Statement of Chris Krusa for the IDNR Informal Conference, Dec. 4th, 2023, Hillsboro

Regarding: 5-year Permit Renewals for the Deer Run Mine Permits 399; Significant Revision #1 to Permit 399; Significant Revision #2 to Permit 399; and Permit 424

In the late summer of 2022 I attended a Longwall Mining Tour of areas around the Deer Run coal mine. This tour was organized by CALM / Citizens Against Longwall Mining. The tour was held for people like me to see what is happening from longwall subsidence. We traveled by van going slowly along public roads and s from public roads along mined areas.

I had no idea how much area would be affect by the longwall subsidence. Considering the fact that these permit renewals will let more acres be subsided for the next five years, I don't think these permits should be renewed.

The damages done to farmland will last a long time. It's clear that the ground subsidence includes changes in the fields that make a variety of problems from very uneven surfaces to varied topsoil conditions and loss of top soil.

No one is considering the emotional stress farm families facing subsidence have to suffer. They will have years of not knowing how well, or even if, subsidence damages will be taken care of and actually fixed.

Exhibit #1 Blumenshine
Deer Run 12/04/2023
Informal Conference

PUBLIC NOTICE

INFORMAL CONFERENCE
HILLSBORO ENERGY,
DEER RUN MINE
RENEWAL APPLICATION

Pursuant to 62 Ill. Adm. Code 1773.13(c) promulgated under the Surface Coal Mining Land Conservation and Reclamation Act, the Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division hereby gives notice that an informal conference for submission of comments will be conducted by the Department for the submittal of renewal application for the Deer Run mine permit Nos. 399 and 424, which was submitted by Hillsboro Energy. The informal conference is scheduled for 5:30 P.M. on Monday, December 4, 2023, at the Montgomery County Courthouse Annex, 201 S. Main St., Hillsboro IL (Southeast corner on the square).

Ronnie Huff, Director
Office of Mines and Minerals
Illinois Department of
Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271
(217) 782-4970

54-1t

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*See page 4 Highlight

Exhibit #2
Blumenshine
Deer Run 12/04/2023
Informal Conference

Detailed Facility Report

Detailed Facility Report

Facility Summary

HILLSBORO ENERGY

12051 N 9TH AVE, HILLSBORO, IL 62049

FRS (Facility Registry Service) ID: 110067390273

EPA Region: 05

Latitude: 39.129589

Longitude: -89.471009

Locational Data Source: FRS

Industries: Mining (except Oil and Gas)

Indian Country: N

Enforcement and Compliance Summary

No data records returned

Regulatory Information

Clean Air Act (CAA): No Information

Clean Water Act (CWA): No Information

Resource Conservation and Recovery Act (RCRA): No Information

Safe Drinking Water Act (SDWA): No Information

Go To Enforcement/Compliance Details
Known Data Problems <https://epa.gov/resources/echo-data/known-data-problems>

Other Regulatory Reports

Air Emissions Inventory (EIS): No Information

Greenhouse Gas Emissions (eGGRT): No Information

Toxic Releases (TRI): 6204WHLLSB1251N

Compliance and Emissions Data Reporting Interface (CEDRI): No Information

Facility/System Characteristics

Facility/System Characteristics

System	Statute	Identifier	Universe	Status	Areas	Permit Expiration Date	Indian Country	Latitude	Longitude
FRS		110067390273					N	39.129589	-89.471009
TRI	EP313	6204WHLLSB1251N	Toxics Release Inventory	Last Reported for 2022			N	39.141639	-89.470038

Facility Address

System	Statute	Identifier	Facility Name	Facility Address	Facility County
FRS		110067390273	HILLSBORO ENERGY	12051 N 9TH AVE, HILLSBORO, IL 62049	Montgomery County
TRI	EP313	6204WHLLSB1251N	HILLSBORO ENERGY	12051 N 9TH AVE, HILLSBORO, IL 62049	Montgomery County

Facility SIC (Standard Industrial Classification) Codes

System	Identifier	SIC Code	SIC Description
No data records returned			

Facility NAICS (North American Industry Classification System) Codes

System	Identifier	NAICS Code	NAICS Description
TRI	6204WHLLSB1251N	212112	Bituminous Coal Underground Mining
TRI	6204WHLLSB1251N	212115	Underground Coal Mining

Facility Tribe Information

Reservation Name	Tribe Name	EPA Tribal ID	Distance to Tribe (miles)
No data records returned			

Enforcement and Compliance

Compliance Monitoring History

Last 5 Years

Statute	Source ID	System	Activity Type	Compliance Monitoring Type	Lead Agency	Date	Finding (if applicable)
No data records returned							

Entries in italics are not included in ECHO's Compliance Monitoring Activity counts because they are not compliance monitoring strategy <https://www.epa.gov/compliance/compliance-monitoring-programs> *activities or because they are not counted as inspections within EPA's Annual Results* <https://www.epa.gov/enforcement/enfcrcement-data-and-results>.

Compliance Summary Data

Statute	Source ID	Current SNC (Significant Noncompliance)/HPV (High Priority Violation)	Current As Of	Qtrs with NC (Noncompliance) (of 12)	Data Last Refreshed

No data records returned

Three-Year Compliance History by Quarter

Informal Enforcement Actions

Last 5 Years

Statute	System	Source ID	Type of Action	Lead Agency	Date

No data records returned

Entries in italics are not counted as "informal enforcement actions" in EPA policies pertaining to enforcement response tools.

