

ILLINOIS POLLUTION CONTROL BOARD
December 2, 1982

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-22
)
 UNITED ELECTRIC COAL COMPANIES,)
)
 Respondent.)

MS. CHRISTINE ZEMAN, ASSISTANT ATTORNEY GENERAL, APPEARED FOR ENVIRONMENTAL PROTECTION AGENCY.

MR. JAMES B. MURRAY, HEAD ASSISTANT ATTORNEY, APPEARED FOR THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO.

OPINION AND ORDER OF THE BOARD (by D. Anderson):

This matter comes before the Board upon a complaint filed January 16, 1975 by the Illinois Environmental Protection Agency (Agency) naming as respondent United Electric Coal Companies, a Delaware corporation. On July 25, 1975 the complaint was amended, naming instead as respondents Freeman United Coal Mining Company, a division of Material Service Corporation, another Delaware corporation (Freeman), and the Metropolitan Sanitary District of Greater Chicago (MSD). The amended complaint alleged violations of Section 12 of the Environmental Protection Act (Act) and water quality standards of Chapter 3: Water Pollution in connection with discharges from a gob pile and lake at an abandoned surface coal mine in Fulton County. A public hearing was held on August 13, 1982, at which time two stipulations and proposals for settlement were presented. Members of the public attended but did not comment, although attorneys for MSD placed in the record that resolutions encouraging settlement had been enacted by the Fulton County Board and the City of Canton (R. 9).

The stipulations were filed with the Board on September 1, 1982. On October 29, 1982 an amended stipulation was filed by MSD and the Agency. This extended dates which could not have been met because of a failure to receive bids on a portion of the compliance program. Because of the minor nature of this amendment a second hearing is not required by 35 Ill. Adm. Code 103.180.

Freeman is a successor by merger to United Electric Coal Companies which occurred on November 15, 1974. They will be referred to collectively as "Freeman", even though some of the actions were done by United prior to the merger.

The surface mine was known as Cuba Mine #9, and is located about one mile east and two miles south of Cuba, in Sections 28 and 33 of T6N, R3E of the 4th P.M., Fulton County. Freeman conducted strip mining operations at Cuba #9 prior to May 15, 1971. On March 20, 1975 the site was sold to MSD for use as a sludge application facility, a plan which never came about. Instead, this action was filed along with other actions directed against MSD's Fulton County operations. On September 1, 1977 this matter was continued pending the outcome of IEPA v. MSD, PCB 75-112, which was decided on May 14, 1981 at 41 PCB 373.

Cuba #9 includes a gob lake which is situated at the southern edge of the site in the N 1/2 of the NW 1/4 of Section 33, T6N, R3E of the 4th P.M. The pond discharges via two unnamed tributaries to Big Creek, a tributary of Spoon River.

The parties have stipulated that at one time the gob pond was drained by a number of siphons which traversed the earthen dam along the southern edge of the pond. These were removed at some unknown date prior to June 11, 1975. On that date MSD excavated a ditch for the purpose of circumventing the dam. The ditch was widened with approval of the Agency in November, 1975, for the purpose of preserving the structural integrity of the dam.

The following is a summary of the allegations of the complaint:

<u>Act</u>	<u>Chapter 3</u>	<u>35 Ill. Adm. Code</u>	<u>Summary</u>
<u>Count I (against Freeman):</u>			
12(a)	---	---	Discharge so as to cause water pollution
12(c)	---	---	Increased quantity or strength of discharge or constructed a new outlet without a permit
12(a)	203(a)	302.203	Unnatural sludge or bottom deposits, etc., and matter in concentrations harmful to aquatic life
12(a)	203(b)	302.204	Caused waters in unnamed tributary to go below pH 6.5

