

Service List

For the Respondent:

Sugar Camp Energy, LLC
c/o Illinois Corporation Service Company
801 Adlai Stevenson Drive
Springfield, Illinois 62703-4261
(via Certified Mail)

company in good standing and authorized to do business in the State of Illinois by the Illinois Secretary of State.

4. At all times relevant to the Complaint, Respondent owned and operated the Sugar Camp Mine, a coal mining operation located at 11351 Thompsonville Road, Macedonia, Franklin County, Illinois (“Facility”).

5. On May 24, 2016, Illinois EPA issued NPDES Permit No. IL0078565 (the “Permit”) to Respondent.

6. The Permit authorizes the Facility to discharge wastewater from specified outfalls into waters of the State, subject to the limitations and conditions stated therein.

7. The Facility consists of two separate longwall mines: M-Class and Viking.

8. As part of its mining operations at the Facility, Respondent operates ventilation systems, including fan bleeder shafts, that facilitate air circulation through the underground mine.

9. At all times relevant to the Complaint, Respondent was constructing a fan bleeder shaft for the M-Class longwall mine at a site located south of Akin Road, approximately three quarters ($\frac{3}{4}$) of a mile east of Corn Road, in Hamilton County, Illinois (“Shaft Construction Site”). Construction of the fan bleeder shaft included, *inter alia*, dewatering of soils and sediments with a pencil pump prior to their removal from the excavated shaft. The waters removed from soils and sediments were pumped to a cuttings pond for retention prior to their reinjection into the mine through a borehole.

10. On October 20, 2021, Respondent notified Illinois EPA that a failure in a pencil pump resulted in excavated mud saturated with excess water being placed in a mud stack pad at the Shaft Construction Site, and that excess water from the mud stack pad drained northward

offsite, through a wooded area, and into an unnamed tributary of Akin Creek (“Unnamed Tributary”).

11. On October 21, 2021, Illinois EPA conducted an inspection of the Shaft Construction Site.

12. On October 21, 2021, a sediment-laden path of water flowed from the area of the mud stack pad, through a downgradient wooded area north of the Shaft Construction Site, and into the Unnamed Tributary.

13. On October 21, 2021, Respondent had constructed a coffer dam in the Unnamed Tributary south and east of Akin Road.

14. On October 21, 2021, Respondent was removing silty soils from and flushing fresh water over areas affected by sediment-laden drainage from the mud stack pad. Flushed water pooled upstream of the coffer dam, where it was being removed by Respondent with a vacuum truck.

15. On October 21, 2021, water was leaking underneath the coffer dam at a rate of approximately 20 gallons per minute. Upon becoming aware of water leaking underneath the coffer dam, Respondent applied additional clay to seal the leak.

16. On October 21, 2021, waters pooled in the Unnamed Tributary upstream of the coffer dam were extremely turbid.

17. On October 21, 2021, waters in the Unnamed Tributary immediately downstream of the coffer dam were extremely turbid.

18. On October 21, 2021, Illinois EPA collected water samples from the Unnamed Tributary upstream and downstream of the coffer dam. Laboratory analysis of such samples provided the following results:

<u>ID</u>	<u>Location</u>	<u>Parameter</u>	<u>Result</u>	<u>Unit</u>
Sample 1	Unnamed Tributary downstream of coffer dam (BFDS)	Iron	1.42	mg/L
Sample 2	Unnamed Tributary upstream of coffer dam (BFUS)	Iron	3.15	

19. Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

20. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides as follows:

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

21. Respondent, a limited liability company, is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

22. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides as follows:

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

23. Excavated mud and sediment-laden drainage from piles of excavated mud are “contaminants,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

24. Section 3.545 of the Act, 415 ILCS 5/3.545 (2022), provides as follows:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial,

industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

25. Section 3.550 of the Act, 415 ILCS 5/3.550 (2022), provides as follows:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

26. The Unnamed Tributary constitutes “waters” of the State, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

27. Respondent’s discharge of sediment-laden drainage containing elevated levels of iron into waters of the State created or was likely to create a nuisance, or rendered or was likely to render such waters harmful or detrimental or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, and therefore constitutes “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2022).

28. On October 20 and 21, 2021, and at other dates and times better known to Respondent, Respondent caused, threatened, or allowed discharges of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

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

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

B. Finding that the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

D. Assessing against the Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional civil penalty of \$10,000.00 for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

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

COUNT II
WATER POLLUTION HAZARD

1-26. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 18 and 20 through 27 of Count I as paragraphs 1 through 26 of this Count II.

27. Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), provides as follows:

No person shall:

* * *

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

28. On October 20 and 21, 2021, and at other dates and times better known to Respondent, Respondent deposited contaminants upon the land, including excavated mud, in such place and manner so as to create a water pollution hazard.

29. By depositing contaminants upon the land in a place and manner so as to create a water pollution hazard, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022).

PRAYER FOR RELIEF

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

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

B. Finding that the Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2022);

D. Assessing against the Respondent a civil penalty of \$50,000.00 for each violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), and an additional civil penalty of \$10,000.00 for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

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

COUNT III
UNPERMITTED DISCHARGE

1-24. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 18, 20 through 23, 25, and 26 of Count I as paragraphs 1 through 24 of this Count III.

25. Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), provides, in pertinent part, as follows:

No person shall:

* * *

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein . . . without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit . . . or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

26. Section 3.105 of the Act, 415 ILCS 5/3.105 (2022), provides as follows:

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

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

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

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

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

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

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch,

channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

30. The mud stack pad is a “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

31. The mud stack pad is not a permitted point source authorized to discharge contaminants to waters of the State under any permit issued by Illinois EPA, including the Permit.

32. By discharging contaminants from an unpermitted point source into waters of the State, Respondent violated Section 309.102(a) of the Board’s regulations, 35 Ill. Adm. Code 309.102(a).

33. By causing, threatening, or allowing the discharge of a contaminant into waters of the State in violation of regulations adopted by the Board with respect to the NPDES program and without an NPDES permit issued by Illinois EPA for point source discharges, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022).

PRAYER FOR RELIEF

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

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

B. Finding that the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), and Section 309.102(a) of the Board’s regulations, 35 Ill. Adm. Code 309.102(a);

C. Ordering the Respondent to cease and desist from any further violations of Section

12(f) of the Act, 415 ILCS 5/12(f) (2022), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a);

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

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

COUNT IV
VIOLATION OF WATER QUALITY STANDARDS

1-27. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 23, 25, and 26 of Count I and paragraphs 29 and 30 of Count III as paragraphs 1 through 27 of this Count IV.

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

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

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

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

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

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

<u>Constituent</u>	<u>Unit</u>	<u>Standard</u>
***	***	***
Iron (dissolved)	mg/L	1.0
***	***	***

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

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

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

* * *

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

* * *

33. Respondent’s discharge of sediment-laden drainage containing elevated levels of iron from a point source constitutes a “mine discharge,” as that term is defined in Section 402.101 of the Board’s regulations, 35 Ill. Adm. Code 402.101.

34. On October 21, 2021, and at other dates and times better known to Respondent, Respondent discharged sediment-laden drainage containing elevated levels of iron that caused color and turbidity of other than natural origin to accrue in waters of the State, and thereby caused

an offensive condition prohibited by Section 302.203 of the Board's regulations, 35 Ill. Adm. Code 302.203.

35. The following samples taken from the Unnamed Tributary contained concentrations of iron exceeding the applicable water quality standard:

<u>Sample No.</u>	<u>Date</u>	<u>Iron Concentration (mg/L)</u>	<u>Water Quality Standard (mg/L)</u>
1	10/21/2021	1.42	1.0
2	10/21/2021	3.15	

36. On October 21, 2021, and at other dates and times better known to Respondent, Respondent's discharge of sediment-laden drainage into waters of the State caused exceedances of the applicable water quality standard for iron, 35 Ill. Adm. Code 302.208(g).

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

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

39. By causing, threatening, or allowing the discharge of a contaminant into the environment so as to violate regulations or standards adopted by the Board, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

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

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

B. Finding that the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203, 302.208(d), and 406.202 of the Board's regulations, 35 Ill. Adm. Code 302.203, 302.208(d), and 406.202;

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203, 302.208(d), and 406.202 of the Board's regulations, 35 Ill. Adm. Code 302.203, 302.208(d), and 406.202;

D. Assessing against the Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203, 302.208(d), and 406.202 of the Board's regulations, 35 Ill. Adm. Code 302.203, 302.208(d), and 406.202, and an additional civil penalty of \$10,000.00 for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

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

COUNT V
VIOLATION OF EFFLUENT STANDARD: OFFENSIVE DISCHARGE

1-29. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 23, 25, and 26 of Count I, paragraphs 29 and 30 of Count III, and paragraphs 32 and 33 of Count IV as paragraphs 1 through 29 of this Count V.

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

In addition to the other requirements of Subtitle D, mine discharge effluent must not contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color, odor, and turbidity must be reduced below obvious levels.

31. On October 21, 2021, and at other dates and times better known to Respondent, Respondent discharged mine effluent containing obvious levels of turbidity, and thereby violated Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107.

32. By causing, threatening, or allowing the discharge of a contaminant into the environment so as to violate regulations or standards adopted by the Board, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

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

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

B. Finding that the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107;

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107;

D. Assessing against the Respondent a civil penalty of \$50,000.00 for each violation of 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Section 406.107 of the Board's regulations, 35 Ill. Adm. Code 406.107, and an additional civil penalty of \$10,000.00 for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

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

Respectfully submitted,

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

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

BY: /s/ Rachel R. Medina
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CERTIFICATE OF SERVICE

I, Cathy Formigoni, certify that on the 25th day of February, 2025, I caused to be served by certified mail the foregoing **Notice of Filing** and **Complaint** to the parties listed below:

For the Respondent

Sugar Camp Energy, LLC
c/o Illinois Corporation Service Company
801 Adlai Stevenson Drive
Springfield, Illinois 62703-4261

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Cathy Formigoni
CATHY FORMIGONI
Paralegal
500 South 2nd Street
Springfield, Illinois 62701
cathy.formigoni@ilag.gov