

1 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
2 Proposed Issuance of a Water Discharge Permit to
3 Peabody Coulterville Mining, LLC, in Perry and
4 Randolph Counties
5
6
7
8
9

10 Report of the Proceedings of the Public Hearing held
11 on June 8, 2011, at 6:00 p.m., at City Hall, 114 West
12 Jackson Street, Sparta, Illinois, before Sharon
13 Valerius, Notary Public and Certified Shorthand
14 Reporter #084-003349 for the State of Illinois.

15 Before Hearing Officer
16 DEAN STUDER
17 Illinois EPA
18 1021 North Grand Avenue East
19 P.O. Box 19276
20 Springfield, IL 62794-9276
21
22
23
24
25

18 EPA PANEL:
19 Ms. Iwona Ward
20 Mr. Larry Crislip
21 Ms. Stefanie Diers
22 Mr. Scott Twait
23 Mr. William Buscher
24
25

1 MR. STUDER: We'll go ahead and get
2 started. I want to thank you all for coming out on
3 this warm evening. Good evening. My name is Dean
4 Studer, and I'm the hearing officer for the Illinois
5 Environmental Protection Agency. On behalf of
6 Interim Director Lisa Bonnett and Bureau of Water
7 Chief Marcia Willhite, I welcome you to tonight's
8 hearing.

9 The Illinois EPA believes that the
10 public hearings that we hold are a crucial part of
11 the permit review process. My purpose tonight is to
12 ensure that these proceedings run properly, according
13 to rules, and in a fair but efficient manner. To
14 that end, I will start by reading an opening
15 statement into the record.

16 This is an informational hearing before
17 the Illinois EPA in the matter of a modified and
18 reissued national pollutant discharge elimination
19 system (NPDES) permit application for an underground
20 coal mining facility of Peabody Coulterville Mining,
21 LLC, for the Gateway Mine, with discharges of treated
22 wastewater into unnamed tributaries of both Mary's
23 River and Plum Creek.

24 Issues relevant to the NPDES hearing
25 include compliance with the requirements of the Clean

1 Water Act and the rules set forth in 35 Illinois
2 Administrative Code, Subtitles C and D. Illinois EPA
3 is not the state agency authorized to permit the
4 mining operations at this coal mine, so issues
5 specifically concerning operations at the mine may
6 not be relevant in this proceeding. However, we are
7 empowered to review and make a decision regarding the
8 issuance, denial, or revision of the NPDES permit.
9 And that permit number is IL0062189.

10 The Illinois EPA is particularly
11 interested in comments regarding the items contained
12 in the draft permit that have been specifically
13 revised since the last permit action and incorporated
14 into this reissued permit. These items have been
15 identified on the bottom of page 1 of the Public
16 Notice/Fact Sheet for the draft permit and are also
17 included in the permit notice. While we are
18 particularly interested in comments on these items,
19 since this is a permit reissuance, comments dealing
20 with the requirements of the NPDES permit are
21 relevant.

22 The Illinois EPA has made a preliminary
23 determination that the project meets the requirements
24 for obtaining a reissuance and modification of this
25 permit and has prepared a draft permit for review.

1 The Illinois EPA is holding this hearing for the
2 purpose of accepting comments from the public on the
3 draft permit prior to taking final action on the
4 permit application.

5 This public hearing is being held under
6 the provisions of Illinois EPA's procedures for
7 permit and closure plan hearings, which can be found
8 in 35 Illinois Administrative Code Part 166, Subpart
9 A, and in accordance with 35 Illinois Administrative
10 Code Part 309, Subpart A. Copies of these
11 regulations are available at the Illinois Pollution
12 Control Board website at www.ipcb.state.il.us, or if
13 you do not have easy access to the Web, you may
14 contact me, and I can get a copy for you.

15 An informational public hearing means
16 exactly that. This is strictly an informational
17 hearing. It is an opportunity for you to provide
18 information to the Illinois EPA concerning the
19 permit. This is not a contested case hearing.
20 Again, I stress that the purpose of this hearing is
21 for members of the public to provide information to
22 the Illinois EPA that we may not have taken, or had,
23 excuse me, when we made our preliminary
24 determination.

25 The authority for the Illinois EPA to

1 issue this permit is contained in Section 39 of the
2 Illinois Environmental Protection Act, 415 Illinois
3 Compiled Statutes 5/39. In pertinent part, this
4 section reads: It shall be the duty of the Agency to
5 issue such a permit upon proof by the applicant that
6 the facility, equipment, vehicle, vessel, or aircraft
7 will not cause violation of this act or of
8 regulations hereunder.

9 The decision by the Agency in this
10 matter will be based upon the technical merits of the
11 application as it relates to compliance with this
12 statute and regulations promulgated under it. The
13 Agency decision is not based on how many people
14 desire for the permit to be issued or on how many
15 people desire for the permit not to be issued, but
16 rather on compliance with the law and regulations.

17 I'd like to explain how tonight's
18 hearing is going to proceed. First, we will have the
19 Illinois EPA panel introduce themselves and provide a
20 sentence or two regarding their involvement in the
21 permit process. Then Iwona Ward from the Mine
22 Pollution Control Program at Illinois EPA in Marion
23 will make a brief presentation regarding the permit.

24 Following Ms. Ward will be Mr. Bryce
25 West, Director of Environmental, excuse me, Director

1 of Environmental Services, speaking on behalf of
2 Peabody Coal, Peabody Coulterville Mining, which is
3 the permit applicant, and he'll also be making a
4 brief statement this evening.

5 After Mr. West, I will provide further
6 instructions as to how statements and comments will
7 be taken during this hearing and as to appropriate
8 conduct during this hearing tonight. Following these
9 additional instructions, I will allow the public to
10 provide comments.

11 I will enforce a time limit for each
12 speaker. The time limit will be eight minutes. You
13 may want to prioritize your comments, so that you can
14 make the comments at this hearing that you desire to
15 make. If you have lengthy comments, you should
16 consider giving a summary of comments during the
17 hearing tonight and then submitting the comments in
18 writing in their entirety.

19 If you have not completed a
20 registration card at this point, please see Mara
21 McGinnis in the back, and she can provide you with a
22 card. You may indicate on the card that you would
23 like to provide comments on this NPDES permit during
24 tonight's hearing. Everyone completing a card or
25 filing written comments in this matter with me before

1 the close of the hearing record will be notified when
2 the Illinois EPA reaches a final decision in this
3 matter. A responsiveness summary will be made
4 available at that time.

5 In the responsiveness summary, the
6 Illinois EPA will attempt to respond to all relevant
7 and significant environmental issues that were raised
8 at this hearing or submitted to me prior to the close
9 of the comment period. The hearing record in this
10 matter will close on July 8, 2011. I will accept
11 written comments as long as they are postmarked by
12 July 8.

13 Comments can also be filed
14 electronically by e-mail at epa.publichearingcom --
15 that's P-U-B-L-I-C-H-E-A-R-I-N-G-C-O-M, all one word
16 -- @illinois -- spelled out --.gov, and they must
17 specify Gateway Mine NPDES in the subject line.
18 Please make sure that these words are included in the
19 subject line and are spelled correctly, as e-mails
20 are electronically sorted and distributed and may not
21 make it into the record if the subject line is other
22 than I just specified.

23 When your e-mail arrives, the system
24 should send you an automated reply if the e-mail was
25 received before the comment period ends and the

1 e-mail has been properly sorted and distributed. I
2 note that the server can become quite busy in the
3 minutes before the record closes, so you may want to
4 take this into account when submitting your comments,
5 as electronic comments received after midnight on
6 July 8, that's July 8 going into July 9, will not be
7 considered timely filed.

8 The comment instructions and
9 information are also included in the notice for this
10 hearing. If you require any further information
11 after the hearing on the filing of comments, you may
12 contact me at 217-558-8280, or you may contact our
13 community relations coordinator, Mara McGinnis, at
14 217-524-3288, and either of us will be glad to assist
15 you.

16 During this hearing and during the
17 comment period, all relevant comments, documents, and
18 data will also be placed into the hearing record as
19 exhibits. Please send all written documents or data
20 to my attention at Dean Studer, Hearing Officer, Mail
21 Code #5, regarding Gateway Mine NPDES, Illinois EPA,
22 1021 North Grand Avenue East, P.O. Box 19276,
23 Springfield, Illinois 62794-9276. And this address
24 is also listed on the public notice for this hearing
25 tonight.

1 Please indicate the NPDES permit number
2 IL 0062189, or reference Gateway Mine NPDES on your
3 comments, to help ensure that they become part of
4 this hearing record. I note that everyone
5 registering or submitting written comments to the
6 Illinois EPA in this matter will be notified of the
7 final decision by the Illinois EPA.

