

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 10-
)	(Water - Enforcement)
FREEMAN UNITED COAL MINING)	
COMPANY, LLC, a Delaware limited)	
liability company, and SPRINGFIELD)	
COAL COMPANY, LLC, a Delaware)	
limited liability company,)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on February 10, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT and APPEARANCE, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2008), to correct the pollution alleged in the Complaint filed in this case.

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 DAVIS, Chief
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: February 10, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on February 10, 2010, cause to be served by Certified Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, APPEARANCE and COMPLAINT upon the Respondents listed on the Service List.



Thomas Davis, Chief
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Freeman United Coal Mining Company, LLC
c/o Thomas A. Korman, R.A.
222 N. LaSalle Street, Ste. 800
Chicago, IL 60601

Springfield Coal Company, LLC
c/o BCRA Co., R.A.
161 N. Clark Street, Ste. 4300
Chicago, IL 60601

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Complainant,)	
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vs.)	PCB No. 10-
)	(Water - Enforcement)
FREEMAN UNITED COAL MINING)	
COMPANY, LLC, a Delaware limited)	
liability company, and SPRINGFIELD)	
COAL COMPANY, LLC, a Delaware)	
limited liability company,)	
)	
Respondent.)	

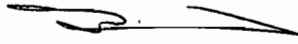
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, THOMAS DAVIS, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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 DAVIS, Chief
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PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 10-
)	(Water-Enforcement)
FREEMAN UNITED COAL MINING)	
COMPANY, LLC,)	
a Delaware limited liability company, and)	
SPRINGFIELD COAL COMPANY, LLC,)	
a Delaware limited liability company,)	
)	
Respondents.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, FREEMAN UNITED COAL MINING COMPANY, LLC, and SPRINGFIELD COAL COMPANY, LLC, as follows:

COUNT I
NPDES PERMIT VIOLATIONS
FREEMAN UNITED

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2008), and charged, *inter alia*, with

the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board (“Board”).

3. FREEMAN UNITED COAL MINING COMPANY, LLC (“Freeman United”) is a Delaware limited liability company authorized to do business in Illinois and until September 1, 2007 operated a strip mine located in McDonough and Schuyler Counties approximately 5 miles southwest of Industry, Illinois. The Industry Mine covers a total area of 5,651.3 acres of which 4,886.6 acres are in McDonough County and 1,064.7 acres are in Schuyler County.

4. SPRINGFIELD COAL COMPANY, LLC (“Springfield Coal”) is a Delaware limited liability company authorized to do business in Illinois and since September 1, 2007 the owner and operator of the Industry Mine.

5. On April 2, 1999 the Illinois EPA issued a permit to Freeman United under the National Pollutant Discharge Elimination System (“NPDES”) program of the federal Water Pollution Control Act (“FWPCA” or “Clean Water Act”). NPDES Permit No. IL0061247 authorizes discharges from the Industry Mine into waters of the State, including Grindstone Creek, Willow Creek, Camp Creek, and their unnamed tributaries. The NPDES permit for the Industry Mine also imposes monitoring and reporting requirements.

6. On August 15, 2003 Freeman United submitted to the Illinois EPA a timely application regarding the renewal of the permit. On August 14, 2007 Springfield Coal submitted to the Illinois EPA a written request to transfer NPDES Permit No. IL0061247 from Freeman United to Springfield Coal, thereby assuming responsibility for permit compliance. The Illinois EPA has not yet acted upon the renewal or transfer of the permit.

7. NPDES Permit No. IL0061247 imposes effluent limitations for iron, manganese, sulfates, pH, and total suspended solids (“TSS”), applicable to discharges from the Industry Mine. The pH of the effluent discharged from all outfalls must abide within a range (in standard units) of 6.0 to 9.0. The following limitations (as expressed in milligrams per liter or “mg/L”) are also applicable to all outfalls:

<u>Pollutant</u>	<u>30 Day Average</u>	<u>Daily Maximum</u>
Iron	3.5 mg/L	7.0 mg/L
Manganese	2.0 mg/L	4.0 mg/L
TSS	35.0 mg/L	70.0 mg/L

The concentration levels of sulfates in the effluent are regulated on a daily maximum basis according to the particular outfalls designated by the NPDES permit:

<u>Outfalls</u>	<u>Daily Maximum</u>
002, 003, 006, 009, 029, 030, 031, 032, 033, 035	1100 mg/L
005, 007, 010, 011, 018, 019	1800 mg/L
004, 008, 020, 021, 022, 024W, 026, 027	500 mg/L

