

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

ENVIORNMENTAL LAW AND POLICY CENTER,)

on behalf of PRAIRIE RIVERS NETWORK and)

SIERRA CLUB, ILLINOIS CHAPTER)

Intervenor,)

v.)

FREEMAN UNITED COAL MINING COMPANY,)

LLC, a Delaware limited liability company, and)

SPRINGFIELD COAL COMPANY, LLC, a Delaware)

limited liability company,)

Respondents.)

**PCB 10-61 & 11-02
(Water – Enforcement)**

ENVIRONMENTAL LAW AND POLICY CENTER,)

on behalf of PRAIRIE RIVERS NETWORK and)

SIERRA CLUB, ILLINOIS CHAPTER,)

Complainant,)

v.)

FREEMAN UNITED COAL MINING CO., and)

SPRINGFIELD COAL CO., LLC,)

Respondents)

NOTICE OF ELECTRONIC FILING

To: See attached Service List

PLEASE TAKE NOTICE that on August 8, 2014, I electronically filed with the Clerk for the Illinois Pollution Control Board the following Complainant's Notice of Deposition of a Representative of Respondent Springfield Coal Company, LLC, a copy of which is attached hereto.

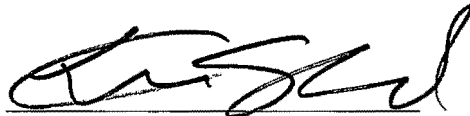
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General of the State of Illinois

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

By:



THOMAS H. SHEPHERD
Assistant Attorneys General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-5361
tshepherd@atg.state.il.us

DATE: August 8, 2014

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

PCB 10-61 & 11-02

Carrol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

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Respondents)

**COMPLAINANT'S NOTICE OF DEPOSITION OF A REPRESENTATIVE
OF RESPONDENT SPRINGFIELD COAL COMPANY, LLC**

To: See attached Service List

YOU ARE HEREBY NOTIFIED that we will, on the September 24, 2014, commencing at 1:00 p.m., take the discovery deposition of respondent SPRINGFIELD COAL COMPANY, LLC ("Springfield Coal"), pursuant to Illinois Pollution Control Board Rules 101.616 and 101.622 and Illinois Supreme Court Rules 202 and 206(a)(1), at the Environmental Bureau, Office of the Attorney General, 69 West Washington Street, 18th floor, Chicago, Illinois 60602,

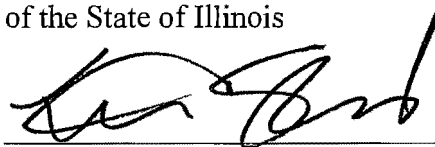
Chicago, Illinois 60602, or at such other location agreed upon by the parties, before a notary public or any other duly authorized officer to administer oaths.

In accordance with Rule 206(a)(1), Freeman United shall designate one or more officers, directors, managing agents, or other persons to testify on behalf of Freeman United who have knowledge of the subjects set forth in the attached Exhibit A. Such person(s) shall be required to testify as to matters known or reasonably available to Freeman United. Freeman United shall identify the individuals so designated, and the subject(s) upon which they will testify, no later than 7 days prior to the scheduled date of the deposition.

PLEASE BE ADVISED that you are commanded to bring any and all documents identified in the attached Rider.

PEOPLE OF THE STATE OF ILLINOIS,
ex. rel. LISA MADIGAN, Attorney General
of the State of Illinois

By:



THOMAS H.SHEPHERD
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., Ste. 1800
Chicago, Illinois 60602
(312) 814-5361

DATE: August 8, 2014

EXHIBIT A

I. DEFINITIONS AND INSTRUCTIONS

1. "Act" shall mean the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.*
2. "Answer" shall mean Freeman United Coal Mining Company, LLC's Answer and Affirmative Defenses, filed by Respondent in this Case.
3. "Case" shall mean the case of the People of the State of Illinois v. Freeman United Coal Mining Company, LLC and Springfield Coal Company, LLC, PCB No. 10-61.
4. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means including electronic and includes any document which abstracts, digests, transcribes or records any communication.
5. "Complaint" shall mean the Complaint filed by the People of the State of Illinois in this Case.
6. "Document" shall be construed in their customary broad sense and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement bank record or statement; book of account, including any ledgers, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy; correspondence; diagram; diary; draft of any document; drawing; electronic mail (e-mail); facsimile (fax); graph; index; instruction; instruction manual or sheet; invoice job requisition; letter; license; map; manifest; manual; memorandum; minutes; newspaper or other clipping; note; note book; opinion; pamphlet, paper; periodical or other publication; photograph; plan; print; receipt; record; recording report; sketch; statement; study; summary including any memorandum, minutes, note record, or summary of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; telegram; telephone log; travel or expense record; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic Material from which the information inquired of may be obtained, or any other documentary Material of any nature, in the possession, custody or control of Respondent.
7. "Effluent Limits" shall mean the effluent limits contained in Respondent's National Pollutant Discharge Elimination System permit for discharges of sulfates, iron, manganese, pH or TSS into the Industry Mine Waters.
8. "Government Agency" shall mean any government agency, including federal, municipal, county, or state, or any subdivisions thereof, and shall include, but is not limited to, the Illinois EPA.