8 I now ask the Illinois EPA staff
9 present here with me to introduce themselves and give
10 a brief sentence as to their role in the permit
11 review of, excuse me, in the permit review process.
12 Then Iwona Ward will make a brief presentation, and
13 this will be followed by Mr. West, who will also make
14 a brief statement this evening. Following these
15 statements, I will provide more specific instructions
16 as to how comments will be accepted this evening.
17 Larry, would you like to introduce yourself.

18 MR. CRISLIP: My name is Larry
19 Crislip. I'm manager of the Permit Section for the
20 Mine Pollution Control Program for the Illinois EPA.

21 MS. WARD: My name is Iwona Ward. I am
22 the permit engineer for the Mine Pollution Control
23 Program.

24 MS. DIERS: My name is Stefanie Diers.
25 I'm legal counsel for Illinois EPA.

1 MR. TWAIT: I'm Scott Twait. I work
2 for the Water Quality Section, Water Quality
3 Standards Section, and I worked on developing some of
4 the permit limits and the anti-degradation.

5 MR. STUDER: Can you all hear Scott in
6 the back of the room? He's kind of a ways from the
7 mike. Okay.

8 MR. BUSCHER: My name is Bill Buscher.
9 I work in the Groundwater Section in the Bureau of
10 Water, and I reviewed groundwater related information
11 for this site.

12 MR. STUDER: Thank you. Iwona, would
13 you like to go through your presentation this
14 evening.

15 MS. WARD: Good evening, ladies and
16 gentlemen. My name is Iwona Ward, and I am a permit
17 engineer for the Mine Pollution Control Program for
18 the Illinois Environmental Protection Agency.

19 The purpose of this renewed and
20 modified NPDES Permit No. IL0062189 is to regulate
21 surface discharges to Waters of the State from the
22 surface facilities of the existing underground
23 Gateway Mine. The surface facilities of this
24 underground mining operation are located on
25 approximately 933 acres and include a coal

1 preparation plant with a slurry disposal system that
2 is operated as a closed circuit, railroad loop,
3 freshwater lake, access roads, office and maintenance
4 buildings, overland coal conveyer system, drainage
5 control structures, and sedimentation basins.

6 Seven sedimentation basins and outfalls
7 are identified in the NPDES Permit, which control
8 runoff from these surface facilities. All seven
9 outfalls located at this mining facility are
10 classified as alkaline mine drainage. Five of these
11 basins and outfalls are designated to collect and
12 treat surface runoff from disturbed areas. And
13 therefore, the discharges from these basins will
14 generally coincide with precipitation events.

15 Two of the basins with discharges
16 identified as Outfalls 007 and 010 may receive
17 pumpage from the underground mining operation and
18 therefore may discharge during low-flow or no-flow
19 conditions in the receiving streams. Receiving
20 waters for the discharges from the Gateway Mine are
21 identified as unnamed tributaries to Mary's River and
22 an unnamed tributary to Plum Creek.

23 I would like to thank everyone for
24 coming this evening and welcome you to the Illinois
25 EPA's public hearing. Thank you.

1 MR. STUDER: Thank you, Iwona. As is
2 customary in permit hearings, we give the applicant
3 the opportunity to make a brief opening statement.
4 Bryce West, were you planning on making a statement
5 this evening?

6 MR. WEST: Yes. Peabody Coulterville
7 Mining is committed to conducting its Gateway mining
8 operation --

9 MR. STUDER: Can you hear him in back?

10 AUDIENCE MEMBER: No, not real well.

11 MR. STUDER: Okay. Is it turned on?

12 MR. WEST: Peabody Coulterville Mining
13 is committed to conducting its Gateway mining
14 operation --

15 MR. STUDER: Is that better? Okay. Go
16 ahead, Bryce.

17 MR. WEST: -- in a responsible and
18 ethical manner that protects the environment and
19 restores the land using best management practices.
20 We are further committed to continuous improvement
21 efforts in all aspects of our operation, including
22 environmental stewardship. We will utilize our
23 well-trained staff and resources to comply with all
24 permit requirements.

25 The Gateway Mine has been in operation

1 for multiple decades. Peabody acquired the mine site
2 in 2005 and has operated the mine during the past six
3 years. During this time, Peabody has made
4 significant investments to improve different aspects
5 of the mine and will make additional improvements
6 following approval of this permit renewal.

7 Currently Peabody employs approximately
8 270 full-time workers at the Gateway Mine. We look
9 forward to resolving any remaining issues regarding
10 this permit renewal and receive the appropriate
11 approval as soon as possible. Thank you.

12 MR. STUDER: Thank you, Bryce. And for
13 the record, that's Bryce West, B-R-Y-C-E, W-E-S-T.
14 I'll go over a few more instructions tonight. While
15 the issues raised tonight may indeed be heartfelt
16 concerns to many of us in attendance, applause is not
17 appropriate during the course of the hearing this
18 evening. Booing, hissing, and jeering are also not
19 appropriate and will not be allowed this evening.

20 Secondly, statements made tonight are
21 to be related to the issues involved with this NPDES
22 permit. Specifically statements and comments that
23 are of a personal nature or reflect on the character
24 or motive of a person or group of people are not
25 appropriate in this hearing. If statements or

1 comments begin to drift into this area, I may
2 interrupt the person speaking.

3 As hearing officer, I intend to treat
4 everyone here tonight in a professional manner and
5 with respect. I ask that the same respect be shown
6 to those providing comments, as well as those
7 responding to comments. If the conduct of persons
8 attending this hearing should become unruly, or if
9 members of the public do not follow these directives,
10 I am authorized to adjourn this hearing should
11 actions warrant.

12 In such a case, the Illinois EPA would
13 continue to accept written comments through the time
14 indicated on the notice for this hearing and would
15 make a decision based on the record at the close of
16 the comment period, which is July 8, 2011.

17 Since we have a limited time in which
18 to conduct this hearing, Illinois EPA staff members
19 will be responding to issues as necessary. We are
20 primarily here tonight to listen to environmental
21 issues under the administrative control of the
22 Illinois EPA. Comments regarding personalities are
23 not appropriate and will not be allowed during this
24 hearing.

25 You may disagree with or object to some

1 of the statements and comments made tonight, but this
2 is a public hearing, and everyone present here
3 tonight has a right to express their comments on this
4 draft permit and issues related to it as time
5 allows.

6 You are not required to provide your
7 comments orally. Written comments are given the same
8 consideration and may be submitted to the Illinois
9 EPA at any time within the public comment period,
10 which again ends at midnight on July 8, 2011.

11 Although we will continue to accept
12 comments through that date, tonight is the only time
13 that we will accept oral comments. Any person who
14 wishes to make an oral comment may do so, as long as
15 the statements are relevant to the issues at hand and
16 time allows. If you have lengthy comments, please
17 submit them to me in writing before the close of the
18 comment period, and I will ensure that they are
19 included in the hearing record as an exhibit.

20 If your comments fall outside the scope
21 of this hearing, I may ask you to proceed to another
22 issue. For the purpose of allowing everyone to have
23 a chance to comment and to ensure that we conduct
24 this hearing in a timely fashion, I will impose a
25 time limit of nine minutes. I've got the cards here,

1 and it looks like nine will get us through. If we
2 have additional time after everyone has spoken, I may
3 come back to those that initially ran out of time,
4 but we would like to be able to hold this hearing to
5 a two-hour time frame if at all possible.

6 I will attempt to indicate when you're
7 speaking when you have about 30 seconds left, so that
8 you can finish within the time limit. This should
9 give everyone that desires to speak to have the
10 opportunity to do so. In addition, I'd like to
11 stress that we want to avoid unnecessary repetition.
12 If anyone before you has already presented a
13 statement or comment that is contained in your
14 comments, I ask that you skip over those issues when
15 you speak.

16 If someone has already said what you
17 intended to say, you may pass when I call your name
18 to come forward. Once a point is made, it makes no
19 difference if the point is made once or whether it is
20 made 99 times. It will only be reflected once in the
21 responsiveness summary and is given no additional
22 weight simply because multiple people have commented
23 on it.

24 All comments will become part of the
25 official record. After everyone that has registered

1 to speak has had an opportunity to do so, and
2 provided that time permits, I may allow those who
3 initially did not desire to speak to do so. In the
4 event that we cannot accommodate everyone who wishes
5 to make comments this evening, or if you run out of
6 time before you complete your comments, you do have
7 the option to submit your comments to us in writing.

