



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB No. 10-086</b>
	)	
<b>ILLINOIS FUEL COMPANY, LLC,</b>	)	
<b>a Kentucky limited liability company,</b>	)	
<b>Respondent.</b>	)	

**ANSWER**

Respondent, ILLINOIS FUEL COMPANY, LLC, answers the Complaint as follows:

**COUNT I**  
**NPDES PERMIT VIOLATIONS**  
**SALINE COUNTY MINE**

1. This Complaint is brought the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2008).

**ANSWER:** Respondent admits that the People purport to bring this action pursuant to Section 31 of the Act, but it is without knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 1, and therefore denies the same.

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board (“Board”).

**ANSWER:** Admit.

3. ILLINOIS FUEL COMPANY, LLC, is a Kentucky limited liability company

authorized to do business in Illinois and operates a coal mine commonly known as I-1 Mine located 5 miles northeast of Herod, and within the Shawnee National Forest, in Saline County, Illinois and a coal mine commonly known as Mine #4 located 5 miles southwest of Junction, Gallatin County, Illinois. However, for the purposes of this action, the mines will be referred to respectively as the Saline County mine and the Gallatin County mine.

**ANSWER:** Respondent denies that it has ever mined coal at the Gallatin County mine, and denies that it has mined coal at all times relevant at the Saline County mine, and affirmatively states that it has conducted reclamation activities at both of these locations, but otherwise admits the remaining allegations of paragraph 3.

4. Section 12 of the Act, 415 ILCS 5/12 (2008), provides, in pertinent part, as follows:

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this act.

\* \* \*

(f) Cause or threaten or allow the discharge of any contaminants into the waters of the State...without an NPDES permit for point source discharges...or in violation of any term or condition imposed by such permit....

**ANSWER:** Admit.

5. Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), provides this definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other

legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

**ANSWER:** Admit.

6. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), provides this definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

**ANSWER:** Admit.

7. Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), provides this definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

**ANSWER:** Admit.

8. Mine discharge effluent limitations are set forth in Section 406.106(b) of the

Board’s Mine Related Water Pollution Regulations, 35 Ill.Admin.Code 406.106(b):

Except as provided in Section 406.109 and 406.110, a mine discharge effluent shall not exceed the following levels of contaminants:

Constituent	Storet Number	Concentration
Acidity	00435	(total acidity shall not exceed total alkalinity)
Iron (total)	01045	3.5mg/1
Lead	01051	1 mg/1
Ammonia Nitrogen (as N)	00610	5 mg/1
pH	00400	(range 6 to 9)
Zinc (total)	01092	5 mg/1
Fluoride (total)	00951	15 mg/1
Total suspended solids	00530	35 mg/1
Manganese	01055	2.0 mg/1

**ANSWER:** Respondent denies the inference that Section 406.106 (b) contains the applicable effluent limitation, pursuant to the limitations of Sections 406.109 and 406.110 of the same regulation, but otherwise admits the regulation exists.

9. Section 406.106(b)(2) of the Board's Mine Related Water Pollution Regulations, 35 Ill.Admin.Code 406.106(b)(2), provides as follows:

The manganese effluent limitation is applicable only to discharges from facilities where chemical addition is required to meet the iron or pH effluent limitations. The upper limit of pH shall be 10 for any such facility that is unable to comply with the manganese limit at pH 9. The manganese standard is not applicable to mine discharges which are associated with areas where no active mining, processing or refuse disposal has taken place since May 13, 1976.

**ANSWER:** Respondent denies the inference that Section 406.106 (b) contains the applicable effluent limitation, pursuant to the limitations of Sections 406.109 and 406.110 of the same regulation, but otherwise admits the regulation exists for other non-reclamation activities.

10. As set forth in Section 401.102 of the Board's Mine Related Water Pollution Regulations, 35 Ill.Admin.Code 401.102, the legislative policy for the environmental regulation of coal mining is based upon the following determinations:

...mining activities including the preparation, operation and abandonment of mines, mine refuse areas and mine related facilities without environmental planning and safeguards and the use of certain refuse materials can cause, threaten or allow the discharge of contaminants into the waters of Illinois so as to cause or threaten to cause a nuisance or to render such waters harmful or detrimental to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational or other legitimate uses including use by livestock, wild animals, birds, fish or other aquatic life and riparian vegetation.

**ANSWER:** The allegations of paragraph 10 are legal conclusions and characterizations of the referenced regulation, and therefore Respondent denies same.

11. The purpose of the Board's Mine Related Water Pollution Regulations is stated at Section 401.103, 35 Ill.Admin.Code 401.103:

The purpose of this Subtitle D is to prevent pollution of waters of Illinois caused by failure to plan proper environmental safeguards for the location, preparation, operation and abandonment of mining activities, mining and mine refuse operations. A permit system is established to control the multitude of contaminating point and non-point source discharges, visible and hidden, continuous and fluctuating, which are potentially present in mining activities, mining and mine refuse operations. In order to ensure that such activities meet environmental standards water quality and effluent standards are established to limit discharges from point sources as well as to protect waters for beneficial uses. In addition, procedure safeguards are established to ensure the protection of waters. Furthermore, it is the purpose of this Subtitle D to meet the requirements of Section 402 of the FWPCA.

