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ENERGY
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MINED LAND RECLAMATION
MINERAL MINING
GEOLOGY AND MINERAL RESOURCES
MINES
ADMINISTRATION

COMMONWEALTH of VIRGINIA

Department of Mines, Minerals and Energy

P.O. Drawer 900
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Big Stone Gap, Virginia 24219-0900
(276) 523-8100
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February 5, 2014

Mr. James C. Justice II
A & G Coal Corporation
P.O. Box 1010
Wise, VA 24293

Certified Mail Return
Receipt No. 7013 1090 0001 0523 5645

Re: Informal Hearing Decision - Issuance of Notice of Violation RDS0010040 (1 Violation)
for A & G Coal Corporation, Permit Number 1102003.

Dear Mr. Justice:

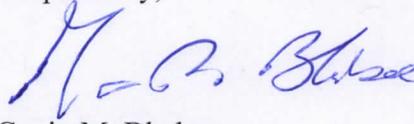
An informal hearing was held on January 22, 2014, to review the issuance of Notice of Violation RDS0010040, 1 violation. Based upon the attached opinion of the Informal Hearing Officer, I am affirming the issuance of Notice of Violation RDS0010040.

Pursuant to §4VAC25-130-843.16(a) of the Virginia Coal Surface Mining Reclamation Regulations, you (or any person having an interest which is or may be adversely affected by this decision) have the right to request a formal public hearing to review this decision. The request must be submitted in writing within 15 days from service of this decision to the:

Hearings Coordinator
Division of Mined Land Reclamation
P. O. Drawer 900
Big Stone Gap, Virginia 24219

Please be advised that the party requesting formal review shall bear the burden of proof at the formal hearing. Should you have any questions concerning the formal hearing process, please call Harve A. Mooney, Hearings Coordinator, at (276) 523-8271.

Respectfully,



Gavin M. Bledsoe
Reclamation Services Manager

c: Randy Stanley, Area Inspector
Kenneth Coomer, Area Supervisor
Harve A Mooney, Informal Hearing Officer
Leslie S. Vincent, PE.



Informal Hearing Determination

Company: A & G Coal Corporation **Permit No.:** 1102003
Subject: Notice of Violation RDS0010040 (BR)
Conference: January 22, 2014 at 11:00 a.m. **Location:** BSG Office
Participants: Les Vincent, Company Representative,

Summary of Informal Hearing

On January 22, 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 RDS0010040. Representing A & G Coal Corporation was Mr. Leslie Vincent, PE. The hearings officer was Harve Mooney. Mr. Vincent 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.

Notice of Violation RDS0010040 (1 of 1) was issued to the permittee because the permit site has been idle more than thirty days. There has been no mining activity at the Wilson seam deep mine face area. Remedial action requires either a submitted Notice of temporary cessation or reclamation of the site.

Mr. Vincent commented that the inspector had noted within the violation that the company could submit a notice of temporary cessation to remedy the violation. He stated if he had known this earlier, he could have submitted it without the violation. Mr. Vincent noted there was no warning to this violation. The hearing was then closed, and the participants informed that due to the necessity of reviewing the plans the decision would require some additional time.

Informal Hearing Recommendation

Notice of Violation RDS0010040 (1 of 1) was issued to the permittee because the permit site has been idle more than thirty days. **Section 4VAC-25-130-816.131 of the Virginia Coal Surface Mining Reclamation Regulations** governs the temporary cessation of operations on mining permits. Specifically, the section "b" states,

Before temporary cessation of mining and reclamation operations for a period of 30 days or more, or as soon as it is known that a temporary cessation will extend beyond 30 days, the permittee shall submit to the division, a notice of intention to cease or abandon mining and reclamation operations. This notice shall include a statement of the exact number of surface acres and the horizontal and vertical extent of the subsurface strata

which have been affected in the permit area prior to abandonment or cessation, the extent and kind of reclamation of those areas which will have been accomplished, identification of the backfilling, regrading, re-vegetation, environmental monitoring, underground opening closures and water treatment activities that will continue during the temporary cessation, and the anticipated time period for which the temporary cessation of mining and reclamation operations will be in effect.

In addition, **Sections 4VAC-25-130-816.100) and 4VAC-25-130-816.100) of the Virginia Coal Surface Mining Reclamation Regulations** govern the contemporaneous reclamation and general reclamation of a site. Specifically these sections note,

Reclamation efforts, including but not limited to backfilling, grading, topsoil replacement, and re-vegetation, on all areas affected by surface impacts incident to an underground coal mine shall occur as contemporaneously as practicable with mining operations, except when such mining operations are conducted in accordance with a variance for concurrent surface and underground mining activities issued under 4VAC25-130-785.18.

Disturbed areas shall be backfilled and graded to:

- (1) Achieve the approximate original contour, except as provided in subsection (k) of this section;*
- (2) Eliminate all highwalls, spoil piles, and depressions, except as provided in subsection (h) (small depressions) and in subdivision (k) (2) (previously mined highwalls) of this section;*
- (3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;*
- (4) Minimize erosion and water pollution both on and off the site; and*
- (5) Support the approved postmining land use.*

The permittee had the option of re-initiating operations, reclaiming the permit, or submitting a notice of temporary cessation. He did neither. The permittee is ultimately responsible for any and all activities on his approved permit area, including but not limited to contemporaneous reclamation, as well as, required actions by the regulations such as submittal of temporary cessation notification. Failure to notify the agency of a cessation of operations for longer than thirty days is a violation of **Section 4VAC-25-130-816.131**. It is also noted that the permittee was advised in previous report of the necessity to submit a notice of temporary cessation. **Based on the findings of this informal hearing, it is the recommendation of this hearings officer that Notice of Violation RDS0010040 (violation 1 of 1) be affirmed, but modified to add the Section 4VAC-25-130-816.131 to the violation.**

Informal Hearings Officer:

Harve A. Money

Date:

02/05/2014