

Internal
C0070013
#3589
OK

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: UtahAmerican Energy/Horse Canyon Mine
Permit #: C/007/013

NOV # 10058
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 failed to meet the Performance Standard for the maintenance of the ditch identified as DD-20 on Plate 7-5, Proposed Sediment Control. The ditch was blocked for a distance of approximately 90 feet by a road grading activity.

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: According to the Permittee's Resident Agent, a construction contractor graded the adjacent road on the east side of the topsoil storage pile, pushing material into the ditch. There was so much material pushed into the ditch that it was not visible. Photographs of ditch DD-20 are available.

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 informed during a previous inspection that the ditch needed to be returned to the specification established within the MRP. The problem was again identified on 6/23/2010. The Division informed the Permittee on 6/28 that a violation was to be issued, following the inspector's chance to review the MRP Chapter 7 information. The Permittee had the ditch cleaned and restored to the design specification between 6/28 and 6/30. The Division issued the associated Notice of Violation (hand delivered to Mr. Jay Marshall) on June 30, 2010.

- 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: _____

- 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

Event Violation Inspector's Statement

NOV/CO # _____
Violation # _____ of _____

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: When the NOV was delivered to the Permittee on June 30, an abatement deadline of July 14, 2010 & 5 PM had been established. As is previously noted, the Permittee corrected the problem area after being verbally notified on June 28, 2010. The corrective action had been completed before the NOV was issued. The inspection of this site was completed on June 30, 2010.

It must be remembered that the Permittee had been notified during a previous inspection that the infraction existed. Although the Permittee was expedient in correcting the situation, a previous warning had been given the Permittee.

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: _____

Peter H. Hess
Authorized Representative

Peter H. Hess
Signature

July 6, 2010
Date

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