

1 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)  
NOTICE OF WATER DISCHARGE PERMIT PUBLIC HEARING

2 NPDES Permit No. IL0062189

3

4

5 PEABODY COULTERVILLE MINING, L.L.C.

6 Gateway Mine

7 Randolph County

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PUBLIC HEARING

12 Tuesday, March 31, 2015 6:00 p.m.

13

14

15 Sparta City Hall, Council Chambers

16 114 West Jackson Street

17 Sparta, Illinois 62286

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9 A PUBLIC HEARING was held on the 31st day of  
March, 2015, between the hours of 6 o'clock in the  
10 evening and 7:09 o'clock in the evening, at the  
Sparta City Hall, Council Chambers, 114 West Jackson  
11 Street, in Sparta, Illinois, before Pamela K.  
Needham, CCR, CSR (MO, IL), in a certain cause now  
12 pending before the ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY (IEPA).

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1 MEMBERS OF THE ILLINOIS EPA PANEL:

2 Mr. Lynn E. Dunaway  
3 Environmental Protection Specialist  
4 Groundwater Section, Bureau of Water  
5 Illinois Environmental Protection Agency  
6 1021 North Grand Avenue  
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19 Ms. Iwona Ward  
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22 Illinois Environmental Protection Agency  
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1  
2 Ms. Joanne Olson  
3 Technical Advisor, Assistant Counsel  
4 Bureau of Water  
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10  
11 THE HEARING OFFICER:

12 Mr. Dean Studer  
13 Hearing Officer/Right-to-Know Coordinator  
14 Office of Community Relations  
15 Illinois Environmental Protection Agency  
16 1021 North Grand Avenue  
17 Springfield, IL 62702  
18 (217) 558-8280

1 APPEARANCES (continued)

2

3 Ms. Barb Lieberoff  
Community Relations Coordinator  
4 Office of Community Relations  
Illinois Environmental Protection Agency  
5 1021 North Grand Avenue East  
Springfield, IL 62794  
6 (217) 524-3038  
barb.lieberoff@illinois.gov

7

8 The Court Reporter:

9

Pamela K. Needham, IL CSR, MO CCR  
10 Midwest Litigation Services  
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11 St. Louis, MO 63101  
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1 TRANSCRIPT OF PROCEEDINGS

2 (On the record at 6:00 p.m.)

3 HEARING OFFICER STUDER: I've got 6:00  
4 on my watch, so we're going to go ahead and get  
5 started.

6 Good evening, my name is Dean Studer,  
7 and I'm the hearing officer for the Illinois  
8 Environmental Protection Agency. On behalf of  
9 Director Lisa Bonnett and Bureau of Water Chief  
10 Marcia Willhite, I welcome you to tonight's hearing.  
11 The Illinois EPA believes that the public hearings  
12 that we hold are a crucial part of the permit review  
13 process. My purpose tonight is to ensure that these  
14 proceedings run properly and according to rules. To  
15 that end, I will start by reading this opening  
16 statement into the record.

17 This is an informational hearing before  
18 the Illinois EPA in the matter of a National  
19 Pollutant Discharge Elimination System, otherwise  
20 known as NPDES, permit for surface activities from  
21 an underground coal mining facility by Peabody  
22 Coulterville Mining, LLC, with proposed discharges  
23 of treated wastewater into unnamed tributaries of  
24 Mary's River, Plum Creek and Lick Branch.

25 We previously held a hearing on a

1 proposed NPDES permit for this facility on June 8th,  
2 2011. Following that hearing, the applicant revised  
3 their proposal for this facility and the permit as  
4 public noticed on January 7th, 2015, is different  
5 than the draft permit that was the subject of that  
6 hearing. I also point out that the Illinois EPA has  
7 further revised this permit to clarify that a liner  
8 meeting the design permeability of no greater than  
9 ten to the minus seventh centimeters per second is  
10 required in Slurry Cell Number 5, regardless of  
11 whether or not wastewater comes in contact with coal  
12 refuse.

13 Illinois EPA will be addressing the  
14 issues raised at this hearing and receiving in  
15 writing before the close of the comment period. If  
16 you have raised issues in, in or during the 2011  
17 hearing and desire for those to be part of this  
18 hearing, it will be necessary for you to raise those  
19 issues during this proceeding, or to produce the  
20 physical documents to be included in this  
21 proceeding. A 401 water quality certification for  
22 this project was issued on January 5th, 2015.

23 Issues relevant to this hearing include  
24 compliance with the requirements of the Federal  
25 Clean Water Act, the rules set forth in state

1 regulations at 35 Illinois Administrative Codes,  
2 Subtitles C and D, and the anti-degradation  
3 assessment. The Illinois EPA's made a preliminary  
4 determination that the project meets the  
5 requirements for obtaining a permit, and has  
6 prepared a draft permit for review. I also point  
7 out that Illinois EPA is not the Agency permitting  
8 the mining operations. Mining operations are  
9 regulated by the Illinois Department of Natural  
10 Resources, Office of Mines and Minerals.

11 Illinois EPA is not permitting this  
12 project, but is the entity responsible for  
13 regulating the discharge of treated wastewater. In  
14 short, issues relevant in this proceeding must  
15 relate to the NPDES permit in some manner, and must  
16 be under the purview of the Illinois EPA. Illinois  
17 EPA has no authority to enforce other entities'  
18 regulations unless the Illinois Environmental  
19 Protection Act authorizes us to do so.

20 The Illinois EPA is holding this hearing  
21 for the purpose of accepting comments on the draft  
22 permanent prior to taking final action on the  
23 application. This public hearing is being held  
24 under the provisions of the Illinois EPA procedures  
25 for permit and closure plan hearings, which can be



1 found in 35 Illinois Administrative Code Part 166,  
2 Subpart A, and under the Illinois Pollution Control  
3 Board Regulations of 35 Illinois Administrative Code  
4 309.115 through 309.119. Copies of these  
5 regulations are available at the Illinois Pollution  
6 Control Board website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us), or if  
7 you do not have easy access to the web, you may  
8 contact me and I will get a copy for you.

9 An informational public hearing means  
10 exactly that. This is strictly an informational  
11 hearing. It is an opportunity for you to provide  
12 information to the Illinois EPA concerning the  
13 permit so that such information can be considered  
14 when taking final action on this permit application.  
15 This is not a contested case hearing.

16 I'd like to explain how tonight's  
17 hearing is going to proceed. First, we will have  
18 the Illinois EPA Panel introduce themselves and  
19 provide a sentence or two regarding their  
20 involvement in this permit process. Following these  
21 instructions, I will provide further instructions as  
22 to how statement and comments will be taken during  
23 this hearing and as to appropriate conduct during  
24 this hearing. I will then allow the public to  
25 provide comments, starting with Ken Rogers, Director

1 of Environmental Services-Midwest at Peabody Energy.

2 If you have not completed a registration  
3 card at this point, please see Barb Lieberoff in the  
4 registration area, and she can provide a card to  
5 you. You may indicate on this card that you would  
6 like to make comments tonight. Everyone legibly  
7 completing a card tonight, or providing written or  
8 email comments in this proceeding will be notified  
9 when the Illinois EPA reaches a final decision in  
10 this matter. A responsiveness summary will be made  
11 available at that time.

