

ILLINOIS POLLUTION CONTROL BOARD
November 23, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-280
)
 ZEIGLER COAL COMPANY,)
)
 Respondent.)

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

This matter comes before the Board upon a complaint filed on July 22, 1975 by the Environmental Protection Agency (Agency). The complaint alleges that Respondent operates a coal mine known as Spartan Mine #2 located in Sections 9,14,15,16,19, 20,21,22,23,26,27,28,29 and 30 of Township 4 South, Range 5 West, of the Third Principal Meridian, Randolph County, Illinois; that Respondent has operated its mine so as to cause a violation of Section 12(a) of the Environmental Protection Act (Act); that Respondent deviated from the plan documents incorporated into its mining permit in violation of Section 12(b) of the Act; and that Respondent caused various violations of Rules 205(a), 203(a), 203(b), 203(f), 402, 408(a) of the Chapter 3: Water Pollution Control Regulations (Chapter 3), and Rules 605(a) and 605(b) of the Chapter 4: Mine Related Pollution Regulations (Chapter 4), and Sections 12(a), 12(b), 12(d) and 12(f) of the Act. Hearings were held February 18, 1976, April 5, 1976 and September 20, 1977. At the last hearing a statement of stipulated settlement was presented for Board acceptance. There was no public comment on the stipulation.

The stipulation provides that Respondent owns the mine in question. This mine was previously operated by Respondent's predecessors in interest, Bell and Zoller Coal Company and Zeigler Coal and Coke Company. The mine was first opened in 1952. The location of the mine is predominantly rural. There are relatively few commercial developments or private residences in the vicinity of the mine. Most, if not all, of the residences were located in the area prior to the commencement of the mining operations.

Respondent admits to having committed the violations alleged in the complaint. The stipulation provides that almost all the allegations contained therein relate directly or indirectly to discharges from the mine site. These discharges flow through natural drainage courses and low areas

to the Mary's River which is within one-eighth mile of the discharges. There are three principal sources of discharges which include:

1. Direct discharges from a "fresh water lake" pump house which discharges water from said lake.
2. Non-point source seepages at the base of the dike which forms an impoundment containing diversion drainage from the mine refuse area.
3. Direct discharges from the above described impoundment at a point where a portion of the dike has been washed out.

Complainant did take stream and effluent samples on several dates that showed violations of the standards as set out in the complaint (Stip. 3-5). The stipulation provides that the environmental harm caused by the discharges is the creation of water quality conditions in the receiving stream at levels found by the Board in regulatory proceedings to be beyond those deemed necessary to prevent water pollution.

Both Respondent's predecessor in interest and Respondent had received letters informing them of the potential violations. Respondent was also informed of observations made on several inspection dates.

Concerning social and economic value of the pollution source, the parties agreed that coal is an important source of energy that must be developed but that it is equally important that coal mining be conducted in a fashion that does not cause environmental harm. Thus Respondent's mine production is of social value but that value is diminished by the environmental violations admitted by Respondent. Respondent produced 876,046 tons of coal from the mine in 1975. Respondent employs 250 persons at the mine with a weekly payroll of \$57,000.

The discharges which cause the violations originate from two sources: the "fresh water lake" pump house and the diversion drainage basin. The water in the "fresh water lake" becomes contaminated by use in the mine processing plant. The water in the diversion drainage basin becomes contaminated through contact with the mine's gob pile.

Respondent has proposed a reclamation project which has been incorporated in a new permit issued by the Agency

on March 23, 1977. The proposal set out in the agreement basically includes:

Two trenches have already been dug to prevent runoff water from property surrounding the mine site from coming into contact with contaminated water and refuse.

Respondent has reclaimed a 15-acre area lying southeast of the property and outside of the dike containing the diversion drainage basin.

Most of the remaining reclamation work Respondent proposes to undertake involves reclamation of the gob pile, the present preparation plant area and all present ponds. The timing of this work is tied into construction and operational activities pertaining to a new mine (Zeigler No. 11) for which a permit application has been submitted to Complainant.

To insure that there will not be any further polluted discharges from the mine to Waters of the State the Respondent proposes the following action:

1. Respondent will prevent further discharges from the "fresh water lake" pump house.
2. Respondent has purchased a mix-meter for treating acid water in the refuse drainage basin. Said mix-meter will be used to treat and discharge water from said basin when the freeboard level in said basin is less than three feet, and as required for the proper operation of the mine.
3. If and when it becomes necessary to use the above described mix-meter, acid water treated by it will be discharged into a settling basin to be constructed by Respondent. The settling basin and mix-meter will be of sufficient size and capacity to insure that any discharges from the settling basin will not violate or cause violations of the provisions of the Environmental Protection Act or Regulations promulgated thereunder. Respondent will report to Complainant the approximate length of time or volume of discharges into the settling basin and will also report the levels of the following parameters contained in any discharges from

the settling basin: pH, iron (total), total acidity, alkalinity, suspended solids, dissolved solids, manganese, and sulfate.

4. Respondent will collect all seepages from the refuse drainage basin and pump them back into said basin.

The parties further agreed that Respondent will report regularly on a monthly basis to Complainant concerning the progress of the reclamation program.

The Settlement Agreement provides that Respondent will follow the reclamation proposal as stipulated. Respondent further agrees to make a contribution of \$7,000 to the Illinois Abandoned Mined Land Reclamation Council for the purpose of reclaiming abandoned lands. Complainant agrees that in light of the nature of the subject site, Respondent's efforts to implement environmental safeguards, the size of the operation and Respondent's \$7,000 gift that a penalty would not be appropriate. Respondent further agrees to post a performance bond without surety with Complainant to insure performance of the work described in part (D)(2)(d) of the stipulation. No other bond is to be required.

The Board finds that the provision in the stipulation for Respondent's \$7,000 gift is highly unusual and that it is of uncertain precedential value; however, it does appear to be appropriate to the facts of this case. The Board will accept the stipulated settlement agreement under Procedural Rule 331. Acceptance of the gift provision is limited to the facts of this stipulated settlement. The remainder of the settlement agreement is quite satisfactory. The proposed reclamation plan will recompense for past inadequacies. The factors of Section 33(c) of the Act appear to have been fully considered. The Board will consider the contribution as a penalty. Respondent will be required to comply with all other terms of the settlement agreement.

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. Zeigler Coal Company is found to have been in violation of Sections 12(a), 12(b), 12(d) and 12(f) of the Environmental Protection Act; Rules 203(a), 203(b), 203(f), 205(a), 402 and

408(a) of the Chapter 3: Water Pollution Regulations; and Rules 605(a) and 605(b) of Chapter 4: Mine Related Pollution.

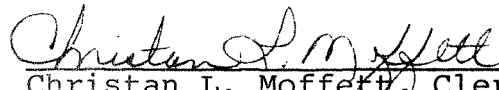
2. Respondent will comply with the proposed reclamation plan set out in the stipulation and incorporated by reference as if fully set forth herein.
3. Respondent shall pay \$7,000 to the Illinois Abandoned Mined Land Reclamation Fund within 35 days of this order. The payment shall be in care of:

Abandoned Mined Land Reclamation Council
704 State Office Building
400 South Spring Street
Springfield, Illinois 62706

4. Respondent shall comply with all other provisions of the stipulated settlement agreement incorporated by reference as if fully set forth herein.

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 23rd day of November, 1977 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

