



DIVISIONS
ENERGY
GAS AND OIL
MINED LAND RECLAMATION
MINERAL MINING
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MINES
ADMINISTRATION

COMMONWEALTH of VIRGINIA

Department of Mines, Minerals and Energy

P.O. Drawer 900
3405 Mountain Empire Road
Big Stone Gap, Virginia 24219-0900
(276) 523-8100
www.dmme.virginia.gov

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 5744

Re: **Assessment Conference Decision** - Penalty Determination of HGC0010203,
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 # HGC0010203, 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".

Harve A Mooney
Legal Services Officer

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



COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINED LAND RECLAMATION
 P. O. DRAWER 900; BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8157

Assessment Conference Determination

Company: Virginia Fuel Corporation **Permit No.:** 1102059
Penalty of: Notice of Violation No. HGC0010203 **Violation No.:** 1 of 1 (DS)
Conference: February 26, 2014 @ 10:00 AM **Location:** DMME BSG
Participants: Jon Lawson---Company Representative, Glen Comer---DMLR Reclamation Inspector

Summary of Conference

An assessment conference concerning Notice of Violation No. HGC0010203 issued under the Performance Code DS was held at 10:00AM in Room 116 at the BSG office of DMME. This violation was issued 09/04/13. This violation was issued for erosion on the side drain diversion HF3-D3 of Fill No. 3. The erosion was occurring for about 100 to 150 feet from the top of the drain. Mr. Jon Lawson began by stating that the company reclamation crew was busy at the time of the notification of the notice of violation. He could not get the crew out in time. He added that he had to bring a crew from their normal duties to begin the remedial work. Inspector Comer stated that no work had been done on the permit since grading and seeding was performed in July of 2013. NOVHGC0010203 was issued 09/04/13 with an abatement date of 09/20/13 given. The notice of violation was not abated by the due date of 09/20/13, subsequently an FTACO was issued 09/23/13. Mr. Lawson added that there was a lot of rainfall during that time and could not get a work crew on the site until October. The FTACO was abated on 110-10-13.

Assessment Conference Recommendation

It is my recommendation that the proposed assessment for Notice of Violation No. HGC0010203 be affirmed. The remedial action for the violation was not corrected by the due date of 09/20/13. As a result, an FTACO was issued. The company took no action to abate the original violation until October and thus an FTACO was issued in order to get the violation abated. The violation was not corrected until an excavator was brought on the permit on 10-10-13. This is documented in inspection report Number HGC0010266.

Assessment Conference Determination:

Permit No. 1102059 NOV# HGC0010203, 1 violation (DS)

	Proposed Assessment or Reassessment	Assessment Conference Recommendation
I. History of previous violation	\$ 80.00	\$ 80.00

II. Seriousness Points	4	4
III. Negligence Points	2	2
IV. Good Faith Points	0	0
Total Points:	6	6
Base Penalty:	\$ 400.00	\$ 400.00
History Penalty:	\$ 80.00	\$ 80.00
Total Penalty:	\$ 480.00	\$ 480.00

Conference Officer: *Kenneth Coomer*
Kenneth Coomer

Date: 02-28-14