

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**PEOPLE OF THE STATE OF ILLINOIS,**

**Complainant,**

**v.**

**ILLINOIS FUEL COMPANY, LLC,  
a Kentucky limited liability company,**

**Respondent.**

**PCB No. 10-86  
(Water-Enforcement)**

**NOTICE OF ELECTRONIC FILING**

PLEASE TAKE NOTICE that on January 21, 2015, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, PEOPLE'S MOTION FOR SUMMARY JUDGMENT , a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

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

**MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
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	)	
<b>Complainant,</b>	)	
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<b>v.</b>	)	<b>PCB No. 10-86</b>
	)	<b>(Water-Enforcement)</b>
<b>ILLINOIS FUEL COMPANY, LLC,</b>	)	
<b>a Kentucky limited liability company,</b>	)	
	)	
<b>Respondent.</b>	)	

**PEOPLE'S MOTION FOR SUMMARY JUDGMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, respectfully moves for Summary Judgment pursuant to Section 101.516 of the Board's Procedural Rules, against Respondent, ILLINOIS FUEL COMPANY, LLC, and states as follows:

**I. INTRODUCTION**

The Complaint filed on April 22, 2010 alleges NPDES permit and water pollution violations at the two coal mines identified as the Saline County Mine and the Gallatin County Mine operated by Respondent. On April 10, 2013, the Amended Complaint was filed to include an allegation of operating without an NPDES permit at the Gallatin County Mine and violations which have occurred at both mines since the filing of the Complaint. Respondent filed its Answer to the Amended Complaint on June 13, 2013. This Motion seeks summary judgment for Counts I, II, III, and V of the Amended Complaint.

On June 16, 2014, the People served Respondent with a Request for Admission of Facts and Genuineness of Documents. Respondent has failed to respond to the Request for Admission of Facts and Genuineness of Documents. All matters of fact and the genuineness of each

document in the Request For Admission of Facts and Genuineness of Documents should be taken as admitted pursuant to Section 101.618(f) of the Board's Procedural Rules, 35 Ill. Adm. Code 101.618(f). On July 29, 2014, Complainant filed a Motion to Deem Admitted Matters of Fact and Genuineness of Documents (Motion to Deem Admitted). On September 4, 2014, the Board granted the Complainant's Motion to Deem Admitted and deemed admitted each matter of fact and the genuineness of each document included in the June 16, 2014 request. Therefore, the genuineness of each of the following documents attached to the Motion to Deem Admitted as Exhibits "1-A" through "1-G" and "2" should be taken as admitted:

1. Exhibit 1-A is NPDES Permit No. IL0064611 issued to Jader Coal Company, LLC, as the permittee, and Jader Fuel Company, Inc., as the named facility, on January 13, 1999;
2. Exhibit 1-B is a Permit Renewal Application for NPDES Permit No. IL0064611 submitted by Jader Coal Company, LLC, to the Illinois EPA on October 30, 2000;
3. Exhibit 1-C is a letter with attachments from Respondent to Illinois EPA requesting a transfer of NPDES Permit No. IL0064611 from Jader Coal Company, LLC, on July 25, 2001;
4. Exhibit 1-D is NPDES Permit No. IL0061166 issued to Jader Fuel Company, Inc., as the permittee and the facility, on May 12, 1999;
5. Exhibit 1-E is a letter with attachments from Jader Coal Company, LLC, to Illinois EPA requesting a transfer of NPDES Permit No. IL0061166 from Jader Fuel Company, Inc., on March 1, 2000;
6. Exhibit 1- F is the Secretary of State LLC File Detail Report for Jader Coal Company, LLC;

7. Exhibit 1-G is the Permit Renewal Application for NPDES Permit No. IL0061166 which was submitted by Respondent to Illinois EPA on behalf of the dissolved Jader Coal Company, LLC, on August 6, 2003; and

8. Exhibit 2 is the certification that Respondent's registered agent, CT Corporation located at 208 S LaSalle Street, Suite 814, Chicago, Illinois 60604, had been served with the Request For Admission of Facts and Genuineness of Documents, on June 27, 2014.

Complainant also submits the Affidavit of Larry Crislip ("Crislip Affidavit") in further support of this Motion. The Crislip Affidavit is attached to this Motion for Summary Judgment. Respondent's admissions, together with the exhibits supporting this motion, contain all material facts necessary to establish liability on Counts I, II, III, and V of the Amended Complaint and the People's entitlement to relief. Since there are no genuine issues of material fact, the People are entitled to a judgment as a matter of law.

## **II. LEGAL STANDARD FOR SUMMARY JUDGMENT**

Section 101.516(b) of the Board's Procedural regulations, 35 Ill. Adm. Code 101.516(b), provides as follows:

- (b) If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.

"Summary judgment is appropriate when the pleadings, depositions, admissions on file, and affidavits disclose that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *People v. Freeman United Coal Mining Co., et al.*, PCB 10-61 (Nov. 15, 2012), slip op at 13 citing *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460,

483 (1998). “In ruling on a motion for summary judgment, the Board ‘must consider the pleadings, depositions, and affidavits strictly against the movant and in favor of the opposing party.’ ” *Id.* The use of summary judgment is encouraged under Illinois law to facilitate litigation and avoid unnecessary trials. *People ex. rel. Madigan v. Lincoln, Ltd.*, 383 Ill. App. 3d 198, 204 (1st Dist. 2008).

### **III. RELIEF SOUGHT**

Complainant seeks a finding of liability by Respondent on Counts I, II, III, and V of the Amended Complaint, and assessment of a civil penalty in the amount of \$2,131,000.00. Complainant also requests that the Board order Respondent to cease and desist from violating the Act and associated regulations and grant such other further relief as the Board deems appropriate, including, but not limited to, for so long as Respondent owns and/or operates the Saline County Mine, it shall comply with the conditions set forth in NPDES Permit No. IL0064611, and for so long as Respondent operates the Gallatin County Mine, it shall obtain an NPDES permit and comply with the terms of the expired NPDES Permit No. IL0061166 mine until such a time that a new NPDES permit is issued by the Illinois EPA.

### **IV. UNCONTESTED FACTS**

The following facts are uncontested:

1. At all times relevant to the Amended Complaint, Respondent Illinois Fuel Company, LLC (“Illinois Fuel” or “Respondent”) owned 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 (“Saline County mine”). Amend. Compl. at ¶ 3 of Count I; Ans. to Amend. Compl. at ¶ 3 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 2; and Crislip Aff. at ¶ 2.

2. On July 24, 1996 the Illinois Environmental Protection Agency ("Illinois EPA") issued a National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0064611 to Jader Fuel Company, Inc., which authorizes discharges at various outfalls from the Saline County mine into waters of the State. Motion to Deem Admitted, Ex. 1 ¶ 3; and Crislip Aff. at ¶ 3.

3. In November 1998, Jader Fuel Company, Inc., requested the transfer of NPDES Permit No. IL0064611 to Jader Coal Company, LLC. Motion to Deem Admitted, Ex. 1 ¶ 4; and Crislip Aff. at ¶ 4.

4. On January 13, 1999, the Illinois EPA issued final modified NPDES Permit No. IL0064611 to Jader Coal Company, LLC, as the permittee, and Jader Fuel Company, Inc., as the named facility. Motion to Deem Admitted, Ex. 1 ¶ 5 and Ex. 1-A; and Crislip Aff. at ¶ 4.

5. On October 30, 2000, Jader Coal Company, LLC submitted to the Illinois EPA a timely renewal application for NPDES Permit No. IL0064611. Motion to Deem Admitted, Ex. 1 ¶ 6 and Ex. 1-B; and Crislip Aff. at ¶ 5.

6. On July 25, 2001, Jader Coal Company, LLC, requested the transfer of NPDES Permit No. IL0064611 to Respondent. Motion to Deem Admitted, Ex. 1 ¶ 7 and Ex. 1-C; and Crislip Aff. at ¶ 6.

7. 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 tributaries. Amend. Compl. at ¶ 15 of Count I; Ans. to Amend. Compl. at ¶ 15 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 3 and Ex. 1-A; and Crislip Aff. at ¶ 3.

8. NPDES Permit No. IL0064611 authorizes outfalls 021, 022, 023, 024, 025, 026, 027, 028, 030, 034, 035, 036, 037, 048, 051, 052, 054 which are classified as acid mine drainage. Motion to Deem Admitted, Ex. 1 ¶¶ 8-24 and Ex. 1-A; and Crislip Aff. at ¶ 8.

9. NPDES Permit No. IL0064611 imposes the following effluent limitations for outfalls classified as acid mine drainage: 1) iron including a monthly average effluent limit of 3.0 mg/L and a daily maximum effluent limit of 6.0 mg/L; 2) manganese including a monthly average effluent limit of 2.0 mg/L and a daily maximum effluent limit of 4.0 mg/L; 3) sulfate including a daily maximum effluent limit of 3500 mg/L; 4) TSS including a monthly average effluent limit of 35.0 mg/L and a daily maximum effluent limit of 70.0 mg/L; and 5) pH including a range of 6.0 to 9.0 standard units. Amend. Compl. at ¶ 16 of Count I; Motion to Deem Admitted, Ex. 1 ¶¶ 25-29 and Ex. 1-A; and Crislip Aff. at ¶ 9. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 16 of Count I.

10. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its Discharge Monitoring Reports ("DMRs") the discharge of iron from the Saline County mine in excess of 3.0 mg/L, the acid mine drainage monthly average effluent limit, on 36 occasions. Amend. Compl. at ¶ 17 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 31; and Crislip Aff. at ¶ 11.A. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 17 of Count I.

11. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of iron from the Saline County mine in excess of 6.0 mg/L, the acid mine drainage daily maximum effluent limit, on 1 occasion. Amend. Compl. at ¶ 18 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 32; and Crislip Aff. at ¶ 11.B. Respondent has

denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 18 of Count I.

12. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of 2.0 mg/L, the acid mine drainage monthly average effluent limit, on 115 occasions. Amend. Compl. at ¶ 19 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 33; and Crislip Aff. at ¶ 11.C. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 19 of Count I.

13. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of 4.0 mg/L, the acid mine drainage daily maximum effluent limit, on 33 occasions. Amend. Compl. at ¶ 20 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 34; and Crislip Aff. at ¶ 11.D. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 20 of Count I.

14. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of sulfates from the Saline County mine in excess of 3500 mg/L, the acid mine drainage daily maximum effluent limit, on 17 occasions. Amend. Compl. at ¶ 21 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 35; and Crislip Aff. at ¶ 11.E. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 21 of Count I.

15. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of 35.0 mg/L, the acid mine drainage monthly average effluent limit, on 135 occasions. Amend. Compl. at ¶ 22 of

Count I; Motion to Deem Admitted, Ex. 1 ¶ 36; and Crislip Aff. at ¶ 11.F. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 22 of Count I.

16. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of 70.0 mg/L, the acid mine drainage daily maximum effluent limit, on 36 occasions. Amend. Compl. at ¶ 23 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 37; and Crislip Aff. at ¶ 11.G. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 23 of Count I.

17. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs a pH level from the Saline County mine outside of the effluent limit range of 6.0 to 9.0 standard units on 13 occasions. Amend. Compl. at ¶ 24 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 38; and Crislip Aff. at ¶ 11.H. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 24 of Count I.

18. Between January 2010 and October 2012, Respondent reported to the Illinois EPA in its DMRs the discharge of iron in excess of 3.0 mg/L, the acid mine drainage monthly average effluent limit, on 5 occasions. Amend. Compl. at ¶ 25 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 39; and Crislip Aff. at ¶ 12.A. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 25 of Count I.

19. Between January 2010 and October 2012, Respondent reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of 2.0

mg/L, the acid mine drainage monthly average effluent limit, on 43 occasions. Amend. Compl. at ¶ 26 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 40; and Crislip Aff. at ¶ 12.B. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 26 of Count I.

20. Between January 2010 and October 2012, Respondent reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of 4.0 mg/L, the acid mine drainage daily maximum effluent limit, on 7 occasions. Amend. Compl. at ¶ 27 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 41; and Crislip Aff. at ¶ 12.C. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 27 of Count I.

21. Between January 2010 and October 2012, Respondent reported to the Illinois EPA in its DMRs the discharge of sulfates from the Saline County mine in excess of 3500 mg/L, the acid mine drainage daily maximum effluent limit, on 13 occasions. Amend. Compl. at ¶ 28 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 42; and Crislip Aff. at ¶ 12.D. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 28 of Count I.

22. Between January 2010 and October 2012, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of 35.0 mg/L, the acid mine drainage monthly average effluent limit, on 25 occasions. Amend. Compl. at ¶ 29 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 43; and Crislip Aff. at ¶ 12.E. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 29 of Count I.

23. Between January 2010 and October 2012, Respondent reported to the Illinois

EPA in its DMRs the discharge of TSS from the Saline County mine in excess of 70.0 mg/L, the acid mine drainage daily maximum effluent limit, on 5 occasions. Amend. Compl. at ¶ 30 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 44; and Crislip Aff. at ¶ 12.F. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 30 of Count I.

24. Between January 2010 and October 2012, Respondent reported to the Illinois EPA in its DMRs a pH level from the Saline County mine outside of the effluent limit range of 6.0 to 9.0 standard units on 2 occasions. Amend. Compl. at ¶ 31 of Count I; Motion to Deem Admitted, Ex. 1 ¶ 45; and Crislip Aff. at ¶ 12.G. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 31 of Count I.

25. Between August 2013 and January 2014, Respondent reported to the Illinois EPA in its DMRs the discharge of iron in excess of 3.0 mg/L, the acid mine drainage monthly average effluent limit, on 1 occasion. Motion to Deem Admitted, Ex. 1 ¶ 46; and Crislip Aff. at ¶ 13.A.

26. Between August 2013 and January 2014, Respondent reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of 2.0 mg/L, the acid mine drainage monthly average effluent limit, on 5 occasions. Motion to Deem Admitted, Ex. 1 ¶ 47; and Crislip Aff. at ¶ 13.B.

27. Between August 2013 and January 2014, Respondent reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of 4.0 mg/L, the acid mine drainage daily maximum effluent limit, on 5 occasions. Crislip Aff. at ¶ 13.C.

28. Between August 2013 and January 2014, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of 35.0 mg/L, the acid

mine drainage monthly average effluent limit, on 4 occasions. Crislip Aff. at ¶ 13.D.

29. Between August 2013 and January 2014, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of 70.0 mg/L, the acid mine drainage daily maximum effluent limit, on 3 occasions. Motion to Deem Admitted, Ex. 1 ¶ 50; and Crislip Aff. at ¶ 13.E.

30. Between August 2013 and January 2014, Respondent reported to the Illinois EPA in its DMRs the discharge of pH from the Saline County mine outside of the effluent limit range of 6.0 to 9.0 standard units on 5 occasions. Motion to Deem Admitted, Ex. 1 ¶ 51; and Crislip Aff. at ¶ 13.F.

31. Respondent performs reclamation work at a coal mine commonly known as Mine # 4, located 5 miles southwest of Junction, Gallatin County, Illinois, herein referred to as the Gallatin County mine. Amend. Compl. at ¶ 3 of Count III; Ans. to Amend. Compl. at ¶ 3 of Count III; Motion to Deem Admitted, Ex. 1 ¶ 52; and Crislip Aff. at ¶ 14.

32. On May 12, 1999 the Illinois EPA issued NPDES Permit No. IL0061166 for the Gallatin County mine. Amend. Compl. at ¶ 15 of Count III; Ans. to Amend. Compl. at ¶ 15 of Count III; Motion to Deem Admitted, Ex. 1 ¶ 53 and Ex. 1-D; and Crislip Aff. at ¶ 15.

33. Permit No. IL0061166 named Jader Fuel Company, Inc., as both the permittee and the facility. Motion to Deem Admitted, Ex. 1 ¶ 53 and Ex. 1-D.

34. On March 1, 2000, Jader Fuel Company, Inc., requested the transfer of NPDES Permit No. IL0061166 to Jader Coal Company, LLC. Motion to Deem Admitted, Ex. 1 ¶ 54 and Ex. 1-E; and Crislip Aff. at ¶ 16.

35. On February 28, 2003, Jader Coal Company, LLC, was involuntarily dissolved by the Illinois Secretary of State. Motion to Deem Admitted, Ex. 1 ¶ 55 and Ex. 1-F; and Crislip

Aff. at ¶ 17.

36. On August 6, 2003, Respondent submitted a renewal application for NPDES Permit No. IL0061166 to the Illinois EPA on behalf of the dissolved Jader Coal Company, LLC, as the permittee. Amend. Compl. at ¶ 18 of Count III; Ans. to Amend. Compl. at ¶ 18 of Count III; Motion to Deem Admitted, Ex. 1 ¶ 56 and Ex. 1-G; and Crislip Aff. at ¶ 18.

