

ILLINOIS POLLUTION CONTROL BOARD
June 7, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-283
)
 THE SOUTHERN ILLINOIS MINERALS)
 CORPORATION, an Illinois)
 corporation,)
)
 Respondent.)

MR. BRIAN E. REYNOLDS, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

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

This matter comes before the Board upon a complaint filed November 13, 1978 by the Environmental Protection Agency (Agency) against Respondent, the Southern Illinois Minerals Corporation, an Illinois corporation. The complaint alleges violations of the Environmental Protection Act (Act) and Board Rules of Chapter 4: Mine Related Pollution in connection with the abandonment of a surface coal mine, Oraville Mine #2, three miles northwest of Oraville in Jackson County. On November 9, 1978 Mr. James Burks, Respondent's registered agent, was served with notice and complaint by certified mail, pursuant to Procedural Rule 305(a). A hearing was held on May 7, 1979 in Carbondale. No one appeared on behalf of the Respondent (R. 5). A letter from Mr. Burks was placed into evidence indicating that he could not appear because he was in Belize in Central America. The Board finds Respondent in default and will enter this Order pursuant to Procedural Rule 327.

Count I of the complaint charges violations of Section 12(a) of the Act and Board Rules 201 and 502 of Chapter 4: Mine Related Pollution. Section 12(a) prohibits causing or threatening or allowing the discharge of any contaminants into the environment so as to violate regulations and standards adopted by the Board. Mine rules 201 and 502 require within one year a permit to abandon a mine after the operator ceases operation without intending to reopen.

Count II of the complaint charges violations of Section 12(b) of the Act, which in pertinent part prohibits constructing, installing or operating a facility capable of causing or contributing to water pollution in violation of conditions imposed by an Agency permit. Respondent's operating permit contained standard condition 8 which required an abandonment permit.

At the hearing the Agency presented evidence to substantiate the allegations of the complaint. An operating permit for the Oraville mine was issued sometime after 1975 to 3 States Trucking, Inc. Respondent was issued a supplemental operating permit on May 23, 1977 after succeeding to 3 States' interest (R. 11, Comp. Ex. 4). Mr. Robert Gates, an Agency inspector, testified that the mine was being shut down at the time of an inspection on September 23, 1977 (R. 8). At that time Mr. Gates was given thirty days notice of closing (R. 13). J. W. Brown and H. Roffman, consulting engineers, informed the Agency in a letter dated September 28, 1977, that the mine had ceased operations on September 7, 1977 (Comp. Ex. 5).

Mr. William Ryan, also an Agency inspector, testified that on June 28, 1978, there was no activity and no machinery on the site. There was no significant recent reclamation activity (R. 17, 19). Mr. Gates testified that there was no operation or reclamation activity in progress on February 22, 1979 (R. 16). No permit to abandon the mine was ever issued (R. 15).

The Board finds that the mine was abandoned on September 7, 1977 and that the required permit has not been obtained as alleged in Counts I and II. The Board has considered Section 33(c) in mitigation in assessing its penalty. There is a great potential for public harm from, among other things, acid runoff from the abandoned mine. In this case, however, there is no evidence before the Board of any actual discharge or of the extent of the reclamation required. The social or economic value of the mine or its suitability to the area is not questioned. There is no evidence that it is technically impracticable or economically unreasonable to reclaim the mine area.

The Board finds that a penalty of \$2500 is necessary to aid enforcement of the Act. Although a much larger fine could be levied in a default, there is no direct evidence of the extent of environmental damage and the Board requires that Respondent use available resources to bring the site into compliance. Respondent will be ordered to apply for an abandonment permit and to undertake reclamation work.

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. Respondent, Southern Illinois Minerals Corporation, is in violation of Section 12(a) and 12(b) of the Act and Board Rules 201 and 50² of Chapter 4: Mine Related Pollution, as alleged in Counts I and II of the complaint.
2. Respondent shall cease and desist from further violations of the Act and Board Rules.
3. Respondent shall apply for an abandonment permit from the Agency.
4. Respondent shall perform any and all acts necessary to reclaim the mine area in compliance with Rule 502 of Chapter 4: Mine Related Pollution.
5. Within thirty days of the entry of this Order, Respondent shall pay to the State of Illinois a penalty of \$2500 by certified check or money order sent 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 7th day of June, 1979 by a vote of 5-0.

Christan L. Moffett scb
Christan L. Moffett, Clerk
Illinois Pollution Control Board