

ILLINOIS POLLUTION CONTROL BOARD
June 3 , 1976

PEABODY COAL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 75-68
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 75-403
)	
PEABODY COAL COMPANY,)	
)	
Respondent.)	

Mr. John VanVranken, Assistant Attorney General, appeared for the Environmental Protection Agency.

Mr. Michael D. Freeborn appeared for Peabody Coal Company.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

Case Number PCB 75-68 came before the Board on February 1975 as a permit appeal and a variance petition from Peabody Coal Company (Peabody). On July 31, 1975 the Board dismissed Peabody's petition for variance as inadequate. On October 16, 1975 the Environmental Protection Agency (Agency) filed an enforcement case, PCB 75-403 against Peabody. These two cases were consolidated by Board order on November 26, 1975.

Peabody applied for a permit for their Mine No. 10, approximately three miles east of Pawnee, in Christian County, Illinois. The Agency denied Peabody's permit application on the basis that Chapter 3 and Chapter 4 Regulations might not be met in that current discharges violated Rule 606 of Chapter IV.

The Agency brought its enforcement case on grounds of operating a mine without a permit in violation of Rule 201, Chapter 4 Regulations on Mine Related Pollution and Section 12(b) of the Act and that Peabody is alleged to have allowed

effluent at Site 001 to flow into Lake Sanchris with its total acidity exceeding its total alkalinity and with such concentrations of iron and other contaminants as to be in violation of Rule 606 of Chapter 4 and Section 12(a) of the Environmental Protection Act (Act) and that the effluent at Site 003 was turbid, total acidity exceeded total alkalinity and Site 003 had concentrations of iron and other such contaminants as to be in violation of Rules 605(b) and 606 of Chapter 4 and Section 12(a) of the Act.

A hearing was held on February 24, 1976 in Taylorville, Illinois. At this time a tentative settlement agreement was presented. Also the Agency presented two memoranda in evidence. The subsequent agreement was accepted by both parties on March 11, 1976.

The stipulated agreement, compliance plan and stipulation to dismiss are as follows. PCB 75-68 is an appeal from a permit denial by the Agency of a permit which had been previously timely sought by Peabody. PCB 75-403 is an enforcement case alleging that Peabody was running Mine #10 without a permit and that certain discharges from the mine violate Rules 605(b) and 606 of Chapter IV of the Mine Related Pollution Regulations and Section 12(a) of the Act. On December 12, 1975 at a pre-hearing conference Peabody outlined its pollution abatement plan at Mine #10. Subsequently, a new permit application was filed by Peabody pursuant to Chapter IV of the Board's regulations and a permit was issued by the Agency to Peabody for its Mine #10.

For the purposes of settlement Peabody admits the following; that employees of the Agency took samples of the discharges from Mine #10 discharge point 001 on April 18, 1975 and August 26, 1975 which samples contained total acidity in excess of total alkalinity, and which samples contained total iron greater than 7 mg/l; that employees of the Agency took samples of the discharges from Mine #10 discharge point 003 on April 18, 1975 and August 26, 1975, which samples were turbid and which contained total acidity in excess of total alkalinity, and which contained total iron greater than 7 mg/l; and that Peabody operated its Mine #10 from November 25, 1972 to December 31, 1975 without a permit granted by the Agency.

Peabody agrees to pay a penalty of \$6,500 for Peabody's operation of its Mine #10 without a permit from November 25, 1972 to December 31, 1975, and for the discharges described above. The parties agree that the amount of this penalty and the other terms and conditions in this Settlement Agreement, Compliance Plan and Stipulation to Dismiss adequately consider and reflect the nature, extent and causes of the above admitted facts,

the nature of Peabody's operations and control equipment, the impact on the public resulting from the above admitted facts, the benefits to be obtained as the result of the compliance plan described below, and the prior efforts and achievements of Peabody to control discharges from its Mine #10, which efforts and achievements included the following:

- a. On November 8, 1972 Peabody timely filed its application for a permit pursuant to Chapter IV of the Board's regulations.
- b. At about the same time, Peabody commenced an intensified abatement plan which included better management of the gob pile and plans for treatment of runoff water with a base compound, aeration and clarification system.
- c. In February 1973, Peabody commenced study of local rainfall and other data to determine the necessary capacity and characteristics of such a treatment system.
- d. In June, 1973, and at other times, consulting firms were solicited to provide proposals in connection with such a treatment system.
- e. Ryckman/Edgerley/Tomlinson & Associates, Inc. (Hereinafter "RETA"), Consulting Environmental Engineers, contracted with Peabody to conduct a study program and design such a treatment system.
- f. The RETA report was completed and furnished to Peabody on June 27, 1975.
- g. Meanwhile, Peabody had continued prior efforts to acquire additional land surrounding its Mine #10 and in 1975 completed acquisition of sufficient land to construct an additional slurry pond.
- h. This additional land made possible for the first time an alternative process for the control of water discharges from Mine #10, which alternative process Peabody contemplates will be essentially a closed system of dikes and other natural barriers, within which water will be recycled and reused for washing of coal, rather than discharged to waters of the state.

- i. Peabody contemplates completion of construction of this alternative process on or before April 1, 1976.
- j. After completion, Peabody contemplates that, of the five discharge points identified in its permit application, there will be no remaining discharge except from discharge points 002 and 004 (which contain only shower water), barring unforeseen circumstances beyond Peabody's control, such as strikes, acts of God, or a flood of 100-year magnitude or greater.
- k. The compliance plan envisioned by this alternative process is estimated to cost Peabody \$228,000 initially, with annual operating costs of \$11,000 per year.
- l. Finally, the compliance plan envisioned by this alternative process contemplates control of discharges from Peabody's Mine #10 more stringent and more effective than is required by Board Regulations or the Environmental Protection Act.

Except as expressly admitted Peabody denies the allegations of the complaint of PCB 75-403. Peabody agrees to dismiss its permit appeal 75-68.

The Board finds the stipulated agreement acceptable under Procedural Rule 333. The Board finds Peabody in violation of Rules 201, 605(b) and 606 of the Chapter 4: Mine Related Pollution Regulations and of Sections 12(a) and 12(b) of the Act. A penalty of \$6,500 is assessed. The penalty is adequate in light of the considerable time and money Peabody has put into abatement.

This constitutes the Board's findings of fact and conclusions of law.

ORDER

It is the Order of the Pollution Control Board that:

1. Peabody Coal Company was in violation of Rules 201, 605(b) and 606 of the Chapter 4: Mine Related Pollution Regulations and Sections 12(a) and 12(b) of the Act.

2. Peabody Coal Company will comply with all the stipulated agreements.
3. Peabody Coal Company will pay a penalty of \$6,500 within thirty (30) 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

4. The permit appeal, PCB 75-68 is dismissed.

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 3RD day of June, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board