**ANSWER:** The allegations of paragraph 11 are legal conclusions and characterizations of the referenced regulation, and therefore Respondent denies same.

12. On January 13, 1999 the Illinois EPA issued a permit for the Saline County mine under the National Pollutant Discharge Elimination System (“NPDES”) program of the federal Water Pollution Control Act (“FWPCA” or Clean Water Act”). NPDES Permit No. IL0064611 authorizes discharges from the Saline County mine into waters of the State, including Eagle Creek, Rose Creek, Pruett Branch, Little Eagle Creek and their unnamed tributaries. The NPDES permit for Saline County mine also imposes monitoring and reporting requirements.

**ANSWER:** Respondent denies that the permit was issued to Respondent in January 1, 1999, and affirmatively states that it later requested transfer of said permit to Respondent, but otherwise admits the remaining allegations.

13. NPDES Permit No. IL0064611 imposes effluent limitations for iron, manganese, sulfates, pH, and total suspended solids (“TSS”), applicable to discharges from the Saline County mine. The pH of the effluent must abide within a range (in standard units) of 6.0 to 9.0. The following effluent limitations (as expressed in milligrams per liter or “mg/L”) are also applicable to all outfalls:

<u>Pollutant</u>	<u>30 Day Average</u>	<u>Daily Maximum</u>
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Iron	3.0 mg/L	6.0 mg/L
Manganese	2.0 mg/L	4.0 mg/L
TSS	35.0 mg/L	70.0 mg/L
Sulfates	n/a	3500 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

14. Illinois Fuel Company, LLC, caused or allowed the discharge of iron from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 2004	030	3.0 mg/L	3.28 mg/L
February 2004	049	3.0 mg/L	4.08 mg/L
March 2004	049	3.0 mg/L	4.68 mg/L
May 2004	021	3.0 mg/L	4.08 mg/L
November 2004	027	3.0 mg/L	5.4 mg/L
December 2004	021	3.0 mg/L	3.28 mg/L
December 2004	030	3.0 mg/L	3.56 mg/L
January 2005	027	3.0 mg/L	4.04 mg/L
February 2005	027	3.0 mg/L	3.15 mg/L
March 2005	021	3.0 mg/L	3.12 mg/L
May 2005	021	3.0 mg/L	5.24 mg/L
August 2005	021	3.0 mg/L	5.6 mg/L
August 2005	027	3.0 mg/L	3.68 mg/L
August 2005	028	3.0 mg/L	3.76 mg/L
August 2005	049	3.0 mg/L	3.76 mg/L
August 2005	054	3.0 mg/L	3.12 mg/L
November 2005	021	3.0 mg/L	4.32 mg/L
November 2005	023	3.0 mg/L	3.34 mg/L
November 2005	024	3.0 mg/L	5.84 mg/L
November 2005	049	3.0 mg/L	7.1 mg/L
February 2006	021	3.0 mg/L	4.16 mg/L
February 2006	036	3.0 mg/L	3.4 mg/L
February 2006	049	3.0 mg/L	3.52 mg/L
March 2006	027	3.0 mg/L	3.68 mg/L
March 2006	049	3.0 mg/L	5.28 mg/L
June 2006	028	3.0 mg/L	3.76 mg/L

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August 2006	021	3.0 mg/L	4.8 mg/L
February 2008	049	3.0 mg/L	3.58 mg/L
February 2008	052	3.0 mg/L	4.2 mg/L
August 2008	023	3.0 mg/L	3.48 mg/L
January 2009	021	3.0 mg/L	4.32 mg/L
February 2009	028	3.0 mg/L	3.56 mg/L
August 2009	024	3.0 mg/L	4.76 mg/L
August 2009	028	3.0 mg/L	5.9 mg/L
December 2009	023	3.0 mg/L	3.44 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

15. Illinois Fuel Company, LLC, caused or allowed the discharge of iron from the Saline County mine in excess of the permitted daily maximum effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
November 2005	049	6.0 mg/L	7.1 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

16. Illinois Fuel Company, LLC, caused or allowed the discharge of manganese from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 2004	021	2.0 mg/L	3.33 mg/L
January 2004	022	2.0 mg/L	2.18 mg/L
February 2004	021	2.0 mg/L	2.8 mg/L
February 2004	022	2.0 mg/L	2.56 mg/L
March 2004	021	2.0 mg/L	3.05 mg/L
March 2004	022	2.0 mg/L	2.63 mg/L
March 2004	030	2.0 mg/L	2.18 mg/L
April 2004	022	2.0 mg/L	3.82 mg/L
April 2004	026	2.0 mg/L	7.5 mg/L
May 2004	021	2.0 mg/L	3.52 mg/L
May 2004	022	2.0 mg/L	3.62 mg/L
June 2004	022	2.0 mg/L	3.42 mg/L
June 2004	026	2.0 mg/L	3.72 mg/L

