

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-77
)
THE KIESEL COMPANY, a Missouri)
Corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Young):

Respondent, The Kiesel Company, a Missouri Corporation, was charged in a Complaint filed March 16, 1978, with the violation of Rules 201, 501(a)(1), and 502 of Chapter 4: Mine Related Pollution, of the Pollution Control Board Rules and Regulations.

Hearing was held at the St. Clair County Building, Belleville, Illinois, on November 28, 1978, at which time a Statement of Stipulated Settlement was presented. No members of the general public were present; no evidence was taken at the hearing.

The facts set forth in the Stipulated Settlement establish that the Respondent leases a site known as St. Louis & O'Fallen Mine No. 2 located approximately 1/2 mile southwest of the City of Fairview Heights in St. Clair County, Illinois (Stip. 2). Respondent was issued an operating permit (1973-MD-114-OP) on January 19, 1973, to conduct a coal reclamation project of a gob pile at the site and did conduct operations by removing coal fines from the gob pile and by removing such materials to St. Louis, Missouri, for storage and subsequent sale of a portion of the material as fuel for coal burning power plants (Stip. 2, 3).

Since July 16, 1975, Agency inspectors have visited and made inspections of the site on 13 different occasions and have observed no mining activity or operation at the site by the Respondent; the Respondent has not removed additional coal fines because of the large quantity stored in St. Louis, Missouri, and does not intend to do so until the stored materials are sold (Stip. 3, 4).

Rule 501(a)(1) requires that the operator of a mine refuse disposal operation shall notify the Agency within 30 days of the cessation of operations. Rule 502 requires that a permit to abandon be obtained within one year of the date that operations have been closed down. Rule 201 provides that it shall be unlawful to abandon without a permit therefor from the Agency.

The Kiesel Company stipulates that they have never notified the Agency of cessation of operations or obtained an abandonment permit from the Agency for the site (Stip. 4).

Since Respondent does not intend to remove additional material in the foreseeable future, the parties agree that the current operating permit should be revoked and a new permit obtained if the Kiesel Company again decides to reclaim coal from the site (Stip. 5, 6).

Because the operations involved approximately one acre in the center of a 32-acre gob pile, it is currently impracticable to only reclaim the acre where activities have taken place (Stip. 6). To ensure that reclamation will be accomplished, the parties agree that a \$4,000.00 escrow account be established by the Kiesel Company (Stip. 6, 7). The Respondent agrees to pay a civil penalty of \$1,000.00 within 30 days of entry of the Board Order in this matter (Stip. 7, 8).

On the basis of the foregoing and the Statement of Stipulated Settlement entered into by the parties as filed December 1, 1978, the Board finds that the Respondent did violate Rules 201, 501(a)(1) and 502 of Chapter 4: Mine Related Pollution, of the Pollution Control Board Rules and Regulations. The Board further finds that \$1,000.00 is a sufficient penalty for the violations found herein and necessary to the enforcement of the Act and will assess that amount as penalty for the infractions. The Board will revoke Operating Permit No. 1973-MD-114-OP and require the establishment of a \$4,000.00 escrow to ensure reclamation of the site. The Board has considered the application of the requirements of Section 33(c) of the Act to the facts and circumstances herein and finds the Statement of Stipulated Settlement acceptable under Rule 331 of the Board's Procedural Rules.

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

ORDER

1. Respondent, The Kiesel Company, is found in violation of Rules 201, 501(a)(1) and 502 of Chapter 4: Mine Related Pollution, of the Pollution Control Board Rules and Regulations. The Board will assess a penalty of \$1,000.00 for such violations; penalty payment shall be made by certified check or money order within 30 days of this Order payable to:

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

2. Operating Permit No. 1973-MD-114-OP issued January 19, 1973, to the Respondent, Kiesel Company, is hereby revoked.

3. The Respondent, Kiesel Company, shall establish, within 30 days of the entry of this Order, a \$4,000.00 escrow account in a form acceptable to the Agency and as further described in Paragraph 18 of the Statement of Stipulated Settlement filed with the Board December 1, 1978, which is hereby incorporated by reference as if fully set forth herein.

4. The Respondent, Kiesel Company, shall, after establishment of the escrow account required in Paragraph 3, apply to the Agency for an abandonment permit.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of February, 1979 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board