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STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 5, 2009

John T. Thompson, Assistant Clerk
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: **Prairie Rivers Network, et al., v. IEPA**
PCB No. 09-46

10-3

Dear Clerk:

Enclosed for filing please find the original and two copies of a Notice of Filing and Agency Record in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Thomas Davis PK

Thomas Davis, Chief
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

TD/pjk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PRAIRIE RIVERS NETWORK)
and SIERRA CLUB,)

Complainants,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY, and)

Hillsboro Energy, LLC)
Respondent.)

10-03)
PCB No. ~~09-46~~)
(Third Party NPDES Permit Appeal)

NOTICE OF FILING

To: Albert F. Ettinger
Jessica Dexter
Environmental Law and Policy Center
35 East Wacker Drive, Ste. 1300
Chicago, IL 60601

Elizabeth Hoskins Dow
Bailey and Glasser, LLP
1003 Western Avenue
Joliet, IL 60435

Susan Franzetti
Nijman Franzetti LLP
10 South LaSalle Street, Ste. 3600
Chicago, IL 60603

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, an Entry of Appearance and Agency Record, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: *James L. Morgan*
JAMES L. MORGAN
for THOMAS DAVIS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 5, 2009

CERTIFICATE OF SERVICE

I hereby certify that I did on October 5, 2009, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box, a true and correct copy of the following instruments entitled NOTICE OF FILING and AGENCY RECORD

To: Albert F. Ettinger
 Jessica Dexter
 Environmental Law and Policy Center
 35 East Wacker Drive, Ste. 1300
 Chicago, IL 60601

 Elizabeth Hoskins Dow
 Bailey and Glasser, LLP
 1003 Western Avenue
 Joliet, IL 60435


 Susan Franzetti
 Nijman Franzetti LLP
 10 South LaSalle Street, Ste. 3600
 Chicago, IL 60603

and the original and two copies by U.S. mail with postage fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk
 Illinois Pollution Control Board
 James R. Thompson Center
 Suite 11-500
 100 West Randolph
 Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794


JAMES L. MORGAN
for THOMAS DAVIS
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PRAIRIE RIVERS NETWORK)
and SIERRA CLUB,)
)
Petitioners,)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY, and)
HILLSBORO ENERGY, L.L.C.,)
)
Respondents.)

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STATE OF ILLINOIS
Pollution Control Board

PCB No. 10-003
(Third Party NPDES Permit Appeal)

ENTRY OF APPEARANCE

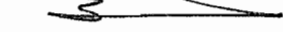
On behalf of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by LISA MADIGAN, Attorney General of the State of Illinois, Thomas Davis, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record pursuant to Section 101.400(a) of the Board's Procedural Rules.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN,
Attorney General of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Attorney Reg. No. 3124200
500 South Second Street
Springfield, Illinois 62706
217/782-7968
Dated: October 5, 2009

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**PRAIRIE RIVERS NETWORK
and SIERRA CLUB,**

Petitioners,

v.

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY, and
HILLSBORO ENERGY, L.L.C.,**

Respondent.

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**STATE OF ILLINOIS
Pollution Control Board**

PCB No. 10-003

(Third Party NPDES Permit Appeal)

AGENCY RECORD

Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, in accordance with the procedural rules of the Illinois Pollution Control Board as set forth in 35 Ill. Adm. Code 105.212 and 105.116, files as its Record in this cause the Illinois EPA's record of Hillsboro Energy, LLC's National Discharge Elimination System ("NPDES") permit public hearing and the Illinois EPA's record of NPDES Permit No. IL0078727, as issued to Hillsboro Energy on May 29, 2009, which is attached and consists of the following documents:

Hearing file documents

1. Public hearing exhibits.

Exhibit 1: Draft permit, public notice. (pp. 1 - 33)

Exhibit 2: Notice of Public Hearing, original and revised. (pp. 34 - 37)

Exhibit 3: Comment letter. (p. 38)

