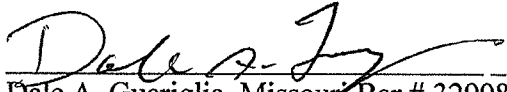


BRYAN CAVE LLP

By: 
Dale A. Guariglia, Missouri Bar # 32998
Pamela A. Howlett #6281863
Dennis J. Gelner II #6298390
One Metropolitan Square
211 North Broadway Suite 3600
St. Louis, MO 63102
Telephone: (314) 259-2000
Telefax: (314) 259-2020

Attorneys for Springfield Coal Co., L.L.C.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:		
PEOPLE OF THE STATE OF)	
ILLINOIS)	
)	
Complainant,)	
)	
v.)	PCB 2010-061
)	(Enforcement-Water)
FREEMAN UNITED COAL)	
MINING CO., L.L.C., and)	
SPRINGFIELD COAL CO., L.L.C.)	
)	
Respondents.)	

SPRINGFIELD COAL CO., L.L.C.’S ANSWER TO THE COMPLAINT OF THE PEOPLE OF ILLINOIS AND AFFIRMATIVE DEFENSES

COMES NOW Respondent, Springfield Coal Co., L.L.C. (“Springfield Coal”), by and through its attorneys, and pursuant to 35 Ill. Admin. Code 103.204, hereby files its Answer to the People of the State of Illinois’ (the ”State”) Complaint (dated February 10, 2010) and Affirmative Defenses. Pursuant to the Hearing Officer’s June 22, 2010 Order in this case, Respondents were required to answer the State’s Complaint by July 23, 2010. For its Answer, Springfield Coal states the following:

COUNT I

As Count I does not apply to Springfield Coal, Springfield Coal does not possess sufficient information to respond to the allegations contained in Count I at this time. To the extent Count I makes allegations against Springfield Coal, Springfield Coal denies the same.

COUNT II

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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).

ANSWER: Springfield Coal has insufficient information to either admit or deny the allegation above, and so denies same.

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")

ANSWER: Springfield Coal admits that there is a statute, 415 ILCS 5/4 (2008), and states that the statute speaks for itself. Springfield Coal refers Complainant to the statute for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the statute, as cited. Furthermore, Springfield Coal states that the allegations contained in paragraph 2 of Count II call for a legal conclusion, for which no answer is required. To the extent that an answer is required, Springfield Coal denies the allegations contained in paragraph 2 of Count II.

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.

ANSWER: Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 3 of Count II and therefore denies same.

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.

ANSWER: Springfield Coal admits the allegations contained in paragraph 4 of Count II.

5. On April 2, 1999, the Illinois EPA issued a permit to Freeman United under the National Pollution 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.

ANSWER: Springfield Coal admits the existence of NPDES Permit No. IL0061247, and states that the permit terms speak for themselves. Springfield Coal refers Complainant to NPDES Permit No. IL0061247 for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with Permit No. IL0061247.

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 the transfer of the permit.

ANSWER: Springfield Coal admits that a request was submitted to IEPA on August 14, 2007 to transfer NPDES Permit No. IL0061247 from Freeman United to Springfield Coal. With regard to the remaining allegations in paragraph 6, Springfield Coal has insufficient information to either admit or deny the allegations above, and so denies same.

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

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005, 007, 010, 011, 018, 019 1800 mg/L

004, 008, 020, 021, 022, 024W, 026, 027 500 mg/L

ANSWER: Springfield Coal admits the existence of NPDES Permit No. IL0061247, and states that the permit terms speak for themselves. Springfield Coal refers Complainant to NPDES Permit No. IL0061247 for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with Permit No. IL0061247.

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

ANSWER: Springfield Coal admits the existence of NPDES Permit No. IL0061247, and states that the permit terms speak for themselves. Springfield Coal refers Complainant to

NPDES Permit No. IL0061247 for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with Permit No. IL0061247.

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	3.5 mg/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

ANSWER: Springfield Coal admits that there is an administrative regulation, 35 Ill. Adm. Code 406.106(b), and states that the regulation speaks for itself. Springfield Coal refers Complainant to the regulation for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the Administrative Code, as cited.

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.

ANSWER: Springfield Coal admits that there is an administrative regulation, 35 Ill. Adm. Code 406.106(b)(2), and states that the regulation speaks for itself. Springfield Coal refers Complainant to the regulation for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the Administrative Code, as cited.