8 Written comments again are given the
9 same weight as comments made orally at this hearing,
10 provided that the written comments are filed within
11 the comment period. All comments which are timely
12 filed will be considered by the Illinois EPA in
13 reaching a final decision in this matter.

14 We have a court reporter here who is
15 taking a record of these proceedings for the purpose
16 of us putting together our administrative record.
17 Therefore, for her benefit, please keep the general
18 background noise in the room to a minimum, so that
19 she can hear everything that is said.

20 Illinois EPA will post a transcript of
21 this hearing on our Web page in the same general
22 place where the hearing notice, the fact sheet, and
23 the draft permit have been posted. It is my desire
24 to have this posted in about two to two and a half
25 weeks following the close of this hearing, but the

1 actual time will depend on when I receive the
2 transcript.

3 When I call your name, please come
4 forward, state your name, and if applicable, any
5 governmental body, organization, or association that
6 you represent. If you are not representing a
7 governmental body, an organization, or association,
8 you may simply indicate that you are a concerned
9 citizen or a member of the public.

10 For the benefit of the court reporter,
11 I ask that you spell your last name. If there are
12 alternate spellings for your first name, you may also
13 spell your first name. Once you spell your name, I
14 will start timing, and you will have nine minutes to
15 complete your comments.

16 I ask that while you are speaking, that
17 you direct your comments and attention to the hearing
18 panel and to the court reporter, to ensure that an
19 accurate record of your comments can be made.
20 Prolonged dialogue with members of the hearing panel
21 or with others here in attendance will not be
22 permitted.

23 Comments directed to other members of
24 the public are not allowed. Again, I remind everyone
25 that the focus of the hearing is the environmental

1 issues associated with the NPDES permit. Comments
2 should be focused on issues relevant to this
3 proceeding. If comments begin to move into areas not
4 relevant to this proceeding, I may interrupt you and
5 ask that you move on to your next issue.

6 People who have requested to speak will
7 be called upon in the order that I have in front of
8 me based on the order in which they registered. Are
9 there any questions on how I will proceed this
10 evening? Okay. With that, the first person that I
11 have that registered is Jack Normand.

12 AUDIENCE MEMBER: I'd like to pass at
13 this time.

14 MR. STUDER: You'll pass right now?
15 Okay. Second person is Tony, it looks like Lehr,
16 L-E-H-R.

17 AUDIENCE MEMBER: Yes.

18 MR. STUDER: And he'll be followed by
19 Traci Barkley.

20 MR. LEHR: Okay. My name is Tony Lehr,
21 that's L-E-H-R, and I'm a concerned citizen,
22 Coulterville resident. I'm concerned about this
23 permit being passed and allowing expansion of further
24 permits where we concerned citizens won't be allowed
25 to voice our opinions on possible water contamination

1 with the Coulterville reservoir drinking water. I'm
2 concerned about water currently going into Mary's
3 Creek and into the Mississippi from the current
4 operations. Those are my main concerns.

5 Other things as far as water pollution,
6 I'm concerned about possible violations that are
7 happening right now from what I've seen in the Mary's
8 Creek this past spring and approximately one year ago
9 this March. Basically that's my main concern with
10 water being an issue, and I would ask that you guys
11 consider those things before proceeding. Thank you.

12 MR. STUDER: Thank you, Mr. Lehr.
13 Traci? And Traci will be followed by Brian Perbix.

14 MS. BARKLEY: Good evening. Traci
15 Barkley. It's T-R-A-C-I. Barkley is B-A-R-K-L-E-Y.
16 I'm a water resource scientist with the Prairie
17 Rivers Network. We're the Illinois affiliate for the
18 National Wildlife Federation. We're a nonprofit
19 organization that strives to protect the rivers,
20 streams, and lakes of Illinois and to promote the
21 lasting health and beauty of watershed communities.

22 Much of our work focuses on policies
23 such as the Clean Water Act and Safe Drinking Water
24 Act that are used in Illinois. These laws are
25 intended to protect our waters, our environment, and

1 ultimately our health. Prairie Rivers Network has
2 members that live and recreate in the Mary's River
3 watershed, the site of the plan's proposed activities
4 and related impacts, and we have substantial interest
5 in assuring that discharges do not impair waters in
6 the area.

7 So thank you for holding this public
8 hearing and allowing an opportunity for residents and
9 folks concerned about operations at the site to be
10 addressed and to bring forth information as you
11 decide whether to issue this permit.

12 So I have some questions concerning
13 what's proposed in the permit as a modification, one
14 being to delete Outfall 008 and the addition of
15 Outfall 009. So my question is why the previous
16 existing NPDES permit has outfalls established at the
17 point where waste streams are entering freshwater
18 lake, and now why the draft permit establishes an
19 outfall coming from the freshwater lake.

20 MR. STUDER: Iwona, do you want to
21 answer that question?

22 MS. WARD: The Outfall 008 doesn't go
23 to the freshwater lake. It goes to an existing
24 stream.

25 MS. BARKLEY: Okay. So all of the -- I

1 understand that there's 551 acres that are tributary,
2 that that's the watershed that drains toward Outfall
3 008. So I'm wondering where all of the runoff and
4 waste streams that currently go to 008, where are
5 those going to go, if that outfall is being removed?

6 MS. WARD: Well, they will go to the
7 pond in Outfall 009.

8 MS. BARKLEY: So those waste streams
9 that are currently directed to 008 are now being
10 directed into freshwater lake, but the outfall where
11 permit limits are going to be met is on the out, is
12 on water coming out of freshwater lake into the
13 unnamed tributary?

14 MS. WARD: (No response.)

15 MS. BARKLEY: I mean, basically I'd
16 rephrase. What I understand is happening is that the
17 operation of this site is kind of absorbing
18 freshwater lake into waters that are being used for
19 treatment on site. And water quality standards and
20 permit limits don't need to be met until water's
21 coming out of freshwater lake.

22 It appears to me that at one point in
23 the existing NPDES permit, that permits limits had to
24 be met before entering freshwater lake, and now they
25 don't have to be met until they're exiting freshwater

1 lake. And I just would like to know how the Illinois
2 EPA explains that.

3 MR. CRISLIP: I'll field that
4 question. Outfall 008 currently discharges to the
5 receiving waters. It does not discharge into the
6 freshwater lake. It is nearby the impounding
7 structure for that lake. Because of some proposed
8 disturbance in the watershed to 008, there's concern
9 over that structure having sufficient treatment
10 capacity. So they are going to reroute the water
11 currently tributary to that structure and outfall to
12 the freshwater lake with a, with, and assign the
13 freshwater lake an outfall designation of 009, which
14 the receiving water will be the same as current 008.

15 MS. BARKLEY: Okay. But as I
16 understand it, limits were set -- well, water quality
17 standards would have, under the existing NPDES permit
18 and in the past, have had to be met in the freshwater
19 lake. And what's being proposed under this permit
20 would be removing protections afforded by the Clean
21 Water Act from the freshwater lake, and instead
22 absorbing that into the operations on the mine site
23 and only requiring water quality standards to be met
24 in the receiving stream and no longer in the
25 freshwater lake. Is that an incorrect interpretation

1 of what's being proposed?

2 MR. CRISLIP: Umm --

3 MS. BARKLEY: I guess I can just cut to
4 the chase. Will water quality standards have to be
5 met in the freshwater lake?

6 MR. CRISLIP: Will water quality
7 standards have to be met in the freshwater lake?
8 No.

9 MS. BARKLEY: And why is that?

10 MR. CRISLIP: Because it would be a
11 treatment facility for the mine.

12 MS. BARKLEY: Is this the same -- so
13 the freshwater lake, as I understand it, is an
14 impoundment of an unnamed tributary to Mary's River,
15 and so the stream still exists downstream of the dam
16 that was used to create freshwater lake. And the
17 stream that exists upstream of the impoundment is the
18 receiving stream for Outfall 002 and 003.

19 So where 002 and 003 empty into that
20 stream, water quality standards have to be applied.
21 And downstream of the reservoir, water quality
22 standards have to be applied. But where it's
23 impounded and is creating a pond or lake or
24 reservoir, water quality standards do not have to be
25 applied?

1 MR. CRISLIP: I believe the direction
2 we're going here is the application of Waters of the
3 State to that impoundment, and that designation is
4 currently under review.

5 MS. BARKLEY: Okay. I just would like
6 to point out that Title 35 Illinois Administrative
7 Code, Section 302.210, charges the Illinois EPA with
8 assuring water quality standards be met in all Waters
9 of the State, and there is no exemption for a
10 treatment works under Waters of the State. There is
11 under Waters of the U.S. in the Clean Water Act. But
12 the Waters of the State, all accumulations of water,
13 surface and underground, natural and artificial,
14 public and private, or parts thereof, which are
15 wholly or partially within, flow through, or border
16 upon the State of Illinois are afforded protections
17 as Waters of the State and must meet water quality
18 standards.

