

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

| | | |
|--|---|----------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB No. 10-86 |
| |) | |
| ILLINOIS FUEL COMPANY, LLC, |) | |
| a Kentucky limited liability company, |) | |
| Respondent. |) | |

NOTICE OF FILING AND PROOF OF SERVICE

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|--|--|
| TO: John T. Therriault, Clerk Illinois Pollution Control Board 100 West Randolph Street State of Illinois Building, Suite 11-500 Chicago, IL 60601 Amanda Kimmel Assistant Attorney General Environmental Bureau 500 S. Second Street Springfield, IL 62706 | Carol Webb Hearing Officer Illinois Pollution Control Board 1021 N. Grand Avenue East P.O. Box 19274 Springfield, IL 62794-9274 |
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PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), an Answer, a copy of which is herewith served upon the hearing officer and upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon the hearing officer and counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys and to said hearing officer with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mailbox in Springfield, Illinois on the 13th day of June, 2013.

Respectfully submitted,
ILLINOIS FUEL COMPANY, LLC, Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
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| v. |) | PCB No. 10-86 |
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| ILLINOIS FUEL COMPANY, LLC, |) | |
| a Kentucky limited liability company, |) | |
| |) | |
| Respondent. |) | |

ANSWER TO AMENDED COMPLAINT

Respondent, ILLINOIS FUEL COMPANY, LLC, by its undersigned attorneys, answers the Amended Complaint as follows:

COUNT I
NPDES PERMIT VIOLATIONS
SALINE COUNTY MINE

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).

ANSWER: Respondent admits that the People purport to bring this action pursuant to Section 31 of the Act, but it is without knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 1, and therefore denies the same.

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under 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").

ANSWER: Admit.

3. ILLINOIS FUEL COMPANY, LLC, is a Kentucky limited liability company authorized to do business in Illinois and operates a coal mine commonly known as the I-1 Mine located 5 miles northeast of Herod, and within the Shawnee National Forest, in Saline County, Illinois and a coal mine commonly known as Mine #4 located 5 miles southwest of Junction, Gallatin County, Illinois. However, for the purposes of this action, the mines will be referred to respectively as the Saline County mine and the Gallatin County mine.

ANSWER: Respondent denies that it mines coal at these locations, but is reclaiming coal mines once operated by others, but otherwise admits the remaining allegations of paragraph 3.

4. 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 or threaten or allow the discharge of any contaminants into the waters of the State...without an NPDES permit for point source discharges...or in violation of any term or condition imposed by such permit....

ANSWER: Admit.

5. Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), provides this definition:

“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.

ANSWER: Admit.

6. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), provides this definition:

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

ANSWER: Admit.

7. Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), provides this definition:

“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.

ANSWER: Admit.

8. Mine discharge effluent limitations are set forth in Section 406.106(b) of the Board’s Mine Related Water Pollution Regulations, 35 Ill.Admin.Code 406.106(b):

Except as provided in Section 406.109 and 406.110, a mine discharge effluent shall not exceed the following levels of contaminants:

| Constituent | Storet Number | Concentration |
|-------------------------|---------------|---|
| Acidity | 00435 | (total acidity shall not exceed total alkalinity) |
| Iron (total) | 01045 | 3.5mg/l |
| Lead | 01051 | 1 mg/l |
| Ammonia Nitrogen (as N) | 00610 | 5 mg/l |
| pH | 00400 | (range 6 to 9) |
| Zinc (total) | 01092 | 5 mg/l |
| Fluoride (total) | 00951 | 15 mg/l |
| Total suspended solids | 00530 | 35 mg/l |
| Manganese | 01055 | 2.0 mg/l |

ANSWER: Respondent denies the inference that Section 406.106 (b) contains the applicable effluent limitation, pursuant to Section 406.109 of the same regulation, but otherwise admits the regulation exists for other non-reclamation activities.

9. Section 406.106(b)(2) of the Board's Mine Related Water Pollution Regulations, 35 Ill.Admin.Code 406.106(b)(2), provides as follows:

The manganese effluent limitation is applicable only to discharges from facilities where chemical addition is required to meet the iron or pH effluent limitations. The upper limit of pH shall be 10 for any such facility that is unable to comply with the manganese limit at pH 9. The manganese standard is not applicable to mine discharges which are associated with areas where no active mining, processing or refuse disposal has taken place since May 13, 1976.

ANSWER: Respondent denies the inference that Section 406.106 (b) contains the applicable effluent limitation, pursuant to Section 406.109 of the same regulation, but otherwise admits the regulation exists for other non-reclamation activities.

10. Section 406.102(f) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.102(f), provides as follows:

Subsection (e) of this Section notwithstanding, if a permittee so requests, the Agency shall by permit condition require monitoring and reporting on the basis of grab samples, in which case Section 406.101(b) will apply.

ANSWER: Admit.

11. Section 406.101(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.101(b), provides as follows:

Subsection (a) of this section notwithstanding, if a permittee elects monitoring and reporting by grab samples as provided in Section 406.102(f), then compliance with the numerical standards of this part shall be determined on the basis of three or more grab samples averaged over a calendar month. In addition, no single grab sample shall exceed two times the numerical standards prescribed in this part.

ANSWER: Admit.

12. When permit conditions require monitoring and reporting on the basis of grab

samples, the monthly average shall be determined on the basis of three or more grab samples averaged over a calendar month.

ANSWER: The allegations of paragraph 12 are legal conclusions and characterizations of regulations, and therefore Respondent denies same.

13. As set forth in Section 401.102 of the Board's Mine Related Water Pollution Regulations, 35 Ill.Admin.Code 401.102, the legislative policy for the environmental regulation of coal mining is based upon the following determinations:

...mining activities including the preparation, operation and abandonment of mines, mine refuse areas and mine related facilities without environmental planning and safeguards and the use of certain refuse materials can cause, threaten or allow the discharge of contaminants into the waters of Illinois so as to cause or threaten to cause a nuisance or to render such waters harmful or detrimental to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational or other legitimate uses including use by livestock, wild animals, birds, fish or other aquatic life and riparian vegetation.

ANSWER: The allegations of paragraph 13 are legal conclusions and characterizations of the referenced regulation, and therefore Respondent denies same.

14. The purpose of the Board's Mine Related Water Pollution Regulations is stated at Section 401.103, 35 Ill.Admin.Code 401.103:

The purpose of this Subtitle D is to prevent pollution of waters of Illinois caused by failure to plan proper environmental safeguards for the location, preparation, operation and abandonment of mining activities, mining and mine refuse operations. A permit system is established to control the multitude of contaminating point and non-point source discharges, visible and hidden, continuous and fluctuating, which are potentially present in mining activities, mining and mine refuse operations. In order to ensure that such activities meet environmental standards water quality and effluent standards are established to limit discharges from point sources as well as to protect waters for beneficial uses. In addition, procedure safeguards are established to ensure the protection of waters. Furthermore, it is the purpose of this Subtitle D to meet the requirements of Section 402 of the FWPCA.

ANSWER: The allegations of paragraph 14 are legal conclusions and characterizations of the referenced regulation, and therefore Respondent denies same.

15. On January 13, 1999 the Illinois EPA issued a permit for the Saline County mine

under the National Pollutant Discharge Elimination System (“NPDES”) program of the federal Water Pollution Control Act (“FWPCA” or Clean Water Act”). NPDES Permit No. IL0064611 authorizes discharges from the Saline County mine into waters of the State, including Eagle Creek, Rose Creek, Pruett Branch, Little Eagle Creek and their unnamed tributaries. The NPDES permit for the Saline County mine also imposes monitoring and reporting requirements on the basis of grab samples.

ANSWER: Respondent denies that the permit was issued Respondent in January 1, 1999 but otherwise admits the remaining allegations.