8. NPDES Permit No. IL0061247 identifies the following outfalls from the Industry Mine:

<u>Outfalls</u>	<u>Descriptions</u>	<u>Receiving Waters</u>
002	Acid Mine Drainage from Preparation Plant	Tributary to Grindstone Creek
003	Surface Acid Mine Drainage	Grindstone Creek
018, 019, 020, 021	Surface Acid Mine Drainage	Tributary to Grindstone Creek

009, 024W, 026	Surface Acid Mine Drainage	Willow Creek
022	Surface Acid Mine Drainage	Tributary to Camp Creek
029, 030	Alkaline Mine Drainage	Tributary to Willow Creek
031, 032, 033, 035	Alkaline Mine Drainage	Grindstone Creek
004, 005, 006, 007, 008, 010, 011	Reclamation Area Drainage	Grindstone Creek
027	Reclamation Area Drainage	Willow Creek
017	Stormwater Discharge	Grindstone Creek

9. Mine discharge effluent limitations are set forth in Section 406.106(b) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b):

Except as provided in Sections 406.109 and 406.110, a mine discharge effluent shall not exceed the following levels of contaminants:

Constituent	Storet Number	Concentration
Acidity	00435	(total acidity shall not exceed total alkalinity)
Iron (total)	01045	3.5mg/l
Lead (total)	01051	1 mg/l
Ammonia Nitrogen (as N)	00610	5 mg/l
pH	00400	(range 6 to 9)
Zinc (total)	01092	5 mg/l
Fluoride (total)	00951	15 mg/l
Total suspended solids	00530	35 mg/l
Manganese	01055	2.0 mg/l

10. Section 406.106(b)(2) of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 406.106(b)(2), provides as follows:

The manganese effluent limitation is applicable only to discharges from facilities where chemical addition is required to meet the iron or pH effluent limitations. The upper limit of pH shall be 10 for any such facility that is unable to comply with the manganese limit at pH 9. The manganese standard is not applicable to mine discharges which are

associated with areas where no active mining, processing or refuse disposal has taken place since May 13, 1976.

11. Section 12 of the Act, 415 ILCS 5/12 (2008), provides, in pertinent part, 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.

* * *

(f) Cause or threaten or allow the discharge of any contaminants into the waters of the State . . . without an NPDES permit for point source discharges . . . or in violation of any term or condition imposed by such permit. . . .

12. Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), provides this definition:

“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.

13. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), provides this definition:

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

14. As regulated by the NPDES permit, iron, manganese, sulfates, pH, and TSS are each a “contaminant” as defined by Section 3.165 of the Act.

15. Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), provides this definition:

“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.

16. Grindstone Creek, Willow Creek, Camp Creek, and their unnamed tributaries are each "waters" of the State as defined by Section 3.550 of the Act.

17. As set forth at Section 401.102 of the Board's Mine Related Water Pollution Regulations, 35 Ill. Adm. Code 401.102, the legislative policy for the environmental regulation of coal mining is based upon the following determinations:

. . . mining activities including the preparation, operation and abandonment of mines, mine refuse areas and mine related facilities without environmental planning and safeguards and the use of certain refuse materials can cause, threaten or allow the discharge of contaminants into the waters of Illinois so as to cause or threaten to cause a nuisance or to render such waters harmful or detrimental to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational or other legitimate uses including use by livestock, wild animals, birds, fish or other aquatic life and riparian vegetation.

18. The purpose of the Board's Mine Related Water Pollution Regulations is stated at Section 401.103, 35 Ill. Adm. Code 401.103:

The purpose of this Subtitle D is to prevent pollution of waters of Illinois caused by failure to plan proper environmental safeguards for the location, preparation, operation and abandonment of mining activities, mining and mine refuse operations. A permit system is established to control the multitude of contaminating point and non-point source discharges, visible and hidden, continuous and fluctuating, which are potentially present in mining activities, mining and mine refuse operations. In order to ensure that such activities meet environmental standards water quality and effluent standards are established to limit discharges from point sources as well as to protect waters for beneficial uses. In addition, procedural safeguards are established to ensure the protection of waters. Furthermore, it is the purpose of this Subtitle D to meet the requirements of Section 402 of the FWPCA.

