

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 19-
)	(Enforcement - Water)
WILLIAMSON ENERGY, LLC, a Delaware)	
limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

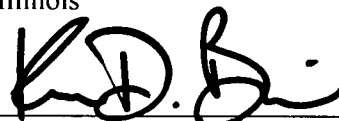
PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Notice of Filing and Complaint, copies of which are attached and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the
State of Illinois

By: 

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Date: February 4, 2019.

Service List

For the Respondent

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Via Certified Mail

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
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v.)	PCB No. 19 -
)	(Enforcement – Water)
)	
WILLIAMSON ENERGY, LLC, a Delaware)	
limited liability company,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, WILLIAMSON ENERGY, LLC, a Delaware limited liability company, as follows:

COUNT I
WATER POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2016).

2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2016), and is charged, *inter alia*, with the duty of enforcing the Act. Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System (“NPDES”) Permit Program under the Federal Clean Water Act (“CWA”), 33 U.S.C. §1342(b)(7).

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, WILLIAMSON ENERGY, LLC, is a Delaware limited liability company in good standing and authorized to do business in the State of Illinois by the Illinois Secretary of State.

5. At all times relevant to this Complaint, Respondent has owned and operated Pond Creek Mine No. 1, a coal mine and coal preparation plant located at 18000 Dean Road, approximately 4 miles east-northeast of Johnston City, Williamson County, Illinois (“Facility”).

6. The Facility consists of drainage control structures, eight sediment basins, slope preparation plant, coal stockpile, refuse disposal area, railroad loop, roads, ventilation shafts, parking areas, coal conveyors, and office and maintenance buildings.

7. On June 28, 2005, Illinois EPA issued NPDES Coal Mine Permit No. IL0077666 (the “Permit”) to Steelhead Development Company, LLC, setting forth the terms and conditions for discharges from the Facility. On September 24, 2006, Steelhead Development Company, LLC, transferred the Permit to Respondent. On February 7, 2013, Illinois EPA reissued the Permit to Respondent. The Facility is currently authorized for discharges as specified in the Permit.

8. The Permit authorizes Respondent’s discharges into an unnamed tributary of Pond Creek as follows:

<u>Outfall</u>	<u>Classification</u>
001, 002, 003, 004, 005	Alkaline Mine Drainage
006, 007, 008	Acid Mine Drainage

9. On April 21, 2016, Illinois EPA conducted an inspection of the Facility in response to a complaint received by the Illinois EPA Emergency Response Unit, citing the existence of black tar-like material in an unnamed tributary of Pond Creek ("Unnamed Tributary") crossing Dean Road, located approximately half of a mile to the east of the intersection of Dean Road and Liberty School Road, downstream from the Facility ("Sample Location 1").

10. At the time of the April 21, 2016 inspection and at times better known to Respondent, the Unnamed Tributary had a substantial flow of approximately 3,000 gallons per minute of light gray-colored, turbid liquid containing slurry solids with dark staining on the stream bank and stream bed at Sample Location 1. Illinois EPA collected a sample ("Sample 1") from the Unnamed Tributary at Sample Location 1.

11. During the April 21, 2016 inspection, representatives of Respondent informed Illinois EPA that an unpermitted discharge had occurred at the Facility earlier that day during an inspection by the Illinois Department of Natural Resources ("DNR").

12. Respondent's facility maintains several sedimentation ponds as part of the Facility's water management operations. Pond 007/008 utilized a diesel pump to reroute acid mine drainage supernatant within the Facility as part of stormwater management and water recycling operations. The pump's suction line was held by a float and supernatant was pumped from near the surface of Pond 007/008.

13. At a time better known to Respondent, Respondent placed the Pond 007/008 diesel pump's discharging outlet end in Outfall 002. Outfall 002 is permitted to discharge alkaline mine drainage from Pond 002 into the Unnamed Tributary.

