



COMMONWEALTH of VIRGINIA

Department of Mines, Minerals and Energy

Division of Gas and Oil

P.O. Box 1416

Abingdon, Virginia 24212-1416

Phone: (276) 676-5423

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March 20, 2006

Leslie K. Arrington
Manager of Environmental and Permitting
CNX Gas Company, LLC
P. O. Box 947
Bluefield, VA 24605

RE: Notice of intent to present a recommendation for civil charges to the Virginia Gas and Oil Board – Docket number 06-0418-1614

Dear Mr. Arrington:

You are hereby notified that the Division of Gas and Oil will present to the Virginia Gas and Oil Board a recommendation for civil charges against CNX Gas Company, LLC under Docket number 06-0418-1614. The recommendation for civil charges is being filed pursuant to Section 45.1-6-361.8C of the Code of Virginia, and in accordance with Board order VGOB 92-0529-0226 executed June 10, 1992. The basis for the recommendation is as follows:

<u>Violation Cited</u>	<u>Date</u>	<u>Operation, Permit No., File No.</u>	<u>Law/Regulation Cited</u>
# 1654 Failure to submit a plan for protection of persons working in underground mine prior to drilling into active mine.	3/10/06	CBM H44A, 6861, BU-2949	4VAC25-150-560

The Notice of Violation resulted from a chain of events leading to the discovery that well CBM H44A was, on the morning of November 1, 2005, drilled through the active Calico Coal, Inc. Meridian #2 coal mine. The operator failed to submit a plan for the safety and protection of coal miners. The plan would have, at a minimum, required the operator to notify the mine operator and the Chief of Mines at least two days in advance of drilling into or within 200 feet of the active mine.

EQUAL OPPORTUNITY EMPLOYER
TDD (800) 828-1120 — Virginia Relay Center

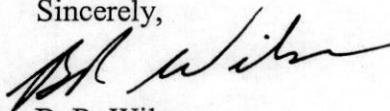
In accordance with the VGOB Civil Charge Procedural Rule (copy attached) the following criteria were used to derive the recommended civil charge amount:

<u>Criterion</u>	<u>Point Determination Factor</u>	<u>Points Assessed</u>
Seriousness of Violation (Table 1)	Significant actual or potential threat or hazard	+6
Degree of Operator Negligence (Table 2)	Failure to prevent the occurrence due to lack of diligence or lack of reasonable care.	+3
Good Faith Credits (Table 3)	Violation could not be abated but operator put in place a system of multiple checks to prevent reoccurrence.	-1
	<u>Total points assessed – Nov 1654</u>	<u>+8</u>
	<u>Base Civil Charge (Table 4)</u>	<u>\$1,500.00</u>
History of Violations	No prior NOV's against this operation and no previous NOV's for this offense	<u>0.00</u>
	<u>Total Recommended Civil Charge – Notice of Violation # 1654</u>	<u>\$1,500.00</u>

This recommendation will appear on the April 18, 2006 docket of the Virginia Gas and Oil Board, Docket number 06-0418-1614. The Board will meet at the Southwest Virginia Higher Education Center starting at 9:00 AM. You may appear at the hearing and introduce information pertinent only to the civil charge determination. The violation addressed in the determination of civil charge may not be challenged or appealed in the civil charge proceeding.

I have enclosed with this notice a copy of the Board order that includes the Civil Charge Procedural Rule under which these charges are recommended. If you have questions regarding the recommended charges, please feel free to contact me.