16. NPDES Permit No. IL0064611 imposes effluent limitations for iron, manganese, sulfates, pH, and total suspended solids (“TSS”), applicable to discharges from the Saline County mine. The pH of the effluent must abide within a range (in standard units) of 6.0 to 9.0. The following effluent limitations (as expressed in milligrams per liter or “mg/L”) are also applicable to all outfalls:

| <u>Pollutant</u> | <u>30 Day Average</u> | <u>Daily Maximum</u> |
|------------------|-----------------------|----------------------|
| Iron | 3.0 mg/L | 6.0 mg/L |
| Manganese | 2.0 mg/L | 4.0 mg/L |
| TSS | 35.0 mg/L | 70.0 mg/L |
| Sulfates | n/a | 3500 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

17. Illinois Fuel Company, LLC, caused or allowed the discharge of iron from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
|-------------------|----------------|---------------------|-------------------------|

| | | | |
|---------------|-----|----------|-----------|
| February 2004 | 030 | 3.0 mg/L | 3.28 mg/L |
| February 2004 | 049 | 3.0 mg/L | 4.08 mg/L |
| March 2004 | 049 | 3.0 mg/L | 4.68 mg/L |
| May 2004 | 021 | 3.0 mg/L | 4.08 mg/L |
| November 2004 | 027 | 3.0 mg/L | 5.4 mg/L |
| December 2004 | 021 | 3.0 mg/L | 3.28 mg/L |
| December 2004 | 030 | 3.0 mg/L | 3.56 mg/L |
| January 2005 | 027 | 3.0 mg/L | 4.04 mg/L |
| February 2005 | 027 | 3.0 mg/L | 3.14 mg/L |
| March 2005 | 021 | 3.0 mg/L | 3.12 mg/L |
| May 2005 | 021 | 3.0 mg/L | 5.24 mg/L |
| May 2005 | 027 | 3.0 mg/L | 4.80 mg/L |
| August 2005 | 021 | 3.0 mg/L | 5.6 mg/L |
| August 2005 | 027 | 3.0 mg/L | 3.68 mg/L |
| August 2005 | 028 | 3.0 mg/L | 3.76 mg/L |
| August 2005 | 049 | 3.0 mg/L | 3.76 mg/L |
| August 2005 | 054 | 3.0 mg/L | 3.12 mg/L |
| November 2005 | 021 | 3.0 mg/L | 4.32 mg/L |
| November 2005 | 023 | 3.0 mg/L | 3.34 mg/L |
| November 2005 | 024 | 3.0 mg/L | 5.84 mg/L |
| November 2005 | 049 | 3.0 mg/L | 7.1 mg/L |
| February 2006 | 021 | 3.0 mg/L | 4.16 mg/L |
| February 2006 | 036 | 3.0 mg/L | 3.4 mg/L |
| February 2006 | 049 | 3.0 mg/L | 3.52 mg/L |
| March 2006 | 027 | 3.0 mg/L | 3.68 mg/L |
| March 2006 | 049 | 3.0 mg/L | 5.28 mg/L |
| June 2006 | 028 | 3.0 mg/L | 3.76 mg/L |
| August 2006 | 021 | 3.0 mg/L | 4.8 mg/L |
| February 2008 | 049 | 3.0 mg/L | 3.58 mg/L |
| February 2008 | 052 | 3.0 mg/L | 4.2 mg/L |
| August 2008 | 023 | 3.0 mg/L | 3.48 mg/L |
| January 2009 | 021 | 3.0 mg/L | 4.32 mg/L |
| February 2009 | 028 | 3.0 mg/L | 3.56 mg/L |
| August 2009 | 024 | 3.0 mg/L | 4.76 mg/L |
| August 2009 | 028 | 3.0 mg/L | 5.9 mg/L |
| December 2009 | 023 | 3.0 mg/L | 3.44 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

18. Illinois Fuel Company, LLC, caused or allowed the discharge of iron from the Saline County mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
|-------------------|----------------|---------------------|-------------------------|

November 2005 049 6.0 mg/L 7.1 mg/L

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

19. Illinois Fuel Company, LLC, caused or allowed the discharge of manganese from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| January 2004 | 021 | 2.0 mg/L | 3.33 mg/L |
| January 2004 | 022 | 2.0 mg/L | 2.18 mg/L |
| February 2004 | 021 | 2.0 mg/L | 2.8 mg/L |
| February 2004 | 022 | 2.0 mg/L | 2.56 mg/L |
| March 2004 | 021 | 2.0 mg/L | 3.05 mg/L |
| March 2004 | 022 | 2.0 mg/L | 2.63 mg/L |
| March 2004 | 030 | 2.0 mg/L | 2.18 mg/L |
| April 2004 | 022 | 2.0 mg/L | 3.82 mg/L |
| April 2004 | 026 | 2.0 mg/L | 7.5 mg/L |
| May 2004 | 021 | 2.0 mg/L | 3.52 mg/L |
| May 2004 | 022 | 2.0 mg/L | 3.62 mg/L |
| June 2004 | 022 | 2.0 mg/L | 3.42 mg/L |
| June 2004 | 026 | 2.0 mg/L | 3.72 mg/L |
| July 2004 | 022 | 2.0 mg/L | 5.4 mg/L |
| August 2004 | 022 | 2.0 mg/L | 6.3 mg/L |
| October 2004 | 022 | 2.0 mg/L | 7.1 mg/L |
| November 2004 | 022 | 2.0 mg/L | 3.91 mg/L |
| December 2004 | 021 | 2.0 mg/L | 3.14 mg/L |
| December 2004 | 022 | 2.0 mg/L | 8.08 mg/L |
| January 2005 | 021 | 2.0 mg/L | 3.0 mg/L |
| January 2005 | 022 | 2.0 mg/L | 5.08 mg/L |
| February 2005 | 021 | 2.0 mg/L | 4.04 mg/L |
| February 2005 | 022 | 2.0 mg/L | 9.7 mg/L |
| February 2005 | 026 | 2.0 mg/L | 4.15 mg/L |
| March 2005 | 021 | 2.0 mg/L | 3.62 mg/L |
| March 2005 | 022 | 2.0 mg/L | 4.38 mg/L |
| April 2005 | 021 | 2.0 mg/L | 5.0 mg/L |
| April 2005 | 022 | 2.0 mg/L | 4.39 mg/L |
| May 2005 | 021 | 2.0 mg/L | 3.23 mg/L |
| May 2005 | 022 | 2.0 mg/L | 6.1 mg/L |
| May 2005 | 030 | 2.0 mg/L | 2.27 mg/L |
| June 2005 | 021 | 2.0 mg/L | 2.04 mg/L |
| June 2005 | 022 | 2.0 mg/L | 7.9 mg/L |