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, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, 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 NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

ANSWER: Springfield Coal admits that there is a statutory provision 415 ILCS 5/12 (2008), and states that the statute speaks for itself. Springfield Coal refers Complainant to the statute for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the statute, as cited.

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.

ANSWER: Springfield Coal admits that there is a statutory provision 415 ILCS 5/3.545 (2008), and states that the statute speaks for itself. Springfield Coal refers Complainant to the statute for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the statute, as cited.

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.

ANSWER: Springfield Coal admits that there is a statutory provision 415 ILCS 5/3.165 (2008), and states that the statute speaks for itself. Springfield Coal refers Complainant to the statute for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the statute, as cited.

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.

ANSWER: : Springfield Coal states that the allegations contained in paragraph 14 of Count II calls for a legal conclusion, for which no answer is required. To the extent that an answer is required, Springfield Coal denies the allegations contained in paragraph 14 of Count II that are inconsistent with the Act, as cited.

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.

ANSWER: Springfield Coal admits that there is a statutory provision 415 ILCS 5/3.550 (2008), and states that the statute speaks for itself. Springfield Coal refers Complainant to the statute for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the statute, as cited.

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.

ANSWER: Springfield Coal states that the allegations contained in paragraph 16 of Count II call for a legal conclusion, for which no answer is required. To the extent that an answer is required, Springfield Coal denies the allegations contained in paragraph 16 of Count II.

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.

ANSWER: Springfield Coal admits that there is an administrative regulation, 35 Ill. Adm. Code 401.102, and states that the regulation speaks for itself. Springfield Coal refers Complainant to the regulation for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the Administrative Code, as cited. Furthermore, Springfield Coal states that the allegations contained in paragraph 17 of Count II call for a legal conclusion, for which no answer is required. To the extent that an answer is required, Springfield Coal denies the allegations contained in paragraph 17 of Count II.

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.

ANSWER: Springfield Coal admits that there is an administrative regulation, 35 Ill. Adm. Code 401.102, and states that the regulation speaks for itself. Springfield Coal refers Complainant to the regulation for a complete and accurate statement of its contents. Springfield Coal denies the allegations to the extent that they are inconsistent with the Administrative Code, as cited. Furthermore, Springfield Coal states that the allegations contained in paragraph 18 of Count II call for a legal conclusion, for which no answer is required. To the extent that an answer is required, Springfield Coal denies the allegations contained in paragraph 18 of 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

ANSWER: Springfield Coal continues to investigate the accuracy of the allegations set forth in paragraph 19 of Count II. At this time, Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 19 of Count II and therefore denies same.

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

ANSWER: Springfield Coal continues to investigate the accuracy of the allegations set forth in paragraph 20 of Count II. At this time, Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 20 of Count II and therefore denies same.

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

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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

ANSWER: Springfield Coal continues to investigate the accuracy of the allegations set forth in paragraph 21 of Count II. At this time, Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 21 of Count II and therefore denies same.

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

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January 2009 009 35.0 mg/L 44.3 mg/L

ANSWER: Springfield Coal continues to investigate the accuracy of the allegations set forth in paragraph 22 of Count II. At this time, Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 22 of Count II and therefore denies same.

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

ANSWER: Springfield Coal continues to investigate the accuracy of the allegations set forth in paragraph 23 of Count II. At this time, Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 23 of Count II and therefore denies same.

24. Springfield Coal caused or allowed the discharge of pH outside 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
June 2009	019	3.62
July 2009	027	9.4

ANSWER: Springfield Coal denies that the terms of the NPDES permit provide a monthly average effluent limitation for the discharge of pH. Springfield Coal continues to investigate the accuracy of the allegations set forth in paragraph 24 of Count II. At this time,

Springfield Coal has insufficient information to either admit or deny the allegations of paragraph 24 of Count II and therefore denies same.

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.

ANSWER: Springfield Coal denies the allegations contained in paragraph 25 of Count II.

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).

ANSWER: Springfield Coal states that the allegations contained in paragraph 26 of Count II call for a legal conclusion, for which no answer is required. To the extent that an answer is required, Springfield Coal denies the allegations contained in paragraph 26 of Count II.

WHEREFORE, Respondent Springfield Coal Co. L.L.C. respectfully requests that the Board deny the relief requested by the Complainant, that this matter be dismissed in its entirety, and that the Board award such other relief as is just and appropriate.