Exhibit 4: Comment letter from Sierra Club dated July 14, 2008. (pp. 39 - 46)

Attachment 1: Public Notice by U.S. Army Corps of Engineers, St. Louis District, issued June 20, 2008. (pp. 47 - 56)

Attachment 2: Surface utilities map. (pp. 57 - 58)

Attachment 3: Post subsidence map. (pp. 59 - 60)

Attachment 4: Illinois Department of Natural Resources ("IDNR") letter dated May 30, 2008. (pp. 61 - 78)

Attachment 5: Letter from Sierra Club dated March 31, 2008. (pp. 79 - 84)

Attachment 6: Baseline surface water sample site data. (pp. 85 - 86)

- Attachment 7: Southwest Hydrology, "Water Treatment as a Mitigation Method for Pit Lakes." (pp. 87 - 90)
- Attachment 8: "Sulfate Removal from Injected Water in Oilfield Operations." (pp. 91-95)
- Attachment 9: "Sulphate Removal Demonstration Plant." (pp. 96 - 98)
- Exhibit 5: Comment letter. (p. 99)
- Exhibit 6: Comment letter. (p. 100)
- Exhibit 7: Comment letter. (pp. 101 - 102)
- Exhibit 8: Comment letter. (p. 103)
- Exhibit 9: Comment letter. (pp. 104 - 105)
- Exhibit 10: Comment letter. (p. 106)
- Exhibit 11: Comment letter. (p. 107)
- Exhibit 12: Comment letter. (pp. 108 - 109)
- Exhibit 13: Comment letter. (pp. 110 - 122)
- Exhibit 14: Comment letter. (p. 123)
- Exhibit 15: Comment letter. (p. 124)
- Exhibit 16: The Journal-News (Hillsboro) letter to editor dated August 7, 2008. (pp. 125 - 127)
- Exhibit 17: The Journal-News letter to the editor dated August 13, 2008. (pp. 128 - 129)
- Exhibit 18: Springfield Journal-Register letter dated September 2, 2008. (p. 130)
- Exhibit 19: Springfield Journal-Register letter dated September 5, 2008. (p. 131)
- Exhibit 20: Free Press-Progress (Nokomis) letter dated September 4, 008. (p. 132)
- Exhibit 21: Comment email. (pp. 133 - 139)
- Exhibit 22: Sedimentation technology alternatives analysis submitted by Gary Raines, HDR, Inc. (consultant), September 7, 2008. (pp. 140 - 141)
- Exhibit 23: Alternatives analysis for proposed outfalls (antidegradation analysis) submitted by Gary Raines. (pp. 142 - 143)
- Exhibit 24: Comment letter. (pp. 144 - 146)
- Exhibit 25: Comment letter. (pp. 147 - 150)
- Exhibit 26: Comment letter. (pp. 151 - 152)
- Exhibit 27: Memorandum dated May 19, 2008, from Bob Mosher to Larry Crislip, re water quality based effluent limit. (pp. 153 - 156)
- Exhibit 28: Comment letter with attached articles. (pp. 777 - 790)
- Exhibit 29: Montgomery County: Past, Present and Alternative Futures economic impact analysis, by Dr. Leonard Branson and Professor Joe Wilkens, University of Illinois at Springfield. (pp. 157 - 213)
- Exhibit 30: Comment email. (pp. 214 - 215)
- Exhibit 31: State-Journal Register article. (pp. 216 - 217)
- Exhibit 32: Comment letter. (pp. 218 - 219)
- Exhibit 33: Comment letter. (p. 220)
- Exhibit 34: Comment letter. (p. 221)
- Exhibit 35: Comment letter. (p. 222)
- Exhibit 36: Comment letter. (p. 223 - 224)