| | | | |
|----------------|-----|----------|-----------|
| June 2005 | 030 | 2.0 mg/L | 2.88 mg/L |
| July 2005 | 022 | 2.0 mg/L | 5.41 mg/L |
| July 2005 | 026 | 2.0 mg/L | 2.04 mg/L |
| August 2005 | 022 | 2.0 mg/L | 2.34 mg/L |
| September 2005 | 022 | 2.0 mg/L | 3.52 mg/L |
| October 2005 | 021 | 2.0 mg/L | 3.62 mg/L |
| October 2005 | 022 | 2.0 mg/L | 6.30 mg/L |
| October 2005 | 026 | 2.0 mg/L | 2.24 mg/L |
| November 2005 | 022 | 2.0 mg/L | 4.96 mg/L |
| December 2005 | 022 | 2.0 mg/L | 4.04 mg/L |
| January 2006 | 022 | 2.0 mg/L | 5.11 mg/L |
| February 2006 | 022 | 2.0 mg/L | 2.07 mg/L |
| April 2006 | 022 | 2.0 mg/L | 3.63 mg/L |
| May 2006 | 022 | 2.0 mg/L | 7.05 mg/L |
| June 2006 | 022 | 2.0 mg/L | 5.69 mg/L |
| June 2006 | 023 | 2.0 mg/L | 2.25 mg/L |
| June 2006 | 028 | 2.0 mg/L | 3.62 mg/L |
| July 2006 | 022 | 2.0 mg/L | 4.08 mg/L |
| August 2006 | 022 | 2.0 mg/L | 2.97 mg/L |
| September 2006 | 022 | 2.0 mg/L | 5.87 mg/L |
| October 2006 | 022 | 2.0 mg/L | 2.04 mg/L |
| December 2006 | 022 | 2.0 mg/L | 2.56 mg/L |
| January 2007 | 021 | 2.0 mg/L | 2.48 mg/L |
| February 2007 | 021 | 2.0 mg/L | 2.99 mg/L |
| February 2007 | 022 | 2.0 mg/L | 2.89 mg/L |
| March 2007 | 021 | 2.0 mg/L | 4.26 mg/L |
| March 2007 | 022 | 2.0 mg/L | 2.86 mg/L |
| April 2007 | 021 | 2.0 mg/L | 2.77 mg/L |
| April 2007 | 022 | 2.0 mg/L | 3.81 mg/L |
| April 2007 | 026 | 2.0 mg/L | 2.48 mg/L |
| May 2007 | 030 | 2.0 mg/L | 2.11 mg/L |
| June 2007 | 022 | 2.0 mg/L | 3.67 mg/L |
| September 2007 | 022 | 2.0 mg/L | 4.5 mg/L |
| October 2007 | 021 | 2.0 mg/L | 3.48 mg/L |
| October 2007 | 022 | 2.0 mg/L | 4.57 mg/L |
| November 2007 | 021 | 2.0 mg/L | 2.11 mg/L |
| November 2007 | 022 | 2.0 mg/L | 3.33 mg/L |
| December 2007 | 021 | 2.0 mg/L | 2.23 mg/L |
| December 2007 | 022 | 2.0 mg/L | 2.96 mg/L |
| February 2008 | 021 | 2.0 mg/L | 2.19 mg/L |
| February 2008 | 022 | 2.0 mg/L | 2.37 mg/L |
| February 2008 | 052 | 2.0 mg/L | 2.63 mg/L |
| March 2008 | 021 | 2.0 mg/L | 2.62 mg/L |
| March 2008 | 028 | 2.0 mg/L | 3.72 mg/L |
| March 2008 | 052 | 2.0 mg/L | 2.56 mg/L |

| | | | |
|----------------|-----|----------|-----------|
| April 2008 | 021 | 2.0 mg/L | 2.8 mg/L |
| April 2008 | 026 | 2.0 mg/L | 2.28 mg/L |
| April 2008 | 028 | 2.0 mg/L | 2.1 mg/L |
| April 2008 | 052 | 2.0 mg/L | 2.88 mg/L |
| June 2008 | 022 | 2.0 mg/L | 3.23 mg/L |
| January 2009 | 021 | 2.0 mg/L | 3.92 mg/L |
| January 2009 | 052 | 2.0 mg/L | 2.33 mg/L |
| February 2009 | 021 | 2.0 mg/L | 2.56 mg/L |
| February 2009 | 022 | 2.0 mg/L | 4.00 mg/L |
| February 2009 | 052 | 2.0 mg/L | 2.11 mg/L |
| March 2009 | 022 | 2.0 mg/L | 4.00 mg/L |
| March 2009 | 026 | 2.0 mg/L | 2.3 mg/L |
| March 2009 | 036 | 2.0 mg/L | 2.72 mg/L |
| March 2009 | 052 | 2.0 mg/L | 4.00 mg/L |
| April 2009 | 021 | 2.0 mg/L | 2.18 mg/L |
| April 2009 | 022 | 2.0 mg/L | 4.00 mg/L |
| April 2009 | 052 | 2.0 mg/L | 4.00 mg/L |
| May 2009 | 021 | 2.0 mg/L | 2.72 mg/L |
| May 2009 | 048 | 2.0 mg/L | 2.97 mg/L |
| May 2009 | 052 | 2.0 mg/L | 2.11 mg/L |
| June 2009 | 021 | 2.0 mg/L | 2.40 mg/L |
| June 2009 | 022 | 2.0 mg/L | 3.70 mg/L |
| July 2009 | 022 | 2.0 mg/L | 3.70 mg/L |
| July 2009 | 026 | 2.0 mg/L | 3.33 mg/L |
| August 2009 | 021 | 2.0 mg/L | 2.76 mg/L |
| August 2009 | 022 | 2.0 mg/L | 3.14 mg/L |
| September 2009 | 022 | 2.0 mg/L | 3.1 mg/L |
| October 2009 | 022 | 2.0 mg/L | 3.62 mg/L |
| October 2009 | 037 | 2.0 mg/L | 2.25 mg/L |
| November 2009 | 021 | 2.0 mg/L | 2.11 mg/L |
| November 2009 | 022 | 2.0 mg/L | 3.55 mg/L |
| November 2009 | 048 | 2.0 mg/L | 3.42 mg/L |
| December 2009 | 022 | 2.0 mg/L | 4.00 mg/L |
| December 2009 | 023 | 2.0 mg/L | 2.34 mg/L |
| January 2010 | 021 | 2.0 mg/L | 2.56 mg/L |
| January 2010 | 022 | 2.0 mg/L | 2.97 mg/L |
| January 2010 | 023 | 2.0 mg/L | 2.25 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

20. Illinois Fuel Company, LLC, caused or allowed the discharge of manganese from the Saline County mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| December 2004 | 022 | 4.0 mg/L | 8.08 mg/L |
| April 2004 | 026 | 4.0 mg/L | 7.5 mg/L |
| July 2004 | 022 | 4.0 mg/L | 5.4 mg/L |
| August 2004 | 022 | 4.0 mg/L | 6.3 mg/L |
| October 2004 | 022 | 4.0 mg/L | 7.9 mg/L |
| January 2005 | 022 | 4.0 mg/L | 5.9 mg/L |
| February 2005 | 021 | 4.0 mg/L | 4.04 mg/L |
| February 2005 | 022 | 4.0 mg/L | 7.88 mg/L |
| February 2005 | 022 | 4.0 mg/L | 11.52 mg/L |
| February 2005 | 026 | 4.0 mg/L | 4.15 mg/L |
| March 2005 | 022 | 4.0 mg/L | 4.38 mg/L |
| April 2005 | 021 | 4.0 mg/L | 4.78 mg/L |
| April 2005 | 021 | 4.0 mg/L | 5.23 mg/L |
| April 2005 | 022 | 4.0 mg/L | 6.84 mg/L |
| May 2005 | 022 | 4.0 mg/L | 6.1 mg/L |
| June 2005 | 022 | 4.0 mg/L | 6.3 mg/L |
| June 2005 | 022 | 4.0 mg/L | 9.6 mg/L |
| July 2005 | 022 | 4.0 mg/L | 4.92 mg/L |
| July 2005 | 022 | 4.0 mg/L | 5.9 mg/L |
| October 2005 | 022 | 4.0 mg/L | 6.3 mg/L |
| November 2005 | 022 | 4.0 mg/L | 6.5 mg/L |
| December 2005 | 022 | 4.0 mg/L | 4.04 mg/L |
| January 2006 | 022 | 4.0 mg/L | 8.08 mg/L |
| April 2006 | 022 | 4.0 mg/L | 4.38 mg/L |
| May 2006 | 022 | 4.0 mg/L | 7.64 mg/L |
| June 2006 | 022 | 4.0 mg/L | 6.3 mg/L |
| July 2006 | 022 | 4.0 mg/L | 5.4 mg/L |
| September 2006 | 022 | 4.0 mg/L | 6.5 mg/L |
| March 2007 | 021 | 4.0 mg/L | 4.26 mg/L |
| April 2007 | 022 | 4.0 mg/L | 4.38 mg/L |
| September 2007 | 022 | 4.0 mg/L | 4.5 mg/L |
| October 2007 | 022 | 4.0 mg/L | 4.64 mg/L |
| December 2007 | 022 | 4.0 mg/L | 4.15 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

