

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: PacifiCorp/Des-Bee-Dove Mine
 Permit #: C/015/017

NOV # 01-7-1-1
 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.

- | | | |
|-------------------------------------|----|--|
| <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 checked="" type="checkbox"/> | d. | Conducting activities without appropriate approvals. |
| <input type="checkbox"/> | e. | Environmental harm. |
| <input type="checkbox"/> | f. | Water pollution. |
| <input checked="" 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 type="checkbox"/> | j. | Other. |

Explanation: The regulations were designed to insure that vegetation supporting soils are salvaged during mining to increase the reclamation/revegetation success.

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, the event occurred when the contractor excavating coal and coal waste from the Tipple Pad valley fill did not remove, segregate, or stockpile the top 18 to 24 inches of surface soil material. The operator should have supervised their contractor to insure that the best available plant supporting material was collected as described in the Des Bee Doev MRP page 4-13.

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.

Explanation: The potential for reclamation success has been reduced because of the loss of soil. This damage most likely cannot be measured. The soil material that was to be salvaged has now been mixed with spoil and coal waste and is buried below significant amounts of coal and debris on the north end of the Tipple Pad and on Bath House Pad.

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: Although the mine was developed pre-SMCRA and no topsoil was salvaged during mine development, a prudent operator would know that reclamation success is enhanced by salvaging the best available plant supporting material for reclamation. No attempt was made to salvage any soil material by the operator or the contractor. Even after several DOGM monthly inspections and one conference call where these soil issues were discussed. This is lack of reasonable care.

- 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: Energy West Mining Company has been in business for close to 20 years doing the permitting and compliance for the PacifiCorp Mines. The operator knows the regulations and what is included in the Des Bee Dove MRP. Additionally, this issue was discussed during DOGM compliance inspections in April, May, and June. A conference call was held on May 30, 2001 with Chuck Semborski and Dennis Oakley of Energy West. During this call, it was agreed the material in question be sampled and that no additional material be placed on the potential substitute soil until the issue was resolved. This was completely ignored. On June 26, 2001 a significant amount of coal waste and construction debris was observed on back filled on top of the potential soil resource.

- Was the operator in violation of a specific permit condition?

Explanation: Yes, Page 4-13 of the Des Bee Dove MRP states that the top 18 - 24 inches of surface soils on pad out slopes would be salvaged and stockpiled for use as "Topsoil" during reclamation. This permit condition was ignored during the valley fill coal excavation.

- 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: NONE.

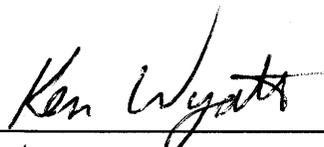
2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: Yes, Energy West retained a contractor on-site using heavy equipment to excavate coal and coal waste from the Tipple Pad and Deseret Pad fills. The outlopes to these pads were supposed to be removed, segregated, and stockpiled for use as "Topsoil" during final reclamation. The contractor indicated that this was not economical or feasible. During DOGM inspections in late March, April, and May, outslope material was observed in piles along the north end of the Tipple Pad and on the Bath House Pad. Plenty of room exists on the Bath House Pad to allow for this soil to be stockpiled away from construction activities.

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

Explanation: Part 3 of the abatement required the operator to: "Develop and submit for Division approval, a soil management plan for the entire Des Bee Dove Mine reclamation project. This should include a complete soil volume and quality analysis. Implement this plan upon Division approval. The deadline for the plan submission to the Division is Wednesday September 9, 2001.

Ken W. Wyatt
Authorized Representative


Signature

July 19, 2001
Date