

ILLINOIS POLLUTION CONTROL BOARD
May 3, 1973

FREEMAN COAL MINING COMPANY,)
)
 Petitioner,)
)
 v.) PCB 73-97
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Seaman):

Petitioner operates a coal mine known as the Freeman Orient No. 3 located south of Waltonville, Jefferson City, Illinois. Petitioner requests an extension of a variance granted by this Board beyond the April 30, 1973 completion date to June 30, 1973 to permit the operation of air cleaning tables, which are an indispensable part of Petitioner's coal preparation plant. Petitioner will replace this coal preparation plant with a new coal preparation plant. Petitioner alleges its inability to meet the April 30, 1973 deadline is due in large part to continued labor unrest occasioned by the Wage Board's refusal, under Phase II restrictions, to permit the payment of certain wage increases which otherwise would have been due to the employees of the general contractor on this particular project under the applicable Collective Bargaining Agreement. As a result, Petitioner alleges it has logged a total of 19 days of unauthorized work stoppages. Further, Petitioner states that because of the cold winter, the company was unable to pour concrete on six days, and many employees did not work during the 25 days of below freezing weather. Furthermore, Petitioner's schedule has always contained a 75-day period after beneficial occupancy for start-up and check-out procedures and for bringing the facility up to design tonnage. Petitioner states that it does expect to obtain beneficial occupancy before late April, 1973.

In its Recommendation, the Agency reports that as of March 15, 1973, all portions of the construction program appeared to be on schedule except that the de-mister and the

primary cyclone had not been installed. The Agency further states that Petitioner has complied with all conditions of the previous variance in PCB71-78 and extended in PCB72-306; and that the Agency has received no comment from the public concerning the extension of this variance to June 30, 1973.

In view of the program already in progress and the short remaining period in which Petitioner represents it will be in compliance, the Board is disposed to allow the variance requested, subject to certain conditions.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that the variance be extended beyond the April 30, 1973 completion date to June 30, 1973 subject to the following conditions:

- a) All applicable conditions contained in the order by the Pollution Control Board in PCB71-78 and extended by PCB72-306 shall remain in full force and effect.
- b) Petitioner shall submit a report to the Agency, in writing, by June 30, 1973 indicating the status of its construction program.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 3rd day of May, 1973, by a vote of 4 to 0.

Christan L. Moffett