

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

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OCT 24 2001
PCB NO. 99-134
(Enforcement)
STATE OF ILLINOIS
Pollution Control Board

THIRD AMENDED 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 1

WATER POLLUTION VIOLATIONS

1. This Count 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 Count 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 wells are 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, 2 and 3 were constructed in 1982, Well 4 was constructed in 1991, and Well 5 was constructed in 1995.

8. The above-ground activities of Eagle No. 2 included coal processing and refuse disposal. From 1968 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, none of the six refuse disposal

areas have liners or other forms of barrier to prevent or minimize the leaching of contaminants into the underlying aquifer. Upon information and belief, according to Peabody's accounts, at least two of the refuse disposal areas consist of 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 field. 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 are 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
April 1999	171
May 1999	180
June 1999	183
July 1999	189
August 1999	209
September 1999	214
October 1999	198
November 1999	199
December 1999	191
January 2000	189
February 2000	183
March 2000	194
April 2000	185

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

10. On January 28, 1997, the Illinois EPA sent the Respondent a Violation Notice Letter, Violation Notice: M-1997-00010, concerning inorganic chemical groundwater quality violations at Eagle No. 2. On February 14, 1997, the Respondent sent the Illinois EPA a letter which disputed the Illinois EPA's characterization of the groundwater quality violations at Eagle No. 2 and claimed that there were no groundwater quality violations on or off-site at Eagle No. 2. On March 13, 1997, a meeting of representatives of the Illinois EPA and the Respondent was held, pursuant to Section 31(a)(4), 415 ILCS 5/31(a)(4)(1996).

11. On March 17, 1997, the Respondent requested an extension of time to respond to the alleged violations. On March 31, 1997, the Illinois EPA denied the extension of time. Respondent provided a timely response, pursuant to Section 31(a)(5), 415 ILCS 5/31(a)(5) (1996). On April 23, 1997, the Illinois EPA sent the Respondent a letter in which the Illinois EPA rejected Respondent's Compliance Commitment Agreement. On September 26, 1997, the Illinois EPA sent the Respondent a Notice of Intent to Pursue Legal Action ("NITPLA"). On October 6, 1997, the Respondent responded to the NITPLA and requested a meeting with the Illinois EPA.

12. On December 23, 1997, the Illinois EPA sent the Respondent a second Violation Notice Letter, Violation Notice: M-1997-00133, concerning additional inorganic chemical Class I groundwater quality violations at Eagle No. 2. On January 19, 1998, the Respondent sent a letter to the Illinois EPA in which it again questioned the Illinois EPA's characterization of the groundwater quality violations for the on and off-site monitoring wells at Eagle No. 2. On January 28, 1998, representatives of the Illinois EPA and the Respondent met. On April 21, 1998, the Illinois EPA sent the Respondent a Notice of Intent to Pursue Legal Action ("NITPLA") regarding the second Violation Notice Letter.

13. Section 620.505 of the Board's Groundwater Quality Standards ("GQS"), 35 Ill.

Adm. Code 620.505 (1996), 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.

14. Under Sections 620.450(b)(4) and (b)(5) of the Board's GQS, 35 Ill. Adm. Code 620.450(b)(4), (b)(5)(1996), 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, 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, 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].

15. Upon information and belief, dates of modification, 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>Disposal Area Number</u>	<u>Permits/Authorizations Permit Modifications</u>	<u>Applicable Regulation*</u>
Slurry No. 1A	Slurry No 1 was placed into operation prior to 2/1/83. This disposal area was modified to include additional area through vertical and lateral expansion after 11-25-91 and designated Slurry 1A. Slurry 1A was placed into operation after 11-25-91. Subtitle D Permit No. 1992-MD-6977 was issued on 8-24-92.	35 Ill. Adm. Code 620.410 pursuant to 35 Ill. Adm. Code 620.450(b)(5)(B)

Monitoring wells within outermost edge of Slurry 1A: GW-9

Slurry No. 2	Subtitle D Permit No. 1972-MD-1618-OP5 was issued on 6-8-78. Slurry No. 2 was placed into operation prior to	35 Ill. Adm. Code 620.440(c) pursuant to 35 Ill. Adm. Code 620.450(b)(4)(B)
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2-1-83.

Slurry No. 3
(Refuse No.3)

Proposed Supplemental Construction Authorization was granted on 10-23-84. NPDES Permit No. IL0044661 was issued on 7-28-88. Slurry No. 3 was placed into operation after 2-1-83 and before 11-25-91.

35 Ill. Adm. Code 302, Subpart C Section 302.304 pursuant to 35 Ill. Adm. Code 620.450(b)(4)(A). Groundwater within the outermost edge of Slurry No. 3 is a potential source of water for public or food processing use.

