

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUN 16 2003

PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)
v.)
PEABODY COAL COMPANY, a Delaware)
corporation,)
Respondent.)

PCB 99-134

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING AND PROOF OF SERVICE

To: Jane E. McBride
Environmental Bureau
Attorney General's Office
500 S. Second St.
Springfield, IL 62706

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph St.
James R. Thompson Center
Suite 11-500
Chicago, IL 60601-3218

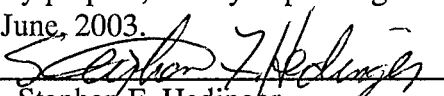
Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center
Suite 11-500
Chicago, IL 60601-3218

David Joest
Peabody Coal Company
1951 Barrett Court
P.O. Box 1990
Henderson, KY 42419-1990

W.C. Blanton
Blackwell Sanders Peper Martin LLP
Two Pershing Square
2300 Main St., Suite 1000
Kansas City, MO 64108

PLEASE TAKE NOTICE that on the 13th day of June, 2003, we sent to the Clerk of the Pollution Control Board the original and nine copies of Substitution of Affidavit of W.C. Blanton for filing in the above entitled cause.

The undersigned certifies that a true and correct copy of the above-described document was served upon the above-identified individuals via U.S. mail by enclosing the same in envelopes properly addressed, with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mail box, on the 13th day of June, 2003.


Stephen F. Hedinger

Hedinger Law Office
1225 S. Sixth St.
Springfield, IL 62703
(217) 523-2753 phone
(217) 523-4366 fax

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
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PEABODY COAL COMPANY, a Delaware)
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)
Respondent.)

PCB 99-134

SUBSTITUTION OF AFFIDAVIT OF W.C. BLANTON

NOW COMES Respondent, PEABODY COAL COMPANY (hereinafter "PCC"), through its undersigned attorney, and hereby substitutes the original of the Affidavit of W.C. Blanton Relating to State's Motion for Protective Order for the facsimile copy that had been filed along with PCC's Brief in Opposition to State's Motion for Protective Order. In support of this substitution, PCC states as follows:

1. On June 12, 2003, PCC submitted, in support of its Brief in Opposition to State's Motion for Protective Order, the Affidavit of W.C. Blanton Relating to State's Motion for Protective Order, dated June 12, 2003. At the time of that submittal, only a facsimile copy of that Affidavit was available for filing. The submittal was filed by U.S. Mail, and, per Hearing Officer authorization, by facsimile transmission.

2. The original of the Affidavit of W.C. Blanton Relating to State's Motion for Protective Order is now available for submittal, and with this pleading PCC submits, as a substitution, that original for the facsimile copy. The original and four copies are being sent to the Board's Clerk's Office and one each is being sent to the persons on the service list.

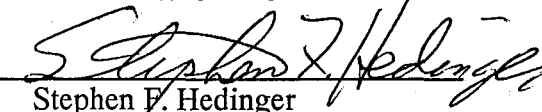
WHEREFORE, Respondent PEABODY COAL COMPANY substitutes the original of the Affidavit of W.C. Blanton for the facsimile copy previously provided.

Respectfully submitted,

PEABODY COAL COMPANY,
Respondent

By its attorney

HEDINGER LAW OFFICE

By: 
Stephen F. Hedinger

HEDINGER LAW OFFICE
1225 S. Sixth St.
Springfield, IL 62703
(217) 523-2753 phone
(217) 523-4366 fax

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 99-134
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PEABODY COAL COMPANY, a Delaware)	
corporation,)	
)	
Respondent.)	

AFFIDAVIT OF W. C. BLANTON RELATING TO STATE'S MOTION FOR PROTECTIVE ORDER

W. C. Blanton, being first duly sworn, states as follows:

1. The statements made herein are based upon my personal knowledge, and I am competent to testify hereto.
2. I am an attorney duly authorized to practice law in the States of Indiana, Missouri, and Minnesota; and I am one of the attorneys of record for Respondent, Peabody Coal Company ("PCC"), in connection with the above-captioned matter, having been granted leave by the Illinois Pollution Control Board ("Board") to appear pro hac vice in this matter on behalf of PCC.
3. This affidavit is being filed with the Board as part of PCC's opposition to Complainant's Motion For Protective Order ("State's Motion"), filed in this matter on or about June 4¹ by Complainant, People of the State of Illinois ("State").

¹ All dates stated herein are for the year 2003, unless specifically stated otherwise.

