

EVENT VIOLATION INSPECTOR'S STATEMENT

Alton Coal Development
Permit #: 0250005

NOV 21157

SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event types 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: Topsoil was not protected and was lost due to erosion.

2. Has the event occurred?

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.** Topsoil stripped from the west face of the excess spoil pile was stockpiled **on the slope, mid-slope** of the excess spoil pile in a windrow about 400 – 500 ft. long and five to seven feet high. The pile was not protected around its base (i.e. no berm, no silt fence, no excelsior logs, etc.) Run off from the slope above washed out the pile in two locations, carrying away topsoil. In addition, subsoil was mixed with topsoil at one location.

3. Did any damage occur as a result of the violation?

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: **Yes.** There was loss of topsoil. The extent is difficult to say, judging from the shape of the erosion gaps in the pile, perhaps 4 CY.

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: The operator was indifferent to DOGM regulations and did not take 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: It should have been evident, but nothing was done prior to the citation being written.

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

Explanation: Yes. Topsoil stockpile placement and protection rules: R645-301-234.200, R645-301-234.210, and R645-301-234.230.

- 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: Yes. NOV 10079, issued 3/9/2011.

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: The topsoil was removed and applied to graded surfaces by 10/6/2015.

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

Explanation: The operator had the necessary resources. Mining had ceased at the site and men and equipment were available to place sediment control above and below the stockpiled topsoil.

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

Explanation: No.

Priscilla Burton, ID #37
Authorized Representative


Signature

October 27, 2015
Date