

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 75-482
)
 PEABODY COAL COMPANY,)
)
 Respondent.)

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

This matter has come before the Board upon a complaint filed by the Environmental Protection Agency (Agency) on December 19, 1975. The complaint alleges that Respondent has owned and operated and continues to own and operate a mined area on which mining has occurred, known as the Will Scarlet Mine, and more particularly as the New Castle or as Pit No. 14, located in Sections 16, 17, 20 and 21, Township 10 South, Range 5 East of the Third Principal Meridian, in the County of Saline, State of Illinois in violation of Rule 201 of Chapter 4: Mine Related Pollution since on or about October 1, 1974. A hearing was held on June 1, 1978 at which a stipulated agreement was submitted for Board approval. No testimony was given.

The stipulated agreement provides the following facts. Since on or about October 1, 1974, Peabody has conducted a strip mining operation at its Will Scarlet Mine known as "Pit No. 14" near Stonefort in Saline County, Illinois. Peabody intends to continue mining activity at this site for the foreseeable future.

Peabody did file an application for a permit for Pit No. 14; however, this application was denied by the Agency on May 21, 1975. Peabody sought review by the Board of the Agency's decision. The Board affirmed the Agency. On appeal the Illinois Appellate Court, First District No. 62908 affirmed the Board's decision.

Since the commencement of mining operations at Will Scarlet Mine Pit No. 14, Peabody has employed wastewater treatment technology adequate to comply with "Best Practicable Control Technology" as defined for coal mining operations by applicable USEPA regulations. On May 9, 1977, the USEPA, Region V issued Peabody a permit to discharge from the Will Scarlet Mine Pit No. 14 pursuant to the National Pollutant Discharge

Elimination System (NPDES). This permit was certified by the Agency. This certification set forth effluent limitations, other limitations, and monitoring requirements necessary to comply with Federal requirements and of appropriate state laws. The parties agreed on appropriate terms and conditions to be incorporated into a mining permit pursuant to this proceeding.

For the purposes of this settlement Peabody admits violation of Rule 201 of Chapter 4. A civil monetary penalty of \$3,600.00 was agreed upon by the parties. The amount is considered reasonable in light of the nature of conditions at the subject site, Respondent's efforts to implement sufficient environmental safeguards, the size of Respondent's operation and the impact upon the public.

The Board finds that the stipulated agreement is acceptable under Procedural Rule 331 and that the factors of Section 33(c) of the Act have been adequately considered. The Board finds that Peabody has been in violation of Rule 201 of Chapter 4: Mine Related Pollution. A penalty of \$3,600.00 is assessed.

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

ORDER

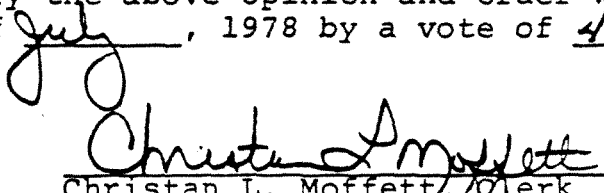
It is the order of the Pollution Control Board that:

1. The stipulated agreement of the parties is accepted and incorporated as if fully set forth herein.
2. Peabody Coal Company is found in violation of Rule 201 of Chapter 4: Mine Related Pollution.
3. Respondent shall pay a penalty of \$3,600.00 within 35 days of this order. Payment shall be by certified check or money order payable to:

State of Illinois
Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706.

Mr. Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20th day of July, 1978 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board