12 In the responsiveness summary the  
13 Illinois EPA will respond to all relevant and  
14 significant issues that were raised at the hearing  
15 or submitted to me prior to the close of the comment  
16 period. The hearing record in this matter will  
17 close on April 15th, 2015. I will accept written  
18 comments as long as they are postmarked in  
19 sufficient time to physically arrive at Illinois EPA  
20 or are emailed by April 15th, 2015.

21 Illinois EPA is committed to resolving  
22 outstanding issues and reaching a final decision in  
23 this matter in an expeditious manner. However, the  
24 actual decision date will depend on the number of  
25 comments received, the substantive content of those

1 comments, as well as other factors.

2           During this hearing and during the  
3 comment period, all relevant comments, documents and  
4 data will be placed into the hearing record as  
5 exhibits. Please send all written documents or data  
6 to my attention, and that is Dean Studer, Mail Code  
7 Number 5, Hearing Officer, regarding Gateway Mine  
8 NPDES, Illinois EPA, 1021 North Grand Avenue East,  
9 P.O. Box 19276, Springfield, Illinois, 26794-9276.  
10 This address is also listed on the public notice for  
11 the hearing tonight. Please indicate the NPDES  
12 permit number, or reference Gateway Mine NPDES on  
13 your comments to help ensure that they become part  
14 of this hearing record. The NPDES permit number for  
15 this facility is I-L-0-0-6-2-1-8-9.

16           Illinois EPA is also accepting email  
17 comments in this NPDES proceeding. Emails  
18 originating on a third party server designed to  
19 submit comments of the same or nearly the same  
20 comment from multiple users will not be accepted  
21 without prior approval of the hearing officer.  
22 Email comments are to be sent to  
23 epa.publichearingcom, that's E-P-A dot P-U-B-L-I-C  
24 H-E-A-R-I-N-G-C-O-M, at Illinois, I-L-L-I-N-O-I-S  
25 dot G-O-V, and they need to be received before

1 midnight on April 15th, 2015, and must either  
2 specify Gateway Mine NPDES, or the NPDES permit  
3 number, I-L-0-0-6-2-1-8-9, in the subject line.  
4 Emails are electronically sorted and distributed, so  
5 please make sure that the words in the subject line  
6 are spelled correctly. Electronic comments filed  
7 during normal Agency business hours should get an  
8 automated reply from the server. I will also  
9 attempt to send a reply to email comments within a  
10 few business days indicating the exhibit number  
11 assigned to the electronic submittal. If you do not  
12 receive such a reply, you may contact me, and I can  
13 provide that information to you.

14 I would now ask the Illinois EPA panel  
15 up front with me to introduce themselves, and  
16 provide a sentence or two as to what their role is  
17 in the review of this permit application.

18 MR. DUNAWAY: My name is Lynn Dunaway,  
19 and I work in the Groundwater Section the Bureau of  
20 Water, and I review the groundwater protection  
21 issues.

22 MR. TWAIT: My name is Scott Twait, I  
23 work for Water Quality Standards. I did the water  
24 quality memo and the anti-degradation memo.

25 MS. WARD: My name is Iwona Ward, and I

1 work for Mine Pollution Control program, I review  
2 the application and drafted, prepared the draft  
3 NPDES permit.

4 MS. OLSON: My name is Joanne Olson, I  
5 work in the Division of Legal Counsel, and I provide  
6 legal support to the people here today.

7 HEARING OFFICER STUDER: Thank you. As  
8 hearing officer, I intend to treat everyone here  
9 tonight with respect and in a professional manner.  
10 I ask the same respect be shown by the hearing panel  
11 and members of the audience. You may disagree with  
12 or object to some of the statements and comments  
13 made, but this is a public hearing, and everyone has  
14 a right to express their comments on this draft  
15 permit and the issues related to it. Arguing or  
16 prolonged dialogue with others will not be permitted  
17 this evening.

18 I remind everyone that we have a court  
19 reporter here making a verbatim record of tonight's  
20 hearing. For her sake, and in the interest of  
21 having an accurate transcript of this hearing, I ask  
22 that noise levels in the room be kept to a minimum.  
23 Consequently, applause, booing, hissing, jeering and  
24 other noises will not be allowed this evening.

25 If conduct of person -- of persons

1 attending this hearing should become unruly, I am  
2 authorized to adjourn this hearing should the  
3 actions warrant. In such a case, Illinois EPA would  
4 accept written comments through the time indicated  
5 on the notice for this hearing.

6           Written comments maybe submitted to  
7 Illinois EPA at any time within the public comment  
8 period, which ends on April 15th, 2015. Comments  
9 submitted by carrier or US Mail need to be sent in  
10 sufficient time to physically arrive at Illinois EPA  
11 headquarters in Springfield no later than April  
12 15th, 2015.

13           If you have lengthy oral comments to  
14 make at this hearing, it will be helpful to submit  
15 them to me in writing before the close of the  
16 comment period, and I will ensure that they are  
17 included in the hearing record as an exhibit. This  
18 hearing is the only time that Illinois EPA will be  
19 accepting oral comments.

20           Please keep your comments relevant to  
21 the issues involved with this permit. If your  
22 comments fall outside the scope of this hearing, I  
23 may ask you to proceed to your next relevant issue.  
24 I will initially allow everyone six minutes to make  
25 comments. After everyone has had an opportunity to

1 speak, if time permits, I may allow those who  
2 initially did not desire to speak to do so, and if  
3 time permits, I may also return to those who ran out  
4 of time initially.

5           Please avoid repetition. If anyone  
6 before you has already presented a statement or  
7 comment that is contained in your comments, please  
8 skip over those when you speak. If someone has  
9 already said what you intended to say, you may pass  
10 when I call your name to come forward. Once a point  
11 is made, it makes no difference if that point is  
12 made 99 times, it will be considered on its merit  
13 and be addressed only once in the responsiveness  
14 summary.

15           The issues that are relevant in the  
16 Illinois EPA final decision are those directly  
17 related to the contents of the permit and the  
18 regulations governing the issuance of the comment.  
19 Simply stating opposition or support for this  
20 project will not impact the Illinois EPA decision in  
21 this matter. The decision in this matter will be  
22 made on whether or not a permit can lawfully be  
23 issued, and will not be based on the number of  
24 people that either oppose or support the issuance of  
25 a permit. If the applicant meets the requirements

1 for obtaining a permit, Illinois EPA is required by  
2 law to issue the permit. Illinois EPA has only the  
3 power given to it by the Illinois Environmental  
4 Protection Act, and since this is a federal  
5 permitting action, to a limited extent, by USEPA  
6 regulations. Illinois EPA decision making is  
7 limited to those items associated with environmental  
8 issues and other items as determined by state and  
9 federal law and under the purview of the Bureau of  
10 Water of the Illinois EPA. In this case relevant  
11 issues must relate to the water discharge NPDES  
12 permit in some way. Please keep this in mind when  
13 speaking this evening, as well as when filing  
14 written comments on this NPDES permit.

15           When it is your turn to speak, I will  
16 call your name. Please come forward. I will then  
17 call a second name, and that person will be allowed  
18 to speak following the comments from the current  
19 person speaking. When I first call your name, if  
20 you do not desire to speak, or if someone has  
21 already said what you intended to say, you may pass,  
22 and I will announce another name. When the person  
23 speaking has completed their comments, the next  
24 person should come forward, and I will announce the  
25 name of the next person to speak following the



1 current speaker.

