

Permanent Program Finding

Results of Review

Permanent Program Significant Revision Application No. 1 to Permit Nos. 53, 160, 225, and 426
Peabody Coulterville Mining, LLC
Central Cleaning Plant (CCP)

TABLE OF CONTENTS

Introduction

- I. Summary of Application
- II. Summary of the Public Participation Process
- III. Summary of the Department's Findings
 - A. Findings Required by 62 Ill. Adm. Code 1773.15
 - B. Findings Required by 62 Ill. Adm. Code 1785
 - C. Compliance with 62 Ill. Adm. Code 1773.19
- IV. Permit Conditions
- V. Conclusions
- VI. Appendices
 - A. Required Modifications
 - B. Consideration of Comments and Objections
 - C. Assessment and Findings of Probable Cumulative Hydrologic Impacts
 - D. Decision on Proposed Post-Mining Land Use/Capability of Permit Area
 - E. Threatened and Endangered Species

The Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division (Department), the Regulatory Authority in Illinois under the Surface Mining Control and Reclamation Act of 1977 (Federal Act), 30 U.S.C. Section 1201 *et seq.*, has reviewed Significant Revision Application No. 1 to Permit Nos. 53, 160, 225, and 426 in accordance with the Surface Coal Mining Land Conservation and Reclamation Act (State Act), 225 ILCS 720, and the Department’s regulations at 62 Ill. Adm. Code 1700-1850.

The applicant has submitted in writing the modifications required by the Department’s letter dated October 4, 2021 (Appendix A). These modifications have been reviewed and approved by the Department. Pursuant to 62 Ill. Adm. Code 1773.19, the Department is approving the application as modified. The Department’s decision is based upon a review of the record, as a whole, and is supported and documented by the record. The findings and reasons for the Department’s decision are set forth below. The period for administrative review under 62 Ill. Adm. Code 1847.3 commences as of the date of this decision.

I. SUMMARY OF APPLICATION

The application proposes a significant revision to currently approved operations. The revision proposes to revise the previously approved permit by modifying the existing coal waste disposal facility. The application proposes to construct Refuse Cell No. 5, Phase 2 on top of the existing Phase 1 embankment and extend the embankment to existing Cell Nos. 1 and 3; thereby, encompassing Cell No. 4.

The following is a summary of the currently approved post-mining land uses and the proposed post-mining land uses. NOTE: Land uses are categorized under the definitions found in 62 Ill. Adm. Code 1701.5. Land use classifications under other regulatory programs and agencies may be different.

<u>Permit 53</u>	Currently Approved	Proposed
<u>Land Use</u>	<u>Acres</u>	<u>Acres</u>
Cropland	50.03	41.85
Water Resources	45.83	91.61
Pastureland	173.54	135.94
Total	269.40	269.40

<u>Permit 160</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
Land Use		
Cropland	55.73	20.62
Water Resources	4.81	25.33
Pastureland	167.12	181.71
Total	227.66	227.66

<u>Permit 225</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
Land Use		
Cropland	0	0
Water Resources	0	0
Pastureland	233.50	233.50
Total	233.50	233.50

<u>Permit 426</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
Land Use		
Pastureland	0	88.78
Fish & Wildlife Habitat	100.00	11.22
Total	100.00	100.00

II. SUMMARY OF THE PUBLIC PARTICIPATION PROCESS

The Department finds that the public participation requirements of 62 Ill. Adm. Code 1773.13 and 1773.14 have been met.

The application was filed with the Department on March 5, 2021 and was deemed complete on May 20, 2021. The applicant placed a newspaper advertisement of the proposed operation in the County Journal, a newspaper of general circulation in the area affected, once a week for four

consecutive weeks, beginning on June 17, 2021. The applicant filed two copies of the application with the County Clerk of Randolph County, in accordance with 62 Ill. Adm. Code 1773.13(a)(2), on June 17, 2021. Copies of the application were sent to the following Agencies: Illinois Department of Agriculture (IDOA), and Illinois Environmental Protection Agency (IEPA), the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), and the United States Fish and Wildlife Service (USFWS) on May 20, 2021, for review and comment. In addition, copies were circulated with the appropriate Offices within the Illinois Department of Natural Resources (Department). Written notification of the application was given to those governmental agencies and entities required to receive notice under 62 Ill. Adm. Code 1773.13(a)(3).

State Agency comments on this application have been received by the Department, with the source and date of comments as follows: IDOA June 2, 2021, IEPA September 27, 2021.

Comments on this application were also received from the USFWS dated August 6, 2021.

No comments on this application were received from the NRCS.

No requests for an informal conference or public hearing were received by the Department.

All comments received in writing have been considered by the Department in reviewing this application. The Department's responses to these comments are set forth in Appendix B.

All comments received on this application have been furnished to the applicant and have been filed for public inspection at the office of the County Clerk of the county in which the application is located.