Formal Enforcement Actions

Last 5 Years

Statute	System	Law/Section	Source ID	Type of Action	Case No.	Lead Agency	Case Name	Issued/Filed Date	Settlements/Actions	Settlement/Action Date	Federal Penalty Assessed	State/Local Penalty Assessed	Penalty Amount Collected	SEP Value	Comp Action Cost

No data records returned

Environmental Conditions

Watersheds

12-Digit WBD (Watershed Boundary Dataset) HUC (RAD (Reach Address Database))	WBD (Watershed Boundary Dataset) Subwatershed Name (RAD (Reach Address Database))	State Water Body Name (ICIS (Integrated Compliance Information System))	Beach Closures Within Last Year	Beach Closures Within Last Two Years	Pollutants Potentially Related to Impairment	Watershed with ESA (Endangered Species Act)-listed Aquatic Species?

No data records returned

Assessed Waters From Latest State Submission (ATTAINS)

State	Report Cycle	Assessment Unit ID	Assessment Unit Name	Water Condition	Cause Groups Impaired	Drinking Water Use	Ecological Use	Fish Consumption Use	Recreation Use	Other Use

No data records returned

Air Quality Nonattainment Areas

Pollutant	Within Nonattainment Status Area?	Nonattainment Status Applicable Standard(s)	Within Maintenance Status Area?	Maintenance Status Applicable Standard(s)

No data records returned

Pollutants

Toxics Release Inventory History of Reported Chemicals Released or Transferred in Pounds per Year at Site

Air Pollutant Report TRI Pollution Prevention Report

TRI Facility ID	Year	Air Emissions	Surface Water Discharges	Off-Site Transfers to POTWs (Publicly Owned Treatment Works)	Underground Injections	Disposal to Land	Total On-Site Releases	Total Off-Site Transfers
6204WHLLSB1251N	2022	0	0	0	--	16,089	16,089	--
6204WHLLSB1251N	2021	0	0	0	--	16,490	16,490	--
6204WHLLSB1251N	2020	0	0	0	--	8,431	8,431	--
6204WHLLSB1251N	2015	0	0	0	--	13,794	13,794	--

Toxics Release Inventory Total Releases and Transfers in Pounds by Chemical and Year

Chemical Name	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013
Lead	15,764	16,157	8,261	--	--	--	--	13,515	--	--
Mercury	325	333	170	--	--	--	--	279	--	--

CWA (Clean Water Act) Discharge Monitoring Report (DMR) Pollutant Loadings

DMR and TRI Multi-Year Loading Report

NPDES ID	Description
No data records returned	

Community

Environmental Justice

This section shows indexes from EJScreen, EPA's screening tool for environmental justice (EJ) concerns. EPA uses these indexes to identify geographic areas that may warrant further consideration or analysis for potential EJ concerns. Use of these indexes does not designate an area as an "EJ community" or "EJ facility." EJScreen provides screening level indicators, not a determination of the existence or absence of EJ concerns. For more information, see the EJScreen home page.

