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STATE OF ILLINOIS
OFFICE OF THE ATTORNEY GENERAL *Pollution Control Board*
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

March 23, 1999

Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601-3286

Re: People v. Peabody Coal Company

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING and COMPLAINT in regard to the above captioned matter. Please file the original and return a file-stamped copy to our office in the enclosed self-addressed stamped envelope.

Thank you for your cooperation and consideration.

Sincerely,

Jane E. McBride
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

JEM/bd
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAR 25 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
PEABODY COAL COMPANY,)
a Delaware corporation)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB NO. 99-134
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, complains of Respondent PEABODY COAL COMPANY, as follows:

COUNT I

WATER POLLUTION VIOLATIONS

1. This Complaint is brought by the Attorney General on his 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 ("the Act"), 415 ILCS 5/31 (1998).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (1998), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (1998), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. The Respondent, Peabody Coal Company ("Peabody"), is and was at all times relevant to this Complaint, a Delaware corporation in good standing and authorized to do

business in the State of Illinois. Its registered agent is CT Corporation System, 208 South LaSalle Street, Chicago, IL 60604-1135.

5. The Peabody Coal Eagle No. 2 mine site ("Eagle No. 2") is located in Gallatin County, Illinois. Its main offices are located at the Peabody Coal Company, Midwest Business Unit, 1100 State Route 175 South, Graham, Kentucky 42344. Peabody is a subsidiary of the Peabody Holding Company, Inc. of St. Louis, Missouri. Eagle No. 2 was operated as an underground coal mining facility under a permit issued by the Office of Mines and Minerals of the Illinois Department of Natural Resources from 1968 until July 1993. Eagle No 2 is located on a 250 acre tract of land, approximately one mile northwest of Shawneetown, Illinois at the base of the west side of the Shawneetown Hills. The surface portion of Eagle No. 2 is located in Sections 15, 16, 21 and 22 of Township 9 South, Range 9 East, Gallatin County.

6. Eagle No. 2 is located at the eastern edge of the Henry Aquifer, one of the few Class 1 groundwater resources in southern Illinois. The Saline Valley Conservancy District ("SVCD") public water supply is located to the southwest and hydraulically down-gradient from Eagle No. 2.

7. The SVCD public water supply provides water for 17 communities and water supplies located in four counties serving a total of 27,814 people. The well field consists of five wells. Wells 1 and 3 were constructed in 1982, Well 4 was constructed in 1991, and Well 5 was constructed in 1996.

8. The above-ground operations of Eagle No. 2 included coal processing and refuse disposal. From 1978 until 1993, Peabody constructed and operated the coal preparation plant and six coal refuse disposal areas. Peabody disposed of approximately 12.76 million tons of coarse coal mine waste, coal slurry waste, and other related wastes in the six coal refuse disposal areas at Eagle No. 2. Upon information and belief, the six refuse disposal areas were constructed without barriers at or below the water table within the saturated groundwater zone

of the Henry Aquifer. Upon information and belief, according to Peabody's accounts, coal refuse was disposed in trenches which were excavated 20 to 25 feet below the surface. The coal mine refuse, and other related wastes at Eagle No. 2 contain such inorganic chemicals, including, but not limited to: chlorides, manganese, total dissolved solids, sulfates, and iron, which have leached from the mine refuse at Eagle No. 2 into the groundwater on-site and have migrated off-site of Eagle No. 2.

9. Inorganic chemicals from Eagle No. 2 have contaminated the groundwater on-site and off-site of Eagle No. 2 and threaten the SVCD well fields. The water quality is deteriorating at the SVCD Wells 1,2, 3, and especially at SVCD Well 5. SVCD Wells 1, 2, and 3 are experiencing significant increases of sulfate and chloride in the waters drawn from each well. In SVCD Well 5, the well closest to Eagle No. 2, the sulfate concentration has increased as follows:

<u>Date</u>	<u>Concentration Milligrams Per Liter (mg/l)</u>
July 1996	48.9
June 1997	118
May 1998	141
March 1999	167

The U.S. Environmental Protection Agency's Secondary Maximum Contaminant Level for sulfate is 250 mg/l.

10. Section 620.505 of the Board's Groundwater Quality Standards ("GQS"), 35 Ill. Adm. Code 620.505 (1997), in pertinent part, establishes the groundwater compliance determination location for coal mine refuse disposal areas, as follows:

Compliance Determination

- a) 3) For groundwater which underlies a coal mine refuse disposal area, a coal combustion disposal area, or an impoundment that contains sludge, slurry, or precipitated process material at a coal preparation plant, the outermost edge as specified in Section 620.240(f)(1) or location of monitoring wells in existence as of the date of this part on a permitted site.

11. Under Sections 620.450(b)(4) and (b)(5) of the Board's GQS, 35 Ill. Adm. Code 620.450(b)(4), (b)(5) (1997), the coal refuse disposal areas are subject to the following standards as groundwater quality standards for respective disposal areas:

Alternative Groundwater Quality Standards

* * *

b) Coal Reclamation Groundwater Quality Standards

* * *

- 4) A refuse disposal area (not contained within the area from which overburden has been removed) is subject to the inorganic chemical constituent and pH requirements of:
 - A) 35 Ill. Adm. Code 302.Subparts B and C [35 Ill. Adm. Code 302.304], except due to natural causes, for such area that was placed into operation after February 1, 1983, and before the effective date of this Part [November 25, 1991], provided that the groundwater is a present or a potential source of water for public or food processing;
 - B) Section 620.440(c) [35 Ill. Adm. Code 620.440(c)] for such area that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
 - C) Subpart D [35 Ill. Adm. Code 620.410] for such area that is placed into operation on or after the effective date of this Part [November 25, 1991].
- 5) For a refuse disposal area (not contained within the area from which overburden has been removed) that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(4)(C) and the following applies to the additional area:
 - A) 35 Ill. Adm. Code 302.Subparts B and C [35 Ill. Adm. Code 302.304], except due to natural causes, for additional refuse disposal area that was placed into operation after February 1, 1983, and before the effective date of this Part [November 25, 1991], provided that the groundwater is a present or a potential source of water for public or food processing; and

B) Subpart D [35 Ill. Adm. Code 620.410] for such additional area that was placed into operation on or after the effective date of this Part [November 25, 1991].