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July 2004	022	2.0 mg/L	5.4 mg/L
August 2004	022	2.0 mg/L	6.3 mg/L
October 2004	022	2.0 mg/L	7.1 mg/L
November 2004	022	2.0 mg/L	3.91 mg/L
December 2004	021	2.0 mg/L	3.14 mg/L
December 2004	022	2.0 mg/L	8.08 mg/L
January 2005	021	2.0 mg/L	3.0 mg/L
January 2005	022	2.0 mg/L	5.08 mg/L
February 2005	021	2.0 mg/L	4.04 mg/L
February 2005	022	2.0 mg/L	9.7 mg/L
February 2005	026	2.0 mg/L	4.15 mg/L
March 2005	021	2.0 mg/L	3.62 mg/L
March 2005	022	2.0 mg/L	4.38 mg/L
April 2005	021	2.0 mg/L	5.0 mg/L
April 2005	022	2.0 mg/L	4.39 mg/L
May 2005	021	2.0 mg/L	3.23 mg/L
May 2005	022	2.0 mg/L	6.1 mg/L
May 2005	030	2.0 mg/L	2.27 mg/L
June 2005	021	2.0 mg/L	2.04 mg/L
June 2005	022	2.0 mg/L	7.9 mg/L
June 2005	030	2.0 mg/L	2.88 mg/L
July 2005	022	2.0 mg/L	5.41 mg/L
July 2005	026	2.0 mg/L	2.04 mg/L
November 2005	022	2.0 mg/L	4.96 mg/L
December 2005	022	2.0 mg/L	4.04 mg/L
January 2006	022	2.0 mg/L	5.11 mg/L
February 2006	022	2.0 mg/L	2.07 mg/L
April 2006	022	2.0 mg/L	3.63 mg/L
May 2006	022	2.0 mg/L	7.05 mg/L
June 2006	022	2.0 mg/L	5.69 mg/L
June 2006	023	2.0 mg/L	2.25 mg/L
June 2006	028	2.0 mg/L	3.62 mg/L
July 2006	022	2.0 mg/L	4.08 mg/L
August 2006	022	2.0 mg/L	2.97 mg/L
September 2006	022	2.0 mg/L	5.87 mg/L
October 2006	022	2.0 mg/L	2.04 mg/L
December 2006	022	2.0 mg/L	2.56 mg/L
January 2007	021	2.0 mg/L	2.48 mg/L
February 2007	021	2.0 mg/L	2.99 mg/L
February 2007	022	2.0 mg/L	2.89 mg/L
March 2007	021	2.0 mg/L	4.26 mg/L
March 2007	022	2.0 mg/L	2.86 mg/L
April 2007	021	2.0 mg/L	2.77 mg/L

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April 2007	022	2.0 mg/L	3.81 mg/L
April 2007	026	2.0 mg/L	2.48 mg/L
May 2007	030	2.0 mg/L	2.11 mg/L
June 2007	022	2.0 mg/L	3.67 mg/L
September 2007	022	2.0 mg/L	4.5 mg/L
October 2007	021	2.0 mg/L	3.48 mg/L
October 2007	022	2.0 mg/L	4.57 mg/L
November 2007	021	2.0 mg/L	2.11 mg/L
November 2007	022	2.0 mg/L	3.33 mg/L
December 2007	021	2.0 mg/L	2.23 mg/L
December 2007	022	2.0 mg/L	2.96 mg/L
February 2008	021	2.0 mg/L	2.19 mg/L
February 2008	022	2.0 mg/L	2.37 mg/L
February 2008	052	2.0 mg/L	2.63 mg/L
March 2008	021	2.0 mg/L	2.62 mg/L
March 2008	028	2.0 mg/L	3.72 mg/L
March 2008	052	2.0 mg/L	2.56 mg/L
April 2008	021	2.0 mg/L	2.8 mg/L
April 2008	026	2.0 mg/L	2.28 mg/L
April 2008	028	2.0 mg/L	2.1 mg/L
April 2008	052	2.0 mg/L	2.88 mg/L
June 2008	022	2.0 mg/L	3.23 mg/L
January 2009	021	2.0 mg/L	3.92 mg/L
January 2009	052	2.0 mg/L	2.33 mg/L
February 2009	021	2.0 mg/L	2.56 mg/L
February 2009	022	2.0 mg/L	4.00 mg/L
February 2009	052	2.0 mg/L	2.11 mg/L
March 2009	022	2.0 mg/L	4.00 mg/L
March 2009	026	2.0 mg/L	2.3 mg/L
March 2009	036	2.0 mg/L	2.72 mg/L
March 2009	052	2.0 mg/L	4.00 mg/L
April 2009	021	2.0 mg/L	2.18 mg/L
April 2009	022	2.0 mg/L	4.00 mg/L
April 2009	052	2.0 mg/L	4.00 mg/L
May 2009	021	2.0 mg/L	2.72 mg/L
May 2009	048	2.0 mg/L	2.97 mg/L
May 2009	052	2.0 mg/L	2.11 mg/L
June 2009	021	2.0 mg/L	2.40 mg/L
June 2009	022	2.0 mg/L	3.70 mg/L
July 2009	022	2.0 mg/L	3.70 mg/L
July 2009	026	2.0 mg/L	3.33 mg/L
August 2009	021	2.0 mg/L	2.76 mg/L
August 2009	022	2.0 mg/L	3.14 mg/L

