



Assessment Conference Determination

Company:	<u>Virginia Fuel Corporation</u>	Permit No.:	<u>1102059</u>
Penalty of:	<u>Cessation Order No. HGC0010233</u>	Violation No.:	<u>1of 1 (DS)</u>
Conference:	<u>February 26, 2014 @ 10:30 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 Cessation Order No. HGC0010233 under the Performance Code DS was held at the BSG office at 10:30AM on 02-26-14. Mr. Lawson stated that he wanted to submit written comments concerning the assessment conference. Written comments were received on 02-26-14.

The written comments were as follows:

Dear Mr. Coomer:

Virginia Fuel Corporation (VFC) is requesting that the Civil Penalty Assessment for an extension of CO # HGC00010233 on P. N. 1102059 assessed by Mr. Mooney on October 15, 2013 be reduced.

Virginia Fuel Corporation staff were alerted via e-mail from Inspector Comer on September 24th, 2013 which was a day later than the initial date on the Civil Penalty Determination sheet provided by Mr. Mooney. A review of records indicate that after mobilization of equipment the diversion was successfully reestablished on October 10, 2013. The Cessation Order was served on Sept.24th (attached) putting the assessed timeframe at 17 days instead of 18 days. The equipment mobilization was being arranged during the violation period prior to the issuance of the FTACO.

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

Assessment Conference Recommendation

According to the Cessation Order dated 09/23/13 the time of service was at 3:00PM on 09/24/13. The Cessation Order was terminated on 10/16/13 effective as of 10/10/13. According to the inspection report (HGC0010266) the inspector was on the site at 10:45AM and noted that the excavator had repaired the diversion ditch HF3-D2. I am assuming the diversion ditch was repaired that morning (10-10-13). That being said it is my recommendation that the \$750.00 per

day assessed for 18 days be reduced to 15 days. September 24, 2013 to October 09, 2013 is 15 days. I am recommending that the date of 10-10-13 not be counted since the diversion ditch was repaired that morning. The total penalty should be \$11,250.00 (Penalty - \$750.00 x 15 days = \$11,250.00).

Assessment Conference Determination:

Permit No. 1102059 FTA CO HGC0010233, 1 violation (DS)

	Proposed Assessment or Reassessment	Assessment Conference Recommendation
I. History of previous violation	\$ 80.00	\$ 80.00
II. Seriousness Points	5	5
III. Negligence Points	2	2
IV. Good Faith Points	0	0
Total Points:	7	
Base Penalty:	\$ 475.00	\$ 475.00
History Penalty:	\$ 80.00	\$ 80.00
Total Penalty:	\$ 13,500.00*	\$11,250.00*
<p>* Per 4 VAC 25-130-845.15(b) VCSMRR and 45.1-246H of the Code of Va., a minimum penalty of \$750 is being assessed for each day of the failure to abate the violation, not to exceed 30 days. The daily penalty is assessed for 15 days. The CO was served on 09/24/2013. The \$750/day penalty was assessed for 15 days (09/24/2013 through 10/09/2013) = \$11,250.00.</p>		

Conference Officer:

Kenneth Coomer

Date: 03/07/14

Kenneth Coomer