



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE
JUN 5 2003
STATE OF ILLINOIS
Pollution Control Board

Lisa Madigan
ATTORNEY GENERAL

June 4, 2003

Via Federal Express Mail

The Honorable Dorothy Gunn
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Peabody Coal Company***
PCB No. 99-134

Dear Clerk Gunn:

Enclosed for filing please find the original and five copies of a NOTICE OF FILING and COMPLAINANT'S MOTION FOR PROTECTIVE ORDER in regard to the above-captioned matter. Please file the original and return a file-stamped copy of the document to our office in the enclosed, self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jane E. McBride
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JEM/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB NO. 99-134
(Enforcement)

RECEIVED
CLERK'S OFFICE
JUN 5 2003
STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: David R. Joest
Peabody Coal Company
1951 Barrett Court
P.O. Box 1990
Henderson, KY 42420-1990

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

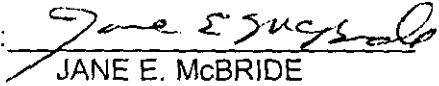
W. C. Blanton
Blackwell Sanders Peper Martin LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, COMPLAINANT'S MOTION FOR PROTECTIVE ORDER.

Respectfully submitted,

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

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

BY: 
JANE E. McBRIDE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: June 4, 2003

CERTIFICATE OF SERVICE

I hereby certify that I did on June 4, 2003, send by First Class 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 COMPLAINTANT'S MOTION FOR PROTECTIVE ORDER

To: David R. Joest
Peabody Coal Company
1951 Barrett Court
P.O. Box 1990
Henderson, KY 42420-1990

Stephen F. Hedinger
Hedinger Law Office
2601 South Fifth Street
Springfield, IL 62703
(Also via facsimile No. 523-4366
without Exhibits)

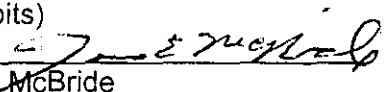
W. C. Blanton
Blackwell Sanders Peper Martin LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108
(Also via facsimile No. (816) 983-9151 without Exhibits)

and the original and five copies by Federal Express Mail of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601
(Also via facsimile No. (312) 814-3669 without Exhibits)

A copy was also sent by Federal Express Mail

To: Brad Halloran
Hearing Officer
Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, IL 60601
(Also via facsimile No. (312) 814-3669 without Exhibits)


Jane E. McBride
Assistant Attorney General

This filing is submitted on recycled paper.

RECEIVED
CLERK'S OFFICE

JUN 5 2003

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB NO. 99-134
(Enforcement)

COMPLAINANT'S MOTION FOR PROTECTIVE ORDER

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, hereby respectfully moves the Hearing Officer for the issuance of a Protective Order regarding the additional written discovery requests propounded by the Respondent, and states as follows:

1. Section 101.616 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.616, provides generally that all discovery disputes will be handled by the assigned hearing officer. In particular, Section 101.616(b) provides that, if the parties cannot agree on the scope of discovery, the hearing officer has the authority to deny requests for discovery. Section 101.616(d) provides that the "hearing officer may, on his or her own motion or on the motion of any party or witness, issue protective orders that deny, limit, condition or regulate discovery to prevent unreasonable expense, or harassment, to expedite resolution of the proceeding. . . ."

This is the relief sought by the Complainant.

2. As background, Peabody propounded its First Request for Production of Documents to the Complainant on July 28, 1999. This was a very broad request for documents from the files of the Illinois Environmental Protection Agency, the Illinois Department of Natural Resources, and the Illinois Department of Public Health. Respondent's First Set of

Interrogatories was propounded upon the Complainant on November 4, 1999, and included 45 separate interrogatories. Respondent's Second Request for Production of Documents was propounded upon Complainant on November 5, 1999, and included additional broad requests for documents from the Illinois EPA and the Illinois DNR as well as the files of the Illinois State Geological Survey and the Illinois State Water Survey. Respondent propounded its Second Set of Interrogatories and Third Request for Production of Documents on March 15, 2000. The additional interrogatories requested disclosure of opinion and fact witnesses. Said disclosure was completed by Complainant on May 23, 2003, pursuant to the discovery schedule that has been established by the Hearing Officer in this matter.

3. On May 27, 2003, the Complainant was served with additional written discovery requests, identified as Peabody's Third Set of Interrogatories through Seventh Request for Production of Documents; these requests are attached hereto as Exhibit A. The Respondent had already propounded 47 interrogatories. The recently received sets of interrogatories consist of a third set of 12 interrogatories, a fourth set of 30 interrogatories, a fifth set of 17 interrogatories, and a sixth set of 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: a fourth set of 21 individual requests for production, a fifth set of 57 individual requests for production, a sixth set of 26 individual requests, and a seventh set of 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 by the Complainant concerning witnesses and the opinions and conclusions of controlled experts are responsive to all the formerly outstanding requests and many of the some of the recently propounded requests.

4. The Board's Procedural Rules govern the conduct of discovery. Moreover, Section 101.100(b) indicates that "the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance where the Board's procedural rules are silent." In pertinent part, Section 101.614 provides that the "hearing officer will deny, limit or condition the production of information when necessary to prevent undue delay, undue expense, or harassment. . . ." Section 101.620(a) explicitly limits the number of interrogatories: "Unless ordered otherwise by the hearing officer, a party may serve a maximum of 30 written interrogatories, including subparts, on any other party. . . ."

5. The Complainant objects on several grounds. First, the Respondent never sought leave from the Hearing Officer to propound the additional interrogatories, which vastly exceed the limit of 30. It was incumbent upon the Respondent to justify these additional interrogatories. Peabody's failure to do so does not shift the burden to the People to object to each interrogatory as would otherwise be generally required by Section 101.620(b) and (c). The Respondent also failed to comply with Illinois Supreme Court Rule 201(k) prior to serving these additional written discovery requests; this would have been necessary where the Respondent may have believed that the Complainant's previous responses were somehow inadequate. Secondly, the Complainant reasonably believes that any effort to address these additional interrogatories with responses and objections would result in undue delay, undue expense, or harassment. Lastly, as clearly allowed by Section 101.616(d), the People seek a protective order to "deny, limit, condition or regulate discovery to prevent unreasonable expense, or harassment, to expedite resolution of the proceeding. . . ."

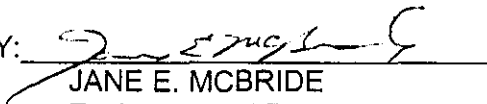
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, hereby respectfully requests that the Hearing Officer issue a Protective Order to deny or strike the additional written discovery requests propounded by the Respondent.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY: 
JANE E. MCBRIDE
Environmental Bureau
Assistant Attorney General

Of Counsel:
THOMAS DAVIS
500 South Second Street
Springfield, Illinois 62706
Dated: June 4, 2003

BLACKWELL SANDERS PEPPER 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

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PEABODY'S THIRD SET OF INTERROGATORIES TO THE STATE

Respondent, Peabody Coal Company ("PCC"), hereby directs the following interrogatories to Complainant, People of the State of Illinois ("State"), to be answered within twenty-eight (28) days of the receipt hereof.

INSTRUCTIONS

1. Unless stated otherwise, provide the information sought by each Interrogatory with respect to the time period January 1, 1965 to present.
2. If your answers to these Interrogatories are supported by (or if an Interrogatory inquires as to the existence of) a record of any type, e.g., documents, photographs, notes, memos, statements, investigative journals, complaints, test results, etc., please attach a copy of the same to your answers identifying which answer each record supports.
3. These Interrogatories shall be deemed continuing so as to require supplemental answers if you obtain further or supplemental information between the time answers to the within Interrogatories are served and the time of hearing. If for any reason you are unable to

answer any Interrogatory in full, such Interrogatory should be answered to the extent possible and the reason for the inability to answer in full should be clearly stated.

4. Verification under oath of all interrogatory responses is required.

5. With respect to information which is withheld or not disclosed as requested pursuant to these interrogatories due to a claim of privilege of non-disclosure, a statement shall be provided by counsel setting forth as to each such withholding or non-disclosure:

- a. a brief description of the nature and subject matter of and the reason for withholding or non-disclosure of the information;
- b. the statute, rule, decision or other basis which is claimed to give rise to the privilege or any other justification for the non-disclosure or withholding of the requested information.

6. If you exercise your option under Illinois Supreme Court Rule 213(e) to produce certain of your business records as your "answer" to an interrogatory set forth below, documents submitted in response to that request should be produced as they are kept in the usual course of your business or organized and labeled according to the individual categories of the interrogatory to which the documents respond. If you choose the latter method, (i) within each group, the documents should be arranged, to the extent possible, in chronological order, and (ii) if any document is responsive to more than one category, you may provide a single copy indicating the categories to which it is responsive, in lieu of providing multiple copies.

7. It is not PCC's intention by these interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no

objection on those grounds is necessary. However, if you contend that any documents you possess that contain information responsive to these interrogatories as a matter of substance are privileged, then prepare a privilege log containing the following information:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;
- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. It is not PCC's intention by these interrogatories to seek information that has previously been provided by the State in its responses to interrogatories previously directed to it by PCC. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no objection on those grounds is necessary. However, if you contend that any information sought by any interrogatory below has been previously provided to PCC in

response to an interrogatory previously directed to the State, identify the interrogatory response by which that information was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Act" means the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (1998).
2. "Board" means the Illinois Pollution Control Board.
3. "Attorney General" means the Attorney General of the State of Illinois.
4. "Complaint" means the Third Amended Complaint, filed by the State on or about October 24, 2002.
5. "District" means the Saline Valley Conservancy District.
6. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term "document" means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries

of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

7. “Enforcement Action” means any process initiated either by IEPA or the Attorney General against any person in which that person was alleged to have violated any provision of the Act or the GPA and in which IEPA or the Attorney General at any time sought the imposition against that person of some sanction authorized by the Act or the GPA.

8. “Identification” or “identify” means:

- a. As to an individual, stating his or her:
 - i. Full and customarily used name or names;
 - ii. Present business or residential address; and
 - iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.
- b. As to any “person” other than an individual, stating:
 - i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.
- c. As to a document, stating:
 - i. the date of its creation;
 - ii. its author or signatory;
 - iii. its addressee and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);

- v. the identity and business or home address of the custodian; and
- vi. the present location of the document.

9. "IDNR" means the Illinois Department of Natural Resources and/or its predecessor agency.

10. "GPA" means the Illinois Groundwater Protection Act, 415 ILCS 55/1 et seq.

11. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

12. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

13. "NOV I" means Notice of Violation M-1997-00010 issued to PCC by IEPA on or about January 28, 1997.

14. "NOV II" means Notice of Violation M-1997-00133 issued to PCC by IEPA on or about December 23, 1997.

15. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

16. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers, directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

17. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same

responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

18. “Related to” or “relating to” means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

19. “Relied upon” means being or having been depended upon or referred to in relation to the matter at issue.

20. “State Agency” means any state agency as that term is defined in 30 ILCS 5/1-7.

21. “The State” means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other contexts, “the State” has the same meaning as the word “you” as defined immediately below.

22. “WQS” means water quality standard(s).

23. “You” means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and “your” means the possessive of “you.”

CONSTRUCTION

1. In construing these requests:
 - a. The singular shall include the plural and the plural shall include the singular;
 - b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
 - c. The terms “and” as well as “or” shall be construed disjunctively or conjunctively as “and/or” or as otherwise necessary in order to bring

within the scope of the Interrogatory all responses which might otherwise be construed to be outside its scope.

2. It is not PCC's intention by these Interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the Interrogatories below should be construed consistent with that intention, even if an Interrogatory by its terms could be construed to seek to elicit such information, so that no objection on that basis is required.

INTERROGATORIES

INTERROGATORY NO. 1: State the full name, occupation, title and business address of the person or persons providing information in response to these Interrogatories, including all individuals responding on behalf of any person who is not an individual, and indicate which person or person answered each Interrogatory.

RESPONSE:

INTERROGATORY NO. 2: State the name, address and phone number of each witness who will testify on behalf of the State at the hearing of this matter and state the subject matter of each witness' testimony.

RESPONSE:

INTERROGATORY NO. 3: As to any controlled expert witness who will offer opinion testimony on behalf of the State at the hearing of this matter:

- a. Describe in detail the subject matter on which the witness is expected to testify;
- b. Provide and describe in detail the conclusions and/or opinions of the witness and the basis therefore, including reports of the witness, if any;
- c. Describe in detail the qualifications of the witness, and identify whether a curriculum vitae and/or resume is available for the witness;
- d. Identify all documents and other things that provide the basis for the witness's opinions, or on which the witness relied in developing his or her opinions;
- e. Identify any and all occasions on which the witness has given opinion testimony in a deposition, trial, arbitration, mediation, or other evidentiary proceeding;
- f. State the witness's fees for consulting and providing testimony in this matter.
- g. Identify all occasions on which the State has retained the witness in the past,
- h. Identify all documents that constitute, contain, report, or otherwise relate to the witness's opinions;
- i. State whether the witness has been involved in the past, or currently is involved, in any way, as a consultant or otherwise, in any effort by any

coal mine to come into compliance or to remain in compliance with Illinois', any other state's, or federal groundwater standards and/or WQS;

- j. State whether the witness has been involved in the past, or currently is involved, in any way, as a consultant or otherwise, in any Enforcement Action undertaken by the State; and
- k. State the contractual or employment relationship between the witness and the State.