III. SUMMARY OF THE DEPARTMENT'S FINDINGS

The Department, upon completing its review of the information set forth in the application, the required modifications submitted, and information otherwise available, and made available to the applicant, and after considering the comments of State Agencies, and all other comments received, makes the following findings:

A. Findings Required by 62 Ill. Adm. Code 1773.15

REVIEW OF VIOLATIONS (Sections 1773.15(b) and (e))

Section 1773.15(b)(1): Based on a review of all reasonably available information concerning violation notices and ownership or control links involving the applicant, including information obtained pursuant to Sections 1773.22, 1773.23, 1778.13 and 1778.14, the Department has determined that the applicant or a person who owns or controls the applicant is not currently in violation of the State Act, Federal Act or other law or regulation referred to in Section 1773.15(b)(1).

Section 1773.15(e): The Department requested updated compliance information in its fee and bond request letter dated February 7, 2022. Based on the compliance review required by Section 1773.15(b)(1), a review of the OSM Applicant Violator System for outstanding violations, and in light of no new information submitted pursuant to Sections 1778.13(i) and 1778.14(e), the Department reconsidered its decision to approve the application and found that no change in its decision to issue the permit is necessary.

SECTION 1773.15(c)(1) FINDINGS

Section 1773.15(c)(1): The application, as modified, is accurate and complete and all requirements of the Federal and State Acts and the regulatory program have been met.

PERMANENT IMPOUNDMENT FINDING

Section 1817.49: The applicant has proposed the creation of a permanent impoundment. Pursuant to Section 1817.49, the Department finds the following:

- a. The size and configuration of the impoundment is adequate for its intended purposes.
- b. The quality of impounded water will be suitable on a permanent basis for its intended use and, after reclamation, will meet the water quality standards set forth in Section 1817.42, and discharges from the impoundment will meet applicable effluent limitations and will not degrade the quality of receiving water below water quality standards set forth in Section 1817.42.
- c. The water level will be sufficiently stable and capable of supporting the intended use.
- d. Final grading will provide for adequate safety and access for proposed water users.
- e. The impoundment will not result in the diminution of the quality and quantity utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.
- f. The impoundments will be suitable for the approved post-mining land use.
- g. The impoundments meet the applicable construction and design standards of 1817.49(b)(9).
- h. Additional information may be found in Appendices C and D.

SECTION 1773.15(c)(2) – (c)(13) FINDINGS

Section 1773.15(c)(2): The applicant has demonstrated that reclamation as required by the Federal and State Acts and the regulatory program can be accomplished under the reclamation plan contained in the application, as modified.

Section 1773.15(c)(3)(A): The proposed area is not within an area under study or administrative proceedings under a petition, filed pursuant to Section 1764, to have an area designated as unsuitable for surface coal mining operations.

Section 1773.15(c)(3)(B): The proposed area is not within an area designated as unsuitable for mining pursuant to Sections 1762 and 1764, or subject to the prohibitions or limitations of Section 1761.11.

Section 1761.11(a): The proposed area does not include any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, or National Recreation Areas designated by Act of Congress.

Section 1761.11(b): The proposed area is not on any Federal lands within the boundaries of any national forest.

Section 1761.11(c): The proposed surface coal mining and reclamation operations will not adversely affect any publicly owned park or any privately owned or publicly owned places included on the National Register of Historic Places.

Section 1761.11(d): The proposed affected area is not within one hundred (100) feet measured horizontally of the outside right-of-way line of public roads in Randolph County.

Section 1761.11(e): The proposed area is not within three hundred (300) feet measured horizontally of any occupied dwellings.

Section 1761.11(f): The proposed area is not within three hundred (300) feet measured horizontally of any public building, school, church, community or institutional building, or public park from which the applicant will be required to maintain a three hundred (300) foot buffer zone.

Section 1761.11(g): The proposed area is not within one hundred (100) feet measured horizontally of a cemetery.

Section 1773.15(c)(4): This section is applicable to surface mining operations only.

Section 1773.15(c)(5): The Department has assessed the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area, in accordance with Part 1784 and finds that the operations proposed under the application have been designed to prevent material damage to the hydrologic balance outside the proposed area (see Appendix C).

Section 1773.15(c)(6): The applicant has proposed to use the existing coal waste disposal facility described in the application. The Department has determined that this existing structure complies with Section 1700.11(d).

Section 1773.15(c)(7): No additional fee is required for this permit revision. The Department finds that the applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870.

Section 1773.15(c)(8): See Part III – Subpart B.

Section 1773.15(c)(9): The applicant has satisfied the requirements for a long-term, intensive agricultural post-mining land use, in accordance with the requirements of Section 1817.111(d).

Section 1773.15(c)(10): The Department finds that the operation as approved will not affect the continued existence of listed threatened or endangered species or result in destruction of adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 USC 1531 *et seq.*).

Section 1773.15(c)(11): The requirements of this section are not applicable as there is no proposed remaining operation.

Section 1773.15(c)(12): The effect of the proposed permitting action on properties listed on or eligible for listing on the National Register of Historic Places has been taken into account by the Department.

Section 1773.15(c)(13): The requirements of this section are not applicable as there is no proposed remaining operation.

B. Findings Required by 62 Ill. Adm. Code 1785 (Applicable Sections)

PRIME FARMLANDS
(Section 1785.17)

The prime farmland identified in the permit is exempt from the provisions of Section 1785.17 as provided under Section 1823.11. The Department finds that the areas are to be actively used for an extended period of time; that coal waste disposal is not technologically and economically feasible to store in the underground mine or on non-prime farmland; and will affect a minimal amount of land.