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September 2009	022	2.0 mg/L	3.1 mg/L
October 2009	022	2.0 mg/L	3.62 mg/L
October 2009	037	2.0 mg/L	2.25 mg/L
November 2009	021	2.0 mg/L	2.11 mg/L
November 2009	022	2.0 mg/L	3.55 mg/L
November 2009	048	2.0 mg/L	3.42 mg/L
December 2009	022	2.0 mg/L	4.00 mg/L
December 2009	023	2.0 mg/L	2.34 mg/L
January 2010	021	2.0 mg/L	2.56 mg/L
January 2010	022	2.0 mg/L	2.97 mg/L
January 2010	023	2.0 mg/L	2.25 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

17. Illinois Fuel Company, LLC, caused or allowed the discharge of manganese from the Saline County mine in excess of the permitted daily maximum effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
December 2004	022	4.0 mg/L	8.08 mg/L
April 2004	026	4.0 mg/L	7.5 mg/L
July 2004	022	4.0 mg/L	5.4 mg/L
August 2004	022	4.0 mg/L	6.3 mg/L
October 2004	022	4.0 mg/L	7.9 mg/L
January 2005	022	4.0 mg/L	5.9 mg/L
February 2005	021	4.0 mg/L	4.04 mg/L
February 2005	022	4.0 mg/L	7.88 mg/L
February 2005	022	4.0 mg/L	11.52 mg/L
February 2005	026	4.0 mg/L	4.15 mg/L
March 2005	022	4.0 mg/L	4.38 mg/L
April 2005	021	4.0 mg/L	4.78 mg/L
April 2005	021	4.0 mg/L	5.23 mg/L
April 2005	022	4.0 mg/L	6.84 mg/L
May 2005	022	4.0 mg/L	6.1 mg/L
June 2005	022	4.0 mg/L	6.3 mg/L
June 2005	022	4.0 mg/L	9.6 mg/L
July 2005	022	4.0 mg/L	4.92 mg/L
July 2005	022	4.0 mg/L	5.9 mg/L
August 2005	022	4.0 mg/L	2.34 mg/L
September 2005	022	4.0 mg/L	3.52 mg/L
October 2005	021	4.0 mg/L	3.62 mg/L

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October 2005	026	4.0 mg/L	2.24 mg/L
November 2005	022	4.0 mg/L	6.5 mg/L
December 2005	022	4.0 mg/L	4.04 mg/L
January 2006	022	4.0 mg/L	8.08 mg/L
April 2006	022	4.0 mg/L	4.38 mg/L
May 2006	022	4.0 mg/L	7.64 mg/L
June 2006	022	4.0 mg/L	6.3 mg/L
July 2006	022	4.0 mg/L	5.4 mg/L
September 2006	022	4.0 mg/L	6.5 mg/L
March 2007	021	4.0 mg/L	4.26 mg/L
April 2007	022	4.0 mg/L	4.38 mg/L
September 2007	022	4.0 mg/L	4.5 mg/L
October 2007	022	4.0 mg/L	4.64 mg/L
December 2007	022	4.0 mg/L	4.15 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

18. Illinois Fuel Company, LLC, caused or allowed the discharge of sulfates from the Saline County mines in excess of the permitted daily maximum effluent limitations as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
August 2005	026	3500 mg/L	3625 mg/L
December 2005	026	3500 mg/L	3625 mg/L
January 2006	026	3500 mg/L	3735 mg/L
April 2006	026	3500 mg/L	3850 mg/L
May 2006	026	3500 mg/L	3625 mg/L
June 2006	026	3500 mg/L	3850 mg/L
July 2006	026	3500 mg/L	3525 mg/L
September 2006	026	3500 mg/L	3735 mg/L
May 2007	026	3500 mg/L	3540 mg/L
June 2007	026	3500 mg/L	3540 mg/L
August 2007	034	3500 mg/L	3840 mg/L
November 2008	026	3500 mg/L	4000 mg/L
December 2008	026	3500 mg/L	3690 mg/L
January 2009	026	3500 mg/L	3930 mg/L
November 2009	026	3500 mg/L	4160 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

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19. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Saline County Mine in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 2004	052	35.0 mg/L	36.0 mg/L
February 2004	030	35.0 mg/L	115.0 mg/L
February 2004	049	35.0 mg/L	39.5 mg/L
February 2004	054	35.0 mg/L	46.0 mg/L
March 2004	024	35.0 mg/L	45.5 mg/L
March 2004	027	35.0 mg/L	99.0 mg/L
March 2004	028	35.0 mg/L	45.5 mg/L
March 2004	035	35.0 mg/L	44.5 mg/L
March 2004	037	35.0 mg/L	36 mg/L
March 2004	048	35.0 mg/L	59 mg/L
March 2004	049	35.0 mg/L	86 mg/L
March 2004	056	35.0 mg/L	42.0 mg/L
May 2004	027	35.0 mg/L	66 mg/L
November 2004	024	35.0 mg/L	48.5 mg/L
November 2004	027	35.0 mg/L	59.2 mg/L
November 2004	030	35.0 mg/L	93.5 mg/L
November 2004	049	35.0 mg/L	76.2 mg/L
November 2004	054	35.0 mg/L	37.7 mg/L
December 2004	027	35.0 mg/L	99.5 mg/L
December 2004	030	35.0 mg/L	97.5 mg/L
December 2004	034	35.0 mg/L	48 mg/L
December 2004	036	35.0 mg/L	45 mg/L
December 2004	037	35.0 mg/L	103.2 mg/L
December 2004	049	35.0 mg/L	53.5 mg/L
January 2005	024	35.0 mg/L	39.5 mg/L
January 2005	054	35.0 mg/L	39.2 mg/L
February 2005	027	35.0 mg/L	54 mg/L
March 2005	023	35.0 mg/L	39 mg/L
March 2005	024	35.0 mg/L	53 mg/L
March 2005	049	35.0 mg/L	42.5 mg/L
May 2005	027	35.0 mg/L	38.5 mg/L
August 2005	023	35.0 mg/L	41.2 mg/L
August 2005	024	35.0 mg/L	67.5 mg/L
August 2005	027	35.0 mg/L	142 mg/L
August 2005	028	35.0 mg/L	97.5 mg/L
August 2005	049	35.0 mg/L	60.5 mg/L
August 2005	052	35.0 mg/L	67 mg/L