RESPONSE:

INTERROGATORY NO. 4: As to any independent expert witness who will offer opinion testimony on behalf of the State at the hearing of this matter:

- a. Describe in detail the subject matter on which the witness is expected to testify;
- b. Provide and describe in detail the conclusions and/or opinions of the witness and the basis therefore, including reports of the witness, if any;
- c. Describe in detail the qualifications of the witness, and identify whether a curriculum vitae and/or resume is available for the witness;
- d. Identify all documents and other things that provide the basis for the witness's opinions, or on which the witness relied in developing his or her opinions;
- e. Identify any and all occasions on which the witness has given opinion testimony in a deposition, trial, arbitration, mediation, or other evidentiary proceeding;

- f. State the witness's fees for consulting and providing testimony in this matter.
- g. Identify all occasions on which the State has retained the witness in the past,
- h. Identify all documents that constitute, contain, report, or otherwise relate to the witness's opinions;
- i. State whether the witness has been involved in the past, or currently is involved, in any way, as a consultant or otherwise, in any effort by any coal mine to come into compliance or to remain in compliance with Illinois', any other state's, or federal groundwater standards and/or WQS;
- j. State whether the witness has been involved in the past, or currently is involved, in any way, as a consultant or otherwise, in any Enforcement Action undertaken by the State; and
- k. State the contractual or employment relationship between the witness and the State.

RESPONSE:

INTERROGATORY NO. 5: State the names, address and phone numbers of all persons known to the State, other than the individuals identified in response to the three preceding Interrogatories, who are likely to have discoverable information relevant to matters at issue in this lawsuit and to all allegations contained within the Complaint, and include with each a statement of the subject matter of such knowledge.

RESPONSE:

INTERROGATORY NO. 6: Describe with particularity the relationship between the State and Thomas A. Prickett with respect to the State's investigation of the matters that are the subject of this proceeding, the State's analysis of the groundwater system near the Mine, the State's determination and evaluation of water quality in the groundwater near the Mine, the State's prosecution of this action, and any other aspect of this matter; and identify every document related in any way to the State's relationship with Mr. Prickett in this regard, specifically including all reports and other documents prepared by Mr. Prickett on behalf of the District, the State, or any other person that address in any way any aspect of the matters that are the subject of the Complaint or otherwise relating in any way to this matter.

RESPONSE:

INTERROGATORY NO. 7: Identify all persons acting on behalf of IEPA and all persons acting on behalf of the Attorney General in connection with IEPA's referral of NOV I to the Attorney General.

RESPONSE:

INTERROGATORY NO. 8: Identify all persons acting on behalf of IEPA and all persons acting on behalf of the Attorney General in connection with IEPA's referral of NOV II to the Attorney General.

RESPONSE:

INTERROGATORY NO. 9: Identify all persons acting on behalf of IEPA and all persons acting on behalf of the Attorney General in connection with IEPA's provision of documents to the Attorney General relating to the allegations set forth in Count II of the Complaint.

RESPONSE:

INTERROGATORY NO. 10: Identify all persons acting on behalf of IEPA and all persons acting on behalf of the Attorney General in connection with IEPA's provision of documents to the Attorney General relating to the allegations set forth in Count III of the Complaint.

RESPONSE:

INTERROGATORY NO. 11: Identify all persons acting on behalf of IEPA and all persons acting on behalf of the Attorney General in connection with IEPA's provision of other documents to the Attorney General relating to the matters that are the subject of the Complaint or otherwise relating to this matter.

RESPONSE:

INTERROGATORY NO. 12: Identify all persons acting on behalf of the Attorney General and all persons acting on behalf of IEPA in connection with the determination by the State to assert Count II of the Complaint.

RESPONSE:

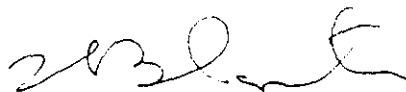
INTERROGATORY NO. 13: Identify all persons acting on behalf of the Attorney General and all persons acting on behalf of IEPA in connection with the determination by the State to assert Count III of the Complaint.

RESPONSE:

Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
Two Pershing Square, Suite 1000
2300 Main Street
Post Office Box 419777
Kansas City, Missouri 64141-6777
(816) 983-8000 (phone)
(816) 983-8080 (fax)
wblanton@blackwellsanders.com (e-mail)



Stephen F. Hedinger
HEDINGER LAW OFFICE
2601 South Fifth Street
Springfield, IL 62703
(217) 523-2753 (phone)
(217) 523-4366 (fax)
hedinger@cityscape.net (e-mail)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Fifth Set Of Interrogatories To The State** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**PEABODY'S FOURTH SET OF REQUESTS TO THE STATE
FOR THE PRODUCTION OF DOCUMENTS**

Respondent, Peabody Coal Company, through its undersigned attorneys hereby submits to Complainant, People of the State of Illinois, PCC's fourth set of requests for the production of documents.

INSTRUCTIONS

1. Except to the extent stated otherwise in a specific request below, produce all documents described by a specific request created on or after January 1, 1960.
2. Documents are to be produced for purposes of inspection and copying within 28 days of service of these requests at the offices of Stephen F. Hedinger, 2601 South Fifth Street, Springfield, Illinois.
3. Produce all original responsive documents, as well as nonconforming copies and any copies with markings or other matter not appearing on the face of the original, including blind copies for persons other than the recipient shown on the document.

4. Produce all requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request, and all retrievable information in computer storage is to be produced in both electronic and printed form.

5. For any responsive document that previously was in your possession, custody, or control but is no longer in your possession or custody or subject to your control, or which was known to you but is no longer in existence, state what disposition was made of such document or what became of it.

6. Any objections to the request for production, full or partial, under claim of privilege of any kind whatsoever are to be made in compliance with Illinois Supreme Court Rule 201(n) by fully stating the nature of the claim of privilege, stating all facts relied upon in support of the claim of privilege, identifying with specificity all documents related to the claim of privilege along with a complete description of the contents of the withheld documents, identify all persons having knowledge of any facts related to the claim of privilege, and provide an Affidavit attesting under oath to the factual assertions made in the claim of privilege.

7. For any responsive document that is withheld from production based on a claim of privilege, set forth the following information in a privilege log:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;

- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. Furnish at the time and place stated above an Affidavit stating under oath that the production is complete in accordance with the request, or if incomplete, in what manner it is incomplete.

9. Seasonably supplement any response to the extent any responsive documents, objects or tangible things subsequently come into your possession or control or become known to you.

10. It is not PCC's intention by these production requests to seek documents that have previously been provided by the State in its responses to production requests previously directed to it by PCC. Therefore, all of the production requests below should be construed as consistent with that intention, even if a production request by its terms could be construed to seek such documents, so that no objection on those grounds is necessary. However, if you contend that any document sought by any production request below has been previously provided to PCC in response to a production request previously directed to the State, identify the production request response by which that document was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Attorney General" means the Attorney General of the State of Illinois.
2. "Board" means the Illinois Pollution Control Board.
3. "Chemicals of concern" means sulfates, chlorides, iron, manganese, and TDS.
4. "Complaint" means the Third Amended Complaint, filed by the State on or about October 24, 2002.
5. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term "document" means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.
6. "Groundwater" means any groundwater as that term is defined in 415 ILCS 55/3(g).

7. "Henry Formation Aquifer" means the groundwater aquifer located in Saline County, Illinois that in part consists of geological formations and groundwater at and near the Mine and at and near the District's Production Wells.

8. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

9. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

10. "Interrogatories" means Peabody's Third Set Of Interrogatories To Complainant, served herewith.

11. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

12. "NOV I" means Notice of Violation M-1997-00010 issued to PCC by IEPA on or about January 28, 1997.

13. "NOV II" means Notice of Violation M-1997-00133 issued to PCC by IEPA on or about December 23, 1997.

14. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

15. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers,

directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

16. “Predecessor agency” means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

17. “Related to” or “relating to” means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

18. “Relied upon” means being or having been depended upon or referred to in relation to the matter at issue.

19. “State Agency” means any state agency as that term is defined in 30 ILCS 5/1-7.

20. “The State” means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other contexts, “the State” has the same meaning as the word “you” as defined immediately below.

21. “You” means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and “your” means the possessive of “you.”

CONSTRUCTION

1. In construing these requests:
 - a. The singular shall include the plural and the plural shall include the singular;

- b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
- c. The terms “and” as well as “or” shall be construed disjunctively or conjunctively as “and/or” or as otherwise necessary in order to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

2. It is not PCC’s intention by these production requests to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the production requests below should be construed consistent with that intention, even if a production request by its terms could be construed to seek to elicit such information, so that no objection on that basis is required. However, if you contend that any document you possess that is substantively responsive to these production requests is privileged, then prepare a privilege log in accordance with Instruction 6 above.

REQUESTS FOR PRODUCTION OF DOCUMENTS

PCC requests the State to produce the following documents:

REQUEST NO. 1: All documents not previously produced which you have identified in response to the Interrogatories.

REQUEST NO. 2: All documents not previously produced which you consulted in preparing your response to the Interrogatories.

REQUEST NO. 3: All documents consisting of or containing any information regarding or map(s) of the area of the Mine for which groundwater flow modeling, solute transport modeling and particle tracking modeling has been initiated and/or completed at any point in time.

REQUEST NO. 4: All documents relating to oral or written communications with consultants regarding the presence of any chemical of concern in the groundwater at the Henry Formation Aquifer and/or the significance of the presence of such chemicals at any time.

REQUEST NO. 5: All documents relating to IEPA's referral of NOV I to the Attorney General.

REQUEST NO. 6: All documents relating to IEPA's referral of NOV II to the Attorney General.

REQUEST NO. 7: All other documents relating to the Mine provided by IEPA to the Attorney General prior to the filing of the initial complaint in this case on or about March 23, 1999.

REQUEST NO. 8: All other documents provided by IEPA to the Attorney General relating to the matters that are the subject of the Complaint or otherwise relating to this matter.

REQUEST NO. 9: All documents relied upon by the Attorney General in connection with the decision to file and prosecute Count II of the Complaint.

REQUEST NO. 10: All other documents considered by the Attorney General in connection with the decision to file and prosecute Count II of the Complaint.

REQUEST NO. 11: All documents relied upon by the Attorney General in connection with the decision to file and prosecute Count III of the Complaint.

REQUEST NO. 12: All other documents considered by the Attorney General in connection with the decision to file and prosecute Count III of the Complaint.

REQUEST NO. 13: All documents which constitute a source of any information upon which you base any allegation of fact set forth in paragraph 15 of Count I of the Complaint.

REQUEST NO. 14: All documents which constitute a source of any information upon which you base any allegation of fact set forth in paragraph 20 of Count I of the Complaint.

REQUEST NO. 15: All documents which constitute a source of any information upon which you base any allegation of fact set forth in paragraph 27 of Count II of the Complaint.

REQUEST NO. 16: All reports and other documents prepared by any witness who will offer opinion testimony on behalf of the State at the hearing of this matter; all documents relied upon by each such witness in developing the opinions that will be offered on behalf of the State at the hearing of this matter; all other documents considered by each such witness in developing the opinions that will be offered on behalf of the State at the hearing of this matter; and all other documents relating to each such opinion.

REQUEST NO. 17: All documents that constitute or contain information relating to the contractual or employment relationship between each witness to be called by the State who will offer any testimony, and the State.

REQUEST NO. 18: All documents possessed by the State that constitute or contain information relating to Thomas A. Prickett's direct and indirect relationships with the State with respect to the State's investigation of the matters that are the subject of this proceeding, the State's analysis of the groundwater system at and near the Mine, the State's determination and evaluation of water quality in the groundwater at and near the Mine, the State's prosecution of this action, and other any aspects of this matter, specifically including (but not limited to) all reports and other documents prepared by Mr. Prickett on behalf of the District, the State, or any other person that address in any way any aspect of the matters that are the subject of the Complaint or otherwise relating in any way to this matter, specifically including all documents consisting of or containing any information regarding communication between Mr. Prickett and

either IEPA or the Attorney General regarding or relating to the allegations set forth in the Complaint or otherwise relating in any way to this matter.

REQUEST NO. 19: All documents that State intends to offer as exhibits at the hearing in this case, both as part of its case-in-chief and as part of its presently anticipated case on rebuttal.

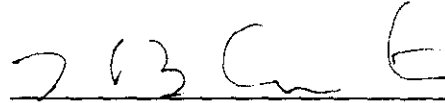
REQUEST NO. 20: All documents that contain information regarding the alleged violation of WQS referenced in Edwin C. Bakowski's January 6, 1987 letter to David G. McDonald of PCC, a copy of which is attached as Exhibit 1.

REQUEST NO. 21: All documents that contain information regarding the alleged violation of WQS referenced in Joyce Munie's May 22, 1992 letter to Robert Hill of PCC, a copy of which is attached as Exhibit 2.