21. Illinois Fuel Company, LLC, caused or allowed the discharge of sulfates from the Saline County mines in excess of the permitted daily maximum effluent limitations as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
|-------------------|----------------|---------------------|-------------------------|

| | | | |
|----------------|-----|-----------|-----------|
| July 2005 | 026 | 3500 mb/L | 3625 mg/L |
| August 2005 | 026 | 3500 mg/L | 3625 mg/L |
| October 2005 | 026 | 3500 mg/L | 3625 mg/L |
| December 2005 | 026 | 3500 mg/L | 3625 mg/L |
| January 2006 | 026 | 3500 mg/L | 3735 mg/L |
| April 2006 | 026 | 3500 mg/L | 3850 mg/L |
| May 2006 | 026 | 3500 mg/L | 3625 mg/L |
| June 2006 | 026 | 3500 mg/L | 3850 mg/L |
| July 2006 | 026 | 3500 mg/L | 3525 mg/L |
| September 2006 | 026 | 3500 mg/L | 3735 mg/L |
| May 2007 | 026 | 3500 mg/L | 3540 mg/L |
| June 2007 | 026 | 3500 mg/L | 3540 mg/L |
| August 2007 | 034 | 3500 mg/L | 3840 mg/L |
| November 2008 | 026 | 3500 mg/L | 4000 mg/L |
| December 2008 | 026 | 3500 mg/L | 3690 mg/L |
| January 2009 | 026 | 3500 mg/L | 3930 mg/L |
| November 2009 | 026 | 3500 mg/L | 4160 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

22. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Saline County Mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| January 2004 | 052 | 35.0 mg/L | 36.0 mg/L |
| February 2004 | 030 | 35.0 mg/L | 115.0 mg/L |
| February 2004 | 049 | 35.0 mg/L | 39.5 mg/L |
| February 2004 | 054 | 35.0 mg/L | 46.0 mg/L |
| March 2004 | 024 | 35.0 mg/L | 45.5 mg/L |
| March 2004 | 027 | 35.0 mg/L | 99.0 mg/L |
| March 2004 | 028 | 35.0 mg/L | 45.5 mg/L |
| March 2004 | 035 | 35.0 mg/L | 44.5 mg/L |
| March 2004 | 037 | 35.0 mg/L | 36 mg/L |
| March 2004 | 048 | 35.0 mg/L | 59 mg/L |
| March 2004 | 049 | 35.0 mg/L | 86 mg/L |
| March 2004 | 056 | 35.0 mg/L | 42.0 mg/L |
| May 2004 | 027 | 35.0 mg/L | 66 mg/L |
| November 2004 | 024 | 35.0 mg/L | 48.5 mg/L |
| November 2004 | 027 | 35.0 mg/L | 59.2 mg/L |
| November 2004 | 030 | 35.0 mg/L | 93.5 mg/L |
| November 2004 | 049 | 35.0 mg/L | 76.2 mg/L |
| November 2004 | 054 | 35.0 mg/L | 37.7 mg/L |

| | | | |
|---------------|-----|-----------|------------|
| December 2004 | 027 | 35.0 mg/L | 99.5 mg/L |
| December 2004 | 030 | 35.0 mg/L | 97.5 mg/L |
| December 2004 | 034 | 35.0 mg/L | 48 mg/L |
| December 2004 | 036 | 35.0 mg/L | 45 mg/L |
| December 2004 | 037 | 35.0 mg/L | 103.2 mg/L |
| December 2004 | 049 | 35.0 mg/L | 53.5 mg/L |
| January 2005 | 024 | 35.0 mg/L | 39.5 mg/L |
| January 2005 | 054 | 35.0 mg/L | 39.2 mg/L |
| February 2005 | 027 | 35.0 mg/L | 54 mg/L |
| March 2005 | 023 | 35.0 mg/L | 39 mg/L |
| March 2005 | 024 | 35.0 mg/L | 53 mg/L |
| March 2005 | 049 | 35.0 mg/L | 42.5 mg/L |
| May 2005 | 027 | 35.0 mg/L | 38.5 mg/L |
| August 2005 | 023 | 35.0 mg/L | 41.2 mg/L |
| August 2005 | 024 | 35.0 mg/L | 67.5 mg/L |
| August 2005 | 027 | 35.0 mg/L | 142 mg/L |
| August 2005 | 028 | 35.0 mg/L | 97.5 mg/L |
| August 2005 | 049 | 35.0 mg/L | 60.5 mg/L |
| August 2005 | 052 | 35.0 mg/L | 67 mg/L |
| August 2005 | 054 | 35.0 mg/L | 106 mg/L |
| November 2005 | 022 | 35.0 mg/L | 59.2 mg/L |
| November 2005 | 023 | 35.0 mg/L | 100 mg/L |
| November 2005 | 024 | 35.0 mg/L | 119 mg/L |
| November 2005 | 026 | 35.0 mg/L | 48.5 mg/L |
| November 2005 | 028 | 35.0 mg/L | 38.5 mg/L |
| November 2005 | 036 | 35.0 mg/L | 60 mg/L |
| November 2005 | 048 | 35.0 mg/L | 78.5 mg/L |
| November 2005 | 049 | 35.0 mg/L | 174.5 mg/L |
| November 2005 | 052 | 35.0 mg/L | 69.5 mg/L |
| November 2005 | 054 | 35.0 mg/L | 90.5 mg/L |
| December 2005 | 037 | 35.0 mg/L | 43.5 mg/L |
| January 2006 | 027 | 35.0 mg/L | 47 mg/L |
| January 2006 | 049 | 35.0 mg/L | 60.8 mg/L |
| February 2006 | 023 | 35.0 mg/L | 36.3 mg/L |
| February 2006 | 026 | 35.0 mg/L | 37.3 mg/L |
| February 2006 | 027 | 35.0 mg/L | 51.5 mg/L |
| February 2006 | 037 | 35.0 mg/L | 37.5 mg/L |
| February 2006 | 048 | 35.0 mg/L | 39 mg/L |
| February 2006 | 049 | 35.0 mg/L | 94.5 mg/L |
| February 2006 | 052 | 35.0 mg/L | 69.8 mg/L |
| February 2006 | 054 | 35.0 mg/L | 58.3 mg/L |
| March 2006 | 023 | 35.0 mg/L | 44 mg/L |
| March 2006 | 027 | 35.0 mg/L | 64.5 mg/L |
| March 2006 | 037 | 35.0 mg/L | 39.5 mg/L |
| March 2006 | 048 | 35.0 mg/L | 44.8 mg/L |