EJScreen Indexes Shown

Compare to (i) ◉ US ○ State

Index Type (i) ○ Environmental Justice ◉ Supplemental

Related Reports

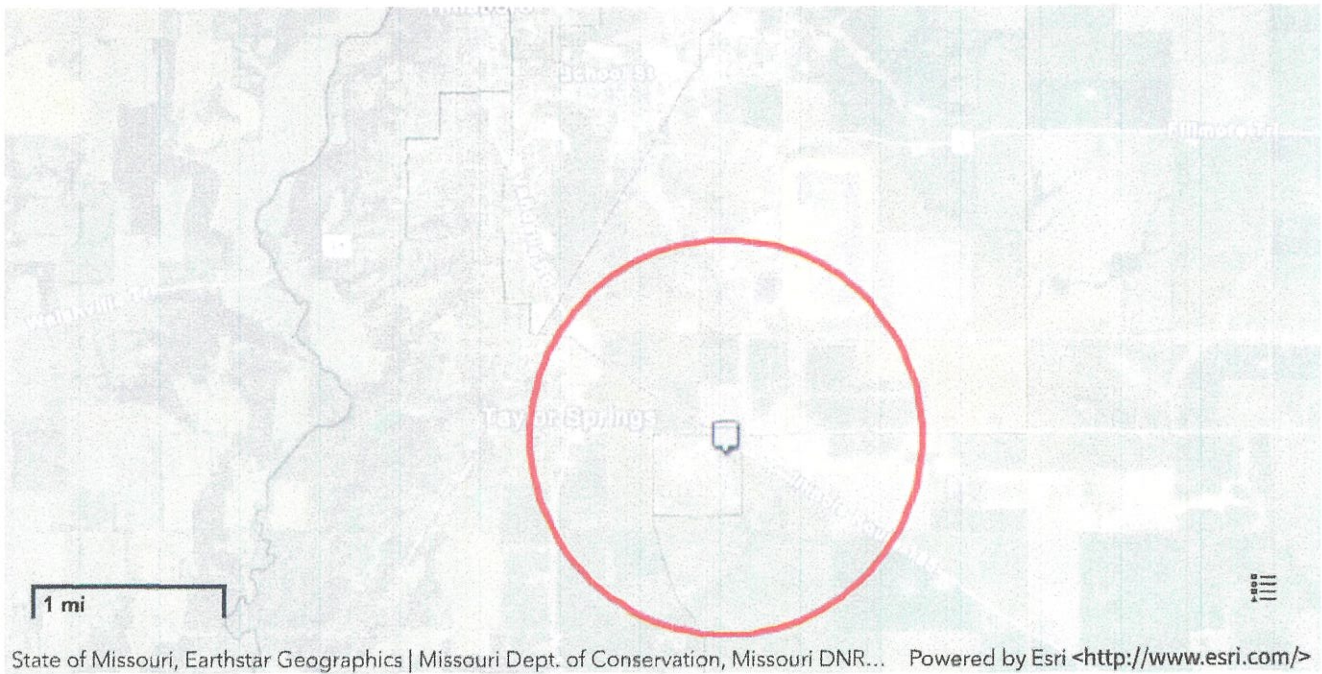
EJScreen Community Report

Download Data

Census Block Group ID: 171359580005	US (Percentile)	
Supplemental Indexes	Facility Census Block Group	1-mile Max
Count of Indexes At or Above 80th Percentile	**0**	**2**
Particulate Matter 2.5	57	78
Ozone	50	72

○ Facility 1-mile Radius ☐ Facility Census Block Group

Supplemental Indexes	Facility Census Block Group	1-mile Max
Diesel Particulate Matter	27	54
Air Toxics Cancer Risk	18	29
Air Toxics Respiratory Hazard Index	17	26
Toxic Releases to Air	19	39
Traffic Proximity	3	55
Lead Paint	59	84
Risk Management Plan (RMP) Facility Proximity	27	67
Hazardous Waste Proximity	5	6
Superfund Proximity	69	92
Underground Storage Tanks (UST)	31	61
Wastewater Discharge	68	70



Demographic Profile of Surrounding Area (1-Mile Radius)

This section provides demographic information regarding the community surrounding the facility. ECHO compliance data alone are not sufficient to determine whether violations at a particular facility had negative impacts on public health or the environment. Statistics are based upon the 2010 U.S. Census and 2017 - 2021 American Community Survey (ACS) 5-year Summary and are accurate to the extent that the facility latitude and longitude listed below are correct. EPA's spatial processing methodology considers the overlap between the selected radii and the census blocks (for U.S. Census demographics) and census block groups (for ACS demographics) in determining the demographics surrounding the facility. For more detail about this methodology, see the DFR Data Dictionary <https://epa.gov/help/reports/dfr-data-dictionary#demographic>.

General Statistics (U.S. Census)	
Total Persons	2,129
Population Density	656/sq.mi.
Housing Units in Area	74

General Statistics (ACS (American Community Survey))	
Total Persons	2,710
Percent People of Color	46%
Households in Area	118
Households on Public Assistance	3
Persons With Low Income	86
Percent With Low Income	35%

Geography	
Radius of Selected Area	1 mi.
Center Latitude	39.129589

Age Breakdown (U.S. Census) - Persons (%)	
Children 5 years and younger	4 (0%)
Minors 17 years and younger	27 (1%)
Adults 18 years and older	2,102 (99%)
Seniors 65 years and older	126 (6%)

Race Breakdown (U.S. Census) - Persons (%)	
White	1,281 (60%)
African-American	808 (38%)
Hispanic-Origin	114 (5%)
Asian/Pacific Islander	4 (0%)
American Indian	5 (0%)
Other/Multiracial	31 (1%)

Education Level (Persons 25 & older) (ACS (American Community Survey)) - Persons (%)	
Less than 9th Grade	183 (7.69%)

Center Longitude	-89.471009
Land Area	100%
Water Area	0%

Income Breakdown (ACS (American Community Survey)) - Households (%)

Less than $15,000	7 (5.93%)
$15,000 - $25,000	13 (11.02%)
$25,000 - $50,000	39 (33.05%)
$50,000 - $75,000	22 (18.64%)
Greater than $75,000	37 (31.36%)

9th through 12th Grade	584 (24.53%)
High School Diploma	801 (33.64%)
Some College/2-year	624 (26.21%)
B.S./B.A. (Bachelor of Science/Bachelor of Arts) or More	45 (1.89%)

^ Top of Page

Discover.

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Last updated on September 21, 2022

Data Refresh Information
<https://epa.gov/resources/echo-data/about-the-data#sources>

Exhibit #3 Blumenshine Deer Run Motion 12/04/2023 Informal Conference

CLARK v. FORESIGHT ENERGY LLC LLC LLC LLC LLC LLC LLC LLC LLC LLC (2023)

Appellate Court of Illinois, Fifth District.

Dennis L. CLARK, Plaintiff-Appellee, v. FORESIGHT ENERGY, LLC; Foresight Energy Services, LLC; Sugar Camp Energy, LLC; Foresight Energy, L.P.; Foresight Energy Operating, LLC; Foresight Energy Resources, LLC; M-Class Mining, LLC; Viking Mining, LLC; Foresight Energy Labor, LLC; Coal Field Construction Company, LLC; and Adena Resources, LLC, Defendants-Appellants.

NO. 5-23-0346

Decided: September 01, 2023

G. Patrick Murphy and Patricia S. Murphy, of Murphy & Murphy LLC, of Marion, and Jeffrey R. Baron and Joshua I. Hammack, of Bailey & Glasser LLP, of Webster Groves, Missouri, for appellants. Thomas J. Lech, Jennifer M. Wagner, Kevin P. Green, and Daniel S. Levy, of Goldenberg Heller & Antognoli, P.C., of Edwardsville, and Douglas N. Dorris, of Howerton, Dorris, Stone & Lambert, of Marion, for appellee.