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August 2005	054	35.0 mg/L	106 mg/L
November 2005	022	35.0 mg/L	59.2 mg/L
November 2005	023	35.0 mg/L	100 mg/L
November 2005	024	35.0 mg/L	119 mg/L
November 2005	026	35.0 mg/L	48.5 mg/L
November 2005	028	35.0 mg/L	38.5 mg/L
November 2005	036	35.0 mg/L	60 mg/L
November 2005	048	35.0 mg/L	78.5 mg/L
November 2005	049	35.0 mg/L	174.5 mg/L
November 2005	052	35.0 mg/L	69.5 mg/L
November 2005	054	35.0 mg/L	90.5 mg/L
December 2005	037	35.0 mg/L	43.5 mg/L
January 2006	027	35.0 mg/L	47 mg/L
January 2006	049	35.0 mg/L	60.8 mg/L
February 2006	023	35.0 mg/L	36.3 mg/L
February 2006	026	35.0 mg/L	37.3 mg/L
February 2006	027	35.0 mg/L	51.5 mg/L
February 2006	037	35.0 mg/L	37.5 mg/L
February 2006	048	35.0 mg/L	39 mg/L
February 2006	049	35.0 mg/L	94.5 mg/L
February 2006	052	35.0 mg/L	69.8 mg/L
February 2006	054	35.0 mg/L	58.3 mg/L
March 2006	023	35.0 mg/L	44 mg/L
March 2006	027	35.0 mg/L	64.5 mg/L
March 2006	037	35.0 mg/L	39.5 mg/L
March 2006	048	35.0 mg/L	44.8 mg/L
March 2006	049	35.0 mg/L	147 mg/L
March 2006	052	35.0 mg/L	67.5 mg/L
March 2006	054	35.0 mg/L	53.5 mg/L
May 2006	027	35.0 mg/L	49.5 mg/L
May 2006	028	35.0 mg/L	49.5 mg/L
May 2006	049	35.0 mg/L	49 mg/L
May 2006	052	35.0 mg/L	47.5 mg/L
June 2006	027	35.0 mg/L	74 mg/L
July 2006	024	35.0 mg/L	62.5 mg/L
July 2006	027	35.0 mg/L	46.5 mg/L
August 2006	034	35.0 mg/L	39 mg/L
October 2006	027	35.0 mg/L	44 mg/L
October 2006	030	35.0 mg/L	51.5 mg/L
November 2006	027	35.0 mg/L	55.8 mg/L
November 2006	030	35.0 mg/L	51.5 mg/L
December 2006	030	35.0 mg/L	42.3 mg/L
January 2007	027	35.0 mg/L	36.8 mg/L

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January 2007	030	35.0 mg/L	40 mg/L
January 2007	049	35.0 mg/L	45 mg/L
January 2007	052	35.0 mg/L	35.8 mg/L
January 2007	054	35.0 mg/L	46.3 mg/L
February 2007	049	35.0 mg/L	41.8 mg/L
February 2007	054	35.0 mg/L	50 mg/L
March 2007	027	35.0 mg/L	59 mg/L
March 2007	054	35.0 mg/L	49.5 mg/L
April 2007	027	35.0 mg/L	63 mg/L
April 2007	048	35.0 mg/L	40.3 mg/L
September 2007	030	35.0 mg/L	56 mg/L
December 2007	027	35.0 mg/L	136 mg/L
January 2008	023	35.0 mg/L	35.8 mg/L
January 2008	027	35.0 mg/L	39 mg/L
January 2008	030	35.0 mg/L	48 mg/L
January 2008	036	35.0 mg/L	43.5 mg/L
January 2008	048	35.0 mg/L	38.5 mg/L
January 2008	049	35.0 mg/L	50 mg/L
February 2008	023	35.0 mg/L	38.8 mg/L
February 2008	027	35.0 mg/L	70.5 mg/L
February 2008	030	35.0 mg/L	37.8 mg/L
February 2008	037	35.0 mg/L	43 mg/L
February 2008	049	35.0 mg/L	56 mg/L
April 2008	027	35.0 mg/L	50.3 mg/L
May 2008	027	35.0 mg/L	55 mg/L
May 2008	030	35.0 mg/L	52.5 mg/L
July 2008	030	35.0 mg/L	41 mg/L
August 2008	021	35.0 mg/L	36 mg/L
August 2008	023	35.0 mg/L	52 mg/L
August 2008	030	35.0 mg/L	80.5 mg/L
August 2008	052	35.0 mg/L	42.5 mg/L
January 2009	021	35.0 mg/L	50.0 mg/L
February 2009	024	35.0 mg/L	46.5 mg/L
February 2009	028	35.0 mg/L	70.0 mg/L
February 2009	030	35.0 mg/L	70.0 mg/L
February 2009	035	35.0 mg/L	53.5 mg/L
February 2009	049	35.0 mg/L	40 mg/L
April 2009	027	35.0 mg/L	57.7 mg/L
May 2009	028	35.0 mg/L	45.0 mg/L
May 2009	049	35.0 mg/L	67 mg/L
May 2009	051	35.0 mg/L	55 mg/L
June 2009	052	35.0 mg/L	67.0 mg/L
August 2009	021	35.0 mg/L	52 mg/L