4. On May 8, in an in-person conversation, I advised Jane E. McBride, the State's attorney of record in this case, and attorney Stephen C. Ewart (the Illinois Environmental Protection Agency attorney having primary responsibility within that agency for the handling of this case) that PCC would within a few days thereafter serve numerous interrogatories and production requests upon the State and that I anticipated the State's attorney's initial reaction to those discovery requests to be negative. I also advised Ms. McBride and Mr. Ewart at that time (a) that those discovery requests would be narrowly drawn and be directed to specific issues that have been raised in this case, (b) that PCC anticipated the State having no information or documents responsive to a large number of the requests, (c) that PCC would be willing to clarify, make more specific, or otherwise scale back the scope of certain requests, if appropriate, and (d) that PCC would generally work with the State so that it would not be unduly burdensome for the State to provide PCC the information and documents sought by the requests.

5. A copy of my letter to Ms. McBride that accompanied the four sets of interrogatories and production requests served upon the State that day ("PCC Discovery Requests") is attached as Exhibit A to the State's Motion.²

6. On June 4, I received via U. S. mail a letter from Ms. McBride dated May 30 and addressed to Stephen F. Hedinger and me, a copy of which is attached as Exhibit 1.

7. Prior to my receipt of Ms. McBride's May 30 letter, I received via facsimile a letter from Ms. McBride dated June 2 and addressed to Mr. Hedinger and me, a copy of which is attached as Exhibit 2.

8. On June 3, I transmitted an e-mail message to Ms. Mc Bride, a copy of which is attached as Exhibit 3.

² This letter is misdated as "March 25, 2002." The letter and enclosures were actually mailed on May 23, 2003.

9. Later on June 3, Ms. McBride transmitted her May 30 letter described above to me via facsimile. A copy of that copy of the letter is attached as Exhibit 4.

10. On June 4, Ms. McBride transmitted to me via facsimile a copy of the State's Motion, which apparently was transmitted to the Board for filing that day. A copy of the cover sheet for that transmittal is attached as Exhibit 5.


11. Prior to my receipt of the copy of the State's Motion transmitted to me via facsimile, Ms. McBride and I had not discussed the State's objections to the discovery requests directed to the State by PCC that are the subject of her May 30 letter and the State's Motion.

12. On the afternoon of June 4, Mr. Hedinger and I placed a telephone call to Ms. McBride to discuss the issues raised by her May 30 letter and the State's Motion. At that time, Ms. McBride declined to discuss the issue of whether the PCC Discovery Requests seek to elicit information relevant to the issues in this case and/or calculated to lead to such relevant information and the production of documents possessed by the State that contain such information. During that conversation, Ms. McBride stated that Thomas Davis, Chief of the Environmental Bureau of the Office of the Attorney General of Illinois, had written the State's Motion.

13. On June 10, Ms. McBride, Mr. Ewart, Mr. Davis, Mr. Hedinger and I met at the offices of the Attorney Illinois Attorney General in Springfield, Illinois to discuss the matters that are subject of Ms. McBride's May 30 letter and the State's Motion. (This meeting required me to travel from Kansas City, Missouri to Springfield at considerable expense to PCC.) At that meeting, Mr. Davis informed Mr. Hedinger and me that it is the State's position that it will not, prior to the issuance of a ruling on the State's Motion, discuss with PCC the issue of whether the PCC Discovery Requests seek to elicit information relevant to the issues in this case and/or

calculated to lead to such relevant information and the production of documents possessed by the State that contain such information. At that meeting, Mr. Davis also stated indicated that he had not up to that point in time read the individual interrogatories and production requests contained in the PCC Discovery Requests; and Ms. McBride stated at the meeting that she had not read all of those individual interrogatories and production requests until June 9.

Further affiant sayeth not.



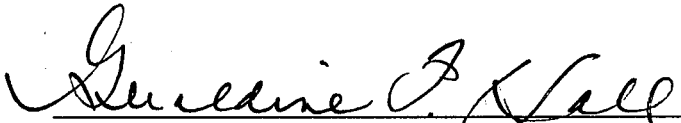
W. C. Blanton

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

Subscribed and sworn to before me, a Notary Public in and for said County and State, this

12th day of June, 2003.





