



Informal Hearing Determination

Company: Virginia Fuel Corporation **Permit No.:** 1702073
Subject: Notice of Violation JRJ0000436
Conference: March 25, 2013 @ 10:00 AM **Location:** Company Office
Wise VA
Participants: Mark Wooten, PE.

On March 25, 2013, an informal hearing was held at the Company Office at 5957 Windswept Drive in Wise Virginia in reference to the fact of violation for Notice of Violation JRJ0000436. Representing A & G Coal Corporation was Mr. Mark Wooten, PE. The hearings officer was Harve Mooney. Mr. Wooten was afforded the opportunity to provide comments and/or information during the informal hearing. There were no attendees from the general public at this hearing.

Summary of Informal Hearing

Notice of Violation JRJ0000436 was issued to the operator on July 30, 2012 as a result of an anonymous complaint. Notice of Violation JRJ0000436 was issued because the discharge from Pond 13, sampled on July 13, 2012 exceeded the limit for Iron with a concentration of 171 mg/l. The maximum allowable limit for Iron is 6.0 mg/l. The discharge exceeded the limit for Manganese with a concentration of 17.7 mg/l. The maximum allowable limit for manganese is 4.0 mg/L.

The company representative noted that the discharge occurred because of a malfunction of a pump. He stated that there was no flow from the pond earlier in the morning of the complaint and the discharge wasn't notice until around 10:00 AM. He stated that there was little or no environmental damage from the discharge as the flow was diminished when the discharge was re-directed to other ponds on the site.

Informal Hearing Recommendation

I have reviewed Notice of Violation No. JRJ0000436, violation 1 of 1, and the associated inspection reports. I have also reviewed the regulations cited within the violation document. I concluded my review and evaluation on March 27, 2013.

On July 17, 2012, DMLR received an anonymous complaint on 7/13/12 alleging acid discharge from Ponds 3 and 13. As a result of that inspection, an investigation by Mr. Steve Jaynes of DMLR confirmed that there was in fact a small discharge from Pond 13 that was caused by a control pump failure; two grab samples were taken for lab analysis. The lab results show that the Fe concentration was 171 mg/l, which exceeds the maximum allowable daily limit

of 6.0 mg/l. It was also noted that the Mn concentration within the discharge was 17.7 mg/l, which exceeds the maximum allowable daily limit of 4.0 mg/l. As a result notice of Violation JRJ0000436, violation 1 of 1, under Performance Code EF, was issued to the operator for failure to meet effluent requirements.

Section 4 VAC 25-130-816.42 of the Virginia Coal Surface Mining Reclamation Regulations sets forth the applicable standards for effluent standards associated with the coal surface mining operations. Specifically, 4 VAC 25-130-816.42 states,

“ Discharges of water from areas disturbed by surface mining activities shall be made in compliance with all applicable State and Federal water quality laws, standards and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR 434.”

As is evidenced by the sample of the effluent taken by the Inspector Steve Jaynes, the discharge did not meet the effluent limitations specified in the approved NPDES permit. The operator has offered no evidence that the sample did not meet the approved standards in the NPDES permit package. Therefore, Notice of Violation JRJ0000436 is hereby affirmed.

Informal Hearings Officer: Harve A Mooney

Date: 05/28/13