9. "Illinois EPA" or "IEPA" or "Agency" shall mean the Illinois Environmental Protection Agency.

10. "Industry Mine" shall mean the mine located in McDonough and Schuyler Counties, approximately five miles southwest of Industry, Illinois, and which is the subject of Complainant's Complaint in this Case.

11. "Industry Mine Waters" shall mean the waters of Grindstone Creek, Willow Creek, Camp Creek, and/or their unnamed tributaries at or near the Industry Mine.

12. "Or" and "And" in these Requests shall be construed either disjunctively or conjunctively so as to elicit any facts or information which might otherwise be construed as outside their scope.

13. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

14. "pH" shall mean the measure of the acidity or basicity of an aqueous solution.

15. "Related to" or "relating to" shall mean anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, is legally, logically, or factually connected with, proves, disproves, or tends to prove or disprove.

16. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.

17. "Representative" or "representatives" shall mean any person, including attorneys, agents or brokers, who acts, or has at any time by any person been requested or solicited to act, at the named entity's or person's request, for the entity's or person's benefit or on its/his/her behalf.

18. "Respondent" shall mean the Freeman United Coal Mining Company, LLC, and any of its officers, directors, employees, agents, representatives, successors or assigns, or any other person acting or believed by the Respondent to have acted on its behalf.

19. "TSS" shall mean total suspended solids.

20. "You" and "your" shall refer to and mean the Respondent Freeman United Coal Mining Company, LLC.

21. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

II. SUBJECTS OF EXAMINATION

The deponent(s) will be examined as to the following subjects:

1. The violations of the Act and regulations alleged in the Complaint.
2. Information relating to the duties and responsibilities of each of Respondent's members, corporate officers, agents, and/or employees, including but not limited to Respondent's day-to-day operations of and management of the Industry Mine.
3. Maintenance of Respondent's files or Documents related to the operation of the Industry Mine, and/or any complaints regarding the operation of the Industry mine made by citizens or any Government Agency.
4. Respondent's mining practices at the Industry Mine.
5. Actions taken or contemplated by Respondent at the Industry Mine to comply with the Effluent Limits.
6. All communications between Respondent and the Illinois EPA relating to Respondent's compliance, or lack thereof, with the Effluent Limits.
7. The technical feasibility, technical practicability, and/or economical reasonability of compliance by Respondent with Effluent Limits.
8. All communications between Respondent and the Illinois EPA in regard to whether it was technically feasible, technically practical, and/or economically reasonable for Respondent to comply with the Effluent Limits.
9. Respondent's National Pollutant Discharge Elimination System ("NPDES") permit and renewal for discharges at the Industry Mine, and applications for the permit and renewal.
10. All communications between Respondent and the Illinois EPA in regard to the renewal of Respondent's NPDES permit and/or Respondent's renewal application.

11. Compliance Commitment Agreements (“CCAs”) proposed by Respondent relating to effluent violations from the Industry Mine alleged by the Illinois EPA, and all associated communications between the Illinois EPA and Respondent related to the proposed CCAs or final agreement.

12. The allegations asserted in Respondent’s Second Affirmative Defense in its Answer in this Case.

13. Sampling data related to the Industry Mine.

14. Levels of sulfates, iron, manganese, pH or TSS in the waters of Grindstone Creek, Willow Creek, Camp Creek, and/or their unnamed tributaries upstream from, and before the waters entered, the Industry Mine.

15. The allegation(s) asserted in Respondent’s Fifth Affirmative Defense in its Answer in this Case that “[p]rior to any mining activity at the Industry Mine, naturally occurring constituents, including sulfates and manganese, were present in the surface water runoff at the site at levels that would be considered exceedances of Freeman United’s NPDES permit.”

16. Facts relied upon in denying the allegations contained in paragraph 26 in Count III of the Complaint, as asserted in Respondent’s Answer.

RIDER

Provide the following documents to the extent not previously produced to Complainant pursuant to Complainant's discovery requests seven days prior to the date of deposition:

1. Any and all documents supplementing the Respondent's responses to the People's First Request for Production of Documents on Respondent Freeman United Coal Mining Company, LLC, issued on May 30, 2014.
2. Any and all documents you plan to use at trial in this case, as part of any of the Respondent's witnesses' testimony.

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Carrol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

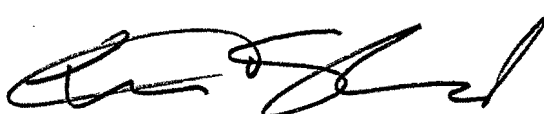
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Erin L. Brooks
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102-2750

CERTIFICATE OF SERVICE

I, THOMAS H. SHEPHERD, an attorney, do hereby certify that I served the foregoing Notice of Electronic Filing and Complainant's Notice of Deposition of a Representative of Respondent Springfield Coal Company, LLC, on the persons to whom it is directed by electronic mail and by depositing the same in the U.S. Mail, postage prepaid, on August 8, 2014, at 100 West Randolph Street, Chicago, Illinois, Illinois, at or before the hour of 5:00 p.m.

A handwritten signature in black ink, appearing to read 'T. H. Shepherd', written over a horizontal line.

THOMAS H. SHEPHERD