construction Layout Drawing, slopes greater than 10% on any part of the pad also warrant a Construction Layout Drawing be attached to allow us to evaluate whether this surface water feature is protected by the BMPs Koda has proposed.

James

On Thu, Jun 4, 2020 at 11:39 AM Jenna Behm <[jbehm@progressivepcs.net](mailto:jbehm@progressivepcs.net)> wrote:

Hi James,

Thank you for the below information.

Can we please set up a conference call with KODA representatives either tomorrow or sometime next week to discuss clarification as to why the Construction Drawings are being required when the Misty 2-7 disturbed area and the surrounding area is under a 5% slope? We would like to get a better understanding of when this requirement applies or doesn't apply for future sites.

Please let me know your availability.

**Jenna Behm**

Regulatory Analyst

**Progressive Consulting**

o: (303) 309-1654

c: (720) 470-6112



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**From:** Hix - DNR, James <[james.hix@state.co.us](mailto:james.hix@state.co.us)>  
**Sent:** Wednesday, June 3, 2020 1:08 PM  
**To:** Jenna Behm <[jbehm@progressivepcs.net](mailto:jbehm@progressivepcs.net)>  
**Cc:** Ashley Noonan <[anoonan@progressivepcs.net](mailto:anoonan@progressivepcs.net)>; Anders Elgerd <[elgerd@comcast.net](mailto:elgerd@comcast.net)>; Ryan Sullivan <[rsullivantc@gmail.com](mailto:rsullivantc@gmail.com)>; Joseph Rezendes <[rezenjp@gmail.com](mailto:rezenjp@gmail.com)>; Melissa Housey - DNR <[melissa.housey@state.co.us](mailto:melissa.housey@state.co.us)>; Julie Webb <[jwebb@progressivepcs.net](mailto:jwebb@progressivepcs.net)>  
**Subject:** Re: Misty 2-7 Form 2A Updates

Hi Jenna,

The Construction Layout Drawing for the WHP Misty 2-7 is missing required elements per our 11/3/2014 guidance document. The information included for the temporary facilities, pits, and cut and fill boundary is helpful; however, the Construction Layout Drawing also needs to show the contours, stormwater BMPs, interim reclamation plans, include a north arrow, and a scale.

1) On our website under the Regulations tab and then the Forms tab you can find instructions for each form at the far right.

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