14. During the inspection by DNR, a float failed on the suction line of the pump in Pond 007/008. The float failure caused the pump's intake to drop into slurry solids at the bottom of Pond 007/008. In addition to the slurry solids, Pond 007/008 contained and contains acid mine drainage liquids. Consequently, Respondent pumped slurry solids and acid mine drainage liquids out of Pond 007/008 and discharged them onto Outfall 002. As a result of the discharge, slurry solids and acid mine drainage liquids drainage liquids were discharged from Outfall 002 into the Unnamed Tributary and flowed in a generally northeastern direction, eventually reaching and flowing past Sample Location 1.

15. Upon information and belief, the float failure and pumping of slurry solids and acid mine drainage liquids from Pond 007/008 onto Outfall 002 lasted at least 30 minutes, at or before 11:00 a.m. on April 21, 2016, until approximately 11:30 a.m on April 21, 2016.

16. At dates and times better known to Respondent, Respondent pumped acid mine drainage liquid from Pond 007/008, through the suction pump, and discharged onto Outfall 002.

17. At the time of the April 21, 2016 inspection and at times better known to Respondent, dark staining and a thin, dark layer of solids were noted at and immediately downstream of Outfall 002, progressing down the Unnamed Tributary.

18. Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), provides 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.

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), provides as follows:

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

20. Respondent, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), provides as follows:

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

22. Acid mine drainage and slurry solids are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016).

23. Section 3.545 of the Act, 415 ILCS 5/3.545 (2016), provides 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.

24. Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), provides 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.

25. Pond Creek and the Unnamed Tributary are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2016).

26. At or before 11:00 a.m. on April 21, 2016, until approximately 11:30 a.m. on April 21, 2016, Respondent discharged acid mine drainage and slurry solids from Pond 007/008 onto Outfall 002, causing the discharge of acid mine drainage and slurry solids into the Unnamed

Tributary, and thereby altering the physical, chemical, or biological properties of waters of the State in such manner likely to create a nuisance or to render the water harmful or detrimental to public health, safety, or welfare, or to other legitimate uses or users of the waters. Respondent's release of acid mine drainage and slurry solids into waters of the State caused or tended to cause "water pollution," as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2016).

27. On dates and at times better known to Respondent, Respondent discharged acid mine drainage from Pond 007/008 onto Outfall 002, causing the discharge of acid mine drainage into the Unnamed Tributary, and thereby altering the physical, chemical, or biological properties of waters of the State in such manner likely to create a nuisance or to render the water harmful or detrimental to public health, safety, or welfare, or to other legitimate uses or users of the waters. Respondent's release of acid mine drainage into waters of the State caused or tended to cause "water pollution," as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2016).

28. By causing, threatening, or allowing the discharge of contaminants into waters of the State so as to cause or tend to cause water pollution in Illinois, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count I:

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

B. Finding that Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

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

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT II
WATER POLLUTION HAZARD

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 and 19 through 28 of Count I as paragraphs 1 through 27 of this Count II.

28. Section 12(d) of the Act, 415 ILCS 5/12(d) (2016), provides as follows:

No person shall:

* * *

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

29. On April 21, 2016, at times better known to Respondent, Respondent's discharge of acid mine drainage and slurry solids onto Outfall 002 caused dark staining and left a thin, dark layer of solids in and around Outfall 002.

30. On April 21, 2016, at times better known to Respondent, the dark staining and dark layer of solids progressed downstream from where Outfall 002 discharges into the Unnamed Tributary and caused staining and solids deposition along its stream banks.

31. The dark staining and dark layer of solids deposited on and around Outfall 002 and along the stream banks of the Unnamed Tributary constituted a water pollution hazard.

32. By depositing contaminants upon the land at and near the Facility in a place and manner so as to create a water pollution hazard, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count II:

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

B. Finding that Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);

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

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2016), and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT III
VIOLATION OF WATER QUALITY STANDARDS

1-24. Complainant realleges and incorporates by reference herein paragraphs 1 through 22, 24, and 25 of Count I as paragraphs 1 through 24 of this Count III.

25. Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), provides, in pertinent part, as follows:

No person shall:

* * *

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein . . . 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. . . .