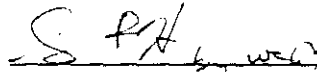
Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Fourth Set Of Requests To The State For The Production Of Documents** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PEABODY'S FOURTH SET OF INTERROGATORIES TO THE STATE

Respondent, Peabody Coal Company, through its undersigned attorneys, hereby directs the following interrogatories to Complainant, People of the State of Illinois, to be answered within twenty-eight (28) days of the receipt hereof.

INSTRUCTIONS

1. Unless stated otherwise, provide the information sought by each Interrogatory with respect to the time period January 1, 1965 to present.
2. If your answers to these Interrogatories are supported by (or if an Interrogatory inquires as to the existence of) a record of any type, e.g., documents, photographs, notes, memos, statements, investigative journals, complaints, test results, etc., please attach a copy of the same to your answers identifying which answer each record supports.
3. These Interrogatories shall be deemed continuing so as to require supplemental answers if you obtain further or supplemental information between the time answers to the within Interrogatories are served and the time of hearing. If for any reason you are unable to

answer any Interrogatory in full, such Interrogatory should be answered to the extent possible and the reason for the inability to answer in full should be clearly stated.

4. Verification under oath of all interrogatory responses is required.

5. With respect to information which is withheld or not disclosed as requested pursuant to these interrogatories due to a claim of privilege of non-disclosure, a statement shall be provided by counsel setting forth as to each such withholding or non-disclosure:

- a. a brief description of the nature and subject matter of and the reason for withholding or non-disclosure of the information;
- b. the statute, rule, decision or other basis which is claimed to give rise to the privilege or any other justification for the non-disclosure or withholding of the requested information.

6. If you exercise your option under Illinois Supreme Court Rule 213(e) to produce certain of your business records as your "answer" to an interrogatory set forth below, documents submitted in response to that request should be produced as they are kept in the usual course of your business or organized and labeled according to the individual categories of the interrogatory to which the documents respond. If you choose the latter method, (i) within each group, the documents should be arranged, to the extent possible, in chronological order, and (ii) if any document is responsive to more than one category, you may provide a single copy indicating the categories to which it is responsive, in lieu of providing multiple copies.

7. It is not PCC's intention by these interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no

objection on those grounds is necessary. However, if you contend that any documents you possess that contain information responsive to these interrogatories as a matter of substance are privileged, then prepare a privilege log containing the following information:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;
- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. It is not PCC's intention by these interrogatories to seek information that has previously been provided by the State in its responses to interrogatories previously directed to it by PCC. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no objection on those grounds is necessary. However, if you contend that any information sought by any interrogatory below has been previously provided to PCC in

response to an interrogatory previously directed to the State, identify the interrogatory response by which that information was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Act" means the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.* (1998).
2. "Board" means the Illinois Pollution Control Board.
3. "Chemical of concern" means chloride, iron, manganese, sulfate, or TDS.
4. "Coal mining" or "Mining of coal" means the excavation and extraction of natural underground coal deposits by the use of any mechanical operation.
5. "Coal mining refuse" means gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded which is connected with the cleaning and preparation of mined materials at a preparation plant or washery.
6. "District" means the Saline Valley Conservancy District.
7. "District's Production Wells" means those wells designated by the District as Well No. 1, Well No. 2, Well No. 3, Well No. 4, Well No. 5, and Well No. 6, located in Gallatin County, Illinois by which the District extracts or formerly extracted groundwater which is processed at its treatment facility for distribution to its customers.
8. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory

analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term “document” means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

9. “Finished water” means water distributed to a public water supply operator’s customer.

10. “GPA” means the Illinois Groundwater Protection Act, 415 ILCS 55/1 et seq.

11. “Groundwater” means any groundwater as that term is defined in 415 ILCS 55/3(g).

12. “Identification” or “identify” means:

a. As to an individual, stating his or her:

i. Full and customarily used name or names;

ii. Present business or residential address; and

iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.

b. As to any “person” other than an individual, stating:

- i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.
- c. As to a document, stating:
- i. the date of its creation;
 - ii. its author or signatory;
 - iii. its addressee and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);
 - v. the identity and business or home address of the custodian; and
 - vi. the present location of the document.

13. "IDNR" means the Illinois Department of Natural Resources and/or its predecessor agency.

14. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

15. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

16. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

17. "Near the Mine" means two miles or less in distance from any property boundary of the Mine.

18. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

19. "Part 620 Standards" means the WQS established by 35 Ill. Adm. Code, Subtitle C, Part 620, Subpart D.

20. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers, directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

21. "Person" means any person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

22. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

23. "Raw water" means groundwater extracted by the District's Production Wells prior to any treatment.

24. "Refuse disposal area" means any land used for dumping, storage or disposal of coal refuse which is intended to serve as permanent disposal of such material.

25. "Related to" or "relating to" means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

26. "Relied upon" means being or having been depended upon or referred to in relation to the matter at issue.

27. "State Agency" means any state agency as that term is defined in 30 ILCS 5/1-7.

28. "TDS" means total dissolved solids.

29. "The State" means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other context, "The State" has the same meaning as the word "you" as defined immediately below.

30. "Treatment Facility" means the District's facility located in Shawneetown, Illinois at which water obtained by the operation of the District's production wells is treated prior to its distribution to the District's customers.

31. "WQS" means water quality standard(s).

32. "You" means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and "your" means the possessive of "you."

CONSTRUCTION

1. In construing these requests:

- a. The singular shall include the plural and the plural shall include the singular;
- b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
- c. The terms "and" as well as "or" shall be construed disjunctively or conjunctively as "and/or" or as otherwise necessary in order to bring

within the scope of the Interrogatory all responses which might otherwise be construed to be outside its scope.

2. It is not PCC's intention by these Interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the Interrogatories below should be construed consistent with that intention, even if an Interrogatory by its terms could be construed to seek to elicit such information, so that no objection on that basis is required.

INTERROGATORIES

INTERROGATORY NO. 1: State the full name, occupation, title and business address of the person or persons providing information in response to these interrogatories, including all individuals responding on behalf of any person who is not an individual, and indicate which person or person answered each interrogatory.

RESPONSE:

INTERROGATORY NO. 2: State with specificity all possible adverse health effects caused by the ingestion of drinking water containing sulfates, and for each such possible adverse health effect stated, further state the concentrations of sulfates in drinking water at which the possible adverse health effect may occur, and identify each document and other source of information upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 3: State with specificity all possible adverse health effects caused by the ingestion of drinking water containing chlorides, and for each such possible adverse health effect stated, further state the concentrations of chlorides in drinking water at which the possible adverse health effect may occur, and identify each document and other source of information upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 4: State with specificity all possible adverse health effects caused by the ingestion of drinking water containing TDS, and for each such possible adverse health effect stated, further state the concentrations of TDS in drinking water at which the possible adverse health effect may occur, and identify each document and other source of information upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 5: State with specificity all possible adverse health effects caused by the ingestion of drinking water containing iron, and for each such possible adverse health effect stated, further state the concentrations of iron in drinking water at which the possible adverse health effect may occur, and identify each document and other source of information upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 6: State with specificity all possible adverse health effects caused by the ingestion of drinking water containing manganese, and for each such possible adverse health effect stated, further state the concentrations of manganese in drinking water at which the possible adverse health effect may occur, and identify each document and other source of information upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 7: Identify all publications issued by a State Agency and all other documents either created by or otherwise in the possession of a State Agency that contain summaries of water quality data pertaining to groundwater that constitutes a public water supply source in Illinois.

RESPONSE:

INTERROGATORY NO. 8: Identify all other publications issued by a State Agency and all other documents either created by or in the possession of a State Agency that contain summaries of Illinois groundwater quality data.

RESPONSE:

INTERROGATORY NO. 9: Has the State made any effort to determine the direction and/or rate of groundwater flow near the Mine? If so, state each determination, identify each person involved in the process of each such determination being made, and state the bases for

each such determination. Identify the owner, location, and date of installation of each well formerly or currently in existence near the Mine. For each such well, state the purpose of the well and state all water quality data obtained by analyses of samples of groundwater obtained from the well.

RESPONSE:

INTERROGATORY NO. 10: State the background level of sulfates in groundwater near and upgradient from the Mine near the Mine and state with specificity the basis for your answer.

RESPONSE:

INTERROGATORY NO. 11: State the background level of chlorides in groundwater near and upgradient from the Mine near the Mine and state with specificity the basis for your answer.

RESPONSE:

INTERROGATORY NO. 12: State the background level of TDS in groundwater near and upgradient from the Mine near the Mine and state with specificity the basis for your answer.

RESPONSE:

INTERROGATORY NO. 13: State the background level of iron in groundwater near and upgradient from the Mine near the Mine and state with specificity the basis for your answer.

RESPONSE:

INTERROGATORY NO. 14: State the background level of manganese in groundwater from the Mine near and upgradient from the Mine near the Mine and state with specificity the basis for your answer.

RESPONSE:

INTERROGATORY NO. 15: What are the uses and potential uses of groundwater located at and near the Mine?

RESPONSE:

INTERROGATORY NO. 16: For each use and potential use of the groundwater located at and near the Mine identified in your answer to Interrogatory 15, state whether that use has been precluded, adversely affected, or threatened to be adversely affected by sulfates generated within a coal mining refuse disposal area at the Mine. If your answer to the this Interrogatory is affirmative, state specifically all facts upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 17: For each use and potential use of the groundwater located at and near the Mine identified in your answer to Interrogatory 15, state whether that use has been precluded, adversely affected, or threatened to be adversely affected by chlorides generated within a coal mining refuse disposal area at the Mine. If your answer to the this Interrogatory is affirmative, state specifically all facts upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 18: For each use and potential use of the groundwater located at and near the Mine identified in your answer to Interrogatory 15, state whether that use has been precluded, adversely affected, or threatened to be adversely affected by TDS generated within a coal mining refuse disposal area at the Mine. If your answer to the this Interrogatory is affirmative, state specifically all facts upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 19: For each use and potential use of the groundwater located at and near the Mine identified in your answer to Interrogatory 15, state whether that use has been precluded, adversely affected, or threatened to be adversely affected by iron generated within a coal mining refuse disposal area at the Mine. If your answer to the this Interrogatory is affirmative, state specifically all facts upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 20: For each use and potential use of the groundwater located at and near the Mine identified in your answer to Interrogatory 15, state whether that use has been precluded, adversely affected, or threatened to be adversely affected by manganese generated within a coal mining refuse disposal area at the Mine. If your answer to the this Interrogatory is affirmative, state specifically all facts upon which your answer is based.

RESPONSE:

INTERROGATORY NO. 21: Has IDNR carried out any study pursuant to Section 8(d) of the GPA? If so, describe each such study in detail, including the purpose of the study, the nature of the study, the results of the study, and the time period during which the study was carried out; and identify each publication that contains information regarding the study.

RESPONSE:

INTERROGATORY NO. 22: Identify each document that contains information regarding the possible adverse health effects of sulfates relied upon by the Board in connection with its promulgation of the Part 620 Standards.

RESPONSE:

INTERROGATORY NO. 23: Identify each other document that contains information regarding the possible adverse health effects of sulfates relied upon by the Board in connection with its promulgation of the Part 620 Standards.

RESPONSE:

INTERROGATORY NO. 24: Identify each document that contains information regarding the possible adverse health effects of chlorides considered by the Board in connection with its promulgation of the Part 620 Standards.

RESPONSE:

INTERROGATORY NO. 25: Identify each document that contains information regarding the possible adverse health effects of chlorides relied upon by the Board in connection with its promulgation of the Part 620 Standards.

RESPONSE:

INTERROGATORY NO. 26: Identify each document that contains information regarding the possible adverse health effects of TDS considered by the Board in connection with its promulgation of the Part 620 Standards.

RESPONSE:

INTERROGATORY NO. 27: Identify each document that contains information regarding the possible adverse health effects of TDS considered by the Board in connection with its promulgation of the Part 620 Standards.

RESPONSE:

INTERROGATORY NO. 28: Identify each document relied upon by the Board in evaluating the technical feasibility and economic reasonableness of coal mine operators complying with the Part 620 Standards in light of existing physical conditions at and near existing coal mine refuse disposal areas.

RESPONSE:

INTERROGATORY NO. 29: Did an economic technical advisory committee make any comments on any document identified in your answer to the preceding Interrogatory? If so, identify each person who was a member of each such committee, describe all such comments, and identify each publication that contains information regarding the activities of each such committee and/or any comments made by any such committee with respect to any such study.

RESPONSE:

INTERROGATORY NO. 30: Has the District at any time treated raw water obtained from its production wells by any method that results in an increased concentration of sulfates in


the District's finished water as compared to that existing in the pre-treated raw water? If so, describe each such method and state when each such method was employed by the District and describe any action taken by the State to monitor, prohibit, or limit the District's treatment method in this regard.

RESPONSE:

Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Fourth Set Of Interrogatories To The State** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**PEABODY'S FIFTH SET OF REQUESTS TO THE STATE
FOR THE PRODUCTION OF DOCUMENTS**

Respondent, Peabody Coal Company ("PCC"), through its undersigned attorneys, hereby submits to Complainant, People of the State of Illinois ("State"), PCC's fifth set of requests for the production of documents.