19. Freeman United caused or allowed the discharge of iron in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 2005	018	3.5 mg/L	4.42 mg/L
January 2005	024W	3.0 mg/L	4.65 mg/L
January 2005	029	3.0 mg/L	4.98 mg/L
February 2005	029	3.0 mg/L	3.08 mg/L

20. Freeman United caused or allowed the discharge of iron in excess of the permitted

daily maximum effluent limitation as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 19, 2004	029	6.0 mg/L	7.05 mg/L
February 20, 2004	029	6.0 mg/L	6.75 mg/L
March 2, 2004	029	6.0 mg/L	8.65 mg/L
March 26, 2004	026	6.0 mg/L	22.9 mg/L
May 26, 2004	029	6.0 mg/L	24.1 mg/L
June 2, 2004	026	6.0 mg/L	6.91 mg/L
June 2, 2004	029	6.0 mg/L	29.6 mg/L
June 16, 2004	029	6.0 mg/L	27.4 mg/L
June 23, 2004	029	6.0 mg/L	21.1 mg/L
July 14, 2004	026	6.0 mg/L	6.47 mg/L
July 14, 2004	029	6.0 mg/L	13.9 mg/L
August 26, 2004	018	7.0 mg/L	12.3 mg/L
August 26, 2004	026	6.0 mg/L	11.9 mg/L
August 31, 2004	029	6.0 mg/L	7.23 mg/L
September 16, 2004	018	7.0 mg/L	9.74 mg/L
September 16, 2004	026	6.0 mg/L	13.9 mg/L
October 29, 2004	029	6.0 mg/L	8.00 mg/L
November 1, 2004	018	7.0 mg/L	46.4 mg/L
December 8, 2004	018	7.0 mg/L	25.4 mg/L
December 8, 2004	024W	6.0 mg/L	10.6 mg/L
December 8, 2004	026	6.0 mg/L	11.5 mg/L
January 17, 2005	018	7.0 mg/L	7.53 mg/L
January 17, 2005	024W	6.0 mg/L	6.37 mg/L
January 17, 2005	029	6.0 mg/L	6.20 mg/L
February 14, 2005	018	7.0 mg/L	13.0 mg/L
November 30, 2006	018	7.0 mg/L	9.04 mg/L
March 31, 2007	003	7.0 mg/L	15.4 mg/L
March 31, 2007	018	7.0 mg/L	47.9 mg/L
March 31, 2007	026	6.0 mg/L	21.1 mg/L
June 30, 2007	003	7.0 mg/L	11.8 mg/L

21. Freeman United caused or allowed the discharge of manganese in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 2005	019	2.0 mg/L	7.95 mg/L
February 2005	018	2.0 mg/L	10.3 mg/L
February 2005	019	2.0 mg/L	11.3 mg/L
March 2005	019	2.0 mg/L	6.76 mg/L
April 2005	018	2.0 mg/L	2.32 mg/L
April 2005	019	2.0 mg/L	3.07 mg/L
April 2005	026	2.0 mg/L	7.01 mg/L
June 2005	018	2.0 mg/L	6.66 mg/L
June 2005	019	2.0 mg/L	5.78 mg/L
May 2006	019	2.0 mg/L	4.93 mg/L
June 2006	019	2.0 mg/L	3.38 mg/L
August 2006	018	2.0 mg/L	2.35 mg/L
January 2007	019	2.0 mg/L	7.95 mg/L
February 2007	019	2.0 mg/L	15.2 mg/L
March 2007	018	2.0 mg/L	2.88 mg/L
March 2007	026	2.0 mg/L	3.64 mg/L
May 2007	019	2.0 mg/L	5.66 mg/L

22. Freeman United caused or allowed the discharge of manganese in excess of the permitted daily maximum effluent limitation as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 15, 2004	003	4.0 mg/L	5.32 mg/L
February 3, 2004	019	4.0 mg/L	13.4 mg/L
February 10, 2004	018	4.0 mg/L	4.37 mg/L
February 10, 2004	019	4.0 mg/L	14.3 mg/L
February 18, 2004	003	4.0 mg/L	9.39 mg/L
March 2, 2004	019	4.0 mg/L	4.86 mg/L
April 14, 2004	019	4.0 mg/L	5.31 mg/L
May 7, 2004	019	4.0 mg/L	4.40 mg/L
May 12, 2004	019	4.0 mg/L	4.71 mg/L
June 14, 2004	019	4.0 mg/L	6.15 mg/L
July 29, 2004	019	4.0 mg/L	4.79 mg/L
September 13, 2004	019	4.0 mg/L	8.22 mg/L
October 29, 2004	019	4.0 mg/L	9.15 mg/L