37. NPDES Permit No. IL0061166 permit expired on the date of March 31, 2004. Amend. Compl. at ¶ 20 of Count III; Ans. to Amend. Compl. at ¶ 20 of Count III; Motion to Deem Admitted, Ex. 1 ¶ 57; and Crislip Aff. at ¶ 19.

38. NPDES Permit No. IL0061166 authorized discharges from the Gallatin County mine into waters of the State, including Eagle Creek and Little Eagle Creek. Amend. Compl. at ¶ 15 of Count III; Ans. to Amend. Compl. at ¶ 15 of Count III; Motion to Deem Admitted, Ex. 1 ¶ 53 and Ex. 1-D; and Crislip Aff. at ¶ 15.

39. NPDES Permit No. IL0061166 authorized outfalls 008, 009, 012, 016, 017, 018, 019, 020, 040, 043, and 044 which were classified as alkaline mine drainage. Motion to Deem Admitted, Ex. 1 ¶¶ 61-71 and Ex. 1-D; and Crislip Aff. at ¶ 23.

40. NPDES Permit No. IL0061166 imposed the following effluent limitations for outfalls classified as alkaline mine drainage: 1) iron including a monthly average effluent limit of 3.0 mg/L and a daily maximum effluent limit of 6.0 mg/L and 2) TSS including a monthly average effluent limit of 35.0 mg/L and a daily maximum effluent limit of 70.0 mg/L. Motion to Deem Admitted, Ex. 1 ¶¶ 72-73 and Ex. 1-D; and Crislip Aff. at ¶ 24.

41. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of iron from the Gallatin County mine in excess of 3.0 mg/L, the alkaline mine drainage monthly average effluent limit, on 6 occasions. Amend. Compl. at ¶ 20 of

Count IV; Motion to Deem Admitted, Ex. 1 ¶ 75; and Crislip Aff. at ¶ 25.A. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 20 of Count IV.

42. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of iron from the Gallatin County mine in excess of 6.0 mg/L, the alkaline mine drainage daily maximum effluent limit, on 1 occasion. Amend. Compl. at ¶ 21 of Count IV; Motion to Deem Admitted, Ex. 1 ¶ 76; and Crislip Aff. at ¶ 25.B. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 21 of Count IV.

43. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Gallatin County mine in excess of 35.0 mg/L, the alkaline mine drainage monthly average effluent limit, on 73 occasions. Amend. Compl. at ¶ 22 of Count IV; Motion to Deem Admitted, Ex. 1 ¶ 77; and Crislip Aff. at ¶ 25.C. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 22 of Count IV.

44. Between February 2004 and December 2009, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Gallatin County mine in excess of 70.0 mg/L, the alkaline mine drainage daily maximum effluent limit, on 15 occasions. Amend. Compl. at ¶ 23 of Count IV; Motion to Deem Admitted, Ex. 1 ¶ 78; and Crislip Aff. at ¶ 25.D. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 23 of Count IV.

45. Between January 2010 and December 2011, Respondent reported to the Illinois EPA in its DMRs the discharge of TSS from the Gallatin County mine in excess of 35.0 mg/L,

the alkaline mine drainage monthly average effluent limit, on 14 occasions. Amend. Compl. at ¶ 24 of Count IV; Motion to Deem Admitted, Ex. 1 ¶ 79; and Crislip Aff. at ¶ 26.A. Respondent has denied that these limits apply to reclamation activities but otherwise admits the allegation. Ans. to Amend. Compl. at ¶ 24 of Count IV.

46. Respondent has not submitted to the Illinois EPA its DMRs from the Gallatin County mine since the fourth quarter of 2012. Motion to Deem Admitted, Ex. 1 ¶ 80.

#### **V. RELEVANT STATUTORY AND REGULATORY AUTHORITY**

1. Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), provides, in pertinent part, as follows:

“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.

2. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), provides, in pertinent part, as follows:

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

3. Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), provides, in pertinent part, 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.

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, 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.

5. Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35

Ill. Adm. Code 406.106(b):

Except as provided in Sections 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 (total)	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

\* \* \* \*

- (2) 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... 35 Ill. Adm. Code 406.106(b) (2).

6. Section 402.101 of the Board Regulations, 35 Ill. Adm. Code 402.101, provides, in pertinent part, as follows::

“Mining Activities”: all activities on a facility which are directly in furtherance of mining, including activities before, during and after mining. The term does not include land acquisition, exploratory drilling, surveying and similar activities. The term includes, but is not limited to, the following:

- Preparation of land for mining activities;
- Construction of mine related facilities which could generate refuse, result in a discharge or have the potential to cause water pollution;
- Ownership or control of a mine related facility;
- Ownership or control of a coal storage yard or transfer facility;
- Generation or disposal of mine refuse;
- Mining;
- Opening a mine;
- Production of a mine discharge or non-point source mine discharge;
- Surface drainage control; and
- Use of acid-producing mine refuse.

\*\*\*\*

“Operator”: a person who carries out mining activities.

\*\*\*\*

“Person”: any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

\*\*\*\*

## **VI. LEGAL ARGUMENT**

The People seek summary judgment against Respondent for violations of Section 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f).

In order to assist the Board in its consideration of this summary judgment request, the Complainant has performed a rigorous review of the DMRs and submitted the Crislip Affidavit to verify the accuracy of the effluent quality reported by Respondent. In contrast to an evidentiary presentation at trial, the voluminous documents comprising more than ten years of

monthly reports are not presented as exhibits but summarized in the Crislip Affidavit which contains the substance of what Mr. Crislip would testify to regarding the data in the DMRs. The information generated by Respondent in the DMRs included sample collection and analyses reported to the Illinois EPA with the required certification that the information is truthful. Respondent is not anticipated to challenge the accuracy of the effluent concentration values it has diligently reported. Furthermore, courts have determined that DMRs are “conclusive and irrebuttable evidence that violations have occurred.” *Natural Res. Def. Council, Inc. v. Outboard Marine Corp.*, 692 F. Supp. 801, 819 (N.D. Ill. 1988).

**A. Respondent violated NPDES Permit No. IL0064611 at the Saline County Mine.**

In order to prevail on Count I as to the violations of Section 12(f) of the Act, 415 ILCS 12(f) (2008), the Complainant must prove that it is more likely than not that Respondent caused or allowed the discharge of contaminants into the environment from the Saline County mine in excess of the effluent limits imposed by NPDES Permit No. IL0064611 for iron, manganese, sulfates, TSS and pH. Respondent has admitted that effluent was discharged from the Saline County Mine. Respondent's Answer to the Amended Complaint denies that the standards alleged in the Amended Complaint are the correct standards because the site is in reclamation. However, NPDES permit IL0064611 classifies outfalls 021, 022, 023, 024, 025, 026, 027, 028, 030, 034, 035, 036, 037, 048, 051, 052, and 054 as acid mine drainage standards and not reclamation standards. Motion to Deem Admitted, Ex. 1 ¶¶ 8-24 and Ex. 1-A; and Crislip Aff. at ¶ 8. NPDES Permit No. IL0064611 imposes effluent limitations for outfalls classified as acid mine drainage and it is those limits which apply to the outfalls in Count I of the Amended Complaint.

As supported by the DMRs summarized in the Crislip Affidavit, between February 2004 and December 2009, Respondent violated NPDES permit IL0064611 by discharging contaminants in excess of the following limits: 1) iron, monthly average limit 36 times and daily maximum limit 1 time; 2) manganese, monthly average limit 115 times and daily maximum limit 33 times; 3) sulfate, daily maximum limit 17 times; 4) TSS, monthly average limit 135 times and daily maximum limit 36 times; and 5) pH range 13 times. Amend. Compl. at ¶¶ 17-24 of Count I; Ans. to Amend. Compl. at ¶¶ 17-24 of Count I; Motion to Deem Admitted, Ex. 1 ¶¶ 31-38; and Crislip Aff. at ¶ 11.A-H.

As supported by the DMRs summarized in the Crislip Affidavit, between January 2010 and October 2012, Respondent violated NPDES permit IL0064611 by discharging contaminants in excess of the following limits: 1) iron, monthly average limit 5 times; 2) manganese, monthly average limit 43 times and daily maximum limit 7 times; 3) sulfate, daily maximum limit 13 times; 4) TSS, monthly average limit 25 times and daily maximum limit 5 times; and 5) the pH range 2 times. Amend. Compl. at ¶¶ 25-31 of Count I; Ans. to Amend. Compl. at ¶¶ 25-31 of Count I; Motion to Deem Admitted, Ex. 1 ¶¶ 39-45; and Crislip Aff. at ¶ 12.A.-G.

Violations have continued since the filing of the Amended Complaint. As supported by the DMRs summarized in the Crislip Affidavit, between August 2013 and January 2014, Respondent violated NPDES permit IL0064611 by discharging contaminants in excess of the following limits: 1) iron, monthly average limit 1 time; 2) manganese, monthly average limit 5 times and daily maximum limit 6 times; 3) TSS monthly average limit 5 times and daily maximum limit 3 times; and 4) pH range 5 times. Motion to Deem Admitted, Ex. 1 ¶¶ 46-51 and Crislip Aff. at ¶ 13.A.-F.

It is uncontested that discharges at the Saline County mine reached levels in excess of the limits in NPDES permit IL0064611 for iron, manganese, TSS, sulfates, and the pH range on each of these specific occasions. Since all 511 exceedances of the effluent limits set forth in NPDES Permit No. IL0064611, Respondent violated the terms of its NPDES permit and Section 12(f) of the Act, 415 ILCS 5/12(f). Therefore, summary judgment is proper as to Count I of the Amended Complaint.

**B. Respondent caused or tended to cause water pollution at the Saline County Mine.**

In order to prevail on Count II as to the violations of Section 12(a) of the Act, 415 ILCS 12(a) (2008), the Complainant must prove that it is more likely than not that Respondent caused or tended to cause water pollution from the Saline County mine. By discharging from various outfalls in excess of the standards set forth in NPDES Permit No. IL0064611 for iron, manganese, sulfates, TSS, and pH, Respondent has violated Section 12(a) of the Act, 415 ILCS 12(a).

Water pollution is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), as “...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.”

Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), defines “contaminant” as “any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.” The chemicals including iron, manganese, sulfates, TSS, and discharges outside of the pH range are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165.

Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), defines “waters” as “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.” Eagle Creek, Rose Creek, Pruett Branch, Little Eagle Creek and their tributaries are “waters” of the state as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2008). The discharges from outfalls 021, 022, 023, 024, 025, 026, 027, 028, 030, 034, 035, 036, 037, 048, 051, 052, and 054 are discharges into waters of the state.

By discharging contaminants, including iron, manganese, sulfates, TSS, and discharges outside of the pH range, from the above listed outfalls into the Eagle Creek, Rose Creek, Pruett Branch, Little Eagle Creek and their tributaries in excess of the standards set forth in NPDES Permit No. IL0064611, Respondent has caused or tended to cause water pollution. The 511 exceedances of the effluent limits set forth in NPDES Permit No. IL0064611 from the Saline County mine have likely created a nuisance or rendered 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. Therefore, summary judgment is proper as to Count II of the Amended Complaint.

**C. Respondent operated without an NPDES Permit at the Gallatin County Mine.**

In order to prevail on Count III as to violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), the Complainant must prove that it is more likely than not that Respondent failed to submit a NPDES permit and is operating the Gallatin County mine without the requisite NPDES permit. Respondent has been operating the Gallatin County mine by performing reclamation activities and doing so without obtaining an NPDES permit and thereby violating Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

The Gallatin County Mine was previously permitted under NPDES Permit No. IL0061166. On May 12, 1999, the Illinois EPA issued a NPDES Permit No. IL0061166 to Jader Fuel Company, Inc., which authorized discharges at various outfalls from the Gallatin County mine into waters of the State. NPDES Permit No. IL0061166 named Jader Fuel Company, Inc., as both the permittee and the facility. Amend. Compl. at ¶ 15 of Count III; Ans. to Amend. Compl. at ¶ 15 of Count III; and Motion to Deem Admitted, Ex. 1 ¶ 53 and Ex. 1-D. On March 1, 2000, Jader Fuel Company, Inc., requested the transfer of NPDES Permit No. IL0061166 to Jader Coal Company, LLC. Motion to Deem Admitted, Ex. 1 ¶ 54 and Ex. 1-E, and Crislip Aff. at ¶ 16.

On February 28, 2003, Jader Coal Company, LLC, was involuntarily dissolved by the Illinois Secretary of State. Motion to Deem Admitted, Ex. 1 ¶ 55 and Ex. 1-F, and Crislip Aff. at ¶ 17. On August 6, 2003, Respondent submitted a renewal application for NPDES Permit No. IL0061166 to the Illinois EPA on behalf of the dissolved Jader Coal Company, LLC, as the permittee. Amend. Compl. at ¶ 18 of Count III; Ans. to Amend. Compl. at ¶ 18 of Count III; Motion to Deem Admitted, Ex. 1 ¶ 56 and Ex. 1-G; and Crislip Aff. at ¶ 18. Respondent has admitted this and affirmatively stated that the renewal application was submitted in order to complete reclamation work. Ans. to Amend. Compl. at ¶ 18 of Count III. NPDES Permit No. IL0061166 permit expired on the date of March 31, 2004. Motion to Deem Admitted, Ex. 1 ¶ 57.

Respondent has performed reclamation work at the Gallatin County mine. Ans. to Amend. Compl. at ¶ 18 of Count III. Respondent has admitted to performing reclamation but denies that it has been operating the Gallatin County mine. Ans. to Amend. Compl. at ¶ 19 of Count III. Respondent has not submitted an NPDES permit application to the Illinois EPA for

its reclamation activities at the Gallatin County Mine. Motion to Deem Admitted, Ex. 1 ¶ 59. Respondent has operated the Gallatin County mine without the required NPDES permit since March 31, 2004. Motion to Deem Admitted, Ex. 1 ¶¶ 57-58, 60 and Crislip Aff. at ¶20.

In addition to performing reclamation work, Respondent has actively performed monitoring and reporting of the discharges from the previously permitted outfalls at the Gallatin County Mine. Since 2004, Respondent has monitored discharges at the Gallatin County mine and reported grab samples to the Illinois EPA in the form of DMRs. Amend. Compl. at ¶¶ 20-24 of Count IV; Ans. to Amend. Compl. at ¶¶ 20-24 of Count IV; Motion to Deem Admitted, Ex. 1 ¶¶ 74-80; and Crislip Aff. at ¶ 22. These DMRs are based on the expired NPDES Permit No. IL0061166. Motion to Deem Admitted, Ex. 1 ¶¶ 74 and Crislip Aff. at ¶ 22.

Respondent's Answer to the Amended Complaint claims that although it has performed reclamation work at the Gallatin County mine, it is not an operator of that mine. However, this assertion is incorrect and reclamation activities which involve discharges from a point source do require an NPDES permit. Section 402.101 of the Board Regulations, 35 Ill. Adm. Code 402.101, defines "Mining Activities" as "all activities on a facility which are directly in furtherance of mining, including activities before, during and after mining."

Section 402.101 of the Board Regulations, 35 Ill. Adm. Code 402.101, defines "operator" as "a person who carries out mining activities."

Section 402.101 of the Board Regulations, 35 Ill. Adm. Code 402.101, defines "person" as "any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns."

Respondent is a corporation and therefore a "person" as it is defined in Section 402.101

of the Board Regulations, 35 Ill. Adm. Code 402.101. Respondent has admitted to performing reclamation and submitting DMRs which constitute a “mining activity” as defined in Section 402.101 of the Board Regulations, 35 Ill. Adm. Code 402.101. Since Respondent is a person who has carried out mining activities in the form of reclamation, Respondent is an “operator” as it is defined in Section 402.101 of the Board Regulations, 35 Ill. Adm. Code 402.101.

As an operator of the Gallatin County Mine, Respondent is responsible for the discharges from the Gallatin County Mine. Pursuant to the expired NPDES Permit No. IL0061166, Respondent has been submitting DMRs which include discharges into waters of the state since February 2004 through the third quarter of 2012. It is unlawful for Respondent to discharge from the previously permitted Gallatin County mine outfalls into waters of the state without an NPDES permit.

Since Respondent failed to submit a NPDES permit for its mining activities and is operating the Gallatin County mine without the requisite NPDES permit, Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f). Therefore, summary judgment as to Count III of the Amended Complaint is proper.