Monitoring wells within outermost edge of Slurry No. 3: GW-4, GW-6, MW-17

Slurry No. 5

The predecessor to Slurry No. 5, the West Refuse Area was placed into operation prior to 2-1-83 and was modified to include additional area through vertical expansion after 2-1-83 and before 11-25-91. Slurry No. 5 Proposed Supplemental Construction Authorization was granted 2-27-87. Slurry No. 5 NPDES Permit No. IL0044661 was issued on 7-28-88. Slurry No. 5 was placed into operation after 2-1-83 and before 11-25-91.

35 Ill. Adm. Code 302, Subpart C Section 302.304 pursuant to 35 Ill. Adm. Code 620.450(b)(4)(A). Groundwater within the outermost edge of Slurry No. 5 is a potential source of water for public or food processing use.

Monitoring wells within outermost edge of Slurry No. 5:
GW-11, MW-14, MW-18, MW-23, MW-24 & MW-25

South 40
Refuse Area

Subtitle D Permit No. 1972-MD-1618-OP-4 was issued on 10-17-77. The South 40 Refuse Area was placed into operation prior to 2-1-83.

35 Ill. Adm. Code 620.440(c) pursuant to 35 Ill. Adm. Code 620.450(b)(4)(B).

Groundwater Not
Located in
Outermost Edge
of Refuse
Disposal Area

This groundwater lies outside of the compliance points for coal mine refuse disposal areas.

Class I:Potable Resource Groundwater pursuant to 35 Ill. Adm. Code 620.210(a)(4) subject to 35 Ill. Adm. Code 620.410 Class I standards.

and Extending
Off Site

Monitoring wells which are not located within the outermost edge of the coal refuse disposal areas:

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-7, MW-9, MW-10, MW-19, & MW-21

*Compliance Point

Pursuant to 35 Ill. Adm. Code 620.505(a)(3) compliance with the standards for groundwater that underlies a coal mine refuse disposal area is to be determined at the outer most edge as specified in 35 Ill. Adm. Code 620.240(f)(1) or the location of monitoring wells in existence as of November 25, 1991.

16. Section 302.304 of the Board's Subtitle C: Water Pollution regulations, 35 Ill.

Adm. Code 302.304 (1996), provide, in pertinent part, as follows:

The following levels of chemical constituents shall not be exceeded:

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

17. Section 620.201(a) of the Board's GQS, 35 Ill. Adm. Code 620.201(a) (1996), establishes four classes of groundwater. Section 620.201(a)(1) of the Board's GQS, 35 Ill. Adm. Code 620.201 (1996), provides for Class I: Potable Resource Groundwater. Section 620.210 of the Board's GQS, 35 Ill. Adm. Code 620.210 (1996), 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.

18. The groundwater not located within the outermost edge of the coal refuse disposal areas 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 (1996), 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) (1996).

19. Section 620.410(a) of the Board's GQS, 35 Ill. Adm. Code 620.410 (1996), 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.

20. The following sampling results from the monitoring wells at Eagle No. 2 referenced in paragraph 15 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. Peabody plugged and abandoned this monitoring well before the date of the filing of this third amended complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards	250	0.15	500	250	0.3*
35 Ill. Adm. Code 302.304					
01/10/95			1330	516	
01/24/95			1405	593	
02/08/95			1595	572	
02/21/95			1475	533	
03/07/95			1380	551	
03/23/95			1295	532	
04/04/95			1295	490	
04/18/95			1340	468	
05/03/95			1360	513	
05/16/95			1340	525	
06/22/95			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 this third amended complaint.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron

Applicable Standards 35 Ill. Adm. Code 302.304	250	0.15	500	250	0.3*
01/10/95	1004.4		7830	3950	
01/24/95	476.5		7445	3358	
02/08/95	421.4		7395	3661	
04/04/95	387.7		6950	4082	
04/18/95	205.9		6400	3703	
05/03/95	251.4		6160	3263	
05/16/95	303.3		6415	3613	
06/22/95	292.7		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 this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 620.410(a)	200	0.15	1200	400	5.0
01/10/95			3340	1916	
01/24/95			3270	1403	
02/08/95			3430	1825	
02/21/95			3615	2022	
03/07/95			3485	1902	
03/23/95			3130	1905	
04/04/95			3160	1905	
04/18/95			3240	1763	
05/03/95			2930	1631	
05/16/95			2835	1555	
06/22/95			2845	1295	

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. Peabody plugged and abandoned this monitoring well before the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 302.304	250	0.15	500	250	0.3*
01/10/95			1820	884	
01/24/95			2755	1209	
02/08/95			2345	1120	
02/21/95			3110	1452	
03/07/95			2905	1119	
03/23/95			3200	1735	
04/04/95			3005	1610	
04/18/95			2750	1573	
05/03/95			3805	2076	
05/16/95			3755	2017	
06/22/95			3710	1147	

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 plugged and abandoned this monitoring well before the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 620.410(a)	200	0.15	1200	400	5.0
01/10/95			1525	711	
01/24/95			1480	683	
02/08/95			1635	680	

