



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

November 16, 2010

Re: Belmont County
American Energy Corp., Century Mine
0IL00091*GD
Notice of Violation
Correspondence (IWW)

Mr. Kevin Hughes, General Manager
American Energy Corp. Century Mine
43521 Mayhugh Hill Road
Beallsville, Ohio 43716

Dear Mr. Hughes:

On the morning of October 1, 2010, Farley Wood of your staff notified Ohio EPA that American Energy Corporation's Century Mine discharged coal slurry from slurry pipeline into Captina Creek. Ohio EPA personnel, Craig Butler, Southeast District Chief, Dan Imhoff and I of the Division of Surface Water (DSW), and Dennis Deavers, of the Division of Emergency and Remedial Response, inspected the site later that day. We observed that Captina Creek contained black coal slurry for about 1.5 miles of stream length. The slurry smothered many fish and other aquatic life, causing a fish kill. Although emergency response clean-up efforts were curtailed with the concurrence of Ohio EPA on October 29, 2010, Captina Creek remains adversely affected.

This unauthorized discharge was a violation of the Ohio Revised Code (ORC) Chapter 6111. The spill also caused at least the following violations of the Water Quality Standards contained in Ohio Administrative Code (OAC):

1. Section 3745-1-04(A) by depositing substances into waters of the state as a result of human activity that settled to form putrescent or otherwise objectionable sludge deposits or adversely affected aquatic life;
2. Section 3745-1-04(C) by discharging materials into waters of the state as a result of human activity containing substances that altered the natural color or other conditions of the receiving streams in such a degree as to create a nuisance;
3. Section 3745-1-04(D) by causing substances such as Total Dissolved Solids and Selenium to enter the waters as a result of human activity in concentrations that are toxic or harmful to human, animal or aquatic life and/or are rapidly lethal in the mixing zone; and

4. Section 3745-1-07 Water Quality Standards:

Date	Parameter	Units	Result	WQ Standard*
10/1/2010	Arsenic	ug/L	527	340
10/1/2010	Zinc	ug/L	9810	390

*Values based on Outside Mixing Zone Maximums and an in stream hardness of 400 mg/l

It is necessary that you submit a final report detailing the events of the spill including what time it was discovered, when the pipeline was inspected last before discovery of the spill, volume estimates of spilled and disposed slurry, the destination of the material removed from the creek, the results of all samples taken, the cause of the spill, how long the slurry pipeline was not in use due to the pipeline repair and clean up, and a description of the clean-up project, including how the pipeline was repaired and all cleanup related costs. Provide this report to Ohio EPA within 14 days of the receipt of this notice of violation.

Because this is the second pipeline failure since it was installed in 2002, it is required that the integrity of both the slurry pipe and the return water pipe be evaluated by an expert in pipeline evaluation. The evaluation must include:

- 1) A determination of the thickness of the pipe walls throughout the pipelines; and
- 2) A determination whether there are portions of the pipe which are no longer capable of withstanding the pressure of transporting slurry and return water, or which are potential failure zones.

Provide a date of not less than one month from today by when this evaluation will begin and when the final integrity report will be submitted to Ohio EPA, not to exceed six months from today unless otherwise agreed upon by Ohio EPA.

AEC must also initiate within one month from today a study evaluating all possible alternatives and methods to prevent future pipeline failures and spills. A report on the study shall be submitted to Ohio EPA, not to exceed six months from today unless otherwise agreed upon by Ohio EPA. This report should include but not be limited to evaluating:

- 1) Alternative pipeline design, material, and construction options;
- 2) Alternative pipeline installation and routing options; and
- 3) Alternatives to slurry pipeline and return water lines between AEC and OVCC.

ODNR Division of Mineral Resource Management shall be notified of any proposal for changes to the pipelines.

The Permit to Install (PTI) application that AEC submitted for the existing slurry pipeline (which was submitted as "As Built") is not approvable. It is recommended that AEC withdraw the PTI application immediately. If it is not withdrawn, the Ohio EPA will be forced to disapprove it. A new PTI may be submitted for review and approval that includes information from the above studies shown to prevent future pipeline failures and spills.

Due to the seriousness of these violations, and the fact that this is the second spill since the pipeline was installed in 2002, DSW Southeast District Office is recommending enforcement action be taken against American Energy Corporation.

Please submit the incident report requested above within 14 days of the receipt of this notice of violation. In your response, also provide dates for the commencement and completion of the pipeline evaluation and submission of the report, and address the status of the Permit to Install. If there are any questions, please contact me at (740) 380-5284.

Sincerely,



Ms. Abbot Stevenson
Environmental Engineer
Permits and Enforcement Section
Division of Surface Water

AS/dh

- c: Dave Clark, ODNR, DMRM
- c: Bill Fischbein, Ohio EPA, Legal, CO
- c: Martha Horvitz, Ohio EPA, Legal, CO
- c: Craig Butler, Chief, Ohio EPA, SEDO
- c: AS file