



**Assessment Conference Determination**

<b>Company:</b>	<u>Justice Low Seam Mining, Inc.</u>	<b>Permit No.:</b>	<u>1102079</u>
<b>Penalty of:</b>	<u>Notice of Violation No. TMM0008822</u>	<b>Violation No.:</b>	<u>2 Violations (AO, WM)</u>
<b>Conference:</b>	<u>August 25, 2014 @10:45 AM</u>	<b>Location:</b>	<u>DMME Lebanon Office</u>
<b>Participants:</b>	<u>Matthew Hepler (Southern Appalachian Mountain Stewards), Les Vincent (Justice Low Seam Mining, Inc. ,Engineer), Ken Coomer (DMLR Area Supervisor)</u>		

**Summary of Conference**

One person from the public attended this assessment conference. Mr. Matthew Hepler associated with Southern Appalachian Mountain Stewards attended, but made no comments. However, Mr. Hepler did later submit internet links to newspaper articles regarding water monitoring issues that Justice permits had in other states in an e-mail to this hearings officer. Mr. Les Vincent had no comment concerning the Violation 1 of 2 under Performance Code AO. Mr. Vincent had a comment concerning Violation 2 of 2 under Performance Code WM. Mr. Vincent stated that Jon Lawson was no longer employed by the company and he had responsibility to submit the water monitoring reports to DMLR. When Mr. Lawson left, the company was not aware that Mr. Lawson did not hit the submit button to DMLR. The water monitoring reports were on e-forms. He added that the water monitoring reports were prepared but Mr. Lawson did not submit the reports to DMLR. Mr. Vincent stated that the company had requested informal conferences on all the water monitoring the fact of the violations.

**Assessment Conference Recommendation**

Notice of Violation TMM0008825, Violation 1 of 2 under Performance Code AO was issued to the operator on 05/08/14. The referenced Notice of Violation stated that the company failed to submit acid-base analysis for the 1<sup>st</sup> quarter of 2014. Notice of Violation TMM0008825, Violation 2 of 2 under Performance Code WM was also issued to the operator on 05/08/14. This violation stated that the company failed to submit water monitoring reports for the 1<sup>st</sup> quarter of 2014. I researched the permit files of 1102079. According to the information in the permit files, the company is required to conduct NPDES, Groundwater, In-stream and rainfall monitoring and submit monitoring results to the DMLR office on a quarterly basis. According to the quarterly water monitoring status reports for the 1<sup>st</sup> quarter of 2014, dated June 04.2014 the company did submit water monitoring reports for the 1<sup>st</sup> quarter of 2014 for the referenced permit, however, the report was incomplete. According to the information in the report, the company only submitted 1 sample for MPID number 0002943 during the month of March 2014. No samples

were submitted for the months of January and February of 2014. Two samples per month are required. Also for MPID numbers 0007593 and 0007594 no samples were submitted for the month of January 2014 and only 1 sample was submitted for the months of February and March of 2014. Again two samples per month are required to have been taken. .

Concerning Violation 1 of 2 under Performance Code AO---Under Section 14.7 of the approved plans, (Application No. 1008222) the plan states---pursuant to section 14.3 fine/coarse refuse (refuse) from the preparation plant being constructed on the adjacent West Virginia permit will be blended with the spoil backfill on this permit. During the placement of the refuse for blending with the spoil representative samples will be taken on a quarterly basis and will have acid base testing done to determine if the spoil and refuse have adequate alkalinity once blended to avoid potential leaching and acid mine drainage production. This sampling and testing will occur on a quarterly basis until such time as the DMLR approves a lesser frequency of sampling/testing. I checked with Inspector Tom Mackey concerning acid-base analysis. He stated that acid base analysis is required since it is approved to blend coal refuse material from the prep plant into the backfill.

Based on the above, it is my recommendation that the proposed assessment be affirmed.

**Assessment Conference Determination:**

**Permit No. 1102079 NOV TMM0008822, Violation 1 of 2 (AO)**

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

**Permit No. 1102079 NOV TMM0008822, Violation 2 of 2 (WM)**

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

Conference Officer: *Kenneth Coomer*

Date: 09/04/14