Section 1785.20: The requirements of this section are not applicable to this application.

C. Compliance with 62 Ill. Adm. Code 1773.19

Section 1773.19(a)(1): The Department has based its decision to approve, as modified, the application, based on public participation as provided by Sections 1773.13 and 1773.14,

compliance with all applicable provisions of Section 1785, and the processing and complete review of the application.

Section 1773.19(a)(3): The Department is providing written notification of its final permit decision to the following persons and entities:

- A. The applicant, each person who filed comments or objections to the application;
- B. The County Board of the county in which the application is located; and,
- C. The Office of Surface Mining.

All materials supporting these findings are a part of the public record and are hereby incorporated by reference.

IV. PERMIT CONDITIONS

- A. The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated as the permit area on the maps submitted with the application and authorized for the term of the permit and that are subject to the performance bond or other equivalent guarantee in effect pursuant to 62 Ill. Adm. Code 1800. Slurry deposition shall be contained within the area identified as bonded Increment No. 1 (Slurry Cell 5) and the slurry pool elevation in Slurry Cell 5 shall not exceed 553.2 feet MSL or encroach upon Slurry Cell 4. The permittee shall file additional required bond for all successive areas or increments prior to expanding operations.
- B. The permittee shall conduct all surface coal mining and reclamation operations as described in the approved application, except to the extent that the Department otherwise directs in the permit.
- C. The permittee shall comply with the terms and conditions of the permit, all applicable performance standards of the Federal and State Acts, and the requirements of the regulatory program.
- D. Without advance notice, delay, or a search warrant, upon presentation of appropriate credentials, the permittee shall allow the authorized representatives of the Department and Secretary of the United States Department of the Interior to:
 - 1. Have the right of entry provided for in 62 Ill. Adm. Code 1840.12; and,
 - 2. Be accompanied by private persons for the purpose of conducting an inspection in accordance with 62 Ill. Adm. Code 1840, when the inspection is in response to an alleged violation reported to the Department by the private person.
- E. The permittee shall take all possible steps to minimize any adverse impacts to the environment or public health and safety resulting from noncompliance with any term or condition of this permit, including, but not limited to:

1. Accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;
 2. Immediate implementation of measures necessary to comply; and,
 3. Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.
- F. As applicable, the permittee shall comply with 62 Ill. Adm. Code 1700.11(d) for compliance, modification, or abandonment of existing structures.
- G. The permittee shall pay all reclamation fees required by 30 CFR 870 for coal produced under this permit for sale, transfer, or use.
- H. Within thirty (30) days after a cessation order is issued under 62 Ill. Adm. Code 1843.11, for operations conducted under the permit, except where a stay of the cessation order is granted and remains in effect, the permittee shall either submit to the Department the following information, current to the date the cessation order was issued, or notify the Department in writing that there has been no change since the immediately preceding submittal of such information:
1. Any new information needed to correct or update the information previously submitted to the Department by the permittee under 62 Ill. Adm. Code 1778.13(c); or
 2. If not previously submitted, the information required from a permit application by 62 Ill. Adm. Code 1778.13(c).
- I. Species Protection:
1. Issuance of this permit under the Surface Coal Mining Land Conservation and Reclamation Act does not in any way authorize any take of any listed species in violation of the Illinois Endangered Species Protection Act, 520 ILCS 10/1 *et seq.* or the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). If "take" as defined by these Acts is anticipated to result from permitted activities, it is recommended that the permittee apply for an Incidental Take permit from the Illinois Department of Natural Resources, Office of Resource Conservation for state listed species and to contact Department wildlife staff for federally listed species.
 2. Issuance of this permit under the Surface Coal Mining Land Conservation and Reclamation Act does not in any way authorize any take of a bald or golden eagle, including nests or eggs, in violation of the Bald Eagle Protection Act, as amended (16 U.S.C. 668 *et seq.*). If "take" as defined by the Bald Eagle Protection Act is anticipated to result from permitted activities, it is recommended that the permittee should apply for an Incidental Take (non-purposeful take) permit from the U.S.

Fish and Wildlife Service. The Department and the U.S. Fish and Wildlife Service shall be notified if a bald or golden eagle nest is observed in the permit area or in the vicinity of the permit area.