| | | | |
|----------------|-----|-----------|-----------|
| March 2006 | 049 | 35.0 mg/L | 147 mg/L |
| March 2006 | 052 | 35.0 mg/L | 67.5 mg/L |
| March 2006 | 054 | 35.0 mg/L | 53.5 mg/L |
| May 2006 | 027 | 35.0 mg/L | 49.5 mg/L |
| May 2006 | 028 | 35.0 mg/L | 49.5 mg/L |
| May 2006 | 049 | 35.0 mg/L | 49 mg/L |
| May 2006 | 052 | 35.0 mg/L | 47.5 mg/L |
| June 2006 | 027 | 35.0 mg/L | 74 mg/L |
| July 2006 | 024 | 35.0 mg/L | 62.5 mg/L |
| July 2006 | 027 | 35.0 mg/L | 46.5 mg/L |
| August 2006 | 034 | 35.0 mg/L | 39 mg/L |
| October 2006 | 027 | 35.0 mg/L | 44 mg/L |
| October 2006 | 030 | 35.0 mg/L | 51.5 mg/L |
| November 2006 | 027 | 35.0 mg/L | 55.8 mg/L |
| November 2006 | 030 | 35.0 mg/L | 51.5 mg/L |
| December 2006 | 030 | 35.0 mg/L | 42.3 mg/L |
| January 2007 | 027 | 35.0 mg/L | 36.8 mg/L |
| January 2007 | 030 | 35.0 mg/L | 40 mg/L |
| January 2007 | 049 | 35.0 mg/L | 45 mg/L |
| January 2007 | 052 | 35.0 mg/L | 35.8 mg/L |
| January 2007 | 054 | 35.0 mg/L | 46.3 mg/L |
| February 2007 | 049 | 35.0 mg/L | 41.8 mg/L |
| February 2007 | 054 | 35.0 mg/L | 50 mg/L |
| March 2007 | 027 | 35.0 mg/L | 59 mg/L |
| March 2007 | 054 | 35.0 mg/L | 49.5 mg/L |
| April 2007 | 027 | 35.0 mg/L | 63 mg/L |
| April 2007 | 048 | 35.0 mg/L | 40.3 mg/L |
| September 2007 | 030 | 35.0 mg/L | 56 mg/L |
| December 2007 | 027 | 35.0 mg/L | 136 mg/L |
| January 2008 | 023 | 35.0 mg/L | 35.8 mg/L |
| January 2008 | 027 | 35.0 mg/L | 39 mg/L |
| January 2008 | 030 | 35.0 mg/L | 48 mg/L |
| January 2008 | 036 | 35.0 mg/L | 43.5 mg/L |
| January 2008 | 048 | 35.0 mg/L | 38.5 mg/L |
| January 2008 | 049 | 35.0 mg/L | 50 mg/L |
| February 2008 | 023 | 35.0 mg/L | 38.8 mg/L |
| February 2008 | 027 | 35.0 mg/L | 70.5 mg/L |
| February 2008 | 030 | 35.0 mg/L | 37.8 mg/L |
| February 2008 | 037 | 35.0 mg/L | 43 mg/L |
| February 2008 | 049 | 35.0 mg/L | 56 mg/L |
| April 2008 | 027 | 35.0 mg/L | 50.3 mg/L |
| May 2008 | 027 | 35.0 mg/L | 55 mg/L |
| May 2008 | 030 | 35.0 mg/L | 52.5 mg/L |
| July 2008 | 030 | 35.0 mg/L | 41 mg/L |
| August 2008 | 021 | 35.0 mg/L | 36 mg/L |

| | | | |
|----------------|-----|-----------|-----------|
| August 2008 | 023 | 35.0 mg/L | 52 mg/L |
| August 2008 | 030 | 35.0 mg/L | 80.5 mg/L |
| August 2008 | 052 | 35.0 mg/L | 42.5 mg/L |
| January 2009 | 021 | 35.0 mg/L | 50.0 mg/L |
| February 2009 | 024 | 35.0 mg/L | 46.5 mg/L |
| February 2009 | 028 | 35.0 mg/L | 70.0 mg/L |
| February 2009 | 030 | 35.0 mg/L | 70.0 mg/L |
| February 2009 | 035 | 35.0 mg/L | 53.5 mg/L |
| February 2009 | 049 | 35.0 mg/L | 40 mg/L |
| April 2009 | 027 | 35.0 mg/L | 57.7 mg/L |
| May 2009 | 028 | 35.0 mg/L | 45.0 mg/L |
| May 2009 | 049 | 35.0 mg/L | 67 mg/L |
| May 2009 | 051 | 35.0 mg/L | 55 mg/L |
| June 2009 | 052 | 35.0 mg/L | 67.0 mg/L |
| August 2009 | 021 | 35.0 mg/L | 52 mg/L |
| August 2009 | 024 | 35.0 mg/L | 66 mg/L |
| August 2009 | 026 | 35.0 mg/L | 51 mg/L |
| August 2009 | 028 | 35.0 mg/L | 61 mg/L |
| August 2009 | 030 | 35.0 mg/L | 46 mg/L |
| August 2009 | 035 | 35.0 mg/L | 36 mg/L |
| August 2009 | 048 | 35.0 mg/L | 40.5 mg/L |
| September 2009 | 024 | 35.0 mg/L | 53.5 mg/L |
| October 2009 | 024 | 35.0 mg/L | 56.5 mg/L |
| October 2009 | 027 | 35.0 mg/L | 37.5 mg/L |
| December 2009 | 024 | 35.0 mg/L | 52 mg/L |
| January 2010 | 024 | 35.0 mg/L | 63 mg/L |
| January 2010 | 036 | 35.0 mg/L | 44.5 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

23. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Saline County Mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| February 2004 | 030 | 70.0 mg/L | 115.0 mg/L |
| March 2004 | 027 | 70.0 mg/L | 99.0 mg/L |
| March 2004 | 049 | 70.0 mg/L | 86 mg/L |
| November 2004 | 027 | 70.0 mg/L | 104.5 mg/L |
| November 2004 | 030 | 70.0 mg/L | 93.5 mg/L |
| November 2004 | 049 | 70.0 mg/L | 82.5 mg/L |
| December 2004 | 027 | 70.0 mg/L | 99.5 mg/L |
| December 2004 | 030 | 70.0 mg/L | 97.5 mg/L |

| | | | |
|---------------|-----|-----------|------------|
| December 2004 | 037 | 70.0 mg/L | 103.5 mg/L |
| December 2004 | 049 | 70.0 mg/L | 72 mg/L |
| August 2005 | 023 | 70.0 mg/L | 77.5 mg/L |
| August 2005 | 027 | 70.0 mg/L | 142 mg/L |
| August 2005 | 028 | 70.0 mg/L | 97.5 mg/L |
| August 2005 | 054 | 70.0 mg/L | 106 mg/L |
| November 2005 | 022 | 70.0 mg/L | 131.5 mg/L |
| November 2005 | 024 | 70.0 mg/L | 119 mg/L |
| November 2005 | 036 | 70.0 mg/L | 87 mg/L |
| November 2005 | 048 | 70.0 mg/L | 78.5 mg/L |
| November 2005 | 049 | 70.0 mg/L | 174.5 mg/L |
| November 2005 | 052 | 70.0 mg/L | 97.5 mg/L |
| November 2005 | 054 | 70.0 mg/L | 110 mg/L |
| January 2006 | 049 | 70.0 mg/L | 75.5 mg/L |
| February 2006 | 049 | 70.0 mg/L | 99 mg/L |
| February 2006 | 052 | 70.0 mg/L | 79.5 mg/L |
| February 2006 | 054 | 70.0 mg/L | 81.5 mg/L |
| March 2006 | 049 | 70.0 mg/L | 186 mg/L |
| March 2006 | 049 | 70.0 mg/L | 99.5 mg/L |
| May 2006 | 049 | 70.0 mg/L | 85.5 mg/L |
| June 2006 | 027 | 70.0 mg/L | 74 mg/L |
| November 2006 | 027 | 70.0 mg/L | 77 mg/L |
| November 2006 | 030 | 70.0 mg/L | 71 mg/L |
| December 2007 | 027 | 70.0 mg/L | 136 mg/L |
| February 2008 | 027 | 70.0 mg/L | 114.5 mg/L |
| February 2008 | 037 | 70.0 mg/L | 73.5 mg/L |
| April 2008 | 027 | 70.0 mg/L | 76.5 mg/L |
| August 2008 | 030 | 70.0 mg/L | 80.5 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

24. Illinois Fuel Company, LLC, caused or allowed the discharge of pH from the Saline County mine outside of the permitted effluent limitation range of 6.0 to 9.0 standard units as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Actual Discharge</u> |
|-------------------|----------------|-------------------------|
| May 2004 | 021 | 5.7 |
| February 2005 | 022 | 4.8 |
| February 2005 | 022 | 5.3 |
| February 2005 | 027 | 5.5 |
| April 2005 | 022 | 5.7 |

| | | |
|--------------------|-----|-----|
| April 2005 | 022 | 9.4 |
| May 2005 | 030 | 4.3 |
| Third Quarter 2005 | 021 | 4.1 |
| August 2005 | 021 | 4.2 |
| October 2005 | 023 | 9.2 |
| May 2006 | 023 | 9.2 |
| July 2006 | 030 | 9.8 |
| July 2006 | 054 | 9.5 |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

25. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of iron from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| January 2010 | 036 | 3.0mg/L | 3.04 mg/L |
| December 2010 | 021 | 3.0mg/L | 3.12 mg/L |
| February 2011 | 023 | 3.0mg/L | 4.8 mg/L |
| March 2011 | 027 | 3.0mg/L | 3.48 mg/L |
| April 2011 | 055 | 3.0mg/L | 5.88 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

26. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of manganese from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Effluent Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|-----------------------|-------------------------|
| February 2010 | 021 | 2.0 mg/L | 2.4 mg/L |
| February 2010 | 022 | 2.0 mg/L | 3.56 mg/L |
| February 2010 | 048 | 2.0 mg/L | 2.19 mg/L |
| March 2010 | 021 | 2.0 mg/L | 2.25 mg/L |
| March 2010 | 022 | 2.0 mg/L | 4.15 mg/L |
| March 2010 | 026 | 2.0 mg/L | 2.4 mg/L |
| March 2010 | 048 | 2.0 mg/L | 2.42 mg/L |

| | | | |
|---------------|-----|----------|-----------|
| April 2010 | 022 | 2.0 mg/L | 4.78 mg/L |
| April 2010 | 026 | 2.0 mg/L | 3.62 mg/L |
| April 2010 | 048 | 2.0 mg/L | 2.18 mg/L |
| April 2010 | 052 | 2.0 mg/L | 2.04 mg/L |
| May 2010 | 022 | 2.0 mg/L | 4.36 mg/L |
| May 2010 | 026 | 2.0 mg/L | 2.74 mg/L |
| May 2010 | 048 | 2.0 mg/L | 2.26 mg/L |
| June 2010 | 022 | 2.0 mg/L | 3.93 mg/L |
| June 2010 | 048 | 2.0 mg/L | 2.33 mg/L |
| December 2010 | 021 | 2.0 mg/L | 9.32 mg/L |
| December 2010 | 022 | 2.0 mg/L | 5.55 mg/L |
| December 2010 | 037 | 2.0 mg/L | 2.48 mg/L |
| January 2011 | 022 | 2.0 mg/L | 3.33 mg/L |
| February 2011 | 021 | 2.0 mg/L | 5.58 mg/L |
| February 2011 | 022 | 2.0 mg/L | 3.76 mg/L |
| February 2011 | 037 | 2.0 mg/L | 2.58 mg/L |
| March 2011 | 022 | 2.0 mg/L | 2.4 mg/L |
| March 2011 | 026 | 2.0 mg/L | 3.33 mg/L |
| March 2011 | 037 | 2.0 mg/L | 3.33 mg/L |
| March 2011 | 048 | 2.0 mg/L | 2.33 mg/L |
| April 2011 | 048 | 2.0 mg/L | 3.14 mg/L |
| May 2011 | 022 | 2.0 mg/L | 2.88 mg/L |
| May 2011 | 026 | 2.0 mg/L | 3.05 mg/L |
| May 2011 | 037 | 2.0 mg/L | 2.04 mg/L |
| May 2011 | 048 | 2.0 mg/L | 2.11 mg/L |
| June 2011 | 021 | 2.0 mg/L | 2.4 mg/L |
| June 2011 | 037 | 2.0 mg/L | 2.33mg/L |
| June 2011 | 048 | 2.0 mg/L | 2.8 mg/L |
| July 2011 | 021 | 2.0 mg/L | 3.33 mg/L |
| July 2011 | 048 | 2.0 mg/L | 2.33 mg/L |
| October 2011 | 026 | 2.0 mg/L | 2.18 mg/L |
| October 2011 | 037 | 2.0 mg/L | 4.5 mg/L |
| November 2011 | 037 | 2.0 mg/L | 3.05 mg/L |
| December 2011 | 037 | 2.0 mg/L | 2.11 mg/L |
| January 2012 | 022 | 2.0 mg/L | 3.72 mg/L |
| January 2012 | 048 | 2.0 mg/L | 2.25 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

27. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of manganese from the Saline County mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| March 2010 | 022 | 4.0 mg/L | 4.15mg/L |
| April 2010 | 022 | 4.0 mg/L | 4.78 mg/L |
| May 2010 | 022 | 4.0 mg/L | 4.36 mg/L |
| December 2010 | 021 | 4.0 mg/L | 9.32 mg/L |
| December 2010 | 022 | 4.0 mg/L | 5.55 mg/L |
| February 2011 | 021 | 4.0 mg/L | 5.58 mg/L |
| October 2011 | 037 | 4.0 mg/L | 4.5 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

28. Since filing the Complaint, Illinois Fuel Company,. LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of sulfates from the Saline County mine in excess of the permitted daily maximum effluent limitations as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| June 2010 | 026 | 3500 mg/L | 3840 mg/L |
| June 2010 | 034 | 3500 mg/L | 4080 mg/L |
| October 2010 | 034 | 3500 mg/L | 4510 mg/L |
| November 2010 | 034 | 3500 mg/L | 4330 mg/L |
| December 2010 | 026 | 3500 mg/L | 3760 mg/L |
| December 2010 | 034 | 3500 mg/L | 4160 mg/L |
| January 2011 | 026 | 3500 mg/L | 3930 mg/L |
| January 2011 | 034 | 3500 mg/L | 4420 mg/L |
| February 2011 | 034 | 3500 mg/L | 3640 mg/L |
| May 2011 | 026 | 3500 mg/L . | 4420 mg/L |
| May 2011 | 048 | 3500 mg/L | 3930 mg/L |
| August 2011 . | 026 | 3500 mg/L | 3840 mg/L |
| August 2011 | 034 | 3500 mg/L | 3760 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

29. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of TSS from the Saline County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
|-------------------|----------------|---------------------|-------------------------|

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

30. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of TSS from the Saline County mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| June.2010 | 034 | 70.0 mg/L | 76.5 mg/L |
| December 2010 | 037 | 70.0 mg/L | 72 mg/L |
| March 2011 | 024 | 70.0 mg/L | 79 mg/L |
| April 2011 | 023 | 70.0 mg/L | 78 mg/L |
| June 2011 | 055 | 70.0 mg/L | 109.5 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

31. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of pH from the Saline County mine outside of the permitted effluent limitation range of 6.0 to 9.0 standard units as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Actual Discharge</u> |
|-------------------|----------------|-------------------------|
| March 2010 | 056 | 9.15 |
| April 2010 | 056 | 9.15 |

32. Illinois Fuel Company, LLC, repeatedly caused or allowed the discharge from the Saline County mine of iron, manganese, sulfates, pH and TSS, in excess of the effluent limitations imposed by NPDES Permit No. IL0064611.

ANSWER: Denies.

33. By repeatedly discharging contaminants from the Saline County mine into waters

of the State in violation of the terms and conditions of NPDES Permit No. IL0064611, Illinois Fuel Company, LLC, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

ANSWER: Denies.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

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

B. Find that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and

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

ANSWER: Denies.

COUNT II
WATER POLLUTION VIOLATIONS
SALINE COUNTY MINE

1-32. Complainant realleges and incorporates herein by reference paragraphs 1 through 32 of Count I as paragraphs 1 through 32 of this Count II.

ANSWER: Respondent realleges its answers to the subject paragraphs.

33. Illinois Fuel Company, LLC, caused or allowed the discharge of iron, manganese, sulfates, pH and TSS into waters of the State so as to cause or tend to cause water pollution in

Illinois in combination with matter from other sources. These repeated discharges from the Saline County mine in excess of the permitted concentration levels have likely created a nuisance or rendered such waters harmful or detrimental or injurious to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish or other aquatic life.