COUNT III

As Count III does not apply to Springfield Coal, Springfield Coal does not possess sufficient information to respond to the allegations contained in Count III at this time.

To the extent Count III makes allegations against Springfield Coal, Springfield Coal denies the same.

COUNT IV

1-25. Springfield Coal repleads and incorporates herein by reference its responses to paragraphs 1 through 25 of Count II as its responses to paragraphs 1 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.

ANSWER: Springfield Coal denies the allegations contained in paragraph 26 of Count IV.

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).

ANSWER: Springfield Coal denies the allegations contained in paragraph 27 of Count IV.

AFFIRMATIVE DEFENSES

Springfield Coal raises the following affirmative defenses, which shall apply to and be incorporated into all answers by Springfield Coal. Springfield Coal reserves the right to supply

further affirmative defenses in a supplemental answer to any or all paragraphs of any count herein.

1. The State's claim fails to state a cause of action upon which relief can be granted.
2. Freeman United submitted a renewal application for National Pollution Discharge Elimination System ("NPDES") Permit No. IL0061247 in August 2003. At present, the Illinois Environmental Protection Agency ("IEPA") has not officially acted upon the renewal application. Had IEPA acted upon the renewal application in a timely manner, there would have been a revised permitted effluent limitation for sulfates, and Springfield Coal's water discharge would have been in conformance with its permit.
3. The sulfate discharge limitations in Springfield Coal's NPDES permit and which the State now alleges Springfield Coal violated are based upon sulfate water quality standards which were officially rejected by the Board in September 2008, and which the State knew for years were not based in sound science, inappropriate for mining operations, and impossible to comply with insomuch as sulfate was not treatable by any practical means.
4. The State proposed in April 2010 that Grindstone Creek, which runs through the Industry Mine, be removed from Illinois Section 303(d) Impaired Water List based upon water quality data dating back to at least 2007.
5. Prior to any mining activity on the Industry Mine property, there were naturally occurring levels of a number of constituents, including sulfate and manganese, in the surface water runoff at the site at concentrations that would be considered exceedances of Springfield Coal's NPDES permit.
6. Complainant's claims are barred by the statute of limitations and/or statute of repose.

7. Pursuant to 415 ILCS 5/31(a), Springfield Coal entered into a compliance commitment agreement with IEPA on August 30, 2007, and such agreement addressed the issues Complainant now raises in its Complaint.

8. Complainant's claims are barred by the doctrines of laches, estoppel and/or waiver.

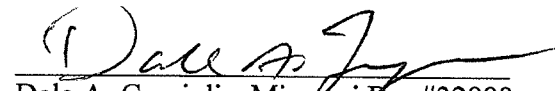
9. Pursuant to 415 ILCS 5/31(a)(1), IEPA did not provide Springfield Coal with a notice of violation for all of the alleged violations contained in the State's Complaint. Consequently, Springfield Coal was given neither proper notice nor opportunity to respond under the statute regarding many of the alleged violations.

WHEREFORE, Respondent Springfield Coal Co. L.L.C. respectfully requests that the Board deny the relief requested by the Complainant, that this matter be dismissed in its entirety, and that the Board award such other relief as is just and appropriate.

Respectfully Submitted,

BRYAN CAVE LLP

By:



Dale A. Guariglia, Missouri Bar #32998

Pamela A. Howlett #6281863

Dennis J. Gelner II #6298390

One Metropolitan Square

211 North Broadway Suite 3600

St. Louis, MO 63102

Telephone: (314) 259-2000

Telefax: (314) 259-2020

Attorneys for Respondent, Springfield Coal
Co., L.L.C

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing response was served upon the following parties via U.S. Mail on the 23rd day of July, 2010:

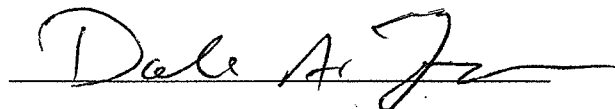
Thomas Davis
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, IL 62706

Bill S. Forcade
E. Lynn Grayson
James A. Vroman
Jenner & Block LLP
353 N. Clark Street
Chicago, IL 60654-3456

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

Jessica Dexter
Environmental Law and Policy Center
35 East Wacker Drive, Suite 1300
Chicago, IL 60601

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

A handwritten signature in black ink, appearing to read "Dale A. Johnson", with a horizontal line drawn underneath the signature.