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August 2009	024	35.0 mg/L	66 mg/L
August 2009	026	35.0 mg/L	51 mg/L
August 2009	028	35.0 mg/L	61 mg/L
August 2009	030	35.0 mg/L	46 mg/L
August 2009	035	35.0 mg/L	36 mg/L
August 2009	048	35.0 mg/L	40.5 mg/L
September 2009	024	35.0 mg/L	53.5 mg/L
October 2009	024	35.0 mg/L	56.5 mg/L
October 2009	027	35.0 mg/L	37.5 mg/L
December 2009	024	35.0 mg/L	52 mg/L
January 2010	024	35.0 mg/L	63 mg/L
January 2010	036	35.0 mg/L	44.5 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

20. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Saline County Mine in excess of the permitted daily maximum effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 2004	030	70.0 mg/L	115.0 mg/L
March 2004	027	70.0 mg/L	99.0 mg/L
March 2004	049	70.0 mg/L	86 mg/L
November 2004	027	70.0 mg/L	104.5 mg/L
November 2004	030	70.0 mg/L	93.5 mg/L
November 2004	049	70.0 mg/L	82.5 mg/L
December 2004	027	70.0 mg/L	99.5 mg/L
December 2004	030	70.0 mg/L	97.5 mg/L
December 2004	037	70.0 mg/L	103.5 mg/L
December 2004	049	70.0 mg/L	72 mg/L
August 2005	027	70.0 mg/L	142 mg/L
August 2005	028	70.0 mg/L	97.5 mg/L
August 2005	054	70.0 mg/L	106 mg/L
November 2005	022	70.0 mg/L	131.5 mg/L
November 2005	024	70.0 mg/L	119 mg/L
November 2005	036	70.0 mg/L	87 mg/L
November 2005	048	70.0 mg/L	78.5 mg/L
November 2005	049	70.0 mg/L	174.5 mg/L
November 2005	052	70.0 mg/L	97.5 mg/L
November 2005	054	70.0 mg/L	110 mg/L
January 2006	049	70.0 mg/L	75.5 mg/L

February 2006	049	70.0 mg/L	99 mg/L
February 2006	052	70.0 mg/L	79.5 mg/L
February 2006	054	70.0 mg/L	81.5 mg/L
March 2006	049	70.0 mg/L	186 mg/L
March 2006	049	70.0 mg/L	99.5 mg/L
May 2006	049	70.0 mg/L	85.5 mg/L
June 2006	027	70.0 mg/L	74 mg/L
November 2006	027	70.0 mg/L	77 mg/L
November 2006	030	70.0 mg/L	71 mg/L
December 2007	027	70.0 mg/L	136 mg/L
February 2008	027	70.0 mg/L	114.5 mg/L
February 2008	037	70.0 mg/L	73.5 mg/L
April 2008	027	70.0 mg/L	76.5 mg/L
August 2008	030	70.0 mg/L	80.5 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

21. Illinois Fuel Company, LLC, caused or allowed the discharge of pH from the Saline County mine outside of the permitted effluent limitation range of 6.0 to 9.0 standard units as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Actual Discharge</u>
May 2004	021	5.7

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

22. Illinois Fuel Company, LLC, repeatedly caused or allowed the discharge from the Saline County mine of iron, manganese, sulfates, pH and TSS, in excess of the effluent limitations imposed by NPDES Permit No. IL0064611.

**ANSWER:** Respondent denies this allegation, and affirmatively states that at all times it took such actions as appropriate and necessary in response to monitoring.

23. By repeatedly discharging contaminants from the Saline County mine into waters of the State in violation of the terms and conditions of NPDES Permit No. IL0064611, Illinois

Fuel Company, LLC, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

**ANSWER:** Denies.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Find that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and

E. Grant such other and further relief as the Board deems appropriate.

**ANSWER:** Denies.

**COUNT II**  
**WATER POLLUTION VIOLATIONS**  
**SALINE COUNTY MINE**

1-21. Complainant realleges and incorporates herein by reference paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count II.