Notary Public

My Commission Expires:

7-23-06



JUN 04 RECD

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 30, 2003

Mr. W.C. Blanton, Esq.
Blackwell Sanders Peper Martin LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

Mr. Stephen F. Hedinger
Attorney at Law
2601 South Fifth Street
Springfield, IL 62703

Re: *People v. Peabody Coal Company*, PCB 99-134

Dear Mr. Blanton and Mr. Hedinger:

I am writing regarding the discovery requests received by this office on May 27, 2003 relative to the above-referenced matter. Please consider this letter the initiation of S. Ct. Rule 201(k) consultation regarding these requests. The cover letter included in transmission of these requests, identified as Peabody's Third Set of Interrogatories through Seventh Request for Production of Documents, is attached hereto as Exhibit A.

As you are aware, Peabody propounded its first request for production to the Complainant on July 28, 1999 that included a very broad request for documents from the files of the Illinois EPA, Illinois DNR and Illinois Dept. of Public Health. Respondent's first set of interrogatories was propounded upon the Complainant on November 4th, 1999, and included 45 interrogatories. Respondent's second request for production was propounded upon Complainant on November 5, 1999, and included very broad individual requests for documents from the files of the Illinois State Geological Survey, the Illinois State Water Survey, the Illinois EPA and the Illinois DNR. Respondent propounded its second set of interrogatories and third request for production of documents on March 15, 2000. The third set of interrogatories requested disclosure of opinion and fact witnesses. Said disclosure was completed by Complainant, reserving its right to disclose additional rebuttal witnesses, on May 23, 2003, pursuant to the discovery schedule that has been established in this matter.

All of the above-referenced requests have been complied with and have been supplemented by the Complainant. Complainant is currently about to provide the Respondent

EXHIBIT

1

Mr. W.C. Blanton, Esq
May 30, 2003
Page 2

with another supplemental production, which will be followed in due time by another supplemental production. These supplemental productions include documents that have come into being through the duration of this case.

As stated above, the Respondent has already propounded 47 interrogatories. The recently received sets of interrogatories consist of the following: third set, 12 interrogatories; fourth set, 30 interrogatories; fifth set, 17 interrogatories, sixth set, 15 interrogatories. Further, also as stated above, the requests to produce propounded prior to the most recent requests were very broad requests concerning the files of five state agencies. The most recently received requests number as follows: fourth set of requests, 21 individual requests for production; fifth set of requests, 57 individual requests for production; sixth set of requests, 26 individual requests; seventh set of requests, 24 individual requests. Many of the requests and interrogatories contained within the third through seventh requests recently propounded are duplicative of prior requests. The recent disclosure concerning witnesses and the opinions and conclusions of controlled experts are responsive to both any outstanding requests and also to many of the recently propounded requests.

It is incumbent upon the Respondent to justify this newly propounded, tremendously over burdensome set of discovery requests. This is particularly so given the recent efforts to establish a discovery schedule that already has placed pressure on counsel to timely and succinctly undertake and expedite all remaining discovery so that this matter might proceed to hearing. Therefore, Complainant, as a somewhat unorthodox request, asks the assistance of the Hearing Officer in quickly resolving this discovery dispute. With this letter, Complainant is asking that a status conference be scheduled as early as the later part of next week, at which time counsel, with the assistance of the Hearing Officer, may conduct a discussion that will resolve this discovery matter. This request is designed to provide for a timely resolution of this dispute, so that the Complainant might quickly ascertain upon order of the Hearing Office exactly which requests are considered justifiable and thereby requiring response. The time of later next week is requested so that Tom Davis, Bureau Chief, might participate in this discussion.

As stated in Complainant's response to Respondent's motion for leave of Counsel W.C. Blanton to appear *pro hac vice*, filed in this matter on February 11, 2002, in paragraph 18 on page 4 of the response: "... Complainant objects on the grounds that Mr. Blanton's entry of appearance in this matter is being submitted relatively late in the litigation. The parties have already tendered discovery requests, and Complainant has already made available the files of four state agencies in response to those discovery requests. . . ." In support of this objection, Complainant cited the following case, at paragraph 22 of the response:

22. In the case of *Hallmann v. Sturn Ruger & Co.*, 31 Wash. App 50 (1982),

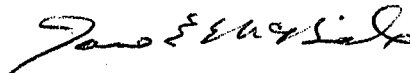
Mr. W.C. Blanton, Esq
May 30, 2003
Page 3