Sincerely,



B. R. Wilson
Director

C: Virginia Gas and Oil Board Members
Sharon Pigeon, Assistant Attorney General
Rick Cooper, Gas and Oil Inspector

V I R G I N I A

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

ORDER ADOPTING CIVIL CHARGE PROCEDURAL RULE
FOR IMPLEMENTATION OF §45.1-361.8.C., CODE OF
VIRGINIA, AND §19 OF THE VIRGINIA GAS AND
OIL BOARD REGULATIONS, VR 480-05-22.2

) VIRGINIA GAS
) AND OIL BOARD
)
)
) DOCKET NO.
)
) VGOB 92/05/29-0226

REPORT OF THE BOARD

FINDINGS AND ORDER

1. Hearing Date and Place: This matter came on upon the Virginia Gas and Oil Board's (hereafter "Board") own motion for hearing at 9:00 a.m. on May 19, 1992, Southwest Virginia Education 4-H Center, Route 609, Hillman Highway, Abingdon, Virginia 24210 to consider policies and procedures for the implementation of civil penalty charges under § 19 of VR 480-05-22.2, Virginia Gas and Oil Board Regulations, and § 45.1-361.8.C., Code of Virginia, 1950 as amended.

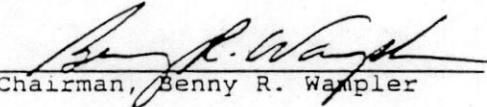
2. Appearances: Byron Thomas Fulmer, Principal Executive to the Staff, Virginia Gas and Oil Board, and Sandra B. Riggs, Assistant Attorney General were present to advise the Board. No appearances were made in this matter.

3. Findings: Civil penalties may be assessed in the manner provided by law against a gas, oil, or geophysical operator who violates provisions of the Virginia Gas and Oil Act (Chapter 22.1 of Title 45.1 of the Code of Virginia), any condition of a permit, any regulation, or any order of the Board. Civil charges are authorized under § 45.1-361.8.C. of the Code of Virginia and § 19 of the Virginia Gas and Oil Board Regulations (VR 480-05-22.2). Under the circumstances specified in the statute, payment of civil charges may be used in lieu of seeking and/or assessing civil penalties under § 45.1-361.8.B. of the Code of Virginia. Civil charges collected under § 45.1-361.8.C. are to be paid into the treasury of the county or city wherein lies the gas, oil, or geophysical operation subject to any order of the Board providing for the payment of such civil charges for past violations.

4. Conclusion: IT IS ORDERED THAT the Virginia Gas and Oil Board Civil Charge Procedural Rule dated May 19, 1992, a copy of which is attached hereto and made a part hereof as Exhibit A, is hereby adopted by the Board for the purpose of setting forth the manner in which the Board will implement § 19 of VR 480-05-22.2, Virginia Gas and Oil Board Regulations, and § 45.1.361.8.C., Code of Virginia, 1950 as amended.

5. Effective Date: This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 10th day of June, 1992, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

DONE AND PERFORMED this 11th day of June, 1992, by Order of this Board.

Byron T. Fulmer
Byron Thomas Fulmer
Principal Executive to the Staff
Virginia Gas and Oil Board

STATE OF VIRGINIA)
COUNTY OF WISE)

Acknowledged on this 10th day of June, 1992,
personally before me a notary public in and for the Commonwealth of Virginia,
appeared Benny Wampler, being duly sworn did depose and say that he is Chairman
of the Virginia Gas and Oil Board, that he executed same as Chairman of the
Virginia Gas and Oil Board and was authorized to do so.

Susan G. Garrett
Susan G. Garrett
Notary Public

My commission expires 7/31/94

STATE OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 11th day of June, 1992,
personally before me a notary public in and for the Commonwealth of Virginia,
appeared Byron Thomas Fulmer, being duly sworn did depose and say that he is
Principal Executive to the Staff of the Virginia Gas and Oil Board, that he
executed same as Principal Executive to the Staff of the Virginia Gas and Oil
Board and was authorized to do so.