**D. Respondent caused or tended to cause water pollution at the Gallatin County Mine.**

In order to prevail on Count V as to the violations of Section 12(a) of the Act, 415 ILCS 12(a) (2008), the Complainant must prove that it is more likely than not that Respondent caused or tended to cause water pollution from the Gallatin County mine. By discharging from various outfalls in excess of the standards set forth in Section 406.106(b) of the Board’s Mine Related Water Pollution Regulations and expired NPDES Permit No. IL0061166 for iron and TSS, Respondent has violated Section 12(a) of the Act, 415 ILCS 12(a).

As supported by the DMRs summarized in the Crislip Affidavit, between February 2004 and December 2009, Respondent violated Section 406.106(b) of the Board's Mine Related Water Pollution Regulations and expired NPDES Permit No. IL0061166 by discharging contaminants in excess of the following limits: iron, monthly average limit 6 times and daily maximum limit 1 time; and TSS, monthly average limit 73 times and daily maximum limit 15 times. Amend. Compl. at ¶¶ 20-23 of Count IV; Ans. to Amend. Compl. at ¶¶ 20-23 of Count IV; Motion to Deem Admitted, Ex. 1 ¶¶ 75-78; and Crislip Aff. at ¶ 25 A.-D.

As supported by the DMRs summarized in the Crislip Affidavit, between January 2010 and December 2011, Respondent violated Section 406.106(b) of the Board's Mine Related Water Pollution Regulations and expired NPDES Permit No. IL0061166 by discharging contaminants in excess of the following limit: TSS, monthly average limit 14 times. Amend. Compl. at ¶¶ 24-25 of Count IV; Ans. to Amend. Compl. at ¶ 25 of Count IV; Motion to Deem Admitted, Ex. 1 ¶ 79; and Crislip Aff. at ¶ 26.A.

Iron and TSS are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165. Eagle Creek and Little Eagle Creek are "waters" of the state as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2008). The discharges from previously authorized outfalls 008, 009, 012, 016, 017, 018, 019, 020, 040, 043, and 044 are discharges into waters of the state.

By discharging contaminants, including iron and TSS, from the above listed outfalls into Eagle Creek and Little Eagle Creek in excess of the standards set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations and expired NPDES Permit No. IL0061166, Respondent has caused or tended to cause water pollution. The 109 exceedances of the effluent limits set forth in Section 406.106(b) of the Board's Mine Related Water Pollution

Regulations and expired NPDES Permit No. IL0061166 from the Gallatin County mine have likely created a nuisance or rendered 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. Therefore, summary judgment is proper as to Count V of the Amended Complaint.

## **VII. Civil Penalty Request**

The Complainant seeks the imposition of civil penalties for the violations alleged in Counts I, II, IV and V for which summary judgment is requested. The arguments supporting penalties to be imposed through summary judgment are based upon the number and nature of the violations, and the application of the Section 33(c) factors and the Section 42(h) criteria. Complainant's arguments and rationale for penalties will necessarily be constrained by the record for summary judgment purposes. The allegations contained in Counts I, II, IV and V, proven here by the Crislip Affidavit and the legal pleadings filed in this matter, are that Respondent violated the NPDES Permit and effluent standards by repeatedly discharging from outfalls containing contaminants in excess of the permitted limits and limits applicable pursuant to the Board's Regulations and operated without the required NPDES permit.

"In determining the appropriate civil penalty, the Board considers the factors set forth in Sections 33(c) and 42(h) of the Act (415 ILCS 5/33(c) and 42(h) (2010))." *People v. Ward d/b/a Ward Electric*, PCB 10-72 (Dec. 1, 2011) slip op at 9 citing *People v. Gilmer*, PCB 99-27 (Aug. 24, 2000). "The Board must take into account factors outlined in Section 33(c) of the Act in determining the unreasonableness of the alleged pollution." *Id.* citing *Wells Manufacturing Company v. Pollution Control Board*, 73 Ill. 2d 226 (1978). There is express statutory authority for the Board to consider Section 42(h) factors in determining an appropriate civil penalty. *Id.*

Moreover, “the Board must bear in mind that no formula exists, and all facts and circumstances must be reviewed.” *Id.* citing *Gilmer*, PCB 99-27, slip. op. at 8. However, “[t]he Board has stated that the statutory maximum penalty is a natural or logical benchmark from which to begin considering factors in aggravation and mitigation of the penalty amounts.” *Id.* (internal citations omitted). Moreover, the Board does rule on civil penalties without requiring the case go to hearing. *See e.g. People v. Zachary Isaac et al.*, PCB 11-58 (Sept. 20, 2012) slip op at 12; *see also Ward et al.*, PCB 10-72 (July 7, 2011 and Dec. 1, 2011) (Board granted People’s motion for summary judgment, requested parties brief issue of civil penalties, and imposed civil penalties).

**A. Impact on the public resulting from alleged non-compliance.**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2008), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these statutory factors, the Complainant submits that "the character, and degree of injury to, or interference with the protection of the health, general welfare and physical

property of the people" may be inferred from the sheer number and frequency of the reported effluent exceedances, the extent to which permit limits were exceeded, and the simple repetition of such violations. The Complainant acknowledges that there is some social and economic benefit to any particular coal mine and that by issuing a mining permit the Illinois Department of Natural Resources determined the locations of the Saline County Mine and Gallatin County Mine to be suitable for mining.

It is not disputed that it is both practical and reasonable to comply with the NPDES Permits which is demonstrated by the fact that at the time of the permits issuance no appeal was made. It is also not disputed that it is both practical and reasonable to obtain an NPDES permit. Moreover, Respondent assumed responsibility for permit compliance by submitting a timely renewal application and requesting a permit transfer for NPDES Permit No. IL0064611 for the Saline County mine. Respondent as the operator of the Gallatin County mine through its reclamation activities assumed responsibility for permit compliance including obtaining and operating with a NPDES permit and discharging in compliance with applicable standards.

The Board is required by Section 33(c) of the Act, 415 ILCS 5/33(c) (2008) to consider the reasonableness of the discharges from the Saline County Mine and the Gallatin County Mine in the context of the factors discussed above. The record for summary judgment is sufficient for purposes of fixing liability for the Section 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2008) violations alleged in Counts I, II, III and V, and there is ample information in the record for the imposition of civil penalties.

**B. Consideration of Section 42(h) factors.**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2008), provides as follows:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of the Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is no otherwise legally required to perform.
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Complainant submits that the duration and gravity of the violations are clearly evident from the Crislip Affidavit and the NPDES permits included therein. During the time period from January 2004 through January 2014 , according to the verified information attached to this motion, there have been at least 511 reported exceedances at the Saline County Mine; the Board may note that 125 of those exceedances are alleged to have occurred after filing the initial Complaint. Since 2004 through the present, according to the verified information attached to this motion, Respondent has operated the Gallatin County mine without the requisite NPDES permit. During the time period from January 2004 through

December 2011, according to the verified information in the Crislip Affidavit, there have been at least 109 reported exceedances at the Gallatin County Mine; the Board may note that 14 of those exceedances are alleged to have occurred after filing the Complaint.

Respondent's lack of diligence in correcting this noncompliance with the NPDES permit and the Board's Regulations on effluent limitations may be inferred by the verified information set forth in the Crislip Affidavit. The question regarding the existence of an economic benefit by delaying expenditures necessary for compliance have not been quantified. The amount of monetary penalty which will serve to deter further violations will be discussed in detail below. Respondent has no previous violations of the Act. There was no self-disclosure, supplemental environmental project, or a commitment compliance agreement at issue in this penalty request.

For purposes of summary judgment on Counts I, III, and IV, the Complainant will abide with an approach to calculate a maximum civil penalty for the violations at each mine by Respondent. Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1), provides the specific penalty authority for the NPDES Permit violations alleged in Counts I: "Any person that violates Section 12(f) of this Act or any NPDES permit or term or condition thereof ... shall be liable to a civil penalty of not to exceed \$10,000 per day of violation." The Crislip Affidavit documents a total of 511 reported effluent violations at the Saline County Mine since January 2004.

The Board may easily review the effluent data set forth in the Crislip Affidavit and compare the concentration values reported in the DMRs with the limits imposed in the NPDES Permit and Board Regulations. For each reported violation of a daily maximum limit, a somewhat nominal penalty of \$1,000 is requested. A penalty of at least \$5,000 for each violation of a monthly limit is also reasonable. Since pH must not go below 6.0 or above 9.0 at

any time, this limit would seem to be analogous to a daily limit. The Complainant suggests, however, that a \$5,000 penalty be imposed for each pH violation.

The violations at the Saline County Mine from January 2004 through January 2010 contained in the DMRs and the Crislip Affidavit in support of summary judgment provide the factual support for the following penalty calculations:

Constituent		No. of Exceedances	Penalty (\$)	Total Penalty (\$)
Iron	Monthly Average	35	5,000.00	175,000.00
Iron	Daily Maximum	1	1,000.00	1,000.00
Manganese	Monthly Average	110	5,000.00	550,000.00
Manganese	Daily Maximum	36	1,000.00	36,000.00
Sulfates	Daily Maximum	15	1,000.00	15,000.00
TSS	Monthly Average	135	5,000.00	675,000.00
TSS	Daily Maximum	35	1,000.00	35,000.00
pH		1	5,000.00	5,000.00
<b>Total</b>		<b>368</b>		<b>1,492,000.00</b>

The violations at the Saline County Mine from February 2010 through October 2012 contained in the DMRs and the Crislip Affidavit in support of summary judgment provide the factual support for the following penalty calculations:

Constituent		No. of Exceedances	Penalty	Total Penalty
Iron	Monthly Average	5	5000.00	25,000.00
Manganese	Monthly Average	43	5000.00	215,000.00
Manganese	Daily Maximum	7	1000.00	7,000.00
Sulfates	Daily Maximum	13	1000.00	13,000.00
TSS	Monthly Average	25	5000.00	125,000.00
TSS	Daily Maximum	5	1000.00	5,000.00
pH		2	5000.00	10,000.00
<b>Total</b>		<b>100</b>		<b>400,000.00</b>

The violations at the Saline County Mine from August 2013 through January 2014 contained in the DMRs and the Crislip Affidavit in support of summary judgment provide the factual support for the following penalty calculations:

Constituent		No. of Exceedances	Penalty	Total Penalty
Iron	Monthly Average	1	5000.00	5,000.00
Manganese	Monthly Average	5	5000.00	25,000.00
Manganese	Daily Maximum	6	1000.00	6,000.00
TSS	Monthly Average	5	5000.00	25,000.00
TSS	Daily Maximum	3	1000.00	3,000.00
pH		5	5000.00	25,000.00
<b>Total</b>		<b>100</b>		<b>89,000.00</b>

The appropriate penalty is \$1,981,000.00 for the violations of Section 12(f) of the Act, 415 ILCS 5/12(f), in Count I of the Amended Complaint at the Saline County Mine from January 2004 through January 2014.

The appropriate penalty is \$50,000 for the violations of Section 12(a) of the Act, 415 ILCS 5/12(a), in Count II of the Amended Complaint at the Saline County Mine from January 2004 through January 2014.

The appropriate penalty is \$50,000 for the violations of Section 12(f) of the Act, 415 ILCS 5/12(f), in Count III of the Amended Complaint at the Gallatin County Mine from 2004 through present.

The appropriate penalty is \$50,000 for the violations of Section 12(a) of the Act, 415 ILCS 5/12(a), in Count V of the Amended Complaint at the Gallatin County Mine.

#### **VIII. CONCLUSION**

The record in this case, including the pleadings and admissions together with the Crislip Affidavit, shows that there is no genuine issue of material fact. The People are entitled to judgment as a matter of law and the Board should grant the People's motion for summary judgment determining the following: 1) Respondent caused or allowed the discharge of contaminants into the environment from the Saline County mine in excess of the effluent limits

imposed by NPDES Permit No. IL0064611 for iron, manganese, sulfates, TSS and pH; 2) Respondent caused or tended to cause water pollution from the Saline County mine; 3) Respondent failed to submit a NPDES permit for its mining operations and is operating the Gallatin County mine without the requisite NPDES permit; 4) Respondent caused or tended to cause water pollution from the Gallatin County mine. There is no genuine issue as to any material fact as to the *prima facie* proof of the alleged violations in the Amended Complaint and therefore the Complainant is entitled to judgment as a matter of law as to Count I, Count II Count III, and Count V of the Amended Complaint.

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board enter a final order:

A) Granting Complainant's motion for summary judgment on Count I, Count II Count III, and Count V of the Amended Complaint;

B) Finding violations of Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2008);

C) Ordering that for so long as Respondent owns and/or operates the Saline County Mine, it shall comply with the conditions set forth in NPDES Permit No. IL0064611, and for so long as Respondent operates the Gallatin County Mine, it shall obtain an NPDES permit and comply with the terms of the expired NPDES Permit No. IL0061166 mine until such a time that a new NPDES permit is issued by the Illinois EPA;

D) Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

E) Assessing against Respondent a civil penalty in the amount of \$2,131,000.00 pursuant to Section 42(h) of the Act; and

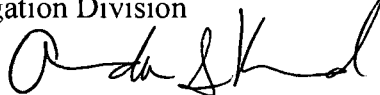
F) Granting such other relief as the Board deems appropriate.

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: 

AMANDA S. KIMMEL  
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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB No. 10-86</b>
	)	<b>(Water-Enforcement)</b>
<b>ILLINOIS FUEL COMPANY, LLC,</b>	)	
<b>a Kentucky limited liability company,</b>	)	
	)	
<b>Respondent.</b>	)	

**AFFIDAVIT OF LARRY CRISLIP**

Upon penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certified that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that I verily believe the same to be true:

1. I, LARRY CRISLIP, am employed by the Illinois Environmental Protection Agency as the Manager of the Permit Section for the Mine Pollution Control Program. My business address is 2309 West Main Street, Marion, Illinois.

**Saline County Mine**

2. Illinois Fuel Company, LLC owns 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, herein referred to as the Saline County mine.

3. On July 24, 1996, the Illinois Environmental Protection Agency ("Illinois EPA") issued a National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0064611 to Jader Fuel Company, Inc., which authorized discharges at various outfalls from the Saline County mine into waters of the State.

4. In November 1998, Jader Fuel Company, Inc. requested the transfer of NPDES Permit No. IL0064611 to Jader Coal Company, LLC. On January 13, 1999, Illinois EPA issued a final modified NPDES Permit No. IL0064611 to Jader Coal Company, LLC as the permittee and Jader Fuel Company as the named facility.

5. On October 30, 2000, Jader Coal Company, LLC submitted a timely renewal application for NPDES Permit No. IL0064611.

6. On July 25, 2001, Jader Coal Company, LLC requested a transfer of NPDES Permit No. IL0064611 to Illinois Fuel Company, LLC. The Illinois EPA did not object to this permit transfer. The Illinois EPA has not yet taken final action regarding the renewal of NPDES Permit No. IL0064611.

7. NPDES Permit No. IL0064611, due to the timely renewal application and request for transfer, remains in effect. A true and accurate copy of NPDES Permit No. IL0064611 is attached as Attachment A to my affidavit, and the terms and conditions of this permit are herein incorporated by reference.

8. NPDES Permit No. IL0064611 authorized outfalls 021, 022, 023, 024, 025, 026, 027, 028, 030, 034, 035, 036, 037, 048, 051, 052, 054 which are classified as acid mine drainage.

9. NPDES Permit No. IL0064611 imposes the following effluent limitations for outfalls classified as acid mine drainage: 1) iron including a monthly average effluent limit of 3.0 mg/L and a daily maximum effluent limit of 6.0 mg/L; 2) manganese including a monthly average effluent limit of 2.0 mg/L and a daily maximum effluent limit of 4.0 mg/L; 3) sulfate including a daily maximum effluent limit of 3500 mg/L; 4) TSS including a monthly average effluent limit of 35.0 mg/L and a daily maximum effluent limit of 70.0 mg/L; and 5) pH including a range of 6.0 to 9.0 standard units.

10. According to Section 304.104(d) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.104(d), the proof of violation of effluent limitations contained in a permit shall be based on the language of the permit. Illinois Fuel Company, LLC has reported effluent data for each required parameter within Discharge Monitoring Reports (DMRs) in accordance with Standard Condition 12 of NPDES Permit No. IL0064611. For the purpose of this affidavit and in order to convey the effluent data in a more concise way than submitting a copy of each DMR, I have organized and tabulated the pertinent data reported by Illinois Fuel Company, LLC.

