

**HINDRANCE TO ENFORCEMENT VIOLATIONS**  
**INSPECTOR'S STATEMENT**

Company/Mine: Hiawatha Coal Co/Hiawatha Complex  
Permit #: C/007/011

NOV # N05-01-01-01  
Violation # 1 of 1

- A. **HINDRANCE TO ENFORCEMENT:** (Answer for hindrance violations only such as violations concerning record keeping, monitoring, plans and certification).

Describe how violation of this regulation potentially hindered enforcement by DOGM and/or the public and explain the circumstances.

Explanation: The fourth quarter 2004 water monitoring data for the Hiawatha complex had not been entered into the Division's water quality database by the close of business on March 31, 2005. Hard copies of the data were available for inspection at the mine site except for the month of October. According to Mark Reynolds one of the employees had a motorcycle accident while attempting to collect water samples during October. Sample sites are typically accessed by trail bikes and hiking which I have participated in in the past and there are some risks involved. There is some potential and some actual hindrance in this situation. The hard copies of monitoring data for November and December were available at the mine site but not available to the public through the Division's web site. If requested, I believe Mr. Reynolds probably would have allowed public access to the hard copies of his records at the Hiawatha mine site. Regarding the October samples that were not taken; the public and Division staff were actually hindered from evaluating compliance with the regulations.

- 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, explain.

Explanation: There was some lack of reasonable care on the part of the company. Mr. Reynolds indicated that although samples were taken for November and December, they had just not entered the data into the Division's database.

- 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 any conditions or stipulations of the approved MRP?

Explanation: Beginning in 2000, each permit carried with it a stipulation to enter water monitoring data into the Division's database as described in their MRP.

- Has DOGM or OSM cited a same or similar violation of this regulation in the past? If so, give the dates and the type of 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 dates) and describe the measures the operator took to comply as rapidly as possible.

Explanation: The data was entered into the database on April 6, 2005. The abatement date is April 22, 2005. Mr. Reynolds will be taking additional samples during April to make up for the ones missed in October.

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

Explanation: The company has qualified employees who are responsible for entering the data. The data except for the month of October had been collected but not entered in the Division's database.

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

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

Joseph C. Helfrich  
Authorized Representative

\_\_\_\_\_  
Signature

April 19, 2005  
Date