- J. If the permit is conditionally issued under 62 Ill. Adm. Code Section 1773.15(b)(2) on the basis of **(1)** a presumption supported by certification under 62 Ill. Adm. Code Section 1778.14 that the violation is in the process of being corrected; **(2)** proof submitted under 62 Ill. Adm. Code Section 1773.15(b)(1)(A) that the violation is in the process of being corrected; or **(3)** pending the outcome of an appeal described in 62 Ill. Adm. Code Section 1773.15(b)(1)(B), issuance is conditioned as follows:
1. If subsequent to permit issuance the applicant is issued a failure-to-abate cessation order, the permit shall be suspended and/or rescinded in accordance with the procedures for 62 Ill. Adm. Code Section 1773.20(c) Improvidently Issued Permits within 30 days of the issuance of the failure-to-abate cessation order.
 2. If subsequent to permit issuance the Department is notified by the agency that has jurisdiction over the violation that the violation is no longer in the process of being corrected to the satisfaction of said agency, the permit shall be suspended and/or rescinded in accordance with the procedures for 62 Ill. Adm. Code Section 1773.20(c) Improvidently Issued Permits within 30 days of such notification.
 3. If subsequent to permit issuance the circuit or district court reviewing the violation either denies a stay applied for in the appeal or affirms the violation, then the applicant shall submit the proof required under 62 Ill. Adm. Code Sections 1773.15(b)(1)(A) within thirty (30) days after the court's decision or the permit shall be suspended and/or rescinded in accordance with the procedures for 62 Ill. Adm. Code Section 1773.20(c) Improvidently Issued Permits within 30 days of such failure to submit required proof.
- K. Pursuant to Section 1778.15, the permittee shall possess all necessary legal rights to enter and conduct surface coal mining and reclamation operations within the permit area until final bond release is obtained.
- L. Pursuant to 62 Ill Adm. Code 1784.13(b)(4), the permittee shall submit sufficient soil borings log information from each of the borrow areas to demonstrate that the material throughout the proposed borrow depth is suitable for developing the required compacted liner and subsequent soil cover by the end of the third (3rd) quarter of 2022.

V. CONCLUSIONS

Based upon the information contained in the application, information otherwise available and made available to the applicant, the comments of State Agencies, the foregoing analysis of the probable impact of the proposed operations, all findings and information contained herein and conditions set forth in Part IV, the Department finds that there is a reasonable basis on which to issue a significant revision for the application, as modified.

Enter on behalf of the Illinois Department of Natural Resources, Office of Mines and Minerals,
Land Reclamation Division as Regulatory Authority.

Illinois Department of Natural Resources



Ronnie Huff, Director
Office of Mine and Minerals

Dated:

APPROVED FOR EXECUTION

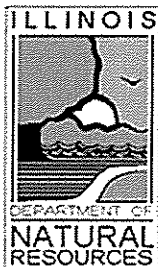
Date: 3/4/22

Legal Counsel: 

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APPENDIX A

REQUIRED MODIFICATIONS



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

JB Pritzker, Governor
Colleen Callahan, Director

October 4, 2021

William Schuchardt
13101 Zeigler 11 Road
PO Box 369
Coulterville, IL 62237

Via Certified Mail 7019 2280 0000 6208 6115

Re: Modification to Permit Nos. 53, 160, 225 and 426
Revision Nos. 1, 1, 1, and 1, Respectively
Central Cleaning Plant

Dear Mr. Schuchardt:

The Department, after reviewing the information contained in the revision application referenced above, and information otherwise available to the applicant, and after considering all comments received, has determined that modification of the above-referenced application is necessary. The modifications to the application shall comply with the requirements of 62 Ill. Adm. Code 1777.11. The modifications required by the Department are enclosed here. If the applicant does not desire to modify the permit application as described below, it may, by filing a written statement with the Department, deem the permit application denied, and such denial shall constitute final action.

Pursuant to 62 Ill. Adm. Code 1773.15(a)(1)(B)(i), modifications required by the Department shall be received within one (1) year from the date of this letter. Absent the modifications required by the Department, the application will not comply with the requirements of the Illinois Surface Coal Mining Land Conservation and Reclamation Act, regulations and the Illinois regulatory program. Failure to submit the required modifications will result in the Department issuing a written finding denying the application.

The period for administrative review (62 Ill. Adm. Code 1847.3) shall commence upon:

- receipt by the applicant of a written decision from the Department, approving the application as modified, or
- if the applicant's modifications are insufficient, or if the applicant fails to submit the required modifications in accordance with 62 Ill Adm. Code 1773.15(a)(1)(B)(i), receipt

by the applicant of a written decision from the Department denying the permit application, or receipt by the Department of the applicant's denial statement.

The modifications required by the Department are as follows:

1. Pursuant to 62 Ill. Adm. Code 1783.25(b), 1784.16(a), and 1784.23(c), and as required by Part 1.6 of the application, the Department is requiring the applicant to modify the application by submitting engineering certifications where the modifications result in changes to maps, plans, or cross sections submitted under the original application.
2. Pursuant to 62 Ill. Adm. Code 1777.11(c), and as required by Part 1.1 of the application, the Department is requiring the submittal of a verification by a responsible official of the applicant for the information being submitted as a result of this modification letter.
3. In response to Part 1.3, the applicant provided information for the applicant and its owners controllers as required in 62 Ill. Adm. Code 1778.13(c). Review of the information finds discrepancies with other information available through the AVS.
 - a. The applicant shall review the information provided for Peabody Midwest Operations, LLC in regard to its owner Peabody Operations Holding, LLC and confirm the effective date of this relationship. The AVS indicates a date of December 9, 2008. The applicant shall confirm the accuracy of the information.
 - b. Peabody Operations Holding, LLC does not list all owners/controllers, officers that appear on the AVS. The applicant shall review the information provided for Peabody Operations Holding, LLC and with the AVS and correct any omissions, and if necessary, provide termination dates for those entities that are not show in its Table 1.3.1.
 - c. Peabody Investments Corp does not agree with information listed in the AVS. The applicant shall review the information with the AVS and update the Table 1.3.1 with complete information for its officers/directors for the last 5 years. Officers of concern are: Scott Jarboe, Darrel Heaton, Eric Waller and Mark Spurbeck.