OPINION

¶ 1 The defendants—Foresight Energy, LLC; Foresight Energy Services, LLC; Sugar Camp Energy, LLC; Foresight Energy, L.P.; Foresight Energy Operating, LLC; Foresight Energy Resources, LLC; M-Class Mining, LLC; Viking Mining, LLC; Foresight Energy Labor, LLC; Coal Field Construction Company, LLC; and Adena Resources, LLC—appeal the April 18, 2023, order of the circuit court of Franklin County that denied their motion to dismiss pursuant to section 2-619 of the Code of Civil Procedure (735 ILCS 5/2-619 (West 2022)) or, in the alternative, to compel arbitration and stay the proceedings. For the reasons that follow, we reverse.

¶ 2 I. BACKGROUND

¶ 3 On January 6, 2023, the plaintiff, Dennis Clark, filed a complaint against the defendants. Count I alleged negligence against all defendants, count II alleged nuisance against all defendants, count III alleged trespass against all defendants, and count IV alleged strict liability due to ultrahazardous activity as to all defendants.

¶ 4 The complaint alleged that all defendants owned, operated, oversaw, financed, managed, and/or provided services to the Sugar Camp Energy Mining Complex (Complex). The Complex consists of two longwall mines—the MC #1 Mine located in Thompsonville, Illinois, and the Viking Mine located in Macedonia, Illinois—and the M-Class Preparation Plant located in Macedonia, Illinois. On or about August 14, 2021, a fire started underground at the MC #1 Mine. The defendants used firefighting foam containing per- and polyfluoroalkyl substances (PFAS) to extinguish the underground fire.

¶ 5 The complaint alleged that the plaintiff owns real property in Macedonia, Illinois, that has an active farming operation including livestock. The plaintiff's farm is located approximately one-quarter of a mile from where the PFAS were used. The plaintiff alleged that, in September 2021, he noticed an upwelling of water on his farm where no such spring had previously existed. He further alleged that the upwelled water contained a metallic sheen or film that did not freeze during cold weather and was located in a livestock pasture area. In November 2021, several animals pastured in the area with the upwelled water died, including one herd bull, four cows, one calf, and four sheep. Additionally, a dog that began to feed off one of the dead sheep subsequently became ill.

¶ 6 The complaint alleged that the plaintiff has suffered the following damages as a result of the negligence of defendants in using PFAS:

"a) Loss of portions of his livestock from their deaths after drinking this contaminated water or consuming vegetation affected by this contaminated water;

b) Loss of portions of his livestock from chronic illness as a result of drinking this contaminated water or consuming vegetation affected by this contaminated water;

c) Having to condemn portions of his livestock herd which are now unsuitable for use for human consumption as a result of ingestion of these contaminants;

d) Future losses of livestock to death, chronic illness, and/or condemnation as a result of drinking this contaminated water or consuming vegetation affected by this contaminated water;

e) Present and future loss to the value of his real property as a result of his lands and waters being exposed to these contaminants;

f) Present and future loss of the use and enjoyment of the affected real property and its waters;

g) Costs incurred to investigate and to determine the conditions of his livestock, and to determine the type and source of contamination and the cause of those animals' conditions or death, including but not limited to veterinary bills, both past and future;

h) Costs incurred to investigate and to determine the conditions of his land and water, and to determine the type and source of contamination and the cause of this contamination to his land, both past and future."

The plaintiff also alleged that the contamination constituted a substantial invasion upon his interest in the use and enjoyment of his land, that the contamination constituted a physical invasion of his property, and that the use of the PFAS firefighting foam was an ultrahazardous activity.

¶ 7 On February 7, 2023, the defendants moved to dismiss the complaint or, in the alternative, to compel arbitration and stay the proceedings pursuant to the "Waiver and Release" because the defendants alleged that the plaintiff had previously agreed to arbitrate disputes, such as those alleged in the complaint. The motion was supported by a verification of Lee Landon, a copy of the executed "Waiver and Release," and a copy of the recorded "Memorandum of Waiver and Release."

¶ 8 The defendants alleged that on July 30, 2019, the plaintiff and his wife executed a waiver and release in favor of Sugar Camp Energy, LLC, and any other related entities, and their respective agents, employees, and contractors. The "Waiver and Release" contains the following relevant provisions:

"WHEREAS, Released Parties have conducted or will conduct mining operations underlying Premises owned by Releasor, to-wit:

* * *

WHEREAS, Releasor have elected to receive cash in lieu of repair or replacement to structures and facilities for material damages caused by Releasee's mining operations.

NOW, THEREFORE, for and in consideration of the payment of the sum of Two Hundred Ninety Thousand Dollars and Zero Cents ($290,000.00) by Releasee to Releasor, Releasor do hereby agree as follows:

Releasor hereby releases, waives and forever discharges the Released Parties from any and all claims of any sort or nature whatsoever, known or unknown, past, present or future, in any way related to or caused by Releasee's past, present or future mining activities in or associated with the Herrin No. 6 coal seam. The claims released include, but are not limited to, claims for subsidence damage, nuisance, trespass, property damage, personal injury, and include damage to personal property, improvements, facilities, wells, ponds, or other structures and improvements located on the foregoing Premises. This Release is given by reason of the election of Releasor to receive cash compensation in lieu of repair or replacement of material damage caused by Releasee's mining operations on the Premises.

