

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:	)	
	)	
PEOPLE OF THE STATE OF	)	
ILLINOIS,	)	
	)	
Complainant,	)	
	)	PCB 2010-061 and 2011-002
ENVIRONMENTAL LAW AND	)	(Consolidated – Water –
POLICY CENTER, on behalf of PRAIRIE	)	Enforcement)
RIVERS NETWORK and SIERRA CLUB,	)	
ILLINOIS CHAPTER,	)	
	)	
Intervenor,	)	
	)	
v.	)	
	)	
FREEMAN UNITED COAL	)	
MINING CO., L.L.C., and	)	
SPRINGFIELD COAL COMPANY, L.L.C.,	)	
	)	
Respondents.	)	

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**APPLICATION FOR CONFIDENTIAL AND NON-DISCLOSABLE INFORMATION  
DESIGNATION, SEAL, AND PROTECTIVE ORDER**

COMES NOW Springfield Coal Company, L.L.C., (“Springfield Coal”), pursuant to 35 Ill. Adm. Code § 101.616, 35 Ill. Adm. Code § 400 *et seq.*, and 415 ILCS § 5/7(a), and for its Application for Confidential and Non-Disclosable Information Designation, Seal, and Protective Order, states as follows:

1. The Illinois Pollution Control Board’s (the “Board”) administrative rules allow for the designation and protection of confidential information.
2. Specifically, the Hearing Officer may enter a protective order to protect Confidential or Non-Disclosable Information: “The hearing officer may, on his or her own motion or on the motion of any party or witness, issue protective orders that deny, limit, condition or regulate discovery to prevent unreasonable expense, or harassment, to expedite

resolution of the proceeding, or to protect non-disclosable materials from disclosure consistent with Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.” 35 Ill. Adm. Code 101.616(d).

3. “Non-Disclosable Information” means, among other things, “confidential data submitted by any person under Act [415 ILCS 5/7(a)].” 35 Ill. Adm. Code 101.202.

4. Documents that are designated as Non-Disclosable Information may not be publicly disclosed or transmitted. 35 Ill. Adm. Code 130.402; *see also* 35 Ill. Adm. Code 101.616(d); 415 ILCS § 5/7(a). The disclosure and transmission of Non-Disclosable Information is limited to those persons specified in 35 Ill. Adm. Code 130.402.

5. Springfield Coal seeks to transmit to the Board for the Board’s consideration in this Matter (PCB 2010-061 and 2011-002) business and financial records and documents that constitute confidential proprietary information (the “Articles”).

6. Springfield Coal seeks to transmit the Articles to the Board with a designation that all documents, pages, and attachments thereto are confidential Non-Disclosable Information and may not be disclosed or transmitted to any third party and may not be used by any party to this Matter for any reason other than prosecuting this Matter.

7. In accordance with 35 Ill. Adm. Code § 130.404(e), Springfield Coal furthermore states:

- a. The Articles that Springfield Coal seeks to submit constitute “confidential data submitted by any person” under 35 Ill. Adm. Code § 101.202;
- b. The Articles constitute Non-Disclosable Information, because they contain confidential proprietary information such as profits and losses, operating statements, and other highly sensitive business information of the Industry Mine and of Springfield Coal;

- c. The Articles consist of the following collections of documents:
  - i. Springfield Coal's consolidated financial documents for fiscal years 2007 through 2012 (the "Springfield Coal Articles");
  - ii. Income statements of the Industry Mine for fiscal years 2007 through 2012 (the "Industry Mine Articles").
- d. Persons familiar with the Articles are limited to Springfield Coal's several officers, directors, and accounting personnel;
- e. Springfield Coal has protected these Articles from disclosure since the date on which each was created, because Springfield Coal and its officers, directors, accounting personnel, representatives, and agents have regarded and continue to regard the Articles as confidential, proprietary information;
- f. Springfield Coal agrees to waive decision deadlines in accordance with 35 Ill. Adm. Code § 130.204.

8. Pursuant to 35 Ill. Adm. Code § 130.406, Springfield Coal requests that all Articles referenced herein be designated and treated as confidential, Non-Disclosable Information during the pendency of this Application until such time that the Board has entered an order granting or denying this Application. Springfield Coal further requests that such designation, if granted, be effective immediately and indefinitely, including after this Matter has concluded.

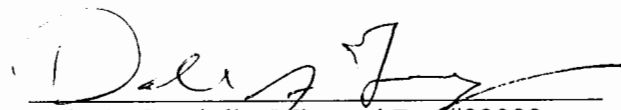
9. The Articles are hereto attached to this Application filed with the Board. Pursuant to 35 Ill. Adm. Code § 130.404(d), Springfield Coal has not served copies of the Articles to any party to this Matter.

WHEREFORE, Springfield Coal respectfully requests the Illinois Pollution Control Board grant Springfield Coal's Application for Confidential and Non-Disclosable Information Designation, Seal, and Protective Order, and enter an order to designate that each of the Articles herein referenced are Confidential Non-Disclosable Information that may not be disclosed or transmitted to third parties and to enter any other orders as appropriate or necessary to achieve the objectives articulated herein.

Dated: June 24, 2013

Respectfully submitted,

BRYAN CAVE LLP



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*Attorneys for Respondent,  
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	)	
Respondents.	)	

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**NOTICE OF ELECTRONIC FILING**

TO:

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

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

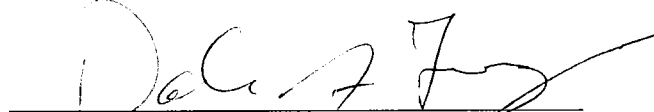
John Therriault, Clerk  
Illinois Pollution Control Board  
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PLEASE TAKE NOTICE that on June 24, 2013, I electronically filed with the Clerk of the Pollution Control Board, Springfield Coal Co., LLC's Application for Non-Disclosable Designation, copies of which are herewith served upon you.

BRYAN CAVE LLP



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