



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

March 20, 2009

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CLERK'S OFFICE

MAR 24 2009

STATE OF ILLINOIS  
Pollution Control Board

John T. Therriault, 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**

Dear Clerk:

Enclosed for filing please find the original and four copies of a Notice of Filing and 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,

A handwritten signature in black ink, appearing to read "Thomas Davis", is written over a horizontal line.

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

TD/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PRAIRIE RIVERS NETWORK )  
and SIERRA CLUB, )  
 )  
Complainants, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

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

NOTICE OF FILING

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

Elizabeth Hoskins Dow  
1003 Western Avenue  
Joliet, IL 60435

Brian A. Glasser  
Jonathan D. Boggs  
Bailey and Glasser, LLP  
209 Capitol Street  
Charleston, WV 25301

**RECEIVED**  
CLERK'S OFFICE  
MAR 24 2009  
STATE OF ILLINOIS  
Pollution Control Board


PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, the RECORD, a copy of which is 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:   
THOMAS DAVIS  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 20, 2009

## CERTIFICATE OF SERVICE

I hereby certify that I did on March 20, 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 the RECORD

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

Elizabeth Hoskins Dow  
1003 Western Avenue  
Joliet, IL 60435

Brian A. Glasser  
Jonathan D. Boggs  
Bailey and Glasser, LLP  
209 Capitol Street  
Charleston, WV 25301

and the original and four 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

  
\_\_\_\_\_  
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 SUGAR CAMP ENERGY, )
L.L.C., )
Respondents )

PCB 09-46
(NPDES PERMIT APPEAL)

RECEIVED
CLERK'S OFFICE
MAR 24 2009

STATE OF ILLINOIS
Pollution Control Board

RECORD

Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), in accordance with the procedural rules of the Illinois Pollution Control Board ("Illinois PCB") 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 Sugar Camp Energy, L.L.C.'s ("Sugar Camp") National Discharge Elimination System ("NPDES") permit public hearing and the Illinois EPA's record of NPDES Permit No. IL0078565, as issued to Sugar Camp on December 2, 2008, which is attached and consists of the following documents:

Hearing file documents

- 1. E-mail chain between Illinois EPA and Sierra Club, dated September 11, 2008. (pp. 1-3)
2. Public hearing exhibit list and exhibits. (pp. 4 - 596)
Exhibit 1: Notice of Public Hearing. (pp. 7 - 8)
Exhibit 2: Notice of Public Hearing, revised. (pp. 9 - 10)
Exhibit 3: Draft permit, public notice/fact sheet. (pp. 11 - 34)
Exhibit 4: State of Illinois map, resource rich areas. (p. 35)

