



Informal Hearing Determination

Company: Indian Gap Coal Company **Permit No.:** 1201231
Subject: Notice of Violation No. DLH0009347 Violation 1 of 1 (WM)
Conference: April 15, 2014, 10:00 a.m. **Location:** BSG Office (Room 116)
Participants: Company Representative Randy Cox, Dewey Hope – Area Inspector, Harve A. Mooney- Hearings Officer

Summary of Informal Hearing

On April 15, 2014, an informal hearing was held at the Big Stone Gap office of the Department of Mines Minerals and Energy (Room 116), in reference to the fact of violation for Notice of Violation DLH0009347. Representing Indian Gap Company was Mr. Randy Cox, PE. The hearings officer was Harve Mooney. Mr. Cox 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.

Mr. Cox began by noting that they had obtained this permit through acquisition from another group. He stated that recently the parent company (Consolidation Coal Company) had merged all of the water monitoring for its various subsidiaries, and outsourced the reporting to a single company Microbac. Previously, Environmental Monitoring Incorporated had been responsible for the water monitoring on the site.

Mr. Cox noted that the responsible party for the monitoring had left the company at the time that the change in the monitoring occurred. He noted the company thought that all reports had been submitted only when they received the violation that the reports for Indian Gap were delinquent. The company after contacting officials at DMLR remedied the violation. Mr. Cox stated that he discovered that the reports had been submitted for Indian Gap but that they had been inadvertently submitted with another permit report in Buchanan County. He said that while they weren't submitted under the Indian Gap permit, nevertheless the reports were in the DMLR Office. Mr. Cox also noted that the company has since gone to the newer forms of electronic water submittal and that will serve as a fail-safe mechanism that the issue doesn't happen again.

Informal Hearing Recommendation

Notice of Violation DLH0009347 (one violation) was issued to the operator because the operator has failed to submit the required Ground water and Surface water monitoring reports for the monitoring month of November 2013. The standard for this violation is addressed within the Virginia Coal Surface Mining Reclamation Regulations, which addresses water monitoring and

the submission of the analysis. Specifically, **Section 4VAC-25-130-817.41 of the Virginia Coal Surface Mining Reclamation Regulations** governs the submittal of water monitoring to the DMLR. Specifically, subsections “c” and “e” of this section note,

(c) Ground-water monitoring.

(1) Ground-water monitoring shall be conducted according to the ground-water monitoring plan approved under 4VAC25-130-780.21(i). The division may require additional monitoring when necessary.

(5) Ground-water monitoring data shall be submitted within 30 days after the end of the calendar quarter to the division. More frequent reporting may be prescribed by the division. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground-water sample indicates noncompliance with the permit conditions, then the permittee shall promptly notify the division and immediately take the actions provided for in 4VAC25-130-773.17(e) and 4VAC25-130-780.21(h).

(6) Ground-water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 4VAC25-130-774.13, the division may modify the monitoring requirements, including the parameters covered and the sampling frequency, if the permittee demonstrates, using the monitoring data obtained under this Paragraph, that--

(i) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected or replaced; or

(ii) Monitoring is no longer necessary to achieve the purposes set.

(e) Surface-water monitoring.

(1) Surface water monitoring shall be conducted according to the surface-water monitoring plan approved under 4VAC25-130-780.21(j). The division may require additional monitoring when necessary.

(2) Surface-water monitoring data shall be submitted every three months to the division or more frequently as prescribed by the division. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any surface-water sample indicates noncompliance with the permit conditions, the permittee shall promptly notify the division and immediately take the actions provided for in 4VAC25-130-773.17(e) and 4VAC25-130-780.21(h). Reporting shall be in accordance with the National Pollutant Discharge Elimination System (NPDES) permit requirements.

(3) Surface-water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with 4VAC25-130-774.13, the division may modify the monitoring requirements in accordance with the NPDES permit, including the parameters covered and sampling frequency, if the permittee demonstrates, using the monitoring data obtained under this Paragraph, that--

(i) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected or replaced; or

(ii) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 4VAC25-130-780.21(j).

The operator did submit the water quality data for the sampling points in question but the data was not submitted in the correct permit. The reporting data was submitted to the DMLR office. **Therefore, it is the recommendation of this hearings officer that Notice of Violation DLH0009347 (violation 1 of 1) be vacated.**

Conference Officer: _____
Harve A. Mooney

Date: _____