26. Section 3.105 of the Act, 415 ILCS 5/3.105 (2016), provides the following definition:

“Agency” is the Environmental Protection Agency established by this Act.

27. Section 309.102(a) of the Board’s regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

(a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person in the waters of the State from a point source or into a well shall be unlawful.

28. Section 301.240 of the Board's regulations, 35 Ill. Adm. Code 301.240, provides the following definition:

"CWA" means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972 as amended by the "Clean Water Act", Public Law 95-217, enacted December 12, 1977, as amended.)

29. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), provides the following definition:

14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

30. Outfall 002 and Outfall 007/008 were and are "point sources," as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

31. Special Condition 1 of the Permit provides as follows:

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, Subtitle C: Water Pollution.

32. Illinois EPA analyzed Sample 1, collected from Sample Location 1 during the April 21, 2016 inspection, and testing provided the following results:

<u>Constituent</u>	<u>Unit</u>	<u>Sample 1</u>
Chloride	mg/L	752
Iron	mg/L	1.9

33. Section 302.201 of the Board regulations, 35 Ill. Adm. Code 302.201, provides as follows:

Subpart B contains general use water quality standards which must be met in waters of the State for which there is no specific designation (Section 303.201).

34. The Unnamed Tributary and Pond Creek are waters of the State for which there is no specific designation.

35. Section 302.208(d) of the Board's regulations, 35 Ill. Adm. Code 302.208(d), provides, in pertinent part, as follows:

The standard for the chemical constituents of subsection[] (g) . . . shall not be exceeded at any time except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102.

36. Illinois EPA has not approved a mixing zone for Facility discharges, and the Permit does not authorize a mixing zone in which mixing is allowed pursuant to Section 302.102 of the Board's regulations, 35 Ill. Adm. Code 302.102.

37. Section 302.208(g) of the Board's regulations, 35 Ill. Adm. Code 302.208(g), provides, in pertinent part, as follows:

g) Single-value standards apply at the following concentrations for these substances:

Constituent	Unit	Standard
Chloride (total)	mg/L	500
Iron (dissolved)	mg/L	1.0

38. Sample 1 contains concentrations exceeding the applicable water quality standards of 500 mg/L for Chloride and 1.0 mg/L for Iron.

39. Upon information and belief, Respondent's discharge of acid mine drainage liquids and slurry solids from Outfall 002 into the Unnamed Tributary caused an exceedance of the applicable water quality standards for Chloride and Iron, 35 Ill. Adm. Code 302.208(d), (g).

40. By causing an exceedance of applicable water quality standards set out in Section 302.208(g) of the Board's regulations, 35 Ill. Adm. Code 302.208(g), Respondent violated Section 302.208(d) of the Board's regulations, 35 Ill. Adm. Code 302.208(d).

41. By violating Section 302.208(d) of the Board's regulations, 35 Ill. Adm. Code 302.208(d), Respondent caused or threatened or allowed the discharge of contaminants into the environment so as to violate regulations or standards adopted by the Board under the Act, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

42. By causing an exceedance of applicable water quality standards set out in Subtitle C of the Board's Regulations, Respondent violated Special Condition 1 of the Permit.

43. By violating Special Condition 1 of the Permit, Respondent discharged contaminants or pollutants in the waters of the State from a point source in violation of the provisions and conditions of the Permit, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

44. By violating Special Condition 1 of the Permit, Respondent caused, threatened, or allowed the discharge of a contaminant into the waters of the State in violation of the terms or conditions imposed by the Permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count III:

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

B. Finding that Respondent violated Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a), (f) (2016), Sections 302.208(d) and 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 302.208(d) and 309.102(a), and Special Condition 1 of the Permit;

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

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Section 302.208(d) of the Board's regulations, 35 Ill. Adm. Code 302.208(d), and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and NPDES Permit No. IL0077666, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2016);

F. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

G. Ordering such other and further relief as the Board deems appropriate and just.

COUNT IV
OFFENSIVE CONDITIONS

1-31. Complainant realleges and incorporates by reference herein paragraphs 1 through 22, 24, and 25 of Count I and paragraphs 25 through 31 of Count III as paragraphs 1 through 31 of this Count IV.

