

ILLINOIS POLLUTION CONTROL BOARD

December 5, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) PCB 72-332
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 LEE KIDD)
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INTERIM OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

An enforcement action against Mr. Lee Kidd was filed by the Agency on August 8, 1972. Hearing was held in Harrisburg, Illinois on October 31, 1972. Mr. Kidd is charged with causing or allowing the discharge of various contaminants of a mine waste nature (acid water, coal refuse fines, iron compounds, etc.) in violation of various water pollution regulations of the Board.

Having read the record, the Board looks to the parties and especially the Agency for some recommended program of action in this matter. Mr. Kidd owns 560 acres (R. 52) of which about 100 acres are farm land (R. 53). He has been reclaiming some 15,000 tons per year of carbon (coal) in 1971 and 1972 (R. 59-60). He is not affluent as shown by his income tax returns of 1970 and 1971 (R. 90) which list an average income over the two years of slightly more than \$4,175 per year.

Mr. Robert R. Gates, an Agency engineer experienced in mining matters, testified that to correct the pollution problem caused by Mr. Kidd's property would cost from \$2,000 to \$3,500 per acre (R. 94). Mr. Kidd's property, less the farm land, would total 460 acres and the cost of correction would then be from \$920,000 to \$1,610,000. This is clearly an impossible cost for the Board to require of a person of Mr. Kidd's economic status.

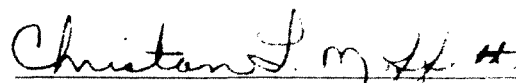
The Board has been sympathetic to the problems of mined land and its conversion to a pollution-free status EPA v. Kienstra Concrete, 72-72, November 8, 1972. The Board will order the parties to submit within 60 days their recommendation as to a course of action for the Board to consider. Counsel for the Agency during the hearing stated that there was no recommendation "all least for the present time" and that "with regard to penalties, the Agency may submit something at a later date..." (R. 96). A possible course of action

the Agency should consider is a joining of the prior owners, Blue Bird Coal Company, into the case.

ORDER

1. The parties shall no later than February 3, 1973 submit recommendations as to a course of action and/or penalties the Board should consider in this case.
2. The case shall remain open for such further final order and opinion that the Board shall enter.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 5th day of December, 1972 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board