

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Consolidation Coal Co/Emery Deep Mine
 Permit #: C/015/015

NOV # 02-39-1-2
 Violation # 2 of 2

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.

- | | | |
|-------------------------------------|----|--|
| <input type="checkbox"/> | a. | Activity outside the approved permit area. |
| <input type="checkbox"/> | b. | Injury to the public (public safety). |
| <input type="checkbox"/> | c. | Damage to property. |
| <input type="checkbox"/> | d. | Conducting activities without appropriate approvals. |
| <input type="checkbox"/> | e. | Environmental harm. |
| <input type="checkbox"/> | f. | Water pollution. |
| <input type="checkbox"/> | g. | Loss of reclamation/revegetation potential. |
| <input type="checkbox"/> | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/> | i. | No event occurred as a result of the violation. |
| <input checked="" type="checkbox"/> | j. | Other. |

Explanation: The water from the disturbed area left the disturbed area without being treated. The water just went outside the main gate which is the end of the disturbed area, approximately two to three feet outside. If the storm was greater, the water could flow into a riparian area. Dave Darby notified the permittee of this potential approximately 30 days prior to the event.

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 water went outside the disturbed area by two or three feet.

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: There was no damage. If there had been a move severe rainstorm, potentially, there could have been damage. The riparian area could have received additional suspended solids.

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: Dave Darby notified the operator of the potential for damage that a storm event could cause. This was approximately 30 days prior to the event. This was also discussed between Consolidation Coal mangement and the inspector two days prior to the event.

- 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 finished the water bar to terminate the violation on September 13, 2002. This was prior to the abatement date. Good faith points should be given.

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

Explanation: Yes, the necessary equipment was available at the site.

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

Explanation: _____

Stephen J. Demczak
Authorized Representative


Signature

September 19, 2002
Date