Additionally, there are many officers/directors listed in Peabody Investments Corp Table 1.3.1 that appear to have terminated positions indicated in the AVS. Table 1.3.1 shall also update those individuals with the correct dates for termination.

- d. Peabody Energy Corp Table 1.3.1 does not agree with information listed in the AVS. Specifically, James Tichenor, Richard Paul and Darren Yeates are not shown in the applicant's table but are listed in the AVS.

Further the table provided lists individuals that may have terminated their positions with Peabody Energy Corp, but does not provide dates of termination.

The applicant shall review all information provided in the Tables 1.3.1 in relation to the AVS and update the tables accordingly.

4. Part 3.2.1 requires a narrative that explains the construction, modification, use and maintenance of applicable structures. Pursuant to 62 Ill. Adm. Code 1777.11(b), the applicant shall provide an adequate response or indicate the specific sections and/or appendices which contain the response required.
5. Several drawings (*Drawings 1-11*) and attachments (*MSHA /OWR Geotechnical report*) included in this application have not been itemized on the list of technical submissions covered by the engineering certification form. Pursuant to 62 Ill. Adm. Code 1783.25(b), the applicant shall include these documents or include another engineering certification form that certifies them. For further clarification, Technical Guidance Document #6 and Operator Memorandum 2020-04 have detailed instructions for each of the revised engineering certification forms.
6. In response to Part 3.12.3.2, the applicant explains that "...An engineered cap of four (4) feet of non-toxic non-combustible earthen material will be placed to cover impounded fine refuse and upon the coarse refuse embankment..."; to ensure the refuse disposal facility is suitable for reclamation. However, the response to Part 9.1.3.2.1 states that, "An engineered cap consisting of 0.75 ft of topsoil over 2.75 feet of rooting media will be placed over a 1 ft layer of compacted clay to cover the impounded fine refuse". Pursuant to 62 Ill. Adm. Code 1777.11(b), the applicant shall clarify and revise the statement in Part 9.1.3.2.1 to reflect the addendum to Permit 426 Condition K as approved.
7. In response to Part 9.2.2.1, the applicant indicates that borrow areas are being proposed. Pursuant to 62 Ill. Adm. Code 1783.25(b), 1817.45, 1817.46, 1817.47 the following modifications to this application shall be addressed:
 - a. All previously approved borrow areas shall be differentiated from the proposed borrow areas on the Operations Map and the Post-Mining Land Use/Capability Reclamation Map as applicable.
 - b. All soil core sampling and boring test locations within the borrow areas shall be shown on the Operations Map and Soil Capability Map.
 - c. A Surface Drainage Control Map/Drawing shall be provided to include in the application to illustrate the drainage area/watershed reporting to each borrow area.

- d. Design, construction, and maintenance details for all proposed borrow areas shall be included in Part 5 of the permit application as applicable, unless the applicant has a post-reclamation plan other than water in these areas. These details shall include calculations to show inflow volume, pond volume, spillway design, and profile and cross-sectional views.
8. Map 6F shows existing sediment ponds SB011A and B, SB 012A and B, as well as several collection ditches to be used as erosion control features in conjunction with the refuse disposal facility. Pursuant to 62 Ill. Adm. Code 1783.25(b), 1817.45, 1817.46, the following modifications to this application shall be addressed:
 - a. A Surface Drainage Control Map shall be provided to include all new surface acres from Slurry cell 5 phase II that illustrate the drainage area reporting to each structure.
 - b. Revised design plans and calculations for each conveyance and sediment control structure highlighting their capacity and capability to handle the probable increase in runoff volume.
 9. On page 3 of Part 4, the applicant states that a “*designed enhanced cover*” will be placed which will consist of:
 - 12” coarse refuse mixed with ag lime at a rate of two times the potential acidity (PA) and compacted to 1×10^{-7} cm/sec
 - 6” soil compacted to 1×10^{-7} cm/sec
 - 6” soil compacted to 1×10^{-7} cm/sec
 - 27” soil – uncompacted
 - 9” topsoil cover

In Part 9.1.3.2.1 the applicant states “*An engineered cap consisting of 0.75 ft of topsoil over 2.75 ft of rooting media will be placed over a 1 ft layer of compacted clay to cover the impounded fine refuse.*”

However, in Attachment 9.4.1, the applicant states, “*An engineered cap of four (4) feet of soil material will be placed over a one (1) foot compacted layer of coarse refuse to cover the impounded fine refuse.*”

The 2nd statement appears to indicate that only a 3.5-foot cap will be placed, which contradicts with the statements made in Part 4 and in Attachment 9.4.1 regarding the final cover/cap.

Pursuant to 62 Ill. Adm. Code 1784.14(g), the applicant shall clarify the details of the final cap/cover system for the refuse disposal area and, where necessary, shall correct the appropriate parts of the permit application.