19 MS. DIERS: Traci, we have looked at
20 your comments, and I am looking at a legal analysis
21 on that, and that will be in the responsiveness
22 summary.

23 MS. BARKLEY: Okay. Thank you. Then I
24 would like to ask about what on-site practices or
25 controls are in place to prevent wind and water

1 erosion and require containment of coal ash and
2 maintenance of pH as required by the permits, both
3 good mining practices and special conditions, and
4 Memorandum 9211.

5 MS. WARD: The good mining practices
6 are under Condition 11 in the NPDES permit.

7 MS. BARKLEY: I understand the permit
8 says what the applicant should do in terms of good
9 mining practices in preventing effusion of dust from
10 coming off of the impoundment. But, you know, you
11 can drive by about any angle of the site right now
12 and see that there are not controls in place. I hope
13 members of the panel did that today, to see that
14 there are huge piles of lime sludge and coarse refuse
15 and coal ash that are afforded no protections from
16 water erosion.

17 So that appears to me to be a violation
18 of a number of things, no memorandum, no permit. I
19 guess knowing that this is a renewal of a permit, I
20 just wonder what past writing of the same language of
21 the permit the Illinois EPA is requiring of the
22 applicant to ensure that are there isn't
23 contamination of air and water from their waste
24 management practices.

25 MS. WARD: Well, the applicant's first

1 proposal was to individually mix the coal combustion
2 waste with the coal slurry on site and have water
3 tracks on the site to control the dust. And if they
4 are not following this procedure, they are not
5 exactly following what's under the NPDES permit, and
6 we can investigate this.

7 MS. BARKLEY: If a resident noticed
8 dust blowing off of the site, what would they do to
9 inform the Illinois EPA? And then if you were
10 informed of problems, what would you do as
11 follow-up?

12 MS. WARD: Well, we definitely will
13 send our inspector on the site and try and
14 investigate and contact the applicant, contact the
15 company, and just solve the issue.

16 MS. BARKLEY: And do you have -- is
17 anyone on the panel aware of inspections taking place
18 on the site in the last, say, five years?

19 MS. WARD: Yes, yes, we have.

20 MS. BARKLEY: Can you tell us when the
21 inspections took place?

22 MR. STUDER: We've also gone for the
23 time limit.

24 MS. WARD: May 27, 2011.

25 MS. BARKLEY: I'm sorry. The last

1 inspection was when?

2 MS. WARD: May 27, 2011.

3 MS. BARKLEY: As part of this NPDES
4 process?

5 MS. WARD: Yes.

6 MS. BARKLEY: And what was the
7 inspection previous to that?

8 MS. WARD: I would have to check.

9 MS. BARKLEY: I did a file review, and
10 I don't think that that latest inspection was in the
11 file, but the last one previous to that was 2007.

12 MS. WARD: I don't know.

13 MS. BARKLEY: All right. Thank you for
14 that.

15 MR. STUDER: And if time permits --
16 okay. Brian Perbix? And Cynthia Skrukrud would be
17 following Brian.

18 MR. PERBIX: Good evening. My name is
19 Brian Perbix. Can you hear me?

20 MR. STUDER: You want me to turn it up
21 a little bit?

22 MR. PERBIX: That's Brian with an I,
23 Perbix, P as in Paul, E-R-B as in boy, I-X. I work
24 with the Prairie Rivers Network. And as Traci
25 mentioned, we're the state affiliate of the National

1 Wildlife Federation, a nonprofit organization that
2 strives to protect the rivers, streams, and lakes of
3 Illinois.

4 And just to give you some context for
5 what I do -- oh, I wanted to thank you all for the
6 opportunity to comment at this hearing. It's really
7 helpful for the citizens who live in the area to gain
8 information from you all and have the opportunity to
9 address the concerns that they have.

10 Much of my work specifically focuses on
11 working with them and their concerns in terms of the
12 impacts of operations like the Gateway Mine, local
13 water resources. And so I'd like to continue some of
14 these questions about impacts to water and how this
15 permit would address those.

16 So to start off, what specifically does
17 this permit do to address ongoing permit
18 noncompliance, if anything?

19 MR. STUDER: Can you be more specific
20 as to what noncompliance items you're looking at?

21 MR. PERBIX: So according to US EPA's
22 enforcement of compliance history on-line, it looks
23 like the Gateway Mine was not in compliance in six of
24 the last six quarters for total iron, settleable
25 solids, and total suspended solids, so I was

1 addressing those concerns.

2 MR. CRISLIP: Iwona and I neither one
3 are familiar with those reports, so we'll have to
4 investigate that and get back to you.

5 MR. PERBIX: So you're not aware of
6 ongoing permit noncompliance on site? Is that what
7 you said?

8 MR. CRISLIP: Yes.

9 MR. PERBIX: Okay. Thank you. And as
10 a follow-up, I was going to ask about ongoing
11 groundwater problems on the site. Is this the
12 groundwater side of the room?

13 MR. BUSCHER: Yeah. Can you be
14 specific as to which?

15 MR. PERBIX: I believe that if you look
16 at -- I don't have the monitoring well data in front
17 of me, so this is from memory. But I believe a large
18 number of monitoring wells beneath the site showed
19 exceedences of Class 2 groundwater standards, and
20 we'll correct it later if I'm wrong on that.

21 MR. BUSCHER: Okay. I reviewed that
22 information. There are two locations where there are
23 elevated levels of constituents, that I'm aware of,
24 and that would be at MW4 and MW9. MW4 is -- they're
25 both still under review, but preliminarily, it looks

1 like that may be naturally occurring, but that needs
2 further investigation. And MW9, we actually visited
3 that location today. There's a nearby impoundment.
4 And both of those are under review.

5 MR. PERBIX: Is the impoundment, that's
6 on the, at the Gateway Mine site?

7 MR. BUSCHER: That's the Gateway Mine
8 site. It's down near the -- MW9 is down near the
9 railway loop. It's just to the north of that. And
10 then you can -- there's other mine property further
11 south, where there's been a fairly large disposal
12 area.

13 MR. PERBIX: Okay. And has any effort
14 been made to establish if that groundwater
15 contamination may be moving off site?

16 MR. BUSCHER: It's under
17 investigation. The MW9 well is not proximate to a
18 site boundary. MW4 is fairly close to a site
19 boundary, and that's being looked at.

20 MR. PERBIX: Okay. And so just to be
21 sure we're clear, there's nothing in the permit that
22 would require different practices be followed in
23 order to be sure that the problem wouldn't be
24 exacerbated?

25 MR. BUSCHER: Well, it's still under

1 review.

2 MR. PERBIX: Okay. Thank you. All
3 right. And then I'd also ask what data's been
4 collected to demonstrate that existing uses will be
5 fully protected, in accordance with Illinois
6 Administrative Code, well, 35 Illinois Administrative
7 Code, Section 302.105. What kind of characterization
8 has been done of receiving water bodies?

9 MR. TWAIT: These receiving waters are
10 small headwater streams, and the agency currently
11 doesn't have a method for getting out and looking at
12 these. Typically in the summer, they're dry ditches,
13 and there's limited macroinvertebrates and usually no
14 fish, and the agency didn't require additional
15 characterization.

16 MR. PERBIX: Okay. As I mentioned
17 before, some of the citizens that I work with in the
18 area are concerned about the quality of these waters,
19 as they border their property and they're used for
20 occasional -- well, not occasional -- seasonal
21 watering of animals. I have been out in the field on
22 a number of occasions in the past year. I believe it
23 was at the tributary of Mary's River, both upstream
24 of the freshwater lake and then downstream of the
25 freshwater lake on private property.

1 And, you know, there was significant
2 water. This was, of course, in the springtime, so I
3 can't say whether or not that characterization of
4 them being dry ditches in the summer is accurate.
5 But when there was flow in them, we did a little bit
6 of field monitoring and noticed conditions that were
7 of concern. Specifically, I believe the conductivity
8 was around 4,200 micromhos per centimeter in the
9 stream above freshwater lake, just downstream of
10 where Outfall 002 and 003 were coming in.

11 And I know, of course, that there's no
12 conductivity standard, but that would be a red flag
13 to me and some others in terms of chloride and
14 sulfates coming off of the mine site. We also
15 noticed downstream of the freshwater lake, that there
16 was kind of a reddish tint to the sediments on some
17 of the pebbles in the stream beds. And we do know
18 that there's an adjacent abandoned mine site that may
19 be contributing to water quality problems in the
20 area. And I would ask that you look into how that
21 may be interacting with discharges from the Gateway
22 Mine site.

