

ILLINOIS POLLUTION CONTROL BOARD
March 8, 1973

KIENSTRA CONCRETE, INC.)
)
) #73-9
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

On November 8, 1972, we entered an Order in case entitled Environmental Protection Agency v. Kienstra Concrete, Inc., #72-72, with respect to contaminants being emitted from a slag pile on property owned by Kienstra. A slag pile had existed on the property when it was acquired by Kienstra and had been a source of major water pollution, from which contaminants flowed into an unnamed creek into the Cahokia Creek, and eventually, into the Mississippi River.

Paragraphs 1, 2 and 3 of our Order, which had been based on a stipulation for settlement agreed to between the parties, provided as follows:

- "1. Respondent secure sufficient earthen cover from a tract away from the area in which the old mine slag pile is presently located and use it to completely and thoroughly cover the mine slag and other sources of contamination to a sufficient depth that future rain and other moisture in the area will not, either alone or in combination with matter from other sources, contaminate the subject unnamed tributary of Cahokia Creek. Said earthen cover will be supplied either from an adjacent tract owned by Illinois Terminal Railroad Company or from a portion of the tract owned by Respondent but located a substantial distance from the mine waste storage area.
2. Respondent promptly plant appropriate vegetation upon the said earthen cover so used in such manner as to prevent wash and erosion.
3. Respondent fully accomplish the acts referred to in Paragraphs 1 and 2 above on or before December 31, 1972, all at the expense of Respondent."

A petition for extension of time in which to comply with the correction order was filed with the Board, requesting that the period for compliance be extended to June 30, 1973. Kienstra alleges that because of unusually heavy rainfall in November of 1972, the correction work was impeded and the December 31, 1972 compliance date could not be achieved. The engineer for the Company has stated in a letter attached to the variance petition that no earth work can be embarked upon until April of 1973 and the necessary construction should be completed by June 30, 1973.

Recommendation filed by the Agency concurs in the request, noting the excessive rainfall during November and recommends that the petition be granted allowing Kienstra until June 30, 1973 to comply with paragraphs 1, 2 and 3 of our November 8, 1972 order. We grant the variance as requested.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that Paragraph 3 of our November 8, 1972 order be amended by deleting the compliance date therein specified as December 31, 1972 and substituting in lieu thereof the date June 30, 1973.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 8th day of March, 1973, by a vote of 3 to 0.

Christan M. Moffett