11. I have reviewed the DMRs submitted by Illinois Fuel Company, LLC and compared the analytical data reported therein with the applicable effluent limitations in the NPDES Permit as to the effluent concentrations of iron, manganese, sulfates, pH, and TSS discharged from the Saline County mine into the waters of the State from January 2004 through January 2010. As explained above, I have transcribed the data reported in the DMRs into the tables set forth below. To the extent that any reporting inconsistencies or ambiguities may exist, or erroneous information may need correction, Illinois Fuel Company, LLC is obligated to correct such problems by Standard Condition 12(e) of NPDES Permit No. IL0064611. My review of the DMRs has shown that Illinois Fuel Company, LLC occasionally submitted monthly average calculations based on less than three samples required for the averaging of grab samples. I have evaluated the effluent data according to the applicable limitations for contaminants discharged from the particular outfalls and certify that:

A. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of iron from the Saline County mine in excess of the permitted monthly average effluent limitation on 36 occasions 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	027	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

B. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of iron from the Saline County mine in excess of the permitted daily maximum effluent limitation on 1 occasion 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

C. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the

discharge of manganese from the Saline County mine in excess of the permitted monthly average effluent limitation on 115 occasions 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

D. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of the permitted daily maximum effluent limitation on 33 occasions 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

E. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of sulfates from the Saline County mine in excess of the permitted daily maximum effluent limitations on 17 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
July 2005	026	3500 mg/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

F. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of the permitted monthly average effluent limitation on 135 occasions 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	103.5 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	48.5 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	57.5 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

G. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of the permitted daily maximum effluent limitation on 36 occasions 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	023	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

H. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of pH from the Saline County mine outside of the permitted effluent limitation range of 6.0 to 9.0 standard units on 13 occasions 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

12. I have also reviewed the DMRs submitted by Illinois Fuel Company, LLC for the Saline County mine after the Complaint was filed but prior to the filing of the Amended Complaint with the Pollution Control Board. I compared the analytical data reported therein as to the effluent concentrations of contaminants discharged from the Saline County mine into waters of the State from January 2010 through October 2012. I have evaluated the effluent data according to the applicable limitations for contaminants discharged from the particular outfalls and certify that:

A. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of iron from the Saline County mine in excess of the permitted monthly average effluent limitation on 5 occasions 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

B. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of the permitted monthly average effluent limitation on 43 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit 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

C. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of the permitted daily maximum effluent limitation on 7 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
March 2010	022	4.0 mg/L	4.15 mg/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

D. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of sulfates from the Saline County mine in excess of the permitted daily maximum effluent limitations on 13 occasions 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

E. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of the permitted monthly average effluent limitation on 25 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 2010	024	35.0 mg/L	54.5 mg/L
March 2010	025	35.0 mg/L	37 mg/L
March 2010	028	35.0 mg/L	37 mg/L
April 2010	021	35.0 mg/L	58.5 mg/L
April 2010	022	35.0 mg/L	55.5 mg/L
April 2010	028	35.0 mg/L	45 mg/L
May 2010	028	35.0 mg/L	45 mg/L
May 2010	034	35.0 mg/L	41.5 mg/L
June 2010	034	35.0 mg/L	76.5 mg/L
November 2010	037	35.0 mg/L	40 mg/L
December 2010	037	35.0 mg/L	72 mg/L
February 2011	024	35.0 mg/L	47 mg/L
March 2011	022	35.0 mg/L	39.5 mg/L
March 2011	023	35.0 mg/L	44.5 mg/L
March 2011	024	35.0 mg/L	79 mg/L
March 2011	028	35.0 mg/L	63.5 mg/L
March 2011	051	35.0 mg/L	59.5 mg/L
March 2011	054	35.0 mg/L	49 mg/L
April 2011	023	35.0 mg/L	78 mg/L
April 2011	024	35.0 mg/L	46 mg/L
April 2011	030	35.0 mg/L	53.5 mg/L
April 2011	034	35.0 mg/L	51.5 mg/L
June 2011	023	35.0 mg/L	46.5 mg/L
June 2011	054	35.0 mg/L	45 mg/L
June 2011	055	35.0 mg/L	109.5 mg/L

F. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of the permitted daily maximum effluent limitation on 5 occasions 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

G. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of pH from the Saline County mine outside of the permitted effluent limitation range of 6.0 to 9.0 standard units on 2 occasions as follows:

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

13. I have also reviewed the DMRs submitted by Illinois Fuel Company, LLC for the Saline County mine after the Amended Complaint was filed with the Pollution Control Board. I compared the analytical data reported therein as to the effluent concentrations of contaminants discharged from the Saline County mine into waters of the State from August 2013 through January 2014. I have evaluated the effluent data according to the applicable limitations for contaminants discharged from the particular outfalls and certify that, in addition to the violations pleaded in the Amended Complaint:

A. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of iron from the Saline County mine in excess of the permitted monthly average effluent limitation on 1 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
December 2013	049	3.0 mg/L	5.24 mg/L

B. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of the permitted monthly average effluent limitation on 5 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
August 2013	022	2.0 mg/L	9.68 mg/L

October 2013	022	2.0 mg/L	7.89 mg/L
November 2013	022	2.0 mg/L	7.07 mg/L
December 2013	021	2.0 mg/L	2.18 mg/L
December 2013	026	2.0 mg/L	2.44 mg/L

C. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of manganese from the Saline County mine in excess of the permitted daily maximum effluent limitation on 5 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
August 2013	022	4.0 mg/L	11.2 mg/L
August 2013	022-O	4.0 mg/L	8.16 mg/L
October 2013	022	4.0 mg/L	9.92 mg/L
October 2013	022-O	4.0 mg/L	6.10 mg/L
November 2013	022	4.0 mg/L	10.24 mg/L

D. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of the permitted monthly average effluent limitation on 4 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
August 2013	034	35.0 mg/L	60 mg/L
November 2013	022	35.0 mg/L	44 mg/L
December 2013	024	35.0 mg/L	59.5 mg/L
December 2013	049	35.0 mg/L	75 mg/L

E. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Saline County mine in excess of the permitted daily maximum effluent limitation on 3 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
August 2013	034	70.0 mg/L	94 mg/L
November 2013	022	70.0 mg/L	111.5 mg/L
December 2013	049	70.0 mg/L	75 mg/L

F. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of pH from the Saline County mine outside of the permitted effluent limitation range

of 6.0 to 9.0 standard units on 5 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Actual Discharge</u>
August 2013	022-O	4.9
October 2013	022-P	9.1
October 2013	023-P	4.9
November 2013	022-O	10.25
January 2014	022-P	10.25

### **Gallatin County Mine**

14. Illinois Fuel Company, LLC operates a coal mine commonly known as Mine # 4, located 5 miles southwest of Junction, Gallatin County, Illinois, herein referred to as the Gallatin County mine.

15. On May 12, 1999 the Illinois EPA issued NPDES Permit No. IL0061166 to Jader Fuel Company, Inc., to control discharges from the Gallatin County mine into waters of the State, including Eagle Creek and Little Eagle Creek.

16. On March 1, 2000, Jader Fuel Company, Inc. submitted a request to transfer NPDES Permit No. IL0061166 to Jader Coal Company, LLC. The Illinois EPA did not object to this permit transfer.

17. On February 28, 2003, Jader Coal Company, LLC was involuntarily dissolved by the Illinois Secretary of State.

18. On August 6, 2003, Illinois Fuel Company, LLC submitted a renewal application for NPDES Permit No. IL0061166. The renewal application was submitted by Illinois Fuel Company, LLC on behalf of the dissolved Jader Coal Company, LLC, as permittee.

19. The Illinois EPA took no action in response to the renewal application and the NPDES Permit No. IL0061166 permit expired on the date of March 31, 2004. A true and accurate copy of NPDES Permit No. IL0061166 is attached as Attachment B to my affidavit, and the terms and conditions of this permit are herein incorporated by reference.

20. Illinois Fuel Company, LLC has been operating the Gallatin County mine without the required NPDES permit since March 31, 2004.

21. The Gallatin County mine discharge effluent limitations are set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b):

Except as provided in Sections 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 (total)	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

22. Illinois Fuel Company, LLC has continued to report effluent data for each required parameter within the DMRs in accordance with Standard Condition 12 of NPDES Permit No. IL0061166. For the purpose of this affidavit and in order to convey the effluent data in a more concise way than submitting a copy of each DMR, I have organized and tabulated the pertinent data reported by Illinois Fuel Company, LLC.

23. NPDES Permit No. IL0061166 previously authorized outfall 008, 009, 012, 016, 017, 018, 019, 020, 040, 043, and 044 which were classified as alkaline mine drainage.

24. NPDES Permit No. IL0061166 previously imposed the following effluent limitations for outfalls classified as alkaline mine drainage: 1) iron including a monthly average effluent limit of 3.0 mg/L and a daily maximum effluent limit of 6.0 mg/L and 2) TSS including

a monthly average effluent limit of 35.0 mg/L and a daily maximum effluent limit of 70.0 mg/L.

25. I have reviewed the DMRs submitted by Illinois Fuel Company, LLC and compared the analytical data reported therein with the applicable effluent limitations in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b), as to the effluent concentrations discharged from the Gallatin County mine into the waters of the State from January 2004 through January 2010. As explained above, I have transcribed the data reported in the DMRs into the tables set forth below. To the extent that any reporting inconsistencies or ambiguities may exist, or erroneous information may need correction, Illinois Fuel Company, LLC would be obligated to correct such problems by Standard Condition 12(e) of NPDES Permit No. IL0061166. My review of the DMRs has shown that Illinois Fuel Company, LLC occasionally submitted monthly average calculations based on less than three samples required for the averaging of grab samples. I have evaluated the effluent data according to the applicable limitations for contaminants discharged from the particular outfalls and certify that:

A. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of iron from the Gallatin County mine in excess of the previously permitted monthly average effluent limitation and the effluent limitation set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b), on 6 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Effluent Limit</u>	<u>Actual Discharge</u>
August 2004	044	3.0 mg/L	3.5mg/L	12.15 mg/L
May 2008	020	3.0 mg/L	3.5mg/L	5.08 mg/L
August 2008	020	3.0 mg/L	3.5mg/L	4.56 mg/L
August 2009	020	3.0 mg/L	3.5mg/L	3.76 mg/L
February 2009	012	3.0 mg/L	3.5mg/L	4.05 mg/L
February 2009	020	3.0 mg/L	3.5mg/L	6.10 mg/L

B. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of iron from the Gallatin County mine in excess of the previously permitted daily maximum effluent limitation and the effluent limitation set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b), on 1 occasion as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Effluent Limit</u>	<u>Actual Discharge</u>
August 2004	044	6.0mg/L	3.5mg/L	18.3 mg/L

C. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Gallatin County mine in excess of the previously permitted monthly average limitations and effluent limitation set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b), on 73 occasions as follows:

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

March 2006	020	35.0 mg/L	35.0 mg/L	43.3 mg/L
April 2006	019	35.0 mg/L	35.0 mg/L	43 mg/L
May 2006	016	35.0 mg/L	35.0 mg/L	51 mg/L
August 2006	008	35.0 mg/L	35.0 mg/L	52 mg/L
September 2006	019	35.0 mg/L	35.0 mg/L	42 mg/L
October 2006	016	35.0 mg/L	35.0 mg/L	42 mg/L
November 2006	018	35.0 mg/L	35.0 mg/L	37 mg/L
December 2006	017	35.0 mg/L	35.0 mg/L	38.2 mg/L
January 2007	012	35.0 mg/L	35.0 mg/L	41 mg/L
February 2007	012	35.0 mg/L	35.0 mg/L	50.3 mg/L
February 2007	017	35.0 mg/L	35.0 mg/L	48.3 mg/L
February 2007	020	35.0 mg/L	35.0 mg/L	51.8 mg/L
February 2007	040	35.0 mg/L	35.0 mg/L	67.5 mg/L
March 2007	044	35.0 mg/L	35.0 mg/L	63.5 mg/L
April 2007	012	35.0 mg/L	35.0 mg/L	36 mg/L
April 2007	016	35.0 mg/L	35.0 mg/L	66 mg/L
April 2007	044	35.0 mg/L	35.0 mg/L	38.5 mg/L
May 2007	020	35.0 mg/L	35.0 mg/L	50 mg/L
October 2007	017	35.0 mg/L	35.0 mg/L	49.5 mg/L
November 2007	043	35.0 mg/L	35.0 mg/L	99.5 mg/L
January 2008	009	35.0 mg/L	35.0 mg/L	56.5 mg/L
January 2008	012	35.0 mg/L	35.0 mg/L	62 mg/L
January 2008	017	35.0 mg/L	35.0 mg/L	68 mg/L
January 2008	018	35.0 mg/L	35.0 mg/L	50 mg/L
January 2008	019	35.0 mg/L	35.0 mg/L	62.5 mg/L
January 2008	020	35.0 mg/L	35.0 mg/L	80 mg/L
February 2008	009	35.0 mg/L	35.0 mg/L	36.5 mg/L
February 2008	012	35.0 mg/L	35.0 mg/L	92.3 mg/L
February 2008	016	35.0 mg/L	35.0 mg/L	38.5 mg/L
February 2008	017	35.0 mg/L	35.0 mg/L	41.5 mg/L
February 2008	018	35.0 mg/L	35.0 mg/L	38.5 mg/L
February 2008	020	35.0 mg/L	35.0 mg/L	76 mg/L
February 2008	043	35.0 mg/L	35.0 mg/L	67.5 mg/L
May 2008	020	35.0 mg/L	35.0 mg/L	162 mg/L
August 2008	012	35.0 mg/L	35.0 mg/L	103.5 mg/L
August 2008	017	35.0 mg/L	35.0 mg/L	37.0 mg/L
August 2008	020	35.0 mg/L	35.0 mg/L	105.5 mg/L
August 2008	044	35.0 mg/L	35.0 mg/L	46.5 mg/L
February 2009	008	35.0 mg/L	35.0 mg/L	41.5 mg/L
February 2009	012	35.0 mg/L	35.0 mg/L	68 mg/L
February 2009	017	35.0 mg/L	35.0 mg/L	70.0 mg/L
February 2009	020	35.0 mg/L	35.0 mg/L	69 mg/L
April 2009	012	35.0 mg/L	35.0 mg/L	47 mg/L
May 2009	008	35.0 mg/L	35.0 mg/L	68.5 mg/L
May 2009	020	35.0 mg/L	35.0 mg/L	36.5 mg/L
May 2009	040	35.0 mg/L	35.0 mg/L	61 mg/L

August 2009	020	35.0 mg/L	35.0 mg/L	62 mg/L
August 2009	043	35.0 mg/L	35.0 mg/L	64 mg/L
January 2010	020	35.0 mg/L	35.0 mg/L	39.5 mg/L

D. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the discharge of TSS from the Gallatin County mine in excess of the previously permitted daily maximum effluent limitation and effluent limitation set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b), on 15 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Effluent Limit</u>	<u>Actual Discharge</u>
February 2005	017	70.0 mg/L	35.0 mg/L	78 mg/L
November 2005	012	70.0 mg/L	35.0 mg/L	129.5 mg/L
November 2005	017	70.0 mg/L	35.0 mg/L	87.5 mg/L
January 2006	017	70.0 mg/L	35.0 mg/L	76.5 mg/L
March 2006	012	70.0 mg/L	35.0 mg/L	90.5 mg/L
August 2006	008	70.0 mg/L	35.0 mg/L	70.5 mg/L
November 2007	043	70.0 mg/L	35.0 mg/L	99.5 mg/L
January 2008	020	70.0 mg/L	35.0 mg/L	80 mg/L
February 2008	012	70.0 mg/L	35.0 mg/L	146 mg/L
February 2008	016	70.0 mg/L	35.0 mg/L	72.5 mg/L
February 2008	018	70.0 mg/L	35.0 mg/L	79.5 mg/L
February 2008	020	70.0 mg/L	35.0 mg/L	115 mg/L
May 2008	020	70.0 mg/L	35.0 mg/L	162 mg/L
August 2008	012	70.0 mg/L	35.0 mg/L	103.5 mg/L
August 2008	020	70.0 mg/L	35.0 mg/L	105.5 mg/L

26. I have also reviewed the DMRs submitted by Illinois Fuel Company, LLC for the Gallatin County mine after the Complaint was filed with the Pollution Control Board in April 2010. I compared the analytical data reported therein as to the effluent concentrations of contaminants discharged from the Gallatin County mine into waters of the State during 2010 through 2011. I have evaluated the effluent data according to the applicable limitations for contaminants discharged from the particular outfalls and certify that, in addition to the violations pleaded in the Complaint:

A. Illinois Fuel Company, LLC, reported to the Illinois EPA in its DMRs the

discharge of TSS from the Gallatin County mine in excess of the previously permitted monthly average effluent limitation and effluent limitation set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b), on 14 occasions as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Effluent Limit</u>	<u>Actual Discharge</u>
March 2010	012	35.0 mg/L	35.0 mg/L	43 mg/L
March 2010	016	35.0 mg/L	35.0 mg/L	39 mg/L
March 2010	019	35.0 mg/L	35.0 mg/L	51.5 mg/L
April 2010	008	35.0 mg/L	35.0 mg/L	37 mg/L
April 2010	019	35.0 mg/L	35.0 mg/L	70 mg/L
May 2010	019	35.0 mg/L	35.0 mg/L	61 mg/L
May 2010	042	35.0 mg/L	35.0 mg/L	50 mg/L
December 2010	009	35.0 mg/L	35.0 mg/L	37.5 mg/L
March 2011	008	35.0 mg/L	35.0 mg/L	58 mg/L
March 2011	012	35.0 mg/L	35.0 mg/L	46.5 mg/L
April 2011	012	35.0 mg/L	35.0 mg/L	49.5 mg/L
May 2011	008	35.0 mg/L	35.0 mg/L	42.5 mg/L
June 2011	017	35.0 mg/L	35.0 mg/L	40 mg/L
October 2011	044	35.0 mg/L	35.0 mg/L	37.5 mg/L

27. The Illinois EPA relies upon the validity of all data reported in Discharge Monitoring Reports because the NPDES permit program mandates monitoring test procedures to ensure scientific reliability and because State and federal laws prohibit false reporting.