12. Upon information and belief, the pertinent dates of operation, the monitoring wells within the outermost edge, and the applicable groundwater quality standards for each refuse disposal area at Eagle No. 2 are listed below.

	<u>Unit Location</u>	<u>Dates of Operation</u>	<u>Applicable Regulation</u>
A.	<u>Slurry No. 1(1A)</u> Slurry Disposal Area Refuse Disposal Area	July 1991-1993 1988-1993	302.304
	Monitoring Wells Within Outermost Edge: GW-9 & MW-7		
B.	<u>Slurry No. 2</u> Slurry Disposal Area	1978-1985	620.440(c)
C.	<u>Refuse No. 3</u> Slurry Disposal Area Refuse Disposal Area	1985-1989 1990-1993	302.304
	Monitoring Wells Within Outermost Edge: GW-4, GW-6, & MW-17		
D.	<u>Slurry No. 5</u> (West Refuse Area) Slurry Disposal Area Refuse Disposal Area	1987-1991 1984-1987	302.304
	Monitoring Wells Within Outermost Edge: GW-11, MW-14, MW-18, MW-23, MW-24 & MW-25		
E.	<u>South 40 Refuse Area)</u> Slurry Disposal Area Refuse Disposal Area	1978-1984	620.440(c)
F.	<u>New South Refuse Area</u> (South Ends of Slurry A1 and A5) Slurry Disposal Area Refuse Disposal Area	1991-1992	302.304

13. Section 302.304 of the Board's Subtitle C: Water Pollution regulations, 35 Ill. Adm. Code 302.304 (1997), provide, in pertinent part, as follows:

The following levels of chemical constituents shall not be exceeded:

<u>CONCENTRATION CONSTITUENT</u>	<u>STORET NUMBER</u>	(mg/l)
Chloride	00940	250.
Iron (dissolved)	01046	0.3
Manganese (total)	01055	0.15
Sulfates	00945	250.
Total Dissolved Solids	70300	500.

14. Section 620.201(a) of the Board's GQS, 35 Ill. Adm. Code 620.201(a) (1997), establishes four classes of groundwater. Section 620.201(a)(1) of the Board's GQS, 35 Ill. Adm. Code 620.201 (1997), provides for Class I: Potable Resource Groundwater. Section 620.210 of the Board's GQS, 35 Ill. Adm. Code 620.210 (1997), provides in pertinent part:

Section 620.210 Class I: Potable Resource Groundwater

Except as provided in Sections 620.230, 620.240, or 620.250, Potable Resource Groundwater is:

a) Groundwater located 10 feet or more below the land surface and within:

* * *

2) Unconsolidated sand, gravel or sand and gravel which is 5 feet or more in thickness and that contains 12 percent or less of fines (i.e. fines which pass through a No. 200 sieve tested according to ASTM Standard Practice D2488-84, incorporated by reference at Section 620.125);

* * *

4) Any geologic material which is capable of a:

A) Sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; or

B) Hydraulic conductivity of 1×10^{-4} cm/sec or greater using one of the following test methods or its equivalent:

- i) Permeameter;
- ii) Slug test; or
- iii) Pump test.

15. The groundwater not located within the outermost edge of the coal refuse

disposal areas and the coal preparation plant at Eagle No. 2 and extending off-site to areas including the SVCD well fields is a Class I, Potable Resource Groundwater as that term is defined in Section 620.210 of the Board's GQS, 35 Ill. Adm. Code 620.210 (1997), and is subject to the Class I, Potable Resource Groundwater Quality Standards of Section 620.410(a) of the Board's GQS, 35 Ill. Adm. Code 620.410(a) (1997).

16. Section 620.410(a) of the Board's GQS, 35 Ill. Adm. Code 620.410 (1997), in pertinent part, provides Class I: Inorganic Chemical Constituents, as follows:

Groundwater Quality Standards for Class I: Potable Resource Groundwater

a) Inorganic Chemical Constituents (Pertinent Parts)

Except due to natural causes or as provided in Section 620.450, concentrations of the following chemical constituents must not be exceeded in Class I groundwater:

<u>CONSTITUENT</u>	<u>UNITS</u>	<u>STANDARD</u>
Chloride	mg/l	200.
Iron (dissolved)	mg/l	5
Manganese (total)	mg/l	0.15
Sulfate	mg/l	400.
Total Dissolved Solids	mg/l	1200.