ANSWER: Denies.

34. By so causing or tending to cause water pollution, Illinois Fuel Company, LLC, has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

ANSWER: Denies.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

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

B. Find that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and

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

ANSWER: Denies.

COUNT III
OPERATING WITHOUT AN NPDES PERMIT
GALLATIN COUNTY MINE

1. This Count is brought on behalf of the People of the State of Illinois, Attorney General Lisa Madigan, on her own motion pursuant to Section 31 of the Act, 415 ILCS 5/31.

ANSWER: Respondent admits that the People purport to bring this action pursuant to Section 31 of the Act, but it is without knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 1, and therefore denies the same.

2.-14. Complainant realleges and incorporates herein by reference paragraphs 2 through 14 of Count I as paragraphs 2 through 14 of this Count III.

ANSWER: Respondent realleges its answers to the subject paragraphs.

15. On May 12, 1999 the Illinois EPA issued NPDES Permit No. IL0061166 for the Gallatin County mine under the NPDES program of the FWPCA. NPDES Permit No. IL0061166 authorizes discharges from the Gallatin County mine into waters of the State, including Eagle Creek and Little Eagle Creek. The NPDES permit for the Gallatin County mine also imposes monitoring and reporting requirements on the basis of grab samples.

ANSWER: Admit.

16. On March 9; 2000, Jader Fuel Company, Inc., requested to transfer NPDES Permit No. IL0061166 to Jader Coal Company, LLC. The Illinois EPA did not object to this permit transfer.

ANSWER: Defendant is without sufficient knowledge to admit or deny these allegations, and therefore denies the same.

17. On February 23, 2003, the Jader Coal Company, LLC was involuntarily dissolved by the Secretary of State.

ANSWER: Defendant is without sufficient knowledge to admit or deny these allegations, and therefore denies the same.

18. On August 7, 2003, Illinois EPA received a renewal application for NPDES Permit No. IL0061166 which was submitted by the Illinois Fuel Company, LLC, on behalf of the

dissolved Jader Coal Company, LLC. The Illinois EPA took no action in response to the renewal application.

ANSWER: Defendant affirmatively states that it submitted the renewal application at the request of the Illinois Department of Natural Resources, which was desirous that Illinois Fuel Company, LLC, complete reclamation work at the abandoned mine, but otherwise admits the remaining allegations.

19. On information and belief, Illinois Fuel Company, LLC, has been operating the Gallatin County mine and has not filed a request to transfer NPDES Permit No. IL0061166.

ANSWER: Defendant denies that it has been operating the Gallatin County mine, but has performing reclamation work abandoned by Jader Coal Company, LLC.

20. On March 31, 2004, NPDES Permit No. IL0061166 permit expired. As of the filing date of this Amended Complaint, Illinois Fuel Company, LLC operates the Gallatin County "mine without an NPDES permit.:

ANSWER: Defendant denies that it has been operating the Gallatin County mine, but has performing reclamation work abandoned by Jader Coal Company, LLC.

21. Since Illinois Fuel Company, LLC, has operated the Gallatin County mine without an NPDES permit for approximately nine years after the expiration of NPDES Permit No. IL0061166, every discharge of pollutants into the receiving waters that has occurred during its control of the facility has been a discharge without a permit.

ANSWER: Defendant denies that it has been operating the Gallatin County mine, but has performing reclamation work abandoned by Jader Coal Company, LLC.

22. By failing to submit a NPDES permit and operating the Gallatin County mine without the requisite NPDES permit, Illinois Fuel Company, LLC, has violated Section 12(f) of

the Act, 415 ILCS 5/12(f).

ANSWER: Denies.

23. In the alternative, if the renewal application prevented the expiration of the NPDES permit, Illinois Fuel Company, LLC, remains liable for any and all violations of NPDES Permit No. IL0061166 as alleged in Count IV of this Amended Complaint.

ANSWER: Denies.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

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

B. Find that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and

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

ANSWER: Denies.

COUNT IV
NPDES PERMIT VIOLATIONS
GALLATIN COUNTY MINE

1-14. Complainant realleges and incorporates herein by reference paragraphs I through 14 of Count I as paragraphs 1 through 14 of this Count IV.

ANSWER: Respondent realleges its answers to the subject paragraphs.

15-18. Complainant realleges and incorporates herein by reference paragraph 15 through 18 of Count III as paragraph 15 through 18 of this Count IV.

ANSWER: Respondent realleges its answers to the subject paragraphs.

19. NPDES Permit No. IL0061166 imposes effluent limitations for iron, manganese, sulfates, pH, and total suspended solids (“TSS”), applicable to discharges from the Gallatin County mine. The pH of the effluent must abide within a range (in standard units) of 6.0 to 9.0. The following effluent limitations (as expressed in milligrams per liter or “mg/L”) are also applicable to all outfalls:

| <u>Pollutant</u> | <u>30 Day Average</u> | <u>Daily Maximum</u> |
|------------------|-----------------------|----------------------|
| Iron | 3.0 mg/L | 6.0 mg/L |
| Manganese | 2.0 mg/L | 4.0 mg/L |
| TSS | 35.0 mg/L | 70.0 mg/L |
| Sulfates | n/a | 3500 mg/L |

ANSWER: Respondent is without sufficient knowledge to admit or deny the allegations, and accordingly denies them.

20. Illinois Fuel Company, LLC, caused or allowed the discharge of iron from the Gallatin County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| August 2004 | 044 | 3.0 mg/L | 12.15 mg/L |
| May 2008 | 020 | 3.0 mg/L | 5.08 mg/L |
| August 2008 | 020 | 3.0 mg/L | 4.56 mg/L |
| August 2009 | 020 | 3.0 mg/L | 3.76 mg/L |
| February 2009 | 012 | 3.0 mg/L | 4.05 mg/L |
| February 2009 | 020 | 3.0 mg/L | 6.10 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

21. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of iron from the Gallatin County mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| August 2004 | 044 | 6.0 mg/L | 18.3 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

22. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Gallatin County mine in excess of the permitted monthly average effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| March 2004 | 017 | 35.0 mg/L | 66.5 mg/L |
| March 2004 | 019 | 35.0 mg/L | 37 mg/L |
| March 2004 | 020 | 35.0 mg/L | 46 mg/L |
| June 2004 | 008 | 35.0 mg/L | 43.5 mg/L |
| June 2004 | 017 | 35.0 mg/L | 39.5 mg/L |
| August 2004 | 017 | 35.0 mg/L | 45 mg/L |
| November 2004 | 017 | 35.0 mg/L | 60 mg/L |
| January 2005 | 017 | 35.0 mg/L | 41.5 mg/L |
| February 2005 | 008 | 35.0 mg/L | 44 mg/L |
| February 2005 | 017 | 35.0 mg/L | 78 mg/L |
| February 2005 | 020 | 35.0 mg/L | 47 mg/L |
| November 2005 | 009 | 35.0 mg/L | 36 mg/L |
| November 2005 | 012 | 35.0 mg/L | 82.7 mg/L |
| November 2005 | 017 | 35.0 mg/L | 71 mg/L |
| November 2005 | 020 | 35.0 mg/L | 36.5 mg/L |
| January 2006 | 017 | 35.0 mg/L | 44.8 mg/L |
| February 2006 | 012 | 35.0 mg/L | 49.3 mg/L |
| February 2006 | 016 | 35.0 mg/L | 50 mg/L |
| February 2006 | 017 | 35.0 mg/L | 58 mg/L |
| February 2006 | 019 | 35.0 mg/L | 36.3 mg/L |
| February 2006 | 020 | 35.0 mg/L | 51.8 mg/L |
| March 2006 | 009 | 35.0 mg/L | 37.2 mg/L |
| March 2006 | 012 | 35.0 mg/L | 59.8 mg/L |
| March 2006 | 017 | 35.0 mg/L | 60.3 mg/L |
| March 2006 | 020 | 35.0 mg/L | 43.3 mg/L |