02/21/95			1715	726	
03/07/95			1650	717	
03/23/95			1485	716	

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 plugged and abandoned this monitoring well before the date of the filing of this third amended 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			1235	467	
03/07/95			1270	489	
03/23/95			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 plugged and abandoned this monitoring well before the date of the filing of this third amended 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			1250	437	
03/07/95				405	
03/23/95				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 plugged and abandoned this monitoring well before the date of the filing of this third amended 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

01/10/95			1340	559	
01/24/95			1375	613	
02/08/95			1685	673	
02/21/95			1550	615	
03/07/95			1540	627	
03/23/95			1430	635	

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 11/22/96. The monitoring well has not been abandoned as of the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 620.410(a)	200	0.15	1200	400	5.0
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			

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 is located over 15 feet vertically from the Slurry No. 1A impoundment. MW-7 was last sampled on 10/16/96. The monitoring well has not been abandoned as of the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
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Applicable Standards 35 Ill. Adm. Code 620.410(a)	200	0.15	1200	400	5.0
07/31/96				437	
10/16/96				423	

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 11/09/99. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 620.410(a)	200	0.15	1200	400	5.0
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	
05/21/97		0.45	1835	819	
07/31/97		0.58	1855	875	

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 11/09/99. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3*
01/10/95		0.33	1685	768	
01/24/95		0.36	1570	683	
02/08/95		0.30	1460	594	
02/21/95		0.31	1595	674	
03/07/95		0.27	1540	599	
03/23/95		0.18	1232	514	
04/04/95		0.16	1215	484	
04/18/95		0.19	1180	432	
05/03/95		0.21	1265	339	
05/16/95		0.19	990	371	
06/22/95		0.21	1025	354	
07/20/95		0.22	910	288	
08/18/95			1045	373	
09/19/95		0.20	945	316	
10/17/95		0.20	975	331	
11/14/95		0.21	1055	383	

12/12/95		0.19	1180	432	
01/16/96		0.18	1210	572	
04/18/96		0.19	1215	493	
07/31/96		0.27	1030	393	
10/16/96		0.31	1575	734	
05/01/97		.27			19.30
07/31/97		1.15		539	17.50

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 11/09/99. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 302.304	250	0.15	500	250	0.3*
05/16/95		0.35			
07/20/95		0.43			
09/19/95		0.68			
10/17/95		0.34			
11/14/95		0.29			
07/31/96		0.63			
10/16/96		0.72			
07/31/97		0.36			

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 11/09/99. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards 35 Ill. Adm. Code 302.304	250	0.15	500	250	0.3*
02/09/95		1.90	2060	981	

05/16/95		2.30	2470	1239	
08/04/95		2.30	2205	1110	
11/28/95		1.18	1730	970	
02/07/96		1.04	1656	906	
05/14/96		0.92	1250	591	
08/20/96		1.06	1405	847	
11/19/96		1.04	1400	646	
05/01/97		0.74	1240	611	
07/31/97		1.07		608	

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 08/24/99. The well is to be redrilled as MW-19R, and sampled after completion.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
01/10/95		0.59	1925	884	
01/24/95		0.56	1880	863	
02/08/95		0.56	1985	839	
02/21/95		0.55	2000	904	
03/07/95		0.58	1995	863	
03/23/95		0.51	1876	934	
04/04/95		0.29	1800	922	
04/18/95		0.58	1924	883	
05/03/95		0.54	2345	847	
05/16/95		0.50	1875	882	
06/22/95		0.55	1880	719	
07/20/95		0.59	1920	849	
08/18/95			1960	942	

09/19/95		0.61	1945	928	
10/17/95		0.62	1985	882	
11/14/95		0.63	1925	1014	
12/12/95		0.62	2040	969	
01/16/96		0.59	1950	990	
04/18/96		0.59	1970	991	
07/31/96		0.64	2080	961	
10/16/96		0.68	2100	1029	
05/01/97		0.62	2010	959	9.90
07/31/97		0.66	1940	952	10.50

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 11/09/99. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards	200	0.15	1200	400	5.0
35 Ill. Adm. Code 620.410(a)					
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			
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			

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 this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3*
02/09/95		0.75	1710	850	
05/16/95		0.79	1895	931	
08/04/95		0.85	2095	907	
11/28/95		0.89	2020	1027	
02/07/96		0.89	1932	965	
08/20/96		0.79	1915	956	
11/19/96		1.06	2260	1043	

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 this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
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Applicable Standards 35 Ill. Adm. Code 302.304	250	0.15	500	250	0.3*
01/10/95		0.20	890	265	
01/24/95		0.22	885	259	
02/08/95		0.21	845	271	
02/21/95		0.24	920	276	
03/07/95			950	271	
03/23/95			960	336	
04/04/95			975	358	
04/18/95			1064	398	
05/03/95		0.24	1285	360	
05/16/95		0.25	930	336	
06/22/95		0.33	935		
07/20/95		0.33	880	293	
08/18/95			915	291	
09/19/95		0.27	940	280	
10/17/95		0.33	1055	313	
11/14/95		0.16	1140	458	
12/12/95		0.36	1195	468	
01/16/96		0.58	1740	882	
04/18/96			1105	455	
07/31/96		0.46	965	330	
10/16/96		0.49	970	328	