32. Section 302.203 of the Board's regulations, 35 Ill. Adm. Code 302.203, provides, in pertinent part, as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. . . .

33. Section 406.202 of the Board's regulations, 35 Ill. Adm. Code 406.202, provides, in pertinent part, as follows:

In addition to the other requirements of this Part, no mine discharge or non-point source mine discharge shall, alone or in combination with other sources, cause a violation of any water quality standards of 35 Ill. Adm. Code 302 or 303. . . .

34. Section 402.101 of the Board's regulations, 35 Ill. Adm. Code 402.101, provides, in pertinent part:

* * *

"Mine Discharge": any point source discharge, whether natural or man-made, from a mine related facility. . . . The term mine discharge includes surface runoff discharged from a sedimentation pond. . . .

35. Respondent's discharge of acid mine drainage liquids and slurry solids from Outfall 002 constituted a "mine discharge" as that term is defined in Section 402.101 of the Board's regulations, 35 Ill. Adm. Code 402.101.

36. At times better known to Respondent, Respondent discharged acid mine drainage liquids and slurry solids from Outfall 002, causing dark staining, sludge, bottom deposits, and color and turbidity of other than natural origin to accrue in the Unnamed Tributary, a water of the State, and thereby caused an "offensive condition" prohibited by Section 302.203 of the Board's regulations, 35 Ill. Adm. Code 302.203.

37. By discharging a "mine discharge" that caused a violation of water quality standards codified at 35 Ill. Adm. Code Part 302, Respondent violated Section 406.202 of the Board's regulations, 35 Ill. Adm. Code 406.202.

38. By violating Section 406.202 of the Board's regulations, 35 Ill. Adm. Code 406.202, Respondent caused or threatened or allowed the discharge of contaminants into the environment so as to violate regulations or standards adopted by the Board under the Act, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

39. By causing an "offensive condition" prohibited by an applicable water quality standard set out in Subtitle C of the Board's Regulations, Respondent violated Special Condition 1 of the Permit.

40. By violating Special Condition 1 of the Permit, Respondent discharged contaminants or pollutants in the waters of the State from a point source in violation of the provisions and conditions of the Permit, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

41. By violating Special Condition 1 of the Permit, Respondent caused, threatened, or allowed the discharge of a contaminant into the waters of the State in violation of the terms or conditions imposed by the Permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count IV:

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

B. Finding that Respondent violated Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a), (f) (2016), Sections 309.102(a) and 406.202 of the Board's regulations, 35 Ill. Adm. Code 309.102(a) and 406.202, and Special Condition 1 of the Permit;

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

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Section 406.202 of the Board's regulations, 35 Ill. Adm. Code 406.202, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and NPDES Permit No. IL0077666, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2016);

F. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

G. Ordering such other and further relief as the Board deems appropriate and just.

COUNT V
OFFENSIVE DISCHARGES

1-28. Complainant realleges and incorporates by reference herein paragraphs 1 through 22, 24, and 25 of Count I, paragraphs 29 and 30 of Count III, and paragraphs 34 and 35 of Count IV as paragraphs 1 through 28 of this Count V.

29. Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107, provides as follows:

In addition to the other requirements of this Chapter, no mine discharge effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity shall be reduced to below obvious levels.

30. Respondent's mine discharge contained settleable solids, sludge solids, and color and turbidity above obvious levels, which caused dark staining, sludge, bottom deposits, and color and turbidity alterations in the Unnamed Tributary, and therefore constituted an "offensive discharge" in violation of Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107.

31. By violating Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107, Respondent caused or threatened or allowed the discharge of contaminants into the environment so as to violate regulations or standards adopted by the Board under the Act, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count V:

- A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- B. Finding that Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016), and Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);
- E. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and
- F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT VI
NPDES PERMIT VIOLATIONS

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 and 19 through 25 of Count I and paragraphs 25-30 of Count III as paragraphs 1 through 30 of this Count VI.

