

State of Colorado
Energy & Carbon Management Commission



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Phone: (303) 894-2100 Fax: (303) 894-2109

Document Number:
403665659

Date Received:
01/25/2024

FIR RESOLUTION FORM

Overall Status: CAC

CA Summary:

1 of 1 CAs from the FIR responded to on this Form

1 CA Completed
0 Factual Review Request

OPERATOR INFORMATION

OGCC Operator Number: 96850
Name of Operator: TEP ROCKY MOUNTAIN LLC
Address: 1058 COUNTY ROAD 215
City: PARACHUTE State: CO Zip: 81635

Contact Name and Telephone:
Name: _____
Phone: () _____ Fax: () _____
Email: _____

Additional Operator Contact:

Contact Name	Phone	Email
<u>Smelser, Wayne</u>		<u>wayne.smelser@state.co.us</u>
		<u>COGCCInspectionReports@terraep.com</u>

COGCC INSPECTION SUMMARY:

FIR Document Number: 696205541
Inspection Date: 01/16/2024 FIR Submit Date: 01/18/2024 FIR Status: _____

Inspected Operator Information:

Company Name: TEP ROCKY MOUNTAIN LLC Company Number: 96850
Address: 1058 COUNTY ROAD 215
City: PARACHUTE State: CO Zip: 81635

LOCATION - Location ID: 335571

Location Name: CLOUGH Number: RWF 311-15 County: _____
Qtrqr: SWN Sec: 15 Twp: 6S Range: 94W Meridian: 6
W
Latitude: 39.528354 Longitude: -107.879401

FACILITY - API Number: 05-045- -00 Facility ID: 335571

Facility Name: CLOUGH Number: RWF 311-15
Qtrqr: SWN Sec: 15 Twp: 6S Range: 94W Meridian: 6
W
Latitude: 39.528354 Longitude: -107.879401

CORRECTIVE ACTIONS:

1 CA# 191164

Corrective Action: Remove and properly dispose of all stained soils and gravel.
Provide documentation of cleanup pursuant to Rule 912.a.(5) within a Field Inspection Report Resolution Form.

Date: 12/17/2023

Response: CA COMPLETED Date of Completion: 01/23/2024

This corrective action has been completed; however, TEP wishes to note in the public record that the corrective

Operator
Comment:

action due date assigned by this inspector in not attainable.

Inspection #696205541 was conducted on 1/16/24 and the FIR was submitted on 1/18/24. The Inspector assigned 01/16/24 as the due date for the corrective action. It is not possible to comply with a date that has already passed. Certain Inspection staff consistently assign corrective action dates on FIR reports that are not attainable. TEP will make every effort to perform legitimate corrective actions within reasonable and attainable time frames, but we cannot comply with dates that are expired before they have even been sent to us.

ECMC's statement that the "Corrective Action dates provided will either be back-dated to when Operator should have been in compliance(?), or when Operator was initially observed to be out of compliance; the 'Date of Discovery' is being provided as the corrective action date for all new observed compliance issues" is inconsistent with the concept behind the Corrective Action Matrix that ECMC has implemented for years. The purpose of the Corrective Action matrix is to set reasonable time frames that would allow operators to accomplish various types of corrective actions based upon the level of urgency and potential risk associated with the CA. ECMC staff has also claimed that "... the Factual Review Requests are not a forum for the Operator to dispute the corrective actions." Again, this contradicts the purpose of the "Factual Review Request" option. The FIRR is the ONLY "forum" for an Operator to dispute a Corrective Action. TEP is simply requesting a fair and reasonable amount of time to complete the task.

For documentation purposes, TEP will continue to dispute any Corrective Action date that is assigned by ECMC staff that is impossible / unattainable to meet.

COGCC Decision: **Not Approved**

COGCC
Representative:

On 12/04/2023, ECMC Staff inspected the Location and observed multiple areas of stained soils. A Field Inspection Report (#708902429) was submitted to TEP requiring the removal and proper disposal of all stained soils and gravel by 12/17/2023.

As stated within Inspection #696205541, ECMC staff was unable to adequately determine if the spills had been properly removed and disposed of. Staff also notes within the Inspection Report that TEP had not filed a Resolution Form providing notice that corrective actions had been completed; Pursuant to Rule 210.b, Operators are required to submit a Field Inspection Report Resolution form upon completion of a corrective action, therefore the original corrective action date of 12/17/2023 (the date TEP was provided to return to compliance by per inspection #708902429) remained applicable.

It is also being noted that, as stated by TEP within this Resolution, the Corrective Action was not completed until 1/23/2024; this is 50 days after the compliance issues were discovered, and 37 days after the corrective action date. It is clear that Operator had sufficient time to address the spills prior to the 1/16/2024 inspection being performed.

Regarding the requirement to provide documentation of cleanup pursuant to Rule 912.a.(5), this Resolution is "not approved". Operator only provided photographs as their documentation; no other documentation such as waste manifests, invoices, work orders, etc... have been provided indicating work had been performed.

The photo-documentation attached is poor in quality and not of a sufficiently high resolution to discern if corrective actions have been taken, and is inadequate. Additionally, there are areas within the photos where impacts appear to still exist.

At this time, it is not sufficiently clear that spills have been cleaned to Table 915-a cleanup concentrations, or removed.

COGCC
Supervisor:

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OPERATOR COMMENT AND SUBMITTAL

Comment: This corrective action has been completed; however, TEP wishes to note in the public record that the corrective action due date assigned by this inspector is not attainable.

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I hereby certify that the statements made in this form are, to the best of my knowledge, true, correct, and complete.

Print Name: Michael Gardner

Signed: _____

Title: TEP Environmental

Date: 1/25/2024 4:13:21 PM

ATTACHMENT LIST

View Attachments in Imaged Documents on COGCC website (<http://ogccweblink.state.co.us/>) - Search by Document Number.

Document Number	Description
403665659	FIR RESOLUTION SUBMITTED
403666972	Stained soils cleaned up
403666978	Stained soils cleaned up

Total Attach: 3 Files