- Exhibit 5: Middle Fork Big Muddy River resource rich area base map. (p. 36)
- Exhibit 6: Comment letter from Sierra Club dated August 25, 2008. (pp. 37 - 42)
- Attachment 1: "Middle Fork of the Big Muddy." (pp. 43 - 46)
  - Attachment 2: Southwest Hydrology, "Water Treatment as a Mitigation Method for Pit Lakes." (pp. 47 - 49)
  - Attachment 3: "Sulfate Removal from Injected Water in Oilfield Operations." (pp. 50 - 53)
  - Attachment 4: "Sulphate Removal Demonstration Plant." (pp. 54 - 55)
  - Attachment 5: Sugar Camp site map. (p. 56)
- Exhibit 7: E-mail comment, with attached comment letter. (pp. 57 - 60)
- Exhibit 8: Hearing transcript. (pp. 61-95)
- Exhibit 9: Comment letter. (pp. 96 - 199)
- Exhibit 10: Comment letter. (pp. 200 - 203)
- Exhibit 11: Comment letter from Prairie Rivers Network dated October 22, 2008. (pp. 204 - 216)
- Attachment 2: IDNR letter dated November 26, 2007. (p. 217)
  - Attachment 3: R08-18 In The Matter of: Proposed Amendments to Groundwater Quality Standards, Illinois EPA Errata Sheet Number 2, and pre-filed testimony of Richard Cobb and Thomas Hornsha. (pp. 218 -274)
  - Attachment 4: Groundwater monitoring data. (pp. 275 - 278)
  - Attachment 5: Parcels and structures within and adjacent to shadow area. (pp. 279 - 286)
  - Attachment 6: Illinois EPA letter. (p. 287)
  - Attachment 7: IDNR documents. (pp. 288 - 308)
  - Attachment 8: IDNR documents. (pp. 309 - 323)
  - Attachment 9: IDNR documents. (pp. 324 - 335)
  - Attachment 10: IDNR documents. (pp. 336 - 346)
  - Attachment 11: Baseline surface water sample site data. (pp. 347 - 348)
  - Attachment 12: Memorandum to Sierra Club from its research engineer. (pp. 349 - 352)
  - Attachment 13: "Acid Mine Drainage: Innovative Treatment Technologies." (pp. 353 - 404)
  - Attachment 14: "The Passive Treatment of Coal Mine Drainage." (pp. 405 - 476)
  - Attachment 15: "Applications of Passive Treatment to Trace Metals Removal." (pp. 477 - 482)
  - Attachment 16: "Rapid Manganese Removal from Mine Waters using an Aerated Packed-Bed Bioreactor." (pp. 483 - 490)
  - Attachment 17: "Treatment Technology Summary for Critical Pollutants of Concern in Power Plant Wastewaters." (pp. 491 - 562)
  - Attachment 18: New Logic Research, "VSEP Filtration of Acid Mine Drainage." (pp. 563 - 572)
  - Attachment 19: "VSEP Treatment of RO Reject from Brackish Well Water." (pp. 573 - 591)
  - Attachment 20: "Fugitive Dust Control." (pp. 592 - 596)

3. Hearing mailing list. (pp. 597 - 601)
4. E-mail by Illinois EPA, dated September 24, 2008. (p. 602)

### **Permit file documents**

5. "Identification and Assessment of Best Management Practices in Illinois Mining Operations to Minimize Sulfate and Chloride Discharges" ("SIU report"), June 2007. (pp. 603 - 728)
6. Application (Part 1) for permit submitted by Sugar Camp, received August 7, 2007. (pp. 729 - 737)
7. Application (complete) for permit submitted by Sugar Camp, received August 7, 2007. (pp. 738 - 1214)
8. Memorandum dated August 9, 2007, from Illinois Department of Natural Resources ("IDNR") to Department of Agriculture. (p. 1215)
9. General review of permit application, August 31, 2007. (pp. 1216 - 1223)
10. E-mail chain dated September 5, 2007, between Sugar Camp and Illinois EPA, with attached baseline surface water sample site date. (pp. 1224 - 1230)
11. Letter dated September 18, 2007, from Illinois EPA to Sugar Camp. (pp. 1231 - 1235)
12. Letter dated September 18, 2007, from Illinois EPA to IDNR. (pp. 1236 - 1239)
13. Illinois EPA memorandum dated September 18, 2007. (pp. 1240 - 1242)
14. E-mail chain dated December 12, 2007, between Sugar Camp and Illinois EPA. (pp. 1243 - 1244)
15. Letter of response addressing modifications, dated February 4, 2008, from Sugar Camp to Illinois EPA, with attachments. (pp. 1245 - 1302)
16. Transmittal dated February 26, 2008, from Sugar Camp to Illinois EPA, providing revised Schedule A, discharge location and characteristics for new and existing mines. (pp. 1303 - 1304)
17. Illinois EPA e-mail dated February 27, 2008, forwarding review and comment on Sugar Camp modification letter. (pp. 1305 - 1306)
18. E-mail chain dated March 3, 2008, between Illinois EPA and IDNR. (p. 1307)