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 this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
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Applicable Standards 35 Ill. Adm. Code 302.304	250	0.15	500	250	0.3*
01/10/95		0.34	1540	675	
01/24/95		0.25	1450	586	
02/08/95		0.30	1045	428	
02/21/95		0.29	1555	644	
03/07/95		0.27	1490	620	
03/23/95		0.37	1704	805	
04/04/95		0.35	1665	756	
04/18/95		0.37	1568	676	
05/03/95		0.36	1825	629	
05/16/95		0.29	1355	588	
06/22/95		0.23	1355	486	
07/20/95		0.37	1440	596	
08/18/95			1620	745	
09/19/95		0.53	1785	734	
10/17/95		0.61	1725	771	
11/14/95		0.92	2055	1111	
12/12/95		0.93	2105	1035	
01/16/96		1.14	2355	1273	
04/18/96		1.38	2585	1434	
08/20/96		1.23	2355	1220	
10/16/96		1.18	2315	1340	

* The standard for iron is based on the dissolved concentration, for all other constituents the standard is based on total concentration.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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).

27. 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).

28. By causing or allowing the discharge of chloride, manganese, TDS, sulfate and iron into the environment, 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).

29. 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.
- E. Ordering Respondent to post a sufficient performance bond or other security to assure the correction of the violations is completed within the time prescribed in the Board’s order, pursuant to Section 33(b) of the Act, 415 ILCS 5/33(b) (1998).
- F. Awarding to Complainant its costs and reasonable attorney’s fees; and

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

COUNT II

WATER POLLUTION VIOLATIONS

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provisions of Section 42(d) and (e) of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/42(d), (e)(1998).

2-14. Complainant re-alleges and incorporates by reference paragraphs 4 through 9 and 13 through 19 of Count I as paragraphs 2 through 14 of this Count II.

15. Prior to November 25, 1991, groundwater that was a present or potential source of water for public and food processing supply in the state of Illinois was regulated under Title 35: Subtitle C, the Board's Water Pollution Regulations as "underground waters". Section 303.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 303.203 (1982) and formerly Rule 207 of Chapter 3: Water Pollution Control Rules and Regulations (1977), provided:

The underground waters of Illinois which are a present or a potential source of water for public and food processing supply shall meet the general use and public and food processing water supply standards of Subparts B and C, Part 302, except due to natural causes.

16. Section 301.420 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.420 (1996) and formerly Rule 104 Definitions of Chapter 3: Water Pollution Control Rules and Regulations (1977), provides:

Underground Waters: Any waters of the State located beneath the surface of the earth.

17. Prior to November 25, 1991, groundwater at Respondent's Eagle No. 2 mine was subject to the water quality standards of the Board's Water Pollution Regulations, 35 Ill.

Adm. Code 302.304 (1990), and 35 Ill. Adm. Code 302.208 and 302.304 (1982) and formerly Rules 204(b) and 203(f) of Chapter 3: Water Pollution Control Rules and Regulations (1979).

18. On March 7, 1972, the Board adopted in Regulatory Proceeding, *In the Matter of Water Quality Standard Revisions R71-14, April 4, 1972*, new water quality standards for waters in Illinois as defined by the Illinois Environmental Protection Act. Rule 203 of Chapter 3: Water Pollution Control Rules and Regulations was adopted for General Standards and Rule 204 of Chapter 3 applied to Public and Food Processing Water Supply at the point of withdrawal for treatment and distribution. 1972 WL 8163, 6 (Ill. Pol. Control Bd.).

19. Rule 204(b) of Chapter 3: Water Pollution Control Rules and Regulations (1972), provided, in pertinent part::

Rule 204 Public and Food Processing Water Supply

The following levels of chemical constituents shall not be exceeded:

CONSTITUENT	STORET NUMBER	CONCENTRATION (mg/l)
Chlorides	01025	250
Iron (total)	01046	0.3
Manganese (total)	01055	0.05
Sulfates	00945	250
Total Dissolved Solids	00515	500

20. On April 26, 1979, the Board adopted revisions to the Rule 204(b) of Chapter 3 in Regulatory Proceeding, *In the Matter of: Amendments to the Water Pollution Regulations R76-1, May 10, 1979*. The amendments to Rule 204(b) deleted total iron, and the General Standard for total iron of Rule 203(f) became the water quality standard for all waters including waters for Public and Food Processing Water Supply at the point of withdrawal for treatment and distribution. Also, manganese was amended to 0.15 mg/l from 0.05 mg/l.