INSTRUCTIONS

1. Except to the extent stated otherwise in a specific request below, produce all documents described by a specific request created on or after January 1, 1960.
2. Documents are to be produced for purposes of inspection and copying within 28 days of service of these requests at the offices of Stephen F. Hedinger, 2601 South Fifth Street, Springfield, Illinois.
3. Produce all original responsive documents, as well as nonconforming copies and any copies with markings or other matter not appearing on the face of the original, including blind copies for persons other than the recipient shown on the document.

4. Produce all requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request, and all retrievable information in computer storage is to be produced in both electronic and printed form.

5. For any responsive document that previously was in your possession, custody, or control but is no longer in your possession or custody or subject to your control, or which was known to you but is no longer in existence, state what disposition was made of such document or what became of it.

6. Any objections to the request for production, full or partial, under claim of privilege of any kind whatsoever are to be made in compliance with Illinois Supreme Court Rule 201(n) by fully stating the nature of the claim of privilege, stating all facts relied upon in support of the claim of privilege, identifying with specificity all documents related to the claim of privilege along with a complete description of the contents of the withheld documents, identify all persons having knowledge of any facts related to the claim of privilege, and provide an Affidavit attesting under oath to the factual assertions made in the claim of privilege.

7. For any responsive document that is withheld from production based on a claim of privilege, set forth the following information in a privilege log:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;

- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. Furnish at the time and place stated above an Affidavit stating under oath that the production is complete in accordance with the request, or if incomplete, in what manner it is incomplete.

9. Seasonably supplement any response to the extent any responsive documents, objects or tangible things subsequently come into your possession or control or become known to you.

10. It is not PCC's intention by these production requests to seek documents that have previously been provided by the State in its responses to production requests previously directed to it by PCC. Therefore, all of the production requests below should be construed as consistent with that intention, even if a production request by its terms could be construed to seek such documents, so that no objection on those grounds is necessary. However, if you contend that any document sought by any production request below has been previously provided to PCC in response to a production request previously directed to the State, identify the production request response by which that document was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Background levels" has the same meaning as that term and the term "background water quality" have in the March 10, 1997 letter from William E. Buscher of IEPA to Scott McGarvie of PCC, the December 5, 1997 letter from Stephen C. Ewart of IEPA to David R. Joest of PCC, and Mr. Ewart's April 28, 1998 letter to Mr. Joest.

2. "Board" means the Illinois Pollution Control Board.

3. "Coal mining" or "Mining of coal" means the excavation and extraction of natural underground coal deposits by the use of any mechanical operation.

4. "Coal mining refuse" means gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded which is connected with the cleaning and preparation of mined materials at a preparation plant or washery.

5. "District" means the Saline Valley Conservancy District.

6. "District's Production Wells" means those wells designated by the District as Well No. 1, Well No. 2, Well No. 3, Well No. 4, Well No. 5, and Well No. 6, located in Gallatin County, Illinois by which the District extracts or formerly extracted groundwater which is processed at its treatment facility for distribution to its customers.

7. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control

of the State. The term “document” means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

8. “Finished water” means water distributed to a public water supply operator’s customer.

9. “GPA” means the Illinois Groundwater Protection Act, 415 ILCS 55/1 et seq.

10. “Groundwater” means any groundwater as that term is defined in 415 ILCS 55/3(g).

11. “Henry Formation Aquifer” means the groundwater aquifer located in Saline County, Illinois that in part consists of geological formations and groundwater at and near the Mine and at and near the District’s Production Wells.

12. “Identification” or “identify” means:

- a. As to an individual, stating his or her:
 - i. Full and customarily used name or names;
 - ii. Present business or residential address; and

- iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.
- b. As to any “person” other than an individual, stating:
 - i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.
- c. As to a document, stating:
 - i. the date of its creation;
 - ii. its author or signatory;
 - iii. its addressee and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);
 - v. the identity and business or home address of the custodian; and
 - vi. the present location of the document.

13. “IDNR” means the Illinois Department of Natural Resources and/or its predecessor agency.

14. “IEPA” means the Illinois Environmental Protection Agency and/or its predecessor agency.

15. “Interrogatories” means Peabody’s Fourth Set Of Interrogatories To Complainant, served herewith.

16. “In the possession of” means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

17. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

18. "Near the Mine" means two miles or less in distance from any property boundary of the Mine.

19. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

20. "Part 620 Standards" means the WQS established by 35 Ill. Adm. Code, Subtitle C, Part 620, Subpart D.

21. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers, directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

22. "Person" means any person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

24. "Raw water" means groundwater extracted by the District's Production Wells prior to any treatment.

25. "Refuse disposal area" means any land used for dumping, storage or disposal of coal refuse which is intended to serve as permanent disposal of such material.

26. "Related to" or "relating to" means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

27. "Relied upon" means being or having been depended upon or referred to in relation to the matter at issue.

28. "State Agency" means any state agency as that term is defined in 30 ILCS 5/1-7.

29. "TDS" means total dissolved solids.

30. "The State" means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other contexts, "The State" has the same meaning as the word "you" as defined immediately below.

31. "WQS" means water quality standard(s).

32. "You" means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and "your" means the possessive of "you."

CONSTRUCTION

1. In construing these requests:

- a. The singular shall include the plural and the plural shall include the singular;
- b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
- c. The terms "and" as well as "or" shall be construed disjunctively or conjunctively as "and/or" or as otherwise necessary in order to bring

within the scope of the request all responses which might otherwise be construed to be outside its scope.

2. It is not PCC's intention by these production requests to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the production requests below should be construed consistent with that intention, even if a production request by its terms could be construed to seek to elicit such information, so that no objection on that basis is required. However, if you contend that any document you possess that is substantively responsive to these production requests is privileged, then prepare a privilege log in accordance with Instruction 6 above.

REQUESTS FOR PRODUCTION OF DOCUMENTS

PCC requests the State to produce the following documents:

REQUEST NO. 1: All documents not previously produced which you have identified in response to the Interrogatories.

REQUEST NO. 2: All documents not previously produced which you consulted in preparing your response to the Interrogatories.

REQUEST NO. 3: All documents relating to oral or written communications with the District regarding the quality of the water obtained from the District's Production Wells at any time.

REQUEST NO. 4: All documents relating to oral or written communications with consultants regarding the presence of chlorides in the groundwater at the Henry Formation Aquifer and/or the significance of the presence of that substance at any time.

REQUEST NO. 5: All documents relating to oral or written communications with consultants regarding the presence of sulfides in the groundwater at the Henry Formation Aquifer and/or the significance of the presence of that substance at any time.

REQUEST NO. 6: All documents relating to oral or written communications with consultants regarding the presence of TDS in the groundwater at the Henry Formation Aquifer and/or the significance of the presence of that substance at any time.

REQUEST NO. 7: All documents relating to oral or written communications with consultants regarding the presence of iron in the groundwater at the Henry Formation Aquifer and/or the significance of the presence of that substance at any time.

REQUEST NO. 8: All documents relating to oral or written communications with consultants regarding the presence of manganese in the groundwater at the Henry Formation Aquifer and/or the significance of the presence of that substance at any time.

REQUEST NO. 9: All documents relating to any study carried out by IDNR pursuant to Section 8(d) of the GPA.

REQUEST NO. 10: All comments by the economic technical advisory committee relating to any study conducted by IDNR pursuant to Section 8(d) of the GPA.

REQUEST NO. 11: All documents published by any State Agency that contain summaries of water quality data pertaining to groundwater utilized in a public water supply source in Illinois.

REQUEST NO. 12: All other water documents published by any State Agency that contain summaries of Illinois groundwater quality data.

REQUEST NO. 13: All documents containing information regarding groundwater flow at and near the Mine, including the area near the District's Production Wells.

REQUEST NO. 14: All documents that address the issue of actual or possible adverse health effects caused by the ingestion of drinking water containing chlorides.

REQUEST NO. 15: All documents that address the issue of actual or possible adverse health effects caused by the ingestion of drinking water containing sulfates.

REQUEST NO. 16: All documents that address the issue of actual or possible adverse health effects caused by the ingestion of drinking water containing TDS.

REQUEST NO. 17: All documents that address the issue of actual or possible adverse health effects caused by the ingestion of drinking water containing iron.

REQUEST NO. 18: All documents that address the issue of actual or possible adverse health effects caused by the ingestion of drinking water containing manganese.

REQUEST NO. 19: All documents that evidence the quality of groundwater extracted from the Henry Formation Aquifer by the District's Production Wells at any time.

REQUEST NO. 20: All documents consisting of or containing information regarding communication between the District and IEPA regarding the quality of finished water provided by the District to its customers.

REQUEST NO. 21: All documents containing information regarding the concentration of sulfates in the District's Production Wells.

REQUEST NO. 22: All documents containing information regarding the concentration of chlorides in the District's Production Wells.

REQUEST NO. 23: All documents containing information regarding the concentration of TDS in the District's Production Wells.

REQUEST NO. 24: All documents containing information regarding the concentration of iron in the District's Production Wells.

REQUEST NO. 25: All documents containing information regarding the concentration of manganese in the District's Production Wells.

REQUEST NO. 26: All documents containing information regarding the concentration of sulfates in the District's finished water.

REQUEST NO. 27: All documents containing information regarding the concentration of chlorides in the District's finished water.

REQUEST NO. 28: All documents containing information regarding the concentration of TDS in the District's finished water.

REQUEST NO. 29: All documents containing information regarding the concentration of iron in the District's finished water.

REQUEST NO. 30: All documents containing information regarding the concentration of manganese in the District's finished water.

REQUEST NO. 31: All documents containing information regarding the District's treatment of raw water by methods that result in increased concentrations of sulfates in the District's finished water as compared to that existing in the pre-treated raw water.

REQUEST NO. 32: All documents that contain information regarding background levels of sulfates in groundwater in the Henry Formation Aquifer upgradient of the Mine.

REQUEST NO. 33: All documents that contain information regarding background levels of chlorides in groundwater in the Henry Formation Aquifer upgradient of the Mine.

REQUEST NO. 34: All documents that contain information regarding background levels of TDS in groundwater in the Henry Formation Aquifer upgradient of the Mine.

REQUEST NO. 35: All documents that contain information regarding background levels of iron in groundwater in the Henry Formation Aquifer upgradient of the Mine.

REQUEST NO. 36: All documents that contain information regarding background levels of manganese in groundwater in the Henry Formation Aquifer upgradient of the Mine.

REQUEST NO. 37: All documents containing evidence regarding the source(s) of any concentrations of sulfates higher than background levels at or near the Mine.

REQUEST NO. 38: All documents containing evidence regarding the source(s) of any concentrations of chlorides higher than background levels at or near the Mine.

REQUEST NO. 39: All documents containing evidence regarding the source(s) of any concentrations of TDS higher than background levels at or near the Mine.

REQUEST NO. 40: All documents containing evidence regarding the source(s) of any concentrations of iron higher than background levels at or near the Mine.

REQUEST NO. 41: All documents containing evidence regarding the source(s) of any concentrations of manganese higher than background levels at or near the Mine.

REQUEST NO. 42: All documents that contain information regarding the physical mechanisms by which sulfates originated at a source near the Mine have come to be present at some location other than the source near the Mine.

REQUEST NO. 43: All documents that contain information regarding the physical mechanisms by which chlorides originated at a source near the Mine have come to be present at some location other than the source near the Mine.

REQUEST NO. 44: All documents that contain information regarding the physical mechanisms by which TDS originated at a source near the Mine have come to be present at some location other than the source near the Mine.

REQUEST NO. 45: All documents that contain information regarding the physical mechanisms by which iron originated at a source near the Mine have come to be present at some location other than the source near the Mine.

REQUEST NO. 46: All documents that contain information regarding the physical mechanisms by which manganese originated at a source near the Mine have come to be present at some location other than the source near the Mine.

REQUEST NO. 47: All documents that contain information regarding actual and potential uses of groundwater in the Henry Formation Aquifer near the Mine.

REQUEST NO. 48: All documents containing information regarding the possible adverse health effects of sulfates relied upon by the Board in connection with its promulgation of the Part 620 Standards.

REQUEST NO. 49: All documents containing information regarding the possible adverse health effects of chlorides relied upon by the Board in connection with its promulgation of the Part 620 Standards.

REQUEST NO. 50: All documents containing information regarding the possible adverse health effects of TDS relied upon by the Board in connection with its promulgation of the Part 620 Standards.

REQUEST NO. 51: All documents containing information regarding the possible adverse health effects of iron relied upon by the Board in connection with its promulgation of the Part 620 Standards.

REQUEST NO. 52: All documents containing information regarding the possible adverse health effects of manganese relied upon by the Board in connection with its promulgation of the Part 620 Standards.

REQUEST NO. 53: All other documents considered by the Board in evaluating the possible health effects of each of the chemicals of concern in connection with its promulgation of the Part 620 Standards.

REQUEST NO. 54: All documents relied upon by the Board in evaluating the technical feasibility and economic reasonableness of coal mine operators complying with Part 620 Standards in light of existing physical conditions at and near existing coal mining refuse disposal areas.