<u>Act</u>	<u>Chapter 3</u>	<u>35 Ill. Adm. Code</u>	<u>Summary</u>
12(a)	203(f)	302.208	Iron in excess of 1.0 mg/l in unnamed tributaries and Big Creek
12(a)	203(f)	302.208	Manganese in excess of 1.0 mg/l in unnamed tributaries
12(a)	203(f)	302.208	Sulfate in excess of 500 mg/l in unnamed tributaries
12(a)	203(f)	302.208	Total dissolved solids in excess of 1000 mg/l in unnamed tributaries

Count II (against MSD) :

12(f)	---	---	Discharge without an NPDES permit
12(a)	203(a)	302.203	Unnatural sludge or bottom deposits, etc., and matter in concentrations harmful to aquatic life
12(a)	203(b)	302.204	pH less than 6.5 in the receiving stream
12(a)	203(f)	302.208	Iron in excess of 1.0 mg/l in receiving stream

Attached to the stipulations are Agency analyses of waters downstream of the gob lake. A downstream sample taken from Big Creek on June 5, 1981 showed levels of contaminants in excess of water quality standards except pH:

<u>Parameter</u>	<u>Concentration (mg/l)</u>
pH	7.2
Iron	9.3
Manganese	2.0
Sulfate	1019
Total Dissolved Solids	1180

Freeman has admitted, and the Board finds, violation of Sections 12(a) and 12(c) of the Act and the water quality standards of 35 Ill. Adm. Code 302.203, 302.204 and 302.208 for unnatural sludges, pH, iron, manganese, sulfate and total dissolved solids, on various dates between April 16, 1972 and March 20, 1975.

MSD has admitted, and the Board finds, violation of Sections 12(a) and 12(f) of the Act and 35 Ill. Adm. Code 302.203, 302.204 and 302.208, the water quality standards for unnatural sludge, pH and iron, on various dates between March 20, 1975 through August 11, 1982.

The settlement agreement provides for a penalty of \$5,000 to be paid by Freeman. MSD is to pay no penalty, but is to construct and operate a unit to treat the acid mine drainage from the gob pile and is to pursue the study and development of a plan to reclaim the gob and slurry refuse at Cuba #9 so as to eliminate the probable source of acid drainage. The actual reclamation depends in part on whether it will be economically advantageous to MSD. The treatment facility will cost about \$100,000 to build.

The Board accepts the stipulation and proposal for settlement pursuant to 35 Ill. Adm. Code 103.180. The Board finds the \$5,000 penalty against Freeman necessary to aid enforcement of the Act, and finds that a penalty against MSD is not necessary to aid enforcement of the Act. In making this determination the Board has considered the factors specified in Section 33(c) of the Act. This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER


1. Respondent Freeman United Coal Mining Company (Freeman) has violated Sections 12(a) and 12(c) of the Environmental Protection Act, and 35 Ill. Adm. Code 302.203, 302.204 and 302.208.
2. Respondent Metropolitan Sanitary District of Greater Chicago (MSD) has violated Sections 12(a) and 12(f) of the Environmental Protection Act, and 35 Ill. Adm. Code 302.203, 302.204 and 302.208.
3. On or before February 1, 1983, MSD shall submit an application for an NPDES permit to construct an acid mine drainage treatment facility and for an NPDES permit to discharge treated wastewater from the gob lake at Cuba Mine #9.

4. Respondents shall comply with the terms of the stipulations and proposals for settlement which are incorporated by reference.
5. Upon issuance of the NPDES permit, MSD shall promptly construct, install and operate the referenced treatment facility.
6. MSD shall meet applicable effluent limitations and water quality standards imposed pursuant to 35 Ill. Adm. Code 406 and the NPDES permit program for discharges after July 1, 1983.
7. MSD shall pursue the study and development of a plan to reclaim the gob and slurry refuse at Cuba Mine #9 so as to eliminate the probable source of acid mine drainage to the gob lake.
8. Within thirty-five days of the date of this order respondent Freeman shall, by certified check or money order payable to the State of Illinois, pay a penalty of \$5,000 which is to be sent to:

State of Illinois
Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 2ND day of December, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board