17. The groundwater monitoring wells which are not located within the outermost edge as specified in Section 620.240(f)(1) of the Board's GQS of the coal refuse disposal areas or the coal preparation plant of Eagle No. 2 and subject to Class I: Potable Resource Groundwater standards for inorganic chemical constituents are as follows:

GW-13, GW-14, GW-15, GW-16, GW-17, GW-18, GW-19, GW-20,
GW-26, MW-1, MW-2, MW-3, MW-4, MW-9, MW-10, MW-19, & MW-21

18. The following sampling results from the monitoring wells at Eagle No. 2 referenced in paragraphs 12 and 17 indicate exceedences of groundwater quality and water quality standards:

GROUNDWATER and WATER QUALITY SAMPLE RESULTS AT EAGLE NO. 2

All Results and Applicable Standards are Milligrams Per Liter ("mg/l")

<p>GW-4, which is located in the northwest quadrant of Refuse no. 3, was drilled on 11/08/94, penetrates coarse refuse to a 24.5 foot depth. GW-4 has a depth of 37 feet and is screened from 32 to 37 feet. GW-4 was last sampled on 06/22/95. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
12/13/94		0.95	1130	392	1.74
12/28/94		0.71	1295	558	3.22
01/10/95		0.58	1330	516	2.43
01/24/95		0.78	1405	593	2.61
02/08/95		0.55	1595	572	3.27
02/21/95		0.72	1475	533	2.31
03/07/95		0.45	1380	551	1.26
03/23/95		0.39	1295	532	1.45
04/04/95		0.30	1295	490	2.62
04/18/95		0.39	1340	468	
05/03/95		0.34	1360	513	1.65
05/16/95		0.37	1340	525	1.86
06/22/95		0.31	1345	427	
<p>GW-6 is located within the southwest quadrant of Refuse no. 3, was drilled on 11/08/94, penetrates coarse refuse to 34 feet. GW-6 has a depth of 42 feet and is screened from 37 to 42 feet. GW-6 was last sampled on 06/22/95. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
12/13/94	446.3	2.74	7645	4021	

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
12/28/94	509.5	2.97	7760	4031	
01/10/95	1004.4	2.76	7830	3950	
01/24/95	476.5	2.70	7445	3358	
02/08/95	421.4	2.74	7395	3661	
04/04/95	387.7	2.34	6950	4082	0.62
04/18/95	205.9	2.60	6400	3703	
05/03/95	251.4	2.27	6160	3263	
05/16/95	303.3	2.38	6415	3613	
06/22/95	292.7	2.51	5885	2747	

GW-9 is located within the inside toe of the Slurry no. 1A east berm, was drilled on 11/07/94, penetrates coarse refuse to 39 feet, has a depth of 55 feet, and is screened from 47.5 to 52.5 feet deep. GW-9 was last sampled on 06/22/95. The monitoring well has not been abandoned as of the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
12/13/94		1.93	3380		11.70
12/28/94		1.96	3230	1872	11.00
01/10/95		1.58	3340	1916	11.20
01/24/95		1.36	3270	1403	15.20
02/08/95		1.48	3430	1825	19.20
02/21/95		1.60	3615	2022	19.00
03/07/95		1.79	3485	1902	15.80
03/23/95		1.54	3130	1905	10.40
04/04/95		1.72	3160	1905	7.20
04/18/95		1.93	3240	1763	4.39
05/03/95		2.28	2930	1631	3.41
05/16/95		3.19	2835	1555	3.55
06/22/95		3.33	2845	1295	1.08

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
<p>GW-11 is located approximately within the Slurry no. 5 east berm, was drilled on 11/07/94, penetrates coarse refuse from surface to 14 feet, coal slurry from 14 to 28 feet, and coarse refuse from 28 to feet deep to 53, has a depth of 60 feet, and is screened from 53 to 58 feet deep. GW-11 was last sampled on 06/22/95. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
12/13/94		0.58	1260	639	1.60
12/28/94		0.74	1590	808	4.83
01/10/95		0.77	1820	884	4.98
01/24/95		0.94	2755	1209	21.10
02/08/95		0.93	2345	1120	13.50
02/21/95		0.89	3110	1452	23.00
03/07/95		0.99	2905	1119	15.00
03/23/95		1.18	3200	1735	8.60
04/04/95		0.94	3005	1610	7.20
04/18/95		1.04	2750	1573	
05/03/95		0.92	3805	2076	15.80
05/16/95		0.94	3755	2017	22.70
06/22/95	270.1	0.78	3710	1147	18.00
<p>GW-13 is approximately 50 feet outside of the northwest corner of Slurry No. 2 berm, was drilled on 11/16/94, has a depth of 51.5 feet, and is screened from 43.5 to 48.5 feet deep. GW-13 was last sampled on 03/23/95. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
03/23/95		0.22			

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
<p>GW-14 is approximately 200 feet outside of the west side of the Slurry no. 2 berm, was drilled on 11/16/94, has a depth of 51.5 feet, and is screened from 44.3 to 49.3 feet deep. GW-14 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
02/21/95		0.22			
03/07/95		0.20			
03/23/95		0.18			
<p>GW-15 is located approximately 200 feet west of the Refuse no. 3 west berm, was drilled on 11/17/94, has a depth of 51.5 feet, and is screened from 44.3 to 49.3 feet. GW-15 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
12/13/94		2.08	1380		
12/28/94		1.45	1480	705	
01/10/95		1.71	1525	711	
01/24/95		1.90	1480	683	
02/08/95		2.03	1635	680	
02/21/95		1.63	1715	726	
03/07/95		1.54	1650	717	
03/23/95		1.50	1485	716	
<p>GW-16 is located approximately 200 feet northeast of the Slurry no.1-A north berm, was drilled on 11/17/94, has a depth of 20.5 feet, and is screened from 14.8 to 19.8 feet deep. GW-16 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
02/21/95		0.99	1235	467	
03/07/95		1.21	1270	489	
03/23/95		1.29	1225	532	

