

Internal  
C0070011

# 4239

OK

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

Company/Mine: Hiawatha Coal Company  
Permit #: C/007/0011

NOV # 10101  
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 actually hindered enforcement by DOGM and/or the public and explain the circumstances.

**Explanation:** The Permittee failed to report 2nd quarter 2012 UPDES water monitoring data for sample outfall locations UT-003 thru UT013 per the Special Permit Condition (Attachment A) of the Hiawatha permit. NOV#10101 was issued on December 18, 2012. UPDES data are required to be submitted at least every three months for each monitoring location. All samples are due in the database 90 days after the end of the quarter in which they were collected - in this instance by September 30, 2012. As a result of the failure to report the data, the Division itself was unable to perform a timely review and evaluation of the water monitoring data.

- 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:** The Permittee was required to have 2nd quarter data uploaded into the Division water database by September 30, 2012. As of December 18, 2012, the Division observed that the data for these UPDES samples were not in the pipeline. Typically, these outfall locations do not report any flow conditions; however, the Permittee is required to document "no flow" readings to the Division.

- 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?

Hindrance to Enforcement  
Inspector's Statement

NOV/CO # \_\_\_\_\_  
Violation # \_\_\_\_\_ of \_\_\_\_\_

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

- 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.

[REDACTED]

[REDACTED]

**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: [REDACTED]

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

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

3. Was the submission of plans prior to physical activity required by this NOV / CO? No If yes, explain.

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

April Abete  
Authorized Representative

[Signature]  
Signature

December 18, 2012  
Date