November 8, 2004	019	4.0 mg/L	5.73 mg/L
November 15, 2004	018	4.0 mg/L	5.51 mg/L
November 15, 2004	019	4.0 mg/L	9.25 mg/L
December 20, 2004	018	4.0 mg/L	4.32 mg/L
December 20, 2004	019	4.0 mg/L	16.3 mg/L
December 28, 2004	018	4.0 mg/L	8.88 mg/L
December 28, 2004	019	4.0 mg/L	20.6 mg/L
January 5, 2005	019	4.0 mg/L	4.69 mg/L
January 17, 2005	019	4.0 mg/L	11.2 mg/L
January 26, 2005	019	4.0 mg/L	11.9 mg/L
February 2, 2005	018	4.0 mg/L	10.3 mg/L
February 2, 2005	019	4.0 mg/L	11.3 mg/L
March 3, 2005	018	4.0 mg/L	11.8 mg/L
March 3, 2005	019	4.0 mg/L	7.83 mg/L
March 11, 2005	018	4.0 mg/L	7.53 mg/L
March 11, 2005	019	4.0 mg/L	5.70 mg/L
April 25, 2005	018	4.0 mg/L	6.08 mg/L
May 2, 2005	018	4.0 mg/L	7.60 mg/L
June 27, 2005	018	4.0 mg/L	7.14 mg/L
June 28, 2005	018	4.0 mg/L	6.18 mg/L
June 29, 2005	019	4.0 mg/L	9.26 mg/L
March 20, 2006	026	4.0 mg/L	6.68 mg/L
April 13, 2006	026	4.0 mg/L	4.63 mg/L
April 19, 2006	019	4.0 mg/L	4.64 mg/L
April 25, 2006	026	4.0 mg/L	7.99 mg/L
April 26, 2006	026	4.0 mg/L	8.42 mg/L
May 22, 2006	019	4.0 mg/L	5.88 mg/L
May 23, 2006	019	4.0 mg/L	5.70 mg/L
July 31, 2006	018	4.0 mg/L	5.65 mg/L
January 31, 2007	019	4.0 mg/L	7 mg/L
January 31, 2007	019	4.0 mg/L	8.89 mg/L
February 28, 2007	019	4.0 mg/L	16.9 mg/L
February 28, 2007	019	4.0 mg/L	13.5 mg/L
March 31, 2007	019	4.0 mg/L	4.35 mg/L
March 31, 2007	026	4.0 mg/L	5.8 mg/L
April 30, 2007	019	4.0 mg/L	4.26 mg/L
May 31, 2007	019	4.0 mg/L	4.37 mg/L
May 31, 2007	019	4.0 mg/L	6.94 mg/L

23. Freeman United caused or allowed the discharge of sulfates in excess of the permitted daily maximum effluent limitations as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 15, 2004	003	1100 mg/L	1190 mg/L
May 19, 2004	003	1100 mg/L	1120 mg/L
May 24, 2004	002	1100 mg/L	1220 mg/L
April 7, 2005	009	1100 mg/L	1170 mg/L
May 30, 2005	009	1100 mg/L	1270 mg/L
June 9, 2005	009	1100 mg/L	1230 mg/L
June 27, 2005	009	1100 mg/L	1330 mg/L
June 27, 2005	018	1800 mg/L	2020 mg/L
June 28, 2005	009	1100 mg/L	1240 mg/L
June 28, 2005	018	1800 mg/L	1900 mg/L
July 9, 2005	009	1100 mg/L	1440 mg/L
July 9, 2005	018	1800 mg/L	2020 mg/L
July 9, 2005	019	1800 mg/L	1840 mg/L
July 29, 2005	009	1100 mg/L	1440 mg/L
July 29, 2005	018	1800 mg/L	2050 mg/L
July 29, 2005	019	1800 mg/L	1810 mg/L
August 8, 2005	009	1100 mg/L	1430 mg/L
August 8, 2005	018	1800 mg/L	2030 mg/L
August 8, 2005	019	1800 mg/L	1910 mg/L
September 9, 2005	009	1100 mg/L	1380 mg/L
September 29, 2005	009	1100 mg/L	1260 mg/L
October 17, 2005	009	1100 mg/L	1550 mg/L
October 26, 2005	009	1100 mg/L	1540 mg/L
November 29, 2005	009	1100 mg/L	1270 mg/L
December 13, 2005	009	1100 mg/L	1350 mg/L
December 13, 2005	018	1800 mg/L	1920 mg/L
December 20, 2005	009	1100 mg/L	1270 mg/L
December 20, 2005	018	1800 mg/L	1930 mg/L
January 16, 2006	009	1100 mg/L	1160 mg/L
January 25, 2006	009	1100 mg/L	1200 mg/L
February 6, 2006	009	1100 mg/L	1220 mg/L
February 6, 2006	027	500 mg/L	516 mg/L
February 6, 2006	024W	500 mg/L	548 mg/L
February 27, 2006	009	1100 mg/L	1150 mg/L
February 27, 2006	024W	500 mg/L	600 mg/L
March 13, 2006	009	1100 mg/L	1240 mg/L
March 13, 2006	024W	500 mg/l	568 mg/L
March 20, 2006	024W	500 mg/L	506 mg/L
March 29, 2006	024W	500 mg/L	520 mg/L
April 13, 2006	024W	500 mg/L	511 mg/L
April 25, 2006	009	1100 mg/L	1190 mg/L

