

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**PEOPLE OF THE STATE OF ILLINOIS,**

**Complainant,**

**v.**

**HERITAGE COAL COMPANY, L.L.C.  
(f/k/a PEABODY COAL COMPANY, L.L.C.,**

**Respondent.**

**PCB NO. 99-134  
(Enforcement)**

**NOTICE OF FILING**

Jane E. McBride, Assistant Attorney General, hereby certifies that she has served a copy of the foregoing Notice of Filing and Status Report upon:

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
Chicago, IL 60601

Stephen Hedinger  
Sorling, Northrup, Hanna, Cullen & Cochran  
1 North Old State Capitol Plaza, Ste. 200  
P.O. Box 5131  
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Kansas City, MO 64112

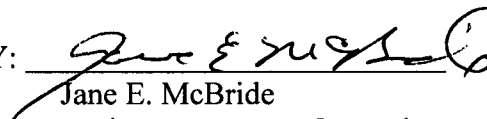
by placing a copy of same in the United States Mail in Springfield, Illinois, with postage fully prepaid on October 1, 2015.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS, ex rel. LISA  
MADIGAN, Attorney General,  
State of Illinois

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

BY:

  
Jane E. McBride  
Assistant Attorney General

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
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<b>Complainant,</b>	)	
	)	<b>PCB NO. 99-134</b>
<b>v.</b>	)	<b>(Enforcement)</b>
	)	
<b>HERITAGE COAL COMPANY, L.L.C.</b>	)	
<b>(f/k/a PEABODY COAL COMPANY, L.L.C.),</b>	)	
	)	
<b>Respondent.</b>	)	

**STATUS REPORT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel* Lisa Madigan, Attorney General of the State of Illinois, and pursuant to the Hearing Officer Order of September 17, 2015, submits this Status Report addressing the status of activity pertinent to the instant matter. Complainant states as follows:

1. On May 12, 2015, Patriot Coal Corporation and certain of its affiliates, including Respondent Heritage Coal Company (hereinafter collectively "Debtors"), each filed a petition with the United States Bankruptcy Court for the Eastern District of Virginia under Chapter 11 of Title XI of the United State Code (the Bankruptcy Code).
2. The Debtors have submitted their Fourth Amended Joint Plan of Reorganization along with related materials, proposing a plan to reorganize the Debtors' assets and liabilities.
3. On September 28, 2015, the Illinois Attorney General's Office filed a Joint Objection of the Illinois Department of Natural Resources and the Illinois Environmental Protection Agency to Debtors' Fourth Amended Joint Plan of Reorganization in the aforementioned bankruptcy case, Chapter 11, Case No. 15-32450 (KLP) United States

Bankruptcy Court, Eastern District of Virginia, Richmond Division. Objections to the plan have also been filed by The United States, West Virginia, Pennsylvania, Ohio and Kentucky.

4. Hearing on the Fourth Amended Joint Plan of Reorganization is scheduled before the bankruptcy court for October 5 and 6, 2015.

5. The instant matter is exempt from the automatic stay triggered by Respondent's bankruptcy filing pursuant to Section 362(4)(b) of the Bankruptcy Code, 11 U.S.C. § 362(b)(4). The police power exception to the stay includes proceedings to prevent or stop (as well as fix penalties for) violations of the environmental protection laws. According to Section 362(b)(4)'s legislative history, the phrase "police or regulatory power" includes the enforcement of laws enacted to protect the environment and the public's health and safety. *Commonwealth Oil Refining Co. v. EPA (In re Commonwealth Oil Refining Co.)* 805 F.2d 1175, 1186 (5<sup>th</sup> Cir 1986) *cert denied*, 483 U.S. 1005 (1987). The exception is not limited to situations where there is "imminent and identifiable harm" to the public health and safety or other "urgent public necessity." *Id.* A government unit's effort to enforce environmental protection laws, regardless of whether the effort begins before or after the bankruptcy petition is filed, is exempt from the automatic stay.

6. It is anticipated that further information and direction may be available to the parties following the October 5-6, 2015 confirmation hearing.


WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, submits the above Status Report in compliance with the Hearing Officer's Order.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN, Attorney General  
State of Illinois

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

BY:   
JANE E. MC BRIDE  
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Environmental Bureau

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Dated: 10/1/2015