

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

ENVIORNMENTAL LAW AND POLICY CENTER,)
on behalf of PRAIRIE RIVERS NETWORK and)
SIERRA CLUB, ILLINOIS CHAPTER)

Intervenor,)

v.)

FREEMAN UNITED COAL MINING COMPANY,)
LLC, a Delaware limited liability company, and)
SPRINGFIELD COAL COMPANY, LLC, a Delaware)
limited liability company,)

Respondents.)

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

ENVIRONMENTAL LAW AND POLICY CENTER,)
on behalf of PRAIRIE RIVERS NETWORK and)
SIERRA CLUB, ILLINOIS CHAPTER,)

Complainant,)

v.)

FREEMAN UNITED COAL MINING CO., and)
SPRINGFIELD COAL CO., LLC,)

Respondents)

NOTICE OF ELECTRONIC FILING

To: See attached Service List

PLEASE TAKE NOTICE that on August 19, 2014, I electronically filed with the Clerk for the Illinois Pollution Control Board the following People’s Response to Notice of Deposition by Respondent Freeman United Coal Mining Company, LLC, a copy of which is attached hereto.

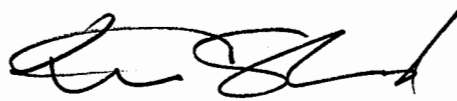
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General of the State of Illinois

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

By:



THOMAS H. SHEPHERD
Assistant Attorneys General
Environmental Bureau
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DATE: August 19, 2014

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

PCB 10-61 & 11-02

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Hearing Officer
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Environmental Bureau/Springfield
Illinois Attorney General's Office
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Springfield, Illinois 62706

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PEOPLE’S RESPONSE TO NOTICE OF DEPOSITION
BY RESPONDENT FREEMAN UNITED COAL MINING COMPANY, LLC

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney
General of the State of Illinois, pursuant to 35 Ill. Adm. Code 101.100(b) and 101.616, and
Illinois Supreme Court Rule 206(a)(1), responds to the Notice of Deposition served by

Respondent Freeman United Coal Mining Company, LLC, and to the Subject Matters of Examination identified in Exhibit A to the notice, as follows:

1. IEPA's data, information, and records pertaining to Freeman United Coal Mining Company, LLC ("Freeman United").

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Subject to and without waiving its objection herein, Complainant designates Larry Crislip with the Illinois Environmental Protection Agency ("Illinois EPA").

2. Freeman United's permits, including National Pollution [sic] Discharge Elimination System ("NPDES") permits, and applications for permits and renewals, for which IEPA has issuing authority.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Subject to and without waving its objection herein, Complainant designates Larry Crislip with the Illinois EPA to testify in regard to Freeman United's NPDES permits, which are the subject of this action, and the applications for such permits and renewals.

3. IEPA's actions or omissions related to issuance, modification, and renewal of permits, including NPDES permits, to Freeman United.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Subject to and without waving its objection herein, Complainant designates Larry Crislip with the Illinois EPA to testify in regard to NPDES permits issued to Freeman United, which are the subject to this action.

4. Sampling data related to the Industry Mine, located in McDonough and Schuyler Counties.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Subject to and without waving its objection herein, Complainant designates Larry Crislip with the Illinois EPA.

5. Freeman United's mining practices at the Industry Mine.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Subject to and without waving its objection herein, Complainant designates Larry Crislip with the Illinois EPA to testify in regard to Freeman United's mining practices within the knowledge of Complainant.

6. **Notices of violations sent to Freeman United from IEPA and all associated communications between IEPA and Freeman United related to an [sic] notices of violations.**

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Complainant further objects to the extent this subject relates to any violation notice ("VN") issued by the Illinois EPA other than the notices pertaining to the violations alleged in PCB No. 10-61 and, therefore, is not reasonably calculated to lead to the disclosure of relevant and admissible evidence. Subject to and without waving its objections herein, Complainant designates Larry Crislip with the Illinois EPA to testify in regard to VNs issued by the Illinois EPA relating to the violations asserted in enforcement action PCB No. 10-61, and all associated communication between the Illinois EPA and Freeman United regarding said VNs.

