



Assessment Conference Determination

Company: Justice Low Seam Mining, Inc. **Permit No.:** 1102079
Penalty of: Notice of Violation No. TMM0008514 **Violation No.:** 1of 1 (RT)
Conference: 11-13-13 10:15AM **Location:** Lebanon Office
Participants: Les Vincent- Company Engineer, Tom Mackey- DMLR Reclamation Inspector.

Summary of Conference

Seriousness Points Assigned 3-Mr. Les Vincent started out by stating that the three points assigned for seriousness was a little high. This was a paper work violation. There was no offsite adverse environmental harm. He added that the reclamation taxes were always paid but reported and repeatedly late. Mr. Vincent went on to say that the report could have stated that there was no offsite impact.

Negligence Points Assigned 4-Mr. Vincent stated that 4 points assigned for negligence was high. He added that a repeated violation doesn't necessarily make negligence high. Points should not accumulate that this was what history points are for.

Inspector Mackey stated that this violation was evaluated for a possible pattern of violations.

Assessment Conference Recommendation

Permit No. 1102079, NOV TMM0008513, Violation 1 of 1, Performance Code RT

The permit violation history was checked. According to this information, three (3) violations under the Performance Code RT have been issued to the operator within the past 12 month period. NOV TMM0008514, Violation 1 of 1, under Performance Code RT was issued 09-09-13. NOV TMM0008380, Violation 1 of 1, under Performance Code RT was issued 05-29-13. NOV TMM0008148, Violation 1 of 1, under Performance Code RT was issued 12-19-13.

- I. **History of previous violations:** I am affirming the assigned assessment of \$100.00. This permit has been issued five (5) violations within the past 12 month period. In addition to the above violations cited. There were two (2) other violations issued.

NOVTMM0008241, Violation 1 of 1, under Performance Code AO, was issued 02-26-13. NOVTMM0008497, Violation 1 of 1, under Performance Code AO, was issued 08-26-13. Thus five (5) violations were issued during the past 12 month period.

II. **Seriousness Points:** I am affirming the seriousness points of 3 that were assigned.

Although the violation is a paperwork violation, payment of reclamation taxes is a permit condition which allows the operator to continue to operate.

III. **Negligence points:** Four (4) points were assigned to this violation. I am recommending that the negligence points be increased by 1 point to 5. Three (3) violations for the same Performance Standard RT have been issued for the same thing (failure to submit reclamation taxes) within the past 9 month period. This was evaluated as a potential for a possible pattern of violations.

IV. **Good Faith Points:** No good faith points were assigned.

Assessment Conference Determination:

Permit No. 1102079 NOV TMM0008514, 1 violation (RT)

	Proposed Assessment or Reassessment	Assessment Conference Recommendation
I. History of previous violation	\$ 0.00	\$ 100.00
II. Seriousness Points	3	
III. Negligence Points	5	
IV. Good Faith Points	0	
Total Points:	8	
Base Penalty:	\$ 750.00	
History Penalty:	\$ 100.00	\$ 100.00
Total Penalty:	\$ 850.00*	

Conference Officer: *Kenneth Coomer*

Date: 11-18-13