23 Let's see. And then, okay. And then
24 just continuing with that a little bit. I have --
25 okay. So no data has been collected to characterize

1 the receiving streams. And have you done any -- has
2 any effort been made to determine whether the
3 proposed discharge will not cause or contribute to a
4 violation of the water quality standards in receiving
5 waters?

6 MR. TWAIT: We've set the permit limits
7 at the water quality standards where there's no
8 mixing. And in areas where there are some mixing
9 available, because of the size of the watershed,
10 upstream of the discharge, they've been set to meet
11 the water quality standards.

12 MR. PERBIX: Okay. So no analysis has
13 been done on the characterization of various waste
14 streams that are being permitted for disposal at the
15 site?

16 MR. TWAIT: What type of analysis?

17 MR. PERBIX: Like a reasonable
18 potential analysis.

19 MR. TWAIT: We have done a reasonable
20 potential analysis.

21 MR. PERBIX: Oh, you have? Okay.

22 MR. TWAIT: Based on your comment, we
23 went back and looked at the file and found that there
24 was not a metals sample. And the agency requested
25 that some samples be taken, and we did a reasonable

1 potential analysis.

2 MR. PERBIX: And so that was on the
3 coal slurry alone, or did it also include the ash and
4 the sludge?

5 MR. TWAIT: That was on Outfall 001.
6 The agency typically allows the discharger to collect
7 one sample when basins are similar.

8 MR. PERBIX: I'm sorry. Could you
9 remind me what Outfall 001, what that includes?
10 That's one I don't have. I guess I'm going to have
11 to look. Oh, well, Outfall 001, that's the south
12 portal; is that correct? Yeah, I think according to
13 the map, it is. And so that's not taking into
14 account the refuse disposal areas at all. It doesn't
15 include any of those areas, which are, you know, I
16 think where the main concerns, at least for the
17 existing facilities, are.

18 MR. CRISLIP: It appears that Outfall 1
19 receives runoff from the belt slope and transfer area
20 in accordance with construction authorization. And
21 we can investigate how representative that is of the
22 other discharges on site.

23 MR. PERBIX: Okay. Thank you very
24 much.

25 MR. STUDER: Thank you, Brian. Cynthia

1 Skrukud? And she'll be followed by Joyce
2 Blumenshine.

3 MS. SKRUKRUD: Good evening. My name
4 is Cindy Skrukud. My last name is spelled
5 S-K-R-U-K-R-U-D. I serve as the Clean Water Advocate
6 for the Illinois Chapter of the Sierra Club, and I'm
7 here on behalf of myself, Sierra Club members, and
8 members of the local public who are concerned that
9 water quality in Mary's River and Plum Creek
10 watersheds are protected.

11 One of the concerns we have with this
12 permit, proposed permit, is that we believe it is
13 incomplete. It doesn't include all activities that
14 are planned for this mine site. On April 4, 2011,
15 the Army Corps issued a 404, a notice on a proposed
16 404 permit for the Gateway North Mine that I
17 commented on. And the Gateway North Mine will
18 deliver coal to the Gateway preparation plant here at
19 this mine site.

20 The Gateway North Mine will have
21 discharges into the Plum Creek watershed and the
22 Mary's River watershed specifically discharges into
23 Coulterville Lake, in the Plum Creek watershed, and
24 into the freshwater lake in the Mary's River
25 watershed. And so we're concerned, why aren't these

1 planned activities incorporated into this permit
2 modification?

3 MR. STUDER: Actually, as a matter of
4 correction, this, I believe, is a reissued permit
5 with -- is it? Or is it strictly a flat mod?

6 MR. CRISLIP: This one?

7 MR. STUDER: Yeah.

8 MR. CRISLIP: This is renewal and
9 modified.

10 MR. STUDER: Yeah, this is a renewal.
11 It's not just a --

12 MS. SKRUKRUD: Okay. So why aren't
13 these planned activities incorporated into this
14 reissued --

15 MR. STUDER: There we go.

16 MS. SKRUKRUD: -- and modified --

17 MS. WARD: The applicant has applied
18 for a new NPDES permit to cover expansion, which
19 we'll call Gateway North.

20 MS. SKRUKRUD: When will that NPDES
21 permit be public noticed?

22 MS. WARD: As soon as we finish review
23 and it is approved by Mines and Minerals, we will put
24 out public notice.

25 MS. SKRUKRUD: One of our concerns is,

1 you know, there will be new discharges certainly into
2 the Mary's River watershed. Our concern is the
3 piecemealing of these permits.

4 MS. WARD: Well, we'll investigate this
5 during our review of the new application.

6 MS. SKRUKRUD: Okay. Thank you.

7 MS. WARD: You're welcome.

8 MS. SKRUKRUD: I have some questions
9 that start on page 15 of the draft permit. And that
10 is entitled "Construction Authorization No. 8161-00,
11 dated January 25, 2011." About halfway down the
12 page, there's a paragraph that talks about a 15.5
13 acre development and expansion of the fine coal
14 slurry, in quotes, refuse disposal area. Has that
15 expansion already begun, or is that a part of this
16 permit?

17 MS. WARD: They began construction.

18 MS. SKRUKRUD: Pardon me?

19 MS. WARD: They started construction.

20 MS. SKRUKRUD: So then my question is,
21 how can they start construction when you haven't, the
22 IEPA hasn't released an anti-degradation assessment
23 to the public?

24 MR. STUDER: Are you talking about IEPA
25 log No. 2356-04 and that same number dash 8?

1 MS. SKRUKRUD: 06.

2 MR. STUDER: I'm sorry, yes, 06.

3 MR. TWAIT: It was included in the
4 anti-degradation. But as to your question, how it
5 can be started prior to, I'm not sure when this was
6 authorized.

7 MR. CRISLIP: We can investigate the
8 history of this and determine if there was any, you
9 know, stormwater permits or anything like that issued
10 around the area for construction purposes.

11 MS. SKRUKRUD: Okay. Thank you. And
12 then the next paragraph talks about underground
13 pumpage from an air shaft. Is that an activity that
14 has commenced or is yet to commence?

15 MS. WARD: I'm unsure about this. I'll
16 have to check.

17 MS. SKRUKRUD: My understanding is, the
18 mine pumpage will discharge to one of the new
19 outfalls, Outfall 010; is that correct?

20 MS. WARD: Yes, that's correct, but
21 this is proposal right now in this permit. I'm not
22 sure if -- I don't want to say. I don't think that
23 they started this yet. This is proposal for Outfall
24 010. The previous permit it was for Outfall 007. So
25 they was approved already in the previous permit for

1 Outfall 7. Outfall 10 is proposed in this permit.

2 MS. SKRUKRUD: Okay. And then has the
3 mine pumpage been analyzed for metals and such to
4 characterize that as part of the anti-degradation
5 assessment?

6 MR. TWAIT: I did not get any metals,
7 although I do believe I received chloride and sulfate
8 data for that outfall.

9 MS. SKRUKRUD: So then, had you
10 performed a reasonable potential analysis on the mine
11 pumpage?

12 MR. TWAIT: We set water quality
13 standards so that the water quality -- we set permit
14 limits so that the water quality standards would not
15 be exceeded, and I do not believe there is any mixing
16 involved.

17 MS. SKRUKRUD: Okay. That sounds like
18 it might be useful to also look at the levels of
19 things other than chlorides and sulfates in that mine
20 pumpage. A couple of paragraphs later, there's a
21 paragraph that talks about the installation of a rock
22 dust bore hole facility. Could you describe what
23 that is?

24 MR. TWAIT: Rock dust is used to spray
25 on the walls of the coal mine to keep down coal dust,

1 so that there's not an explosion. This is a hole
2 into the mine that they use to transport that rock
3 dust.

4 MS. SKRUKRUD: Okay. Great. Thank
5 you.

6 MR. STUDER: We're approaching the time
7 limit, also.

8 MS. SKRUKRUD: Yeah, I can come back
9 later. That's probably a good breaking point. Thank
10 you very much.

11 MR. STUDER: Thank you. Joyce
12 Blumenshine is the next person, and she will be
13 followed by, it looks like Marjorie Whalen.

14 MS. BLUMENSHINE: My name is Joyce,
15 J-O-Y-C-E, Blumenshine, B-L-U-M-E-N-S-H-I-N-E. Thank
16 you very much to the EPA for this hearing and for the
17 chance to comment. I'm a volunteer with the Illinois
18 Chapter of the Sierra Club, and we're concerned with
19 waters for now and for the future generations in
20 Illinois and the health of animals and people.