GW-17 is located approximately 400 feet north of the Slurry no. 1-A north berm, was drilled on 11/18/94, has a depth of 51.5 feet, and is screened from 44.8 to 49.8 feet deep. GW-17 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
02/21/95		0.46	1250	437	
03/07/95		0.45		405	
03/23/95		0.39		405	

GW-18 is located approximately 700 feet north of the Slurry no. 5 berm, was drilled on 11/18/94, has a depth of 50 feet, and is screened from 45 to 50 feet. GW-18 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
12/14/94		1.42	1295	528	
12/28/94		1.86	1295	536	
01/10/95		1.86	1340	559	
01/24/95		1.93	1375	613	
02/08/95		2.05	1685	673	
02/21/95		1.95	1550	615	
03/07/95		1.94	1540	627	

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
03/23/95		1.86	1430	635	
<p>GW-19 is located approximately 850 feet north of the Slurry no. 5 berm, was drilled on 11/19/94, has a depth of 50 feet, and is screened from 45 to 50 feet. GW-19 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
02/21/95		0.53			
03/07/95		0.43			
03/23/95		0.49			
<p>GW-20 is located approximately 700 feet north of the Slurry no. 5 berm, was drilled on 11/18/94, has a depth of 50 feet, and is screened from 45 to 50 feet. GW-20 was last sampled on 03/23/95. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
12/28/94		0.20			
01/10/95		0.21			
01/24/95		0.24			
02/08/95		0.31			
02/21/95		0.18			
03/07/95		0.16			
03/23/95		0.22			
<p>GW-26 is located greater than 50 feet south of the South 40 refuse area (south of the south borrow area), was drilled on 11/14/94, has a depth of 50 feet and is screened from 45 to 50 feet deep. GW-26 was last sampled on 06/22/95. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
12/13/94		0.26			
12/28/94		0.31			
01/10/95		0.29			
01/24/95		0.40			
02/08/95		0.40			
02/21/95		0.42			
03/07/95		0.45			
03/23/95		0.43			
04/04/95		0.29			
04/18/95		0.40			
05/03/95		0.39			
05/16/95		0.38			
06/22/95		0.42			

MW-1 is located approximately 22 feet west of the Refuse no. 3 west berm, was drilled on 06/26/80, has a depth of 40 feet, and is screened from 10 to 40 feet. However, MW-1 was sampled previous to the operation of Refuse no. 3, and therefore would be located south of Slurry No. 2 when it operated from 1978 to 1985. MW-1 is located over 25 feet horizontally from the Slurry No. 2 impoundment toe. MW-1 was last sampled on 06/27/84. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
08/22/80		0.43		416	
09/19/80		0.24			
10/15/80		0.33			
12/09/80		0.28			
03/17/81		0.37			

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
05/20/81		0.27		420	
07/21/81		0.25		430	
03/30/82		0.25		404	
05/04/82		0.37		423	
07/27/82		0.19		401	
12/16/82		0.19			
03/18/83		0.17			
06/14/83		0.23			
09/30/83		0.18			
12/21/83		0.22			
03/21/84		0.6			
06/27/84		0.23			

MW-2 is approximately 47 feet outside of the northwest corner of the Slurry no. 2 berm, was drilled on 03/10/87, has a depth of 50 feet, and is screened from 40 to 50 feet deep. MW-2 was last sampled on 06/22/96. The monitoring well has not been abandoned as of the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
03/09/84		0.16			
06/22/95		0.61			
07/20/95		0.88		644	
09/19/95		0.68			
10/17/95		0.60			
11/14/95		0.54			
01/16/96		0.31			
04/18/96		0.48			
07/31/96		0.83			
10/16/96		0.86			

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
<p>MW-3 is approximately 1,000 feet outside of the northeast corner of the Slurry no. 2 berm, was drilled on 07/03/80, has a depth of 53 feet, and is screened from 20 to 50 feet deep. MW-3 was last sampled on 10/16/96. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
04/18/95					36.40
05/03/95					12.40
05/16/95					9.30
08/18/95					5.45
09/19/95					5.87
10/17/95					8.60
11/14/95					7.10
01/16/96					22.60
07/31/96					7.40
10/16/96					9.00
<p>MW-4 is located approximately 200 feet west of the Slurry no. 5 west berm, was drilled on 07/07/80, has a depth of 50 feet, and is screened from 20 to 50 feet. MW-4 was last sampled on 8/29/94. Peabody has plugged and abandoned this monitoring well before the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
03/21/84		0.7			
04/27/84		0.63			
05/31/84		0.64			
06/27/84		0.7			
07/31/84		0.86			
08/29/84		0.59			

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
<p>MW-7 is located within the northeast corner of the Slurry no. 1A berm, was drilled on 03/16/87, penetrates coarse refuse to 25 feet, has a depth of 50 feet, and is screened from 40 to 50 feet deep. MW-7 was last sampled on 10/16/96. The monitoring well has not been abandoned as of the date of the filing of the complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
04/04/95			835	317	
04/18/95			865	329	
05/03/95			1025	332	
05/16/95			830	330	
06/22/95			975	272	
07/31/96				437	
10/16/96				423	
<p>MW-9 is located 50 feet from the northwest corner of the Slurry no. 1A berm, was drilled on 06/13/80, has a depth of 132 feet, and is screened from 119 to 131 feet deep. Figure 3-5A of Cross Section B of the Plans and Specifications of the PCC Site Characterization Report and the Corrective Action Plan locates MW-9 beyond the 302.304 compliance point from Slurry no. 1A. MW-9 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last three sampling dates were added per the Attorney General's Request, dated 09/18/98.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
12/21/83			1325	478	
01/31/84			1230	503	
02/24/84				476	
03/21/84			1208	475	
04/27/84			1235	495	
05/31/84			1240	466	
06/27/84			1260	480	