April 25, 2006	024W	500 mg/L	628 mg/L
April 26, 2006	024W	500 mg/L	558 mg/L
May 16, 2006	009	1100 mg/L	1120 mg/L
May 16, 2006	024W	500 mg/L	550 mg/L
May 17, 2006	009	1100 mg/L	1110 mg/L
May 17, 2006	024W	500 mg/L	552 mg/L
May 24, 2006	009	1100 mg/L	1150 mg/L
May 24, 2006	024W	500 mg/L	562 mg/L
June 14, 2006	009	1100 mg/L	1140 mg/L
June 14, 2006	024W	500 mg/L	592 mg/L
June 15, 2006	009	1100 mg/L	1150 mg/L
June 15, 2006	019	1800 mg/L	1890 mg/L
June 15, 2006	024W	500 mg/L	572 mg/L
June 22, 2006	009	1100 mg/L	1240 mg/L
June 22, 2006	024W	500 mg/L	635 mg/L
July 31, 2006	009	1100 mg/L	1170 mg/L
July 31, 2006	009	1100 mg/L	1180 mg/L
July 31, 2006	009	1100 mg/L	1190 mg/L
July 31, 2006	019	1800 mg/L	1830 mg/L
July 31, 2006	024W	500 mg/L	578 mg/L
August 31, 2006	009	1100 mg/L	1300 mg/L
August 31, 2006	009	1100 mg/L	1273 mg/L
August 31, 2006	009	1100 mg/L	1250 mg/L
August 31, 2006	018	1800 mg/L	1840 mg/L
August 31, 2006	019	1800 mg/L	1840 mg/L
September 30, 2006	009	1100 mg/L	1260 mg/L
September 30, 2006	009	1100 mg/L	1250 mg/L
September 30, 2006	009	1100 mg/L	1240 mg/L
October 31, 2006	009	1100 mg/L	1320 mg/L
October 31, 2006	009	1100 mg/L	1303 mg/L
October 31, 2006	009	1100 mg/L	1290 mg/L
October 31, 2006	018	1800 mg/L	1850 mg/L
October 31, 2006	019	1800 mg/L	1810 mg/L
November 30, 2006	009	1100 mg/L	1350 mg/L
November 30, 2006	009	1100 mg/L	1287 mg/L
November 30, 2006	009	1100 mg/L	1160 mg/L
November 30, 2006	018	1800 mg/L	1890 mg/L
November 30, 2006	019	1800 mg/L	1830 mg/L
December 31, 2006	009	1100 mg/L	1230 mg/L
December 31, 2006	009	1100 mg/L	1123 mg/L
December 31, 2006	024W	500 mg/L	1090 mg/L
January 31, 2007	026	500 mg/L	514 mg/L
January 31, 2007	026	500 mg/L	502 mg/L

January 31, 2007	027	500 mg/L	879 mg/L
January 31, 2007	024W	500 mg/L	610 mg/L
February 28, 2007	003	1100 mg/L	1810 mg/L
February 28, 2007	009	1100 mg/L	1310 mg/L
May 31, 2007	018	1800 mg/L	1870 mg/L
May 31, 2007	019	1800 mg/L	1830 mg/L
May 31, 2007	024W	500 mg/L	1080 mg/L
June 30, 2007	024W	500 mg/L	507 mg/L
June 30, 2007	024W	500 mg/L	576 mg/L
July 31, 2007	009	1100 mg/L	1400 mg/L
July 31, 2007	009	1100 mg/L	1200 mg/L
July 31, 2007	024W	500 mg/L	544 mg/L
August 31, 2007	009	1100 mg/L	1370 mg/L
August 31, 2007	009	1100 mg/L	1310 mg/L
August 31, 2007	009	1100 mg/L	1270 mg/L
August 31, 2007	019	1800 mg/L	2160 mg/L

24. Freeman United caused or allowed the discharge of TSS in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 2005	003	35.0 mg/L	48.5 mg/L
January 2005	018	35.0 mg/L	38 mg/L
May 2007	002	35.0 mg/L	46 mg/L
May 2007	018	35.0 mg/L	46 mg/L

