

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement-Water)</b>
	)	
<b>KNIGHT HAWK COAL, LLC,</b>	)	
<b>a Virginia limited liability company,</b>	)	
	)	
<b>Respondent.</b>	)	

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on July 12, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601 a COMPLAINT and ENTRY OF APPEARANCE, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2008), to correct the pollution alleged in the Complaint filed in this case.

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: 

RACHEL R. MEDINA  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 12, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that I did on July 12, 2011, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.



RACHEL R. MEDINA  
Sr. Assistant Attorney General

This filing is submitted on recycled paper.

**SERVICE LIST**

Knight Hawk Coal, LLC  
c/o CT Corporation System  
208 S. LaSalle Street  
Suite 814  
Chicago, IL 60604

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB NO.
	)	(Enforcement-Water)
	)	
KNIGHT HAWK COAL, LLC,	)	
a Virginia limited liability company,	)	
Respondents.	)	

**ENTRY OF APPEARANCE**

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RACHEL R. MEDINA, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

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: *Rachel R Medina*  
RACHEL R. MEDINA  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
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<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement –Water)</b>
<b>KNIGHT HAWK COAL, LLC,</b>	)	
<b>a Virginia limited liability company,</b>	)	
	)	
<b>Respondent.</b>	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, KNIGHT HAWK COAL, LLC, a Virginia limited liability company, as follows:

**COUNT I**

**NPDES PERMIT VIOLATIONS**

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

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 (2008), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2008), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. Knight Hawk Coal, LLC, ("Knight Hawk") is a Virginia limited liability company which operates, among other sites, Creek Paum Mine North in Ava, Jackson County, Illinois. The registered agent for Knight Hawk is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

5. The alkaline mine drainage effluent from Creek Paum Mine North ("site") is discharged through four separate outfalls – 026, 027, 028, and 029. The effluent from outfall 026 is discharged to an unnamed tributary to Galum Creek. The effluent from outfalls 027, 028, and 029 is discharged to Galum Creek. Galum Creek is tributary to Beaucoup Creek, a tributary to Big Muddy River.

6. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without a National Pollutant Discharge Elimination System ("NPDES") permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations.

7. Discharges through the four separate outfalls at Creek Paum Mine North are regulated pursuant to NPDES Permit No. IL0077381.

8. NPDES Permit No. IL0077381 imposes concentration limits for Total Suspended Solids ("TSS" or "Suspended Solids"), Iron, pH, Alkalinity/Acidity, Sulfates and Chlorides. The 30 Day Average limitation for TSS is 35.0 milligrams/liter ("mg/l") and the Daily Maximum limitation is 70.0 mg/l. The 30 Day Average limitation for Iron is 3.0 mg/l and the Daily Maximum limitation is 6.0 mg/l. The permit requires that the pH shall not be less than 6.0 nor greater than 9.0 and the total acidity shall not exceed total alkalinity based on a once per month grab sample. The Daily Maximum for Sulfates is 500 mg/l. The Daily Maximum for Chlorides is 500 mg/l. In addition, discharges or increases in the volume of a discharge caused by precipitation ("precipitation event") shall also be tested for Settleable Solids and pH. The Daily Maximum for

Settleable Solids is 0.5 milliliters/liter ("ml/l"), and pH shall not be less than 6.0 nor greater than 9.0 at all times. Discharge Monitoring Reports ("DMRs") are submitted quarterly in accordance with the NPDES Permit to report the concentrations of contaminants in the effluent.

9. During 2008, the following effluent limit excursions were reported in the DMRs submitted by the Defendant:

<i>Date</i>	<i>Outfall</i>	<i>Reported Excursion</i>
February 29, 2008	026	Acidity, 9 mg/l, exceeded Alkalinity, 1 mg/l
February 29, 2008	029	Suspended Solids, 91 mg/l
February 29, 2008	029	Total Iron, Daily Maximum, 8.83 mg/l
March 31, 2008	026	Acidity, 8 mg/l, exceeded Alkalinity, 2 mg/l
March 31, 2008	027	Acidity, 5 mg/l, exceeded Alkalinity, 4 mg/l
April 30, 2008	026	Acidity, 12 mg/l, exceeded Alkalinity, 1 mg/l
April 30, 2008	026	Suspended Solids, Daily Maximum, 93 mg/l
April 30, 2008	028	Suspended Solids, Daily Maximum, 1265 mg/l
April 30, 2008	028	Total Iron, Daily Maximum, 22.30 mg/l
April 30, 2008	029	Suspended Solids, Daily Maximum, 134 mg/l
April 30, 2008	029	Total Iron, Daily Maximum, 6.02 mg/l

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

No person shall:

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

\* \* \*

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

\* \* \*



11. "Contaminants" are defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), as follows:

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

12. "Waters" is defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), as follows:

"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.

