

HINDRANCE TO ENFORCEMENT VIOLATIONS
INSPECTOR'S STATEMENT

Company/Mine: Alton Coal Development, LLC/Coal Hollow Mine
Permit #: C/025/0005

Citation# 16149
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: Approved engineering designs for the reconstruction of Robinson Creek are provided on Dwg 5-20A and 5-21A of the MRP. These designs are based on the documentation of the watershed characteristics found in Appendix 5-3. During the inspection, it was noted that the creek had been reconstructed and topsoil applied to the banks of the creek and the creek bottom and the reconstructed channel had been seeded. The plans for a rock lined channel were not implemented. The plans for a flood plain were not implemented. The plans for installation of a mulch blanket on the slopes of the flood plain were not implemented.

- 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 operator knew of the designs for the channel. The designs were discussed during the previous three inspections. The operator knew that deviation from the design would require an amendment to the MRP. The Division inspector and hydrologist had discussed the approved plan with the operator and emphasized that deviation from the approved design would require submittal of an amendment to the Division for approval, prior to implementing the new designs. (See Contemporaneous Reclamation section of Inspection Report #4027, November 18, 2014; and the summary of Insp Rpt #4006 , Oct 28, 2014; and the final paragraph under Hydrologic Balance Diversions in Insp. Rpt. #3979, Sept 29, 2014).

- 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.

**Hindrance to Enforcement
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Explanation: The creek was not completed at its source, so that it would not carry any water from the upstream watershed, only water falling within the reconstructed channel itself would flow downstream. Five 1/2 ton straw bales had been installed at the downstream end of the reconstructed channel to filter any water leaving the site from the reconstructed creek.

- Was the operator in violation of any conditions or stipulations of the approved MRP?

Explanation: The operator did not follow the approved engineering design for the reconstruction of Robinson Creek.

- 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: No.

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: The operator had a certified, professional engineer at the site on February 10, 2015 to evaluate the reconstructed channel for the purpose of certifying the new construction as capable of meeting the requirements of R645-301-742.320 et seq and the performance standards of R645-301-750.

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

Explanation: The operator has reclamation equipment on site. The operator has a surveyor on site. The operator has a professional engineer on staff.

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

Explanation: Approved engineering designs for the reconstruction of Robinson Creek are provided on Dwg 5-20A and 5-21A of the MRP. These designs are based on the documentation of the watershed characteristics found in Appendix 5-3. Deviation from these engineering designs required prior approval of an amendment to the MRP.

Priscilla Burton
Authorized Representative

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Signature

Digitally signed by Priscilla Burton
DN: cn=Priscilla Burton, o, ou,
email=priscillaburton@utah.gov, c=US
Date: 2015.02.18 14:35:05 -0700

February 18, 2015
Date