* * *

Any dispute regarding the matters set forth herein or disputes of any sort or nature whatsoever arising out of this Waiver and Release shall be determined by arbitration. Each party shall select a competent and disinterested arbitrator having expertise in the area of the dispute and the two arbitrators so selected shall select a third arbitrator. Each party shall bear the expense of the arbitrator he selects and the parties shall bear equally the cost of the third arbitrator. The arbitrators shall inspect and evaluate the damage and shall render their opinion thereon. The decision of at least two of the arbitrators shall be decisive. The decision so rendered shall be binding on the parties and payment, if any, shall be promptly made by Releasee or Releasor as the case may be. The party receiving payment, his heirs and assigns, shall execute a release for said damage, if requested. The manner of ascertainment of disputes provided for herein shall be exclusive and the parties hereby waive any and all other remedies. If the parties fail to appoint arbitrators as provided for herein or if the arbitrators appointed by the parties are unable to agree upon a third arbitrator, then an arbitrator shall be appointed by the American Arbitration Association.

* * *

The Release shall be construed in accordance with the laws of the State of Illinois."

The defendants argued a valid arbitration clause existed within the Waiver and Release agreed to by the plaintiff and the defendants and the issues in dispute are within the scope of the arbitration agreement, so the circuit court should order the parties to arbitration.

¶ 9 On March 16, 2023, the plaintiff filed his response in opposition to the motion to dismiss or compel arbitration and stay. The plaintiff argued that the United States Arbitration Act, commonly known as the Federal Arbitration Act (FAA) (9 U.S.C. § 1 et seq. (2018)), should apply to an arbitration clause "contained in a contract involving interstate commerce." The plaintiff argued that, under the FAA, the circuit court should determine whether the claims set forth in his compliant were arbitrable. Additionally, the plaintiff argued that the Waiver and Release executed in 2019 did not include his unknown future claims that arose in 2021 and thus are not captured by the arbitration clause. Alternatively, the plaintiff argued that the claims set forth in his complaint are not subject to the arbitration clause because the claims did not arise out of or relate to the defendants' "mining activities."

¶ 10 On March 22, 2023, the defendants filed their reply in support of their motion. The defendants argued that future claims are subject to arbitration in Illinois, that the plaintiff's claims are subject to the scope of the arbitration clause, and that the claims are related to the defendants' "mining operations" and/or "mining activities."

¶ 11 On March 24, 2023, the circuit court held a hearing on the defendants' motion to dismiss or, in the alternative, to compel arbitration and stay. A transcript of this proceeding is not contained within the record on appeal.

¶ 12 On March 29, 2023, the plaintiff filed his own affidavit. The affidavit asserted, inter alia:

"4) The notion never occurred to the undersigned, Dennis Clark, that he was waiving or giving up any claims he might have in the future to damages to his farmland or the water on or under his land, or to the value of his land, or to the safety of his livestock, by the coal company using firefighting foam containing PFAS (he did not know what 'PFAS' was in 2019) to put out underground fires and allowing those contaminants to spread onto his lands and into his water, in violation of environmental law."

¶ 13 On April 18, 2023, the circuit court entered the following order via docket entry:

"The Court has considered Defendants' Section 5/2-619 Motion to Dismiss or, In the Alternative to Compel Arbitration, Plaintiff's Response thereto and all arguments for and against both written and oral and the Court is otherwise fully advised in the premises. Now therefore the Court finds that the dispute arising out of the Defendant's [sic] conduct in 2021 was not encompassed by the 2019 release and therefore also not encompassed by the Release's arbitration clause. Therefore, Defendant's [sic] 5/2-619 Motion to Dismiss or, In the Alternative to Compel Arbitration is hereby denied. No written order. Clerk to send a copy of this docket order to all attorneys of record."

The defendants filed a timely notice of interlocutory appeal on May 5, 2023.

¶ 14 II. ANALYSIS

¶ 15 A. Illinois Law or Federal Law

¶ 16 As a threshold matter, the parties dispute the applicable law that should be applied. The plaintiff contends that the FAA should apply to determine arbitrability because the arbitration clause is contained in the "Waiver and Release," which involves interstate commerce. Under the FAA, it is for the circuit court to decide whether the parties agreed to arbitrate a particular dispute. AT&T Technologies, Inc. v. Communications Workers of America, 475 U.S. 643, 649-50, 106 S.Ct. 1415, 89 L.Ed.2d 648 (1986).

¶ 17 The defendants contend that Illinois law should apply. Under Illinois law, when determining whether the parties agreed to arbitrate the dispute, the circuit court is to use a three-pronged approach:

"(i) if it is clear that the dispute falls within the scope of the arbitration clause or agreement, the court must compel arbitration, (ii) if it is clear that the dispute does not fall within the arbitration clause or agreement, the court must deny the motion to compel, and (iii) if it is unclear or ambiguous whether the dispute falls within the scope of the arbitration clause, the matter should be referred to the arbitrator to decide arbitrability." Liu v. Four Seasons Hotel, Ltd., 2019 IL App (1st) 182645, ¶ 24, 435 Ill.Dec. 13, 138 N.E.3d 201.

¶ 18 Typically, when an arbitration clause is contained in a contract involving interstate commerce, federal law preempts state statutes even in state courts. Tortoriello v. Gerald Nissan of North Aurora, Inc., 379 Ill. App. 3d 214, 225, 317 Ill.Dec. 583, 882 N.E.2d 157 (2008). However, if the contract involving interstate commerce contains a choice of law clause, that agreement by the parties as to the law to be applied will be enforced. Bishop v. We Care Hair Development Corp., 316 Ill. App. 3d 1182, 1190-91, 250 Ill.Dec. 394, 738 N.E.2d 610 (2000). The "Waiver and Release" contains a choice of law clause that states, "The Release shall be construed in accordance with the laws of the State of Illinois." Therefore, after reviewing the "Waiver and Release" as a whole, we find the choice of law clause to work in conjunction with the arbitration clause to reflect an agreement by the parties to arbitrate in accordance with Illinois law.