2                   When speaking, please speak clearly and  
3 into the microphone. State your name, and if  
4 applicable, any governmental body, organization, or  
5 association that you represent. If you are not  
6 representing a governmental body, an organization or  
7 an association, you may simply indicate that you are  
8 a concerned citizen or a member of the public. For  
9 the benefit of the court reporter, I ask that you  
10 spell your last name. If there are alternate  
11 spellings for your first name, you may also spell  
12 that will if you desire. Comments are to be  
13 directed to members of the hearing panel. This will  
14 help to ensure that an accurate transcription of  
15 your comments is made. Prolonged dialogue with the  
16 hearing panel or with others in attendance will not  
17 allowed.

18                   Are there any questions regarding the  
19 procedures that will be used for conducting this  
20 hearing?

21   (No response.)

22                   Okay, let the record indicate that no  
23 one raised their hand.

24                   The first person that will be speaking  
25 tonight is Ken Rogers. And if you would come

1 forward, and he'll be followed by Marjorie Wayland.

2 MS. MARJORIE WAYLAND: May I hold my  
3 comments until later, please?

4 HEARING OFFICER STUDER: Okay,  
5 following -- Marjorie passed? Okay.

6 Mike Fullerton would be the person  
7 speaking after, after Mr. Rogers.

8 MR. MIKE FULLERTON: I'll pass till  
9 later.

10 HEARING OFFICER STUDER: Okay, I'll  
11 announce another name shortly. Go ahead.

12 MR. KEN ROGERS: Okay. I'm Ken Rogers,  
13 Director of Environmental Services, Peabody Energy.  
14 R-O-G-E-R-S is my last name.

15 HEARING OFFICER STUDER: Okay, go ahead  
16 and if you would try to speak into the mike, just  
17 because your back is to people, and I want to make  
18 sure they can all hear you.

19 MR. KEN ROGERS: Okay. Peabody  
20 Coulterville Mining is committed to conducting its  
21 Gateway mining operation in a responsible, ethical  
22 manner that protects the environment and restores  
23 the land, using the best management practices. We  
24 are further committed to continuous improvement  
25 efforts in all aspects of our operation, including

1 environmental stewardship. We will utilize our well  
2 trained staff and resources to comply with all  
3 permit requirements.

4           The Gateway Mine currently has been in  
5 operation for four decades. Peabody acquired the  
6 mine in 2005 and has operated the mine during the  
7 past ten years. During this time, Peabody has made  
8 significant investments to improve different aspects  
9 of the mine, and we will make additional  
10 improvements following approval of this permit  
11 renewal. Currently Peabody employs 236 full-time  
12 workers at Gateway Mine. The annual payroll, wages  
13 and benefits, is approximately \$29 million. The  
14 mine facility has provided and continues to provide  
15 employees and their families with good income,  
16 health care, and many other benefits. The NPDES  
17 permit is essential to the continued operation of  
18 Gateway Mine, and for the employment of our 236  
19 employees. We look forward to resolving any  
20 remaining issues regarding this modified permit and  
21 renewal that will allow receiving the appropriate  
22 approval as soon as possible. Thank you.

23           HEARING OFFICER STUDER: Thank you,  
24 Mr. Rogers. Lance Barnes.

25           MR. LANCE BARNES: I'll pass till later.

1 HEARING OFFICER STUDER: Caleb, is it  
2 Boshers?

3 MR. CALEB BOSHER: I'll pass.

4 HEARING OFFICER STUDER: Pass? Okay.  
5 Tyler Rotche?

6 MR. TYLER ROTCHE: Good evening. Thank  
7 you for the opportunity to provide comments. My  
8 name is Tyler Rotche, it's T-Y-L-E-R, last name is  
9 R-O-T-C-H-E, Water Policy Specialist at Prairie  
10 Rivers Network.

11 Thank you for the opportunity to provide  
12 comments tonight regarding the draft renewed and  
13 modified NPDES permit for the Gateway Mines  
14 discharges to the fresh water lake and tributaries  
15 of the Mary's River, Plum Creek, and the Lick Branch  
16 in Randolph County. Prairie Rivers Network is a  
17 state affiliate of the National Wildlife Federation,  
18 a nonprofit organization that strives to protect the  
19 rivers, streams and lakes of Illinois, and to  
20 promote the lasting health and beauty of watershed  
21 communities. Prairie Rivers Network has members  
22 that live and recreate in the Mary's River watershed  
23 and stand to be adversely affected should discharges  
24 under this permit impair or degrade the water -- the  
25 quality of waters in the area, so I have a few

1 questions. The first deal with NPDES compliance.

2 So in the last 12 quarters, the operator  
3 has been in noncompliance for four of those quarters  
4 per the ECHO Database, and this includes several  
5 exceedances for the limits set for total iron from  
6 Outfall 8. I'm wondering how these issues have been  
7 resolved.

8 HEARING OFFICER STUDER: Do you know if  
9 they've been resolved?

10 MS. WARD: It's under investigation. We  
11 are investigating this. This being in the process  
12 in an investigation right now. We are checking all  
13 of our data.

14 MR. TYLER ROTCHE: What -- can you  
15 describe a little bit what the investigation  
16 entails?

17 MS. WARD: Well, we are reviewing all  
18 the DMR's, and actually the people from our  
19 Compliance Assurance section are doing this, so  
20 nobody is here today from our Compliance Assurance  
21 section. We will check with them and give you  
22 responses in responsiveness summary, okay?

23 MR. TYLER ROTCHE: Okay, thank you.

24 HEARING OFFICER STUDER: Tyler, did you  
25 say that was from the ECHO Database?

1 MR. TYLER ROTCHE: Yeah.

2 HEARING OFFICER STUDER: Okay. So that  
3 may or may not reflect what's actually in the  
4 permit; we have had issues with that information not  
5 necessarily being accurate, and that's one of the  
6 issues that Compliance Assurance has to check on.

7 MR. TYLER ROTCHE: Okay. My second  
8 question is in the operator's most recent permit  
9 through the Department of Natural Resources, Office  
10 of Mines and Minerals, several violations are  
11 listed; most notably, an incident occurring on the  
12 areas of Permit 53 and Permit 160, wherein the  
13 operator failed to allow the approved plan for coal  
14 waste disposal by allowing a large volume of decant  
15 water to leave the permit area at Outfall 8,  
16 apparently the result of placing a siphon in the  
17 energy spillway of Cell Number 4. The remedial  
18 action for this event was, one, to contain and  
19 remove sediments, and two, to submit a plan for  
20 remediation, and that notice of violation is active  
21 as of June 2nd, 2014.

22 And I also notice that the operator has  
23 been faced with several NPDES violations, including  
24 an effluent violation for unauthorized discharge,  
25 and a reporting violation for failure to notify

1 occurring May 25th, 2014.

2 So my first question is are these  
3 violations describing the same incident?

4 MS. OLSON: I don't know if we can  
5 answer that. I don't know if we know -- I don't  
6 know if we have a copy of the IDNR violations that  
7 you speak of.

8 MR. TYLER ROTCHE: Could you, could you  
9 describe the NPDES violation and what occurred?

10 MS. WARD: We cannot actually get into  
11 the specific details right now, because it's in the  
12 process of the evaluation. We send the NLV, and we  
13 are pursuing with that right now.

