

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PRAIRIE RIVERS NETWORK and)
SIERRA CLUB,)
)
Complainants,)
)
vs.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY and PEABODY)
GATEWAY NORTH MINING, LLC,)
)
Respondents.)

PCB No. 13-21
(Third-Party NPDES Permit Appeal-
Water)

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STATE OF ILLINOIS
Pollution Control Board

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NOTICE OF FILING

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To: See Attached Service List


PLEASE TAKE NOTICE that on December 19, 2012, I mailed for filing 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, RESPONDENT'S MOTION FOR LEAVE TO FILE INSTANTER, RESPONDENT'S MOTION FOR LEAVE TO FILE REDUCED NUMBER OF COPIES OF AGENCY RECORD and RECORD, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
MICHAEL D. MANKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 19, 2012

CERTIFICATE OF SERVICE

I hereby certify that I did on December 19, 2012, 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, RESPONDENT'S MOTION FOR LEAVE TO FILE INSTANTER, RESPONDENT'S MOTION FOR LEAVE TO FILE REDUCED NUMBER OF COPIES OF AGENCY RECORD and RECORD on CD

To: Jessica Dexter
Environmental Law & Policy Center
35 E. Wacker Drive, Suite 1600
Chicago, IL 60601

John Watson
Sasha M. Reyes
Baker & McKenzie LLP
300 East Randolph Street, Suite 5000
Chicago, IL 60601

and three copies and a CD by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriaut, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

A copy of the Notice and Motions 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



MICHAEL D. MANKOKWSKI
Assistant Attorney General

This filing is submitted on recycled paper

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PRAIRIE RIVERS NETWORK and)	
SIERRACLUB,)	
)	
Petitioners,)	
)	
v.)	
)	
ILLINOIS ENVIRONMENTAL)	PCB 13-21
PROTECTION AGENCY and PEABODY)	(Third-Party NPDES Permit Appeal)
GATEWAY NORTH MINING, LLC,)	
)	
Respondents.)	

RESPONDENT'S MOTION FOR LEAVE TO FILE INSTANTER

Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by its attorney, LISA MADIGAN, Attorney General of the State of Illinois, hereby moves for leave to file *instanter* the Agency's Record of National Pollutant Discharge System ("NPDES") Permit number IL0079481, issued to Peabody Gateway North Mining, LLC ("Gateway North") on September 28, 2012, and states as follows:

1. The Board issued an order on November 15, 2012, directing the Respondent to file the Record of the Agency's Determination by December 3, 2012.
2. The undersigned counsel for the Respondent did not obtain entire Agency Record until December 17, 2012.
3. The Respondent respectfully requests leave to file the attached Record of the Agency's Determination *instanter*.

WHEREFORE, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, requests
leave to file *instanter* the Record of the Agency's Determination.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:



MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

Attorney Reg. No. 6287767
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 12-19-2012

THIS FILING PRINTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PRAIRIE RIVERS NETWORK and)	
SIERRACLUB,)	
)	
Petitioners,)	
)	
v.)	
)	PCB 13-21
ILLINOIS ENVIRONMENTAL)	(Third-Party NPDES Permit Appeal)
PROTECTION AGENCY and PEABODY)	
GATEWAY NORTH MINING, LLC,)	
)	
Respondents.)	

**RESPONDENT'S MOTION FOR LEAVE TO FILE
REDUCED NUMBER OF COPIES OF AGENCY RECORD**

Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by its attorney, LISA MADIGAN, Attorney General of the State of Illinois, hereby moves for leave to file a reduced number of copies of the Agency's Record of National Pollutant Discharge System ("NPDES") Permit number IL0079481, issued to Peabody Gateway North Mining, LLC ("Gateway North") on September 28, 2012, and states as follows:

1. Section 101.302(h)(2) of the Board's General Rules, 35 Ill. Adm. Code 101.302(h)(2), states that the Agency may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.116, 105.302, and 105.410.
2. In order conserve scarce state resources the Respondent respectfully requests leave to file a reduced number of copies of the Agency's Record of NPDES Permit number IL0079481.
3. In lieu of the original and 4 duplicate copies, the Respondent respectfully requests leave to file an original, two copies, and a compact disc containing all documents in .pdf format.

WHEREFORE, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, requests
leave to file a reduced number of copies of the Agency Record.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

Attorney Reg. No. 6287767
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 12-18-2012

THIS FILING PRINTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**PRAIRIE RIVERS NETWORK and
SIERRACLUB,**)
)
)
Petitioners,)
)
v.)
)
**ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY and PEABODY)
GATEWAY NORTH MINING, LLC,**)
)
Respondents.)

**PCB 13-21
(Third-Party NPDES Permit Appeal)**

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 National Pollutant Discharge System ("NPDES") Permit number IL0079481, issued to Peabody Gateway North Mining, LLC ("Gateway North") on September 28, 2012, which is attached and consists of the following documents (three sets of paper copies and one electronic copy on CD):

Hearing File Documents

1. Transcript of informational public hearing held November 8, 2011.
2. Hearing exhibits list, with attached exhibits.
3. Email dated June 21, 2012, from Dean Studer, Illinois EPA Hearing Officer, to Kurt Neibergall, Maggie Carlson, Sherriie Elzinga, Lisa Bonnett, Elmo Dowd, Deirdre McQuillen, Sarah Seelbach, John Kim, Rochelle DeRochi, Barb Lieberoff, Sanjay Sofat, Stefanie Diers, Larry Crislip, Iwona Ward, Bob Mosher, and Emily Cross, all of Illinois EPA.
4. Memorandum dated September 17, 2012, from Dean Studer to John Kim, Interim Director of the Illinois EPA.
5. Memorandum dated September 28, 2012, from Dean Studer, with attached Responsiveness Summary.