REQUEST NO. 55: All other documents considered by the Board in evaluating the technical feasibility and economic reasonableness of coal mine operators complying with Part 620 Standards in light of existing physical conditions at and near existing coal mining refuse disposal areas.

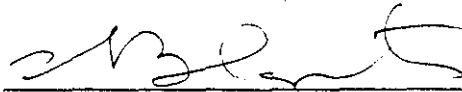
REQUEST NO. 56: All documents containing information regarding the uses and potential uses of groundwater located at and near the Mine. All documents that contain information relating to whether a use or potential use of the groundwater located at and/or near the Mine has been secluded, adversely affected, or threatened to be adversely affected by a chemical of concern generated within a coal mining refuse disposal area at the Mine.

REQUEST NO. 57: All studies carried out by IDNR pursuant to Section 8(d) of the GPA.

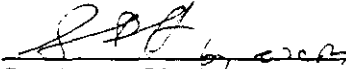
Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Fifth Set Of Requests To The State For The Production Of Documents** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PEABODY'S FIFTH SET OF INTERROGATORIES TO THE STATE

Respondent, Peabody Coal Company, through its undersigned attorneys, hereby directs the following interrogatories to Complainant, People of the State of Illinois, to be answered within twenty-eight (28) days of the receipt hereof.

INSTRUCTIONS

1. Unless stated otherwise, provide the information sought by each Interrogatory with respect to the time period January 1, 1965 to present.
2. If your answers to these Interrogatories are supported by (or if an Interrogatory inquires as to the existence of) a record of any type, e.g., documents, photographs, notes, memos, statements, investigative journals, complaints, test results, etc., please attach a copy of the same to your answers identifying which answer each record supports.
3. These Interrogatories shall be deemed continuing so as to require supplemental answers if you obtain further or supplemental information between the time answers to the within Interrogatories are served and the time of hearing. If for any reason you are unable to

answer any Interrogatory in full, such Interrogatory should be answered to the extent possible and the reason for the inability to answer in full should be clearly stated.

4. Verification under oath of all interrogatory responses is required.

5. With respect to information which is withheld or not disclosed as requested pursuant to these interrogatories due to a claim of privilege of non-disclosure, a statement shall be provided by counsel setting forth as to each such withholding or non-disclosure:

- a. a brief description of the nature and subject matter of and the reason for withholding or non-disclosure of the information;
- b. the statute, rule, decision or other basis which is claimed to give rise to the privilege or any other justification for the non-disclosure or withholding of the requested information.

6. If you exercise your option under Illinois Supreme Court Rule 213(e) to produce certain of your business records as your "answer" to an interrogatory set forth below, documents submitted in response to that request should be produced as they are kept in the usual course of your business or organized and labeled according to the individual categories of the interrogatory to which the documents respond. If you choose the latter method, (i) within each group, the documents should be arranged, to the extent possible, in chronological order, and (ii) if any document is responsive to more than one category, you may provide a single copy indicating the categories to which it is responsive, in lieu of providing multiple copies.

7. It is not PCC's intention by these interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no

objection on those grounds is necessary. However, if you contend that any documents you possess that contain information responsive to these interrogatories as a matter of substance are privileged, then prepare a privilege log containing the following information:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;
- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. It is not PCC's intention by these interrogatories to seek information that has previously been provided by the State in its responses to interrogatories previously directed to it by PCC. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no objection on those grounds is necessary. However, if you contend that any information sought by any interrogatory below has been previously provided to PCC in

response to an interrogatory previously directed to the State, identify the interrogatory response by which that information was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Act" means the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (1998).
2. "Board" means the Illinois Pollution Control Board.
3. "Another Mine" means a coal mine in Illinois other than the Mine.
4. "Another Operator" means an operator of a coal mine in Illinois other than PCC.
5. "Chapter 3" means Chapter 3: Water Pollution Control Rules and Regulations of the Illinois Pollution Control Board, both as originally promulgated on March 7, 1972, and as amended from time to time thereafter through June 21, 1982.
6. "Coal mining" or "Mining of coal" means the excavation and extraction of natural underground coal deposits by the use of any mechanical operation.
7. "Coal mining refuse" means gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded which is connected with the cleaning and preparation of mined materials at a preparation plant or washery.
8. "Complaint" means the Third Amended Complaint, filed by the State on or about October 24, 2002.
9. "Corrective Action Plan" means any corrective action plan or process proposed to or considered by IEPA pursuant to 35 Ill. Adm. Code § 620.250.

10. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term "document" means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

11. "Enforcement Action" means any process initiated either by IEPA or the Attorney General against any person in which that person was alleged to have violated any provision of the Act or the GPA and in which IEPA or the Attorney General at any time sought the imposition against that person of some sanction authorized by the Act or the GPA.

12. "GMZ" means any groundwater management zone as that term is used in 35 Ill. Adm. Code § 620.250 and/or defined in 35 Ill. Adm. Code § 740.120.

13. "Groundwater" means any groundwater as that term is defined in 415 ILCS 55/3(g).

14. "Identification" or "identify" means:

- a. As to an individual, stating his or her:
 - i. Full and customarily used name or names;
 - ii. Present business or residential address; and
 - iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.
- b. As to any "person" other than an individual, stating:
 - i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.
- c. As to a document, stating:
 - i. the date of its creation;
 - ii. its author or signatory;
 - iii. its addressee and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);
 - v. the identity and business or home address of the custodian; and
 - vi. the present location of the document.

15. "IDNR" means the Illinois Department of Natural Resources and/or its predecessor agency.

16. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

17. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

18. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

19. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

20. "Part 302 Standards" means the WQS established by 35 Ill. Adm. Code, Subtitle C, Part 302, Subpart B.

21. "Part 620 Standards" means the WQS established by 35 Ill. Adm. Code, Subtitle C, Part 620, Subpart D.

22. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers, directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

23. "Person" means any person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

24. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

25. "Refuse disposal area" means any land used for dumping, storage or disposal of coal refuse which is intended to serve as permanent disposal of such material.

26. "Related to" or "relating to" means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

27. "Relied upon" means being or having been depended upon or referred to in relation to the matter at issue.

28. "Remedial Action Plan" means any Remedial Action Plan within the meaning of that term as used in 35 Ill. Adm. Code § 740.450.

29. "Rule 203(f)" means Rule 203(f) of Chapter 3.

30. "Rule 204(b)" means Rule 204(b) of Chapter 3.

31. "State Agency" means any state agency as that term is defined in 30 ILCS 5/1-7.

32. "TDS" means total dissolved solids.

33. "The State" means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other context, "The State" has the same meaning as the word "you" as defined immediately below.

34. "WQS" means water quality standard(s).

35. "You" means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and "your" means the possessive of "you."

CONSTRUCTION

1. In construing these requests:

- a. The singular shall include the plural and the plural shall include the singular;
- b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
- c. The terms "and" as well as "or" shall be construed disjunctively or conjunctively as "and/or" or as otherwise necessary in order to bring within the scope of the Interrogatory all responses which might otherwise be construed to be outside its scope.

2. It is not PCC's intention by these Interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the Interrogatories below should be construed consistent with that intention, even if an Interrogatory by its terms could be construed to seek to elicit such information, so that no objection on that basis is required.

INTERROGATORIES

INTERROGATORY NO. 1: State the full name, occupation, title and business address of the person or persons providing information in response to these interrogatories, including all individuals responding on behalf of any person who is not an individual, and indicate which person or person answered each interrogatory.

RESPONSE:

INTERROGATORY NO. 2: For each alleged exceedance of a Part 620 Standard allegedly caused by operations conducted at Another Mine, describe the alleged exceedance by providing information comparable to that set forth in the Complaint with respect to the alleged

exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 3: For each alleged exceedance of a Part 620 Standard allegedly caused by operations conducted at a facility other than a coal mine, describe the alleged exceedance by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 4: For each alleged exceedance of a Part 302 Standard allegedly caused by operations conducted at Another Mine, describe the alleged exceedance by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 5: For each alleged exceedance of a Part 302 Standard allegedly caused by operations conducted at a facility other than a coal mine, describe the alleged exceedance by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the

State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 6: For each alleged exceedance of Rule 203(f) or Rule 204(b) Standard allegedly caused by operations conducted at Another Mine, describe the alleged exceedance by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 7: For each alleged exceedance of Rule 203(f) or Rule 204(b) Standard allegedly caused by operations conducted at a facility other than a coal mine, describe the alleged exceedance by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the

exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 8: For each alleged violation of Section 12(a) of the Act allegedly caused by operations conducted at Another Mine, describe the alleged violation by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 9: For each alleged violation of Section 12(a) of the Act allegedly caused by operations conducted at a facility other than a coal mine, describe the alleged violation by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 10: For each alleged violation of Section 12(d) of the Act allegedly caused by operations conducted at Another Mine, describe the alleged violation by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action.

RESPONSE:

INTERROGATORY NO. 11: For each alleged violation of Section 12(d) of the Act allegedly caused by operations conducted at a facility other than a coal mine, describe the alleged violation by providing information comparable to that set forth in the Complaint with respect to the alleged exceedances that are the subject of this proceeding and describe with specificity all Enforcement Action taken by the State with respect to the exceedance, including the nature, terms, and conditions of any final disposition of the Enforcement Action. Specifically, state for each such Enforcement Action whether the alleged violator either agreed to or was ordered to pay a civil penalty and, if so, the amount of such penalty; and for each such Enforcement Action specifically state whether the alleged violator agreed to or was ordered to pay some or all of the State's attorneys' fees incurred in connection with the Enforcement Action and, if so, the amount of such fees to be paid by the violator.

RESPONSE:

INTERROGATORY NO. 12: Identify each GMZ established under 35 Ill. Adm. Code § 620.250 (a) and (b) by stating for each such GMZ the identity of the owner and/or operator of the site at which the GMZ is located, the circumstances that exist at the site on which the establishment of a GMZ was based, the date upon which the State approved the establishment of a GMZ, a description of all information required by the State as a condition of establishing the GMZ, and a description of the GMZ.

RESPONSE:

INTERROGATORY NO. 13: Identify each GMZ established under 35 Ill. Adm. Code § 740.530 by stating for each such GMZ the identity of the owner and/or operator of the site at which the GMZ is located, the circumstances that exist at the site on which the establishment of a GMZ was based, the date upon which the State approved the establishment of a GMZ, a description of all information required by the State as a condition of establishing the GMZ, and a description of the GMZ.

RESPONSE:

INTERROGATORY NO. 14: Has OMM issued any operating permit to Another Operator that authorizes that operator to dispose of coal mining refuse by placing such material on the ground at Another Mine? If so, identify each such other operator and the permit that authorizes such disposal.

RESPONSE:

INTERROGATORY NO. 15: Has OMM issued any operating permit to Another Operator that authorizes that operator to dispose of coal mining refuse by placing such material in excavations beneath the surface of the ground at Another Mine? If so, identify each such other operator and the permit that authorizes such disposal.

RESPONSE:

INTERROGATORY NO. 16: Identify each person alleged by the State to have violated any Part 620 Standard who has proposed a Corrective Action Plan to IEPA; and, for each such proposed remedial action plan, state whether or not plan has been approved by IEPA, state the criteria employed by IEPA in determining whether or not to approve the plan, and describe the plan in detail.

RESPONSE:

INTERROGATORY NO. 17: Identify each person alleged to have proposed a Remedial Action Plan to IEPA pursuant to 35 Ill. Adm. Code § 740.450 that in any way addresses any actual or threatened contamination of groundwater; and, for each such proposed Remedial Action Plan, state whether or not the plan has been approved by IEPA, state the criteria employed by IEPA in determining whether or not to approve the Remedial Action Plan, and describe the plan in detail.

RESPONSE:

INTERROGATORY NO. 18: Identify each document that consists of or contains information regarding communication between any member of the Governor's staff and either IEPA or OMM regarding any actual or potential contamination of the District's production wells either actually or potentially relating in any way to PCC's disposal of coal mining refuse at the Mine.

RESPONSE:

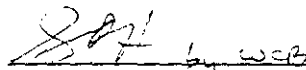
Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Fifth Set Of Interrogatories To The State** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**PEABODY'S SIXTH SET OF REQUESTS TO THE STATE
FOR THE PRODUCTION OF DOCUMENTS**

Respondent, Peabody Coal Company ("PCC"), through its undersigned attorneys, hereby submits to Complainant, People of the State of Illinois ("State"), PCC's sixth set of requests for the production of documents.

INSTRUCTIONS

1. Except to the extent stated otherwise in a specific request below, produce all documents described by a specific request created on or after January 1, 1960.
2. Documents are to be produced for purposes of inspection and copying within 28 days of service of these requests at the offices of Stephen F. Hedinger, 2601 South Fifth Street, Springfield, Illinois.
3. Produce all original responsive documents, as well as nonconforming copies and any copies with markings or other matter not appearing on the face of the original, including blind copies for persons other than the recipient shown on the document.

4. Produce all requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request, and all retrievable information in computer storage is to be produced in both electronic and printed form.