7. **Compliance commitment agreements proposed by Freeman United and all associated communications between IEPA and Freeman United related to any compliance commitment agreement proposal or final agreement.**

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Complainant further objects to the extent this subject relates to any compliance commitment agreement ("CCA") or CCA proposal other than CCAs or proposals pertaining to the violations alleged in PCB No. 10-61 and, therefore, is not reasonably calculated to lead to the disclosure of relevant and admissible evidence. Subject to and without waving its objections herein, Complainant designates Larry Crislip with the Illinois EPA to testify in regard to CCAs and CCA proposals pertaining to the violations alleged in PCB No. 10-61, and associated communications between the Illinois EPA and Freeman United related to said CCA proposals or final agreement.

8. **The allegations contained in the February 10, 2010 Complaint, filed by the People of the State of Illinois in the case of Illinois v. Freeman United Coal Mining Company, LLC and Springfield Coal Company, LLC, PCB No. 10-61 ("PCB No. 10-61").**

Response: Larry Crislip with the Illinois EPA is designated.

9. **Enforcement actions brought against Freeman United or related companies either by IEPA or the Attorney General of the State of Illinois ("Attorney General").**

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Complainant further objects to the extent this subject relates to any enforcement action other than PCB No. 10-61 and the adjudicate4d violations of the Illinois Environmental Protection Act under the Illinois Pollution Control Board orders in *Environmental Protection Agency v. Material Service Corporation, a Delaware Corporation*,

Freeman United Coal Company Division, PCB 75-488, and, therefore, is not reasonably calculated to lead to the disclosure of relevant and admissible evidence. Subject to and without waving its objections herein, Complainant designates Larry Crislip with the Illinois EPA to testify in regard to enforcement action PCB No. 10-61.

10. The calculation of civil penalties that IEPA and/or the Attorney General have demanded against Freeman United in this case, PCB No. 10-61.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Complainant objects to this subject as it seeks disclosure of information protected under Illinois Supreme Court Rule 201(b)(2). Complainant further objects to this subject to the extent it seeks disclosure of confidential settlement communications. Therefore, this subject is not reasonably calculated to lead to the disclosure of relevant and admissible evidence.

11. The General Use water quality standard for sulfate and changes to the General use water quality standard for sulfate in approximately 2007.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Subject to and without waving its objection herein, Complainant designates Bob Mosher with the Illinois EPA.

12. IEPA's determination and listing of impaired waters under Section 303(d) of the federal Clean Water Act, including reports submitted to and approved by the United States Environmental Protection Agency dated November 2004, June 2006, June 2008, December 2011, December 2012, and March 2014.

Response: Complainant objects to this subject because it is not described with reasonable particularity and therefore is vague and ambiguous. Complainant further objects to the extent this subject relates to waters other than Grindstone Creek. Subject to and without waving its objections herein, Complainant designates Gregg Good with the Illinois EPA.

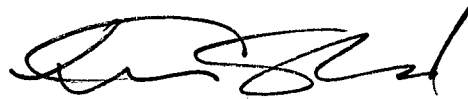
Respectfully submitted,

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LISA MADIGAN,
Attorney General of the State of Illinois

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By:

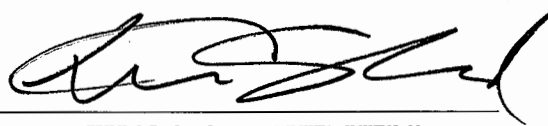


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DATE: August 19, 2014

CERTIFICATE OF SERVICE

I, THOMAS H. SHEPHERD, an attorney, do hereby certify that I served the foregoing Notice of Electronic Filing and People's Response to Notice of Deposition by Respondent Freeman United Coal Mining Company, LLC, on the persons to whom it is directed by electronic mail and by depositing the same in the U.S. Mail, postage prepaid, on August 19, 2014, at 100 West Randolph Street, Chicago, Illinois, Illinois, at or before the hour of 5:00 p.m.

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

THOMAS H. SHEPHERD