

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	3.3.13
PROCEDURES MANUAL		ISSUE DATE	04/10/15
SUBJECT	Third Party Disturbances of Reclaimed Sites	Section	Reclamation Services
		Last Revised	8/18/00

OBJECTIVE AND INTENT:

To ensure the Field Inspector properly responds to and handles a situation where a third party has adversely affected an area subject to the Division’s jurisdiction.

PROCEDURES:

When a third party disturbance occurs, the responsibility for correcting any problems resulting from the disturbance remains with the permittee.

The Inspector shall determine whether a third party (not under the permittee’s control) disturbed the area. If a violation occurred due to the third party’s action, the Inspector shall document in the Inspection Report (**DMLR-ENF-044S**) the specifics of the disturbance or re-disturbance.

While the permittee may not have caused the violation, he is responsible to correct the problem. If the disturbance is located on a previously reclaimed area of the permit, the Inspector will direct the permittee via the inspection report narrative to repair or reclaim the area per the approved plans.

If the third party adversely affected an undisturbed area of an active permit (which would in effect impact the permittee’s mining operation), the Inspector shall direct the permittee via a Revision Order Notice (**DMLR-ENF-194S**) to file a permit revision in accordance with procedure # 2.3.01 to amend the approved mining plans to show how the unauthorized disturbance will impact the proposed mining operation.

For imminent danger or environmental harm disturbances, the Inspector will direct the permittee to begin immediate remedial action to correct the problem with all the resources necessary. Should the permittee take action to correct or begin to correct the problem prior to the completion of the inspection, no enforcement action is necessary. Otherwise, a cessation order for environmental harm (**DMLR-ENF-046S**) shall be issued by the Inspector to the permittee.

If the third party disturbance has created violations which do not pose an imminent danger or harm to the public safety or the environment, the Inspector shall notify the permittee of the violations and document such in the inspection report (at the initial inspection). In order to avoid enforcement action at the time of the next inspection, the permittee must have submitted an acceptable schedule for correcting the problem, or had initiated or was actively pursuing corrective action.

If a change to the approved postmining land use is needed to address the third party disturbance, the Inspector shall direct the permittee to submit a revision application (see Procedure #2.3.01) for the land use change. The revision shall apply to the affected areas. To avoid enforcement action, the permittee must submit the land use revision application to the Division (after review by the Inspector) prior to the next routine inspection.