25. Freeman United caused or allowed the discharge of TSS in excess of the permitted daily maximum effluent limitation as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
May 26, 2004	029	70.0 mg/L	71 mg/L
July 14, 2004	029	70.0 mg/L	160 mg/L
January 17, 2005	003	70.0 mg/L	81 mg/L
April 26, 2005	019	70.0 mg/L	84 mg/L
December 13, 2005	009	70.0 mg/L	84 mg/L
February 28, 2007	009	70.0 mg/L	87 mg/L
May 31, 2007	002	70.0 mg/L	96 mg/L
May 31, 2007	018	70.0 mg/L	121 mg/L
July 31, 2007	026	70.0 mg/L	86 mg/L

26. Freeman United caused or allowed the discharge of pH outside of the permitted monthly average effluent limitation range of 6.0 to 9.0 standard units as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Actual Discharge</u>
July 2004	002	4.82
July 2006	026	10.4
May 2007	026	9.74
June 2007	026	9.43

27. Freeman United repeatedly caused or allowed the discharge from the Industry Mine of iron, manganese, sulfates, pH, and TSS, in excess of the effluent limitations imposed by NPDES Permit No. IL0061247.

28. By repeatedly discharging contaminants into waters of the State in violation of the terms or conditions of NPDES Permit No. IL0061247, Freeman United violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, FREEMAN UNITED COAL MINING COMPANY, LLC:

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

B. Finding that this Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon this Respondent a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and

E. Grant such other and further relief as the Board deems appropriate.

COUNT II
NPDES PERMIT VIOLATIONS
SPRINGFIELD COAL

1-18. Complainant realleges and incorporates herein by reference paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

19. Springfield Coal caused or allowed the discharge of manganese in excess of the permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 2008	019	2.0 mg/L	12.9 mg/L
February 2008	019	2.0 mg/L	7.617 mg/L
October 2008	018	2.0 mg/L	6.957 mg/L
November 2008	018	2.0 mg/L	2.877 mg/L
November 2008	019	2.0 mg/L	34.2 mg/L
December 2008	018	2.0 mg/L	2.2 mg/L
December 2008	019	2.0 mg/L	10.7 mg/L
January 2009	018	2.0 mg/L	2.165 mg/L
January 2009	019	2.0 mg/L	18.5 mg/L
February 2009	009	2.0 mg/L	2.69 mg/L
February 2009	019	2.0 mg/L	18.5 mg/L
March 2009	018	2.0 mg/L	5.493 mg/L
March 2009	026	2.0 mg/L	2.725 mg/L
March 2009	024W	2.0 mg/L	2.213 mg/L
April 2009	009	2.0 mg/L	2.23 mg/L
April 2009	018	2.0 mg/L	2.197 mg/L
April 2009	026	2.0 mg/L	2.306 mg/L
May 2009	009	2.0 mg/L	2.31 mg/L
May 2009	018	2.0 mg/L	5.45 mg/L
May 2009	019	2.0 mg/L	15.48 mg/L
May 2009	026	2.0 mg/L	3.04 mg/L
June 2009	018	2.0 mg/L	7.29 mg/L

June 2009	019	2.0 mg/L	39.27 mg/L
July 2009	018	2.0 mg/L	3.24 mg/L
July 2009	019	2.0 mg/L	59 mg/L
July 2009	026	2.0 mg/L	4.71 mg/L
August 2009	018	2.0 mg/L	2.74 mg/L
August 2009	019	2.0 mg/L	25.8 mg/L
August 2009	024W	2.0 mg/L	2.22 mg/L
October 2009	018	2.0 mg/L	3.817 mg/L
October 2009	019	2.0 mg/L	20.87 mg/L
October 2009	026	2.0 mg/L	2.41 mg/L
October 2009	024W	2.0 mg/L	2.41 mg/L
November 2009	018	2.0 mg/L	10.0 mg/L
November 2009	019	2.0 mg/L	29 mg/L
December 2009	018	2.0 mg/L	13.6 mg/L
December 2009	009	2.0 mg/L	2.437 mg/L