21. As amended, Rule 204(b) of Chapter 3: Water Pollution Control Rules and Regulations (1979) provided, in pertinent part:

Rule 204 Public and Food Processing Water Supply

The following levels of chemical constituents shall not be exceeded:

CONSTITUENT	STORET NUMBER	CONCENTRATION (mg/l)
Chloride	00940	250
Manganese (total)	01055	0.15
Sulphates	00945	250
Total Dissolved Solids	00515	500

22. Rule 203(f) of Chapter 3: Water Pollution Control Rules and Regulations (1979), provided, in pertinent part:

203 General Standards

The following levels of chemical constituents shall not be exceeded:

CONSTITUENT	STORET NUMBER	CONCENTRATION (mg/l)
Iron (total)	01045	1.0

Thus, from May 17, 1979 until July 9, 1990, the total iron standard for waters at the point of withdrawal was derived from Rule 203(f) of Chapter 3 and was 1.0 mg/l.

23. The Board codified the Water Quality Standards of Chapter 3 as Part 302, Subtitle C (35 Ill. Adm. Code 302) effective June 22, 1982 (6 Ill. Reg. 7818, effective June 22, 1982). Rule 204(b) was codified at 35 Ill. Adm. Code 302.304, and Rule 203(f) was codified at 35 Ill. Adm. Code 302.208.

24. On July 9, 1990, the Board adopted the dissolved iron standard of 0.3 mg/l for Public and Food Processing Water in Regulatory Proceeding, *In the Matter of: Proposed Amendments Title 35, Subtitle C (Toxic Control) R88-21, Docket B June 21, 1990*.

25. Effective July 9, 1990, Section 302.304 the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.304 (1996), provides, in pertinent part:

CONSTITUENT	STORET NUMBER	CONCENTRATION (mg/l)
Chloride	00940	250
Iron (dissolved)	01046	0.3
Manganese (total)	01055	0.15
Sulphates	00945	250

The above-referenced standards were in effect for groundwater for “underground waters” until the Board in Regulatory Proceeding, *In the Matter of: Groundwater Quality Standards: Amendments to 35 Ill. Adm. Code 303,616 and 620*, R89-14, Docket C, September 11, 1992 eliminated the point of withdrawal standards and established that the applicable groundwater quality standards of Section 620.410 were in effect for Class I groundwater.

26. Section 303.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 303.203 (1992), effective September 10, 1992, provides:

35 Ill. Adm. Code 302, Subparts B and C does not apply to underground waters, except as provided at 35 Ill. Adm. Code 620.450(b).

27. The following sampling results from the monitoring wells at Eagle No. 2 referenced in paragraph 10 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”)

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. Peabody plugged and abandoned this monitoring well before the date of the filing of this third amended 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			1130	392	1.74
12/28/94			1295	558	3.22
01/10/95					2.43
01/24/95					2.61

02/08/95					3.27
02/21/95					2.31
03/07/95					1.26
03/23/95					1.45
04/04/95					2.62
05/03/95					1.65
05/16/95					1.86

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 this third amended 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	446.3		7645	4021	
12/28/94	509.5		7760	4031	
04/04/95					0.62

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 this third amended 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
12/13/94			3380		
12/28/94			3230	1872	

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. Peabody plugged and abandoned this monitoring well before the date of the filing of this third amended 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			1260	639	1.60
12/28/94			1590	808	4.83
01/10/95					4.98
01/24/95					21.10
02/08/95					13.50
02/21/95					23.00
03/07/95					15.00
03/23/95					8.60
04/04/95					7.20
04/18/95					1.80
05/03/95					15.80
05/16/95					22.70
06/22/95					18.00

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 plugged and abandoned this monitoring well before the date of the filing of this third amended 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
12/13/94			1380		
12/28/94			1480	705	

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 plugged and abandoned this monitoring well before the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
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Applicable Standards 35 Ill. Adm. Code 620.410(a)	200	0.15	1200	400	5.0
12/14/94			1295	528	
12/28/94			1295	536	

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 plugged and abandoned this monitoring well before the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards Rule 203(f) as it pertains to iron only, and Rule 204(b) of Chapter 3: Water Pollution Control Rules and Regulations (1979)	250	0.15	500	250	1.0
07/24/80			976	333	
08/22/80		0.43	1057	416	
09/19/80		0.24	1042	372	
10/15/80		0.33	1108	302	
11/18/80			1041	325	
12/09/80		0.28	1128	385	
03/17/81		0.37	1190	330	
05/20/81		0.27	1100	420	
07/21/81		0.25	1096	430	
10/20/81		0.21	1106	398	
03/30/82		0.25	1028	404	
05/04/82		0.37	1040	423	

Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
07/27/82		0.19	910	401	
12/16/82		0.19	1084	290	
03/18/83		0.17	915	340	
06/14/83		0.23	875	347	
09/30/83		0.18	805		
12/21/83		0.22	1165	299	
03/21/84		0.60	1116	283	
06/27/84		0.23	970	338	

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 11/22/96. The monitoring well has not been abandoned as of the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
03/09/84		0.16			

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 this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
03/09/84					1.45
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

