

cc: Joe

Internal  
C0070013  
#4297  
OK

**EVENT VIOLATION INSPECTOR'S STATEMENT**

Company/Mine: Utah American Energy / Horse Canyon (Lila) Mine  
Permit #: C/007/0013

NOV # 10122  
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.
- X 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: Permittee failed to control coal fines and protect topsoil and vegetation on undisturbed area within the permit area.

2. Has the event 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: The coal fines are subject to wind exposure as they leave the conveyor belt to be stacked on the coal stockpile. The wind-blown fines are deposited in an area designated as undisturbed.

3. Did any damage occur as a result of the violation? Yes

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

Explanation: There are no off-site impacts due to the fact that the undisturbed drainage in which the fines are deposited reports to a sedimentation pond, all of which are within the permit area boundary. If DOGM had not discovered the violation, there is a potential that more violent winds could have blown fines off the permit area.

**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: The Permittee is responsible for the coal fines being exposed to wind

- 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 violation was the result of negligence.

- 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: On July 11, 2012, a similar violation was written for coal fines in the same area. It was believed at that time that the fines were coming from the conveyor rather than during stacking. The operator used a vacuum truck to clean the fines. This violation is the same, except that we were able to identify the source more accurately.

**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,

Event Violation Inspector's Statement

NOV/CO # 10122

Violation # 1 of 1

describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: Within 2 days the operator had identified staking tube material to be attached to the conveyor to eliminate wind exposure. The stacking tubes have not yet been installed.

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

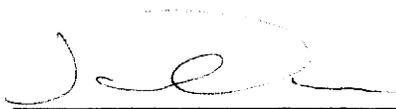
Explanation: The operator may be required to purchase stacking tube material to control wind exposure to fines.

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

Explanation: If the operator intends to recover the topsoil within the disturbed area, then a submission of plans prior to physical activity will be required. If the operator chooses to clean the fines manually, then plans will not be required.

James Owen

Authorized Representative



Signature

April 9, 2013

Date

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