20. Springfield Coal caused or allowed the discharge of manganese in excess of the permitted daily maximum effluent limitation as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
January 31, 2008	019	4.0 mg/L	12.9 mg/L
February 29, 2008	019	4.0 mg/L	14 mg/L
October 31, 2008	018	4.0 mg/L	9.45 mg/L
November 30, 2008	019	4.0 mg/L	30.6 mg/L
November 30, 2008	019	4.0 mg/L	40.4 mg/L
December 31, 2008	019	4.0 mg/L	18.8 mg/L
January 31, 2009	019	4.0 mg/L	13.5 mg/L
January 31, 2009	019	4.0 mg/L	23.8 mg/L
February 28, 2009	018	4.0 mg/L	5.68 mg/L
February 28, 2009	019	4.0 mg/L	13.5 mg/L
February 28, 2009	019	4.0 mg/L	23.8 mg/L
March 31, 2009	018	4.0 mg/L	8.05 mg/L
May 31, 2009	018	4.0 mg/L	9.5 mg/L
May 31, 2009	019	4.0 mg/L	8.04 mg/L
May 31, 2009	019	4.0 mg/L	29.8 mg/L
June 30, 2009	018	4.0 mg/L	6.89 mg/L
June 30, 2009	018	4.0 mg/L	8.07 mg/L
June 30, 2009	019	4.0 mg/L	14.4 mg/L
June 30, 2009	019	4.0 mg/L	53.8 mg/L
July 31, 2009	019	4.0 mg/L	57 mg/L
July 31, 2009	019	4.0 mg/L	61 mg/L

July 31, 2009	026	4.0 mg/L	8.6 mg/L
August 31, 2009	019	4.0 mg/L	18 mg/L
August 31, 2009	019	4.0 mg/L	40.2 mg/L
September 30, 2009	019	4.0 mg/L	15.2 mg/L
September 30, 2009	019	4.0 mg/L	23.27 mg/L
September 30, 2009	019	4.0 mg/L	29.8 mg/L
October 2009	018	4.0 mg/L	5.19 mg/L
October 2009	019	4.0 mg/L	35.4 mg/L
November 2009	018	4.0 mg/L	12.3 mg/L
November 2009	019	4.0 mg/L	32.7 mg/L
December 31, 2009	018	4.0 mg/L	14.1 mg/L

21. Springfield Coal caused or allowed the discharge of sulfates in excess of the permitted daily maximum effluent limitations as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
September 30, 2007	009	1100 mg/L	1620 mg/L
September 30, 2007	009	1100 mg/L	1410 mg/L
September 30, 2007	009	1100 mg/L	1280 mg/L
September 30, 2007	018	1800 mg/L	2100 mg/L
September 30, 2007	018	1800 mg/L	1930 mg/L
September 30, 2007	019	1800 mg/L	2180 mg/L
October 31, 2007	009	1100 mg/L	2970 mg/L
October 31, 2007	009	1100 mg/L	2380 mg/L
October 31, 2007	009	1100 mg/L	2080 mg/L
October 31, 2007	018	1800 mg/L	2710 mg/L
October 31, 2007	018	1800 mg/L	2370 mg/L
October 31, 2007	018	1800 mg/L	1920 mg/L
November 30, 2007	009	1100 mg/L	2230 mg/L
November 30, 2007	009	1100 mg/L	1930 mg/L
November 30, 2007	009	1100 mg/L	1610 mg/L
November 30, 2007	018	1800 mg/L	3080 mg/L
November 30, 2007	018	1800 mg/L	2740 mg/L
November 30, 2007	018	1800 mg/L	2420 mg/L
November 30, 2007	019	1800 mg/L	2940 mg/L
December 31, 2007	009	1100 mg/L	2040 mg/L
December 31, 2007	009	1100 mg/L	1408 mg/L
December 31, 2007	018	1800 mg/L	2970 mg/L
December 31, 2007	018	1800 mg/L	2390 mg/L
December 31, 2007	018	1800 mg/L	2080 mg/L
February 29, 2008	009	1100 mg/L	1150 mg/L

July 31, 2008	024W	500 mg/L	531 mg/L
November 30, 2008	019	1800 mg/L	2190 mg/L
December 31, 2008	009	1100 mg/L	1400 mg/L
December 31, 2008	018	1800 mg/L	2380 mg/L
December 31, 2008	018	1800 mg/L	2130 mg/L
December 31, 2008	019	1800 mg/L	2920 mg/L
February 28, 2009	009	1100 mg/L	1230 mg/L
February 28, 2009	018	1800 mg/L	2570 mg/L
March 31, 2009	024W	500 mg/L	544 mg/L
April 30, 2009	024W	500 mg/L	539 mg/L
May 31, 2009	024W	500 mg/L	515 mg/L
June 30, 2009	019	1800 mg/L	2690 mg/L
June 30, 2009	026	500 mg/L	818 mg/L
June 30, 2009	026	500 mg/L	656 mg/L
June 30, 2009	026	500 mg/L	509 mg/L
July 31, 2009	009	1100 mg/L	1310 mg/L
July 31, 2009	009	1100 mg/L	1470 mg/L
July 31, 2009	018	1800 mg/L	1940 mg/L
July 31, 2009	018	1800 mg/L	2077 mg/L
July 31, 2009	019	1800 mg/L	3290 mg/L
July 31, 2009	026	500 mg/L	869 mg/L
July 31, 2009	026	500 mg/L	927 mg/L
August 31, 2009	009	1100 mg/L	1360 mg/L
August 31, 2009	009	1100 mg/L	1430 mg/L
August 31, 2009	018	1800 mg/L	1820 mg/L
August 31, 2009	019	1800 mg/L	2490 mg/L
September 30, 2009	009	1100 mg/L	1200 mg/L
September 30, 2009	009	1100 mg/L	1287 mg/L
September 30, 2009	009	1100 mg/L	1350 mg/L
September 30, 2009	018	1800 mg/L	1920 mg/L
September 30, 2009	019	1800 mg/L	2020 mg/L
September 30, 2009	019	1800 mg/L	2020 mg/L
September 30, 2009	019	1800 mg/L	2020 mg/L
September 30, 2009	026	500 mg/L	692 mg/L
September 30, 2009	026	500 mg/L	768 mg/L
September 30, 2009	026	500 mg/L	853 mg/L
October 31, 2009	009	1100 mg/L	1260 mg/L
October 31, 2009	019	1800 mg/L	1900 mg/L
October 31, 2009	026	500 mg/L	694 mg/L
October 31, 2009	030	1100 mg/L	1150 mg/L