21 I had just a couple of questions and
22 comments, please. One of the concerns for this site
23 was from some earlier research I've done is that
24 there exists sand lenses in this area. In viewing
25 this situation which Ms. Skrukrud was just talking

1 about as far as part of the conditions page, does
2 IEPA look at the geology that might be under areas
3 where construction will be for expansion of that
4 15.5-acre fine coal slurry refuse area and possibly
5 sand lenses?

6 MR. BUSCHER: We would look at
7 information provided. Is that 15-acre area a part of
8 this permit?

9 MR. CRISLIP: Yes.

10 MR. BUSCHER: Okay. And is that an
11 existing facility? Is that the expansion as in
12 vertical expansion?

13 MS. WARD: That's the expansion.

14 MR. CRISLIP: No, that's the starting
15 point --

16 MR. BUSCHER: Okay.

17 MR. CRISLIP: -- I believe.

18 MR. BUSCHER: So this is a brand new
19 area?

20 MR. TWAIT: I think it's existing.

21 MR. BUSCHER: We would look at
22 information provided. I'm just not familiar enough
23 with the site to know if this is existing or if it
24 has not been built yet.

25 MS. BLUMENSHINE: Okay.

1 MR. BUSCHER: But I'm just not familiar
2 enough with the site to answer that.

3 MS. BLUMENSHINE: Thank you. I did not
4 know, either, and I raised the issue of the existing
5 geology of the site with regards to aspects of this
6 permit consideration, because, and I'll just be very
7 brief, to reflect on the history of the approval of
8 this mine. In a letter September 1982 from the
9 Illinois Environmental Protection Agency for the mine
10 permit, it says: Due to the number of applications
11 received within a small time frame, a 45-day review
12 period, amount of information contained in the
13 applications, and current staffing, the comments
14 above are our current findings based on an expedited
15 review of the subject application.

16 I'm just asking about the current
17 assessment of the geology of the site because of my
18 concerns that when this mine was permitted here
19 originally in '82, it really does appear that IEPA
20 did an expedited review. And now this operation is
21 continuing and expanding based on something from the
22 past that maybe should be reassessed. Is there ever
23 an opportunity that EPA, in connection with this
24 permit or others, would do a new geological
25 assessment, hydrogeological assessment?

1 MR. BUSCHER: It just depends. At this
2 particular location, what we're investigating, the
3 elevated levels in the two, we're reviewing the
4 elevated levels in MW4 and 9, and that, as needed,
5 could be done.

6 MS. BLUMENSHINE: I see. 'Cause I do
7 think, from earlier questions about the status of the
8 safety of the groundwater situations, that there
9 might be some concerns and problems with that at some
10 potential. I did not know if IEPA would be taking a
11 more serious, you know, comprehensive review of the
12 site. Is there a way for the public to request
13 that?

14 MR. STUDER: Joyce, was that the 1982
15 information from DNR on the expedited review? Is
16 that what that --

17 MS. BLUMENSHINE: Yes, sir, that is
18 correct. It referred to the DNR permit that IEPA did
19 send their comment letter to.

20 MR. STUDER: Thank you. I just wanted
21 to clarify that, to make sure that we have the right
22 information.

23 MS. BLUMENSHINE: And I will submit
24 that letter in my written testimony. So just to
25 finish up on this aspect, is there an opportunity for

1 either the public to request or for the agency to do
2 some other more comprehensive hydrogeologic review
3 either in connection with this type of a permit rule
4 or at some point?

5 MR. BUSCHER: I think through this
6 process and through the written comment process,
7 there is that opportunity to --

8 MS. BLUMENSHINE: So if we would
9 request, you further would consider that?

10 MR. BUSCHER: Yeah, we would definitely
11 consider that for the --

12 MS. BLUMENSHINE: Thank you, sir.

13 MR. BUSCHER: Sure.

14 MS. BLUMENSHINE: There were concerns
15 that were mentioned about the use of this freshwater
16 lake for what might be, basically from my limited
17 understanding as a member of the public, turned into
18 kind of a sedimentation pond. So in regards to that,
19 can the mine be required to build or establish like a
20 separate new treatment pond before it goes into this
21 freshwater lake?

22 MR. BUSCHER: I'd defer to Larry or
23 Iwona.

24 MR. CRISLIP: That's going to be part
25 of our evaluation when we look at that whole

1 scenario.

2 MS. BLUMENSHINE: So if you were
3 looking at that, you would also look at potential for
4 sand lenses and areas being considered for
5 construction or other related hydrogeological
6 concerns; would that be correct?

7 MR. CRISLIP: Well, those concerns
8 would be outside of the issue of the freshwater
9 lake. But any new construction areas or where waste
10 material would be proposed would be evaluated for
11 sand lenses and groundwater issues, yes.

12 MS. BLUMENSHINE: Okay. Thank you
13 again. I just again want to, in kind of closing on
14 that aspect, refer back to kind of the historical
15 concerns with the site. And I have compliance
16 history and that type of thing that might question
17 if, indeed, new operations aren't going to be
18 problematic because of the actual conditions of the
19 geology here.

20 Let's see. I appreciate the comment
21 from Mr. West about Peabody committed to improving
22 operations, and I'm certain the public appreciates
23 hearing that, and we would just urge that Peabody
24 will be looking at opportunities or options for
25 perhaps really dealing with that. And if there are

1 new things that IEPA sees that are needed, that you
2 will take that into consideration.

3 Because of the ever-increasing size of
4 this mine, of the impacts on the people of
5 Coulterville and on the area involved, environment is
6 a real concern to us, as the accrual of all these
7 wastes accumulating here basically is, you know, kind
8 of turning the area -- and I mentioned this before
9 with coal waste impoundments -- that it's like a
10 hazardous waste landfill.

11 So in essence, a good part of the area
12 immediately kind of close to Coulterville and the
13 residents here and people that have century farms and
14 families, means that for generations to come, they
15 will have these toxic coal combinations surrounding
16 the area. There are environmental justice issues
17 with this type of situation, I would respectfully
18 suggest, as far as how much a community should
19 continue to have to endure from the expansion of coal
20 processes.

21 And if a company is not required to
22 meet permit conditions now and prove that they are in
23 compliance for, you know, a serious amount of time, I
24 question how you can issue them a new permit. As Mr.
25 Perbix mentioned, there seems like there have been

1 some ongoing problems. I just would urge your review
2 and a consideration of that and perhaps suggest that
3 you would wait with a new permit renewal until the
4 mine can show a clear reference for some period of
5 time. Thank you very much.

6 MR. STUDER: Thank you, Ms.
7 Blumenshine. The next person is Marjorie Whalen.

8 AUDIENCE MEMBER: May I hold my
9 comments until later, please?

10 MR. STUDER: Okay. Mike Fullerton?

11 MR. FULLERTON: Mike Fullerton,
12 F-U-L-L-E-R-T-O-N. I'm a Coulterville resident. And
13 I know with budget cuts, it's hard for your board to
14 cover everything. With the long outstanding, going
15 back as far as stated in '82, there's some real
16 concerns that maybe you're not totally aware of, and
17 a couple of them have been brought up in regards to,
18 one point was brought out of this 15 and a half acre
19 addition.

20 I would hope that this proposed
21 stormwater permit has been issued, because operations
22 are in process right now. The 15 and a half acre
23 coal fine refuse disposal will dump into a current
24 pond of about five to seven acres before it goes on
25 to an additional freshwater lake. And if those

1 outfalls from that five to seven and a half acre lake
2 are not changed, it's immediately going to go into
3 Mary's River through a couple of other ponds.

4 The 20 acres proposed to the west, just
5 beyond that, which includes the 36 additional acres
6 to the west, currently has two springs that are live
7 probably, mmm, I'd say six months out of the year.
8 They have water flow from them probably at least six
9 months out of the year.

10 And as stated below -- and I'm not good
11 on these 008's and 9's -- but below the old mine,
12 where the proposed expansion is to run, that's
13 discharged to the freshwater lake. I've been in that
14 area on private property. And as stated, there's
15 extreme concerns about the outfall that runs through
16 that area.

17 Virtually no -- during times of runoff,
18 there's virtually no vegetation. But any tributary
19 that feeds that, there's vegetation right to the
20 line. So there's got to be limits beyond allowed, I
21 would think, in those situations.

