

HINDRANCE TO ENFORCEMENT VIOLATIONS
INSPECTOR'S STATEMENT

Company/Mine: Co-op Mining Company/Bear Canyon Mine
Permit #: C/015/025

NOV # 10037
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: For the Third Quarter of 2008, the Permittee failed to meet the requirements of R645-301-731.200. The Permittee did not have the water sample from SBC-9a analyzed for dissolved lead. Analysis for lead is required at this site because the water discharged through SBC-9A is the culinary water supply for the Bear Canyon Mine, and a battery-powered coal hauler, loaded with lead-acid DC power cells, was buried by a roof-fall near the underground source of this water. The Permittee also failed to analyze for baseline parameters at SBC-16A. For July, flow was not measured at springs 16-8-18-4 and 16-8-18-5 and at stream sites FC-3 and FC-4.

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: _____

- 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: The monitoring plan is on pp. 7-48 through 7-60 of the approved MRP. The monitoring plan was specifically amended to require monitoring for lead at SBC-9a. The water discharged from the mine through SBC-9A is the culinary water supply for the Bear Canyon Mine. An unanticipated roof fall in the 1st North section of the Bear Canyon #1 Mine on January 14, 2003 buried a battery-powered coal hauler, loaded with lead-acid DC power cells, near the source of this flow.

Because SBC-16a is a newly added monitoring site, quarterly water samples are to be analyzed for baseline parameters from May 2007 through April 2010: baseline parameters were missed during the 3rd quarter 2008.

In July, required flow measurements were missed at springs 16-8-18-4 and 16-8-18-5 and stream sites FC-3 and FC-4:

- 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: During the 4th Qtr 2007 there were a number of parameters missed at several monitoring sites, which resulted in NOV 10020.

Analysis for lead has been missed at this site in the past, as noted in the Division's Quarterly Water Monitoring Reports for the Fourth Quarter 2007 and First Quarter 2008, and the Division issued NOV 10031 on December 11, 2008 for failure to monitor for lead at SBC-9a during the Fourth Quarter 2007 and First Quarter 2008

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: _____

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

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Explanation: The required analyses and measurements have been done routinely in the past, and there is no reason they could not have been done during the Third Quarter 2008.

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

Explanation: _____

James D. Smith
Authorized Representative


Signature

April 29, 2009
Date

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