22. Springfield Coal caused or allowed the discharge of TSS in excess of the

permitted monthly average effluent limitation as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 2008	003	35.0 mg/L	49 mg/L
February 2008	018	35.0 mg/L	47.7 mg/L
February 2008	029	35.0 mg/L	64 mg/L
January 2009	009	35.0 mg/L	44.3 mg/L

23. Springfield Coal caused or allowed the discharge of TSS in excess of the

permitted daily maximum effluent limitation as follows:

<u>Date</u>	<u>Outfall</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
February 29, 2008	018	70.0 mg/L	116 mg/L
January 31, 2009	009	70.0 mg/L	80 mg/L

24. Springfield Coal caused or allowed the discharge of pH outside of the permitted

monthly average effluent limitation range of 6.0 to 9.0 standard units as follows:

<u>Month/Year</u>	<u>Outfall</u>	<u>Actual Discharge</u>
May 2009	019	5.29
June 2009	019	4.25
July 2009	019	3.62
July 2009	027	9.4

25. Springfield Coal repeatedly caused or allowed the discharge from the Industry Mine of manganese, sulfates, pH, and TSS, in excess of the effluent limitations imposed by NPDES Permit No. IL0061247.

26. By repeatedly discharging contaminants into waters of the State in violation of the terms or conditions of NPDES Permit No. IL0061247, Springfield Coal has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, SPRINGFIELD COAL COMPANY, LLC:

- A. Authorizing a hearing in this matter at which time this Respondent will be required to answer the allegations herein;
- B. Finding that this Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and the regulations as alleged herein;
- C. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008), impose upon this Respondent a monetary penalty of not more than the statutory maximum;
- D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award Complainant its reasonable costs in this matter, including attorney's fees and expert witness costs; and
- E. Grant such other and further relief as the Board deems appropriate.

COUNT III
WATER POLLUTION VIOLATIONS
FREEMAN UNITED

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

26. From at least January 2004 until September 2007, Freeman United caused or allowed the discharge of iron, manganese, sulfates, pH, and TSS into waters of the State so as to cause or tend to cause water pollution in Illinois in combination with matter from other sources. These repeated discharges from the Industry Mine in excess of the permitted concentration levels

have likely created a nuisance or rendered such waters harmful or detrimental or injurious to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

27. By so causing or tending to cause water pollution, Freeman United has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, FREEMAN UNITED COAL MINING COMPANY, LLC:

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

B. Finding that this Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose upon this Respondent a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

COUNT IV
WATER POLLUTION VIOLATIONS
SPRINGFIELD COAL

1-18. Complainant realleges and incorporates herein by reference paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count IV.

19-25. Complainant realleges and incorporates herein by reference paragraphs 19 through 25 of Count II as paragraphs 19 through 25 of this Count IV.

26. Since September 2007, Springfield Coal caused or allowed the discharge of manganese, sulfates, pH, and TSS into waters of the State so as to cause or tend to cause water pollution in Illinois in combination with matter from other sources. These repeated discharges from the Industry Mine in excess of the permitted concentration levels have likely created a nuisance or rendered such waters harmful or detrimental or injurious to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

27. By so causing or tending to cause water pollution, Springfield Coal has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent, SPRINGFIELD COAL COMPANY, LLC:

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

B. Finding that this Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and the regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose upon this Respondent a monetary penalty of not more than the statutory maximum; and


D. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

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