22 MR. BUSCHER: Could I interrupt just
23 for a second and back up to the springs? Are those
24 off of mine property, or are they -- just so I have a
25 better indication of --

1 MR. FULLERTON: They're current mine
2 property.

3 MR. BUSCHER: They're on current mine
4 property?

5 MR. FULLERTON: (Nodding head.)

6 MR. BUSCHER: Okay. Thanks.

7 MR. FULLERTON: And in 006 -- and
8 correct me on my location -- I assume that is on the
9 west side of the current cell No. 4? And some of
10 that discharge, under this information here, goes to
11 Plum Creek. And that area has been, from different
12 timely -- does that permit allow for a damming up of
13 that area to stop that flow for a sediment discharge
14 to Plum Creek prior to now? Off the 004 cell, if
15 that is the west cell?

16 MS. WARD: The pump 006 and discharge
17 006, pump 006 controls the drainage from the
18 outslopes of the cells. What's included in the cell
19 is an enclosed circuit in the mine, so this doesn't
20 affect actually surface waters. And everything which
21 actually directly goes to pond 006 is not affected by
22 the CCW or slurry as the drainage from the
23 outslopes.

24 MR. FULLERTON: So it's proposed that
25 006 does not receive any slurry leakage of any sort

1 and then discharges into Plum Creek?

2 MS. WARD: Yes, correct.

3 MR. FULLERTON: I think that needs to
4 be looked into. In regards to some of the dust and
5 the outfall, it's observed on a regular basis that
6 some additional means as was proposed could take
7 place to control that.

8 Additional concerns in regards to this
9 permit is that the future of Gateway North is
10 proposed. And as you can see here, we just continue
11 to add 5 acres, 20 acres, an acre for a helicopter
12 pad, 36 acres. You know, we're at 933. We're
13 looking at proposal of 450 to 550 to the west and 500
14 plus to the north. So, you know, quick math, you're
15 looking at 1,933 acres of what at one time was prime
16 farm ground and is now going to become virtually
17 wasteland.

18 And also, without direct knowledge of
19 the readings of reclamations built back in '78, I
20 would think that the inclusions of some of those
21 regulations either need to be changed or added to
22 correct this continued wasteland. And is any of that
23 included in the Reclamation Act of '78? I might not
24 be right on the year. In other words, these slurry
25 pits and collections, they never have to be fixed?

1 MR. CRISLIP: The Reclamation Act
2 you're referring to is Mines and Minerals
3 regulations, not EPA.

4 MR. FULLERTON: All right. Well, like
5 I said, being a concerned citizen and knowing
6 knowledge of development and seeing discharges
7 presently to the south, evolves our concerns of what
8 Gateway North discharge could eventually end up in
9 the city reservoir. No further comments. Thank you.

10 MR. STUDER: Thank you, Mr. Fullerton.
11 That concludes those that have indicated on the cards
12 that they would like to speak. Is there someone that
13 has not spoken this evening that would like to speak
14 and make comments this evening? If you'd come
15 forward to the microphone, sir.

16 MR. RUST: My name is Scott Rust,
17 R-U-S-T. I am, uh, represent the Village of
18 Coulterville. I just wanted to clarify some
19 information this evening. First and foremost, within
20 the village corporate limits, it was brought up there
21 was a possibility of having windblown debris or
22 sediment. Never, to the best of my knowledge, within
23 the corporate limits have we ever had an issue with
24 that.

25 I wanted to compliment Gateway and

1 Peabody. They've always been open with us, been a
2 great neighbor to us, and any time we have a concern,
3 they've been open and willing to work with us. This
4 is a renewal for the permit they currently have.

5 It was brought up about a reservoir,
6 which is currently within, real close to their
7 current operations and even closer to their new
8 operations where they begin. We are required by the
9 EPA to test our reservoir. Currently our reservoir
10 exhibits, the only chemical that we have that
11 presents a problem is atrazine, which is not coal
12 mine related. Other than that, we've had no other
13 one that's affecting our water quality.

14 We are committed to maintaining our
15 water quality. I foremost would like to state,
16 though, I am concerned with the village, my village,
17 the citizens' health. And I feel that through the
18 EPA and Gateway, that working together, we can make
19 this happen. And but like I said, currently our lake
20 has no issues that would result, so right now, there
21 is no threat posed to our lake. Thank you.

22 MR. STUDER: Thank you. Is there
23 anyone else that has not spoken this evening that
24 would like to do so? Okay. Let the record reflect
25 that there was no response to that. I've got Cindy

1 Skrukkrud and Traci Barkley that have both indicated
2 they'd like to make additional comments. Is there
3 anyone else that has already spoken that would also
4 like to make additional comments? I'll allow another
5 round of nine minutes of comments from Traci and from
6 Cindy. Traci? And for the record, it's Traci
7 Barkley again.

8 MS. BARKLEY: I have some follow-up
9 comments. One, I'm interested in following up on Ms.
10 Skrukkrud's point about construction authorization.
11 It's always been my understanding that when the
12 construction authorization is relevant to the NPDES
13 permit, that it is not finalized until the NPDES
14 permit is finalized. Am I correct in that or --

15 MS. WARD: Yes.

16 MS. BARKLEY: Okay. So all of the
17 things that are listed in construction authorization,
18 including the expansion of the slurry refuse disposal
19 area, the helicopter pad, the sedimentation basin,
20 the access road, all of these things that are
21 proposed in the construction authorization for either
22 modified or expanded operations here, are not allowed
23 until this this permit is finalized; is that
24 correct?

25 MS. WARD: Yes. But some information

1 also in the construction authorization are carry-over
2 from the previous permit which already exists, and we
3 just include them in the CA, in the construction
4 authorization, just for information purposes. And
5 rest of the information are things which are
6 proposed, which, yeah.

7 MS. BARKLEY: Do you happen to know for
8 the slurry cell No. 4 expansion, horizontal
9 expansion, if that was considered under, is covered
10 under a previous NPDES permit, or if that's new to
11 the reissued?

12 MS. WARD: This is new.

13 MS. BARKLEY: So I guess I, I know just
14 from looking at the road, that that construction's
15 already underway, and, you know, there are residents
16 in the room that have brought that up, as well. And
17 I guess I would strongly urge members of IEPA to
18 immediately inspect the site and get it, get a look
19 at what's going on, not wait until this is issued, so
20 that it's a moot point, because I believe what you'll
21 find is that they are not authorized and not legally
22 operating right now with the operations that they
23 have already undertaken.

24 MS. WARD: We'll investigate it.

25 MS. BARKLEY: Thank you. Then I'd like

1 to know if there are, for the expanded impoundment of
2 slurry cell No. 4, if there's a liner.

3 MS. WARD: No.

4 MS. BARKLEY: No liner? No liner for
5 an impoundment that's going to be carrying coal
6 slurry and coal ash with heavy metals and salts that
7 in certain concentrations could be toxic to
8 groundwater and surface water; is that right?

9 MR. BUSCHER: Yes.

10 MS. BARKLEY: Okay. Then I'd like to
11 follow up on Ms. Skrukud's point about this permit
12 not addressing the entire scope of anticipated
13 modifications. And I understand the rationale behind
14 a new permit for Gateway North with new outfalls to
15 streams that currently are not receiving waste from
16 current operations.

17 But what I think is not being covered
18 is that the coal that's going to be brought out of
19 the ground at the North Gateway Mine will be
20 processed at the preparation plant that is covered
21 under this NPDES permit. And from what I've looked
22 at with the Department of Natural Resources, Mines
23 and Minerals materials, it appears that this
24 preparation plant that's under this NPDES permit
25 could be processing twice as much, over the lifetime,

1 twice as much coal as it currently is right now.

2 So I wonder why that is not being
3 considered under the anti-degradation assessment or
4 why an anti-degradation assessment hasn't been done
5 for really twice the amount of coal to be washed and
6 twice the amount of coal slurry to be left at this
7 site?

8 MS. WARD: The applicant applied for a
9 new NPDES permit for the north expansion. So we will
10 investigate this and review this separately under a
11 different NPDES permit.

12 MS. BARKLEY: Okay. I'd like to point
13 out, you can't -- I mean, unless this is something --
14 I don't think it's possible to have two NPDES permits
15 for this, for the preparation plant. So I
16 understand, you know, that geographically you could
17 have two separate permits. But for the waste that's
18 being, you know, the coal that's being processed at
19 this processing facility, that can't come under a new
20 permit, can it?

21 MS. WARD: We'll evaluate the extra
22 amount of coal during the evaluation.

23 MS. BARKLEY: Okay. So I guess then
24 there's a list of things that I don't feel like were
25 adequately addressed in the anti-degradation

1 analysis. One of them is the additional loading from
2 coal ash sources. Two is the 85-acre mining
3 expansion. Three is additional loading from
4 pollutants from coal of underground mining acres.
5 And four is runoff from the slurry, the expanded
6 slurry cell No. 4.