FURTHER AFFIANT SAYETH NOT.

Date: 12-23-2014

/s/ Larry D. Crislip  
LARRY CRISLIP

Subscribed and sworn to before me  
this 23<sup>rd</sup> day of December, 2014.

Gail Stricklin  
NOTARY PUBLIC





State of Illinois

# ENVIRONMENTAL PROTECTION AGENCY

Jary A. Gade, Director

2309 West Main, Marion, IL 62959

January 13, 1999

618/993-7200

Jader Coal Company, L.L.C.  
P.O. Box 730  
Shawneetown, IL 62984

Re: Jader Coal Company, L.L.C.  
Mine No. 4 (Eagle Valley Field)  
NPDES Permit No. IL0064611  
Final Modified Permit

Gentlemen:

Attached is the final modified NPDES Permit for your discharge. The modified Permit as issued covers discharge limitations, monitoring, and reporting requirements. The failure of you to meet any portion of the modified Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the modified Permit as they relate specifically to your discharge.

The modified Permit as issued is effective as of the date indicated on the first page of the modified Permit. You have the right to appeal any condition of the modified Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

Should you have questions concerning the modified Permit, please contact Bob Kerr, P.E., at 217/786-6892.

Respectfully,

ENVIRONMENTAL PROTECTION AGENCY

*Ronald E. Morse*  
Ronald E. Morse, Manager  
Mine Pollution Control Program  
Bureau of Water

REM:LDC:BK:jkb/1039c/10-14-98

Enclosure: Final Permit

cc: IDNR/Office of Mines and Minerals/Land Reclamation/with Enclosure  
IDNR/Division of Water Resources/with Enclosure  
Marion Region/Mine Pollution Control Program/with Enclosure  
BOW/DWPC/CAS  
BOW/DWPC/Records

**RECEIVED**  
JAN 15 1999

IL Environmental Protection Agency  
MARION REGIONAL OFFICE

Attachment A

NPDES Permit No. IL0064611

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Modified NPDES Permit

Expiration Date: April 30, 2001

Issue Date: July 24, 1996

Effective Date: August 1, 1996

Modification Date: January 13, 1999

Name and Address of Permittee:

Jader Coal Company, L.L.C.  
P.O. Box 730  
Shawneetown, IL 62984

Facility Name and Address:

Jader Fuel Company  
Mine No. 4 (Eagle Valley Field)  
920 Gape Hollow Road  
Herod, IL 62947  
5 miles northeast of Herod, Illinois  
(Saline County)

Discharge Number and Name:

003, 022, 023, 024, 025, 048  
Non-controlled Acid Mine Drainage (Surface Mine)

021 Discharge from Preparation Plant Area  
Acid Mine Drainage

026, 027, 028, 029, 030, 031  
Non-controlled Acid Mine Drainage (Surface Mine)

032, 033, 034, 035, 036, 037, 038  
Non-controlled Acid Mine Drainage (Surface Mine)

049  
Non-controlled Acid Mine Drainage (Surface Mine)

050, 051, 052, 053, 054  
Non-controlled Acid Mine Drainage (Surface Mine)

Receiving waters

Eagle Creek

Eagle Creek

Rose Creek

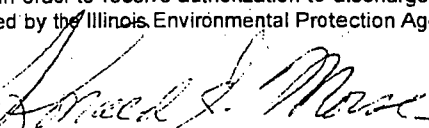
Unnamed tributary to Pruett Branch

Unnamed tributary to Little Eagle Creek

Unnamed tributaries to Eagle Creek

In compliance with the provisions of the Illinois Environmental Protection Act, Subtitle C and/or Subtitle D Rules and Regulations of the Illinois Pollution Control Board, and the Clean Water Act, the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.

  
Ronald E. Morse, Manager  
Mine Pollution Control Program  
Bureau of Water

REM: LDC:jkb/1040c/10-14-98

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until April 30, 2001 the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfall: 003 (Acid Mine Drainage)

Flow (MGD)				Measure When Monitoring	
Total Suspended Solids		35.0	70.0	***	Grab
Iron (total)		3.5	7.0	***	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0			3/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity			1/month	Grab
Sulfates			3500	**	Grab
Chlorides			1000	**	Grab
Manganese (total)		2.0	4.0	***	Grab

\*\*Sample frequency shall be once a month until twelve samples have been collected; after which and upon written notification to the Agency, the sampling may cease, unless the Agency modifies the permit to require continued sampling at some frequency.

\*\*\*There shall be a minimum of nine (9) samples collected during the quarter when the pond is discharging. Of these 9 samples, a minimum of one sample each month shall be taken during base flow conditions. A "no flow" situation is not considered to be a sample of the discharge. A grab sample of each discharge caused by the following precipitation event(s) shall be taken for the following parameters during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s). The remaining three (3) samples may be taken from either base flow or during precipitation event.

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

Iron (total)  
Settleable Solids  
pH

Effluent Limitations

7.0 mg/l daily maximum  
0.5 ml/l daily maximum  
6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

Settleable Solids  
pH

Effluent Limitations

0.5 ml/l daily maximum  
6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

pH

Effluent Limitations

6.0 - 9.0 at all times

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until April 30, 2001 the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfall: 021 (Acid Mine Drainage)

Flow (MGD)				Measure When Monitoring	
Total Suspended Solids		35.0	70.0	***	Grab
Iron (total)		3.0	6.0	***	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0			3/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity			1/month	Grab
Manganese (total)		2.0	4.0	***	Grab

\*\*\*There shall be a minimum of nine (9) samples collected during the quarter when the pond is discharging. Of these 9 samples, a minimum of one sample each month shall be taken during base flow conditions. A "no flow" situation is not considered to be a sample of the discharge. A grab sample of each discharge caused by the following precipitation event(s) shall be taken for the following parameters during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s). The remaining three (3) samples may be taken from either base flow or during precipitation event.

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt or equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

Settleable Solids  
pH

Effluent Limitations

0.5 ml/l daily maximum  
6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt or equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

pH

Effluent Limitations

6.0 - 9.0 at all times

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Modification Date: January 13, 1999

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS lbs/day		CONCENTRATION LIMITS mg/l		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until April 30, 2001 the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfalls: 022, 028 (Acid Mine Drainage)

Flow (MGD)				Measure When Monitoring	
Total Suspended Solids		35.0	70.0	***	Grab
Iron(total)		3.0	6.0	***	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0			3/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity			1/month	Grab
Manganese (total)		2.0	4.0	***	Grab

\*\*\*There shall be a minimum of nine (9) samples collected during the quarter when the pond is discharging. Of these 9 samples, a minimum of one sample each month shall be taken during base flow conditions. A "no flow" situation is not considered to be a sample of the discharge. A grab sample of each discharge caused by the following precipitation event(s) shall be taken for the following parameters during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s). The remaining three (3) samples may be taken from either base flow or during precipitation event.

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
Iron (total)	7.0 mg/l daily maximum
Settleable Solids	0.5 ml/l daily maximum
pH	6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
Settleable Solids	0.5 ml/l daily maximum
pH	6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
pH	6.0 - 9.0 at all times

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until April 30, 2001 the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfalls: 023, 024, 025, 026, 027, 029, (Acid Mine Drainage)  
030, 031, 032, 033, 034, 035, 036, 037,  
038, 048, 049, 050, 051, 052, 053, 054

Flow (MGD)					Measure When Monitoring	
Total Suspended Solids			35.0	70.0	***	Grab
Iron (total)			3.0	6.0	***	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				3/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity				1/month	Grab
Sulfates				3500	**	Grab
Chlorides				1000	**	Grab
Manganese (total)			2.0	4.0	***	Grab

\*\*Sample frequency shall be once a month until twelve samples have been collected; after which and upon written notification to the Agency, the sampling may cease, unless the Agency modifies the permit to require continued sampling at some frequency.

\*\*\*There shall be a minimum of nine (9) samples collected during the quarter when the pond is discharging. Of these 9 samples, a minimum of one sample each month shall be taken during base flow conditions. A "no flow" situation is not considered to be a sample of the discharge. A grab sample of each discharge caused by the following precipitation event(s) shall be taken for the following parameters during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s). The remaining three (3) samples may be taken from either base flow or during precipitation event.

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
Iron (total)	7.0 mg/l daily maximum
Settleable Solids	0.5 ml/l daily maximum
pH	6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
Settleable Solids	0.5 ml/l daily maximum
pH	6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
pH	6.0 - 9.0 at all times

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Modification Date: January 13, 1999

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

Upon completion of Special Condition 8 and approval from the Agency, the effluent of the following discharges shall be monitored and limited at all times as follows:

Outfalls: 021, 022, 028 (Reclamation Area Drainage)

Flow (MGD)		Measure When Monitoring	
Settleable Solids	0.5 ml/l	1/month	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0	1/month	Grab

In addition to the above base flow sampling requirements, a grab sample of each discharge caused by the following precipitation event(s) shall be taken (for the following parameters) during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s).

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property  
pH

Effluent Limitations  
6.0 - 9.0 at all times

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

Upon completion of Special Condition 8 and approval from the Agency, the effluent of the following discharges shall be monitored and limited at all times as follows:

Outfalls: 003, 023, 024, 025, 026, 027, 029, 030 (Reclamation Area Drainage)  
031, 032, 033, 034, 035, 036, 037, 038,  
048, 049, 050, 051, 052, 053, 054

Flow (MGD)		Measure When Monitoring	
Settleable Solids	0.5 ml/l	1/month	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0	1/month	Grab
Sulfates	3500	**	Grab
Chlorides	1000	**	Grab

\*\*Unless previously approved by the Agency to be reduced or ceased, sample frequency shall be once a month until twelve samples have been collected; after which and upon written notification to the Agency, the sampling may cease, unless the Agency modifies the permit to require continued sampling at some frequency.

In addition to the above base flow sampling requirements, a grab sample of each discharge caused by the following precipitation event(s) shall be taken (for the following parameters) during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s).

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
pH	6.0 - 9.0 at all times

Page 8

Modification Date: January 13, 1999

## NPDES Coal Mine Permit

NPDES Permit No. IL0064611

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

Upon completion of Special Condition 9 and approval from the Agency, the effluent of the following discharges shall be monitored and limited at all times as follows:

Outfalls: 003, 021, 022, 023, 024, 025, 026, 027, (Stormwater Discharge)  
 028, 029, 030, 031, 032, 033, 034, 035, 036  
 037, 038, 048, 049, 050, 051, 052, 053, 054

Settleable Solids			0.5 ml/l		1/Year	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				1/Year	Grab

Stormwater discharge monitoring is subject to the following reporting requirements:

Analysis of samples must be submitted with second quarter Discharge Monitoring Reports.

If discharges can be shown to be similar, a plan may be submitted by November 1 of each year preceding sampling to propose grouping of similar discharges and/or updated previously submitted groupings. If updating of a previously submitted plan is not necessary, a written notification to the Agency, indicating such is required. Upon approval from the Agency, one representative sample for each group may be submitted.

Annual stormwater monitoring is required for all discharges until final bond is released and approval to cease such monitoring is obtained from the Agency.

NPDES Permit No. IL0064611

Construction Authorization No. 8082-90

C.A. Date: May 20, 1996

Engineer: Frank Conci, P.E.

Authorization is hereby granted to the above designee to construct and operate the mine and mine refuse area described as follows:

A surface coal mine with preparation plant, fine coal refuse disposal area, coal stockpiles, soil stockpiles, holding pond, fresh water pond, haul roads, and drainage control system, located in Sections 2, 4, 11, 14, 22, 23, 24, 26, 27, T10S, R7E, Saline County, containing 1925.1 acres. The area is also identified as OMM Permit Area No. 243.

Surface drainage will be controlled by diversions, a sump, and 20 ponds. Ponds and Discharges 001, 002, 003 and 004 were previously developed. All Discharges will be classified as non-controlled surface mine acid drainage. Pond 021 also receives drainage from the preparation plant. Pit pumpage may report to any of the Ponds. Ponds 002, 003, 021, 022, 023, 024, and 025 will report to Eagle Creek. Ponds 026, 027, 028, 029, 030, and 031 will report to Rose Creek, tributary to Eagle Creek. Ponds 032, 033, 034, 035, 036, 037, and 038 will report to unnamed tributaries of Pruett Branch, tributary to Eagle Creek.

Pond 001 was enlarged with the Outfall redesignated as 021. Pond 004 has become a cell of a multi-cell pond with the Outfall designated as 028. As proposed, ponds with discharges designated as Outfalls 002 and 003 will be mined through.

The construction and operation of the preparation plant as proposed in Log No. 3283-95 is approved. Coarse refuse will be hauled back to the active pit. Fine refuse may be placed in an existing final cut and the active pit, subject to Condition No. 13.

Permanent Ditch No. 17 and Permanent Road No. 8 may be constructed as proposed in Log No. 2110-96.

Pursuant to 35 Ill. Adm. Code 406.203 the water quality standards of 35 Ill. Adm. Code 406.202 as they apply to sulfates, chlorides, total dissolved solids, iron and manganese shall not apply to discharges covered under this permit subject to Condition 12.

The abandonment plan contained in IEPA Log Nos. 8201-90(+B) and 2088-96 shall be executed and completed in accordance with 35 Ill. Adm. Code 405.109. All water remaining upon abandonment must meet the requirements of 35 Ill. Adm. Code 406.106 and 406.202.

This permit is transferred from Garden Valley Resources, Inc. to Jader Fuel Company, Inc.

This authorization replaces previous Construction Authorization No. 4057-84 and all previous approvals for Garden Valley Resources, Eagle Valley Mine and J.J. Track Co., Inc. Brown Brothers Mine No. 3.

This Authorization is issued subject to the following Condition(s). If such Condition(s) require(s) additional or revised facilities, satisfactory engineering plan documents must be submitted to this Agency for review and approval to secure issuance of a Supplemental Authorization to Construct.

1. If any statement or representation is found to be incorrect, this permit may be revoked and the permittee thereupon waives all rights thereunder.
2. The issuance of this permit (a) shall not be considered as in any manner affecting the title of the premises upon which the mine or mine refuse area is to be located; (b) does not release the permittee from any liability for damage to person or property caused by or resulting from the installation, maintenance or operation of the proposed facilities; (c) does not take into consideration the structural stability of any units or parts of the project; and (d) does not release the permittee from compliance with other applicable statutes of the State of Illinois, or with applicable local laws, regulations or ordinances.
3. Final plans, specifications, application and supporting documents as submitted by the person indicated on Page 1 as approved shall constitute part of this permit and are identified by Log Nos. 8082-90(+A, +B), 3155-95, 3240-95, 3283-95, 2088-96 and 2110-96 in the records of the Illinois Environmental Protection Agency.
4. This permit may not be assigned or transferred. Any subsequent operator shall obtain a new permit from the Illinois Environmental Protection Agency.
5. There shall be no deviations from the approved plans and specifications unless revised plans, specifications and application shall first have been submitted to the Illinois Environmental Protection Agency and a supplemental permit issued.
6. The permit holder shall notify the Environmental Protection Agency (217/782-3637) immediately of an emergency at the mine or mine refuse area which causes or threatens to cause a sudden discharge of contaminants into the waters of Illinois and shall

NPDES Permit No. IL0064611

Construction Authorization No. 8082-90

C.A. Date: May 20, 1996

immediately undertake necessary corrective measures as required by Title 35 Ill. Adm. Code 405.111. (217/782-3637 for calls between the hours of 5:00 p.m. to 8:30 a.m. and on weekends.)