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
07/31/84			1210	480	
08/29/84			1235	475	
05/19/94		0.46	1800	855	
08/16/94		0.51	1870	876	
11/15/94		0.46	1685	797	
12/13/94		0.44	1660	797	
12/28/94		0.49	1690	778	
01/10/95		0.47	1750	812	
01/24/95		0.44	1660	717	
02/08/95		0.45	2110	738	
02/21/95		0.43	1760	770	
03/07/95		0.45	1815	745	
03/23/95		0.42	1728	821	
04/04/95		0.35	1700	809	
04/18/95		0.49	1820	839	
05/03/95		0.41	2085	713	
05/16/95		0.27		483	
06/22/95		0.46	1755	642	
07/20/95		0.54	1855	849	
08/18/95			1950	865	
09/19/95		0.56	1915	865	
10/17/95	249	0.55	1905	819	
11/14/95		0.58	1860	946	
12/12/95		0.53	1865	861	
01/16/96		0.50	1815	606	
04/18/96		0.47	1765	820	
07/31/96		0.53	1935	771	
10/16/96		0.56	1845	861	

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
05/21/97		0.45	1835	819	
07/31/97		0.58	1855	875	
12/12/97		0.58	1815	764	
02/25/98		0.53	1615	742	
05/14/98		0.54	1720	776	
08/26/98		0.55	1750	797	
10/18/98		0.55	1635	752	

MW-10 is located greater than 50 feet west of the South 40 refuse area (Southwest corner of the south borrow area), was drilled on 10/03/83, has a depth of 50 feet and is screened from 30 to 50 feet deep. MW-10 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last two sampling dates were added per the Attorney General's Request, dated 09/18/98.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
12/22/83		2.12			
01/31/84		1.09			
02/24/84		0.59			
03/21/84		0.36			
04/27/84		0.32			
07/31/84		0.16			
07/20/95		0.16			
09/19/95		0.43			
10/16/96		0.54			
02/25/98		0.16			
08/26/98		0.30			
10/18/98					5.43

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
<p>MW-14 is located 14 feet from the Slurry no. 5 west berm, was drilled on 09/13/84, has a depth of 100 feet, and is screened from 60 to 100 feet deep. MW-14 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last three sampling dates were added per the Attorney General's Request, dated 09/18/98.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304)</small>	250	0.15	500	250	0.3
04/26/89			670		
05/25/89			670		
06/26/89			740		
01/24/92			2220	1065	
02/25/92			2265	1108	
03/26/92			2310	1176	
04/23/92			2715	1232	
05/23/92			2835	1087	
06/23/92			2240	1090	
10/28/92			1952	991	
12/15/92			1910	912	
01/26/93			2100	970	
02/03/93			2160	1033	
03/23/93			2180	1116	
04/23/93			1945	972	
05/25/93			2108	921	
06/22/93			2515	931	
07/30/93			2108	977	
08/27/93			2004	917	
09/21/93		0.27	1924	922	8.90
10/25/93			1836	835	
11/22/93			1990	878	

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
12/29/93		0.27	1605	685	11.60
01/24/94			1880	850	
02/23/94			1865	829	
03/24/94		0.40	1795	874	6.28
05/19/94		0.39	1715	775	8.40
08/16/94		0.42	1730	739	7.80
11/15/94		0.41	1690	784	9.10
12/13/94		0.42	1760	832	9.10
12/28/94		0.31	1585	734	12.60
01/10/95		0.33	1685	768	8.30
01/24/95		0.36	1570	683	14.20
02/08/95		0.30	1460	594	32.80
02/21/95		0.31	1595	674	23.90
03/07/95		0.27	1540	599	24.10
03/23/95		0.18	1232	514	13.10
04/04/95		0.16	1215	484	20.20
04/18/95		0.19	1180	432	11.50
05/03/95		0.21	1265	339	13.50
05/16/95		0.19	990	371	15.70
06/22/95		0.21	1025	354	12.70
07/20/95		0.22	910	288	12.10
08/18/95			1045	373	10.30
09/19/95		0.20	945	316	10.50
10/17/95		0.20	975	331	14.80
11/14/95		0.21	1055	383	9.50
12/12/95		0.19	1180	432	8.50
01/16/96		0.18	1210	572	9.50
04/18/96		0.19	1215	493	14.10

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
07/31/96		0.27	1030	393	9.90
10/16/96		0.31	1575	734	10.30
05/01/97		0.27			19.30
07/31/97		1.15	1180	539	17.50
12/12/97		0.80	2305	997	8.06
02/25/98		0.88	2245	1053	17.40
05/14/98		0.85	2320	1037	18.60
08/26/98		0.73	2345	994	21.30
10/18/98		0.73	2260	1085	19.90

