

**HINDRANCE TO ENFORCEMENT VIOLATIONS**  
**INSPECTOR'S STATEMENT**

Company/Mine: PacifiCorp/Deer Creek Mine  
Permit #: C/015/018

NOV # 04-39-1-1  
Violation # 1 of 1

- A. **HINDRANCE TO ENFORCEMENT:** (Answer for hindrance violations only such as violations concerning record keeping, monitoring, plans and certification).

Describe how violation of this regulation actually hindered enforcement by DOGM and/or the public and explain the circumstances.

Explanation: The permittee did not take field measurements of pH and specific conductivity for third quarter of 2003 for several water monitoring locations. These measurements were taken at the lab. The MRP states that pH and specific conductivity will be taken in the field and no changes to the water-monitoring plan will be taken without Division approval. The following water-monitoring sampling locations did not have field-testing of ph and specific conductivity: UJV206, UJV101, SP1-26, RR5, SP1-29, MFR-10, EMPOND, GRANT SPRING, RR15, RR23A, MF-7, JV-34, JV-9, MF-10, MF19B, MF213, AND MF219.

- 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, explain.

Explanation: The permittee stated that four teams would go out at the same time to collect water samples and there was not enough testing equipment for each team to test for pH and conductivity. Therefore, the permittee would have these parameters tested at the lab.

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 any conditions or stipulations of the approved MRP?

Explanation: Taking pH and specific conductivity is a requirement of the MRP.

- Has DOGM or OSM cited a same or similar violation of this regulation in the past? If so, give the dates and the type of enforcement action taken.

Explanation: Jim Smith did talk to the permittee that field pH and specific conductivity was a requirement of the MPR a week earlier. He was not conducting a Deer Creek inspection. The Division noticed the pH and specific conductivity were not tested in the field after reviewing the third quarter water monitoring submittal by the permittee.

**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.

Explanation: No good faith points should be given since there was no abatement requirement.

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

Explanation: The permittee does have one set of equipment to test for pH and specific conductivity. The permittee could have sampled in a four-day period with one team sampling each day instead of having four teams sampling in one day. Another possibility is the testing equipment could be located at a central meeting site and each of the four teams could conduct sampling and testing the same day.

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

February 2, 2004  
Date