

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Savage Industries, Inc/Savage Coal Terminal
Permit #: C/007/022

NOV # 06-46-3-1
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 submitted an amendment to the DOGM on June 9, 2006 (OGM-PFO) titled "Proposed Restart of Preparation Plant" which included the addition of three "to be constructed" belt conveyors. Dan Guy, P.E. called the engineer assigned to this project on July 5, 2006 to check on the progress of the review, indicating that the Permittee had wanted to pour concrete footers for the new conveyors on July 15, 2006. Mr. Guy was told that no progress had been made on the review, but the engineer told him that he promised to look over the submittal on Friday, July 7, 2006. On July 12, 2006, Mr. Guy asked if the DOGM would give the Permittee an approval on constructing just the footers for the conveyors. The assigned engineer promised to discuss this with the two DOGM permit supervisors on Thursday, July 13, 2006. This was done, and the group agreed to give the Permittee authorization to proceed with the construction of the footers. The team lead on the Task ID # 2549 project wanted to have the soils in the footer areas evaluated because of the soil deficit for this permit area. The permit supervisors instructed the assigned team lead and the assigned engineer to visit the site and ask the Permittee to evaluate the soils in the permit area for salvage purposes, and then give the Permittee authorization to proceed with the construction of the belt footers. The DOGM personnel visited the Savage site on July 13, 2006, starting the visit at 1:30 PM. The Division employees observed that four holes had been dug, and at least two of the openings had forms and reinforcing steel placed in them. These appeared to be ready, or very nearly ready for concrete. When Mr. Guy was questioned about what it was the Permittee was requesting permission to do, he indicated that it was to pour the concrete. The permittee had not received any approval from the DOGM to proceed with the construction of the new conveyors. Therefore, what the Permittee did was "knowing and willful".

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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: The Permittee initiated construction activities (digging /forming / reinforcing steel placement in footers) for new conveyor foundations without receiving a Division approval.

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: The visual inspection of the footer openings revealed that the soils associated with them were of poor quality, and a lot of coal was present. The area which surrounds the wash plant building has been disturbed several times by various companies, as well as the original land owner. A lot of fill was placed for initial construction of the facility.

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's representative, Mr. Dan Guy, P.E., submitted the application to the DOGM to construct the conveyors in a timely fashion. Due to other workload assignments, the engineer had not been able to get to the Task ID # 2549 project; this review was started on July 13, 2006 in the AM. The assigned due date for the project was July 28, 2006. Due to corporate scheduling, Mr. Guy had requested an approval to proceed by July 15, 2006. Mr. Guy has stated

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that the Savage construction manager has indicated that he thought he could pour concrete on July 15, 2006. Therefore, based upon the assumption that the OGM approval would be in place, the construction manager proceeded with the construction of the footers on two of the three proposed conveyors. The Permittee proceeded without proper DOGM approval.

- 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

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: Good faith points are NOT warranted here.

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

Explanation: Remedial action was not possible relative to this violation. The Permittee was told to proceed with the construction of the footers, i.e., the pouring of the concrete.

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

Event Violation Inspector's Statement

NOV ~~100~~ # 06-46-3-1
Violation # 1 of 1

Explanation: _____

Peter Hess
Authorized Representative

Peter Hess
Signature

July 19, 2006
Date

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