14 MR. TYLER ROTCHE: Are there any details  
15 you can provide about the, the violation?

16 MS. OLSON: Do you have the violation  
17 notice?

18 MR. TYLER ROTCHE: I have the, the  
19 numbers. But I don't have a copy of the notice.

20 HEARING OFFICER STUDER: You'll have to  
21 submit those to us in writing, I'm not going to go  
22 through multiple violations that you've alleged and  
23 comment on the record without seeing them directly  
24 in front of me.

25 MR. TYLER ROTCHE: Sure.

1 HEARING OFFICER STUDER: And I don't  
2 think anyone on the panel is going to be able to do  
3 that without seeing those. This is not something  
4 that we can do orally in an atmosphere or in a  
5 hearing environment without seeing them in front of  
6 us.

7 MR. TYLER ROTCHE: Even for the NPDES  
8 violations?

9 HEARING OFFICER STUDER: That's correct,  
10 we're going to need to know the dates, and we're  
11 going to need to know additional information,  
12 because just because you've said it and just  
13 because -- I'm assuming again this came out of ECHO?

14 MR. TYLER ROTCHE: Yeah.

15 HEARING OFFICER STUDER: Yeah. We've  
16 had issues with that, and we've got to ensure that  
17 the official record in there which is the actual,  
18 what was submitted is correct.

19 The problem with a lot of this  
20 information is is that it comes in in hard copy, and  
21 then it's put into electronic copy, but the official  
22 record is what came in in hard copy, and if there's  
23 discrepancies between the two, the official record  
24 is which -- is what governs. So that's, that's been  
25 a huge issue with ECHO in the past, and we have to



1 ensure that this is correct.

2 MR. TYLER ROTCHE: Okay. But just to  
3 clarify, it sounds, from Ms. Ward's statement, that  
4 there are some violations notice that were issued  
5 and that the Agency is aware of?

6 MS. OLSON: Yes, the Agency has issued a  
7 violation notice, and that matter is still under  
8 enforcement, so we're not going to talk about that  
9 today.

10 MR. TYLER ROTCHE: Okay. That's  
11 understandable.

12 My second set of questions deals with  
13 ongoing water pollution at this site, which was  
14 documented in several monitoring wells in 2011, and  
15 I'm wondering if I could get some information on  
16 what the current state of groundwater pollution is  
17 at this site.

18 MR. DUNAWAY: I reviewed the data  
19 available in the Mines and Minerals database, and  
20 based on that information, I looked at monitoring  
21 results when specific wells started to be monitored,  
22 and what they were, the most recent values were, and  
23 there are values that exceed ground water quality  
24 standards; however, depending on the well, many of  
25 those have gone down in certain parameters, other

1 parameters have come up. And one thing I've done,  
2 or one thing I want to have done assuming this  
3 permit is approved, is have a background well  
4 installed so that I can better assess whether or  
5 not, because of the variability that I see in the  
6 other monitoring wells, to assess whether or not  
7 those are naturally occurring concentrations, or  
8 whether there are, in fact, impacts from the waste  
9 disposal units.

10 MR. TYLER ROTCHE: Would that be made a  
11 condition of this permit in that case?

12 MR. DUNAWAY: I believe it's in the, it  
13 is a condition in this permit.

14 MR. TYLER ROTCHE: Okay. So I also  
15 noticed that the Class 4 groundwater standards state  
16 that the source of any release of contaminants to  
17 groundwater has been controlled, and that's dealing  
18 with groundwater under a coal refuse disposal area;  
19 and given that the contaminants haven't been  
20 controlled in this instance and there's ongoing  
21 groundwater pollution, I'm wondering why the  
22 operator isn't bound to another standard like Class  
23 2 standards.

24 MR. DUNAWAY: Well, actually, the --  
25 those Class 4 definitions, the, the applicable

1 standard beneath the refuse disposal area will  
2 depend on when the refuse disposal area was  
3 constructed, when it started operation, whether it  
4 discontinued operation or ceased, but the, the real  
5 meat of the issue is that where those monitoring  
6 wells are located, we don't believe that's Class 4,  
7 we do believe that it would be Class 2, or in some  
8 instances I have seen a, at least one of the wells  
9 has a, a slug test that was done to test the  
10 permeability, and it actually falls into the  
11 covering a Class 1 groundwater in the vicinity of  
12 that well.

13 MR. TYLER ROTCHE: Do you know which  
14 well that would be offhand?

15 MR. DUNAWAY: Well, Number 8.

16 MR. TYLER ROTCHE: Another concern that  
17 I was wondering that you might be able to help me  
18 address is the impoundment location and the  
19 discharge in, from RDA five into streams that might  
20 lack mixing potential, and I'm wondering if the  
21 Agency has considered how the operator will meet  
22 water quality standards when limited flow for mixing  
23 is available.

24 MR. TWAIT: I don't -- I don't believe  
25 that we've considered any mixing for the permit

1 limits that have come out. I'd have to, I'd have to  
2 doublecheck that, which would be in the  
3 responsiveness summary, but I don't think we've used  
4 mixing for, for the permit limits.

5 MS. WARD: We didn't.

6 HEARING OFFICER STUDER: We've also gone  
7 over the time limit. How many more questions do you  
8 have, Tyler?

9 MR. TYLER ROTCHE: I have a few more,  
10 but if I could save them, if I could come back again  
11 at the end, would that be possible?

12 HEARING OFFICER STUDER: Yeah.

13 MR. TYLER ROTCHE: Okay.

14 HEARING OFFICER STUDER: Thank you.

15 MR. TYLER ROTCHE: Thank you.

16 HEARING OFFICER STUDER: Yeah. And I'll  
17 keep your card up here.

18 MR. TYLER ROTCHE: Thank you.

19 HEARING OFFICER STUDER: Andrew Rain.

20 MR. ANDREW RAIN: Pass.

21 HEARING OFFICER STUDER: Pass, okay.

22 Cindy Skrukrud.

23 MS. CINDY SKRUKRUD: Good evening. My  
24 name is Cindy Skrukrud, C-I-N-D-Y, last name spelled  
25 S, like Sam, K-R-U-K-R-U-D. I'm the Clean Water

1 Advocate for the Illinois Chapter of the Sierra  
2 Club, and so I'm here on behalf of our members who  
3 are anxious to have clean groundwater and clean  
4 water in streams like Mary's River, Plum Creek, and  
5 Lick Branch. So I have a number of questions also  
6 about the draft permit.

7 First, though, I had a procedural  
8 question. So this -- we've got a very short 15-day  
9 post-hearing comment period. I wondered will the  
10 transcript be available during that time period?

11 HEARING OFFICER STUDER: We've made  
12 arrangements for an expedited transcript. I am  
13 planning on having the transcript posted on the  
14 website next week.

15 MS. CINDY SKRUKRUD: Okay. Great, thank  
16 you so much. And then, and then I've got some  
17 questions that kind of hearken back to our hearing  
18 that we had on this permit in, in 2001. And first I  
19 had a question, so when you look back and you see  
20 this mine is operating on -- still operating on a  
21 permit that expired in 2000. So that's 15 years  
22 ago. And then we had a hearing in 2011, and still  
23 then we didn't see a permit. So I was, just  
24 wondered, can you explain why it's taken so -- well,  
25 why it's taking so long to get a reissued permit for

1 this mine while we know, everyone in this room knows  
2 that there's been many changes that have occurred at  
3 the mine in that time period.

