

ILLINOIS POLLUTION CONTROL BOARD
March 30, 1978

ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
- vs -)	PCB 75-379
)	
TRI-NO ENTERPRISES, INC.,)	
)	
Respondent,)	
)	
and)	CONSOLIDATED
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
- vs -)	PCB 76-65
)	
NOBLE and GENEVA STARNES,)	
)	
Respondents.)	

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

On September 30, 1975 the Environmental Protection Agency (Agency) filed a complaint alleging that Tri-No Enterprises has operated a mine in violation of Section 12(b) of the Environmental Protection Act (Act) and Rule 201 of the Chapter 4: Mine Related Pollution Regulations (Chapter 4). On March 3, 1976 the Agency filed a complaint alleging that Noble and Geneva Starnes have violated Rules 203(a) and 203(f) of the Chapter 3: Water Pollution Regulations (Chapter 3) and Section 12(a) of the Act. On a motion by the parties these cases were consolidated on September 1, 1977. On April 21, 1977 a public hearing was held concerning PCB 76-65. On August 18, 1977 a public hearing was held concerning PCB 75-379. One citizen offered comment at the April 21, 1977 hearing. The same stipulation and proposal for settlement was presented at both hearings for the Board's approval.

The stated facts are as follows. Respondents Noble and Geneva Starnes, are the owners of an abandoned mine area located in the Northeast Quarter of Section 33 of Township 7 North, Range 3 West of the Fourth Principal Meridian in Fulton County, Illinois, consisting of approximately 400 acres. The Starnes purchased this property on February 5, 1974. To the knowledge of Respondents no mining operations had been

conducted on this property for several years prior to 1970. The earlier coal mining operation had been conducted by Truax and Consolidation Coal Company. As a result of these mining operations there existed on a portion of the mine property, mine refuse consisting of gob piles, slurry ponds and pyrite.

From and after October 1974 and continuing to the date of stipulation, that portion of the property containing this refuse has been leased to and used by Respondent Tri-No Enterprises, Inc. for the removal and sale of gob, slurry, and pyrites. Respondent Nobel Starnes is President and majority shareholder in Tri-No Enterprises.

The recovery operation is conducted from 8:00 a.m. to 4:00 p.m. daily, five days per week, weather permitting. At no time during this period has Respondent Tri-No possessed an operating permit issued by the Agency for mining activities. An application for a permit was filed with the Agency on March 11, 1976. This application was denied.

On the property are located a number of unnamed tributaries of Put Creek. At all times subsequent to October 1, 1974 Respondents have caused or allowed contaminants from the subject area to be discharged into the unnamed tributaries of Put Creek. These discharges on April 9, 1975 and October 20, 1975 caused the unnamed tributaries of Put Creek to contain amounts of iron in excess of 1.0 mg/l, sulfate in excess of 500 mg/l and total dissolved solids in excess of 1000 mg/l in violation of Rule 203(f) of Chapter 3.

On April 21, 1977 a tentative agreement was reached. Without admitting liability the Respondents agreed to a control program to be submitted in the form of a permit application. Due to unforeseen financial difficulties the Respondents were not able to achieve the stated objectives within the time period contemplated. The parties are now submitting the new agreement to the Board.

No citizen complaints have been received in relation to the site. The parties agree that reclamation is beneficial to the environment and the economy in that it turns an abandoned refuse area into a productive source of energy, and removes from eyesight refuse piles that would cause scenic blight. Furthermore, nearby tributaries are protected from water pollution.

The terms of the current settlement require a permit application by October 18, 1977 to construct and install the mine run-off control project previously described as being a series of ditches, retention ponds, berms, limestone treatment and chemical treatment of run-off. This application is to be submitted by a registered professional engineer. Construction is to commence within thirty days after the permit is granted and shall be completed within six months of start-up.

To insure that sufficient money is available for completion of the program Respondents shall enter into an escrow agreement with the Rend Lake Bank of Christopher, Illinois in the sum of \$50,000.00.

The parties agreed to a penalty of \$500.00. The penalty was arrived at in consideration of Respondents failure to obtain the necessary permits and failure to institute effective control programs although Respondent made good faith efforts to obtain the permits and the necessary financing.

The Board finds the stipulation and proposal for settlement acceptable under Procedural Rule 331. The Board finds Respondents in violation of Rule 203(a) and 203(f) of Chapter 3, Rule 201 of Chapter 4 and Sections 12(a) and 12(b) of the Act. The Board considering Section 33(c) of the Act and the stipulation will assess the stipulated penalty of \$500.00.

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

Mr. Young abstained.

ORDER

It is the order of the Pollution Control Board that:

1. Respondents are found in violation of Rule 203(a) and 203(f) of Chapter 3: Water Pollution Regulations and Rule 201 of Chapter 4: Mine Related Pollution and Sections 12(a) and 12(b) of the Act.
2. Respondents will follow the compliance plan of the stipulated agreement which is incorporated by reference as if completely set forth herein.
3. Respondents will pay a penalty of \$500.00 within 35 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 30th day of March, 1978 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board