MW-17 is located approximately 21 feet west of the Refuse no. 3 west berm, was drilled on 01/25/85, has a depth of 50 feet, and is screened from 20 to 50 feet. MW-17 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last three sampling dates were added per the Attorney General's Request, dated 09/18/98.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
06/26/89			970		0.58
03/26/92			1295	511	
06/23/92			1350	273	
12/15/92			1305	556	
03/23/93			1630	692	
06/22/93			2105	642	
09/14/93		0.68	1620	706	4.72
12/29/93		0.20	1205	415	2.78
03/24/94		0.33	1340	556	2.69
05/19/94		0.97	1450	577	1.98
08/16/94		0.45	785		4.08
11/15/94		0.30	680		1.23

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
02/09/95			790		.96
04/04/95			830		0.41
04/18/95			888		1.13
05/03/95			900		0.65
05/16/95		0.35	670		0.84
06/22/95		0.62	680		0.34
07/20/95		0.43	625		0.53
07/31/95		0.63			
08/18/95			635		8.30
09/19/95		0.68	635		
10/17/95		0.34	590		
11/14/95		0.29	625		
12/12/95			620		
01/16/96			620		
03/18/96			615		0.98
07/31/96		0.63	505		2.33
10/16/96		0.72	530		1.22
07/31/97		0.36			
05/14/98		0.30			1.34
08/26/98		0.27			3.4
10/18/98		0.27			5.15
<p>MW-18 is located approximately 17 feet west of the central part of Slurry no. 5 berm, was drilled on 01/30/85, has a depth of 50 feet, and is screened from 20 to 50 feet deep. MW-18 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last three sampling dates were added per the Attorney General's Request, dated 09/18/98.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards	250	0.15	500	250	0.3

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Parameter	Chloride	Manganese	TDS	Sulfate	Iron
04/26/89			1220	468	
05/25/89			1225	531	
06/26/89			1275	532	3.31
01/24/92			1485	710	
02/25/92			1635	776	
03/26/92			1680	859	
04/23/92			2160	859	
05/29/92			2165	839	
06/23/92			1835	794	1.15
10/28/92			1908	920	
12/15/92			2335	933	
01/26/93			1820	818	
02/03/93			1560	693	
03/23/93			1390	592	0.52
04/27/93			1400	645	
05/25/93			1476	631	
06/22/93			2310	833	
07/30/93			2068	971	
08/27/93			2020	929	
09/21/93		0.34	2004	956	11.0
10/25/93			1492	630	
11/22/93			1740	712	
12/29/93		0.37	1725	769	12.4
01/24/94			2010	915	
02/23/94			2010	1004	
03/24/94		0.53	2210	1129	8.28
05/19/94		0.49	1940	935	10.70
08/16/94		0.56	2170	1029	9.80

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
11/15/94		0.32	1350	582	5.69
02/09/95		1.90	2060	981	11.00
05/16/95		2.30	2470	1239	5.26
08/04/95		2.30	2205	1110	3.06
11/28/95		1.18	1730	970	16.60
02/07/96		1.04	1656	906	103
05/14/96		0.92	1250	591	60.0
08/20/96		1.06	1405	847	0.69
11/19/96		1.04	1400	646	27.10
05/01/97		0.74	1240	611	1.07
07/31/97		1.07	1135	608	10.10
12/12/97		0.99	1875	845	8.84
02/25/98		0.86	1580	796	12.30
05/14/98		0.80	1435	744	27.10
08/26/98		0.83	1544	771	1.94
10/18/98		0.85	1795	930	0.85

MW-19 is on the west side of the Slurry no. 5 west berm, was drilled on 09/06/86, has a depth of 135 feet, and is screened from 80 to 135 feet. MW-19 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last three sampling dates were added per the Attorney General's Request, dated 09/18/98.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
03/23/94		0.50	1705	776	6.88
04/19/94			1715	787	
05/19/94		0.53	1795	868	6.10
08/16/94		0.56	1815	853	6.50
11/15/94		0.57	1790	863	7.50
12/13/94		0.58	1895	900	7.40

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
12/28/94		0.57	1855	852	7.30
01/10/95		0.59	1925	884	6.90
01/24/95		0.56	1880	863	6.90
02/08/95		0.56	1985	839	6.90
02/21/95		0.55	2000	904	7.00
03/07/95		0.58	1995	863	7.20
03/23/95		0.51	1876	934	7.00
04/04/95		0.29	1800	922	
04/18/95		0.58	1924	883	6.27
05/03/95		0.54	2345	847	5.87
05/16/95		0.50	1875	882	6.50
06/22/95		0.55	1880	719	6.70
07/20/95		0.59	1920	849	6.30
08/18/95			1960	942	8.00
09/19/95		0.61	1945	928	6.90
10/17/95		0.62	1985	882	6.50
11/14/95		0.63	1925	1014	10.00
12/12/95		0.62	2040	969	7.10
01/16/96		0.59	1950	990	7.20
04/18/96		0.59	1970	991	7.10
07/31/96		0.64	2080	961	7.40
10/16/96		0.68	2100	1029	12.20
05/01/97		0.62	2010	959	9.90
07/31/97		0.66	1940	952	10.50
12/12/97		0.58	1915	782	7.57
02/25/98		0.61	1975	958	7.90
05/14/98		0.60	2045	985	9.20
08/26/98		0.68	2160	1027	18.40