10. On page 3 of Part 4, the applicant discusses the engineered cover will consist of 12 inches of a compacted coarse refuse cap, which will include the incorporation of ag lime. The lime rate will be two times the worst potential acidity (PA) value. Table 3.11.1 provides a single acid-base accounting (ABA) value for the fine refuse and coarse refuse generated at this mine complex.

In Table 4.3.3.2, the applicant also provides ABA for the fine and coarse refuse collected in 2015 and 2008 respectively. In this table a single value for the fine refuse is provided that is similar to the values in Table 3.11.1, but there are a total of nine (9) values for the coarse refuse where the PA value varies from -60.0 to -209.38.

Based on the information provided in these two tables the amount of lime to be mixed with the coarse refuse varies from 259.52 tons/acre to 418.76 tons/acre.

Pursuant to 62 Ill. Adm. Code 1784.14(g), the applicant shall clarify this discrepancy.

11. Table 4.3.3.2 appears to contain an error in the ABA values, specifically the net neutralization potential (NNP) value, for sample GP4. Pursuant to 62 Ill. Adm. Code 1777.11, the applicant shall correct this error.
12. Table 4.3.3.2 and Attachment 4.3.3.2 refer to the collection of coarse refuse samples, but a map indicating the location of the samples and/or the sampling grid was not provided. Pursuant to 62 Ill. Adm. Code 1783.25, the applicant shall provide a map indicating the sample locations and sampling grid used.
13. In Attachment 9.4.1., the applicant discusses the procedure for determining the lime rate which will consist of collecting composite samples at a rate of one composite sample per four acres. The ABA analysis, along with the proposed neutralizing material and proposed application rate will be provided to the Department for review. Further, the applicant states, *"Agricultural lime will be applied at twice the calcium carbonate equivalent rate of the average net neutralization, as estimated 228 ton/acre."*

However, in Table 9.5.1.6 the applicant indicates that a lime rate of 100 tons/acre and/or 10 tons/acre will be used.

At this point in time, it is unclear how either of these values were determined, as the appropriate time to determine the required lime rate is once the area has been graded, prepped and is ready for the final soil cover. These lime rate values do not appear to reflect the ABA information provided in Tables 3.11.1 or 4.3.3.2. Regardless, pursuant to 62 Ill.

Adm. Code 1784.14(g), the applicant shall clarify this discrepancy in the estimated lime rate(s) and shall further explain the intent and process to determine the lime rate when the site is ready for the final soil cover.

14. Table 4.4.2 and Attachment 4.4.2.1 provide a summary of groundwater analytical results collected from the existing groundwater monitoring wells. Pursuant to 62 Ill. Adm. Code 1784.14(b)(1)(A), 62 Ill. Adm. Code 1777.11(a)(1) and as required by Part 4.4.2, the applicant shall provide the most up-to-date groundwater quality data available.
15. Throughout the narrative, tables, attachments, and maps associated with Part 4 of the application, groundwater monitoring wells are referred to in a variety of ways: W3-11, W311, GWM-08, W3-08, WEGWM-8. Inconsistent nomenclature within the permit application has the potential to cause confusion and errors. Pursuant to 62 Ill. Adm. Code 1777.11(a)(2), the applicant shall ensure that all well names, sampling points, boring logs, etc. are identified consistently throughout the permit application narrative, tables, attachments, and maps.
16. Map 4SF depicts the locations of installed groundwater monitoring wells, private wells, and surface water monitoring points. The symbol used for the installed groundwater monitoring wells does not appear to distinguish between active wells and those wells that have been plugged/abandoned/destroyed. It also appears that the same symbol has been used to identify private residential wells and oil/gas wells. Pursuant to 62 Ill. Adm. Code 1783.25, the applicant shall correct this discrepancy.
17. Table 4.6.3 provides a summary of the surface water analytical results collected from the existing surface water monitoring points. Pursuant to 62 Ill. Adm. Code 1784.14(b)(2)(A), 62 Ill. Adm. Code 1777.11(a)(1), and as required by Part 4.6.3, the applicant shall provide the most up-to-date groundwater quality data available.
18. The Department is in receipt of a letter from the Illinois EPA dated September 27, 2021, requesting clarification or additional information. Pursuant to 62 Ill. Adm. Code 1773.12, please provide responses to those questions contained in the referenced IEPA letter as a part of this modification package. Including this information will assure coordination with each agency's regulations. If any response to the IEPA's comment would result in changes to this permit application, clearly indicate which application part and/or map is being revised.
19. Upon review the map titled "Currently Approved Post-Mining Land Uses" Map 7SF and the map titled "Proposed Post-Mining Land Uses" Map 7SF, the applicant depicts the approved post-mining land uses and the proposed post-mining land uses only for refuse Cell 5 Phase 2 Revision. Pursuant to 62 Ill. Adm. Code 1784.15(b), the applicant shall provide all necessary information regarding post-mining land use changes for each respective permit and as detailed in the Department's Guidance Document TGD#4 Post-

Mining Land Use Change IPR's and Significant Revision. The applicant shall revise the "CURRENTLY APPROVED Post-Mining Land Use/Capability Reclamation Map" 7SF and the "PROPOSED Post-Mining Land Use/Capability Reclamation Map" 7SF to incorporate changes for the entire Permit Nos. 53, 160, 225 and 426 areas, including Borrow Areas 1, 2, 3 and 4 after the removal of soil material.