639 P.2d. 805, cited in Michael A. DiSabatino, J.D., Annotation, Attorney's Right to Appear *Pro Hac Vice* in State Court, 20 A.L.R. 4th 855 (2001), the court reversed a trial court's revocation of an Alaska attorney's admission *pro hac vice* to represent clients in civil litigation because the trial court had acted on its own motion without having given prior notice or having held a hearing. But in its ruling, the court said that the trial court had been understandably concerned that the Alaska attorney had commingled the Washington case with cases pending in other jurisdictions, had attempted to consolidate discovery in these actions, and had submitted lengthy memoranda which in the trial court's mind contained irrelevant authority from other jurisdictions and created what the trial court termed a "monstrosity" of a case. The court stressed that the clients of the out-of-state attorney had an interest in retaining the attorney of their choice, but that their interest had to be balanced with the court's responsibility to insure order, and with the opposing counsel's interest in his ability to proceed with the litigation without scheduling complications. The court said that these competing interest could best be protected if, on remand to the trial court, inquiry were limited to whether the acts of the out-of-state attorney violated the code of professional responsibility, or were contemptuous of the court, or adversely affected the conduct of the litigation.

It appears that the predictions contained within Complainant's objection to Mr. Blanton's entry in this case have indeed come true.

I will soon place a call to Mr. Halloran to inquire whether he would be willing to set the requested status conference and participate in discovery dispute discussions so that this issue might be quickly resolved.

Sincerely,



Jane E. McBride
Assistant Attorney General
(217) 782-9033

cc: Mr. Bradley P. Halloran, Esq.
Mr. Stephen Ewart, Esq.
Mr. Thomas Davis, Esq.

LAW FIRM

BLACKWELL SANDERS PEPER MARTIN
LLP

2300 MAIN STREET SUITE 1000 KANSAS CITY, MO 64108
P.O. BOX 419777 KANSAS CITY, MO 64141-6777
TEL: (816) 983-8000 FAX: (816) 983-8080
WEBSITE: www.blackwellsanders.com

W.C. BLANTON
DIRECT: (816) 983-8151

DIRECT FAX: (816) 983-9151
E-MAIL: wblanton@blackwellsanders.com

March 25, 2002

RECEIVED
ATTORNEY GENERAL

MAY 27 2003

ENVIRONMENTAL

Jane E. McBride
Environmental Bureau
Assistant Attorney General
500 S. Second St.
Springfield, IL 62706

Re: People of the State of Illinois v. Peabody Coal Company
PCB Case No. 99-134
Our File No. 2597-3

Dear Jane:

Enclosed and hereby served upon you are copies of the following discovery requests directed to the State by Peabody Coal Company ("PCC") in connection with the above-referenced matter:

- Peabody's Third Set Of Interrogatories To The State;
- Peabody's Fourth Set Of Requests To The State For The Production Of Documents;
- Peabody's Fourth Set Of Interrogatories To The State;
- Peabody's Fifth Request To The State For The Production Of Documents;
- Peabody's Fifth Set Of Interrogatories To The State;
- Peabody's Sixth Request To The State For The Production Of Documents;
- Peabody's Sixth Set Of Interrogatories To The State; and
- Peabody's Seventh Request To The State For The Production Of Documents.

As I indicated to you a couple of weeks ago, we believe the information and documents sought by these discovery requests are subject to discovery given the nature and scope of issues in this case. However, we recognize that the requests are numerous; and it is not our intention to cause the State to undertake efforts that are not necessary to locate and provide us the

Exhibit A

KC-1091309-1

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS • OMAHA, NEBRASKA
SPRINGFIELD, MISSOURI • EDWARDSVILLE, ILLINOIS • WASHINGTON, D.C. • LONDON, UNITED KINGDOM
AFFILIATES: LEBDS • MANCHESTER • MEXICO CITY • MONTREAL • TORONTO • VANCOUVER

Jane McBride
March 21, 2002
Page 2

information we need in order to respond to the State's claims against PCC asserted in this case. Accordingly, please call me to discuss any questions or concerns that you have regarding these discovery requests.

Best regards --

Very truly yours,



W.C. Blanton

WCB/cs

Enclosures

cc: Steve Hedinger
Dave Joest



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

FAX TRANSMITTAL SHEET
ENVIRONMENTAL BUREAU - SPRINGFIELD
FAX NO. (217) 524-7740

DATE: 6/12/03

TO: W. C. Blanton ✓

FAX NO: 816 983 8757 9157

FROM: Tom McPherson

PHONE NO: 217 782 9033

NUMBER OF PAGES: 2 (INCLUDING THIS PAGE)

HARD COPY TO FOLLOW: YES NO

IF YOU DO NOT RECEIVE ANY OF THE PAGES PROPERLY, PLEASE CONTACT SENDER/CALL BACK PERSON AS SOON AS POSSIBLE.