¶ 19 B. Scope of the Arbitration Clause

¶ 20 The primary issue on appeal is whether the arbitration clause contained in the "Waiver and Release" encompasses the claims set forth by plaintiff in his complaint, so that the parties should be compelled to arbitrate. The parties do not dispute that an arbitration clause is included in the "Waiver and Release," nor is there an allegation that the arbitration clause is invalid or unenforceable.

¶ 21 A trial court's order granting or denying a motion to compel arbitration that was made without an evidentiary hearing and raises only a legal issue is reviewed de novo. Guarantee Trust Life Insurance Co. v. Platinum Supplemental Insurance, Inc., 2016 IL App (1st) 161612, ¶ 25, 409 Ill.Dec. 628, 68 N.E.3d 481. Upon review of the record, it is apparent that no evidentiary hearing was held and the circuit court's decision was based solely on legal analysis. Therefore, our review is de novo.

¶ 22 A motion to compel arbitration raises the sole and narrow issues of whether the parties agreed to arbitrate the dispute. Liu, 2019 IL App (1st) 182645, ¶ 24, 435 Ill.Dec. 13, 138 N.E.3d 201 (citing Donaldson, Lufkin & Jenrette Futures, Inc. v. Barr, 124 Ill. 2d 435, 444, 449, 125 Ill.Dec. 281, 530 N.E.2d 439 (1988)). When presented with a motion to compel arbitration, the circuit court's inquiry is limited to whether the parties have a valid arbitration clause. If the parties do have a valid arbitration clause, the question is whether the issues in dispute fall within the scope of the arbitration clause. Hartz v. Brehm Preparatory School, Inc., 2021 IL App (5th) 190327, ¶ 42, 451 Ill.Dec. 126, 183 N.E.3d 172.

¶ 23 Illinois considers arbitration to be a favored method of dispute resolution. Salsitz v. Kreiss, 198 Ill. 2d 1, 13, 260 Ill.Dec. 341, 761 N.E.2d 724 (2001). However, arbitration is still a matter of contract and parties are "bound to arbitrate only those issues they have agreed to arbitrate, as shown by the clear language of the agreement and their intentions expressed in that language." Id. Their "agreement will not be extended by construction or implication." Id.

¶ 24 The primary objective in interpreting any contract, including an arbitration agreement and a release, is to give effect to the intent of the parties. Gallagher v. Lenart, 226 Ill. 2d 208, 232, 314 Ill.Dec. 133, 874 N.E.2d 43 (2007). The language of the contract alone, given its plain and ordinary meaning, is the best indication of the parties' intent. Id. at 233, 314 Ill.Dec. 133, 874 N.E.2d 43. A "contract must be construed as a whole, viewing each part in light of the others." Id. The intention of the parties may not be gathered from detached portions of the contract or from any clause or provision standing alone. Id. The interpretation of a contract is reviewed de novo. Id. at 219, 314 Ill.Dec. 133, 874 N.E.2d 43.

¶ 25 "[P]arties are only bound to arbitrate those issues which by clear language they have agreed to arbitrate." Flood v. Country Mutual Insurance Co., 41 Ill. 2d 91, 94, 242 N.E.2d 149 (1968). Generic arbitration clauses are an exception to the "clear language" principle. Keeley & Sons, Inc. v. Zurich American Insurance Co., 409 Ill. App. 3d 515, 520, 349 Ill.Dec. 862, 947 N.E.2d 876 (2011). "[C]ourts have generally construed 'generic' arbitration clauses broadly" and have concluded that "parties are obligated to arbitrate any dispute that arguably arises under an agreement containing a 'generic' provision." (Emphasis in original.) Fahlstrom v. Jones, 2011 IL App (1st) 103318, ¶ 17, 352 Ill.Dec. 1, 952 N.E.2d 1227.

¶ 26 A generic arbitration clause is nonspecific in designating what issues should be arbitrated and is characterized by language providing that all claims "arising out of" or "relating to" the contract shall be decided by arbitration. Liu, 2019 IL App (1st) 182645, ¶ 26, 435 Ill.Dec. 13, 138 N.E.3d 201. "To determine the scope of a generic arbitration clause, a court should examine the wording of the clause along with the terms of the contract in which the clause is found." Keeley & Sons, Inc., 409 Ill. App. 3d at 520-21, 349 Ill.Dec. 862, 947 N.E.2d 876. If

"an arbitration clause contains the phrase, 'arising out of [the] agreement' (or a similar phrase), but fails to also include the phrase, 'or relating to [the agreement]' (or a similar phrase), it is narrower than a generic clause, and any arbitration should be limited to the specific terms of the contract or agreement containing the arbitration clause." Liu, 2019 IL App (1st) 182645, ¶ 26, 435 Ill.Dec. 13, 138 N.E.3d 201.

¶ 27 The arbitration clause at issue in this case states, "Any dispute regarding the matters set forth herein or disputes of any sort or nature whatsoever arising out of this Waiver and Release shall be determined by arbitration." (Emphases added.) The arbitration clause contains the "arising out of" language and it also contains "regarding the matters set forth herein"—a variation of the "relating to" language. Accordingly, the arbitration clause at issue here is a generic arbitration clause and any dispute that even arguably arises from the Waiver and Release must be arbitrated.