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
10/18/98		0.62	2065	1074	12.80
<p>MW-21 is located greater than 50 feet west of the South 40 refuse area (within the south borrow area), was drilled on 9/14/92, has a depth of 136 feet and is screened from 111 to 136 feet deep. MW-21 was last sampled on 10/18/98. Peabody continues to sample this monitoring well quarterly. The violations of the last three sampling dates were added per the Attorney General's Request, dated 09/18/98.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
01/26/93				404	
02/03/93				429	
03/23/93				445	
04/27/93				443	
05/25/93				419	
06/22/93			1455	438	
07/30/93				422	
09/14/93		0.25		407	
12/29/93		0.23			
03/25/94		0.22			7.08
05/19/94		0.24			
08/16/94		0.25			
11/15/94		0.27			
12/13/94		0.28		425	
12/28/94		0.27		410	
01/10/95		0.29			
01/24/95		0.28		405	
02/09/95		0.28			
02/21/95		0.27		404	
03/07/95		0.29			

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
03/23/95		0.25		410	
04/04/95		0.19			
04/18/95		0.30			
05/03/95		0.27	1310		
05/16/95		0.25			
06/22/95		0.27			
07/20/95		0.27			
09/19/95		0.29			
10/17/95		0.27			
11/14/95		0.28		410	
12/12/95		0.27			
01/16/96		0.26		424	
04/18/96		0.27		417	
07/31/96		0.26			
10/16/96		0.28			
05/01/97		0.26			
07/31/97		0.21			
02/25/98		0.28			
08/26/98		0.26			
10/18/98		0.28			
10/18/98		0.28			

MW-23 is located 15 feet from the southwest corner of the Slurry no. 5 west berm, was drilled on 09/13/92, has a depth of 50 feet, and is screened from 40 to 50 feet. MW-23 was last sampled on 11/19/96. The monitoring well has not been abandoned as of the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
01/22/93			940	433	1.07

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
02/03/93			1060	507	1.45
03/23/93			780	285	1.67
04/27/93			1340	667	2.43
05/25/93			1352	617	1.35
06/24/93			1252	641	2.86
07/30/93			1528	709	2.71
10/05/93		0.22	1396	558	2.17
11/22/93		0.43	1595	719	4.74
01/24/94		0.67	2545	1234	7.0
02/16/94		0.46		828	4.62
03/04/94		0.43	1495	748	3.54
04/19/94		0.63	2035	1010	5.36
06/02/94		0.73	2020	1020	5.66
08/16/94		0.71	1800	889	5.18
02/09/95		0.75	1710	850	5.56
05/16/95		0.79	1895	931	5.67
08/04/95		0.85	2095	907	6.30
11/28/95		0.89	2020	1027	5.98
02/07/96		0.89	1932	965	
08/20/96		0.79	1915	956	6.70
11/19/96		1.06	2260	1043	11.80

MW-24 is located less than 6 feet from the Slurry no. 5 west berm, was drilled on 09/17/92, has a depth of 50 feet, and is screened from 40 to 50 feet. MW-24 was last sampled on 10/16/96. The monitoring well has not been abandoned as of the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards	250	0.15	500	250	0.3
<small>35 Ill. Adm. Code 302.304</small>					
01/22/93			1875	901	2.92

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
02/03/93			1870	841	2.66
03/23/93			1655	764	3.25
04/27/93			1580	723	4.38
05/25/93			1624	678	3.68
06/24/93			1192	552	3.24
07/30/93			1440	598	4.05
08/19/93			1248	472	3.75
09/07/93			1264	512	3.43
10/12/93		0.38	1048	384	2.61
11/22/93		0.36	1085	348	2.63
12/29/93		0.35	990	407	2.51
01/24/94		0.35	990	355	2.41
02/16/94		0.33	1235	314	2.35
03/24/94		0.33	935	365	2.36
04/19/94		0.30	850	341	2.12
06/02/94		0.23	1025	287	1.78
08/16/94		0.27	935	290	1.61
12/13/94		0.26	895	313	
12/28/94		0.21	850	273	
01/10/95		0.20	890	265	
01/24/95		0.22	885	259	0.98
02/08/95		0.21	845	271	1.90
02/21/95		0.24	920	276	0.84
03/07/95			950	271	2.08
03/23/95			960	336	1.30
04/04/95			975	358	1.51
04/18/95			1064	398	0.41
05/03/95		0.24	1285	360	0.85

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
05/16/95		0.25	930	336	1.80
06/22/95		0.33	935		4.26
07/20/95		0.33	880	293	4.05
08/18/95			915	291	5.87
09/19/95		0.27	940	280	2.30
10/17/95		0.33	1055	313	1.20
11/14/95		0.16	1140	458	1.84
12/12/95		0.36	1195	468	3.85
01/16/96		0.58	1740	882	4.91
04/18/96			1105	455	0.37
07/31/96		0.46	965	330	1.86
10/16/96		0.49	970	328	3.26

MW-25 is located less than 6 feet from the west toe of the Slurry no. 5 west berm, was drilled on 09/14/92, has a depth of 50 feet, and is screened from 40 to 50 feet deep. MW-25 was last sampled on 10/16/96. The monitoring well has not been abandoned as of the date of the filing of the complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3
01/22/93			1190	500	1.09
02/03/93			1180	470	1.73
03/23/93			1165	472	3.77
04/27/93			1195	546	2.74
05/25/93			1304	543	
06/24/93			1840	895	5.75
07/30/93			2028	931	4.30
08/19/93			2140	1010	12.90
09/07/93			2084	995	10.10
10/12/93		0.57	1908	866	10.10