4 MS. WARD: One of the reasons that we  
5 did not proceed with the issuing the permit after  
6 the hearing in 2011 was that environmental groups  
7 like always the public was concerned about company  
8 using the fresh water lake as a treatment facility.  
9 Well, the company decide to resolve this problem  
10 before the permit was actually issued, and they  
11 build extra sedimentation basin next to the West  
12 Basin that was already constructed with a discharge  
13 008. And the discharge 008 was not going to the  
14 fresh water lake. Well, first of all, was proposed  
15 to go to the fresh water lake --

16 MS. CINDY SKRUKRUD: Right.

17 MS. WARD: -- and then the discharge  
18 structure 009 supposed to be out of the fresh water  
19 lake. As of right now, company proposed a West  
20 Basin that will actually suspend the sedimentation  
21 treatment, and sedimentation -- sedimentation  
22 storage and the treatment for the treating water,  
23 and that actually the 009 discharge will go straight  
24 from the West Pond, which they will have to meet  
25 water quality standards at the discharge pond 009

1 before they go to the fresh water lake. So the  
2 fresh water lake will be actually a receiving  
3 stream, receiving lake.

4 MS. CINDY SKRUKRUD: Okay. This is --  
5 yeah, this is all very complicated, and I think  
6 we -- and I know we, that's what we thought we were  
7 seeing from the permit, so I may have some more  
8 questions about that later, but I appreciate that.  
9 So, but just to clarify, so 009 will go to the fresh  
10 water lake, that --

11 MS. WARD: Yes, out of the West Pond.

12 MS. CINDY SKRUKRUD: Out of the West  
13 Ponds. And there was -- West Ponds, and there was  
14 something in here about -- maybe it's another name.

15 MS. WARD: Harp Pond?

16 MS. CINDY SKRUKRUD: Yes. Harp Pond.

17 MS. WARD: Mm-hmm.

18 MS. CINDY SKRUKRUD: So those are new  
19 ponds that have been built.

20 MS. WARD: Well, West Pond or Harp Pond  
21 is the same pond.

22 MS. CINDY SKRUKRUD: Okay.

23 MS. WARD: East Pond is the new basin  
24 that is constructed on the east side of the West  
25 Basin.

1 MS. CINDY SKRUKRUD: Okay. And those  
2 were constructed to provide additional areas for  
3 sedimentation?

4 MS. WARD: Well, they have been  
5 constructed for actually improve the treatment, and  
6 also improve the, the site for the sediment.

7 MS. CINDY SKRUKRUD: Okay. Okay,  
8 thanks, that, I think that answered some of my  
9 questions that are, that I had for later.

10 Then I just, I wanted to follow-up, this  
11 is a question for Lynn, and thank you for your  
12 answers that you, that you gave Tyler about  
13 groundwater monitoring, but I looked at the  
14 transcript from 2011 and Bill Busher was here  
15 instead of you, and he, one of the things he talked  
16 specifically about was high levels of contaminants  
17 in monitoring well and monitoring -- Monitoring Well  
18 4 and Monitoring Well 9, and at that time he said  
19 those were under review, and so I just wondered if  
20 you could give a -- you talked about some other  
21 monitoring wells, but I wondered if you could talk  
22 specifically about those.

23 MR. DUNAWAY: Well, I, I can't  
24 necessarily address what Bill was speaking about,  
25 but on, based on my review today, looking at that



1 data to be sure it was current, the concentrations  
2 of contaminants in Monitoring Well 4 have generally  
3 gone down, though some went up, and in Monitoring  
4 Well 9, they have increased over the time from, from  
5 when the well went into service from now, but I  
6 didn't look relative to 2011, so I really can't  
7 address that.

8 MS. CINDY SKRUKRUD: And then had you  
9 made any determination whether those contaminants  
10 were -- I'm quoting you all, you now -- naturally,  
11 quote/unquote, naturally occurring, or mine  
12 pollutant, related to mine pollution?

13 MR. DUNAWAY: No, we've not made a  
14 determination on that, which, as I mentioned to  
15 Tyler, hopefully that background well that is a  
16 condition of this permit would help with that.

17 MS. CINDY SKRUKRUD: Okay, thank you.  
18 Okay, then I think I, then I -- then I, basically my  
19 questions now are related -- are, will come off of  
20 the, the notice and fact sheet. And so on the first  
21 page of the, of the fact sheet it says: Various  
22 modifications or additions to surface facilities,  
23 including additional coal stockpile and coal  
24 load-out are, are part of the modifications in, in  
25 the permit.

1                   And so certainly one of the changes  
2   that's occurred over the 15 years that this permit's  
3   been out there is we now have the North Gateway Mine  
4   operating, so my question is has that additional  
5   coal coming into this site been factored into this  
6   latest draft of the permit, and did that require  
7   anti-degradation analysis?

8                   MR. TWAIT: It was, it was my  
9   understanding that the coal production hasn't  
10  increased, it's just coming from the North Gate  
11  Mine.

12                  MS. CINDY SKRUKRUD: And so that --

13                  MR. TWAIT: And so that wouldn't require  
14  an anti-degradation assessment on, on where the coal  
15  came from.

16                  MS. CINDY SKRUKRUD: Okay. Thank you.  
17  And then I think my next set of questions then are  
18  on the anti-degradation assessment.

19                  HEARING OFFICER STUDER: Cindy, how many  
20  more questions do you have roughly?

21                  MS. CINDY SKRUKRUD: Oh, I have quite a  
22  few. So I can, I'm willing to come back if you want  
23  me to just come back.

24                  HEARING OFFICER STUDER: Okay. Yeah,  
25  we've got, we've got just a couple more people, and

1 I want to give them an opportunity, and we'll, we'll  
2 come back.

3 MS. CINDY SKRUKRUD: Okay, great.

4 HEARING OFFICER STUDER: Because there's  
5 you, and I believe Tyler had also had additional  
6 questions, so --

7 MS. CINDY SKRUKRUD: Okay.

8 HEARING OFFICER STUDER: And I'm sure  
9 we'll have time tonight to --

10 MS. CINDY SKRUKRUD: Okay. Thank you.  
11 Thanks for your answers.

12 HEARING OFFICER STUDER: Marlin Wilson.

13 MR. MARLIN WILSON: Pass.

14 HEARING OFFICER STUDER: Pass, okay.

15 Suzanne, is it Novaselack?

16 MS. SUZANNE NOVASELAC: It's Novaselac,  
17 and I'll pass.

18 HEARING OFFICER STUDER: Okay, pass,  
19 okay.

20 We're back to -- is there anyone in the  
21 room that has not made a comment this evening that  
22 is registered and would like to make a comment on  
23 the record tonight before I go back to those that  
24 had previously spoken? Okay.

25 MS. MARJORIE WAYLAND: May I now?

1 HEARING OFFICER STUDER: Yeah, if you'd  
2 come forward to the microphone and state your name,  
3 and spell your last name for us, please.

4 MS. MARJORIE WAYLAND: Marjorie Wayland,  
5 M-A-R-J-O-R-I-E. W-A-Y-L-A-N-D.

6 Randolph County. 296,604,664 tons.  
7 Perry County. 554,379,228 tons. Washington County.  
8 67,359,863 tons. St. Clair County. 367,370,806  
9 tons. 1,285,714,561 tons of reported commercially  
10 mined coal since 1882 in four counties up to 2013.  
11 These numbers do not include the tons mined for the  
12 50 years before reporting began, the family mined  
13 coal, and other under-reported coal tonnage.  
14 1,285,714,561 tons of mined coal just in our four  
15 immediate counties.