5. For any responsive document that previously was in your possession, custody, or control but is no longer in your possession or custody or subject to your control, or which was known to you but is no longer in existence, state what disposition was made of such document or what became of it.

6. Any objections to the request for production, full or partial, under claim of privilege of any kind whatsoever are to be made in compliance with Illinois Supreme Court Rule 201(n) by fully stating the nature of the claim of privilege, stating all facts relied upon in support of the claim of privilege, identifying with specificity all documents related to the claim of privilege along with a complete description of the contents of the withheld documents, identify all persons having knowledge of any facts related to the claim of privilege, and provide an Affidavit attesting under oath to the factual assertions made in the claim of privilege.

7. For any responsive document that is withheld from production based on a claim of privilege, set forth the following information in a privilege log:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;

- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. Furnish at the time and place stated above an Affidavit stating under oath that the production is complete in accordance with the request, or if incomplete, in what manner it is incomplete.

9. Seasonably supplement any response to the extent any responsive documents, objects or tangible things subsequently come into your possession or control or become known to you.

10. It is not PCC's intention by these production requests to seek documents that have previously been provided by the State in its responses to production requests previously directed to it by PCC. Therefore, all of the production requests below should be construed as consistent with that intention, even if a production request by its terms could be construed to seek such documents, so that no objection on those grounds is necessary. However, if you contend that any document sought by any production request below has been previously provided to PCC in response to a production request previously directed to the State, identify the production request response by which that document was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Act" means the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (1998).
2. "Board" means the Illinois Pollution Control Board.
3. "Another Mine" means a coal mine in Illinois other than the Mine.
4. "Another Operator" means an operator of a coal mine in Illinois other than PCC.
5. "Chapter 3" means Chapter 3: Water Pollution Control Rules and Regulations of the Illinois Pollution Control Board, both as originally promulgated on March 7, 1972, and as amended from time to time thereafter through June 21, 1982.
6. "Coal mining" or "Mining of coal" means the excavation and extraction of natural underground coal deposits by the use of any mechanical operation.
7. "Coal mining refuse" means gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded which is connected with the cleaning and preparation of mined materials at a preparation plant or washery.
8. "Corrective Action Plan" means any corrective action plan or process proposed to or considered by IEPA pursuant to 35 Ill. Adm. Code § 620.250.
9. "District" means the Saline Valley Conservancy District.
10. "District Production Wells" means those wells designated by the District as Well No. 1, Well No. 2, Well No. 3, Well No. 4, Well No. 5, and Well No. 6, located in Gallatin County, Illinois by which the District extracts or formerly extracted groundwater which is processed at its treatment facility for distribution to its customers.

11. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term "document" means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

12. "Enforcement Action" means any process initiated either by IEPA or the Attorney General against any person in which that person was alleged to have violated any provision of the Act or the GPA and in which IEPA or the Attorney General at any time sought the imposition against that person of some sanction authorized by the Act or the GPA.

13. "GMZ" means any groundwater management zone as that term is used in 35 Ill. Adm. Code § 620.250 and/or defined in 35 Ill. Adm. Code § 740.120.

14. "Governor" means the Governor of the State of Illinois.

15. "GPA" means the Illinois Groundwater Protection Act, 415 ILCS 55/1 et seq.
16. "Groundwater" means any groundwater as that term is defined in 415 ILCS 55/3(g).
17. "Identification" or "identify" means:
 - a. As to an individual, stating his or her:
 - i. Full and customarily used name or names;
 - ii. Present business or residential address; and
 - iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.
 - b. As to any "person" other than an individual, stating:
 - i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.
 - c. As to a document, stating:
 - i. the date of its creation;
 - ii. its author or signatory;
 - iii. its addressee and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);
 - v. the identity and business or home address of the custodian; and
 - vi. the present location of the document.
18. "IDNR" means the Illinois Department of Natural Resources and/or its predecessor agency.

19. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

20. "Interrogatories" means Peabody's Fifth Set Of Interrogatories To Complainant, served herewith.

21. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

22. "Liner" means a continuous layer of natural earthen materials or synthetic geomembrane materials beneath or on the sides of a coal mining refuse disposal area that restrict or restricts the downward or lateral escape of the coal mining refuse and its contaminants to the groundwater on-site and off-site of the disposal area.

23. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

24. "Near the Mine" means two miles or less in distance from any property boundary of the Mine.

25. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

26. "Part 302 Standards" means the WQS established by 35 Ill. Adm. Code, Subtitle C, Part 302, Subpart B.

27. "Part 620 Standards" means the WQS established by 35 Ill. Adm. Code, Subtitle C, Part 620, Subpart D.

28. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers, directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

29. "Person" means any person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

30. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

31. "Refuse disposal area" means any land used for dumping, storage or disposal of coal refuse which is intended to serve as permanent disposal of such material.

32. "Related to" or "relating to" means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

33. "Relied upon" means being or having been depended upon or referred to in relation to the matter at issue.

34. "Remedial Action Plan" means any Remedial Action Plan within the meaning of that term as used in 35 Ill. Adm. Code § 740.450.

35. "Rule 203(f)" means Rule 203(f) of Chapter 3.

36. "Rule 204(b)" means Rule 204(b) of Chapter 3.

37. "State Agency" means any state agency as that term is defined in 30 ILCS 5/1-7.

38. "TDS" means total dissolved solids.

39. "The State" means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other contexts, "The State" has the same meaning as the word "you" as defined immediately below.

40. "WQS" means water quality standard(s).

41. "You" means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and "your" means the possessive of "you."

CONSTRUCTION

1. In construing these requests:

- a. The singular shall include the plural and the plural shall include the singular;
- b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
- c. The terms "and" as well as "or" shall be construed disjunctively or conjunctively as "and/or" or as otherwise necessary in order to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

2. It is not PCC's intention by these production requests to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the production requests below should be construed consistent with that intention, even if a production request by its terms could be construed to seek to elicit such information, so that no objection on that basis is required. However, if you contend that any document you possess that

is substantively responsive to these production requests is privileged, then prepare a privilege log in accordance with Instruction 6 above.

REQUESTS FOR PRODUCTION OF DOCUMENTS

PCC requests the State to produce the following documents:

REQUEST NO. 1: All documents not previously produced which you have identified in response to the Interrogatories.

REQUEST NO. 2: All documents not previously produced which you consulted in preparing your response to the Interrogatories.

REQUEST NO. 3: All documents relating to permits issued by a State Agency to Another Operator authorizing the disposition of coal mining refuse by placing such material on the ground at Another Mine.

REQUEST NO. 4: All documents relating to permits issued by a State Agency to Another Operator authorizing the disposition of coal mining refuse by placing such material in excavations beneath the surface of the ground at Another Mine.

REQUEST NO. 5: All operating permits, permit applications, correspondence, and other documents relating to OMM requiring Another Operator to construct or install a liner, either synthetic or constructed of natural materials, for a coal mining refuse disposal area at Another Mine as a term and/or condition of approval of disposal of coal mining refuse in that area.

REQUEST NO. 6: All documents relating to an alleged exceedance of a Part 620 Standard allegedly caused by operations conducted at facilities other than the Mine, including all documents that evidence any action taken by the State after learning of such alleged exceedances.

REQUEST NO. 7: All documents relating to an alleged exceedance of a Part 620 Standard allegedly caused by operations conducted at facilities other than coal mines, including

all documents that evidence any action taken by the State after learning of such alleged exceedances.

REQUEST NO. 8: All other documents relating to each enforcement action taken since January 1, 1990 against a person based upon an allegation by the State of an exceedance of a Part 620 Standard.

REQUEST NO. 9: All documents relating to each enforcement action taken since January 1, 1990 against a person based upon an allegation by the State of an exceedance of a Part 302 Standard applicable to groundwater.

REQUEST NO. 10: All documents relating to each enforcement action taken since January 1, 1990 against a person based upon an allegation by the State of an exceedance of Rule 203(f) or Rule 204(b).

REQUEST NO. 11: All other documents relating to determinations by the State that a person has violated Section 12(a) of the Act.

REQUEST NO. 12: All documents relating to determinations by the State that a person has violated Section 12(d) of the Act.

REQUEST NO. 13: All other documents relating to enforcement actions initiated by the State based upon allegations of violations of either surface or groundwater WQS.

REQUEST NO. 14: All documents relating to a proposed Corrective Action Plan, whether or not approved by IEPA.

REQUEST NO. 15: All documents relating to a proposed Remedial Action Plan pursuant to 35 Ill. Adm. Code § 740.450 that addresses actual or threatened contamination of groundwater, whether or not approved by IEPA.

REQUEST NO. 16: All documents relating to the establishment of a GMZ under 35 Ill. Adm. Code § 620.250(a) and (b).

REQUEST NO. 17: All documents relating to the establishment of a GMZ under 35 Ill. Adm. Code § 740.530.

REQUEST NO. 18: All documents that contain information regarding the amount of monetary penalties assessed against each person finally adjudicated of having committed a violation of Section 12(a) of the Act.

REQUEST NO. 19: All documents that contain information regarding the amount of monetary penalties assessed against each person finally adjudicated of having committed a violation of Section 12(d) of the Act.

REQUEST NO. 20: All documents that contain information regarding the amount of monetary penalties assessed against each person finally adjudicated of having committed a violation of a Part 620 Standard.

REQUEST NO. 21: All documents that contain information regarding the amount of monetary penalties assessed against each person finally adjudicated of having committed violations of a Part 302 Standard applicable to groundwater.

REQUEST NO. 22: All documents that contain information regarding the amount of monetary penalties assessed against each person finally adjudicated of having committed violations of either Rule 203(f) or Rule 204(b).

REQUEST NO. 23: All documents that contain information regarding the amount of monetary penalties assessed against each other person alleged by the State to have committed violations of a Part 620 Standard applicable to groundwater.

REQUEST NO. 24: All documents that contain information regarding the amount of monetary penalties assessed against each other person alleged by the State to have committed violations of a Part 302 Standard applicable to groundwater.

REQUEST NO. 25: All documents that contain information regarding the amount of monetary penalties assessed against each other person alleged by the State to have committed violations of either Rule 203(f) or Rule 204(b).

REQUEST NO. 26: All documents that consist of or contain information regarding communication between any member of the Governor's staff and either IEPA or OMM regarding any actual or potential contamination of the District's Production Wells either actually or potentially relating in any way to PCC's disposal of coal mining refuse at the Mine.

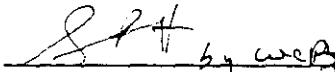
Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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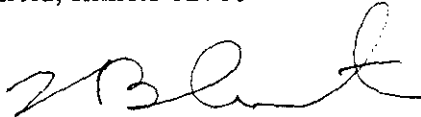


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Sixth Set Of Requests To The State For The Production Of Documents** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PEABODY'S SIXTH SET OF INTERROGATORIES TO THE STATE

Respondent, Peabody Coal Company, through its undersigned attorneys, hereby directs the following interrogatories to Complainant, People of the State of Illinois, to be answered within twenty-eight (28) days of the receipt hereof.

INSTRUCTIONS

1. Unless stated otherwise, provide the information sought by each Interrogatory with respect to the time period January 1, 1965 to present.
2. If your answers to these Interrogatories are supported by (or if an Interrogatory inquires as to the existence of) a record of any type, e.g., documents, photographs, notes, memos, statements, investigative journals, complaints, test results, etc., please attach a copy of the same to your answers identifying which answer each record supports.
3. These Interrogatories shall be deemed continuing so as to require supplemental answers if you obtain further or supplemental information between the time answers to the within Interrogatories are served and the time of hearing. If for any reason you are unable to

answer any Interrogatory in full, such Interrogatory should be answered to the extent possible and the reason for the inability to answer in full should be clearly stated.

4. Verification under oath of all interrogatory responses is required.

5. With respect to information which is withheld or not disclosed as requested pursuant to these interrogatories due to a claim of privilege of non-disclosure, a statement shall be provided by counsel setting forth as to each such withholding or non-disclosure:

- a. a brief description of the nature and subject matter of and the reason for withholding or non-disclosure of the information;
- b. the statute, rule, decision or other basis which is claimed to give rise to the privilege or any other justification for the non-disclosure or withholding of the requested information.

6. If you exercise your option under Illinois Supreme Court Rule 213(e) to produce certain of your business records as your "answer" to an interrogatory set forth below, documents submitted in response to that request should be produced as they are kept in the usual course of your business or organized and labeled according to the individual categories of the interrogatory to which the documents respond. If you choose the latter method, (i) within each group, the documents should be arranged, to the extent possible, in chronological order, and (ii) if any document is responsive to more than one category, you may provide a single copy indicating the categories to which it is responsive, in lieu of providing multiple copies.