- Exhibit 37: Comment letter. (pp. 225 - 226)
- Exhibit 38: Comment letter. (pp. 227 - 228)
- Exhibit 39: Journal-News articles on September 22, 2008. (pp. 229 - 230)
- Exhibit 40: Comment letter from Sierra Club dated October 17, 2008. (pp. 231 - 237)
- Attachment 40-1: Biological stream ratings map. (p. 238)
- Attachment 40-2: Letter dated August 2, 2007, from IDNR to Hillsboro Energy. (pp. 239 - 240)
- Attachment 40-3: Letter dated August 14, 2008, from IDNR responding to CALM and Sierra Club request for documents through FOIA, forwarding notice of violation number 28-1-05. (pp. 241 - 261)
- Attachment 40-4: Notice of violation number 37-5-05. (pp. 262 - 275)
- Attachment 40-5: Notice of violation number 37-6-05. (pp. 276 - 287)
- Attachment 40-6: Notice Of violation number 37-1-06. (pp. 288 - 298)
- Attachment 40-7: Memorandum dated October 15, 2008, from Carpenter Environmental Association to Sierra Club. (pp. 299 - 302)
- Attachment 40-8: "Acid Mine Drainage: Innovative Treatment Technologies," October 2003, prepared by Christine Costello. (pp. 303 - 354)
- Attachment 40-9: "The Passive Treatment of Coal Mine Drainage," U.S. Department of Energy National Energy Technology Laboratory. (pp. 355 - 426)
- Attachment 40-10: "Applications of Passive Treatment to Trace Metals Removal," by Kevin Hoover et al. (pp. 427 - 432)
- Attachment 40-11: "Rapid Manganese Removal from Mine Waters Using an Aerated Packed-Bed Bioreactor," by Karen Johnson and Paul Younger. (pp. 433 - 439)
- Attachment 40-12: "Treatment Technology Summary for Critical Pollutants of Concern in Power Plant Wastewaters," Electric Power Research Institute. (pp. 440 - 510)
- Attachment 40-13: New Logic Research, "VSEP Filtration of Acid Mine Drainage." (pp. 511 - 520)
- Attachment 40-14: "VSEP Treatment of RO Reject from Brackish Well Water: A Comparison of Conventional Treatment Methods and VSEP, a Vibrating Membrane Filtration System," by Greg Johnson, Larry Stowell, and Michele Monroe. (pp. 521 - 539)
- Attachment 40-15: Power Engineering International, "Fugitive Dust Control," May 1999. (pp. 540 - 544)
- Exhibit 41: Comment letter dated October 20, 2008, from Cindy Skrukud, Sierra Club. (p. 545)
- Exhibit 42: Comment letter. (p. 546)
- Exhibit 43: Comment letter. (pp. 547 - 549)
- Exhibit 44: Comment letter. (pp. 550 - 551)
- Exhibit 45: Comment letter with attachments. (pp. 552 - 577)

2. Hearing transcript. (pp. 578 - 776)

Permit file documents

3. National Dam Safety Program inspection report dated August 1981, prepared by U.S. Department of Army Corps of Engineers, Chicago District. (pp. 791 - 862)
4. Table of typical leachate quality of coal refuse, SME, "Coal Preparation," 1991. (p. 863)
5. List of reference material and websites. (p. 864)
6. Letter dated July 20, 2007, from Hillsboro engineer to IDNR. (pp. 865 - 867)
7. Letter dated August 2, 2007, from IDNR to Hillsboro Energy. (pp. 868 - 869)
8. Illinois EPA e-mail chain dated July 25, 2007 and August 13, 2007. (p. 870)
9. E-mail chain between Illinois EPA and Hillsboro Energy dated November 9, 14 and 15, 2007, with attachment. (pp. 871 - 872)
10. Application (Book 1) for permit submitted by Hillsboro Energy, received January 10, 2008. (pp. 873 - 1497)
11. Application maps (Book 2). (pp. 1498 - 1512)
12. Permit review by Iwona Ward dated January 10, 2008. (pp. 1513 - 1524)
13. Permit review notes of Amy Zimmer dated January 14, 2008. (pp. 1525 - 1529)
14. Subsurface cross section of permit area, submitted by Hillsboro Energy. (p. 1530)
15. Responses to questions, submitted by Hillsboro Energy engineer. (pp. 1531 - 1544)
16. Illinois EPA memorandum dated February 14, 2008. (pp. 1545 - 1550)
17. Letter from Illinois EPA to Hillsboro Energy dated February 15, 2008. (pp. 1551 - 1557)
18. Letter from Illinois EPA to IDNR dated February 15, 2008. (pp. 1558 - 1561)
19. Consideration of manganese limit on proposed discharge point No. 5, submitted by Hillsboro Energy. (pp. 1562 - 1566)
20. Lake Hillsboro analysis. (pp. 1567 - 1568)
21. Illinois EPA modification letter response compiled March 2008, with attachments,

