

**EVENT VIOLATION INSPECTOR'S STATEMENT**

Company/Mine: Lodestar Energy, Inc/White Oak Mine  
Permit #: C/007/001

NOV # N03-50-1-1  
Violation # 1 of 1

**A. SERIOUSNESS**

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment, diverse and effective vegetative cover.
- i. No event occurred as a result of the violation.
- j. Other.

Explanation: The permittee has failed to comply with a permit condition restricting the amount of spoil that can be outside of the approximate location for final grading. Permit condition #2 allows the permittee to take more than 60 days for rough backfilling and grading, as long as there are no more than 306,000 LCY of spoil not in the approximate location for final grading. A survey conducted during an inspection on February 18, 2003 showed that there are approximately 540,000 LCY of spoil in the temporary spoil pile.

2. Has the even occurred? Yes

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: There are approximately 540,000 LCY in the temporary spoil pile, Permit Condition #2 states that there can be no more than 306,000 LCY.

3. Did any damage occur as a result of the violation? No

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not bee discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: \_\_\_\_\_

**B. DEGREE OF FAULT** (Check the statements which apply to the violation and discuss).

- Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: \_\_\_\_\_

- Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: The permittee was aware of the permit condition, which was included in the permit revision allowing surface mining. Operating records did not keep track of spoil rehandle separately from spoil going to the stockpile, making it harder to keep track of the size of the spoil pile. The pile was not surveyed on a regular basis.

- If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: \_\_\_\_\_

- Was the operator in violation of a specific permit condition?

Explanation: Permit condition #2 states that "the Permittee may take more than 60 days to do rough backfilling and grading provided that no more than 306,000 LCY of spoil may be stored in the temporary spoil pile or in any pit or other location at the mine where it is not in the approximate location for final grading."

- Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: \_\_\_\_\_

**C. GOOD FAITH**

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: Blue Ridge Services, who began operating the mine after the NOV was written, immediately moved much of the spoil from the temporary storage area to the highwall where it should remain upon final reclamation. However, no survey has been conducted to show that Permit Condition #2 is being met.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: Lodestar did not have any equipment at the time of the inspection or when the violation was written. Blue Ridge Services was brought in to operate the mine.

3. Was the submission of plans prior to physical activity required by this NOV / CO? Yes If yes, explain.

Explanation: The NOV required the Permittee to submit plans for removal of the spoil before moving it. Since most of the opened pits had been backfilled and the highwall area still has unmined coal beneath it, the Division was interested in knowing how the Permittee could accomplish the task without making the situation worse.

Dana Dean  
Authorized Representative

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Signature

March 27, 2003  
Date