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640 Pollution Violations

9:15 AM WED JUNE 5, 2013

Delayed Action: The Industry Mine

By [SCOTT STUNTZ](#) (/PEOPLE/SCOTT-STUNTZ)

The Illinois Pollution Control Board found that the coal mine near Industry violated its water pollution permit more than 600 times.

Tri States Public Radio's series, *Delayed Consequences: Pollution at Industry*, examines the violations, why it took the state so long to take legal action, and why despite all the violations the state renewed the mine's permit.

PART 1 - by Scott Stuntz

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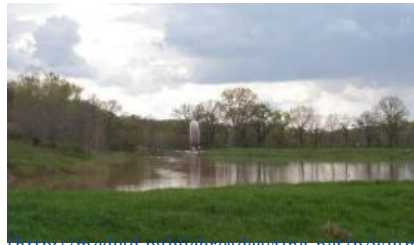
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[Part 1 - Radio Story](#)

Years ago, Kim Sedgwick and her fiancé decided to build a home not far from the mine, what she called “their dream-house” along Grindstone Creek.

Around that time they canoed up the Grindstone, and found a heron rookery. They were so afraid it would be disturbed that they did not tell anyone about it.

Then, in 2002, they became alarmed when they heard the mine was expanding toward that section of the creek. They wanted to save the birds, the forest and Grindstone's whole “unusual ecosystem,” as they called it.



<http://mediad.publicbroadcasting.net/wium/files/201306/pond1.jpg>

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Credit SSS

Effluent pond at the Industry Mine site

So they wrote a letter.

“The one letter was basically an ad in the paper saying that if anybody has concerns you can request a public hearing and so that's what we did and from there it led to dozens of meetings and hearings and talking to professors and biologists and ornithologists,” Sedgwick said.

It's into Grindstone Creek that the Springfield Coal Company, and its predecessor Freeman United, poured runoff from the mine.

The mine was licensed to do that. But it had to keep pollutants in the creek under certain levels, and when it failed to do that, the Illinois Pollution Control Board cited it for the 640 violations through what's known as a "violation notice" sent to the

company. The state is willing to establish an agreement with companies to fix such problems, but if they're still not corrected then the Illinois Environmental Protection Agency refers the case the Attorney General's office.

But in the Industry case, the Attorney General did not initially take action. That's when the Environmental Law and Policy Center stepped in.

ELPC attorney Jessica Dexter filed a 60 day notice of intent to bring a citizen suit against the mine for failing to comply with its permit. That prompted the AG's office to launch a suit. In a written statement, the attorney general's office said it did receive a referral from the IEPA, but by that time it was already filing the suit because of the ELPC and other environmental groups.

Dexter said she combed through the records the mine sent to the IEPA. Dexter looked at 80 months of data and found violations in 79 of them, adding up to a total of 640 violations. Documents obtained from the IEPA showed the state agency found a total of 47 violations at the mine during that time frame.

On at least two occasions, the IEPA sent letters to the companies saying the agency felt that all of the problems were fixed.

"There are a lot of outside actors that are passionate about the environment and we love the advocates. But at some point we just have to focus on our process and figure out what's best under the law," said IEPA spokesman Andrew Mason.

Kim Sedgwick said the herons still seem to be thriving and that she is pushing the Illinois Pollution Control Board to compel the Springfield Coal to donate the land the rookery sits on to a land-preservation.

PART 2 - by James Needham

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4:14

Part 2 - Radio Story

Kim Sedgwick feels the water pollution violations led to physical changes in Grindstone Creek.

"There have been times when the water had a strange look to it, and (a) strange smell to it and things of that sort," Sedgwick said.

However, no one knows exactly what the mine run-off did to the ecosystem. In fact, the law doesn't require anyone to know. The EPA only requires mining companies to test the water, called effluent, just before it enters the stream.

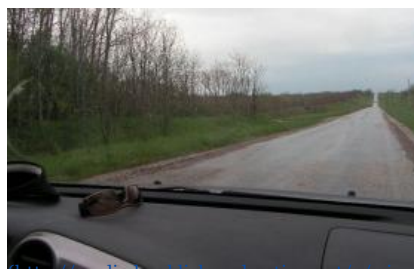
When the effluent is tested, the water is supposed to meet standards set for things like pH, heavy metals and total suspended solids. But what are the ecological consequences when those standards aren't followed more than 600 times?

Tim Spier, Fisheries Biologist at Western Illinois University, said there are no clear-cut answers.



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<http://mediad.publicbroadcasting.net/p/wium/files/201306/KIM-PIC-1.jpg>

Credit SSS
Kim Sedgwick began fighting to preserve the Grindstone Creek ecosystem.



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<http://mediad.publicbroadcasting.net/p/wium/files/201306/dash1.jpg>

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Driving on a two lane road on the perimeter of the Industry Mine.

"Can you specifically say that high iron levels are going to do this or high manganese levels are going to do this? It's tough," said Spier. "It depends upon water chemistry, it depends upon what is there, it depends upon the oxygen, it depends on the temperature."