Diane J. Davis
Diane Davis
Notary Public

My commission expires 9/23/92

Civil Charge Procedural Rule

Virginia Gas and Oil Board

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By Order of the Board

Civil Charge Procedural Rule

I. GENERAL

Civil charges may be assessed in the manner provided by law against a gas, oil, or geophysical operator who violates provisions of the Virginia Gas and Oil Act (Chapter 22.1 of Title 45.1 of the Code of Virginia), any condition of a permit, any regulation, or any order of the Virginia Gas and Oil Board issued thereunder. Civil charges are authorized under S 45.1-361.8.C of the Code of Virginia and S 19 of the Virginia Gas and Oil Board Regulations (VR 480-05-22.2). Under the circumstances specified in the statutes, payment of civil charges may be used in lieu of seeking and/or assessing civil penalties under S 45.1-361.8.B of the Code of Virginia.

II. BASIS FOR CIVIL CHARGE

The Inspector shall base his decision whether to recommend a civil charge on the following:

- If the violation resulted in, or could reasonably have been expected to result in, significant adverse environmental impacts;
- If the violation resulted in, or could reasonably have been expected to result in, harm to the public safety or general welfare;
- If the violation resulted in, or could reasonably have been expected to result in, harm to the correlative rights of any person;
- If the operation was not properly permitted;
- If the operator did not complete, within the abatement period, all remedial actions, including interim steps, required to abate a violation cited in a notice of violation (NOV) or in a closure order (CO);
- If the operator has a recent history of similar violations at the site subject to the civil charge, or at other sites;
- If the operator failed to comply with an order of the Board;
- If the Inspector is directed to do so by the Board.

III. CRITERIA FOR DETERMINING AMOUNT OF CIVIL CHARGE

The Inspector shall determine the basis for and recommended amount of the civil charge according to the following criteria:

- The seriousness of the violation;
- The degree of negligence exhibited by the operator;
- The operator's good faith in correcting the violation expeditiously to the extent possible;
- The operator's previous history of violations at the particular gas, oil, or geophysical operations; and
- The operator's failure to comply with an abatement plan.

IV. POINT SCHEDULE/SERIOUSNESS OF VIOLATION

The Inspector shall determine the seriousness of the violation based on the adverse impacts the violation created or posed. The Inspector shall assign zero to 10 points according to the point schedule in Table 1.

V. POINT SCHEDULE/NEGLIGENCE

The Inspector shall determine whether negligence points are to be assigned based on the degree to which the operator caused or allowed the violation to occur, either through act or failure to act. The Inspector shall assign zero to six points for negligence according to the point schedule in Table 2.

For the purposes of determining the degree of negligence, the following terms shall have the following meaning:

- "No negligence" means an inadvertent and unavoidable violation that occurred despite the operator's exercise of reasonable care. Typically, the violation resulted from an unpredictable natural event or vandalism. The acts of all persons working at the particular operation are attributed to the operator, unless the operator establishes that the acts were deliberate sabotage. While an operator is not considered negligent for an unpredictable natural event or vandalism, the operator would be considered negligent for failing to repair the damage caused by such occurrences.
- "Negligence" means the failure of an operator to prevent the occurrence or, or to correct the violation due to indifference, lack of diligence, or lack of reasonable care. If the operator has exhibited a pattern of similar violations at other sites, negligence may be determined.
- "Gross negligence" means reckless, knowing or intentional conduct. An operator is deemed reckless when it should have been clear to a prudent operator that the course of conduct taken by the operator was likely to

create a serious amount of damage or harm, yet the operator followed the course anyway; or when in a situation deemed inherently dangerous, the operator failed to exercise the degree of care warranted to ensure safety. Knowing or intentional conduct occurs when an operator is aware of the potential or actual violation, but fails to avoid or correct the violation.

The Inspector may consider any mitigating circumstances prior to assigning negligence points.

VI GOOD FAITH POINTS

The Inspector may award good faith points when an operator complied with the remedial action required by a NOV or CO prior to the set abatement date. The Inspector shall deduct zero to four points for good faith credit from the point total derived from the seriousness and negligence determinations according to the point schedule in Table 3.

VII. SETTING THE CIVIL CHARGE AMOUNT

The Inspector shall propose the base civil charge amount based on the total points assigned according to the point schedule in Table 4.