Contact Person: _____

Phone No. _____

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NOTES:

EXHIBIT
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OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 2, 2003

Mr. W.C. Blanton, Esq.
Blackwell Sanders Peper Martin LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

Mr. Stephen F. Hedinger
Attorney at Law
2601 South Fifth Street
Springfield, IL 62703

Via Facsimile
(816) 983-8151

Via Facsimile
(217) 523-4366

Re: *People v. Peabody Coal Company*, PCB 99-134

Dear Mr. Blanton and Mr. Hedinger:

Mr. Halloran is available for a brief status conference on the issue of your recent discovery requests at 9:15 A.M. on Thursday, June 5. He has asked that we provide him with a written motion prior to his participation in discussions on this dispute. I have indicated to him that we would transmit a written motion prior to the time of the status conference. He also reminds the parties that he is scheduled to go on family leave in the very near future. He suggests we attempt to resolve the issue before he is called away.

I would ask that you provide a response to my letter of May 30, 2003, as soon as possible to facilitate any discussion that might be possible prior to Thursday. We would expect your response to indicate which portion of the recent request you are willing to withdraw, and an explanation as to why you feel the remainder of the request is justified.

Sincerely,

Jane E. McBride
Assistant Attorney General
(217) 782-9033

cc: Mr. Stephen Ewart, Esq.

Blanton, WC

From: Blanton, WC
Sent: Tuesday, June 03, 2003 1:48 PM
To: 'JANE MCBRIDE'
Cc: 'hedinger@cityscape.net'
Subject: RE: People v. Peabody Coal, Depositions

This is in response to your fax late yesterday. Neither Steve Hedinger nor I have received any letter from you dated May 30 regarding PCC's most recent sets of discovery requests. That makes it a little hard to respond to your fax.

-----Original Message-----

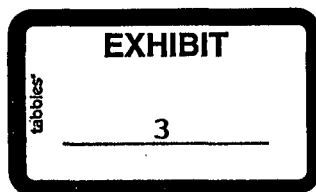
From: JANE MCBRIDE [mailto:JMCBRIDE@atg.state.il.us]
Sent: Wednesday, May 28, 2003 9:45 AM
To: wblanton@Blackwellsanders.com; hedinger@cityscape.net
Subject: People v. Peabody Coal, Depositions

Steve and WC

The only dates where I have three consecutive days of availability for all concerned, for depositions, are July 1 through 3.

Please call me today regarding the scheduling of deposition. (217) 782-9033.

Jane McBride





OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

FAX TRANSMITTAL SHEET
ENVIRONMENTAL BUREAU - SPRINGFIELD
FAX NO. (217) 524-7740

DATE: 6/2/03

TO: W.C. Blanton

FAX NO: 816 783 9151

FROM: Jan McRae

PHONE NO: _____

NUMBER OF PAGES: 4 (INCLUDING THIS PAGE)

HARD COPY TO FOLLOW: YES NO

IF YOU DO NOT RECEIVE ANY OF THE PAGES PROPERLY, PLEASE
CONTACT SENDER/CALL BACK PERSON AS SOON AS POSSIBLE.

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Phone No. _____

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NOTES:

EXHIBIT
4



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 30, 2003

Mr. W.C. Blanton, Esq.
Blackwell Sanders Peper Martin LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

Mr. Stephen F. Hedinger
Attorney at Law
2601 South Fifth Street
Springfield, IL 62703

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All of the above-referenced requests have been complied with and have been supplemented by the Complainant. Complainant is currently about to provide the Respondent

Mr. W.C. Blanton, Esq
May 30, 2003
Page 2

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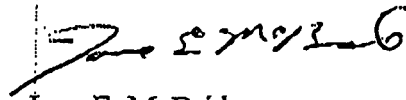
Mr. W.C. Blanton, Esq
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Page 3

