

Internal
C0150015
#3551
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EVENT VIOLATION INSPECTOR'S STATEMENT

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

NOV # 10056
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 maintain Diversion (Culvert, no designation listed on Plate VI-10D), leading into pond No. 9, 4th East Portal Area. Culvert is 100% plugged.

2. Has the even occurred? No

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: Unlikely to occur flows will still be treated by sedimentation pond. Culvert is within the disturbed area.

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: _____

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: Lack of reasonable care. Culvert is 100% plugged. Culvert outlet is smashed requiring the replacement of the culvert.

- 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: Failure to maintain Diversion.

- 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: Violation not abated at time of inspectors statement. Needs to be evaluated by Assessment officer to determine if within the assigned abatement period.

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

Explanation: Contractor needs to install new culvert.

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

Explanation: Plate VI-10D needs to be revised through the amendment process to indicated the designation of this culvert.. Notified Ian McClain by phone message that this change is required as part of the abatement process on June 22, 2010 @ 3:10 pm.

Karl R. Houskeeper
Authorized Representative

Karl R. Houskeeper
Signature

June 22, 2010
Date

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