7 And I guess when you respond in the
8 responsiveness summary, I would ask why those
9 additional pollutant loading sources weren't
10 addressed under the anti-degradation review.

11 Then I wonder if Gateway Mine is
12 currently permitted to discharge stormwater runoff
13 resulting from coal ash disposal currently?

14 MS. WARD: All the surface water like
15 from the CW, everything is in closed circuit, so none
16 of this water is discharging out of this site.

17 MS. BARKLEY: Okay. So --

18 MR. TWAIT: Except for the possibility
19 of under extreme storm events.

20 MS. BARKLEY: Under an extreme storm
21 event, where would the water from that closed circuit
22 system come through?

23 MR. TWAIT: I think it was Outfall 8.

24 MS. BARKLEY: Okay. So when you're
25 driving -- I don't know if anyone here is familiar

1 with the site, but when you're driving east on the
2 road that where you have the slurry impoundments on
3 the north and you have the processing plant on the
4 right, there is a spillway coming off of an
5 impoundment that looks like it then goes under a
6 culvert. What is that there? Does anyone -- is that
7 the emergency spillway for 008?

8 MR. CRISLIP: It doesn't sound like the
9 location, but I can't picture it myself right off.

10 MS. BARKLEY: So are there criteria for
11 what constitutes an emergency rainfall event, where a
12 discharge from coal ash and slurry impoundments is
13 allowed? And does Peabody have to report that to the
14 Illinois EPA when they have a discharge through 008?

15 MR. CRISLIP: We'll have to investigate
16 that a little further. I'm not certain of that
17 emergency spillway.

18 MS. BARKLEY: Are you aware of any
19 compliance problems at 008?

20 MR. CRISLIP: I'm not aware
21 personally. The compliance issues would be handled
22 through a separate procedure than through the
23 repermitting of the site.

24 MS. BARKLEY: Okay. Then Mr. Buscher,
25 I am interested in whether groundwater standards

1 apply on site.

2 MR. BUSCHER: Groundwater standards
3 apply, and it depends upon when refuse disposal areas
4 were placed into operation. And if you refer to
5 620.450-B, that's laid out as to how those apply.

6 MS. BARKLEY: Do you know if Class 1,
7 Class 2, or an alternate class apply on site?

8 MR. BUSCHER: I believe that Class 2.
9 I would have to verify that. And it depends upon
10 what portion of the site you're referring to.

11 MS. BARKLEY: Okay. I do know that
12 whether they were built before or after 1983,
13 different standards may apply.

14 MR. BUSCHER: Right, right.

15 MS. BARKLEY: So then I know there are
16 certain criteria under 620.240-F, Subsection 2, 3, 4,
17 and 5, that state the conditions that those, if those
18 conditions are met, then the groundwater meets Class
19 4 because of lower standards.

20 MR. BUSCHER: Uh-huh.

21 MS. BARKLEY: And if, in the
22 responsiveness summary, the EPA could explain, I
23 guess, how these criteria are being met, because one
24 of them is, a source of release of any contaminants
25 of groundwater has been controlled, and I don't know

1 how that's possible without a liner. Second is
2 migration contaminants from the site resulting from
3 release of groundwater has been minimized. And I
4 don't know that there's anything preventing or
5 minimizing that. And four, any on-site release of
6 contaminants to groundwater has been managed to
7 prevent migration off site. Same thing, I don't --
8 the way I read this, it doesn't appear that the
9 facility meets these criteria that you put into a
10 separate set of groundwater class standards.

11 MR. BUSCHER: I can evaluate that as
12 requested.

13 MS. BARKLEY: And then you mentioned
14 that the agency was looking at Monitoring Wells 4 and
15 9. And I wondered if you had looked into -- I mean,
16 when I look at the groundwater data for 4 and 9, I
17 see problems with totals of salts, sulfates, irons,
18 chlorides, manganese. But the same types of, you
19 know, same levels for the same pollutants also show
20 up at Monitoring Well 8. So I wonder if you'd looked
21 at that well.

22 MR. BUSCHER: We'll look into that.

23 MS. BARKLEY: Okay. And then my last
24 question is, it appears that lime sludge is allowed
25 to be disposed of on site from two different

1 facilities. And I know that there's monitoring
2 requirements for coal ash that comes on site, either
3 quarterly or annually. And I wondered if there's any
4 testing that's required for lime sludge. And if so,
5 what criteria is it measured against to determine
6 whether it's appropriate for disposal at the site?

7 MR. CRISLIP: Yes, there is monitoring,
8 testing requirements for that material on site. It
9 should be specified in the construction
10 authorization, probably maybe Condition 12 or so.
11 And those results are compared to either or both
12 surface and groundwater standards, depending on which
13 of those sources could be affected by that material.

14 MS. BARKLEY: Okay. Thank you for
15 directing me to special condition No. 12. It says
16 that the data should be submitted and they should
17 also put notification of the volume that will be used
18 during the year. And I wondered if, you know, if you
19 saw high levels of arsenic, for example, because it's
20 well-documented that lime sludge and actually, you
21 know, that softening treatment and creation of lime
22 sludge pulls things like arsenic and iron and
23 manganese out of the water.

24 I wondered if you saw levels, you know,
25 that were high for those contaminants, if, at any

1 point, you would refuse to permit that under this
2 permit. Is there a level at which it's just too much
3 and you wouldn't allow for it to be disposed of at
4 the site because it might threaten groundwater,
5 surface water?

6 MR. CRISLIP: That is a potential. We
7 have denied materials for disposal on certain sites
8 in the past. I don't recall what the concentrations
9 in that material was. I'd have to go back and check,
10 but we can check that and comment on that in the
11 responsiveness summary.

12 MS. BARKLEY: Okay. Thank you for your
13 time.

14 MR. STUDER: Thank you. Cindy
15 Skrukruud?

16 MS. SKRUKRUD: Thank you. I just had a
17 couple of additional questions. Going back to page
18 15 of the draft permit, where it discusses the
19 expansion of the fine coal slurry refuse disposal
20 area, and there's a sentence that says: The fine
21 coal refuse disposal expansion will consist of the
22 development of slurry cell No. 4 as described and
23 depicted in IEPA Log No. 3469-05.

24 I wondered if you could describe for
25 me, what are the conditions that are going to be

1 required of, you know, the conditions that are going
2 to be placed on slurry cell No. 4, in terms of what
3 are the IEPA requirements contained in that log with
4 regards to liners?

5 MR. CRISLIP: We would have to go back
6 and look at that log. I don't recall off the top of
7 my head. If there were any special conditions or
8 requirements, we would've included those as
9 conditions of this construction authorization. The
10 only thing we've included here is the groundwater
11 monitoring requirements.

12 MS. SKRUKRUD: So do you know, so is
13 slurry cell No. 4 going to be lined?

14 MR. CRISLIP: No.

15 MS. SKRUKRUD: Thank you. Then just
16 returning to page 19 of the draft permit, you just
17 discussed with Traci Barkley about the analysis of
18 lime sludge that's contained in Condition 12.
19 Condition 13 are requirements for analysis of coal
20 combustion waste that's disposed of at the site.

21 My questions are, what are the
22 benchmarks that you compare these analyses to? And
23 have there been any problems found with any of the
24 coal combustion waste that's proposed to be disposed
25 at the site? And have you had to refuse disposal of

1 certain types of waste or certain sources of waste?

2 MR. CRISLIP: We've not denied disposal
3 of any source at this site. These results are
4 compared generally to the groundwater quality
5 standards when we review these quarterly analyses
6 that are submitted.

7 MS. SKRUKRUD: Okay. Thank you.

8 MR. STUDER: Thank you, Ms. Skrukud.
9 Is there anyone else this evening that has any
10 additional comments? Okay. I remind everyone that
11 the hearing record is open until the 8th of July in
12 this matter, and I thank you for coming out and
13 attending this hearing and participating in the NPDES
14 process. Thank you for your attendance. This
15 hearing is adjourned.

16

17

18

19

20

21

22

23

24

25

1 STATE OF ILLINOIS)
2)
3 COUNTY OF JACKSON)

4
5

6 I, Sharon Valerius, a Freelance Court
7 Reporter for the State of Illinois, do hereby certify
8 that I reported in machine shorthand the IEPA Hearing
9 held on June 8, 2011, at 6:00 p.m., at City Hall, 114
10 West Jackson Street, Sparta, Illinois; that I
11 thereafter caused the foregoing to be transcribed
12 into computer-aided transcription, which I hereby
13 certify to be a true and accurate transcript of the
14 same.

15

16 Dated this 20th day of June, 2011.

17

18

19

20

21

FREELANCE COURT REPORTER

22

23

24

25