16 Coal was commercially mined in our  
17 counties nearly 150 years before the EPA, SMCRA, and  
18 Prairie Rivers. We're established, and coal mining  
19 continues almost 50 years after.

20 HEARING OFFICER STUDER: Okay, let's  
21 keep our comments away from personal comments  
22 directed at organizations or other people, please.

23 MS. MARJORIE WAYLAND: Okay. I'm sorry.

24 HEARING OFFICER STUDER: That's okay;  
25 continue.

1 MS. MARJORIE WAYLAND: Are government  
2 agencies? I will mention government --

3 HEARING OFFICER STUDER: You can --

4 MS. MARJORIE WAYLAND: Okay.

5 HEARING OFFICER STUDER: -- we're used  
6 to being yelled at, so...

7 MS. MARJORIE WAYLAND: I'm sorry.

8 HEARING OFFICER STUDER: We're -- we  
9 don't have a problem being yelled at, I mean...

10 MS. MARJORIE WAYLAND: Look around us.  
11 Our homes and families, our fields and communities.  
12 Just what are the effects of the 180 plus years of  
13 coal mining in our communities? Where producing  
14 coal mines and preparation plants once stood, our  
15 high yield farm fields, pastures, successful  
16 industrial and agribusinesses, research centers,  
17 high end subdivisions, and single family homes.  
18 Hunting clubs, parks, and recreational complexes.  
19 We hunt, fish, garden, farm, play, study, live, eat,  
20 sleep, work, shop, worship, raise our families, in  
21 the shadows and the practices of past and present  
22 coal mines and mining. Coal is Southern Illinois'  
23 natural resource. A resource like every other  
24 resource that cannot be defined by cookie cutter  
25 designs. The Environmental Protection Agency,

1 Illinois Department of Natural Resources, Mine  
2 Safety and Health Administration, Army Corps of  
3 Engineers, and a litany of coal -- local, state and  
4 federal agencies, work with all who farm and mine  
5 our natural resource. A drive, a hike, a ride, a  
6 float in Southern Illinois confirms successful  
7 productive mining and a good quality of life can  
8 co-exist in the past, today, and well into the  
9 future. To quote -- may I quote? Is that okay?

10 To quote Gil Gutknecht, that's  
11 G-U-T-N-E-C-H-T: Those who say it can't be done  
12 should get out of the way of those that are already  
13 doing it. This can be done, and it would make a  
14 huge difference, unquote. Thank you.

15 HEARING OFFICER STUDER: Thank you. Is  
16 there anything else that has not spoken this evening  
17 that would like to make a comment on the record?

18 (No response.)

19 HEARING OFFICER STUDER: Tyler?

20 MR. TYLER ROTCHE: Thank you. So next  
21 set deals with wetlands. So in the permit submitted  
22 to the Department of Natural Resources, Number 426,  
23 several zones are designated as wetlands on that  
24 facility, and I'm wondering if this determination of  
25 wetlands which could indicate the presence of a

1 higher water table, I'm wondering how that's been  
2 taken into account by IEPA? As relates to, to  
3 Number 5.

4 MR. TWAIT: I don't, I don't know if  
5 we've evaluated that. Not all wetlands indicate a  
6 high groundwater, but we can answer that in the  
7 responsiveness summary.

8 MR. TYLER ROTCHE: Thank you. So while  
9 the new permit 426 is not covered by IEPA Subtitle D  
10 permits, portions of the existing Gateway Mine have  
11 in the past been granted approval for the disposal  
12 of coal combustion waste from Anheuser Busch, the  
13 University of Illinois, and SIU Carbondale, and the  
14 NPDES permit references the approval of Subtitle D  
15 Permit Number 2008-MW-0146, as well as the  
16 corresponding IEPA Log Number 0146-08 describing  
17 disposal practices. And that permit was issued on  
18 June 27th, 2008, and expired on May 31st, 2013, and  
19 I'm wondering if coal ash disposal is still  
20 permitted on this facility.

21 MS. WARD: Yes, it is. Some of those  
22 permits, state permits are incorporated in the  
23 previous permit, some of them are standing outside  
24 of the NPDES permit, so I wanted to doublecheck  
25 this, and I will get back to you in the

1    responsiveness summary.

2                   MR. TYLER ROTCHE:  Okay, thank you.  And  
3    I'm also wondering if you could tell me how much  
4    coal ash rough -- roughly is taken on at this site,  
5    the process by which its characterized, and where  
6    it's coming from.

7                   MS. WARD:  I don't have exact numbers  
8    right now with me.  Again, I will have to just  
9    doublecheck the numbers and provide for you.

10                  MR. TYLER ROTCHE:  Okay.  Could you,  
11    could you talk about the process of how it's  
12    characterized for disposal on this site?

13                  MS. WARD:  The CCW is disposed on the  
14    Cell Number 2 and Cell Number 3, but again, we have  
15    own analysis, our analysis, and we are reviewing  
16    those analysis in the office, so I can provide you  
17    with detail informations about it in responsiveness  
18    summary.

19                  MR. TYLER ROTCHE:  Thank you.  I also  
20    notice in the NPDES permit the mention of TCLP, the  
21    toxicity characteristic leaching procedure, and I'm  
22    wondering if you know if that's still how the waste  
23    is characterized, or if EPA's newer leaching  
24    environmental assessment framework is utilized.

25                  MS. WARD:  We receive those analysis



1 through our office, in our office, and we reviewing  
2 them. So I don't know if you need information about  
3 those analysis, we can provide it for you.

4 MR. TYLER ROTCHE: Okay. My next set of  
5 questions deals with sewage sludge being taken on at  
6 this site. So the permit will authorize the use of  
7 lime sludge, utilization for neutralization on the  
8 refuse area, and in taking on coal combustion waste,  
9 sewage sludge and lime sludge, the permit is  
10 displaying some similarities to the Alpena Vision  
11 Resources Murdock Mine site, wherein similar  
12 resources were disposed, and the result there was  
13 thick clumps of sludge material in adjacent streams,  
14 as well as thick gross of -- thick growths of algae  
15 and fungus, and monitoring of streams adjacent to  
16 the site found high concentrations of sulfates,  
17 boron, iron, manganese, arsenic and nutrients, and  
18 I'm wondering if the Department -- sorry, if the  
19 Agency has reviewed the potential impact of storing  
20 these materials together and if there are any  
21 concerns that arise from the mixing of these.

22 MS. WARD: Yes; lime sludge is not the  
23 sewer sludge. Lime sludge is a different material.  
24 And the, again, the company is allowed to bring only  
25 to the site the number, but I will have to look at

1 exactly what tonnage, from specific treatment  
2 facilities. And again, if you need to -- we also  
3 receive all the analysis of the material that is  
4 brought to the site. If you would like to see the  
5 analysis, we could provide it for you.

6 MR. TYLER ROTCHE: Sure. So sewage  
7 sludge is not being taken on at this site?

8 MS. WARD: No; the lime sludge.

9 MR. TYLER ROTCHE: Okay.

10 MS. WARD: I'm sorry, I misspoke.

11 MR. TWAIT: Yeah. Sewage sludge is used  
12 as a soil amendment, at, at this facility.

13 MR. TYLER ROTCHE: Okay. So at the  
14 Murdock site a number of residents complained  
15 somewhat frequently about foul odors as a result of  
16 the sewage sludge being taken on, and I'm wondering  
17 if there's -- if you could answer if there's any  
18 sort of classification, if it's Class A or Class B,  
19 or something with moisture content.