7. It is not PCC's intention by these interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no

objection on those grounds is necessary. However, if you contend that any documents you possess that contain information responsive to these interrogatories as a matter of substance are privileged, then prepare a privilege log containing the following information:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;
- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. It is not PCC's intention by these interrogatories to seek information that has previously been provided by the State in its responses to interrogatories previously directed to it by PCC. Therefore, all of the interrogatories below should be construed as consistent with that intention, even if an interrogatory by its terms could be construed to seek to elicit such information, so that no objection on those grounds is necessary. However, if you contend that any information sought by any interrogatory below has been previously provided to PCC in

response to an interrogatory previously directed to the State, identify the interrogatory response by which that information was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Another Mine" means a coal mine in Illinois other than the Mine.
2. "Board" means the Illinois Pollution Control Board.
3. "Another Operator" means an operator of a coal mine in Illinois other than PCC.
4. "Chemical of concern" means chloride, iron, manganese, sulfate, or TDS.
5. "Coal mining" or "Mining of coal" means the excavation and extraction of natural underground coal deposits by the use of any mechanical operation.
6. "Coal mining refuse" means gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded which is connected with the cleaning and preparation of mined materials at a preparation plant or washery.
7. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term "document" means and includes each and every medium upon which information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records,

publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

8. "Enforcement Action" means any process initiated either by IEPA or the Attorney General against any person in which that person was alleged to have violated any provision of the Act or the GPA and in which IEPA or the Attorney General at any time sought the imposition against that person of some sanction authorized by the Act or the GPA.

9. "Groundwater" means any groundwater as that term is defined in 415 ILCS 55/3(g).

10. "Identification" or "identify" means:

- a. As to an individual, stating his or her:
 - i. Full and customarily used name or names;
 - ii. Present business or residential address; and
 - iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.
- b. As to any "person" other than an individual, stating:
 - i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.

- c. As to a document, stating:
 - i. the date of its creation;
 - ii. its author or signatory;
 - iii. its addressee and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);
 - v. the identity and business or home address of the custodian; and
 - vi. the present location of the document.

11. "IDNR" means the Illinois Department of Natural Resources and/or its predecessor agency.

12. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

13. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

14. "Liner" means a continuous layer of natural earthen materials or synthetic *geo-membrane materials beneath or on the sides of a coal mining refuse disposal area that restrict or restricts the downward or lateral escape of the coal mining refuse and its contaminants to the groundwater on-site and off-site of the disposal area.*

15. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

16. "Off-site" means areas near a mine but not on or within the property boundaries of the Mine.

17. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

18. "On-site" means on a mine property or within the property boundaries of a mine.

19. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers, directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

20. "Person" means any person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

21. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

22. "Refuse disposal area" means any land used for dumping, storage or disposal of coal refuse which is intended to serve as permanent disposal of such material.

23. "Related to" or "relating to" means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

24. "Relied upon" means being or having been depended upon or referred to in relation to the matter at issue.

25. "State Agency" means any state agency as that term is defined in 30 ILCS 5/1-7.

26. "TDS" means total dissolved solids.

27. "The State" means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other contexts, "the State" has the same meaning as the word "you" as defined immediately below.

28. "You" means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly acting on behalf of or in concert with them, individually and collectively; and "your" means the possessive of "you."

CONSTRUCTION

1. In construing these requests:

- a. The singular shall include the plural and the plural shall include the singular;
- b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
- c. The terms "and" as well as "or" shall be construed disjunctively or conjunctively as "and/or" or as otherwise necessary in order to bring within the scope of the Interrogatory all responses which might otherwise be construed to be outside its scope.

2. It is not PCC's intention by these Interrogatories to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the Interrogatories below should be construed consistent with that intention, even if an Interrogatory by its terms could be construed to seek to elicit such information, so that no objection on that basis is required.

INTERROGATORIES

INTERROGATORY NO. 1: State the full name, occupation, title and business address of the person or persons providing information in response to these interrogatories, including all individuals responding on behalf of any person who is not an individual, and indicate which person or person answered each interrogatory.

RESPONSE:

INTERROGATORY NO. 2: Has the State made any effort to determine the truthfulness, competency, reliability or accuracy of fact, date, formula, assumption, analysis, oculation, inference, conclusion, expert opinion, prediction or other information set contained within the following documents?

(1) Site Characterization Report and Corrective Action Plan, Peabody Coal Company, Eagle No. 2 Mine Site, Shawneetown, Gallatin County, Illinois. Prepared by GeoSyntec Consultants, 1100 Lake Hearn Drive, Atlanta, GA 30342. Project No. GE3665-08, November 1995.

(2) Eagle No. 2 Mine Sulfates Transport Analyses, Prepared by Jim Rumbaugh/ESI, January 12, 2001.

(3) Geophysical Investigation, Map of the Extent of the Contamination Plume on the Aquifer formed by the Henry Formation, Located at Peabody Coal Company's Eagle #2 Mine, Shawneetown, Gallatin County, Illinois, April 1993. Prepared by GECOH Exploration, 5480 Shanton Drive, Lexington, Kentucky 40509. Prepared for:

Peabody Coal Company, Coal Services Corporation, 1951 Barrett Court, Henderson, Kentucky 42420.

(4) A groundwater computer model used to assess the impact of Peabody's Eagle #2 operation upon the Saline Valley water supply wells (the Random Walk model). Prepared by Peabody Coal or a consultant. Submitted by an attachment to a letter dated March 20, 1985 from Larry S. Reuss of Peabody Coal Company to Allen Oertel of the Illinois Department of Mines and Minerals. Mr. Reuss' letter was in response to Mr. Oertel's letter of July 10, 1984, requesting modifications to the Eagle #2 Permanent Program Application #34.

If your answer is in the affirmative, identify each person who has undertaken any such effort on behalf of the State; describe each such effort; state every such determination made by the State and the bases for each such determination; and identify each document considered, relied upon, or prepared in connection with or relating to each such determination.

RESPONSE:

INTERROGATORY NO. 3: State whether the State disputes the truthfulness, competency, reliability or accuracy of fact, date, formula, assumption, analysis, calculation, inference, conclusion, expert opinion, prediction or other information set contained within the document(s) listed in the immediately preceding Interrogatory.

If your answer is in the affirmative, identify each item disputed, describe the nature of the dispute, and state with particular specificity the facts and/or reasons upon which the dispute is based.

Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response, and please identify all documents in your possession and control that contain information responsive to this interrogatory.

RESPONSE:

INTERROGATORY NO. 4: State whether the State has or knows of any communication or document which amends, revises, supplements, or updates any of the facts, data formulas, assumptions, analyses, calculations, inferences, conclusions, expert opinions, predictions or other information set forth in the document(s) listed in the preceding Interrogatory 2. If your answer is in the affirmative, identify each such document or communication.

RESPONSE:

INTERROGATORY NO. 5: State whether the State disputes the accuracy, competency, reliability or truthfulness of any sample collection, analysis, sample result, calculation, inference, conclusion, expert opinion, prediction, or other information set forth in any of the information provided by PCC to OMM and/or IEPA regarding water quality at or near the Mine.

Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response; and identify all documents in your possession and control that contain information responsive to this interrogatory.

RESPONSE:

INTERROGATORY NO. 6: Has the State conducted any testing, sampling, modeling, data collection of any kind and analysis with regard to the determination of the area of groundwater for which the hydrologic balance has been disturbed by, from or due to the construction, development and operation of each or all activities related to the Mine? If your answer is in the affirmative, provide all information that is available as a result of these efforts. Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response; and identify all documents that contain information responsive to this Interrogatory.

RESPONSE:

INTERROGATORY NO. 7: In the course of its research and analysis of groundwater contamination at the Mine, has the State determined, or done any work toward determining, what would be required to achieve sulfate concentration levels equal to or less than 400 mg/l at the mine property boundaries and in what time frame such levels might be achieved. If so, provide these determinations. Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response; and identify all documents in your possession and control that contain information responsive to this interrogatory.

RESPONSE:

INTERROGATORY NO. 8: For every coal mining refuse disposal area constructed at or proposed for construction at Another Mine as to which OMM authorized such construction by means of an operating permit or permit amendment or revision, state with factual specificity:

- a. all names utilized for the refuse disposal area, its size (number of acres) and its location at the mine;
- b. the date that the refuse disposal area was constructed;
- c. whether OMM recognized the potential for contamination of groundwater from the construction and operation of the refuse disposal area;
- d. whether a pre-design exploration program was carried out at the mine to determine the anticipated infiltration losses from the refuse disposal area into the groundwater beneath the refuse disposal area;
- e. how many different material types were identified within the interior of the refuse disposal area at and below the design elevation of the bottom of the refuse disposal area;
- f. each type of material identified within the interior of the refuse disposal area at and below the design elevation of the bottom of the refuse disposal area;
- g. for each material type identified in your response to subpart (f.) of this Interrogatory within the interior of the refuse disposal area at and below the design elevation of the bottom of the refuse disposal area, how thick the material is and the amount of area the material covers;

- h. whether the hydraulic conductivity was determined for each material type identified within the interior of the refuse disposal area at and below the design elevation of the bottom of the refuse disposal area;
- i. the hydraulic conductivity value determined and identify the method used to determine the value for each material type identified within the interior of the refuse disposal area at and below the design elevation of the bottom of the refuse disposal area;
- j. whether OMM considered the hydraulic conductivity values provided in your response to subpart (i.) of this Interrogatory to be representative of the entire thickness of the material that was present or were other characteristics of the material considered which would increase the soil's hydraulic conductivity (i.e., microfractures in the soil, plant roots, weathering);
- k. within the interior of the refuse disposal area at and below the design elevation of the bottom of the refuse disposal area, how many separate areas for which infiltration rates were determined, how each such area is described, and the infiltration rate determined for each area;
- l. the infiltration rate determined and the method used to determine the value for each area where an infiltration rate noted in your response to subpart (k.) of this Interrogatory was determined;
- m. whether, and if so, where, OMM considered requiring the operator to place a low permeability liner or considered some other means of

- decreasing infiltration through the bottom of the refuse disposal area into the groundwater;
- n. a description of any low permeability liners or other means of decreasing infiltration through the bottom of the refuse disposal area into the groundwater which were considered by OMM, and the actual or estimated cost of such liners or other means of decreasing infiltration;
 - o. the design rate in gallons per day for the water in the refuse disposal area infiltrating into the groundwater;
 - p. the date or dates that IEPA considered or considers that the refuse disposal area was or has been in use for the disposal of coarse coal mine waste, coal refuse and/or slurry, and the date or dates that it was not in use for the disposal. For purposes of this Interrogatory, the term "in use" means, the date or dates that each refuse disposal area received coarse coal mine waste, coal refuse and/or slurry for disposal; and
 - q. the date or dates that the refuse disposal area was or has been in use for carbon recovery.

Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response, and please identify all documents in your possession and control that contain information responsive to this interrogatory.

RESPONSE:

INTERROGATORY NO. 9: Identify each coal mine in Illinois at which a pre-designed exploration program was or is being carried out at the mine to determine the anticipated infiltration losses from a coal mining refuse disposal area into the groundwater beneath that area.

RESPONSE:

INTERROGATORY NO. 10: Identify each coal mine in Illinois at which the operator identified how many different material types exist within the interior of a coal mining refuse disposal area at or below the design elevation of the bottom of that area, the thickness of each such material, the amount of area covered by the material, the hydraulic conductivity for each such material and whether such hydraulic conductivity values are representative of the entire thickness of the material or whether instead other characteristics of the material would increase the soil's hydraulic conductivity.

RESPONSE:

INTERROGATORY NO. 11: Identify each coal mine in Illinois at which OMM has required the operator to install a liner in a coal mining refuse disposal area as a condition of use of that area for that purpose.

RESPONSE:

INTERROGATORY NO. 12: Identify each coal mine in Illinois at which the operator has installed a liner in a coal mining refuse disposal area prior to use of that area for that purpose.

RESPONSE:

INTERROGATORY NO. 13: Describe in detail all measures that have been implemented at coal mines in Illinois other than the Mine to prevent chemicals of concern from being released from the refuse disposal areas at the mine to the surface waters and to the groundwater on-site and off-site of the mine, and the cost of each measure. Describe in detail each feature at each such mine that has been installed that is designed or intended to control the release of inorganic chemical constituents from the refuse disposal areas at the mine to the surface waters and to the groundwater on-site and off-site of the mine and state the date or dates each feature was constructed, installed, or placed into service, and the cost of each such feature. Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response; and identify all documents that contain information responsive to this interrogatory.

RESPONSE:

INTERROGATORY NO. 14: Describe in detail all measures known to OMM or IEPA that Another Operator ever considered or proposed for the purpose of preventing inorganic chemical constituents from the refuse disposal areas at Another Mine from being released to the surface waters and to the groundwater on-site and off-site of the mine but did not implement; and state the cost of each such measure and the reason the measure was not implemented. Describe in detail each feature known to OMM or IEPA that was considered or proposed by Another Operator to control the release of inorganic chemical constituents from the refuse disposal areas at Another Mine to the surface waters and to the groundwater on-site and off-site of the mine but not installed, constructed or implemented, and state the date or dates each such feature was under consideration, and please also indicate the cost of each such feature and the reason each such feature was not installed, constructed or implemented. Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response; and identify all documents that contain information responsive to this interrogatory.

RESPONSE:

INTERROGATORY NO. 15: Have all groundwater quality analyses performed on water samples taken after January 1, 1996, by all operators other than PCC of coal mines located in Illinois or a laboratory responsible for completing the State's water quality analysis, been conducted according to the methodology in "Standard Methods for the Examination of Water and Waste Water" 15th Edition (1980)?