639 P.2d. 805, cited in Michael A. DiSabatino, J.D., Annotation, Attorney's Right to Appear *Pro Hac Vice* in State Court, 20 A.L.R. 4th 855 (2001), the court reversed a trial court's revocation of an Alaska attorney's admission *pro hac vice* to represent clients in civil litigation because the trial court had acted on its own motion without having given prior notice or having held a hearing. But in its ruling, the court said that the trial court had been understandably concerned that the Alaska attorney had commingled the Washington case with cases pending in other jurisdictions, had attempted to consolidate discovery in these actions, and had submitted lengthy memoranda which in the trial court's mind contained irrelevant authority from other jurisdictions and created what the trial court termed a "monstrosity" of a case. The court stressed that the clients of the out-of-state attorney had an interest in retaining the attorney of their choice, but that their interest had to be balanced with the court's responsibility to insure order, and with the opposing counsel's interest in his ability to proceed with the litigation without scheduling complications. The court said that these competing interest could best be protected if, on remand to the trial court, inquiry were limited to whether the acts of the out-of-state attorney violated the code of professional responsibility, or were contemptuous of the court, or adversely affected the conduct of the litigation.

It appears that the predictions contained within Complainant's objection to Mr. Blanton's entry in this case have indeed come true.

I will soon place a call to Mr. Halloran to inquire whether he would be willing to set the requested status conference and participate in discovery dispute discussions so that this issue might be quickly resolved.

Sincerely,



Jane E. McBride
Assistant Attorney General
(217) 782-9033

cc: Mr. Bradley P. Halloran, Esq.
Mr. Stephen Ewart, Esq.
Mr. Thomas Davis, Esq.

LAW FIRM

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LLP

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March 25, 2002

RECEIVED
ATTORNEY GENERAL

MAY 27 2003

ENVIRONMENTAL

Jane E. McBride
Environmental Bureau
Assistant Attorney General
500 S. Second St.
Springfield, IL 62706

Re: People of the State of Illinois v. Peabody Coal Company
PCB Case No. 99-134
Our File No. 2597-3

Dear Jane:

Enclosed and hereby served upon you are copies of the following discovery requests directed to the State by Peabody Coal Company ("PCC") in connection with the above-referenced matter:

- Peabody's Third Set Of Interrogatories To The State;
- Peabody's Fourth Set Of Requests To The State For The Production Of Documents;
- Peabody's Fourth Set Of Interrogatories To The State;
- Peabody's Fifth Request To The State For The Production Of Documents;
- Peabody's Fifth Set Of Interrogatories To The State;
- Peabody's Sixth Request To The State For The Production Of Documents;
- Peabody's Sixth Set Of Interrogatories To The State; and
- Peabody's Seventh Request To The State For The Production Of Documents.

As I indicated to you a couple of weeks ago, we believe the information and documents sought by these discovery requests are subject to discovery given the nature and scope of issues in this case. However, we recognize that the requests are numerous; and it is not our intention to cause the State to undertake efforts that are not necessary to locate and provide us the

Exhibit A

KC-1091309-1

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS • OMAHA, NEBRASKA
SPRINGFIELD, MISSOURI • EDWARDSVILLE, ILLINOIS • WASHINGTON, D.C. • LONDON, UNITED KINGDOM
AFFILIATES: LERDS • MANCHESTER • MEXICO CITY • MONTREAL • TORONTO • VANCOUVER

BLACKWELL SANDERS PEPER MARTIN
LLP

Jane McBride
March 21, 2002
Page 2

information we need in order to respond to the State's claims against PCC asserted in this case. Accordingly, please call me to discuss any questions or concerns that you have regarding these discovery requests.

Best regards --

Very truly yours,



W.C. Blanton

WCB/cs

Enclosures

cc: Steve Hedinger
Dave Joest



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

FAX TRANSMITTAL SHEET
ENVIRONMENTAL BUREAU - SPRINGFIELD
FAX NO: (217) 524-7740

DATE: 6/14/03

TO: W.C. Blandon

FAX NO: 816 983-9151

FROM: Gene McBride

PHONE NO: 782 9031

NUMBER OF PAGES: 8 (INCLUDING THIS PAGE)

HARD COPY TO FOLLOW: YES NO

IF YOU DO NOT RECEIVE ANY OF THE PAGES PROPERLY, PLEASE CONTACT SENDER/CALL BACK PERSON AS SOON AS POSSIBLE.

Contact Person: Regan

Phone No. _____

NOTICE: THIS IS A FAX TRANSMISSION OF ATTORNEY PRIVILEGED AND/OR CONFIDENTIAL INFORMATION. IT IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER AT THE ABOVE TELEPHONE NUMBER AND DESTROY THIS TRANSMITTAL. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY RETENTION OR DISSEMINATION OF THIS INFORMATION IS STRICTLY PROHIBITED. THANK YOU.

NOTES: Exhibits being made

EXHIBIT
5