- The Inspector shall determine the previous history of violation if the operator has been issued NOVs or COs at the site subject to the civil charge during the 12 months preceding the date of the violation subject to the civil charge. The Inspector may consider only those NOVs and COs finally resolved during the preceding 12 month period. The following may not be considered:
 - Any NOV or CO subject to pending administrative or judicial review;
 - Any NOV or CO eligible for administrative review because deadline to seek review has not passed; and
 - Any NOV or CO that was overturned on review.

The Inspector shall adjust the base civil charge amount according to the point schedule in Table 5.

- The Inspector may propose to assess an additional civil charge of up to \$1,500 for each day of a continuing violation or failure to abate if an operator failed to comply with a NOV's or CO's remedial measures. This daily assessment shall not be assessed for more than 30 days.

In no event shall the daily civil charge for each violation cited in the NOV or CO exceed \$10,000.00.

VIII. CONDUCT OF HEARINGS

The Inspector, at least 30 days prior to a Board hearing, shall assign a docket number and place the proposed civil charge on the docket for the Board hearing when he determines a civil charge may be warranted.

The Inspector, concurrently with placing the proposed civil charge on the docket, shall give notice of the proposed civil charge and hearing to the operator subject to the civil charge. The notice shall be sent by certified mail return receipt requested. The notice shall identify the violations subject to the civil charges, and explain the basis for and amount of the civil charge recommendation. Proper notice shall be deemed complete as to the date of posting, should the operator refuse to accept delivery of, or fail to collect the certified mail.

The operator subject to the civil charge may introduce information during the hearing pertinent only to the civil charge determination. The information may address only the appropriateness of the civil charge's seriousness, negligence, history, and good faith determinations. The violation or violations addressed in the determination of the civil charge may not be challenged or appealed in the civil charge proceeding.

The Board shall review the assessment criteria for each civil charge determination. The Board and operator may agree to affirm, reduce or increase a civil charge based upon the evidence submitted or discussed at the hearing. The Board and operator may agree to waive a civil charge derived from this procedure if exceptional factors were present which would make the civil charge demonstrably unjust. The waiver may be requested by the operator or be made upon the Board's initiative. A waiver may not be awarded on the basis that a reduction in the proposed civil charge amount could be used to abate violations.

The Board may seek civil penalties pursuant to S 45.1-361.8.B of the Code of Virginia if an agreement on the civil charge cannot be reached.

The Inspector shall prepare a written order summarizing the findings and decision reached during the hearing, and shall forward the order to the Board Chairman for review and signature with copies mailed to the Board members.

The Inspector shall send, by certified mail return receipt requested, the order to the operator subject to the civil charge. The Inspector shall send, by first class mail, a copy of the order to the Treasurer of the city or county where the gas, oil or geophysical operation subject to the charge is located.

IX. CIVIL CHARGE DISPOSITION

The operator subject to a civil charge shall submit, within 30 days of receipt of the Board order, payment to the city or county where the gas, oil or geophysical operation subject to the charge is located. Payment shall be made by certified check payable to the Treasurer of the city or county.

The operator shall submit a copy of the certified check, as proof of payment of the civil charge, to the Inspector concurrently with submittal of the payment to the locality.

TABLE 1: SERIOUSNESS POINT DETERMINATION

Points	Damage to the Environment	Danger to Public Health/Safety	Damage to Correlative Rights or Resources	Obstruction to Enforcement
0	No actual or potential damage	No threat	None	None
1-2	Slight actual or potential damage	Slight actual or potential threat	Excess production able to be offset by under production	Violation of requirement that can be quickly corrected
3-4	Moderately significant actual or potential damage	Moderately significant actual or potential threat or hazard	Failure to make a payment in accordance with a Board order	Violation of administrative requirement that is correctable after some delay and tends to hamper or obstruct enforcement
5-6	Significant actual or potential damage, correctable only after substantial effort/time	Significant actual or potential threat or hazard	Waste or escape of resource, with no resource damage	
7-8	Extremely serious potential, or substantial actual damage correctable only after substantial effort/time	Substantial actual or potential hazard	Waste causing moderate resource damage	
9-10	Extremely serious actual damage	Extreme actual or potential hazard	Waste causing substantial resource damage	