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 plugged and abandoned this monitoring well before the date of the filing of this third amended complaint.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
03/21/84		0.7	616		
04/27/84		0.63			
05/31/84		0.64			
06/27/84		0.7			
07/31/84		0.86	85	331	
08/29/84		0.59	45	274	

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 03/15/2000. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
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	
07/31/84			1210	480	
08/29/84			1235	475	
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
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	
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	
02/10/99		0.50	1530	658	
08/24/99		0.60	1635	736	
11/09/99		0.58	1615	711	
03/15/2000		0.44		630.9	

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 11/09/99. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
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			
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 620.410(a)</small>	200	0.15	1200	400	5.0
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			
08/24/99		0.18			

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 03/15/2000. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
04/26/89			670		
05/25/89			670		
06/26/89			740		
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3*
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	
10/25/93			1836	835	
11/22/93			1990	878	
12/29/93		0.27	1605	685	
01/24/94			1880	850	
02/23/94			1865	829	
03/24/94		0.40	1795	874	
05/19/94		0.39	1715	775	
08/16/94		0.42	1730	739	
11/15/94		0.41	1690	784	
12/13/94		0.42	1760	832	
12/28/94		0.31	1585	734	
07/31/97			1180		
12/12/97		0.80	2305	997	
02/25/98		0.88	2245	1053	
05/14/98		0.85	2320	1037	
08/26/98		0.73	2345	994	
10/18/98		0.73	2260	1085	
02/10/99		0.85		1141	
04/14/99		0.91	2376	1124	
08/24/99		0.89	2295	1099	
11/09/99		0.82	2335	1115	
03/15/2000		0.50	1620.0	1011.51	
<p>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 03/15/2000. Peabody continues to sample this monitoring well quarterly.</p>					
Parameter	Chloride	Manganese	TDS	Sulfate	Iron

Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
06/26/89			970		
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3*
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	
12/29/93		0.20	1205	415	
03/24/94		0.33	1340	556	
05/19/94		0.97	1450	577	
08/16/94		0.45	785		
11/15/94		0.30	680		
02/09/95			790		
04/04/95			830		
04/18/95			888		
05/03/95			900		
06/22/95		0.62	680		
08/18/95			635		
12/12/95			620		
01/16/96			620		
03/18/96			615		

05/01/97			685		
05/14/98		0.30	540		
08/26/98		0.27			
10/18/98		0.27	540		
04/14/99		0.21	600		
08/24/99		0.75			
11/09/99		0.58			
03/15/2000		0.22	550		

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 03/14/2000. Peabody continues to sample this monitoring well quarterly.

Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.208 (1982) as it pertains to iron only, and 302.304 (1982)</small>	250	0.15	500	250	1.0
04/26/89			1220	468	
05/25/89			1225	531	
06/26/89			1275	532	
Parameter	Chloride	Manganese	TDS	Sulfate	Iron
Applicable Standards <small>35 Ill. Adm. Code 302.304</small>	250	0.15	500	250	0.3*
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	
10/25/93			1492	630	
11/22/93			1740	712	
12/29/93		0.37	1725	769	
01/24/94			2010	915	
02/23/94			2190	1004	
03/24/94		0.53	2210	1129	
05/19/94		0.49	1940	935	
08/16/94		0.56	2170	1029	
11/15/94		0.32	1350	582	
07/31/97			1135		
12/12/97		0.99	1875	845	
02/25/98		0.86	1580	796	
05/14/98		0.80	1435	744	
08/26/98		0.83	1544	771	
10/18/98		0.45	1795	930	
02/10/99		1.79	770	380	
04/14/99		4.79	1025	529	
08/24/99		0.68	1115	545	

11/09/99		0.59	1255	610	
03/14/2000		1.60	1620	1084.75	
<p>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 is located over 15 feet vertically from the Slurry No. 5 impoundment. MW-19 was last sampled on 08/24/99. The well is to be redrilled as MW-19R, and sampled after completion.</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
03/23/94		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
12/28/94		0.57	1855	852	7.30
01/10/95					6.90
01/24/95					6.90
02/08/95					6.90
02/21/95					7.00
03/07/95					7.20
03/23/95					7.00
04/18/95					6.27
05/03/95					5.87
05/16/95					6.50
06/22/95					6.70
07/20/95					6.30
08/18/95					8.00
09/19/95					6.90

10/17/95					6.50
11/14/95					10.00
12/12/95					7.10
01/16/96					7.20
04/18/96					7.10
07/31/96					7.40
10/16/96					12.20
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
10/18/98		0.62	2065	1074	12.80
02/10/99		0.69		1070	15.90
04/14/99		0.72	2212	1098	17.60
08/24/99		0.82	2290	1172	14.60

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-21R was last sampled on 03/15/2000. Peabody continues to sample this monitoring well quarterly.