20. In response to Part 9.1, the applicant provides Tables 9.1.1 and 9.1.2 to provide the breakdown of land use capability acreages for both the currently approved and proposed acreage. The tables focused only on the acreage affected by the proposed raise, not the total acreage approved under the respective permit numbers. Pursuant to 62 Ill. Adm. Code 1784.15(b), the applicant shall revise Table 9.1.1 and Table 9.1.2 to show changes for the entirety of Permit Nos. 53, 160, 225 and 426, including Borrow Areas 1, 2, 3, and 4 after the removal of soil material.
21. Upon review of the first page of the attachments in Part 9 of the application, the applicant did not place the label of Attachment 9.1.2 on the top of the letter from American Land Holdings of Illinois, LLC dated April 20, 2021. Pursuant to 62 Ill. Adm. Code 1780.23 and 1784.15, the applicant shall properly label Attachment 9.1.2 on the top of the letter from American Land Holdings of Illinois, LLC dated April 20, 2021.
22. Within Attachment 9.4.1, Abandonment and closure of Refuse Cell 5 Phase 2, the applicant stated in Point No. 6 that "The impoundment and other adjacent refuse disposal areas will serve as wildlife habitat post-mine." Pursuant to 62 Ill. Adm. Code 1780.18(b)/1784.13(b), the permit applicant shall describe proposed reclamation for the coal refuse disposal areas, including the relationship of the refuse disposal area to the post-mining land use. The applicant has proposed pasture post-mining land use for the impoundment and other adjacent refuse disposal areas as part of this significant revision. The applicant shall revise Attachment 9.4.1 given wildlife habitat is not being proposed for the impoundment and other adjacent disposal areas. Also, the Proposed Post Mining Land Uses Map's lettering symbology for land uses must be changed to reflect the designated post mining land use of pasture.
23. Given Fish and Wildlife-Water and/or Developed Water Resources Reclamation Plan land use is desirable for Borrow Area Nos. 1, 2, 3, and 4 as part of the reclamation and revegetation plan, pursuant to 62 Ill. Adm. Code 1817.56 and 1817.97, the applicant shall provide the required information and complete all applicable questions in Part 10.9.
24. The text in Attachment 9.2.2 indicates that borrow areas will be developed up 17 feet deep for the material to create the engineered cap. The diagram provided as Attachment 9.4.1 demonstrates a cover of 2 feet of compacted clay, 27 inches of non-compacted rooting media and 9 inches of topsoil will be used to cover the RDA. The applicant shall provide sufficient soil boring log information from each of the proposed borrow areas to demonstrate that the material throughout the proposed borrow depth is suitable for

William Schuchardt
Permit Nos. 53, 160, 225 and 426 Revision Nos. 1, 1, 1, and 1, Respectively
Page 2

developing the compacted liner and the subsequent soil cover in order to meet the obligation of 62 Ill. Adm. Code 1784.13(b)(3 and 4).

If you have any questions, please contact this office at (217) 782-4970, or our Southern office in Benton at (618) 439-9111.

Sincerely,



Dan Barkley, Acting Supervisor
Land Reclamation Division

DB:JSc

cc: P. Herman
Randolph County Clerk

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APPENDIX B

CONSIDERATION OF COMMENTS AND OBJECTIONS

62 Ill. Adm. Code 1773.13(b) allows submission of written comments on applications. The following are comments received from the State Agencies, County Board and other members of the public and the Department's response to those comments.

Illinois Department of Agriculture

Comment: The abandonment or closure Attachment 9.4.1 indicates 228 tons/acre lime application and Table 9.5.1.6 indicates 100 tons/acre lime application. Please explain this discrepancy.

Response: Attachment 9.4.1 and Table 9.5.1.6 were both revised to consistently indicate that 230 tons/acre of lime will be applied.

Illinois Environmental Protection Agency

Comment: The Illinois Environmental Protection Agency has completed its review of the above referenced project and finds that additional information and/or clarification is needed as follows:

1. The proposed cover system described in Section 4.2 for “Coal Refuse Disposal Cell 5” does not match the description provided in Section 9.1.3.2. The Applicant shall construct the final cover of Slurry Cell 5 as described in Section 4.2.
2. If the final cover described in Section 4.2 allows greater water infiltration into Slurry Cell 5 than the liner allows out of the bottom of Slurry Cell 5 the Applicant shall modify the proposed final cover to prevent the excess infiltration into Slurry Cell 5.

The mine related activities, as proposed, are required to be permitted in accordance with 35 Ill. Adm. Code: Subtitle D of the Illinois Pollution Control Board Rules and Regulations. Since this application is considered to be an application for such permit from this Agency, please notify us of any action taken by your Office.

Response: Please see the response to Modification Question No. 18.

U.S. Department of Agriculture, Natural Resource Conservation Service

Comment: No comments were received.

U.S. Department of the Interior, Fish and Wildlife Service

Comment: The Service has no objection to the proposed revisions and modifications to the post mining-land use plan. Should this project be modified, or new information indicate listed or proposed species may be affected, consultation or additional coordination with this office, as appropriate, should be initiated.