13. TSS, Iron, Sulfates, Chlorides, and Settleable Solids are contaminants as defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2008).

14. The unnamed tributary to Galum Creek, Galum Creek, Beaucoup Creek, and Big Muddy River, are "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2008).

15. Section 304.141 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141, provides, in pertinent part, as follows:

- a) No person to whom an NPDES Permit has been issued may discharge any contaminant in his effluent in excess of the standards and limitations for that contaminant which are set forth in his permit.

16. By discharging effluent with levels of TSS and Iron in excess of the limitations for these contaminants in Respondent's NPDES Permit, Respondent violated Section 304.141 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141.

17. By causing, threatening, or allowing the discharge of effluent with excess levels of TSS, Iron, or Acidity/Alkalinity into the environment so as to cause or tend to cause water pollution or so as to violate regulations adopted by the Pollution Control Board, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

18. By causing, threatening, or allowing the discharge of effluent with levels of TSS, Iron or Acidity/Alkalinity in excess of Respondent's NPDES Permit concentration limits, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, KNIGHT HAWK COAL, LLC, a Virginia limited liability company:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT II**

**ADDITIONAL NPDES PERMIT VIOLATIONS**

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2-15. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 15 of Count I as paragraphs 2 through 15 of this Count II.

16. The following additional effluent limit excursions were reported by the Defendant in 2008:

<i>Date</i>	<i>Outfall</i>	<i>Reported Excursion</i>
January 31, 2008	026	Acidity, 9 mg/l, exceeded Alkalinity, 2 mg/l
January 31, 2008	026	Total Iron, Daily Maximum, 6.46 mg/l
January 31, 2008	027	Suspended Solids, Daily Maximum, 106 mg/l
January 31, 2008	027	Total Iron, Daily Maximum, 11.70 mg/l
January 31, 2008	029	Suspended Solids, Daily Maximum, 169 mg/l
January 31, 2008	029	Total Iron, Daily Maximum, 28.40 mg/l
May 31, 2008	027	Suspended Solids, Daily Maximum, 183 mg/l
May 31, 2008	027	Total Iron, Daily Maximum, 10.40 mg/l
May 31, 2008	028	Suspended Solids, Daily Maximum, 110 mg/l
May 31, 2008	028	Total Iron, Daily Maximum, 7.60 mg/l
July 31, 2008	026	pH, 4.76
July 31, 2008	026	Acidity, 44 mg/l, exceeded Alkalinity, 2 mg/l
July 31, 2008	026	Sulfate, 626 mg/l
July 31, 2008 (Precipitation Event)	026	pH, 4.44
August 22, 2008 (Precipitation Event)	026	pH, 4.20
December 31, 2008	026	Acidity, 34 mg/l, exceeds Alkalinity, 2 mg/l
December 31, 2008	026	Sulfate, 677 mg/l
December 31, 2008	028	Suspended Solids, Daily Maximum, 1188 mg/l
December 31, 2008	028	Total Iron, Daily Maximum, 24.6 mg/l

17. During 2009, the following effluent limit excursions were reported by the Defendant:

<i>Date</i>	<i>Outfall</i>	<i>Reported Excursion</i>
March 31, 2009	028	Suspended Solids, Daily Maximum, 83 mg/l
April 30, 2009	028	Suspended Solids, Daily Maximum, 73 mg/l
April 30, 2009	029	Suspended Solids, Daily Maximum, 77 mg/l
September 30, 2009 (Precipitation Event)	028	Settleable Solids, 0.6 ml/l

18. During 2010, the following effluent limit excursions were reported by the Defendant:

<i>Date</i>	<i>Outfall</i>	<i>Reported Excursion</i>
March 31, 2010	029	Suspended Solids, Daily Maximum, 71 mg/l

19. By discharging effluent with levels of TSS, Iron, Sulfate, or Settleable Solids in excess of the limitations for these contaminants in Respondent's NPDES Permit, Respondent violated Section 304.141 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141.

20. By causing, threatening, or allowing the discharge of effluent with excess levels of TSS, Iron, Sulfate, Settleable Solids, pH or Acidity/Alkalinity into the environment so as to cause or tend to cause water pollution in Illinois or so as to violate regulations adopted by the Pollution Control Board, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

21. By causing, threatening, or allowing the discharge of effluent with levels of TSS, Iron, Sulfate, Settleable Solids, pH or Acidity/Alkalinity in excess of Respondent's NPDES Permit concentration limits, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, KNIGHT HAWK COAL, LLC, a Virginia limited liability company:

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

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

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* 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

Of Counsel:  
RACHEL R. MEDINA  
ARDC# 6297171  
Assistant Attorney General  
Springfield, Illinois 62706  
(217) 782-9031  
Dated: July 12, 2011