**ANSWER:** Respondent realleges its answers to the subject paragraphs.

22. Illinois Fuel Company, LLC, caused or allowed the discharge of iron, manganese, sulfates, pH and TSS into waters of the State so as to cause or tend to cause water pollution in

Illinois in combination with matter from other sources. These repeated discharges from the Saline County mine in excess of the permitted concentration levels have likely created a nuisance or rendered such waters harmful or detrimental or injurious to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish or other aquatic life.

**ANSWER:** Denies.

23. By so causing or tending to cause water pollution, Illinois Fuel Company, LLC, has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

**ANSWER:** Denies.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Find that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and the regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and
- D. Grant such other and further relief as the Board deems appropriate.

**ANSWER:** Denies.

**COUNT III**  
**NPDES PERMIT VIOLATIONS**  
**GALLATIN COUNTY MINE**

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through

11 of Count I as paragraphs 1 through 11 of this Count III.

**ANSWER:** Respondent realleges its answers to the subject paragraphs.

12. On May 12, 1999 the Illinois EPA issued a permit for the Saline County mine under the National Pollutant Discharge Elimination System (“NPDES”) program of the federal Water Pollution Control Act (“FWPCA” or “Clean Water Act”). NPDES Permit No. IL0061166 authorizes discharges from the Gallatin County mine into waters of the State, including Eagle Creek and Little Eagle Creek. The NPDES permit for the Gallatin County mine also imposes monitoring and reporting requirements.

**ANSWER:** Respondent denies it was issued an NPDES permit, and is otherwise without sufficient knowledge to admit or deny the allegations, and accordingly denies them.

13. NPDES Permit No. IL0061166 imposes effluent limitations for iron, manganese, sulfates, pH, and total suspended solids (“TSS”), applicable to discharges from the Gallatin County mine. The pH of the effluent must abide within a range (in standard units) of 6.0 to 9.0. The following effluent limitations (as expressed in milligrams per liter or “mg/L”) are also applicable to all outfalls:

<u>Pollutant</u>	<u>30 Day Average</u>	<u>Daily Maximum</u>
Iron	3.0 mg/L	6.0 mg/L
Manganese	2.0 mg/L	4.0 mg/L
TSS	35.0 mg/L	70.0 mg/L
Sulfates	n/a	3500 mg/L

**ANSWER:** Respondent is without sufficient knowledge to admit or deny the allegations, and accordingly denies them.

14. Illinois Fuel Company, LLC, caused or allowed the discharge of iron from the

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Gallatin County mine in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 2009	012	3.0 mg/L	4.05 mg/L
February 2009	020	3.0 mg/L	6.10 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

15. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the

Gallatin County mine in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
March 2004	017	35.0 mg/L	66.5 mg/L
March 2004	019	35.0 mg/L	37 mg/L
March 2004	020	35.0 mg/L	46 mg/L
June 2004	008	35.0 mg/L	43.5 mg/L
June 2004	017	35.0 mg/L	39.5 mg/L
August 2004	017	35.0 mg/L	45 mg/L
November 2004	017	35.0 mg/L	60 mg/L
January 2005	017	35.0 mg/L	41.5 mg/L
February 2005	008	35.0 mg/L	44 mg/L
February 2005	017	35.0 mg/L	78 mg/L
February 2005	020	35.0 mg/L	47 mg/L
November 2005	009	35.0 mg/L	36 mg/L
November 2005	012	35.0 mg/L	82.7 mg/L
November 2005	017	35.0 mg/L	71 mg/L
November 2005	020	35.0 mg/L	36.5 mg/L
January 2006	017	35.0 mg/L	44.8 mg/L
February 2006	012	35.0 mg/L	49.3 mg/L
February 2006	016	35.0 mg/L	50 mg/L
February 2006	017	35.0 mg/L	58 mg/L
February 2006	019	35.0 mg/L	36.3 mg/L
February 2006	020	35.0 mg/L	51.8 mg/L
March 2006	009	35.0 mg/L	37.2 mg/L
March 2006	012	35.0 mg/L	59.8 mg/L
March 2006	017	35.0 mg/L	60.3 mg/L
March 2006	020	35.0 mg/L	43.3 mg/L
April 2006	019	35.0 mg/L	43 mg/L
May 2006	016	35.0 mg/L	51 mg/L