Response: The comment has been forwarded to the applicant.

APPENDIX C

ASSESSMENT AND FINDINGS OF PROBABLE CUMULATIVE HYDROLOGIC IMPACTS

The changes proposed in Revision No. 1 to Permit Nos. 53, 160, 225, and 426 will have no detectable impact on the hydrologic balance of this previously defined cumulative hydrologic impact area. The assessment and findings of the probable hydrologic impacts was last revised by permit application for Permit No. 426, issued on March 23, 2015 and is hereby incorporated by reference.

APPENDIX D

DECISION ON PROPOSED POST-MINING
LAND USE OF PERMIT AREA

The currently approved post-mining and proposed post-mining land use acreage of the permitted area is as follows*:

<u>Permit 53</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
Land Use		
Cropland	50.03	41.85
Water Resources	45.83	91.61
Pastureland	173.54	135.94
Total	269.40	269.40

<u>Permit 160</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
Land Use		
Cropland	55.73	20.62
Water Resources	4.81	25.33
Pastureland	167.12	181.71
Total	227.66	227.66

<u>Permit 225</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
Land Use		
Pastureland	233.50	233.50
Total	233.50	233.50

<u>Permit 426</u>	Currently Approved Post-Mining <u>Acres</u>	Proposed Post-Mining <u>Acres</u>
<u>Land Use</u>		
Pastureland	0	88.78
Fish & Wildlife Habitat	100.00	11.22
Total	100.00	100.00

*The Department notes that other agencies with environmental and land use authority may use land use definitions other than 62 Ill. Adm. Code 1701.5. Reports for those agencies which may be included in the application will classify and tabulate land uses based on their definitions. As a result, those land use tabulations may not directly correlate with the above tables.

** To facilitate the assessment of the revegetation success performance standards, the post-mining land use of Fish and Wildlife Habitat is broken out as follows:

Permit 426

Wildlife-Herbaceous	Wildlife-Woody	Wildlife-Wetland	Wildlife-Water
0	10.00	0	1.22

Note that Permit Nos. 53, 160, and 225 had no Wildlife land uses.

Discussion of Proposed Post-Mining Land Uses:

The applicant has proposed minor land use changes from the currently approved post-mining land use. The changes include adding 66.3 acres of developed water resources and reducing fish and wildlife-herbaceous by 88.78 acres. No other changes will occur within the post-mining land use of fish and wildlife habitat. The Department has reviewed the proposed changes and approves of the alternative land use in accordance with Section 1780.23(b)(3).

The Department finds that the alternative land uses in this revision, as compared to the originally approved land uses, are consistent with the regulations found at 62 Ill. Adm. Code 1774.13(A)(2)(E) in that the applicable landowners and land management agencies were notified and provided the opportunity to comment. The landowner approved of the changes to land uses (e.g. reduction of cropland) and no comments were received from land management agencies regarding the land use changes.

The originally approved reclamation plan included approximately 34 acres of cropland located on the refuse disposal facility. The Department finds that the change to pasture post-mining land use on the refuse disposal facility is approved because it is not technically and economically feasible to reclaim cropland on refuse area. In addition, pasture vegetation is more suited for erosion control which is the main priority for refuse disposal facilities.

The reduction of cropland to fish and wildlife water is due to the approval of borrow areas required to meet the Department's refuse cover standards. As noted above, this post-mining land use change meets the requirements of Section 1774.13(A)(2)(E).

The Department finds the areas affected by surface coal mining activities will be restored in a timely manner to conditions that are capable of supporting the use which they were capable of supporting before mining or to higher or better use achievable under the criteria and procedures of 62 Ill. Adm. Code 1817.133, or as noted above. The plan of restoration submitted by the applicant does not present any actual or probable hazard to public health or safety nor does it pose any actual threat of water diminution or pollution as indicated in Appendix C, and the proposed land uses following mining are not impractical or unreasonable as all the post-mining land uses existed prior to mining and are compatible with the surrounding areas. The land uses are consistent with applicable land use policy and plans known to the Department and no objections were received from any governmental agency with such authority. The plan does not involve unreasonable delay in implementation and is not in violation of any other applicable law known to the Department. Federal court decisions, commonly known as the "Flannery decisions" and current regulations provide for the distinct difference between surface and underground mining. As a result, the prime farmland identified in the permit is exempt from the provisions of 62 Ill. Adm. Code 1785.17, as provided under Section 1823.11. The Department finds that the areas are to be actively used for an extended period of time; that coal waste disposal is not technologically and economically feasible to store in the underground mine or on non-prime farmland; and that the areas will affect a minimal amount of land.

APPENDIX E

THREATENED AND ENDANGERED SPECIES Endangered Species Act of 1973, 16 USC 1531, et seq. 62 Ill. Adm. Code 1773.15(c)(10)

The Department reviewed Significant Revision Application No. 1 to Permit Nos. 53, 160, 225, and 426 by Peabody Coulterville Mining, LLC for potential effects of coal mining operations and related activity on federally listed threatened and endangered species via consultation with the U.S. Fish and Wildlife Service (USFWS).