

0045 NO3-46-3-1, 1 of 1 "Failure to Minimize, to the Extent Possible, Additional Contributions of Sediment to Stream Flow, or to Runoff Outside the Permit Area"  
 EVENT VIOLATIONS INSPECTORS STATEMENT

Company/Mine Canyon Fuel Co./Dugout Mine  
 Permit # C/007/039

NOV 00 # 03-46-3-1  
 Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of events 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: During the cleaning of the mine site sediment pond, the permittee's contractor inadvertently opened the primary spillway culvert with the trackhoe bucket. A volume of sediment and coal fines discharged to the undisturbed Dugout drainage and flowed outside the permit boundary.

2. Has the event occurred? Yes  No

Yes: Describe it.

No: What would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation:

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

No.

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: Some suspended solids flowed for several miles, where they could be seen as a very thin veneer on the soils of ditches irrigating alfalfa fields. Scum could also be observed along the banks 4-6" above the normal flow line, all along the drainage.

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:

- 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: *The ~~dist~~ discharge of sediment/coal fines to the undisturbed channel was accidental. Upon seeing the volume of sludge disappear into the primary discharge pipe, the trackhoe operator plugged the opening with dirt.*

- ( ) 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 dates) and describe the measures the operator took to comply as rapidly as possible.

The permittee notified the Division of the incident immediately following the occurrence. The permittee took immediate action to plug the discharge outlet, UPDES 002A. The permittee was already taking additional measures to minimize the potential for a re-occurrence.

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

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

Peter Hess  
Authorized Representative

Peter Hess  
Signature

7/14/2003  
Date

The permittee took immediate measures (installation of 3 silt fences) to reduce the levels of TSS + TDS in the flow to minimize the impact of the discharge. The permittee co-operated in every way with respect to this incident.