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August 2006	008	35.0 mg/L	52 mg/L
September 2006	019	35.0 mg/L	42 mg/L
October 2006	016	35.0 mg/L	42 mg/L
November 2006	018	35.0 mg/L	37 mg/L
December 2006	017	35.0 mg/L	38.2 mg/L
January 2007	012	35.0 mg/L	41 mg/L
February 2007	012	35.0 mg/L	50.3 mg/L
February 2007	017	35.0 mg/L	48.3 mg/L
February 2007	020	35.0 mg/L	51.8 mg/L
February 2007	040	35.0 mg/L	67.5 mg/L
March 2007	044	35.0 mg/L	63.5 mg/L
April 2007	012	35.0 mg/L	36 mg/L
April 2007	016	35.0 mg/L	66 mg/L
April 2007	044	35.0 mg/L	38.5 mg/L
May 2007	020	35.0 mg/L	50 mg/L
October 2007	017	35.0 mg/L	49.5 mg/L
November 2007	043	35.0 mg/L	99.5 mg/L
January 2008	009	35.0 mg/L	56.5 mg/L
January 2008	012	35.0 mg/L	62 mg/L
January 2008	017	35.0 mg/L	68 mg/L
January 2008	018	35.0 mg/L	50 mg/L
January 2008	019	35.0 mg/L	62.5 mg/L
January 2008	020	35.0 mg/L	80 mg/L
February 2008	009	35.0 mg/L	36.5 mg/L
February 2008	012	35.0 mg/L	92.3 mg/L
February 2008	016	35.0 mg/L	38.5 mg/L
February 2008	017	35.0 mg/L	41.5 mg/L
February 2008	018	35.0 mg/L	38.5 mg/L
February 2008	020	35.0 mg/L	76 mg/L
May 2008	020	35.0 mg/L	162 mg/L
August 2008	012	35.0 mg/L	103.5 mg/L
August 2008	020	35.0 mg/L	105.5 mg/L
August 2008	044	35.0 mg/L	46.5 mg/L
February 2009	008	35.0 mg/L	41.5 mg/L
February 2009	012	35.0 mg/L	68 mg/L
February 2009	017	35.0 mg/L	70.0 mg/L
February 2009	020	35.0 mg/L	69 mg/L
April 2009	012	35.0 mg/L	47 mg/L
May 2009	008	35.0 mg/L	68.5 mg/L
May 2009	020	35.0 mg/L	36.5 mg/L
May 2009	040	35.0 mg/L	61 mg/L
August 2009	020	35.0 mg/L	62 mg/L
August 2009	043	35.0 mg/L	64 mg/L

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January 2010                      020                      35.0 mg/L                      39.5 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

16. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Gallatin County mine in excess of the permitted daily maximum effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 2005	017	70.0 mg/L	78 mg/L
November 2005	012	70.0 mg/L	129.5 mg/L
November 2005	017	70.0 mg/L	87.5 mg/L
January 2006	017	70.0 mg/L	76.5 mg/L
March 2006	012	70.0 mg/L	90.5 mg/L
August 2006	008	70.0 mg/L	70.5 mg/L
November 2007	043	70.0 mg/L	99.5 mg/L
January 2008	020	70.0 mg/L	80 mg/L
February 2008	012	70.0 mg/L	146 mg/L
February 2008	016	70.0 mg/L	72.5 mg/L
February 2008	018	70.0 mg/L	79.5 mg/L
February 2008	020	70.0 mg/L	115 mg/L
May 2008	020	70.0 mg/L	162 mg/L
August 2008	012	70.0 mg/L	103.5 mg/L
August 2008	020	70.0 mg/L	105.5 mg/L

**ANSWER:** Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

17. Illinois Fuel Company, LLC, repeatedly caused or allowed the discharge from the Gallatin County mine of manganese and TSS in excess of the effluent limitations imposed by NPDES Permit No. IL0061166.

**ANSWER:** Respondent denies this allegation, and affirmatively states that at all times it took such actions as appropriate and necessary in response to monitoring.

18. By repeatedly discharging contaminants from the Gallatin County mine into waters of the State in violation of the terms and conditions of NPDES Permit No. IL0061166,

Illinois Fuel Company, LLC, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

**ANSWER:** Denies.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Find that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and

E. Grant such other and further relief as the Board deems appropriate.

**ANSWER:** Denies.

**COUNT IV**  
**WATER POLLUTION VIOLATIONS**  
**SALINE COUNTY MINE**

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count IV.

**ANSWER:** Respondent realleges its answers to the subject paragraphs.

12-18. Complainant realleges and incorporates herein by reference paragraphs 12 through 18 of Count III as paragraphs 12 through 18 of this Count IV.

**ANSWER:** Respondent realleges its answers to the subject paragraphs.

19. Illinois Fuel Company, LLC, caused or allowed the discharge of manganese and TSS into waters of the State so as to cause or tend to cause water pollution in Illinois in combination with matter from other sources. These repeated discharges from the Gallatin County mine in excess of the permitted concentration levels have likely created a nuisance or rendered such waters harmful or detrimental or injurious to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish or other aquatic life.

**ANSWER:** Denies.

20. By so causing or tending to cause water pollution, Illinois Fuel Company, LLC, has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

**ANSWER:** Denies.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Find that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

**ANSWER:** Denies.

**AFFIRMATIVE DEFENSES**

1. Respondent is not, nor was it ever, the permittee of what is being called the Gallatin County Mine, and accordingly cannot have violated its NPDES permit, nor violated water pollution standards premised on it.
2. At all times relevant hereto, Respondent was engaged in lawful reclamation activities pursuant to permits, approvals and directions from the Illinois Department of Natural Resources, which are environmentally needful and beneficial and consequently, the standards being urged against it are inapplicable, and such activities cannot constitute water pollution.
3. Any concentration limits in any referenced NPDES permit should not be construed as applying to reclamation activities, but solely as to active mining operations.
4. Prior to any mining activities at the mines, naturally occurring constituents, including sulfates and manganese, were present which prevent technically and economically reasonable methods for controlling alleged exceedances.

Respectfully submitted,  
ILLINOIS FUEL COMPANY, LLC, Respondent,

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI,  
its attorneys

BY: /s/ Patrick D. Shaw

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