

ARKANSAS DEPARTMENT OF  
POLLUTION CONTROL AND ECOLOGY

LOCATION - SUBJECT: Midwest  
Coal and Energy, Inc.

MINUTE ORDER NO. 80-7

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WHEREAS, on October 19, 1979, a Notice of Violation was issued to Oklahoma Asphalt Company, Inc., Midwest Coal and Energy, Inc., and Poteau Corporation;

WHEREAS, on January 16, 1980, a hearing was conducted to allow Midwest Coal and Energy, Inc. to show cause why its permits should not be revoked, and the associated bonds foreclosed for failure to comply with the terms of the Notice of Violation;

WHEREAS, a compliance schedule was negotiated at the January 16, 1980 hearing, the terms of which being set out in a letter dated January 18, 1980, and a copy of those terms being attached hereto and incorporated herein;

NOW, THEREFORE, the Commission on Pollution Control and Ecology approves the terms of the compliance schedule attached hereto. Failure to comply with any of the terms of that schedule may, at the option of the Director, result in revocation of the permits and foreclosure of the bonds.

1. Initially, Midwest will forward a copy of the agreement between Midwest Coal and Poteau Corporation, through which Poteau Corporation assumed all responsibility to reclaim the areas covered by permits numbered 193 (Kimwyn 5), 194 (Kimwyn 6) and 8-79-212 (Kimwyn 7). You should be aware that in no way is Midwest Coal being released from any obligations it may already have to reclaim those lands.
2. Initially, Midwest will also contact a registered, professional engineer and have plans prepared for a state water permit to dewater the pits on permits numbered 111, 111-A-1 and 165. The plans must be submitted in sufficient time so that state water permits will be issued by the time work will commence on those permitted areas.
3. During the week of January 21, 1980, Midwest will begin to reclaim the areas covered by permit #179 (Franklin County #5). Upon completion of backfilling, regrading and mulching, a portion of Midwest's bond, not to exceed 50%, may be returned pursuant to §9(h) of Act 336 of 1977 if the Mine Land Review Committee and the Director approve such release.
4. Upon completion of backfilling, regrading and mulching of Permit #179 and approval by the Department, Midwest will commence backfilling, regrading and mulching the areas covered by Permit #172 (Franklin County #4). Upon initiation of reclamation on Permit #172, the staff may review an application for a new permit. If reclamation is progressing in good faith on Permit #172, and if such permit application is approvable and issued, work may commence on such permit conditional upon at least two bulldozers conducting reclamation activities on the permits covered by this compliance order in accordance with the schedule set out herein.
5. Upon completion of backfilling, regrading and mulching of Permit #172, and approval by the Department, Midwest will begin dewatering the Permit #111 and 111-A-1 in accordance with its approved state water permit. Backfilling, regrading and mulching will follow dewatering.
6. Upon completion of backfilling, regrading and mulching of Permit Nos. 111 and 111-A-1, and approval by the Department, Midwest will commence dewatering Permit No. 165. Backfilling, regrading and mulching will follow dewatering.
7. All reclamation activities shall include scarifying the regraded surfaces, and replacing the topsoil uniformly in a manner that will prevent excess compaction and protect from the wind and water erosion such as by mulching. Fertilization and reseeding will be conducted in a manner that encourages prompt vegetation and will be undertaken as early as possible in the spring. The type and amount of fertilizer and seed and method and time of

anticipated application will be in accordance with recommendations of the Arkansas Soil & Water Conservation Commission. Projected timetables for the completion of backfilling, regrading and mulching are as follows:

- (a) The permit #179 -- February 8th
- (b) The permit #172 -- April 4th
- (c) The permit #111 and 111-A-1 -- July 15th
- (d) The permit #165 -- September 30th