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	
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	
02/25/98		0.28			
08/26/98		0.26			
10/18/98		0.28			
02/10/99		0.30			5.15
04/14/99		0.27			
08/24/99		0.32			
11/09/99		0.49			
03/15/2000		0.29		614.73	

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 this third amended 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	
02/03/93			1060	507	
03/23/93			780	285	
04/27/93			1340	667	
05/25/93			1352	617	
06/24/93			1252	641	
07/30/93			1528	709	

10/05/93		0.22	1396	558	
11/22/93		0.43	1595	719	
01/24/94		0.67	2545	1234	
02/16/94		0.46		828	
03/04/94		0.43	1495	748	
04/19/94		0.63	2035	1010	
06/02/94		0.73	2020	1020	
08/16/94		0.71	1800	889	

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 this third amended 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			1875	901	
02/03/93			1870	841	
03/23/93			1655	764	
04/27/93			1580	723	
05/25/93			1624	678	
06/24/93			1192	552	
07/30/93			1440	598	
08/19/93			1248	472	
09/07/93			1264	512	
10/12/93		0.38	1048	384	
11/22/93		0.36	1085	348	
12/29/93		0.35	990	407	
01/24/94		0.35	990	355	
02/16/94		0.33	1235	314	

03/24/94		0.33	935	365	
04/19/94		0.30	850	341	
06/02/94		0.23	1025	287	
08/16/94		0.27	935	290	
12/13/94		0.26	895	313	
12/28/94		0.21	850	273	

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 this third amended 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	
02/03/93			1180	470	
03/23/93			1165	472	
04/27/93			1195	546	
05/25/93			1304	543	
06/24/93			1840	895	
07/30/93			2028	931	
08/19/93			2140	1010	
09/07/93			2084	995	
10/12/93		0.57	1908	866	
11/22/93		0.39	1570	626	
12/29/93		0.44	1845	950	
01/24/94		0.46	2115	1006	
02/16/94		0.53	2200	1038	
03/24/94		0.67	2610	1370	
04/19/94		0.55	2240	972	

06/02/94		0.50	2260	1073	
08/16/94		0.74	2980	1510	
12/13/94		0.44	1690	797	
12/28/94		0.36	1555	668	

* The standard for iron is based on the dissolved concentration, for all other constituents the standard is based on total concentration.

28. Section 3.06 of the Act, 415 ILCS 5/3.06 (1998) and formerly Ill Rev. Stat. Ch

111 1/2 § 1003(d) (1980), provides:

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

29. Section 3.33 of the Act, 415 ILCS 5/3.33 (1998) and formerly Ill Rev. Stat. Ch

111 1/2 § 1003.33 (1987), 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.

30. Section 3.55 of the Act, 415 ILCS 5/3.55 (1998) and formerly Ill Rev. Stat. Ch

111 1/2 § 1003(hh) (1980), 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.

31. Section 3.56 of the Act, 415 ILCS 5/3.56 (1998) and formerly Ill Rev. Stat. Ch 111 1/2 § 1003(ii) (1980), provided:

"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.

32. Section 12(a) and (d) of the Act, 415 ILCS 5/12(a), (d) (1998) and formerly Ill Rev. Stat. Ch 111 1/2 § 1012(a), (d) (1980), provides:

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.

33. 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).

34. 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).

35. By causing or allowing the discharge of chloride, manganese, TDS, sulfate and iron into the environment, as indicated by sampling results set forth in paragraph 27 of this count, 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).

36. By causing or allowing the deposit of coal mine refuse and other related wastes upon the land and thereby creating a 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.
- E. Ordering Respondent to post a sufficient performance bond or other security to assure the correction of the violations is completed within the time prescribed in the Board's order, pursuant to Section 33(b) of the Act, 415 ILCS 5/33(b) (1998).
- F. Awarding to Complainant its costs and reasonable attorney's fees; and
- G. Grant such other and further relief as the Board deems appropriate.

COUNT III

VIOLATION OF GROUNDWATER QUALITY STANDARDS AND REGULATIONS

1. This Count is brought by the Attorney General on his own motion, pursuant to the terms and provisions of Section 42(d) and (e) of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/42(d), (e)(1998).

2-14. Complainant re-alleges and incorporates by reference paragraphs 2 through 14 of Count II as paragraphs 2 through 14 of this Count III.

15. Complainant re-alleges and incorporates by reference paragraph 20 of Count I

as paragraph 15 of this Count III.

16-28. Complainant re-alleges and incorporates by reference paragraphs 15 through 27 of Count II as paragraphs 16 through 28 of Count III.

29. Section 620.110 of the Board's Groundwater Quality Standards and Regulations, 35 Ill. Adm. Code 620.110 (1996), 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.

30. Section 620.301(a) of the Board's GQS, 35 Ill. Adm. Code 620.301(a) (1996), 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.

* * *

31. Section 620.405 of the Board's Groundwater Quality Standards, 35 Ill. Adm. Code 620.405 (1996), provides:

No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard set forth in this Subpart [Subpart D] to be exceeded.

