

ILLINOIS POLLUTION CONTROL BOARD
July 12, 1979

ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 78-290
)	
MORRIS COAL, INC., a Delaware)	
corporation,)	
)	
Respondent.)	

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

MR. CEDRIC HUSTACE, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint filed November 20, 1978 by the Environmental Protection Agency (Agency) against Respondent Morris Coal, Inc. (Morris or Respondent), a Delaware corporation licensed to do business in Illinois. The complaint charges that Respondent constructed or modified a wastewater source and opened a coal mine in violation of Section 12(b) of the Environmental Protection Act (Act), Rule 951(a) of Chapter 3: Water Pollution and Rule 201 of Chapter 4: Mine Related Pollution. A hearing was held on June 6, 1979 at Marion, Williamson County, at which time the parties presented a stipulation and proposal for settlement. No members of the public attended and there was no objection to the settlement.

On February 11, 1978, Respondent purchased from Parton Coal Company, along with other property, the Morris Mine Number 7 which is described as an underground mine located one mile north-east of Crab Orchard in Williamson County. On March 1 and June 23, 1978, Mr. Robert R. Gates, an Agency employee, informed Respondent that the operating permit was not transferable and that Morris should apply for a new permit. The Agency received the permit application on July 10, 1978 and issued an operating permit on September 21, 1978. Respondent mined 19,000 tons of coal between June 23 and September 21, 1978 and sold more than 4500 tons for about \$86,000. During this period Morris pumped wastewater from the mine into a settling pond.

Respondent maintains that the coal was removed as a part of construction work preparatory to coal production, that it acted

in good faith believing that it could operate under the Parton permit and it started taking steps to apply as soon as it learned a new permit would be necessary. Morris has spent more than \$1,500,000 on construction work at the mine.

In the stipulation Morris admits the violations alleged and agrees to pay a penalty of \$2000 and to cease and desist from further violations. Having considered Section 33(c) of the Act, the Board finds the settlement acceptable under Procedural Rule 331.

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

ORDER

1. Morris Coal, Inc., is in violation of Section 12(b) of the Environmental Protection Act, Rule 951(a) of Chapter 3: Water Pollution and Rule 201 of Chapter 4: Mine Related Pollution.
2. Respondent shall comply with the terms of the stipulation and proposal for settlement which is incorporated herein by reference.
3. Respondent shall cease and desist from further violations of the Act and Board Rules.
4. Within thirty-five days of the date of this Order, Respondent shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$2000 which is to be sent to:

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

IT IS SO ORDERED.

Mr. Goodman abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of July, 1979 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board