20 MR. TWAIT: I, I wouldn't know at this  
21 time. But we can, we can follow-up with that in the  
22 responsiveness summary.

23 MR. TYLER ROTCHE: Thank you. And I'm  
24 wondering just for sort of a broader overview if you  
25 could describe the process of reclamation at RDA2?

1 How that happens generally, and what materials are  
2 utilized in that process, and maybe, maybe the time  
3 scale, as well.

4 MS. WARD: This will be, probably be  
5 better if we can provide it in the responsiveness  
6 summary.

7 MR. TYLER ROTCHE: Sure.

8 MS. WARD: It's what they call time.

9 MR. TYLER ROTCHE: Yeah. I have a  
10 question about fugitive dust. So in condition  
11 Number 14C within the Construction Authorization  
12 Number 8161-00, it states that: Fugitive dust from  
13 the coal combustion waste material should not leave  
14 the disposal area. Timely covering incorporation  
15 and wetting shall be utilized as necessary to  
16 protect exposed surfaces from wind erosion.

17 And I know that there have been a number  
18 of concerns in the past about dust from this site,  
19 and if the Agency has documented any instances of  
20 waste material leaving the permit area, or if there  
21 are any provisions for addressing those concerns  
22 moving forward.

23 MS. WARD: I don't have any inspection  
24 reports with me, but I can look into them and  
25 provide you information. But comparing normally to,

1 for the dust control, they use the water trucks,  
2 they try to keep the dust -- they try to control the  
3 dust, but I don't remember ever receiving any calls  
4 from the local people or anybody complaining about  
5 the dust at this mine. Not at this moment. I will  
6 have to doublecheck.

7 MR. TYLER ROTCHE: Sure. Who, who would  
8 those calls be directed to, for future reference?

9 MS. WARD: They will be directed to the  
10 office, to our Mine Office in Marion.

11 MR. TYLER ROTCHE: Okay.

12 HEARING OFFICER STUDER: We can also  
13 receive complaints virtually at multiple places in  
14 our, in our agency, so... One thing that might be  
15 helpful is you had made indications that there had  
16 been, you know, concerns in the past. If you can  
17 raise those in writing in the post-hearing comments,  
18 that would be helpful, if you have specific ones  
19 that you want to address.

20 MR. TYLER ROTCHE: Okay. Thank you.  
21 And then last, last question deals with the  
22 alternatives assessment. So the permit states that  
23 alternatives to this system of prevention and  
24 treatment of pollutants have been evaluated by the  
25 mine company in a document dated March 28th, 2012,

1 entitled: Peabody Coulterville Mining, LLC, Gateway  
2 Mine Revised Anti-degradation Analyses of Benefits  
3 and Alternatives to Lessen Water Quality Impact.

4 So my question is are additional  
5 pollutants in waste streams like the sewage sludge  
6 and the potential for additional pumping and some of  
7 the other waste being taken and considered in this  
8 context, given that the document's from 2012, and is  
9 that sufficient for this permit?

10 MR. TWAIT: Well, the, the document was  
11 looking at other ways to treat the storm water and  
12 wastewater that was coming off the coal mined area,  
13 or the impacted area, and we've accepted the 2012  
14 anti-degradation assessment that they've done. We  
15 think that's sufficient.

16 MR. TYLER ROTCHE: So that there aren't  
17 substantial differences.

18 MR. TWAIT: Not that I know of.

19 MR. TYLER ROTCHE: Okay. Well, that,  
20 that's all the questions I have, so thank you again  
21 for your time and your review of this permit.

22 HEARING OFFICER STUDER: Thank you,  
23 Tyler. Cindy Skrukrud.

24 MS. CINDY SKRUKRUD: So I think my  
25 questions -- I have some questions now about the

1 anti-degradation assessment, and then some questions  
2 about the draft permit.

3           So on the, Page 15 of the Public Notice  
4 Fact Sheet, there is a discussion, and this was,  
5 this was the discussion -- we discussed this bid  
6 about, bid already about improving solids treatment  
7 of the flow through Outfalls 8 and 9, and that's in  
8 like the first full paragraph. And so -- and  
9 there's a statement there that: The loading of  
10 manganese to Outfall 8 and 9 will not be increased,  
11 since the solids treatment will be improved over the  
12 existing discharge.

13           I want to note that we have streams --  
14 receiving waters that are listed as impaired for  
15 manganese, so I would -- I'd appreciate it if you  
16 could explain for me in a little more detail how  
17 these basins will be used to reduce manganese  
18 discharges.

19           MR. TWAIT: Well, Outfall, Outfall 008  
20 was a, went through, I don't necessarily know that  
21 it was called a pond, but it's, it was vegetated,  
22 and it might have been like a long narrow pond that  
23 didn't have enough residence time, and that's why  
24 the facility came forward and, and said that they  
25 wanted to use the fresh water lake as their

1 treatment, because this Outfall 008 was not  
2 sufficient to take out the sediments. The -- after  
3 the, the public hearing last time, they came back  
4 and said we're not going to use the fresh water  
5 lake, we're going to make... dig some actual ponds,  
6 and those ponds are sufficient to allow the, the  
7 sediments to drop out, and as the sediments drop  
8 out, the, the manganese will, is attached to those  
9 sediments and will be reduced.

10 MS. CINDY SKRUKRUD: Okay, thank you.

11 In the, the next paragraph of the anti-degradation  
12 assessment talks about the new refuse Cell Number 5,  
13 and that all the water within the impoundment is  
14 proposed to be recycled to the preparation plant.

15 So I had a question about so what is the route, how  
16 does that get to the preparation plant, is there any  
17 emergency outfalls proposed from the RD -- RDA5. I  
18 ask this because this came -- we asked a similar  
19 question about RDA4 at the 2011 hearing, and even  
20 though it was discussed as a closed loop system,  
21 also as a closed loop system, there, it seemed like  
22 there, in the transcript it seems like there, we got  
23 a response from the Agency that there was a  
24 potential for discharge from RDA4 through Outfall 8.  
25 So I just want to clarify, are there, is -- are

1 there emergency outfalls from RDA4 and RDA5,  
2 proposed RDA5, and where will, where will they  
3 discharge to?

4 MS. WARD: There is the emergency  
5 structure out of the RDA4, and the discharge direct  
6 the recirculation pond, and the water from the  
7 recirculation pond is used as the preparation pond.

8 MS. CINDY SKRUKRUD: Okay. And what  
9 about RDA, proposed RDA5?

10 MS. WARD: It will be the same.

11 MS. CINDY SKRUKRUD: It will go to  
12 the --

13 MS. WARD: Go to the recirculation pond.

14 MS. CINDY SKRUKRUD: Okay, thank you.  
15 That helps a lot. Moving down then, there's a  
16 discussion about proposed Outfall 10, which is going  
17 to treat underground pumpage that, from groundwater  
18 in the Southern Air Shaft. I wondered what you know  
19 about the quality of that water. Again, at the 2011  
20 hearing it seemed like you had data on chlorides and  
21 sulfates, but not metals, and I just wondered if you  
22 have any more data on the quality of that water,  
23 which I believe is going to Lick Branch.