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
11/22/93		0.39	1570	626	9.30
12/29/93		0.44	1845	950	9.80
01/24/94		0.46	2115	1006	8.50
02/16/94		0.53	2200	1038	9.90
03/24/94		0.67	2610	1370	10.28
04/19/94		0.55	2240	972	8.30
06/02/94		0.50	2260	1073	8.50
08/16/94		0.74	2980	1510	11.70
12/13/94		0.44	1690	797	5.94
12/28/94		0.36	1555	668	
01/10/95		0.34	1540	675	12.50
01/24/95		0.25	1450	586	1.57
02/08/95		0.30	1045	428	8.20
02/21/95		0.29	1555	644	9.10
03/07/95		0.27	1490	620	0.80
03/23/95		0.37	1704	805	5.82
04/04/95		0.35	1665	756	2.74
04/18/95		0.37	1568	676	6.30
05/03/95		0.36	1825	629	4.05
05/16/95		0.29	1355	588	4.58
06/22/95		0.23	1355	486	2.27
07/20/95		0.37	1440	596	9.70
08/18/95			1620	745	13.60
09/19/95		0.53	1785	734	8.50
10/17/95		0.61	1725	771	6.80
11/14/95		0.92	2055	1111	4.10
12/12/95		0.93	2105	1035	12.50
01/16/96		1.14	2355	1273	21.10

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
04/18/96		1.38	2585	1434	20.90
08/20/96		1.23	2355	1220	18.00
10/16/96		1.18	2315	1340	26.30

19. Section 3.06 of the Act, 415 ILCS 5/3.06 (1998), provides:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

20. Section 3.33 of the Act, 415 ILCS 5/3.33 (1998), provides:

"RELEASE" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act; and (d) the normal application of fertilizer.

21. Section 3.55 of the Act, 415 ILCS 5/3.55 (1998), provides:

"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.

22. Section 3.56 of the Act, 415 ILCS 5/3.56 (1998), provides:

"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.

23. Section 12(a) and (d) of the Act, 415 ILCS 5/12(a), (d) (1998), provide:

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.

* * *

d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

24. The discharge or release of inorganic chemicals including chlorides, manganese, TDS, sulfates, and iron into the groundwater at Eagle No. 2 are "contaminants" as that term is defined in Section 3.06 of the Act 415 ILCS 5/3.06 (1998).

25. The groundwater at Eagle No. 2 is a "water" of this State as that term is defined in Section 3.56 of the Act 415 ILCS 5/3.56 (1998).

26. By causing or allowing the discharge of chloride, manganese, TDS, sulfate and iron at levels above applicable water quality and groundwater quality standards, the Respondent has caused or tended to cause water pollution, and has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (1998).

27. By causing or allowing the deposit of coal mine refuse and other related wastes upon the land so as to create water pollution hazard, the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (1998).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Peabody Coal Company:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000)

for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter.

COUNT II

VIOLATION OF GROUNDWATER QUALITY STANDARDS

1-25. Complainant re-alleges and incorporates by reference paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count II.

26. Section 620.110 of the Board's GQS, 35 Ill. Adm. Code 620.110 (1997), and Section 3.64 of the Act, 415 ILCS 5/3.64 (1998), provide the following definition:

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure.

27. Section 620.301(a) of the Board's GQS, 35 Ill. Adm. Code 620.301(a) (1997), provides:

Section 620.301 General Prohibition Against Use Impairment of Resource Groundwater

- a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:
 - 1) Treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or
 - 2) An existing or potential use of such groundwater is precluded.

* * *

28. The water beneath Eagle No. 2 and extending off-site to areas including the SVCD well fields is "groundwater" as that term is defined in Section 620.110 of the Board's GQS, 35 Ill. Adm. Code 620.110 (1997), and in Section 3.64 of the Act, 415 ILCS 5/3.64 (1998).

29. By causing or allowing the release of inorganic chemicals to enter the groundwater, and causing the groundwater within the outermost edge of the Eagle No. 2 coal refuse areas at the monitoring well locations as noted in paragraphs 12 and 18 to exceed the

groundwater quality standards for coal refuse disposal areas pursuant to Section 620.450(b)(4) and (b)(5) of Board's GQS, 35 Ill. Adm. Code 620.450(b)(4) and (b)(5) (1997), the Respondent has violated and continues to violate Section 12(a) of the Act, 415 ILCS 5/12(a)(1998), and 35 Ill. Adm. Code 302.304 (1997).

30. By causing or allowing the release of inorganic chemicals to enter the groundwater, and causing the groundwater not located within the outermost edge of the coal refuse disposal areas or the coal preparation plant at Eagle No. 2 at the monitoring well locations noted in paragraph 17 and 18 to exceed the Class I: Potable Resource Groundwater standards, the Respondent has violated and continues to violate Section 12(a) of the Act, 415 ILCS 5/12(a) (1998), and 35 Ill. Adm. Code 620.301 and 620.410(a) (1997).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Peabody Coal Company:


- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter.
- E. Awarding to Complainant its costs and reasonable attorney's fees; and

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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. JAMES E. RYAN,
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

Of Counsel
JANE E. MCBRIDE
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 3/23/99

CERTIFICATE OF SERVICE

I hereby certify that I did on the 23rd day of March, 1999, send by Certified 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 COMPLAINT

To: David R. Joest, Esq.
Peabody Coal Company
1951 Barrett Court
P.O. Box 1990
Henderson, Kentucky 42420-1990

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s)

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois 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: John E. Rhine Esq.
for Saline Valley Conservancy District
Rhine, Ernest & Vargo
631 Market Street
Mt. Carmel, Illinois 62863

Steve Ewart
Associate Counsel
Illinois Environmental
Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276


JANE E. MC BRIDE
Assistant Attorney General

This filing is submitted on recycled paper.