¶ 28 The claims and damages alleged in the plaintiff's complaint (nuisance, trespass, and property damage) fall within the scope of the Waiver and Release and the generic arbitration clause. Whether the Waiver and Release forecloses recovery for the plaintiff's claims is for the arbitrators to decide.

¶ 29 III. CONCLUSION

¶ 30 Therefore, based on the foregoing, we reverse the circuit court's order denying the motion to compel arbitration and remand with directions to grant defendants' motion to compel arbitration and stay the proceedings pursuant to section 3 of the FAA (9 U.S.C. § 3 (2018)).

¶ 31 Reversed and remanded.

JUSTICE MOORE delivered the judgment of the court, with opinion.

Presiding Justice Boie and Justice McHaney concurred in the judgment and opinion.

Was this helpful? Yes No

Exhibit #4 Blumenshine Deer Run Mine Informal Conference 12/04/2023 Informal Conference

https://www.wsiltv.com/news/officials-monitor-situation-at-williamson-county-mine/article_447c271c-90c1-11ee-b143-3313adf409b6.html

Officials monitor situation at Williamson County mine

by Brian Wilson

Dec 1, 2023

WILLIAMSON COUNTY, IL (WSIL) -- Officials are monitoring a situation at a local mine.

The Illinois Department of Natural Resources says they were alerted to a potential slope slide situation of a retention pond at Pond Creek Mine near Johnston City. They said there was concern of potential flooding if the pond burm slides enough.

The mine is aware and working with IDNR. Officials are at the site and working to stabilize the slope.

The mine has also offered to secure hotel rooms for those uncomfortable staying in the area.

Download the free WSIL News and Weather apps for the latest stories and alerts sent straight to your mobile device.

Tags Mines Meteorology

Brian Wilson

Karyl Dressen.

I would like to state my opposition to the renewal of Hillsboro Energy's Deer Run Mine Permits # 399 and #424. I have opposed this longwall mine in my county since the very beginning when the county sold coal rights which had reverted back to them and Hillsboro Energy first filed for a permit in 2007.

Besides my concerns about the overall effects of coal on climate change, I have concerns about the harmful effects on my community, including contamination of surface and ground water from mining activities and coal slurry impoundments, and air pollution from coal dust.

The longwall method of mining utilized by the Foresight owned mines in Illinois, including Deer Run, can be particularly destructive to communities. The only benefit is the higher profit margin to the company, since it is highly mechanized and thus needs fewer miners (thus fewer jobs created in the area).
The company can extract more coal from a seam (again more profit for them), but as they let the surface drop in what they term "planned subsidence" serious damage results.

Unfortunately, as a resident of Montgomery County, I have now witnessed the damages caused by longwall mining. Many of the concerns voiced by residents prior to the approval of the original permit have now become reality.

Concerns about damage to public roads due to mine subsidence, especially State Highway 185, were voiced early in the permitting period. But residents were assured that similar state roads were subsided by longwall mining and traffic was not rerouted. Appendix F in the Permanent Program Significant Revisions Application #2 to Permit 399 states that precautions must be in place to protect the public during and after subsidence impacts. An agreement between the mine and IDOT for Panel 5 stated that they must "provide a safe and passable roadway for the traveling public."

For longer than 2 ½ years now, this heavily trafficked state highway has been completely closed (at one time for 5 ½ weeks), reduced to one lane, or had reduced speeds due to longwall damage. Currently there is still a long section damaged by Panel 6 with a 20 mph speed limit due to, as the sign says, "Severe Pavement Distress". An overnight rain event in late August of this year resulted in water over part of the highway, but no warnings were put out until into late morning. I travel this road regularly, and am surprised that no one has been injured driving over the damaged pavement.

Questions. Will surveillance and repairs be adequate once the panels are subsiding rural county and township roads? Why is a private company even allowed to damage public roadways, inconvenience the public, and possibly affect their safety?

Early concerns about damage to homes, sheds, grain bins, and other structures on farms are now a reality. Most of the homes within the 1st mined panels are gone, so the county lost an entire farm community. Many more will be damaged with the additional 7,731.8 acres of shadow area approved in Revision #2 to Permit 399. On my family's farm, 12 grain storage bins and 2 farm sheds will be damaged by subsidence from Panel 6 in about a month.

In the application for Permit 399, Hillsboro Energy checked "Yes" as their answer to the question: "Within the proposed permit, shadow or adjacent areas does the applicant intend to adopt mining technologies which provide for planned subsidence in a predictable and controlled manner?' This fallacy of longwall mining resulting in a planned, predictable surface subsidence that occurs uniformly is repeated several times. Having witnessed the damage to my family's farm ground from longwall

subsidence over the past few years, it is not predictable or uniform. Within the 6 to 7 feet of subsidence occurring on top of the panel width, additional sections dropped another foot or more.

In the same application, in reference to the change in surface elevation from planned subsidence, Hillsboro Energy stated that most of the subsidence will not be noticeable due to the general relief of the terrain over the shadow area. In fact, the transformation of formerly flat farm ground to rolling terrain is quite noticeable. Early concerns of farmers about the impacts of longwall subsidence on their farm land are now a reality. Formerly level fields with good drainage and minimal erosion now have pooled water due to subsided areas being unable to drain over higher, unsubsided ground, and topsoil erosion on slopes created by longwall panels.

