

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1980

MONTEREY COAL COMPANY,)
)
) Petitioner,)
)
) v.) PCB 79-276
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by Dr. Satchell):

On January 16, 1980 Monterey Coal Company (Monterey) filed a renewed motion for stay and on January 21, 1980 a motion for expedited consideration of its renewed motion. On January 28, 1980 the Environmental Protection Agency (Agency) filed an objection to the renewed motion for stay.

Monterey states that the permit in question is a new, rather than a reissued permit. The permit lists three discharges: 001 is the north portal sewage treatment plant (STP) discharge; 002 is an emergency overflow from the recirculation pond; and 002A is the main mine STP discharge into the recirculation pond. The mine has been in existence since 1970 but first obtained an NPDES permit in 1979. Monterey did not apply for an NPDES permit for 002 because representatives of the United States Environmental Protection Agency (USEPA) informed it that an NPDES permit was not required since the recirculation pond provided runoff storage for a 10-year recurring rainfall. Monterey believed the main mine STP discharge 002A, into the recirculation pond, was not into waters of the state. Monterey does not mention when 001 came into existence or why there has been no previous NPDES permit for it.


The stay is requested from the effluent limits and monitoring requirements for 002 and 002A only. Since the monitoring requirements are new discretionary terms, they will be stayed for ninety days. The Agency contends that the effluent limitations are the same as those contained in various regulations and that they are therefore mandatory. However, Monterey contends that it was advised by USEPA that a permit was not required for emergency overflow 002. The Agency has not alleged that the law has changed

since then to mandate inclusion of emergency overflows. Since the Agency has exercised discretion in the matter of the permit requirement, the effluent limitations for 002 will also be stayed for ninety days. With respect to 002A the Agency has exercised discretion in designating the discharge point or in requiring segregation of waste streams. Therefore 002A will be stayed also. Stay of effluent limitations will not constitute a variance from Board regulations. The motion to expedite is moot.

Petitioner is granted a stay for ninety days from the date of this Order or until entry of a Final Order in this proceeding, whichever occurs first, of the following permit conditions: the monitoring requirements and effluent limitations for outfalls 002 and 002A.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 7th day of February, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board