FIELD REPORT FORM

Company Name: CALICO COAL INC.			Mine Name or Number: MERIDIAN #2		Report Date: 3/15/2006	Mine Index Number: 06721AF
Address: 48 COLLEGE DR			Location: 1.6 MILES EAST OF WHITEWOOD RT 638, 0.9 MILES UP MILL BRANCH		MSHA ID Number: 44-02241	
City: BLUEFIELD	State: VA	ZIP: 24605	County: BUCHANAN	Office Phone Number: (276)322-4748		Mine Phone Number: (276)881-8889
Person with Overall Responsibility: ERNEST E. VARNEY			Person in Charge of Health and Safety: ERNEST E. VARNEY		Type: ENFORCEMENT REQUEST	
Inspected: 3/13/2006, 3/14/2006, 3/15/2006						

Comments: The purpose of this visit, an ENFORCEMENT REQUEST, was to evaluate activities associated with a potential gas well penetration into the active workings of the Calico Coal, Inc., Meridian No. 2 Mine. On 3/2/06, David Asbury, DM Technical Engineer, briefed this specialist of the incident following the surveying of the well's surface location. After also being briefed on the incident, Opie Mckinney, the area enforcement supervisor, notified this specialist about the need to determine if the activity associated with this event could have affected the active mine at the time the drilling intersected the active mine workings and if the well was in an open area of the mine or through a remnant pillar block. This specialist notified his supervisor Mike Willis, Mine Safety Engineer, and Mr. Asbury of the need to attempt locating the well in the active underground area of the mine and determine if any portion(s) of the mine were affected by the gas well activity. Mr. Asbury assisted this specialist in the mine site evaluation.

The following information is associated with this evaluation:

- Affected mine: Calico Coal, Inc., Meridian No. 2, Mine Index No. 06721AF
- Coal seam of active mine: Jawbone
- Lease holder: Dominion Coal Corporation
- Sub-lease holder: Calico Coal, Inc.
- Gas well involved: H-44A
- Gas well operator: CNX
- Drilling Contractor: Noah Horn Well Drilling, Inc.
- Penetration date: 11/1/05
- Penetration time: between 7:00am and 12:00pm.
- Underground location: 7' outby, 14' right of survey station #4307 of the No. 4 belt and track entry of the former Jewell Ridge Coal Company 12A Linn Camp Mine.
- Mining height in affected area: approximately 48"
- According to production dates maintained on the mine maps at the mine, mine personnel were located approximately on the 2nd Right Development Panel off 3 Left Mains, 1400' from the drill penetration.
- DM conducted a spot inspection of the mine from 11/16/05 to 12/1/05 with no knowledge of the drilling activity or events.

An in-mine evaluation was conducted revealing the following:



- Travel was made along 2 Left Mains (old 12A) belt and track entry up to the sealed area. This area is not traveled as part of the mine's examination and is evaluated by a remote evaluation point, EP1, located across the overcasts at the mouth of 2 Left Mains, evaluating air quality and quantity exiting the area. Evaluation point EP2 evaluates air quantity entering 1 Left pillared area that exits at the top end of the 2 Left area just outby the installed seals.
- Records of the weekly examinations taken the week prior to and after the drill hole penetration indicated no changes in the air quality or quantity within the times the examinations were conducted. One of the weekly exams was taken on the day of the penetration. Air quantity entering the area at EP2 averaged 7600cfm and air quantity exiting the area at EP1 averaged 8200cfm.
- According to the mine operator, the only changes that appeared to have occurred during that time was additional amounts of water present at the mouth of 2 Left Mains which were being pumped. A larger pump was required to be set. This water normally travels out of the sealed area at the top end of 2 Left down to a gathering point at the mouth of 2 Left.
- Fan charts maintained at the mine did not indicate any changes in ventilation pressure at the estimated date and time of drill penetration.
- The well casing was discovered in the 5 right crosscut entry 7' outby and 14' to the right of survey station # 4307 of the No. 4 belt/track entry, 5' off the left corner of the outby pillar block. The 7" metal casing was visible. The casing was grouted at the base of the hole. There was no evidence of grout at the top of the hole. The drill hole appeared to be 9" in diameter. Air quality examinations taken at the drill hole and casing revealed 21% oxygen and 0% methane. No water was flowing into the mine from around the well and casing.
- Examination of the 7 seals installed across the 2 Left mains, approximately 200' inby the located gas well revealed the seals to be intact with 21% oxygen and 0% methane. A small flow of water was running from the water trap located in the No. 7 seal. There appeared to be no damage to the seals.

Brief explanation of events:

- On 8/1/05, CNX submits an application for permit to DGO to drill the affected well H-44A. According to DGO inspector Rick Cooper, everyone associated with the well activity were contacted. The permit stated that abandoned mine workings would be penetrated in the Raven (Red Ash) and Jawbone coal seams. The permit failed to identify the drilling into active underground workings, therefore no safety actions were submitted. CNX did not notify anyone that drilling would be conducted through an active mine.
- Mr. Cooper stated that on 11/1/05, between 7:00am and 12:00pm, the Raven and Jawbone coal seams were penetrated. Pre-drill voids were anticipated and the voided areas were cased. According to Mr. Cooper, the driller (Noah Horn Well Drilling, Inc.) and drill operator (CNX) were not aware of the drilling penetrating an active mine.
- On 2/14/06, the Keen Mountain office of DM receives a letter from Richard Bailey of Bailey Engineering and Land Surveying Company for Calico Coal, Inc. Meridian No. 2 Mine, requesting acknowledgement to mine within 500' and permission to mine within 200' of gas well H-44. This was received at BSG on 2/24/06.
- On 2/23/06, Mr. Cooper follows up the receipt of the requests by going to the H-44 gas well site. It was then that the H-44A site was located and found to also be within the 500' radius of the advancing section of the Meridian No.2 mine. Mr. Cooper notified Mr. Bailey of the requirement to submit the 500' plan for the H-44A mine, also. Mr. Bailey told Mr. Cooper he was not aware of this gas well being drilled. Therefore, a revised



notification and map indicating the location of gas well H-44A was forwarded to BSG and received on the same date.

- On 2/24/06, Mr. Bailey contacts Earnest Varney, the mine operator, that a gas well may have penetrated his mine at the above given date (11/1/05). Mr. Varney immediately examines the evaluation points to determine if any changes had occurred in the mine's air quality and quantity from the affected areas. No changes were observed.
- On 2/27/06, a scan of the 2/23/06 and 2/24/06 MW5F request was made by David Asbury and emailed to the assigned mine inspector (John Brown), the area supervisor (Opie Mckinney), the DM Mine Safety Engineer (Mike Willis) and the Division Chief (Frank Linkous)
- On 2/28/06, Bob Brendlinger of Dominion Coal Corporation is notified of the potential gas well penetrating into an active area of the Meridian No. 2 mine.
- Also on 2/28/06, David Asbury and Anthony Sturgill of DM conducted a field inspection to confirm well location of both the H-44 and H-44A gas wells. It appeared that the gas well should have penetrated along the edge and through a remnant pillar block in the Meridian No. 2 mine.
- On 3/2/06, Les Arrington of CNX attempts to contact Mr. Varney at the mine site. Mr. Varney is underground at the time and does not take the call. Upon arrival on the surface, Mr. Varney returns the call to Mr. Arrington who is out of the office at the time. Mr. Varney, who must be out of town the next day, leaves a message for Mr. Arrington to contact Mr. Bailey concerning the potential penetration location into the active portion of the mine. Mr. Varney then contacts Mr. Bailey to await Mr. Arrington's call. Mr. Bailey tells Mr. Varney he is not aware of the status of the well
- On 3/3/06, Mr. Arrington contacts Mr. Bailey to verify the location and event. Mr. Varney contacted Mr. Bailey later that day to receive the information provided by Mr. Arrington.
- On 3/10/06, Mr. Cooper informs Mr. Varney that the well was put into production. Mr. Cooper also informs Mr. Varney that the well may have penetrated into an open area of the mines.
- On 3/13/05, Mr. Varney, Mr. Asbury, and this specialist traveled underground to locate the gas well and evaluated the mine conditions.