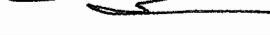
- received March 13, 2008. (pp. 1569 - 1616)
22. Proposal to eliminate discharge, with attachments, dated May 7, 2008, submitted by Hillsboro Energy. (pp. 1617 - 1662)
 23. Illinois memorandum dated May 14, 2008, requesting water quality based effluent limit evaluation, with attachment. (pp. 1663 - 1673)
 24. Illinois memorandum dated May 19, 2008, with antidegradation assessment. (pp. 1674 - 1675)
 25. Illinois memorandum dated May 19, 2008, providing water quality based effluent limit evaluation. (pp. 1676 - 1679)
 26. Permit review by rwona Ward dated May 21, 2008. (pp. 1680 - 1703)
 27. Letter from Illinois EPA to Hillsboro Energy dated June 12, 2008. (p. 1704)
 28. Cover letters dated June 12, 2008, to County Clerk, Montgomery County; Hillsboro Energy; U.S. Army Corps of Engineers (St. Louis); and U.S. Fish & Wildlife Service, and Illinois EPA, Springfield Region, with draft permit, public notice/fact sheet. (pp. 1705 - 1742)
 29. Post card from Montgomery County Clerk acknowledging public notice posting. (p. 1743)
 30. Comment letter requesting public hearing. (pp. 1744 - 1745)
 31. Review of treatment alternatives presented in Sierra Club letter of July 14, 2008. (pp. 1746 - 1747)
 32. Background samples from September 2007 through November 2008, submitted by Hillsboro Energy. (pp. 1748 - 1751)
 33. E-mail chain dated December 30, 2008, between Illinois EPA and IDNR. (p. 1752)
 34. E-mail chain dated December 24, 2008 through January 9, 2009 between Hillsboro Energy contracted engineer and IDNR, with attached analytical results from Teklab, Inc. (pp. 1753 - 1771)
 35. Letter dated January 18, 2009, from Hillsboro Energy to Larry Crislip. (pp. 1772 - 1775)
 36. E-mail dated February 3, 2009, from Larry Crislip to Toby Frevert, with attached questions. (pp. 1776 - 1777)

37. E-mail dated February 11, 2009, from Hillsboro Energy to Larry Crislip, with attached commitments. (pp. 1778 - 1780)
38. Illinois EPA e-mail dated March 13, 2009. (p. 1781)
39. Illinois EPA e-mail chain dated March 20, 2009. (pp. 1782 - 1783)
40. E-mail dated March 27, 2009, from Patton Mining LLC to Larry Crislip. (p. 1784)
41. Letter dated May 14, 2009, from Hillsboro Energy to Sanjay Sofat. (pp. 1785 - 1790)
42. Memorandum dated May 27, 2009, from Division of Legal Counsel to Illinois EPA Director. (p. 1791)
43. Responsiveness Summary, May 29, 2009. (pp. 1792 - 1848)
44. Illinois EPA letter re availability of Responsiveness Summary, May 29, 2009. (p. 1849)
45. Cover letter dated May 29, 2009, with attached NPDES Permit IL0078727, issued and effective May 29, 2009. (pp. 1850 - 1875)

Respectfully submitted,

LISA MADIGAN,
Attorney General of the
State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 5, 2009