



Assessment Conference Determination

Company:	<u>Virginia Fuel Corporation</u>	Permit No.:	<u>1102059</u>
Penalty of:	<u>Notice of Violation No. HGC0010234</u>	Violation No.:	<u>1 of 1 (AO)</u>
Conference:	<u>February 26, 2014 @ 11:00 AM</u>	Location:	<u>DMME BSG</u>
Participants:	<u>Jon Lawson-Company Representative, Glen Comer-DMLR Reclamation Inspector</u>		

Summary of Conference

An assessment conference concerning Notice of Violation No. HGC0010234 was held at the DMLR Big Stone Gap office at 11:00AM on February 26, 2014. No one from the public participated in this conference. Mr. Jon Lawson indicated that he would submit written comments concerning the informal conference. Written comments were received on 02/26/14 via e-mail. The written comments were as follows:

Dear Mr. Coomer:

Virginia Fuel Corporation (VFC) is requesting that the Civil Penalty Assessment for an extension of NOV #HGC00010234 on P. N. 1102059 assessed by Mr. Mooney on October 15, 2013 be reduced.

Virginia Fuel Corporation staff submitted the renewal to Inspector Comer on October 10, 2013 which was prior to the abatement date and much earlier than the expiration date of the permit. Inspector comments were received October 11, 2013 on the renewal—and were resubmitted October 22nd. Email messages from Inspector Comer leading up to the resubmittal of the renewal included requests for completion materials and an NPDES only renewal. The fact that additional reserves will be mined in the future confused this process and with revision order notice applications being due and approved during the required submittal date of the CSMO/NPDES permit. VFC contends that the inspector comments on October 11, 2013 were unnecessary and the violation should had been abated when the application was initially given to the inspector.

VFC requests that good faith points be awarded and appreciates your consideration of this matter. If you need additional information or clarification of the justification of this request please feel free to contact me.

Assessment Conference Recommendation

The operator was notified via e-mail dated 06-12-2013 that the expiration date for CSMO Permit Number 1102059/NPDES Permit Number 0082059 for Virginia Fuel Corporation is 01/12/2014 and that renewal material is due in the Division's office on or before 09/14/2013. Section 4 VAC 25-130-774.15(b)(1) of the Virginia Coal Surface Mining Reclamation Regulations states: "An application for renewal of a permit shall be filed with the division at least 120 days before expiration of the existing permit term". The e-mail dated 06-12-2013 established the 120 due date of 09/14/2013.

According to DMLR records, NOV HGC0010234, under Performance Code AO, was not issued until 09/24/2013 which was after the due date. The violation required the operator to submit the renewal materials by 10-25-13. NOV HGC001234 was terminated 11/01/13.

It is my recommendation that the proposed assessment by Mr. Mooney be affirmed. The actual renewal material was due in the division office by 09/14/13. The renewal material was not submitted to DMLR until after a Notice of Violation was issued (October 10, 2013).

Assessment Conference Determination:

Permit No. 1102059 NOV# HGC0010234, 1 violation (AO)

	Proposed Assessment or Reassessment	Assessment Conference Recommendation
I. History of previous violation	\$ 80.00	\$ 80.00
II. Seriousness Points	3	
III. Negligence Points	2	
IV. Good Faith Points	0	
Total Points:	5	
Base Penalty:	\$ 325.00	\$ 325.00
History Penalty:	\$ 80.00	\$ 80.00
Total Penalty:	\$ 405.00	\$ 405.00

Conference Officer: *Kenneth Coomer*
Kenneth Coomer

Date: 03/10/14