Conclusion:

- Evidence revealed that a gas well, H-44A, was drilled into an open crosscut entry in an active area of this active underground mine and at a time when mine personnel were underground.
- This active area of the mine has been previously approved to be examined from a remote location (EP1 and EP2) and is not regularly traveled, therefore the well casing was not readily visible or located. Travel into the area to locate the well was conducted at the request of DM personnel.
- The operator of the active underground mine, and the related engineering firm, were not aware of the time and date of the drilling and penetration into the mine until approximately 4 months after the incident.
- According to DGO personnel, neither the drill operator nor the drilling crew was aware of drilling into active underground workings
- Examination and records reveal that the penetration did not affect the air quantity and quality of the mine.
- Further examination of the surrounding area revealed no damage to any underground ventilation controls or other installations.
- DGO is investigating this event. The division will address any compliance issues.



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINES
PO DRAWER 900 • BIG STONE GAP, VIRGINIA 24219

64120

TALBERT, JOHN, *Inspector/Specialist*



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF GAS AND OIL
POST OFFICE BOX 1416
ABINGDON, VIRGINIA 24212
(276)676-5423

INSPECTION REPORT

NAME AND ADDRESS OF PERMITTEE:

CNX Gas Company LLC
P. O. Box 947
Bluefield, VA 24605

OPERATION NAME: CBM H44A W/PL

FILE NUMBER: BU-2949

APPLICATION NO.: _____

DATE ISSUED: 08/01/05

OPERATION TYPE: Coalbed/Pipeline

ACTIONS OF THE INSPECTORS: Site OK, Violation Issued
NEXT INSPECTION DUE BY: 04/30/2006

TYPE OF INSPECTION: Permitted Site
OPERATION STATUS: STABILIZED/PRODUCING
PRIORITY: 3

INSPECTED and found Acceptable:

Site Condition
Road Condition
Equipment Condition
Pit Condition
CBM Site Safety -- Immient Danger - N Dangerous Condition - Department of Labor and Industry Notified - N

INSPECTED and found Not Acceptable:

Pipeline Condition

COMMENTS/RECOMMENDATIONS:

The well has been drilled and completed.
The pump jack started producing today (facilities appear to be in good condition).

The pit has been reclaimed and seeded (looks OK).
Pit reclamation notice given on 02-10-06.

Cleco Pipeline crews have installed the 8" & 2" poly pipelines from H-45 back to this location and the H-44 permit.
Drip supplements need to be submitted.

A violation is being cited to the operator for failing to submit a safety plan prior to drilling through the active area of the Calico underground coal mine as required by 4 VAC 25-150-560 of the Virginia Gas and Oil Regulations. The DGO-12 page in the approved permit states that no active mine is within 500 feet of the well. The well was drilled through the active Jawbone coal seam. Circulation was lost and a balance job was conducted on the 413 feet of 7" casing. The procedures were conducted between 7:00 AM and 12 noon on Tuesday November 1, 2005.