31. Standard Condition 5 of the Permit provides, in pertinent part, as follows:

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 conditions of this permit. . . .

32. The Permit authorizes Outfall 007 and Outfall 008 to discharge acid mine drainage. Section 402.101 of the Board's regulations, 35 Ill. Adm. Code 402.101, defines "Acid or Ferruginous Mine Drainage" as "mine drainage which, before any treatment, has a pH of less than 6.0 or a total iron concentration greater than 10 mg/L." *See also* 40 C.F.R. §§ 434.30-.35.

33. The Permit authorizes Outfall 002 to discharge alkaline mine drainage ("Alkaline Mine Drainage Effluent Limitations"). Section 402.101 of the Board's regulations, 35 Ill. Adm. Code 402.101, defines "Alkaline Mine Drainage" as "mine drainage which, prior to treatment, has a pH equal to or greater than 6.0 and a total iron concentration of less than 10 mg/L." *See also* 40 C.F.R. §§ 434.40-.45.

34. The discharge of slurry solids from the bottom of a sedimentation pond onto and through Outfall 002 constituted improper operation and maintenance of facilities and systems of treatment and control, and is therefore a violation of Standard Condition 5 of the Permit.

35. Respondent was and is not authorized to discharge slurry solids or acid mine drainage liquids through Outfall 002, which is permitted to discharge alkaline mine drainage liquids under the terms and conditions of the Permit.

36. By discharging slurry solids and acid mine drainage liquids through Outfall 002, Respondent violated the Alkaline Mine Drainage Effluent Limitations of the Permit.

37. By violating Standard Condition 5 and the Alkaline Mine Drainage Effluent Limitations of the Permit, Respondent discharged contaminants or pollutants in the waters of the State from a point source in violation of the provisions and conditions of the Permit, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

38. By violating Standard Condition 5 and the Alkaline Mine Drainage Effluent Limitations of the Permit, Respondent caused, threatened, or allowed the discharge of a

contaminant into the waters of the State in violation of the terms or conditions imposed by the Permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count VI:

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

B. Finding that Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), Standard Condition 5 of the Permit, and the Alkaline Mine Drainage Effluent Limitations of the Permit;

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

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Section 309.102(a) of the Board's regulations, and NPDES Permit No. IL00776666, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2016);

E. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT VII
NPDES BYPASS VIOLATIONS

1-31. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, 19 through 22, 24, and 25 of Count I and paragraphs 25 through 30 of Count III and paragraphs 32 and 33 of Count VI as paragraphs 1 through 31 of this Count VII.

32. Acid mine drainage discharges and alkaline drainage discharges are authorized under separate provisions of the Permit and have distinct effluent standards and limitations.

33. Section 305.102 of the Board's regulations, 35 Ill. Adm. Code 305.102, provides, in pertinent part, as follows:

- (a) Every person within this State operating a . . . wastewater source shall submit operating reports to the Agency at a frequency to be determined by the Agency. "Agency" means the Illinois Environmental Protection Agency. Such reports shall contain information regarding the quantity of influent and of effluent discharged, of wastes bypassed and of combined sewer overflows. . . .
- (b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

34. Standard Condition 12(b) of the Permit provides as follows:

- (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.

35. Standard Condition 13(a)(1) of the Permit provides as follows:

- (a) Definitions.
 - (1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

36. Pond 007/008 is a "treatment facility" as that term is used in Standard Condition 13(a)(1) of the Permit.

37. Respondent's intentional diversion of waste streams from Pond 007/008 to Outfall 002 constituted a "bypass" as that term is used in Standard Condition 13(a)(1).

38. Standard Condition 13(c)(1) of the Permit provides as follows:

(c) Notice.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

39. Standard Condition 13(d) of the Permit provides as follows:

(d) Prohibition of bypass.

