

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Canyon Fuel Company, LLC/SUFCO Mine
Permit #: C/041/002

NOV # N05-53-1-1
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.

- 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: The mine apparently discharged an unknown amount of coal fines from their mine-water discharge (UPDES outfall 003) into the North Fork of Quitchupah Creek. The discharge likely occurred prior to October 5 for an undetermined amount of time. Laboratory analysis of a water sample collected by DWQ approximately 6 miles downstream of the outfall showed a TSS concentration of 458.7 mg/L. Other than SUFCO's mine water discharge, there is no known source for the release of coal fines to the North Fork of Quitchupah Creek. Furthermore, SUFCO has not provided an alternative explanation for the coal fines in the creek.

2. Has the event 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: The coal fines were observed by the Division on October 13 (8 days after it was first reported) in the North Fork and Quitchupah Creek at least 8 miles downstream of outfall 003. Some coal fines were deposited in ripples along the stream bank, but most was apparently washed further downstream.

3. Did any damage occur as a result of the violation? No

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: It is unknown at this time if any damage occurred to the stream ecosystem. Quitchupah Creek is classified by DWQ as a Class 3A Cold Water Aquatic Wildlife stream.

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 not aware that fines were being released from outfall 003. It is believed that an unforeseen surge of water due to gob caving upset the settled coal fines in the water storage area prior to being discharged. Based on years of discharge without problems using the same water distribution and settlement system, the operator had no reason to anticipate a failure of the system.

- 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 a specific permit condition?

Explanation: _____

- 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: When first informed of the anonymous complaint on October 5, the operator checked their outfalls, but did not identify any problems and apparently did not investigate further. The operator acted quickly to investigate the coal fines release once they were shown evidence (photographs) on October 17. They have since been actively working to correct the problem by planning to realign their water lines away from the suspected problem settling area. They are also planning to install an in-line turbidity meter to alert them of future problems prior to any release. In the meantime, the mine is monitoring their outfall daily.

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

Explanation: _____

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

Explanation: _____

Steve M. Fluke
Authorized Representative

Signature

November 28, 2005
Date