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ENERGY
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COMMONWEALTH of VIRGINIA

Department of Mines, Minerals and Energy

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March 6, 2014

Mr. James C. Justice, II
Virginia Fuel Corporation
P. O. Box 3499
Wise, Virginia 24273

Certified Mail Return
Receipt No. 7013 1090 0001 0523 6048

Re: **Assessment Conference Decision** - Penalty Determination of HGC0010202,
Permit # 1102059

Dear Mr. Justice:

An assessment conference (§4VAC25-130-845.18(a) VCSMRR) was held on February 26, 2014 to review the civil penalty determination(s) of NOV # HGC0010202, violation 1 of 1. **Based upon the attached opinion of Kenneth Coomer, the civil penalty determination affirmed at \$480.00.**

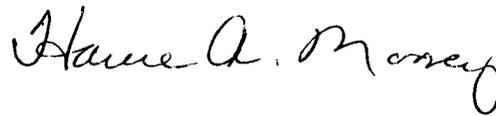
Please be advised that you may request a formal public hearing under §4VAC25-130-845.19(a) of the regulations to contest the penalty determination(s) NOV# HGC0010202, violation 1 of 1. Your written request must be submitted with payment of the civil penalty to this office within 30 days from your receipt of this decision. The penalty payment would be placed in escrow pending final administrative/judicial review.

Regardless of whether you wish to contest the civil penalty determination or fact of issuance of the notice or order, the penalty amount will be due and payable within 30 days from your receipt of this decision. Should a timely appeal result in the vacation or reduction of the penalty, the Division would refund the applicable amount with accrued interest (calculated from date of payment).

Please submit payment of the penalty in the form of cash, money order, or check. A money order or check (company, cashier's, or certified) must be made payable to the "Treasurer of Virginia". To expedite our receipting of the penalty payment, please note the violation and permit numbers with your payment.

Should you have any questions concerning the formal hearing or payment processes, please call me at (276) 523-8271.

Respectfully,

A handwritten signature in cursive script that reads "Harve A. Mooney". The signature is written in black ink and is positioned above the typed name.

Harve A Mooney
Legal Services Officer

c: Glenn Comer, Area Inspector
Kenneth Coomer, Conference Officer



Assessment Conference Determination

Company: Virginia Fuel Corporation **Permit No.:** 1102059
Penalty of: Notice of Violation No. HGC0010202 **Violation No.:** 1 of 1 (SS)
Conference: February 26, 2014 @ 9:30 AM **Location:** DMME BSG
Participants: Jon Lawson- Virginia Fuel Corporation, DMLR Reclamation Inspector-Glen Comer

Summary of Conference

An assessment conference concerning the above referenced Notice of Violation was held at 9:30 AM in Room 116 at the BSG office on 02-26-14. Notice of Violation No. HGC0010202 was issued under the Performance Code SS. This violation was issued for a beaver dam in the spillway of Pond 1 and was issued on 09-04-13. Mr. Jon Lawson stated that he sent a photograph on 09-16-13 to Inspector Comer showing that he had worked on removing the beaver dam from the spillway of the pond and that the pond water level had dropped a foot and a half. Mr. Lawson added that he has directed the water sampler to check the condition of the pond each time that he takes a water sample. Mr. Lawson stated that this was an ongoing fight to control the beaver activity. Mr. Lawson also stated that once the bad weather had subsided, the company will establish a beaver deterrent device at the spillway of Pond 1. Mr. Lawson requested that good faith be applied concerning this violation. This violation was terminated 10-11-13.

Assessment Conference Recommendation

It is my recommendation to affirm the proposed assessment for this notice of violation. Inspector Glen Comer stated that he intended the abatement date assigned to the violation be 09-20-13, but the DMLR enforcement system automatically assigned a 30 day abatement period for the violation. Review of the notice of violation indicated an abatement date of 10-20-13. However, the narrative states that the operator shall comply with the remedial action no later than 09-20-13. According to the photo mentioned by Mr. Lawson on 09-16-13, the operator lowered the pond water level by a foot and a half. The photo does indicate that the operator started removing the beaver dam from the spillway on that date. I examined the inspection report dated 10-09, 10, 11-13 (Report No. HGC0010266). This report states that the excavator was trammed to Pond 1 and removed the beaver dam on 10-11-13. The notice of violation was terminated as to 10-11-13. The operator should perform regular inspections of ponds on the permit and perform necessary maintenance in a timely manner. In this instance the operator did not begin necessary maintenance until 12 days after the issuance of the notice of violation and was not completely addressed until 10-11-13.

Assessment Conference Determination:

Permit No. 1102059 NOV# HGC0010202, 1 violation (SS)

	Proposed Assessment or Reassessment	Assessment Conference Recommendation
I. History of previous violation	\$ 80.00	\$ 80.00
II. Seriousness Points	2	
III. Negligence Points	2	
IV. Good Faith Points		
Total Points:	4	
Base Penalty:	\$ 250.00	
History Penalty:	\$ 80.00	\$ 0.00
Total Penalty:	\$ 330.00	

Conference Officer:

Kenneth Coomer

Kenneth Coomer

Date: 02-27-14