

EVENT VIOLATION INSPECTOR'S STATEMENT

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

NOV # 02-39-2-1
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 had a car in the undisturbed diversion and one car and one truck parked on top of vegetation and topsoil. The undisturbed area was well driven by vehicles. The undisturbed area was within the disturbed area boundry. NOV #02-39-1-2, 1 of 2 was written on September 13, 2002 for having a semi-trailer on the vegetation and topsoil in the exact area.

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: Yes. Vehicles were on the undisturbed area and the area had tire marks in all directions.

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 bee discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

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Explanation: The permittee knew vehicles on the undisturbed area was not proper. A violation was written on September 13, 2002 (Nov 02-39-1-2, 1 of 2) for parking a semi-trailer in the exact same undisturbed area. The area was well driven due to the tire track imprints in the soil. The vegetation has suffered due to the number of tire imprints and the repetitiveness. This would have continued if it was not discovered. Five road-like accesses were developed into this undisturbed area. At the time of the inspection, three vehicles were parked within the undisturbed 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: _____

- 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: _____

- 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 September 10, 2002, Priscilla Burton a DOGM Reclamation Specialist told the permittee to remove a semi-trailer from the undisturbed area. On September 13, 2002, the inspector went to the mine site and found the semi-trailer was still on the undisturbed area. NOV #02-39-1-2, 1 of 2 was written for failure to protect vegetation and topsoil in the undisturbed area.

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: Yes, good faith points could be given if the permittee submits a plan by November 8, 2002 and upon approval from the Division complete the required ground work within 7 consecutive days.

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

Explanation: The permittee has the resources to submit a plan to the Division. The permittee would have to contract the work required on the ground.

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

Explanation: Yes, the permittee has a choice to submit a plan for reclamation of the undisturbed area or submit a plan for removing the topsoil and vegetation in this undisturbed area.

Stephen J. Demczak
Authorized Representative


Signature

October 25, 2002
Date