



Informal Hearing Determination

Company: Jewell Smokeless Coal Corporation **Permit No.:** 0089020
Subject: Notice of Violation RYH0010259
Conference: 02/04/16 10:30AM **Location:** Sun Coke Energy Office
Participants: Mr. Butch Stallard and Mr. Wayne Hawley-Company Representatives, Mr. Wayne Hankins-DMLR Inspector

Summary of Informal Hearing

Mr. Butch Stallard began the informal conference by stating that the company did not understand what actually applies to an NPDES only permit. He was not that familiar with the site and added that he had been to the site back in October of 2015. The NPDES permit has been there a long time. The inspector cited that the ponds needed to be cleaned out. Mr. Stallard added that the company has 40 some permits to attend to and they had a contractor taking care (monitoring the site) three days a week. The company had spent a lot of time, effort and money in an attempt to keep the ponds in compliance.

There are two ponds on the permit that are in series with one NPDES monitoring point (Pond 001). The ponds are treated with caustic and lime on occasion. Active treatment has been maintained for many years. Mr. Stallard indicated that they were surprised by receiving the violation. He had been to the site in October of 2015 and noticed a bunch of leaves in the pond and noticed precipitant in the pond due to the chemical treatment and did not think that the pond needed to be cleaned out. He added that the leaves gave the appearance that the ponds needed to be cleaned out so they bagged up the leaves by hand and removed them. Mr. Stallard also stated that they were treating the ponds for two metals (iron and manganese). Monitoring results indicate that the metals are in compliance. He added that during low flow periods it is difficult to calibrate for Ph.

Mr. Wayne Hawley added that the violation was written under the coal regulations under the Performance Code SS. He stated that the ponds were not sediment control structures; they were treatment facilities. There were no design requirements for the NPDES only permit. He added that he doesn't believe there is a requirement for sediment removal on an NPDES only permit. Actually he does not know what the requirement is for an NPDES only permit. On another issue the company representatives did not understand what kicks effluent violations into SNC/CNC; they had asked for this information previously.

Inspector Wayne Hankins gave a history of the NPDES only permit. He stated that the permit is close to 30 years old. There was a court case decided that required the company to maintain water quality standards at the site. Mr. Hankins stated that ATS had been to the site and wanted to develop SAP cells at the site so for a time the caustic treatment system was suspended. In the meantime the SAP cells idea was dropped and the company reverted back to the caustic tank system and liming. In the past the company had cleaned the ponds twice a year (one time in the spring and again in the fall). The company stopped doing this and started to get violations concerning Ph. The inspector added in the NOV under the Performance Code SS that the 3rd quarter monitoring records indicated a Ph value of 4.4.

Informal Hearing Recommendation

I consulted the DMLR Water Quality Section concerning the NPDES Only permit requirements. A copy of DMLR Memorandum 8-85 that establishes the NPDES Enforcement Policy was obtained. The memorandum details how Significant Non-Compliance (SNC) and Chronic Non-Compliance (CNC) are determined. A copy is being mailed to the company. NOV RYH0010259, Violation 1 of 1, under Performance Code SS was issued to the operator on 12/02/15. The regulations cited were 4 VAC 25-130-817.41(a) and 4 VAC 25-130-817.41(d) (1) of the Virginia Coal Surface Mining Reclamation Regulations. After consultation with the DMLR Water Quality Section it was recommended that the regulation cited should be 4 VAC 25-130-817.42. This regulation states “Discharges of water from areas disturbed by underground mining activities shall be made in compliance with the applicable state and Federal water quality laws, standards and regulations and with the effluent limitations for coal mining promulgated by the U. S. Environmental Agency set forth in 40 CFR 434”.

It is my recommendation to modify the above referenced NOV to cite regulation 4 VAC 25-130-817.42. It does not matter whether the violation was issued under Performance Code SS or EF. It would be up to the operator as to how to bring the discharge from the pond into compliance with the NPDES permit whether it be by pumping, additional chemical treatment or otherwise.

Informal Hearings Officer: Kenneth Coomer

Date: 02-08-16