7. The termination of an NPDES discharge monitoring point or cessation of monitoring of an NPDES discharge is not authorized by this Agency until the permittee submits adequate justification to show what alternate treatment is provided or that untreated drainage will meet applicable effluent and water quality standards.
8. Initial construction activities in areas to be disturbed shall be for collection and treatment facilities only. Prior to the start of other activities, surface drainage controls shall be constructed and operated to avoid violations of the Act or Subtitle D. At such time as runoff water is collected in the sedimentation pond, a sample shall be collected and analyzed, with the results sent to this Agency to show compliance with the applicable effluent and water quality standards. Should additional treatment be necessary to meet these standards, a Supplemental Permit must be obtained. Discharge from this pond is not allowed unless applicable effluent and water quality standards are met.
9. This Agency must be informed in writing and an application submitted if drainage, which was previously classified as alkaline (pH greater than 6.0), becomes acid (pH less than 6.0) or ferruginous (base flow with an iron concentration greater than 10 mg/l). The type of drainage reporting to the basin should be reclassified in a manner consistent with the applicable rule of Title 35 Ill. Adm. Code 406 as amended in R84-29 at 11 Ill. Reg. 12899. The application should discuss the treatment method and demonstrate how the discharge will meet the applicable standards.
10. A permittee has the obligation to add a settling aid if necessary to meet the suspended solids or settleable solids effluent standards. The selection of a settling aid and the application practice shall be in accordance with a. or b. below.
  - a. Alum ( $\text{Al}_2(\text{SO}_4)_3$ ), hydrated lime ( $\text{Ca}(\text{OH})_2$ ), soda ash ( $\text{Na}_2\text{CO}_3$ ), alkaline pit pumpage, acetylene production by-product (tested for impurities), and ground limestone are acceptable settling aids and are hereby permitted for alkaline mine drainage sedimentation ponds.
  - b. Any other settling aids such as commercial flocculents and coagulants are permitted only on prior approval from the Agency. To obtain approval a permittee must demonstrate in writing to the Agency that such use will not cause a violation of the toxic substances standard of Title 35 Ill. Adm. Code 302.210 or of the appropriate effluent and water quality standards of Title 35 Ill. Adm. Code parts 302, 304, and 406.
11. A general plan for the nature and disposition of all liquids used to drill boreholes shall be filed with this Agency prior to any such operation. This plan should be filed at such time that the operator becomes aware of the need to drill unless the plan of operation was contained in a previously approved application. After settling, recirculation water which meets the requirements of Title 35 Ill. Adm. Code 406.106 and 406.202, may be discharged. The use of additives in the recirculation water which require treatment other than settling to comply with the Act will require a revised permit.
12. Any of the following shall be a violation of the provisions required under Title 35 Ill. Adm. Code 406.203(c):
  - a. It is demonstrated that an adverse effect on the environment in and around the receiving stream has occurred or is likely to occur.
  - b. It is demonstrated that the discharge has adversely affected or is likely to adversely affect any public water supply.
  - c. The Agency determines the permittee is not utilizing good mining practices which are applicable in order to minimize the discharge of total dissolved solids, chloride, sulfate, iron and manganese. The following concentrations are presumed achievable according to information in the application, and demonstrate the utilization of good mining practices. The Agency may require additional information to determine compliance with Title 35 Ill. Adm. Code 406.204 when they are exceeded.

<u>Outfall</u>	<u>Chloride in mg/l</u>	<u>Sulfate in mg/l</u>	<u>Other</u>
002, 003	500	3500	
021, 022, 023, 024, 025 026, 027, 028, 029, 030 031, 032, 033, 034, 035 036, 037, 038	500	1000	

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13. Groundwater monitoring parameters for Wells MW-28 and MW-30 associated with the fine refuse disposal area shall consist of antimony, arsenic, barium, beryllium, boron, cadmium, chromium, cobalt, copper, cyanide, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, phenol, zinc, chloride, fluoride, sulfate, pH, acidity, alkalinity, and TDS. Six samples shall be required within the first year of operation. The results of the sampling shall be submitted to the Agency within 90 days after the end of the calendar year of sampling. Routine monitoring requirements will be determined after review of sampling results. If a TCLP analysis is conducted on the fine refuse and the pollutant concentration is less than the Practical Quantification Limit (PQL), then those pollutants may be deleted from the required list upon approval from the Agency.

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NPDES Permit No. IL0064611

Construction Authorization No. 8082-90-1

S.C.A. Date: February 3, 1998

Supplemental Authorization is hereby granted to the above designee to construct the mine and mine refuse area, which were previously approved under Supplemental Authorization No. 8082-90 dated May 20, 1996. These facilities have been revised as follows:

Application Log No. 2141-96 for a pole barn, two equipment storage areas, enlarged coal stockpiles and a topsoil stockpile are approved as proposed.

Application Log No. 2198-96 for the construction of Permanent Access Road No. 8 and Permanent Diversion No. 17 are approved as proposed.

Application Log No. 2294-96 for the construction of two rock dikes in the slurry impoundments is approved.

Application Log No. 2362-96 for the development of a parking area adjacent to the shop, relocation of 6-inch pump to preparation plant and relocation of 6-inch pump to fill water truck is approved.

Application Log No. 1041-97 for the installation of a 6-inch pump in Eagle Creek is approved with the condition that the stream bed not be affected by the pump. The pump shall be located as described in Log No. 0029-98.

Application Log No. 1123-97 for the redesign of Pond 024, elimination of Pond 002, elimination of proposed Pond 047, elimination of Permanent Diversion Nos. 13, 18, 19 and 20, elimination of culvert under a township road and construction of Temporary Diversion No. 4 is approved.

Application Log No. 1160-97 for the construction of an overhead power line, employee parking lot, powder and detonator magazines and the development of temporary Fresh Water Pond No. 2 is approved. Fresh Water Pond No. 2 and Sediment Pond No. 22 will utilize a common spillway, Discharge 022, as described in Log No. 0029-98.

Application Log No. 1257-97 for culvert designs for Haul Road No. 13 are approved as proposed.

Application Log No. 1418-97 for the construction of permanent Sediment Pond 048 and revision of temporary Diversion Nos. 8 and 9 are approved as proposed. Discharge 048 will be classified as non-controlled acid mine drainage and will report to Eagle Creek. Outfall 048 is subject to Condition 2.

Pursuant to Title 35 Ill. Adm. Code 406.203 the water quality standards of Title 35 Ill. Adm. Code 406.202 as they apply to sulfates, chlorides, total dissolved solids, iron and manganese shall not apply to Discharge 048 subject to Condition 1.

The abandonment plan shall be executed and completed in accordance with Title 35 Ill. Adm. Code 405.109.

All Conditions in the original Authorization to Construct are incorporated in this Supplemental Authorization unless specifically deleted or revised herein.

This Supplemental Authorization is issued subject to the following Conditions. If such Conditions require additional or revised facilities, appropriate engineering plan documents must be submitted to this Agency for review and approval to secure issuance of a Supplemental Authorization to Construct:

1. Any of the following shall be a violation of the provisions required under Title 35 Ill. Adm. Code 406.203(c):
  - A. It is demonstrated that an adverse effect on the environment in and around the receiving stream has occurred or is likely to occur.
  - B. It is demonstrated that the discharge has adversely affected or is likely to adversely affect any public water supply.
  - C. The Agency determines the permittee is not utilizing good mining practices which are applicable in order to minimize the discharge of total dissolved solids, chloride, sulfate, iron and manganese. The following concentrations are presumed achievable according to information in the application, and demonstrate the utilization of good mining practices. The Agency may require additional information to determine compliance with Title 35 Ill. Adm. Code 406.204 when they are exceeded.

Outfall  
048

Chloride in mg/l  
500

Sulfate in mg/l  
1000

Other

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Construction Authorization No. 8082-90-1

S.C.A. Date: February 3, 1998

2. At such time as runoff water is collected in Sedimentation Pond 004 a sample shall be collected and analyzed for the parameters designated as 1M to 15M under Part 5-C of Form 2C and the effluent parameters designated herein, with the results sent to this Agency to show compliance with the applicable effluent and water quality standards. Should additional treatment be necessary to meet these standards, a Supplemental Permit must be obtained. Discharge from a pond is not allowed unless applicable effluent and water quality standards are met.

NPDES Permit No. IL0064611

Construction Authorization No. 8082-90-2

S.C.A. Date: October 19, 1998

Supplemental Authorization is hereby granted to the above designee to construct the mine and mine refuse area, which were previously approved under Authorization No. 8082-90 dated May 20, 1996, and Supplemental Authorization No. 8082-90-1 dated February 3, 1998. These facilities have been revised as follows:

The addition of 20 acres, identified as OMM Permit No. 243, Incidental Boundary Revision (IBR) No. 2, located in Section 14, T10S, R7E, 3<sup>rd</sup> P.M., Saline County for area stripping as proposed and described in IEPA Log No. 0364-98. Sedimentation Basin 026 shall be modified as described.

The addition of a surface mining area containing 268.4 acres, identified as OMM Permit No. 316 area, located in Section 24, T10S, R7E, 3<sup>rd</sup> P.M., Saline County as described in IEPA Log Nos. 1412-97, 1412-97-A and 1412-97-B. This additional mining area includes haulage roads, drainage control structures (ditches), sedimentation ponds, mining pit and support activities and facilities.

Surface drainage within this area will be controlled by six (6) sedimentation ponds with discharges designated as Outfalls 049, 050, 051, 052, 053 and 054, all of which are classified as acid mine drainage. Discharges from Outfall 049 will report to an unnamed tributary to Little Eagle Creek while discharges from Outfalls 050, 051, 052, 053 and 054 will report to unnamed tributaries to Eagle Creek. Rock dust and soda ash may be utilized for acid water treatment. All sedimentation ponds identified herein are to remain as permanent impoundments.

The additional mining area described herein (OMM Permit No. 316 area) incorporates two (2) existing NPDES Permit area identified as follows:

NPDES Permit No. IL0064815 for Arclar Company - Mine No. 2 containing 40.2 acres located in Section 24, T10S, R7E, Saline County.

NPDES Permit No. IL0068586 for Sugar Camp Coal Company - Mine No. 2 containing 27.24 acres located in Section 24, T10S, R7E, Saline County.

Groundwater monitoring reports for Wells MW-20, MW-21 and MW-22 as required by IDNR/OMM shall be submitted simultaneously and in duplicate to the Agency.

The addition of the areas described above results in a total NPDES permit area of 2,213.5 acres.

Two (2) silt traps shall be constructed in the perimeter ditch located within the OMM Permit No. 243 area as described in IEPA Log No. 0169-98. No affected area drainage shall leave the site without passing through a sedimentation pond as a result of this silt trap construction.

Modifications to Pond 022 and Fresh Water Pond No. 2 shall be performed as described in IEPA Log Nos. 0281-98 and 0425-98. Discharge from Pond 022 will report to Fresh Water Pond No. 2 with discharge from the Fresh Water Pond No. 2 being designated as Outfall 022. The Agency shall be notified of any determinations or permits required or obtained from MSHA for these impoundments.

Chloride and Sulfate monitoring requirements for Outfalls 021, 022 and 028 are hereby eliminated as proposed in IEPA Log Nos. 0261-98, 0262-98 and 0263-98.

As per notification and information included in IEPA Log No. 0497-98, this permit is hereby transferred from Jader Fuel Co., Inc. to Jader Coal Company, L.L.C.

Pursuant to Title 35 Ill. Adm. Code 406.203 the water quality standards of Title 35 Ill. Adm. Code 406.202 as they apply to sulfates, chlorides, total dissolved solids, iron and manganese shall not apply to discharges 049, 050, 051, 052, 053 and 054 subject to Condition 1.

The abandonment plan shall be executed and completed in accordance with Title 35 Ill. Adm. Code 405.109.

All Conditions in the original Authorization to Construct are incorporated in this Supplemental Authorization unless specifically deleted or revised herein.

NPDES Permit No. IL0064611

Construction Authorization No. 8082-90-2

S.C.A. Date: October 19, 1998

This Supplemental Authorization is issued subject to the following Condition. If such Condition requires additional or revised facilities, appropriate engineering plan documents must be submitted to this Agency for review and approval to secure issuance of a Supplemental Authorization to Construct.

1. Any of the following shall be a violation of the provisions required under Title 35 Ill. Adm. Code 406.203(c):
- A. It is demonstrated that an adverse effect on the environment in and around the receiving stream has occurred or is likely to occur.
  - B. It is demonstrated that the discharge has adversely affected or is likely to adversely affect any public water supply.
  - C. The Agency determines the permittee is not utilizing good mining practices which are applicable in order to minimize the discharge of total dissolved solids, chloride, sulfate, iron and manganese. The following concentrations are presumed achievable according to information in the application, and demonstrate the utilization of good mining practices. The Agency may require additional information to determine compliance with Title 35 Ill. Adm. Code 406.204 when they are exceeded.

<u>Outfall</u>	<u>Chloride in mg/l</u>	<u>Sulfate in mg/l</u>	<u>Other</u>
049, 050, 051	500	3000	
052, 053 054			

NPDES Permit No. 0064611

Special Conditions

Special Condition No. 1: No effluent from any mine related facility area under this permit shall, alone or in combination with other sources, cause a violation of any applicable water quality standard as set out in the Illinois Pollution Control Board Rules and Regulations, Chapter 1, Subtitle C: Water Pollution, unless specifically exempted under Rule 406.203 of Chapter 1, Subtitle D, Mine Related Water Pollution.

Special Condition No. 2: Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

Special Condition No. 3: The permittee shall record monitoring results on Discharge Monitoring Report Forms using one such form for each discharge each month.

Discharge Monitoring Reports shall be mailed to the IEPA at the following address:

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
1021 North Grand Ave., East  
P.O. Box 19276  
Springfield, IL 62794-9276

Special Condition No. 4: The completed Discharge Monitoring Report form shall be retained by the permittee for a period of three months and shall be mailed and received by the IEPA in accordance with the following schedule, unless otherwise specified by the permitting authority.

Period	Received by IEPA
February, March, April	May 15
May, June, July	August 15
August, September, October	November 15
November, December, January	February 15

Special Condition No. 5: If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

Special Condition No. 6: The permittee shall notify the Agency in writing by certified mail within thirty days of abandonment, cessation, or suspension of active mining for thirty days or more unless caused by a labor dispute. During cessation or suspension of active mining, whether caused by a labor dispute or not, the permittee shall provide whatever interim impoundment, drainage diversion, and wastewater treatment is necessary to avoid violations of the Act or Subtitle D, Chapter 1.

Special Condition No. 7: Plans must be submitted to and approved by this Agency prior to construction of a sedimentation pond. At such time as runoff water is collected in the sedimentation pond, a sample shall be collected and analyzed for the parameters designated as 1M-15M under Part 5-C of Form 2C and the effluent parameters designated herein, with the results sent to this Agency to show compliance with the applicable effluent and water quality standards. Should additional treatment be necessary to meet these standards, a Supplemental Permit must also be obtained. Discharge from a pond is not allowed unless applicable effluent and water quality standards are met.

Special Condition No. 8: The special reclamation area effluent standards of 35 Ill. Adm. Code 406.109 apply only on approval from the Agency. To obtain approval, a request form and supporting documentation shall be submitted 45 days prior to the month that the permittee wishes the discharge be classified as a reclamation area discharge. The Agency will notify the permittee upon approval of the change.

Special Condition No. 9: The special stormwater effluent standards apply only on approval from the Agency. To obtain approval, a request with supporting documentation shall be submitted 45 days prior to the month that the permittee proposes the discharge to be classified as a stormwater discharge. The documentation supporting the request shall include analysis results indicating the discharge will consistently comply with reclamation area discharge effluent standards. The Agency will notify the permittee upon approval of the change.

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Special Conditions

Special Condition No. 10: Annual storm water monitoring is required for all discharges not reporting to a sediment basin until Final SMRA Bond is released and approval to cease such monitoring is obtained from the Agency.

- A. Each discharge must be monitored for pH and settleable solids annually.
- B. Analysis of samples must be submitted with second quarter Discharge Monitoring Reports. A map with discharge locations must be included in this submittal.
- C. If discharges can be shown to be similar, a plan may be submitted by November 1 of each year preceding sampling to propose grouping of similar discharges and/or update previously submitted groupings. If updating of a previously submitted plan is not necessary, a written notification to the Agency indicating such is required. Upon approval from the Agency, one representative sample for each group may be submitted.

LDC:kb/1040c/10-19-98

## ATTACHMENT H

## Standard Conditions

## Definitions

**Act** means the Illinois Environmental Protection Act, Ch. 111 1/2 Ill. Rev. Stat., Sec. 1001-1052 as Amended.

**Agency** means the Illinois Environmental Protection Agency.

**Board** means the Illinois Pollution Control Board.

**Clean Water Act** (formerly referred to as the Federal Water Pollution Control Act) means Pub. L. 12-500, as amended, 33 U.S.C. 1251 et seq.