DATE START - STOP
03/10/06 9:40:00 AM 11:15:00 AM

INSPECTOR: Rick Cooper

INSPECTION: 88851

DGO-IR-S
REV. 10/01



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF GAS AND OIL
POST OFFICE BOX 1416
ABINGDON, VIRGINIA 24212
(276) 676-5423

1654

NOTICE OF VIOLATION

Pursuant to Section 45.1-361.27.E.2 of the Virginia Oil and Gas Act, a Notice is hereby issued for the following violation of Chapter 22, and Regulation or Orders promulgated thereunder.

I. OPERATION INFORMATION

Operation: CBM H44A W/PL
Permit Number: 6861
File Number: BU-2949
Operator: CNX Gas Company LLC
Address: P. O. Box 947
Bluefield, VA 24605
Driller: Noah Horn Drilling
Address: Vansant, VA 24656

II. VIOLATION INFORMATION

Section: VR 480-05-22.1, 4VAC25-150-560.
Violation Description:
The operator drilled into the active area of the Calico underground coal mine without submitting a safety plan.
Date of Violation: 03/10/06

III. Recommendation:
The operator needs to instruct pertinent employees to assure that this incident it not duplicated.

You are hereby required to perform such actions to correct the above violations by 03/17/06 or provisions of section 45.1-361.27.E.2 will be invoked by this office.

NOTICE

Person: Les Arrington
Title: Mgr of Environment/Permitting

Certified Mail Number: 5119-3813
Date: 03/10/06

Signature:

Rick Cooper, Inspector

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF GAS AND OIL
 VIOLATION HISTORY
 VIOL DATE FROM 01/01/06 TO 03/20/06

13:31:00 03-20-06
 PAGE: 1

Viol #	Insp	File # Permit #	Company Name Oper Name	Viol Dt Due Dt	Law Reg	Modified Date	Code	Extended Correction	Terminated
1654	RZC	BU-2949 6861	CNX Gas Company LLC CBM H44A W/PL	03/10/06	VR 480-05-22.1				03/14/06
88851				03/17/06	4VAC25-150-560.				
1656	RZC	BU-2949 6861	CNX Gas Company LLC CBM H44A W/PL	03/10/06	VR 480-05-22.1				
88851				03/17/06	4VAC25-150-560.				

2 records listed.

CIVIL CHARGE ASSESSMENT FORM

Operator _____ Violation Number _____

File Number _____ Date of Violation _____

Operations Name _____ Inspector _____

Seriousness: Points 6 (Assistant Inspector)

Justification DRILLED INTO ACTIVE MINE DURING
SHIFT - PERSONNEL IN MINE AT THE TIME.
IMPACTED AREA WAS VENTILATED BUT NOT BEING WORKED
DURING DRILLING.

Points 6 (Inspector)

Degree of Operator Negligence: Points _____ (Assistant Inspector)

Justification FAILURE TO PREVENT OCCURRENCE DUE
TO LACK OF DILIGENCE

Points 3 (Inspector)

Good Faith Credit: Points _____ (Assistant Inspector)

Justification NON-REPEATABLE VIOLATION - NO GOOD
FAITH POINTS AVAILABLE

Points — (Inspector)

History of Violation Charges: 0

Justification NO VIOLATIONS OF THIS SORT.

Total Civil Charge Assessment \$ 2,100.00

Civil Charge Assessment Form

Operator CNX Energy **Violation Number** 1654

File Number BU-2949 **Date of Violation** 03-10-2006

Operations Name H-44A **Inspector** Rick Cooper

Seriousness: **Points** 6 **(Assistant Inspector)**

Justification: Potential damage was present. Actual physical and property damage may have occurred in the future if undiscovered.

Points _____ **(Inspector)**

Degree of Operator Negligence: **Points** 1 **(Assistant Inspector)**

Justification: The operator has developed plans to prevent similar incidents. The operator has historically been compliant.

Points _____ **(Inspector)**

Good Faith Credit: **Points** 3 **(Assistant Inspector)**

Justification: When issued a violation the operator revealed new policies and procedures to alleviate similar situations.

Points _____ **(Inspector)**

History of Violation Charges:

Justification: _____

Total Civil Charge Assessment _____