| | | | |
|----------------|-----|-----------|------------|
| April 2006 | 019 | 35.0 mg/L | 43 mg/L |
| May 2006 | 016 | 35.0 mg/L | 51 mg/L |
| August 2006 | 008 | 35.0 mg/L | 52 mg/L |
| September 2006 | 019 | 35.0 mg/L | 42 mg/L |
| October 2006 | 016 | 35.0 mg/L | 42 mg/L |
| November 2006 | 018 | 35.0 mg/L | 37 mg/L |
| December 2006 | 017 | 35.0 mg/L | 38.2 mg/L |
| January 2007 | 012 | 35.0 mg/L | 41 mg/L |
| February 2007 | 012 | 35.0 mg/L | 50.3 mg/L |
| February 2007 | 017 | 35.0 mg/L | 48.3 mg/L |
| February 2007 | 020 | 35.0 mg/L | 51.8 mg/L |
| February 2007 | 040 | 35.0 mg/L | 67.5 mg/L |
| March 2007 | 044 | 35.0 mg/L | 63.5 mg/L |
| April 2007 | 012 | 35.0 mg/L | 36 mg/L |
| April 2007 | 016 | 35.0 mg/L | 66 mg/L |
| April 2007 | 044 | 35.0 mg/L | 38.5 mg/L |
| May 2007 | 020 | 35.0 mg/L | 50 mg/L |
| October 2007 | 017 | 35.0 mg/L | 49.5 mg/L |
| November 2007 | 043 | 35.0 mg/L | 99.5 mg/L |
| January 2008 | 009 | 35.0 mg/L | 56.5 mg/L |
| January 2008 | 012 | 35.0 mg/L | 62 mg/L |
| January 2008 | 017 | 35.0 mg/L | 68 mg/L |
| January 2008 | 018 | 35.0 mg/L | 50 mg/L |
| January 2008 | 019 | 35.0 mg/L | 62.5 mg/L |
| January 2008 | 020 | 35.0 mg/L | 80 mg/L |
| February 2008 | 009 | 35.0 mg/L | 36.5 mg/L |
| February 2008 | 012 | 35.0 mg/L | 92.3 mg/L |
| February 2008 | 016 | 35.0 mg/L | 38.5 mg/L |
| February 2008 | 017 | 35.0 mg/L | 41.5 mg/L |
| February 2008 | 018 | 35.0 mg/L | 38.5 mg/L |
| February 2008 | 020 | 35.0 mg/L | 76 mg/L |
| May 2008 | 020 | 35.0 mg/L | 162 mg/L |
| August 2008 | 012 | 35.0 mg/L | 103.5 mg/L |
| August 2008 | 020 | 35.0 mg/L | 105.5 mg/L |
| August 2008 | 044 | 35.0 mg/L | 46.5 mg/L |
| February 2009 | 008 | 35.0 mg/L | 41.5 mg/L |
| February 2009 | 012 | 35.0 mg/L | 68 mg/L |
| February 2009 | 017 | 35.0 mg/L | 70.0 mg/L |
| February 2009 | 020 | 35.0 mg/L | 69 mg/L |
| April 2009 | 012 | 35.0 mg/L | 47 mg/L |
| May 2009 | 008 | 35.0 mg/L | 68.5 mg/L |
| May 2009 | 020 | 35.0 mg/L | 36.5 mg/L |
| May 2009 | 040 | 35.0 mg/L | 61 mg/L |
| August 2009 | 020 | 35.0 mg/L | 62 mg/L |
| August 2009 | 043 | 35.0 mg/L | 64 mg/L |

January 2010 020 35.0 mg/L 39.5 mg/L

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

23. Illinois Fuel Company, LLC, caused or allowed the discharge of TSS from the Gallatin County mine in excess of the permitted daily maximum effluent limitation as follows:

| <u>Month/Year</u> | <u>Outfall</u> | <u>Permit Limit</u> | <u>Actual Discharge</u> |
|-------------------|----------------|---------------------|-------------------------|
| February 2005 | 017 | 70.0 mg/L | 78 mg/L |
| November 2005 | 012 | 70.0 mg/L | 129.5 mg/L |
| November 2005 | 017 | 70.0 mg/L | 87.5 mg/L |
| January 2006 | 017 | 70.0 mg/L | 76.5 mg/L |
| March 2006 | 012 | 70.0 mg/L | 90.5 mg/L |
| August 2006 | 008 | 70.0 mg/L | 70.5 mg/L |
| November 2007 | 043 | 70.0 mg/L | 99.5 mg/L |
| January 2008 | 020 | 70.0 mg/L | 80 mg/L |
| February 2008 | 012 | 70.0 mg/L | 146 mg/L |
| February 2008 | 016 | 70.0 mg/L | 72.5 mg/L |
| February 2008 | 018 | 70.0 mg/L | 79.5 mg/L |
| February 2008 | 020 | 70.0 mg/L | 115 mg/L |
| May 2008 | 020 | 70.0 mg/L | 162 mg/L |
| August 2008 | 012 | 70.0 mg/L | 103.5 mg/L |
| August 2008 | 020 | 70.0 mg/L | 105.5 mg/L |

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

24. Since filing the Complaint, Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs that it caused or allowed the discharge of TSS from the Gallatin County mine in excess of the permitted monthly average effluent limitation as follows:

ANSWER: Respondent denies that these are the standards for reclamation activities, but otherwise admits the allegations.

25. Illinois Fuel Company, LLC, repeatedly caused or allowed the discharge from the Gallatin County mine of iron and TSS in excess of the effluent limitations imposed by NPDES Permit No. IL0061166.

ANSWER: Denies.

26. By repeatedly discharging contaminants from the Gallatin County mine into waters of the State in violation of the terms and conditions of NPDES Permit No. IL0061166, Illinois Fuel Company, LLC, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

ANSWER: Denies.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

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

B. Find that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and

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

ANSWER: Denies.

COUNT V
WATER POLLUTION VIOLATIONS
SALINE COUNTY MINE

1-14. Complainant realleges and incorporates herein by reference paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count V.

ANSWER: Respondent realleges its answers to the subject paragraphs.

15-24. Complainant realleges and incorporates herein by reference paragraphs 15 through 24 of Count IV as paragraphs 15 through 24 of this Count V.

ANSWER: Respondent realleges its answers to the subject paragraphs.

19. Illinois Fuel Company, LLC, caused or allowed the discharge of manganese and TSS into waters of the State so as to cause or tend to cause water pollution in Illinois in combination with matter from other sources. These repeated discharges from the Gallatin County mine in excess of the permitted concentration levels have likely created a nuisance or rendered such waters harmful or detrimental or injurious to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish or other aquatic life.

ANSWER: Denies.

20. By so causing or tending to cause water pollution, Illinois Fuel Company, LLC, has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

ANSWER: Denies.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, ILLINOIS FUEL COMPANY, LLC:

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

B. Find that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and

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

ANSWER: Denies.

AFFIRMATIVE DEFENSES

1. Respondent is not, nor was it ever, the permittee of what is being called the Gallatin County Mine, and accordingly cannot have violated it's NPDES permit, nor violated water pollution standards premised on it.
2. At all times relevant hereto, Respondent was engaged in lawful reclamation activities pursuant to permits and approvals from the Illinois Department of Natural Resources, which are environmentally needful and beneficial and consequently, the standards being urged against it are inapplicable, and such activities cannot constitute water pollution.
3. Any concentration limits in any referenced NPDES permit should not be construed as applying to reclamation activities, but solely as to active mining operations.
4. Prior to any mining activities at the mines, naturally occurring constituents, including sulfates and manganese, were present which prevent technically and economically reasonable methods for controlling alleged exceedances.

Respectfully submitted,

ILLINOIS FUEL COMPANY, LLC, Respondent,

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI,
its attorneys

BY: /s/ Patrick D. Shaw

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