32-38. Complainant re-alleges and incorporates by reference paragraphs 28 through 34 of Count II as paragraphs 32 through 38 of Count III.

39. The water beneath Eagle No. 2 and extending off-site to areas including the SVCD well field is "underground waters" as that term is defined in Section 301.420 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.420 (1996) and formerly Rule 104

Definitions of Chapter 3: Water Pollution Control Rules and Regulations (1977).

40. By causing or allowing the discharge or release of inorganic chemicals to enter underground waters at the Eagle No. 2 mine, and by causing the underground waters at the mine to exceed the Board's water quality standards found at Rules 204(b) of Chapter 3: Water Pollution Control Rules and Regulations (1979) at monitoring well MW-1, as set forth in Paragraph 27 of Count II, incorporated by reference as paragraph 28 of Count III, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a), formerly Ill. Rev. Stat. Ch 111 1/2 § 1012(a) (1980), and Rule 204(b) of Chapter 3: Water Pollution Control Rules and Regulations (1979).

41. By causing or allowing the discharge or release of inorganic chemicals to enter underground waters at the Eagle No. 2 mine, and by causing the underground waters at the mine to exceed the Board's water quality standards found at 35 Ill. Adm. Code 302.208(1982) at monitoring well MW-3, as set forth in Paragraph 27 of Count II, incorporated by reference as paragraph 28 of Count III, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a), formerly Ill. Rev. Stat. Ch 111 1/2 § 1012(a) (1980), and 35 Ill. Adm. Code 302.208(1982).

42. By causing or allowing the discharge or release of inorganic chemicals to enter underground waters at the Eagle No. 2 mine, and by causing the underground waters at the mine to exceed the Board's water quality standards found at 35 Ill. Adm. Code 302.304 (1982) at monitoring wells MW-1, MW-2, MW-4, MW-9, MW-10, MW-14, MW-17 and MW-18, as set forth in Paragraph 27 of Count II, incorporated by reference as paragraph 28 of Count III, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a), formerly Ill. Rev. Stat. Ch 111 1/2 § 1012(a) (1980), and 35 Ill. Adm. Code 302.304 (1982).

43. The water beneath Eagle No. 2 and extending off-site to areas including the

SVCD well field is “groundwater” as that term is defined in Section 620.110 of the Board's groundwater quality standards, 35 Ill. Adm. Code 620.110 (1996), and in Section 3.64 of the Act, 415 ILCS 5/3.64 (1998).

44. By causing or allowing the release of inorganic chemicals to enter the groundwater, and by causing the groundwater within the outermost edge of the Eagle No. 2 coal refuse areas at the monitoring well locations as noted in paragraph 10 to exceed the groundwater quality standards for coal refuse disposal areas pursuant to Section 620.450(b)(4) and (b)(5) of Board's Groundwater Quality Standards, 35 Ill. Adm. Code 620.450(b)(4) and (b)(5) (1996), as set forth in paragraph 20 of Count I, incorporated by reference as paragraph 15 of Count III, and as set forth in paragraph 27 of Count II, incorporated by reference as paragraph 28 of Count III, the Respondent has violated and continues to violate Section 12(a) of the Act, 415 ILCS 5/12(a)(1998), 35 Ill. Adm. Code 302.304 (1996) and 35 Ill. Adm. Code 620.410(a)(1996).

45. By causing or allowing the release of inorganic chemicals to enter the groundwater, and by causing the groundwater not located within the outermost edge of the coal refuse disposal areas at Eagle No. 2 at the monitoring well locations noted in paragraph 10 to exceed the Class I: Potable Resource Groundwater standards, as set forth in paragraph 20 of Count I, incorporated by reference as paragraph 15 of Count III, and as set forth in paragraph 27 of Count II, incorporated by reference as paragraph 28 of Count III, 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 620.410(a) (1996).

46. By causing or allowing the release of inorganic chemicals to enter the groundwater that may result in the necessity of treatment to continue an existing use or assure a potential use of the groundwater, the Respondent has violated and continues to violate

Section 12(a), 415 ILCS 5/12(a)(1998), and 35 Ill. Adm. Code 620.301 (1996).

47. By causing or allowing the release of inorganic chemicals to enter the groundwater so as to cause or allow the exceedence of the Board's groundwater quality standards, the Respondent has violated and continues to violate Section 12(a), 415 ILCS 5/12(a) (1998), and 35 Ill. Adm. Code 620.405 (1996).

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:

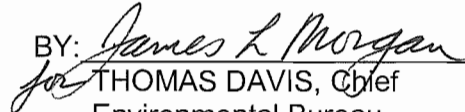
- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated 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. Ordering Respondent to post a sufficient performance bond or other security to assure the correction of the violations is completed within the time prescribed in the Board's order, pursuant to Section 33(b) of the Act, 415 ILCS 5/33(b) (1998).
- F. Awarding to Complainant its costs and reasonable attorney's fees; and

G. 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

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Environmental Enforcement/Asbestos
Litigation Division

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Dated: October 21, 2002