In Illinois drinking water, only 1 milligram per liter of iron is allowed. The levels found exiting the Industry mine were almost 30. For Manganese only 0.15 milligrams per liter are allowed. The levels found exiting the mine were more than 50.

There is no definitive evidence of what the pollution did to the microbes in the water. However, there is some evidence it might have affected fish. In 1998 -- before the mine was in operation -- the Illinois Department of Natural Resources conducted a fish study on Grindstone Creek, which the stream the polluted water is poured into. It gave the creek a perfect Index of Biological Integrity (IBI) score of 50. But by 2002, the score plummeted to 34, which is considered a rating of "fair."

However, it's not clear if the drop was due to the mine's activity. Doug Carney, IDNR Stream Specialist, had to use different sampling equipment in 2002 than he did in 1998 due to water conditions. It's not clear whether the drop in IBI was due to the mining runoff or just the change in sampling method.

The owners of the mine near Industry are working with the IDNR to build another mine. This time, they want to build it near Canton Lake. The IDNR partially denied the permit for that mine before renewing it.

PART 3 - by Scott Stuntz

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4:37

Part3 -Radio Story

So why did the Illinois EPA renew the water pollution permit for the Industry Mine?

"Now the key thing here, and I think this is where some of the confusion has arisen, is the Illinois Environmental Protection Act does not establish past non-compliance as a reason for denying a permit," said IEPA spokesman Andrew Mason.

However, Mason said the IEPA was able to change it to make it stronger.

"There is the sense that there is a rubber stamp and this (is) like the farthest you could possibly get from a rubber stamp." Mason said.

Jessica Dexter, attorney for the Environmental Law and Policy Center, said she was disappointed with the EPA's decision.

"I don't know how IEPA can assure that the mine is going to comply with these terms when it refuses to comply with the terms of its existing permit," she said.

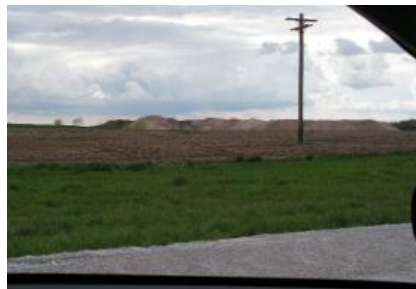
Further, she doesn't agree with the EPA's underlying reasoning.



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A view of Grindstone Creek from a bridge.



<http://mediad.publicbroadcasting.net/p/wium/files/201306/window-pt3.jpg>

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A view of the mine from the roads surrounding it.

“Because the same statute, the same section of the statute that says the agency has a duty to issue a permit if the applicant can prove that it won’t cause a violation of the act. The next sentence says that the agency can consider prior adjudications of noncompliance with the act, which has been done in this case.”

Tri States Public Radio looked up Chapter 415 of the state code, which regulates Environmental Safety, and found it does say that if an applicant shows it can meet the permit, it must be issued.

“It shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of this Act or of regulations hereunder.”

But it also give the agency some leeway to consider past violations.

“In making its determinations on permit applications under this Section the Agency may consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment.”

In the IEPA’s written statement explaining its renewal of the Industry Mine permit -- in the responsiveness survey section in which it addresses citizen concerns -- it actually quotes this section of the Illinois code.

Traci Barkley, Water Resource Scientist, Prairie Rivers Network, said the IEPA’s decision in this case has implications beyond just the Industry Mine.

“I think that’s what’s particularly troubling about seeing the state allowing continued operation through the NPDES permit, what kind of message does that send to other operators? That you can be out of compliance for nine years and still be allowed to make money doing what you do and causing damage along the way,” she said.

Springfield Coal is not actively mining at the Industry site right now. However, the owners are trying to open a mine in nearby Littleton and the coal from that site would be processed at Industry.

Meanwhile, the Illinois Pollution Control Board is scheduled to make a final decision in the penalty phase of the Industry case in August.

The environmental groups want Springfield Coal, and the previous owner Freeman United, to be fined \$10,000 per violation - the maximum allowed by law. That would add up to \$65 million

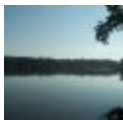
In addition, have announced they will appeal the IEPA’s renewal of the water pollution permit.

TAGS: [industry mine \(/term/industry-mine\)](#) [pollution \(/term/pollution\)](#)

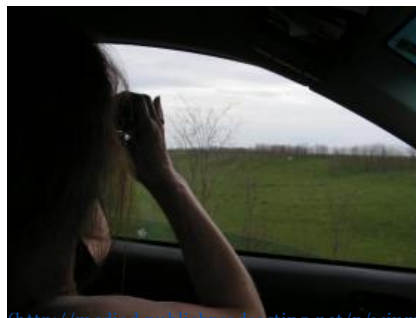
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Credit SSS
 The view from Kim Sedgwick's car at the Industry Mine.