Specifically identify all facts, circumstances, documents, or other evidence on which you rely in support of your response; and identify all documents in your possession and control that contain information responsive to this interrogatory.

RESPONSE:

Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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hedinger@cityscape.net (e-mail)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Sixth Set Of Interrogatories To The State** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



W. C. Blanton
BLACKWELL SANDERS PEPER MARTIN LLP
2300 Main Street, Suite 1000
Kansas City, MO 64108

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**PEABODY'S SEVENTH SET OF REQUESTS TO THE STATE
FOR THE PRODUCTION OF DOCUMENTS**

Respondent, Peabody Coal Company, through its undersigned attorneys, hereby submits to Complainant, People of the State of Illinois, PCC's seventh set of requests for the production of documents.

INSTRUCTIONS

1. Except to the extent stated otherwise in a specific request below, produce all documents described by a specific request created on or after January 1, 1960.
2. Documents are to be produced for purposes of inspection and copying within 28 days of service of these requests at the offices of Stephen F. Hedinger, 2601 South Fifth Street, Springfield, Illinois.
3. Produce all original responsive documents, as well as nonconforming copies and any copies with markings or other matter not appearing on the face of the original, including blind copies for persons other than the recipient shown on the document.

4. Produce all requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request, and all retrievable information in computer storage is to be produced in both electronic and printed form.

5. For any responsive document that previously was in your possession, custody, or control but is no longer in your possession or custody or subject to your control, or which was known to you but is no longer in existence, state what disposition was made of such document or what became of it.

6. Any objections to the request for production, full or partial, under claim of privilege of any kind whatsoever are to be made in compliance with Illinois Supreme Court Rule 201(n) by fully stating the nature of the claim of privilege, stating all facts relied upon in support of the claim of privilege, identifying with specificity all documents related to the claim of privilege along with a complete description of the contents of the withheld documents, identify all persons having knowledge of any facts related to the claim of privilege, and provide an Affidavit attesting under oath to the factual assertions made in the claim of privilege.

7. For any responsive document that is withheld from production based on a claim of privilege, set forth the following information in a privilege log:

- a. the name of the author(s) of the document and the employer of such author(s);
- b. the name of each recipient of the document, including all persons to whom a copy was sent and persons with knowledge of the contents of the document, and each recipient's employer;
- c. the name of each person who participate in the preparation of the document;

- d. the nature or subject matter of the document;
- e. the date on which the document was first created and the date the document bears, if different; and
- f. the specific basis for the privilege claimed with respect to the document, including but not limited to all facts relied upon in support of the claim or privilege, and the identity of all persons having knowledge of any facts related to the claim of privilege.

8. Furnish at the time and place stated above an Affidavit stating under oath that the production is complete in accordance with the request, or if incomplete, in what manner it is incomplete.

9. Seasonably supplement any response to the extent any responsive documents, objects or tangible things subsequently come into your possession or control or become known to you.

10. It is not PCC's intention by these production requests to seek documents that have previously been provided by the State in its responses to production requests previously directed to it by PCC. Therefore, all of the production requests below should be construed as consistent with that intention, even if a production request by its terms could be construed to seek such documents, so that no objection on those grounds is necessary. However, if you contend that any document sought by any production request below has been previously provided to PCC in response to a production request previously directed to the State, identify the production request response by which that document was previously provided to PCC.

DEFINITIONS

As used herein, the words and phrases set out below shall have the meaning or meanings as follows:

1. "Chemical of concern" means chloride, iron, manganese, sulfate, or TDS.
2. "Board" means the Illinois Pollution Control Board.
3. "Coal mining" or "Mining of coal" means the excavation and extraction of natural underground coal deposits by the use of any mechanical operation.
4. "Coal mining refuse" means gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded which is connected with the cleaning and preparation of mined materials at a preparation plant or washery.
5. "Complaint" means the Third Amended Complaint, filed by the State on or about October 24, 2002.
6. "District" means the Saline Valley Conservancy District.
7. "District's Production Wells" means those wells designated by the District as Well No. 1, Well No. 2, Well No. 3, Well No. 4, Well No. 5, and Well No. 6, located in Gallatin County, Illinois by which the District extracts or formerly extracted groundwater which is processed at its treatment facility for distribution to its customers.
8. "Document" means each writing and record of every type and description in the possession, control, under contract with or by, or in the custody of the State, including, but not limited to, correspondence, memoranda, stenographic or handwritten notes, reports, manifests, bills of lading, contracts, studies, books, pamphlets, retrievable electronic data, laboratory analyses, picture or voice recordings, and shall mean a copy where the original is not in control of the State. The term "document" means and includes each and every medium upon which

information can be printed, or reproduced in any manner by mechanical means, by hand or otherwise, that is or has been in your possession, custody or control or which will lead to the discovery of the whereabouts of a responsive document, including logs, e-mail records, publications, photographs, recordings of every kind or records, transcripts, cover sheets, transmittal records of meetings, conferences, telephone or other communications, diagrams, charts, computer printouts, pictures, magazines, texts, video or audio tapes, drawings, summaries of telephone conversations, summaries or reports of investigations or negotiations, and sketches, every copy of such writing or record where the original is not in your possession, custody or control, and every copy of such writing or record where such copy contains any commentary or notations whatsoever that do not appear in the original, and drafts of any of the foregoing.

9. "Identification" or "identify" means:

- a. As to an individual, stating his or her:
 - i. Full and customarily used name or names;
 - ii. Present business or residential address; and
 - iii. Every title, office, position, or other relationship held with the State, both currently and during the relevant time period.
- b. As to any "person" other than an individual, stating:
 - i. Its legal name and any other names used by it;
 - ii. The form or manner of its organization (e.g., partnership, corporation, etc.); and
 - iii. The State of its incorporation (if it is incorporated) and the address of its principal place of business and identity of its Registered Agent.
- c. As to a document, stating:
 - i. the date of its creation;
 - ii. its author or signatory;

- iii. its addressee and any other recipient;
- iv. its type or nature (e.g., letter, memorandum, etc.), including its subject matter (which shall be stated with particularity);
- v. the identity and business or home address of the custodian; and
- vi. the present location of the document.

10. "IDNR" means the Illinois Department of Natural Resources and/or its predecessor agency.

11. "IEPA" means the Illinois Environmental Protection Agency and/or its predecessor agency.

12. "Interrogatories" means Peabody's Sixth Set Of Interrogatories To Complainant, served herewith.

13. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as to matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.

14. "Mine" means PCC's Eagle No. 2 Mine, an underground coal mine, including the surface area thereof, located approximately one mile northwest of Shawneetown, Illinois in Gallatin County, Illinois.

15. "Near the Mine" means two miles or less in distance from any property boundary of the Mine.

16. "OMM" means the Office of Mines and Minerals of the IDNR and/or its predecessor agency.

17. "PCC" means Peabody Coal Company, its divisions, subsidiaries, related companies or corporations, predecessors, successors, and all present and former officers,

directors, agents, attorneys, employees and all other persons acting or purporting to act on behalf of them.

18. "Person" means any person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

19. "Predecessor agency" means any agency or subdivision of the State of Illinois that at some point in time prior to the creation of an existing State Agency had substantially the same responsibilities as the existing State Agency, specifically including responsibility for the matter that is the subject of a request set forth below.

20. "Refuse disposal area" means any land used for dumping, storage or disposal of coal refuse which is intended to serve as permanent disposal of such material.

21. "Related to" or "relating to" means directly or indirectly, mentioning or describing, consisting of, pertaining to, being connected with, reflecting upon, or having any logical or factual connection with a stated matter.

22. "Relied upon" means being or having been depended upon or referred to in relation to the matter at issue.

23. "State Agency" means any state agency as that term is defined in 30 ILCS 5/1-7.

24. "TDS" means total dissolved solids.

25. "The State" means Complainant, People of the State of Illinois, in the context of references to parties to this case. In all other context, "the State" has the same meaning as the word "you" as defined immediately below.

26. "WQS" means water quality standard(s).

27. "You" means the State of Illinois, its agencies, and their respective officers, agents, employees, representatives, or any other person or persons acting for, or purportedly

acting on behalf of or in concert with them, individually and collectively; and “your” means the possessive of “you.”

CONSTRUCTION

1. In construing these requests:
 - a. The singular shall include the plural and the plural shall include the singular;
 - b. A masculine, feminine or neutral pronoun shall not exclude the other genders;
 - c. The terms “and” as well as “or” shall be construed disjunctively or conjunctively as “and/or” or as otherwise necessary in order to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

2. It is not PCC’s intention by these production requests to seek information that is protected by the attorney-client privilege or by the work product doctrine. Therefore, all of the production requests below should be construed consistent with that intention, even if a production request by its terms could be construed to seek to elicit such information, so that no objection on that basis is required. However, if you contend that any document you possess that is substantively responsive to these production requests is privileged, then prepare a privilege log in accordance with Instruction 6 above.

REQUESTS FOR PRODUCTION OF DOCUMENTS

PCC requests the State to produce the following documents:

REQUEST NO. 1: All documents not previously produced which you have identified in response to the Interrogatories.

REQUEST NO. 2: All documents not previously produced which you consulted in preparing your response to the Interrogatories.

REQUEST NO. 3: All documents that contain information regarding the chronology of the development of the Mine and the history of the Mine.

REQUEST NO. 4: All documents that contain information regarding the chronology and history of coal mining refuse handling and disposal at the Mine.

REQUEST NO. 5: All documents that contain information regarding correspondence and communications between PCC and OMM or its predecessor agencies regarding Permit #34.

REQUEST NO. 6: All documents that contain information regarding correspondence and communications between PCC and the Illinois State Geological Survey regarding Permit #34.

REQUEST NO. 7: All documents that contain information regarding correspondence and communications between PCC and the Illinois State Water Survey regarding Permit #34.

REQUEST NO. 8: All documents that contain information regarding correspondence and other communications between PCC and the IEPA regarding the Mine's NPDES permit.

REQUEST NO. 9: All documents that contain information regarding correspondence and communications between PCC and OMM or its predecessor agencies regarding coal mining refuse handling and disposal at the Mine.

REQUEST NO. 10: All documents that contain information regarding correspondence and other communications between PCC and the IEPA regarding coal mining refuse handling and disposal at the Mine.

REQUEST NO. 11: All documents that contain information regarding correspondence and communications between PCC and the Illinois State Geological Survey regarding coal mining refuse handling and disposal at the Mine.

REQUEST NO. 12: All documents that contain information regarding correspondence and communications between PCC and the Illinois State Water Survey regarding coal mining refuse handling and disposal at the Mine.

REQUEST NO. 13: All documents that contain information regarding correspondence and communications between PCC and OMM or its predecessor agencies regarding groundwater at and/or near the Mine.

REQUEST NO. 14: All documents that contain information regarding correspondence and other communications between PCC and the IEPA regarding groundwater at and/or near the Mine.

REQUEST NO. 15: All documents that contain information regarding correspondence and communications between PCC and the Illinois State Geological Survey regarding groundwater at and/or near the Mine.

REQUEST NO. 16: All documents that contain information regarding correspondence and communications between PCC and the Illinois State Water Survey regarding groundwater at and/or near the Mine.

REQUEST NO. 17: All documents that contain information regarding groundwater concerns, impacts or issues related to coal mining refuse disposal at the Mine.

REQUEST NO. 18: All documents that contain any and all recommendations, analysis, testing, sampling, evaluations and plans for any and all existing, constructed or proposed coal mining refuse disposal area, gob pile, slurry lake or impoundment at the Mine.

REQUEST NO. 19: All documents that contain short-term or long-term plans for coal mining refuse disposal by PCC at the Mine.

REQUEST NO. 20: All documents containing information regarding all proposed and existing, temporary or permanent, refuse disposal areas, slurry lakes or impoundments and any other areas of coal mining refuse disposal at the Mine, the Henry Formation Aquifer, or groundwater at and/or near the Mine.

REQUEST NO. 21: All documents that contain information or documentation relating to all wells formerly or currently in existence or proposed for construction and operation at or near the Mine.

REQUEST NO. 22: All documents that contain information regarding any of the chemicals of concern that relate in any way to the matters at issue in this case and to the factual allegations set forth in the Complaint.

REQUEST NO. 23: All written statements made by any person regarding or relating to the allegations set forth in the Complaint or otherwise relating in any way to this matter.

REQUEST NO. 24: All notes, logs, reports, photographs, movies, audiotapes, videotapes, drawings, maps, or other pictorial or written representations of any kind regarding or relating to the allegations set forth in the Complaint or otherwise relating in any way to this matter.

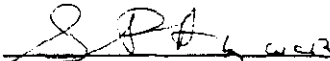
Date: May 23, 2003

PEABODY COAL COMPANY

By its attorneys



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Peabody's Seventh Set Of Requests To The State For The Production Of Documents** has, this 23rd day of May, 2003, been placed in the U.S. Mail, first-class postage paid, addressed to:

Jane E. McBride
Environmental Bureau
Attorneys General's Office
500 South 2nd Street
Springfield, Illinois 62706



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