Permit File Documents

6. Letter dated October 5, 2010, from James Tolen, Gateway North, to Melissa Parrott, Division of Water Pollution Control ("DWPC"), Permit Section, with attached permit application forms and related materials.
7. Location map of Gateway North Mine.
8. Permit application supporting documentation.
9. Additional geotechnical data and laboratory reports.
10. Email dated November 23, 2010, from Bob Mosher, Water Quality Standards Unit, DWPC, to Scott Twait, and preliminary communications among Andy Nelson, Permit Manager, Peabody Midwest; Iwona Ward, Illinois EPA, Mine Pollution Control Program ("MPCP"); and Scott McGarvie, Peabody Midwest.
11. Email dated November 23, 2010, from Bob Mosher to Iwona Ward, and preliminary communications among Andy Nelson, Iwona Ward, and Scott McGarvie.
12. Emails dated March 23 and 31, 2011, between Bob Mosher and Scott McGarvie.
13. Emails dated May 10 and 11, 2011, between Bob Mosher and Scott McGarvie.
14. Emails dated May 27, 2011, between Bob Mosher and Scott McGarvie.
15. Email dated June 7, 2011, from Bob Mosher to Larry Crislip, Illinois EPA, MPCP, and Iwona Ward.
16. Emails dated June 7, 2011, between Bob Mosher and Tracy Evans, Illinois Department of Natural Resources ("Illinois DNR").
17. Email dated June 9, 2011, from Bob Mosher to Larry Crislip and Iwona Ward.
18. Letter dated June 16, 2011, from Scott McGarvie to Bob Mosher, with attached proposed limits and site map.
19. Letter dated June 29, 2011, from Scott McGarvie to Bob Mosher, with attached proposed limits.
20. Emails dated July 7, 2011, between Bob Mosher and Gail Strickland, Bureau of Water, Marion Regional Office.
21. Email dated July 8, 2011, from Bob Mosher to Larry Crislip.
22. Memorandum re antidegradation assessment dated July 8, 2011, from Bob Mosher to Larry Crislip.


23. Memorandum re water quality based effluent limits dated July 8, 2011, from Bob Mosher to Larry Crislip.
24. Emails dated June 8, 15, 16, 27, 28 and 29, 2011, and August 9 and 10, 2011, between Bob Mosher and Scott McGarvie.
25. Emails dated January 10, 2011, between Scott McGarvie and Iwona Ward.
26. Letter dated January 18, 2012, from Andrew Nelson to Scott Fowler, Office of Mines and Minerals, Illinois DNR.
27. Letter dated February 24, 2012, from Ernest Ashby, Illinois DNR, to Bryce West, Gateway North.
28. Emails dated March 6, 2012, between Bill Buscher, Illinois EPA, Bureau of Water, and Larry Crislip.
29. Memorandum dated March 8, 2012, from Ernest Ashby to Steve Chard, Department of Agriculture, and Hal Hassen, Department of Natural Resources.
30. Permit application review dated March 8, 2012, prepared by Iwona Ward.
31. Memorandum dated March 11, 2012 (2011 is apparent typing error), from Bill Buscher to Larry Crislip.
32. Emails dated March 8, 12 and 13, 2012, between Bob Mosher and Larry Crislip and Iwona Ward.
33. Emails dated March 14, 2012, between Bill Buscher and Larry Crislip.
34. Emails dated March 20, 2012, between Bill Buscher and Larry Crislip.
35. Emails dated March 26, 2012, between Bill Buscher and Larry Crislip.
36. Memorandum dated March 26, 2012, from Bill Buscher to Larry Crislip.
37. Emails dated March 26, 2012, between Bill Buscher and Larry Crislip.
38. Letter dated March 28, 2012, from Larry Crislip to Scott Fowler.
39. Letter dated March 28, 2012, from Larry Crislip to Gateway North.
40. Letter dated March 28, 2012, from Gateway North to Larry Crislip.
41. Emails dated March 30 and April 2 and 3, 2012, between Bill Buscher and Larry Crislip.
42. Email dated April 5, 2012, from Bill Buscher to Larry Crislip.
43. Letter dated April 12, 2012, from Scott McGarvie to Larry Crislip.
44. Emails dated April 11 and 12, 2012, between Larry Crislip and Scott McGarvie, and dated April 12 and 13, 2012, between Bob Mosher and Larry Crislip.
45. Email dated June 6, 2012, from Token Nolder, Illinois EPA, BOW, to Sanjay Sofat, Illinois EPA, BOW.

46. Email dated July 6, 2012, from Al Keller, Manager, Permit Section, DWPC, to Larry Crislip.
47. Letter dated September 28, 2012, from Ronald Morse, Manager, MPCP, to Gateway North, with attached NPDES Permit No. IL0079481, issued September 28, 2012 and effective October 1, 2012.

Respectfully submitted,

LISA MADIGAN,
Attorney General of the
State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: 
MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 19, 2012

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