**NPDES** (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

**USEPA** means the United States Environmental Protection Agency.

**Daily Discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

**Maximum Daily Discharge Limitation (daily maximum)** means the highest allowable daily discharge.

**Average Monthly Discharge Limitation (30 day average)** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**Average Weekly Discharge Limitation (7 day average)** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Aliquot** means a sample of specified volume used to make up a total composite sample.

**Grab Sample** means an individual sample of at least 100 milliliters collected at a randomly-selected time over a period not exceeding 15 minutes.

**24 Hour Composite Sample** means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

**8 Hour Composite Sample** means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

**Flow Proportional Composite Sample** means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

- (1) **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (2) **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.
- (3) **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (4) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (5) **Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause by the Agency pursuant to 40 CFR 122.62. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

(8) **Duty to provide information.** The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also furnish to the Agency, upon request, copies of records required to be kept by this permit.

(9) **Inspection and entry.** The permittee shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substances or parameters at any location.

## (10) Monitoring and records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. This period may be extended by request of the Agency at any time.
- (c) Records of monitoring information shall include:
  - (1) The date, exact place, and time of sampling or measurements;
  - (2) The individual(s) who performed the sampling or measurements;
  - (3) The date(s) analyses were performed;
  - (4) The individual(s) who performed the analyses;
  - (5) The analytical techniques or methods used; and
  - (6) The results of such analyses.
- (d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of measurements.

## (11) Signatory requirement. All applications, reports or information submitted to the Agency shall be signed and certified.

## (a) Application. All permit applications shall be signed as follows:

- (1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;
- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

## (b) Reports. All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described in paragraph (a); and
- (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
- (3) The written authorization is submitted to the Agency.

- (c) Changes of Authorization. If an authorization under (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (12) Reporting requirements.
- (a) Planned changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
- (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.
- (e) Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit to be reported within 24 hours;
- The Agency may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (f) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (12)(c), (d), or (e), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12)(e).
- (g) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Agency, it shall promptly submit such facts or information.
- (13) Transfer of permits. A permit may be automatically transferred to a new permittee if:
- (a) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
- (b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees; and
- (c) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.
- (14) All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:
- (a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit. If that discharge will exceed the highest of the following notification levels:
- (1) One hundred micrograms per liter (100 ug/l);
- (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol, and one milligram per liter (1 mg/l) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application; or
- (4) The level established by the Agency in this permit.
- (b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.
- (15) All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:
- (a) Any new introduction of pollutants into that POTW from an indirect discharger which would be subject to Sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
- (b) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (c) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (16) If the permit is issued to a publicly owned or publicly regulated treatment works, the permittee shall require any industrial user of such treatment works to comply with federal requirements concerning:
- (1) User charges pursuant to Section 204(b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35;
- (2) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act; and
- (3) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act.
- (17) If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reissued to conform to that effluent standard or limitation.
- (18) Any authorization to construct issued to the permittee pursuant to 35 Ill. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit.
- (19) The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit.
- (20) The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500, nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.
- (21) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (22) The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit shall, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (23) Collected screening, slurries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.
- (24) In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern.
- (25) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board.
- (26) The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

2309 W. Main St., Suite 116, Marion, IL 62959

Thomas V. Skinner, Director

May 12, 1999

618/993-7200

Jader Fuel Company, Inc.  
P.O. Box 520  
Shawneetown, IL 62984

Re: Jader Fuel Company, Inc.  
Mine No. 4  
NPDES Permit No. IL0061166  
Final Permit (Modified After Public Notice)

Gentlemen:

Attached is the final NPDES Permit for your discharge. The Permit as issued covers discharge limitations, monitoring, and reporting requirements. The failure of you to meet any portion of the Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge.

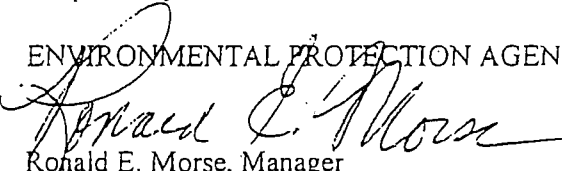
This Permit was modified after the public notice to incorporate groundwater monitoring for refuse disposal activities that was inadvertently omitted, and to reference previous Authorizations which have been replaced.

The Permit as issued is effective as of the date indicated on the first page of the Permit. You have the right to appeal any condition of the Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

Should you have questions concerning the Permit, please contact Bob Kerr, P.E., at 217/786-6892.

Respectfully,

ENVIRONMENTAL PROTECTION AGENCY

  
Ronald E. Morse, Manager  
Mine Pollution Control Program  
Bureau of Water

REM:LDC:jkb/1256c/02-09-99

Enclosure: Final Permit

cc: IDNR/Office of Mines and Minerals/Land Reclamation/with Enclosure  
IDNR/Division of Water Resources/with Enclosure  
Marion Region/Mine Pollution Control Program/with Enclosure  
BOW/DWPC/CAS  
BOW/DWPC/Records

Attachment B

NPDES Permit No: IL0061166

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Renewed NPDES Permit

Expiration Date: March 31, 2004

Issue Date: May 12, 1999

Effective Date: May 12, 1999

Name and Address of Permittee:

Jader Fuel Company, Inc.  
P.O. Box 520  
Shawneetown, IL 62984

Facility Name and Address:

Jader Fuel Company, Inc.  
Mine No. 4  
2675 Eagle Mine Road  
5 miles southwest of Junction, Illinois  
(Gallatin County)

Discharge Number and Name:

Acid Mine Drainage  
039

Receiving waters

Eagle Creek

Alkaline Mine Drainage  
012, 015, 043, 044  
008, 009, 017, 018, 019,  
020, 040, 042

Eagle Creek  
Little Eagle Creek

Reclamation Area Drainage  
014A

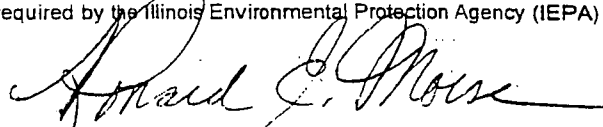
Little Eagle Creek

Stormwater Discharge  
001, 002, 003, 004, 010  
007

Eagle Creek  
Little Eagle Creek

In compliance with the provisions of the Illinois Environmental Protection Act, Subtitle C and/or Subtitle D Rules and Regulations of the Illinois Pollution Control Board, and the Clean Water Act, the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.

  
Ronald E. Morse, Manager  
Mine Pollution Control Program  
Bureau of Water

REM:LDC:BK:jkb/1257c/02-09-99

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## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until March 31, 2004 the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfall: 039 (Acid Mine Drainage)

Flow (MGD)					Measure When Monitoring	
Total Suspended Solids			35.0	70.0	1/month	Grab
Iron (total)			3.5	7.0	1/month	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				3/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity				1/month	Grab
Sulfates				3500	**	Grab
Chlorides				1000	**	Grab
Manganese (total)			2.0	4.0	1/month	Grab

\*\*Sample frequency shall be once a month until twelve samples have been collected; after which and upon written notification to the Agency, the sampling may cease, unless the Agency modifies the permit to require continued sampling at some frequency.

In addition to the above base flow sampling requirements, a grab sample of each discharge caused by the following precipitation event(s) shall be taken (for the following parameters) during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s).

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 1-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property  
Settleable Solids  
pH

Effluent Limitations  
0.5 ml/l daily maximum  
6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property  
pH

Effluent Limitations  
6.0 - 9.0 at all times

Page 3

## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until March 31, 2004 the effluent of the following discharge shall be monitored and limited at all times as follows:

Outfalls: 008, 009, 012, 016, 017, 018 (Alkaline Mine Drainage)  
019, 020, 040, 043, 044

Flow (MGD)			Measure When Monitoring	
Total Suspended Solids	35.0	70.0	***	Grab
Iron (total)	3.5	7.0	***	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0		1/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity		1/month	Grab
Sulfates		3500	**	Grab
Chlorides		1000	**	Grab

\*\*Sample frequency shall be once a month until twelve samples have been collected; after which and upon written notification to the Agency, the sampling may cease, unless the Agency modifies the permit to require continued sampling at some frequency.

\*\*\*There shall be a minimum of nine (9) samples collected during the quarter when the pond is discharging. Of these 9 samples, a minimum of one sample each month shall be taken during base flow conditions. A "no flow" situation is not considered to be a sample of the discharge. A grab sample of each discharge caused by the following precipitation event(s) shall be taken for the following parameters during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s). The remaining three (3) samples may be taken from either base flow or during precipitation event.

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt or equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
Settleable Solids	0.5 ml/l daily maximum
pH	6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt or equivalent volume) shall comply with the following limitations:

<u>Pollutant or Pollutant Property</u>	<u>Effluent Limitations</u>
pH	6.0 - 9.0 at all times

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## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until March 31, 2004 the effluent of the following discharge shall be monitored and limited at all times as follows:

Outfall: 042 (Alkaline Mine Drainage)

Flow (MGD)					Measure When Monitoring	
Total Suspended Solids			35.0	70.0	***	Grab
Iron (total)			3.0	6.0	***	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				1/month	Grab
Alkalinity/ Acidity	Total acidity shall not exceed total alkalinity				1/month	Grab
Sulfates				3500	**	Grab
Chlorides				1000	**	Grab

\*\*Sample frequency shall be once a month until twelve samples have been collected; after which and upon written notification to the Agency, the sampling may cease, unless the Agency modifies the permit to require continued sampling at some frequency.

\*\*\*There shall be a minimum of nine (9) samples collected during the quarter when the pond is discharging. Of these 9 samples, a minimum of one sample each month shall be taken during base flow conditions. A "no flow" situation is not considered to be a sample of the discharge. A grab sample of each discharge caused by the following precipitation event(s) shall be taken for the following parameters during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s). The remaining three (3) samples may be taken from either base flow or during precipitation event.

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt or equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

Settleable Solids  
pH

Effluent Limitations

0.5 ml/l daily maximum  
6.0 - 9.0 at all times

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property

pH

Effluent Limitations

6.0 - 9.0 at all times

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## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until March 31, 2004 the effluent of the following discharge shall be monitored and limited at all times as follows:

Outfall: 014A (Reclamation Area Drainage)

Flow (MGD)					Measure When Monitoring	
Settleable Solids			0.5 ml/l		1/month	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				1/month	Grab

In addition to the above base flow sampling requirements, a grab sample of each discharge caused by the following precipitation event(s) shall be taken (for the following parameters) during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s).

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property  
pH

Effluent Limitations  
6.0 - 9.0 at all times

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## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

Upon completion of Special Condition 8 and approval from the Agency, the effluent of the following discharges shall be monitored and limited at all times as follows:

Outfalls: 008, 009, 012, 016, 017, 018, (Reclamation Area Drainage)  
019, 020, 040, 042, 043, 044

Flow (MGD)					Measure When Monitoring	
Settleable Solids			0.5 ml/l		1/month	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				1/month	Grab
Sulfates			3500		**	Grab
Chlorides			1000		**	Grab

\*\*Unless previously approved by the Agency to be reduced or ceased, sample frequency shall be once a month until twelve samples have been collected; after which, sample frequency shall be once a quarter.

In addition to the above base flow sampling requirements, a grab sample of each discharge caused by the following precipitation event(s) shall be taken (for the following parameters) during at least 3 separate events each quarter. For quarters in which there are less than 3 such precipitation events resulting in discharges, a grab sample of the discharge shall be required whenever such precipitation event(s) occur(s).

Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations:

Pollutant or Pollutant Property  
pH

Effluent Limitations  
6.0 - 9.0 at all times

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## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

From the effective date of this Permit until March 31, 2004 the effluent of the following discharge shall be monitored and limited at all times as follows:

Outfalls: 001, 002, 003, 004, 007, 010 (Stormwater Discharge)

Settleable Solids			0.5 ml/l		1/Year	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				1/Year	Grab

Stormwater discharge monitoring is subject to the following reporting requirements:

Analysis of samples must be submitted with second quarter Discharge Monitoring Reports.

If discharges can be shown to be similar, a plan may be submitted by November 1 of each year preceding sampling to propose grouping of similar discharges and/or updated previously submitted groupings. If updating of a previously submitted plan is not necessary, a written notification to the Agency, indicating such is required. Upon approval from the Agency, one representative sample for each group may be submitted.

Annual stormwater monitoring is required for all discharges until final SMCRA bond is released and approval to cease such monitoring is obtained from the Agency.

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## NPDES Coal Mine Permit

NPDES Permit No. IL0061166

## Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS		CONCENTRATION		SAMPLE FREQUENCY	SAMPLE TYPE
	lbs/day		LIMITS mg/l			
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		
Upon completion of Special Condition 9 and approval from the Agency, the effluent of the following discharges shall be monitored and limited at all times as follows:						
	Outfall(s): 008, 009, 012, 014A, 016, 017, 018, (Stormwater Discharge) 019, 020, 040, 042, 043, 044					
Settleable Solids				0.5 ml/l	1/Year	Grab
pH	The pH shall not be less than 6.0 nor greater than 9.0				1/Year	Grab

---

Stormwater discharge monitoring is subject to the following reporting requirements:

Analysis of samples must be submitted with second quarter Discharge Monitoring Reports.

If discharges can be shown to be similar, a plan may be submitted by November 1 of each year preceding sampling to propose grouping of similar discharges and/or updated previously submitted groupings. If updating of a previously submitted plan is not necessary, a written notification to the Agency, indicating such is required. Upon approval from the Agency, one representative sample for each group may be submitted.

Annual stormwater monitoring is required for all discharges until final SMCRA bond is released and approval to cease such monitoring is obtained from the Agency.

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NPDES Permit No. IL0061166

Construction Authorization No. 0369-98

C.A. Date: February 9, 1999

Forrest A. Younker, P.E., Engineering Consultant

Authorization is hereby granted to the above designee to construct the mine and mine refuse area described as follows:

Reclamation and coal refuse disposal activities will be conducted in the areas described as follows:

<u>IDNR/OMM Permit No.</u>	<u>Area (acres)</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>County</u>
8	148.5	15, 16	T10S	R8E	Gallatin
9	2.4	15	T10S	R8E	Gallatin
11	164.8	16, 17	T10S	R8E	Gallatin
128	109.2	16	T10S	R8E	Gallatin
167	136.9	16	T10S	R8E	Gallatin
172	46.0	16, 17	T10S	R8E	Gallatin
192	209.9	16, 17	T10S	R8E	Gallatin
228	60.7	17, 18	T10S	R8E	Gallatin
252*	205.3	18, 19	T10S	R8E	Gallatin
267*	163.0	8, 9	T10S	R8E	Gallatin

\*Refuse disposal is approved only for final cut pits in OMM Permit Area Nos. 252 and 267.

Discharge classifications approved by this Permit are:

Outfalls 001, 002, 003, 004, 007 and 010 are reclassified Stormwater Discharges as proposed in Log Nos. 1316-97 and 1316-97-A.

Outfall 014A is reclassified as a reclamation area discharge as proposed in Log No. 1315-97.

Pond and Outfall 042, classified as alkaline mine drainage, was inadvertently omitted from previous approvals. Plans for this impoundment and discharge may be found in Log No. 7176-91.

Surface drainage is controlled by sedimentation ponds with monitoring points designated as follows:

<u>Discharge No.</u>	<u>IDNR/OMM Permit Area</u>	<u>Receiving Waters</u>	<u>Location (Section)</u>	<u>Classification</u>
001	8	Eagle Creek	15	Stormwater Discharge
002	8	Eagle Creek	15	Stormwater Discharge
003	8	Eagle Creek	15	Stormwater Discharge
004	128	Eagle Creek	16	Stormwater Discharge
007	8	Little Eagle Creek	15	Stormwater Discharge
008	128	Little Eagle Creek	16	Alkaline Mine Drainage
009	128	Little Eagle Creek	16	Alkaline Mine Drainage
010	128	Eagle Creek	16	Stormwater Discharge
012	167	Eagle Creek	16	Alkaline Mine Drainage
014A -	192	Little Eagle Creek	16	Reclamation Area Drainage
016	11	Eagle Creek	17	Alkaline Mine Drainage
017 -	192	Little Eagle Creek	17	Alkaline Mine Drainage
018 -	192	Little Eagle Creek	17	Alkaline Mine Drainage
019 -	192	Little Eagle Creek	16	Alkaline Mine Drainage
020	228	Little Eagle Creek	18	Alkaline Mine Drainage
039	252	Eagle Creek	18	Acid Mine Drainage
040	252	Little Eagle Creek	19	Alkaline Mine Drainage
042	252	Little Eagle Creek	19	Alkaline Mine Drainage
043	267	Eagle Creek	8	Alkaline Mine Drainage
044	267	Eagle Creek	9	Alkaline Mine Drainage

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NPDES Permit No. IL0061166

Construction Authorization No. 0369-98

C.A. Date: February 9, 1999

The following applications are hereby incorporated into this Permit.

