

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine:
Permit #: C/007/0033

NOV # 10132
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: Failure to control coal fines from leaving the permit area and the disturbed area boundaries. Failure to protect topsoil and vegetation.

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: Coal fines are found deposited on the west side of the facility reaching beyond the disturbed area boundary as well as beyond the permit boundary. This is likely deposited by wind and water from the coal stockpiles as well as the coal truck dump.

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: The distribution of coal fines on these unprotected areas contaminates topsoil and vegetation within the undisturbed area inside the permit boundary as well as areas outside the permit boundary.

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: In 2004 the Division issued a division order (DO-04) regarding the control of coal fines at the facility. The facility worked with the Division for a number of years to complete the division order. The Permittee is aware that coal fine control at the facility is an ongoing issue that should be evaluated as needed. This was not done.

- 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: The Permittee was granted an extension to complete the necessary abatement work due to weather conditions at the facility.

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? Yes If yes, explain.

Explanation: This will be evaluated at a meeting with the Permittee and facility operators on January 16, 2014.

Amanda Daniels
Authorized Representative

Amanda Daniels
Signature

January 8, 2014
Date