24 MR. TWAIT: Based on your questions, I,  
25 I put together the data that we, that we had at



1 2010, I didn't know that it was for metals. I'd  
2 have to go back and take a look to see if there's  
3 any additional metals data for that.

4 MS. CINDY SKRUKRUD: But you have  
5 some -- so do you just have chloride and sulfate  
6 data --

7 MS. WARD: And hardness.

8 MS. CINDY SKRUKRUD: Okay. Could --  
9 will you -- are you willing to give those numbers --  
10 values?

11 MR. TWAIT: The chloride was somewhere  
12 around 30, sulfates were somewhere around 140, and  
13 the hardness was 175.

14 MS. CINDY SKRUKRUD: Okay, thank you  
15 very much. So then this, this latest draft of the  
16 permit discusses four new discharges, Outfalls 9  
17 through 12. Are those outfalls being constructed in  
18 drainageways, essentially by impounding a  
19 drainageway?

20 MS. WARD: Outfall 009, as I mentioned  
21 before, comes from the additional basin that was  
22 constructed, that is from the West Basin and is  
23 going to the fresh water lake.

24 MS. CINDY SKRUKRUD: Okay.

25 MS. WARD: Outfall Number 10 is proposed

1 in the satellite area out of the earth shaft, but --  
2 and Outfall Number 11 and 12, both those outfalls  
3 actually will build out of two cells, and, but both  
4 those outfalls will control the drainage coming out  
5 of the Cell Number 5.

6 MR. TWAIT: And I believe Outfall 009 is  
7 not in the drainageway, and Outfall 10, 11 and 12  
8 would be.

9 MS. CINDY SKRUKRUD: Okay. So you know  
10 that you've heard this objection from us before that  
11 we shouldn't be taking waters of the state and  
12 converting them to treatment works, which  
13 essentially that's what you do when you dam them,  
14 the creek and make it into a sedimentation basin, so  
15 I'm wondering was there any consideration given to  
16 offline basins?

17 MR. TWAIT: I believe their  
18 Anti-degradation Assessment document did look at  
19 offline, but I'd have to actually go back and, and  
20 take a look. I'm not, I'm not positive.

21 MS. CINDY SKRUKRUD: Yeah, I don't see  
22 that, at least it wasn't summarized in the  
23 anti-degradation analysis that's in here.

24 Then I also then had a question about  
25 under the, the things that they, the alternatives

1 that they did assess for lessening the increase in  
2 loading and, or minimizing environmental  
3 degradation. The Anti-degradation Assessment says  
4 that: Biological treatment in wetlands or reactors  
5 wasn't possible.

6 That is something that the Agency has --  
7 that we have in place at mines, other mines in  
8 Illinois as additional treatment, so I wanted to put  
9 that into the record.

10 MR. TWAIT: I don't know that we said  
11 it's not possible, but they determined that it's not  
12 feasible.

13 MS. CINDY SKRUKRUD: So what's the  
14 difference?

15 MR. TWAIT: The difference could be it's  
16 possible to construct something like that, but I'd  
17 have to go back and actually take a look at what  
18 they came out with, but it might be financial, or it  
19 might be the, the amount of land necessary. I don't  
20 remember offhand.

21 MS. CINDY SKRUKRUD: Okay. Okay, then I  
22 had a couple -- then I have a few questions that  
23 come out of the permit, itself.

24 So looking at Outfall 001, and looking  
25 back at the 2011 notice, the sulfate and manganese

1 limits were increased from what they were proposed  
2 in 2011, and I wondered if you could explain that.

3 MR. TWAIT: The sulfate limit would have  
4 been based on more current data. We, we look at  
5 chlorides and hardness data in the receiving stream,  
6 so we, we got updated information.

7 MS. CINDY SKRUKRUD: Okay. Then on  
8 Outfall 3, why are there chloride limits above 500,  
9 which is the water quality standard?

10 MR. TWAIT: There was -- based on some  
11 mixing.

12 MS. CINDY SKRUKRUD: So mixing in, in  
13 the --

14 MR. TWAIT: In the receiving stream.

15 MS. CINDY SKRUKRUD: Okay.

16 MR. TWAIT: They, they looked at the,  
17 the acreage that the ponds collect from, and they  
18 looked at the upstream acreage and determined there  
19 was some, some mixing available. It looks like we  
20 had a mixing, mixing ratio available of 56 to 1, but  
21 they didn't need all of that, and so we limited them  
22 to what they said that they needed.

23 MS. CINDY SKRUKRUD: Okay. And then are  
24 the, because that Outfall 003 discharges upstream of  
25 the fresh water lake, are there any concerns

1 about -- are there any concerns about materials  
2 concentrating in the lake from -- now I'm talking  
3 more generally between Outfalls 2 -- Outfall 002 and  
4 003 both from discharge upstream to a fresh water  
5 lake.

6 MR. TWAIT: Basically we determined from  
7 the mixing that the water quality standards would be  
8 met once the waters are, are mixed with the  
9 receiving stream. And so there wouldn't be a worry  
10 about the chlorides or sulfates increasing once it  
11 got to the lake. They would actually decrease.

12 MS. CINDY SKRUKRUD: Okay. Thank you.  
13 I think I only have one more question.

14 So then on Page 23 of the draft permit,  
15 it's talking about the compacted clay liners to be  
16 constructed beneath RDA5, and it says that they'll  
17 be 32 inches. So how do you determine that?  
18 Because it seems like it's typical for us to see  
19 four-foot liners, so I wondered how that was  
20 determined?

21 MR. DUNAWAY: The 32 inches is for the  
22 ditches, because there will be a four-foot liner  
23 under the RDA and under the sedimentation ponds, and  
24 then 32 inches in the ditches. And the reason we  
25 were okay with them using 32 inches -- 32 inches in

1 the ditches is because they will typically be dry,  
2 so there won't be head on those liners that would  
3 tend to cause the water to infiltrate.

4 MS. CINDY SKRUKRUD: Okay, thank you  
5 very much. I think those are all my questions.  
6 Thank you.

7 HEARING OFFICER STUDER: Thank you,  
8 Cindy. Is there anyone else that has a comment that  
9 they would like to make on the record before we  
10 adjourn this evening?

11 (No response.)

12 HEARING OFFICER STUDER: Okay, let the  
13 record indicate that no one raised their hand.

14 I remind everyone that the comment  
15 period for the, this draft permit is open until  
16 April 15th, and comments submitted by mail or  
17 carrier mail must be received physically by the 15th  
18 of April.

19 I thank you for your attendance this  
20 evening. Thank you and have a great evening.

21 (Hearing adjourned at 7:09 p.m.)

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CERTIFICATE OF REPORTER

I, Pamela K. Needham, Certified Court Reporter,  
Notary Public within and for the State of Missouri,  
do certify that the witness whose testimony appears  
in the foregoing deposition was duly sworn by me;  
the testimony of said witness was taken by me to the  
best of my ability and thereafter reduced to  
typewriting under my direction; that I am neither  
counsel for, related to, nor employed by any of the  
parties to the action in which this deposition was  
taken, and further, that I am not a relative or  
employee of any attorney or counsel employed by the  
parties thereto, nor financially or otherwise  
interested in the outcome of the action.

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Pamela K. Needham, CSR, CCR  
Illinois CSR No. 084-002247  
Missouri CCR No. 505

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