

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
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Springfield, IL 62794
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21 THE HEARING OFFICER:

22 Mr. Dean Studer
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1 APPEARANCES (continued)

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Pamela K. Needham, IL CSR, MO CCR
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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, 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.

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

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