Log No. 0206-98, OMM Permit No. 192, Insignificant Permit Revision (IPR) No. 31, and Log No. 0562-98, OMM Permit No. 192, Revision No. 1, for the construction of Permanent Diversion No. 21.

Log No. 0518-98, OMM Permit No. 252, IPR No. 10, for a land use change to increase the permanent impoundment area to 7.3 acres is incorporated into the abandonment plan. Temporary Pond 041 will not be built and will be deleted from this Permit as this OMM Permit area has been released from SMCRA bond.

Log No. 0369-98, application for NPDES Permit renewal, contains all abandonment plan maps which, with the exception of OMM Permit No. 252 area, Log No. 0518-98, and construction of Permanent Diversion No. 21, is considered the approved abandonment plan for all OMM Permit areas covered by this Permit.

The following applications were previously approved by Supplemental Construction Authorization, but are included in this permit for the record:

Dragline BE1150 may be parked as proposed in Log No. 3267-95, IPR No. 13 to OMM Permit No. 172. Shovel BE 1990 may be parked as proposed in Log no. 3271-95, IPR No. 25 to OMM Permit No. 11.

Coal refuse may be disposed in the final cut pit located in OMM Permit No. 267 as proposed in Log No. 4347-94, IPR No. 7, and Log No. 3156-95, IPR No. 8. Disposal of refuse in OMM Permit No. 252 was previously approved. Refuse disposal approved herein is subject to Condition No. 12.

Pursuant to Title 35 Ill. Adm. Code 406.203 the water quality standards of Title 35 Ill. Adm. Code 406.202 as they apply to sulfates, chlorides, total dissolved solids, iron and manganese shall not apply to discharges 008, 009, 012, 016, 017, 018, 019, 020, 040, 042, 043 and 044 subject to Condition 11.

The abandonment plan shall be executed and completed in accordance with Title 35 Ill. Adm. Code 405.109 as detailed in the log numbers referenced in Condition 3.

Any impounded water remaining upon abandonment shall meet the requirements of Title 35 Ill. Adm. Code 406.109 and 406.202.

This Construction Authorization replaces previous Construction Authorization No. 6159-92 and Supplemental Construction Authorization Nos. 6159-92-1 and 6159-92-2.

This Authorization is issued subject to the following Conditions. If such Conditions require additional or revised facilities, satisfactory engineering plan documents must be submitted to this Agency for review and approval to secure issuance of a Supplemental Authorization to Construct.

1. If any statement or representation is found to be incorrect, this permit may be revoked and the permittee thereupon waives all rights thereunder.
2. The issuance of this permit (a) shall not be considered as in any manner affecting the title of the premises upon which the mine or mine refuse area is to be located; (b) does not release the permittee from any liability for damage to person or property caused by or resulting from the installation, maintenance or operation of the proposed facilities; (c) does not take into consideration the structural stability of any units or parts of the project; and (d) does not release the permittee from compliance with other applicable statutes of the State of Illinois, or with applicable local laws, regulations or ordinances.
3. Final plans, specifications, application and supporting documents as submitted by the person indicated on Page 1 as approved shall constitute part of this permit and are identified by the following log numbers in the records of the Illinois Environmental Protection Agency.

IDNR/OMM  
Permit Areas

Associated Log Nos.

8	6107-82, 9051-89, 5136-93, 4047-94, 4065-94, 4173-94, 3403-95, 0170-98
9	6107-82, 4046-94
11	8104-80, 7156-81, 6106-82, 6106-82-A, 6146-82, 1111-87, 8035-90, 8038-90 8194-90, 5058-93, 5209-93, 5326-93, 2093-96, 2119-96
128	4014-84, 3014-85, 3096-85, 3129-85, 3141-85, 2027-86, 2027-86-A, 2027-86-B, 9049-89, 4191-94, 2054-96

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NPDES Permit No. IL0061166

Construction Authorization No. 0369-98

C.A. Date: February 9, 1999

167	3102-85, 554-88, 589-88, 637-88, 8073-90, 8157-90, 4066-94, 2023-96, 2251-96, 1258-97, 0562-98
172	3141-85, 2027-86, 7039-91
192	1038-87, 589-99, 9101-89, 8038-90, 8055-90, 8176-90, 6052-92, 5147-93, 5318-93, 4015-94, 2025-96, 2124-96, 1258-97, 0206-98
228	9050-89, 5303-93, 4045-94, 2035-96
252	7040-91, 7040-91-A, 7176-91, 6091-92, 5031-93, 4044-94, 4067-94, 2036-96, 0518-98
267	6057-92, 5039-93, 5315-93, 4049-94

4. There shall be no deviations from the approved plans and specifications unless revised plans, specifications and application shall first have been submitted to the Illinois Environmental Protection Agency and a supplemental permit issued.
5. The permit holder shall notify the Environmental Protection Agency (217/782-3637) immediately of an emergency at the mine or mine refuse area which causes or threatens to cause a sudden discharge of contaminants into the waters of Illinois and shall immediately undertake necessary corrective measures as required by Title 35 Ill. Adm. Code 405.111. (217/782-3637 for calls between the hours of 5:00 p.m. to 8:30 a.m. and on weekends.)
6. The termination of an NPDES discharge monitoring point or cessation of monitoring of an NPDES discharge is not authorized by this Agency until the permittee submits adequate justification to show what alternate treatment is provided or that untreated drainage will meet applicable effluent and water quality standards.
7. Initial construction activities in areas to be disturbed shall be for collection and treatment facilities only. Prior to the start of other activities, surface drainage controls shall be constructed and operated to avoid violations of the Act or Subtitle D. At such time as runoff water is collected in the sedimentation pond, a sample shall be collected and analyzed, with the results sent to this Agency to show compliance with the applicable effluent and water quality standards. Should additional treatment be necessary to meet these standards, a Supplemental Permit must be obtained. Discharge from this pond is not allowed unless applicable effluent and water quality standards are met.
8. This Agency must be informed in writing and an application submitted if drainage, which was previously classified as alkaline (pH greater than 6.0), becomes acid (pH less than 6.0) or ferruginous (base flow with an iron concentration greater than 10 mg/l). The type of drainage reporting to the basin should be reclassified in a manner consistent with the applicable rule of Title 35 Ill. Adm. Code 406 as amended in R84-29 at 11 Ill. Reg. 12899. The application should discuss the treatment method and demonstrate how the discharge will meet the applicable standards.
9. A permittee has the obligation to add a settling aid if necessary to meet the suspended solids or settleable solids effluent standards. The selection of a settling aid and the application practice shall be in accordance with a. or b. below.
  - a. Alum ( $Al_2(SO_4)_3$ ), hydrated lime ( $Ca(OH)_2$ ), soda ash ( $Na_2CO_3$ ), alkaline pit pumpage, acetylene production by-product (tested for impurities), and ground limestone are acceptable settling aids and are hereby permitted for alkaline mine drainage sedimentation ponds.
  - b. Any other settling aids such as commercial flocculents and coagulants are permitted only on prior approval from the Agency. To obtain approval a permittee must demonstrate in writing to the Agency that such use will not cause a violation of the toxic substances standard of Title 35 Ill. Adm. Code 302.210 or of the appropriate effluent and water quality standards of Title 35 Ill. Adm. Code parts 302, 304, and 405.
10. A general plan for the nature and disposition of all liquids used to drill boreholes shall be filed with this Agency prior to any such operation. This plan should be filed at such time that the operator becomes aware of the need to drill unless the plan of operation was contained in a previously approved application. After settling, recirculation water which meets the requirements of Title 35 Ill. Adm. Code 406.106 and 406.202, may be discharged. The use of additives in the recirculation water which require treatment other than settling to comply with the Act will require a revised permit.

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NPDES Permit No. IL0061166

Construction Authorization No. 0369-98

C.A. Date: February 9, 1999

11. Any of the following shall be a violation of the provisions required under Title 35 Ill. Adm. Code 406.203(c):

- A. It is demonstrated that an adverse effect on the environment in and around the receiving stream has occurred or is likely to occur.
- B. It is demonstrated that the discharge has adversely affected or is likely to adversely affect any public water supply.
- C. The Agency determines the permittee is not utilizing good mining practices which are applicable in order to minimize the discharge of total dissolved solids, chloride, sulfate, iron and manganese. The following concentrations are presumed achievable according to information in the application, and demonstrate the utilization of good mining practices. The Agency may require additional information to determine compliance with Title 35 Ill. Adm. Code 406.204 when they are exceeded.

<u>Outfall</u>	<u>Chloride in mg/l</u>	<u>Sulfate in mg/l</u>	<u>Other</u>
008, 009, 012, 016, 020	500	1000	
017, 018, 019	500	2500	
039, 040, 042, 043, 044	500	500	

12. All groundwater monitoring reports as required by IDNR/OMM for Well Nos. 26 and 27 shall also be submitted in duplicate to this Agency at the following address:

Illinois Environmental Protection Agency  
2309 West Main St., Suite 116  
Marion, Illinois 62959

Upon completion of active refuse disposal within OMM Permit No. 252 and 267 areas, groundwater monitoring will be reevaluated for post-mining monitoring requirements.

NPDES Permit No. 0061166

Special Conditions

Special Condition No. 1: No effluent from any mine related facility area under this permit shall, alone or in combination with other sources, cause a violation of any applicable water quality standard as set out in the Illinois Pollution Control Board Rules and Regulations, Chapter 1, Subtitle C: Water Pollution, unless specifically exempted under Rule 406.203 of Chapter 1, Subtitle D, Mine Related Water Pollution.

Special Condition No. 2: Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

Special Condition No. 3: The permittee shall record monitoring results on Discharge Monitoring Report Forms using one such form for each discharge each month.

Discharge Monitoring Reports shall be mailed to the IEPA at the following address:

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
1021 North Grand Ave., East  
P.O. Box 19276  
Springfield, IL 62794-9276

Special Condition No. 4: The completed Discharge Monitoring Report form shall be retained by the permittee for a period of three months and shall be mailed and received by the IEPA in accordance with the following schedule, unless otherwise specified by the permitting authority.

Period	Received by IEPA
February, March, April	May 15
May, June, July	August 15
August, September, October	November 15
November, December, January	February 15

Special Condition No. 5: If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

Special Condition No. 6: The permittee shall notify the Agency in writing by certified mail within thirty days of abandonment, cessation, or suspension of active mining for thirty days or more unless caused by a labor dispute. During cessation or suspension of active mining, whether caused by a labor dispute or not, the permittee shall provide whatever interim impoundment, drainage diversion, and wastewater treatment is necessary to avoid violations of the Act or Subtitle D, Chapter 1.

Special Condition No. 7: Plans must be submitted to and approved by this Agency prior to construction of a sedimentation pond. At such time as runoff water is collected in the sedimentation pond, a sample shall be collected and analyzed for the parameters designated as 1M-15M under Part 5-C of Form 2C and the effluent parameters designated herein, with the results sent to this Agency to show compliance with the applicable effluent and water quality standards. Should additional treatment be necessary to meet these standards, a Supplemental Permit must also be obtained. Discharge from a pond is not allowed unless applicable effluent and water quality standards are met.

Special Condition No. 8: The special reclamation area effluent standards of 35 Ill. Adm. Code 406.109 apply only on approval from the Agency. To obtain approval, a request form and supporting documentation shall be submitted 45 days prior to the month that the permittee wishes the discharge be classified as a reclamation area discharge. The Agency will notify the permittee upon approval of the change.

Special Condition No. 9: The special stormwater effluent standards apply only on approval from the Agency. To obtain approval, a request with supporting documentation shall be submitted 45 days prior to the month that the permittee proposes the discharge to be classified as a stormwater discharge. The documentation supporting the request shall include analysis results indicating the discharge will consistently comply with reclamation area discharge effluent standards. The Agency will notify the permittee upon approval of the change.

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NPDES Permit No. 0061166

Special Conditions

Special Condition No. 10: Annual storm water monitoring is required for all discharges not reporting to a sediment basin until Final SMCRA Bond is released and approval to cease such monitoring is obtained from the Agency.

- A. Each discharge must be monitored for pH and settleable solids annually.
- B. Analysis of samples must be submitted with second quarter Discharge Monitoring Reports. A map with discharge locations must be included in this submittal.
- C. If discharges can be shown to be similar, a plan may be submitted by November 1 of each year preceding sampling to propose grouping of similar discharges and/or update previously submitted groupings. If updating of a previously submitted plan is not necessary, a written notification to the Agency indicating such is required. Upon approval from the Agency, one representative sample for each group may be submitted.

LDC:jkb/1257c/02-09-99

## ATTACHMENT H

## Standard Conditions

## Definitions

Act means the Illinois Environmental Protection Act, Ch. 111 1/2 Ill. Rev. Stat., Sec. 1001-1052 as Amended.

Agency means the Illinois Environmental Protection Agency.

Board means the Illinois Pollution Control Board.

Clean Water Act (formerly referred to as the Federal Water Pollution Control Act) means Pub. L. 92-500, as amended, 33 U.S.C. 1251 et seq.

NPDES (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

USEPA means the United States Environmental Protection Agency.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Maximum Daily Discharge Limitation (daily maximum) means the highest allowable daily discharge.

Average Monthly Discharge Limitation (30 day average) means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation (7 day average) means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Aliquot means a sample of specified volume used to make up a total composite sample.

Grab Sample means an individual sample of at least 100 milliliters collected at a randomly-selected time over a period not exceeding 15 minutes.

24 Hour Composite Sample means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

8 Hour Composite Sample means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

Flow Proportional Composite Sample means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

(1) Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

(2) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.

(3) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(4) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(5) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause by the Agency pursuant to 40 CFR 122.62. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

(8) Duty to provide information. The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit; or to determine compliance with the permit. The permittee shall also furnish to the Agency, upon request, copies of records required to be kept by this permit.

(9) Inspection and entry. The permittee shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substances or parameters at any location.

(10) Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. This period may be extended by request of the Agency at any time.

(c) Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

(d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of measurements.

(11) Signatory requirement. All applications, reports or information submitted to the Agency shall be signed and certified.

(a) Application. All permit applications shall be signed as follows:

(1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

(b) Reports. All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a); and

(2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and

(3) The written authorization is submitted to the Agency.

- (c) **Changes of Authorization.** If an authorization under (b) is no longer accurate because a different individual or person has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (12) **Reporting requirements.**
- (a) **Planned changes.** The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- (b) **Anticipated noncompliance.** The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) **Compliance schedules.** Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (d) **Monitoring reports.** Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
- (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.
- (e) **Twenty-four hour reporting.** The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit to be reported within 24 hours;
- The Agency may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (f) **Other noncompliance.** The permittee shall report all instances of noncompliance not reported under paragraphs (12)(c), (d), or (e), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12)(e).
- (g) **Other information.** Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Agency, it shall promptly submit such facts or information.
- (13) **Transfer of permits.** A permit may be automatically transferred to a new permittee if:
- (a) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
- (b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees; and
- (c) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.
- (14) All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:
- (a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
- (1) One hundred micrograms per liter (100 ug/l);
- (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,8-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application; or
- (4) The level established by the Agency in this permit.
- (b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.
- (15) All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:
- (a) Any new introduction of pollutants into that POTW from an indirect discharger which would be subject to Sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
- (b) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (c) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (16) If the permit is issued to a publicly owned or publicly regulated treatment works, the permittee shall require any industrial user of such treatment works to comply with federal requirements concerning:
- (1) User charges pursuant to Section 204(b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35;
- (2) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act; and
- (3) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act.
- (17) If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reissued to conform to that effluent standard or limitation.
- (18) Any authorization to construct issued to the permittee pursuant to 35 Ill. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit.
- (19) The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit.
- (20) The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500, nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.
- (21) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (22) The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit shall, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (23) Collected screening, slimes, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.
- (24) In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern.
- (25) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board.
- (26) The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.

**CERTIFICATE OF SERVICE**

I hereby certify that I did on January 21, 2015, send by Certified 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 PEOPLE'S MOTION FOR SUMMARY JUDGMENT:

To: Illinois Fuel Company  
Stephen Addington, Manager  
1500 North Big Run Road  
Ashland, KY 41102

CT Corporation Systems  
Registered Agent for Illinois Fuel  
208 S. LaSalle St., Ste. 814  
Chicago, IL 60604

Jader Coal Company  
920 Gape Hollow Road  
P.O. Box 40  
Herod, IL 62947

The Motion was also emailed to:

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
Suite 11-500  
100 West Randolph  
Chicago, IL 60601

A copy 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

s/Amanda Kimmel  
Amanda Kimmel  
Assistant Attorney General

This filing is submitted on recycled paper.