



The operators of the mine were V. Day mining Company, V. D. Coal Company, and V. S. Reddy d/b/a V. D. Mining Company and Arthur Zamberletti, Frances Zamberletti and Carl Zamberletti, d/b/a V. D. Coal Company. In PCB 72-174 a cease and desist order was entered against V. Day Coal Company for non-compliance with the Rules. Because of the insolvency and the dissolution of the V. Day Coal Company the order was unenforceable.

In connection with the mining operation performed on portions of Respondents' property two gob piles were created. Run-off from these gob piles flows into Grape Creek causing or contributing to the water quality violations found in Grape Creek. The run-off from the gob piles contains acid, manganese, zinc, iron, sulfates, unnatural sludge and material which creates bottom deposits, unnatural color and turbidity. The run-off has occurred from April 9, 1975 up until the time of filing the amended complaint causing, either alone or in combination with matter from other sources, violations in Grape Creek of the following water quality standards of Chapter 3: Rule 203(b)--pH; Rule 203(f)--manganese; Rule 203(f)--zinc; Rule 203(f)--iron; 203(f)--sulfate; and Rule 203(a)--freedom from unnatural sludge or bottom deposits, floating debris, unnatural color or turbidity.

In the past the Respondents have received some financial benefit from lease payments in connection with mining operations on their property. In September, 1972 mining operations were terminated for reasons beyond the control of Respondents and the mine has not been operated since that time. The lease was finally terminated on April 9, 1975 upon default of the mine operators. Respondents have not conducted and have no intention of conducting coal mining operations on the property in the future because such operation is not economically feasible. Respondents will apply for a grant from the federal government under the Federal Mine Reclamation Act for the reclamation of their property. Respondents have retained the firm of M & E/Alstot, March and Guillou, Inc. which has devised a plan to abate the pollution from the gob piles on the property. The plan to be completed by December 1, 1979 calls for the following:

- A. Grading of the gob material on the site;
- B. The application of agricultural limestone for the neutralization of the gob material to a depth of six inches;

- C. Application of six inches of soil cover over the neutralized gob material;
- D. Application of agricultural limestone to the soil cover; and
- E. Vegetating the cover material.

The cost of this plan is estimated at \$43,448.

The Agency is not certain that the reclamation plan will be a permanent solution but the Agency is willing to accept the Respondents' engineer representations for the settlement of the case. However, the Agency reserves the right to bring an enforcement case for any new pollution on the property subsequent to completion of the plan.

As a result of the water quality violations in Grape Creek from various other sources, the stream is polluted to such a condition that the uses to which the water in Grape Creek can be put are severely limited.

As an operating mine, low sulfur coal was supplied to residents of the area. With the mine not in operation there is no social value to it and the economic value is greatly reduced. The priority of location is not in issue in this case. It is technically possible but not economically feasible to eliminate the run-off from the gob piles, but Respondents are willing to undertake steps to eliminate the problem. The parties agreed that considering the nature and length of the violations, the Respondents' willingness to undertake a program to eliminate the discharges from their property and the cost involved with such a plan that a \$1500 fine is appropriate to aid the enforcement of the Act. Respondents also agree to provide the Agency with a survey of the area which will be reclaimed under their plan.

The Board finds the stipulated agreement acceptable under Procedural Rule 331. The Board finds the Respondents in violation of Rules 203(a), 203(b) and 203(f) of Chapter 3. All other allegations of violations are dismissed. The stipulated penalty of \$1500 is assessed. Respondents will comply with all the requirements of the stipulated agreement.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.


ORDER

It is the Order of the Pollution Control Board that:

1. Respondents are found in violations of Rules 203(a), 203(b) and 203(f) of Chapter 3: Water Pollution Regulations. All other allegations of violations are dismissed.
2. Respondents shall comply with all terms of the stipulated agreement incorporated by reference as if fully set forth herein.
3. Respondents shall pay a penalty of \$1500 within thirty-five days of this Order. Payment shall be by certified check or money order payable to:

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16<sup>th</sup> day of November, 1978 by a vote of 3-0.

  
\_\_\_\_\_  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board