19. Illinois EPA review of application dated April 1, 2008. (pp. 1308 - 1314)
20. E-mail dated April 2, 2008, from Illinois EPA to Sugar Camp. (p. 1315)
21. E-mail chain dated April 2 – 3, 2008, between Illinois EPA and Sugar Camp, with attachments. (pp. 1316 - 1330)
22. Illinois EPA memorandum dated April 4, 2008, with attached documents relating to anti-degradation assessment and water quality based effluent limit evaluation. (pp. 1331 - 1345)
23. Illinois EPA e-mail chain dated April 7, 2008. (p. 1346)
24. Illinois EPA e-mail chain dated June 3, 2008. (p. 1347)
25. Illinois EPA e-mail dated June 4, 2008, concerning mixing. (pp. 1348 - 1349)
26. Illinois EPA e-mail dated June 9, 2008, with attached draft memoranda re antidegradation assessment and WQBEL. (pp. 1350- 1356)
27. IDNR notice re endangered species, dated June 9, 2008. (1357 - 1358)
28. Illinois EPA notation dated June 30, 2008, written on freshwater pond calculations document. (pp. 1359 - 1371)
29. Illinois EPA e-mail dated July 1, 2008. (pp. 1372 - 1373)
30. E-mail dated July 2, 2008, from IDNR to Illinois EPA. (p. 1374)
31. Illinois EPA memorandum dated July 8, 2008, re WQBEL evaluation. (pp. 1375 - 1376)
32. Illinois EPA memorandum dated July 9, 2008, re antidegradation assessment. (pp. 1377 - 1379)
33. Illinois EPA memorandum dated July 10, 2008, with comments on permit. (pp. 1380 - 1381)
34. Letter dated July 14, 2008, from IDNR to Illinois EPA. (p. 1382)
35. Draft permit. (pp. 1383 - 1397)
36. Cover letters dated July 25, 2008, to County Clerk, Franklin County; Sugar Camp; U.S. Army Corps of Engineers (St. Louis); and U.S. Fish & Wildlife Service, with draft permit with public notice period of July 25, 2008 – August 25, 2008. (pp. 1398 - 1429)

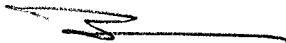
37. Illinois EPA e-mail dated July 31, 2008. (pp. 1430 - 1431)
38. Illinois EPA e-mail dated August 19, 2008. (p. 1432)
39. Illinois EPA e-mail chain dated September 11 – 16, 2008, with attachment. (pp. 1433 - 1436)
40. Illinois EPA e-mail chain dated September 19, 2008. (pp. 1437 - 1438)
41. E-mail dated September 19, 2008, from Sugar Camp to Illinois EPA. (p. 1439)
42. E-mail dated September 19, 2008, from Sugar Camp to Illinois EPA, with attached economic impact report. (pp. 1440 – 1453)
43. Illinois EPA e-mail chain dated September 22, 2008. (pp. 1454 - 1455)
44. E-mail dated September 23, 2008, from Sugar Camp to Illinois EPA, with attached responses. (pp. 1456 - 1460)
45. E-mail chain dated September 30, 2008, from Sugar Camp to Illinois EPA, with attached surface monitoring plan. (pp. 1461 - 1466)
46. Illinois EPA responses to comments, dated October 17, 2008. (pp. 1467 - 1468)
47. Illinois EPA e-mail dated November 5, 2008. (p. 1469)
48. E-mail chain dated November 5 – 7, 2008, between Illinois EPA and IDNR. (p. 1470)
49. Water well data, printed November 14, 2008. (pp. 1471 - 1478)
50. Illinois EPA e-mail dated November 18, 2008. (p. 1479)
51. Illinois EPA e-mail dated November 19, 2008. (p. 1480)
52. Sugar Camp summary of alternative mine treatment processes, dated November 20, 2008. (pp. 1481 - 1490)
53. Illinois EPA review of alternative mine treatment processes. (pp. 1491 - 1492)
54. Responsiveness Summary, December 2, 2008. (pp. 1493 - 1541)
55. Cover letter dated December 2, 2008, with attached NPDES Permit IL0078565, issued and effective December 2, 2008. (pp. 1542 - 1560)



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: March 20, 2009

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