- (1) Bypass is prohibited, and the Agency may take enforcement action against a permittee for bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of a reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (iii) The permittee submitted notices as required under paragraph 13(c).

- (2) The Agency may approve an anticipated bypass, after considering its adverse effects, if the Agency determines that it will meet the three conditions listed above in paragraph 13(d)(1).

40. By failing to submit prior notice of the anticipated bypass, Respondent violated Standard Condition 13(c)(1) of the Permit.

41. Respondent's bypass was not approved by Illinois EPA or otherwise unavoidable, lacking in feasible alternatives, or properly noticed to Illinois EPA. Respondent's bypass was therefore prohibited and a violation of Standard Condition 13(d) of the Permit.

42. By failing to give advance notice of planned changes to the permitted facility or activity which resulted in noncompliance with permit requirements, Respondent violated Standard Condition 12(b) of the Permit.

43. By violating Standard Conditions 12(b) and 13(c)(1), (d) of the Permit, Respondent discharged contaminants or pollutants in the waters of the State from a point source in violation of the provisions and conditions of the Permit, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

44. By failing to submit operating reports to Illinois EPA containing information regarding the quantity of wastes bypassed, Respondent violated Section 305.102(a) of the Board's regulations, 35 Ill. Adm. Code 305.102(a).

45. By failing to comply with the reporting requirements of the Permit, Respondent violated Section 305.102(b) of the Board's regulations, 35 Ill. Adm. Code 305.102(b).

46. By violating Section 305.102 of the Board's regulations, 35 Ill. Adm. Code 305.102, and Standard Conditions 12(b) and 13(c)(1), (d) of the Permit, Respondent caused, threatened, or allowed the discharge of a contaminant into the waters of the State in violation of regulations adopted by the Board with respect to the NPDES program and the terms or

conditions imposed by the Permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count VII:

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

B. Finding that Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Sections 305.102(a) and (b) of the Board's regulations, 35 Ill. Adm. Code 305.102(a), (b), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and Standard Conditions 12(b), 13(c)(1), and 13(d) of the Permit;

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

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Sections 305.102(a) and (b) of the Board's regulations, 35 Ill. Adm. Code 305.102(a), (b), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and NPDES Permit No. IL00776666, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2016);

E. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT VIII
FAILURE TO COMPLY WITH GOOD MINING PRACTICES

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, 19 through 22, 24, and 25 of Count I and paragraphs 25 through 30 of Count III as paragraphs 1 through 29 of this Count VIII.

30. Section 406.204(b) of the Board's regulations, 35 Ill. Adm. Code 406.204(b), provides, in pertinent part, as follows:

In determining whether an operator is utilizing good mining practices designed to minimize discharge of total dissolved solids, chloride, sulfate, iron and manganese, the Agency shall consider whether the operator is utilizing the following good mining practices, further defined in the Sections indicated:

* * *

(b) Retention and control within the site of waters exposed to disturbed materials (Section 406.206). . . .

31. Standard Condition 27 of the Permit provides, in pertinent part, as follows:

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. . . .

32. Respondent failed to adequately retain and control on-site waters exposed to disturbed materials, resulting in the unpermitted discharge.

33. Because Respondent failed to comply with the Good Mining Practices of Section 406.204(b) of the Board's regulations, 35 Ill. Adm. Code 406.204(b), Respondent failed to comply with an applicable provision of 35 Ill. Adm. Code Subtitle D, and thereby violated Standard Condition 27 of the Permit.

34. By violating Standard Condition 27 of the Permit, Respondent discharged contaminants or pollutants in the waters of the State from a point source in violation of the

provisions and conditions of the Permit, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

35. By violating Standard Condition 27 of the Permit, Respondent caused, threatened, or allowed the discharge of a contaminant into the waters of the State in violation of the terms or conditions imposed by the Permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WILLIAMSON ENERGY, LLC, on Count VIII:

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

B. Finding that Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and Standard Condition 27 of the Permit;

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

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and NPDES Permit No. IL0077666, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2016);

E. Awarding to Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Ordering such other and further relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois

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