

ILLINOIS POLLUTION CONTROL BOARD  
 March 17, 1977

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant.	)	
	)	
v.	)	PCB 76-256
	)	
ISADORE KOENIG and MARY KOENIG,	)	
	)	
Respondents.	)	

Mr. Patrick J. Chesley, Assistant Attorney General, appeared for the Complainant.  
 Mr. Bruce Stephen Vick appeared for the Respondents.

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

This matter comes before the Board upon a complaint filed by the People of the State of Illinois, by William J. Scott, Attorney General of the State of Illinois, on October 14, 1976. The complaint alleges that Isadore Koenig and Mary Koenig own a mine refuse area, as defined by Rule 103(i) and (j) of the Chapter 4: Mine Related Pollution Regulations (Chapter 4), in St. Clair County approximately three-eighths of a mile east of Illinois Route 159 and immediately south of Bethel Road and is the property which is the eastern 1/2 of the northwest quarter of Section Ten of T.2N., R.8W. of the Third P.M. It was further alleged that since July 1, 1970 and continuing until the filing of this complaint, rain storms have washed coal fines from Respondents' mine refuse area north, through a natural drainage course, to an unnamed tributary of Canteen Creek; that these coal fines are contaminants as defined by Section 3(d) of the Act; that in allowing these fines to enter the unnamed tributary of Canteen Creek that Respondents have threatened or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in violation of Section 12(a) of the Environmental Protection Act (Act).

At a hearing on February 4, 1977 a Statement of Stipulated Settlement was submitted to the Board. No testimony was given.

Respondents stipulated to ownership of the land. The stipulation states that the refuse area is made up of two gob piles. These gob piles were created by coal mining operations many years prior to the time that the Respondents obtained the

property in 1963. The northernmost gob pile is adjacent to Bethel Road and contains coal fines which have been carried north by rainwater along a natural drainage course through a mobile home park located on the northern side of Bethel Road to an unnamed tributary of Canteen Creek which is a water of the state of Illinois. Along the drainage course some of the coal fines have settled out. Respondents stipulate that by allowing the fines entering the stream that they have allowed the discharge of contaminants into the environment so as to tend to cause water pollution in Illinois.

It is further stipulated that Respondents purchased the land solely for the operation of an egg supply business. Because of financial difficulties the business was closed. Since that time the land has not been used. Respondents themselves never used the land for mining activities. The failure of the egg supply business has caused Respondents financial losses. At the present time Isadore and Mary Koenig's only income consists of social security and wages from Isadore Koenig's part-time employment as a security guard. It is further stipulated that the technology exists to abate the pollution caused by the gob piles. The piles can be removed, covered or neutralized. Respondents are financially unable to take these abatement measures.

Respondents are willing to sell or give away the material which comprises the gob piles. Respondents have agreed to make a diligent effort to have the gob piles removed. They have agreed to contact the Abandoned Mine Lands Reclamation Council, Materials Management Corporation or any other interested parties and make every effort to have someone remove the gob piles.

It was agreed that if Respondents are unable to secure the removal of the gob piles by August 1, 1977, the Respondents agree to sell or give the land (upon which the gob piles are located and any adjacent land owned by them and needed by the transferee to successfully abate the pollution caused by the gob piles) to the Abandoned Mine Lands Reclamation Council or any other party who agrees to eliminate the pollution caused by the gob piles.

The stipulation further provides that the gob piles, in addition to the water pollution caused by the coal fines, form a sulfuric acid runoff which is carried into waters of the State. Water pollution caused by coal fines and the runoff creates a potential for interference or injury to the property and general welfare of the people of the State. At the present time the value of Respondents' land is diminished by the gob piles.

The area in which Respondents' land is located is the mine refuse area created by the Consolidated Coal Company's underground mine #17. Mining operations in the immediate area have ceased for many years. Presently, Respondents' land is bordered on the south and east by farmland, on the north by a mobile home park, and on the west by property owned by Illinois Power Company and used as a gas regulation substation. Respondents first learned of the environmental problems by the gob piles when they received this complaint. The stipulating parties agreed that with the situation as it presently exists that a monetary penalty would not be appropriate. Respondents agree that this stipulation will be binding upon their assigns, heirs, and devisees. Respondents also agree to file a monthly progress report with the Attorney General's Office detailing the progress of the gob removal.

The Board finds the stipulated agreement to be acceptable under Procedural Rule 333. Respondents are found to be in violation of Section 12(a) of the Act. The Board agrees that a penalty would serve no purpose in this matter. Respondents shall comply with the arrangement as stipulated to remove the gob piles.

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. Isadore Koenig and Mary Koenig are found to be in violation of Section 12(a) of the Environmental Protection Act.
2. Respondents shall comply with the plan to remove or otherwise dispose of the gob piles from the land as outlined in the opinion.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 17<sup>th</sup> day of March, 1977 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board