Appendix F to Revision #2 to Permit 399 states that "Hillsboro Energy must correct material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses which it was capable of supporting before subsidence. Hillsboro Energy's subsidence control plan, as modified, contains a description of measures to be taken in order to comply with 62 Ill. Adm. Code 1817.12(c)(1)." Level farm ground will never be restored to what it was before being subsided. Ground that has been flooded for over a year will never be as productive. Topsoil lost to erosion can not be restored.

Questions: What is this subsidence control plan and where can it be found? Is there a drainage plan? If the subsidence is as planned and predictable as stated, can landowners see such plans before their land is subsided?

Appendix F also states: "The Department will review the performance of Hillsboro Energy's subsidence control plan in the field concerning prompt and effective mitigation. The Department will monitor Hillsboro Energy's performance in meeting land mitigation requirements, replacement of protected water supplies, and structure mitigation requirements. Quarterly reports DETAILING (my emphasis) the mitigation accomplished and outlining future mitigation planning to assure compliance with 62 Ill Adm. Code 1817.121 as required in the original Permit 399 shall continue for areas approved in this revision No. 2 to 399.

In looking at these reports, I am not finding many details under the Sections for MONITORING or MITIGATION. Reports from the 1st, 2nd, 3rd, and 4th Quarters of 2022, and the 1st, 2nd, and 3rd Quarters of 2023 all contain the same statements from the mine for monitoring "Subsidence monitoring points were established prior to any subsidence occurring on the 1st panel. These points were then surveyed post-subsidence and a model was generated from this data to aid in predicting future subsidence. Actual surface subsidence is observed on a regular basis in order to mitigate drainage issues."

Reports from the 1st, 2nd, 3rd, and 4th Quarters of 2022, and the 1st, 2nd, and 3rd Quarters of 2023 all contain the same statements for mitigation "Subsidence mitigation is an ongoing process to correct surface water drainage. This is accomplished by installing field drainage tile along with cleaning and setting grade to surface ditches. Mine management is evaluating and coordinating with local landowners regarding subsided areas that have not been mitigated due to the idled operations."

Question: How are these cut and paste comments in any way detailed as to the monitoring and mitigation? Why are there no details on what actual surface subsidence is being observed or actual mitigation to correct surface drainage? Who determines that "met all applicable regulations" in one section of the report can be checked, the mine or the department?

Any model generated from the first longwalll panel is probably not reflective of issues with subsequent panels. As previously mentioned, the subsidence in later panels has not always been predictable. The first 2 longwall panels drained to the north, so these did not experience the same drainage issues as subsequent panels in which the natural drainage pattern to the south was impeded by the higher, unsubsided ground.

The monthly Land Reclamation General Inspection Reports also often contain a cut and paste lack of detail, especially as it pertains to the shadow area. The January to October 2023 reports all stated under comments: "the Deer Run mine conducts subsidence mitigation to correct surface water drainage over the mined-out panels. The operator is continuing to monitor all longwall panels that have been mined out and is performing longwall subsidence mitigation in an appropriate manner." Some observations under #6 Revegetation in early 2023 did seem to refer to fields along Rt. 185 requiring drainage work and revegetation of new ditches, but most issues with erosion and revegetation seem to refer only to permit areas.

Question: Is the Land Reclamation Report to cover inspections of the permit area and the shadow area? If so, why isn't there more reporting on conditions in the shadow area? Does the department actually monitor the subsidence within all of the panels and how is it determined if mitigation is adequate? Is there adequate communication with affected landowners, or mainly the mine and its contractors?

Observations on IBR #14 to Permit 399 are cited in the General Inspection Reports. This IBR for construction including concrete pads, vent fans, and roadway work was approved in February 2021. A silt fence was required to be maintained as an IDNR approved conservation plan to prevent the state threatened Ornate Box Turtle from moving into the IBR area. Reports in August, October, and November 2021 indicated the silt fence was failing in some areas and the operator was required to repair and monitor the silt fence on a regular basis. The January, 2022 report said the operator had to submit an inspection and maintenance plan to IDNR and keep a log. It wasn't until the April 21, 2022 report that any mention of the condition of the fence was made and the comment then was "the operator has repaired and inspected the silt fence on a regularly scheduled basis." Then in January, 2023 the report states the silt fence is degrading to the point it will need maintenance. Reports from March, April, May, July, August, September, and October 2023 all state that some fabric is down and stakes are broken off.

Questions. Why is the mine not required to comply with maintenance of this silt fence as per the conservation plan? Is the inspection/maintenance log required as of March 31, 2022 being kept and checked by the department? The October 18th, 2023 report states that IDNR did a field inspection on October 11th, 2023 regarding a request by the mine for release of excess bond of the unaffected acreage. Was the fence inspected then, and if the mine is not complying with the conservation plan, would release of bond still be granted?

In reviewing the Deer Run Renewal application, Section 1.3 there are 22 listings for 399-ShadowArea-Rev 1 totaling 7,731.8 acres. This is an error.

In Table 1.5.2 Violations History, there are over 400 violations listed for applicant and owners/controllers of the applicant. Most of the violations involved the Illinois mines, which included Hillsboro Energy, Williamson Energy, Sugar Camp Energy, and also Macoupin Energy. The majority of the violations with a status not listed as being abated were also Illinois mines.

Question: Does the sheer volume of total violations ever influence the renewal of mine permits?

Someone once said to me "your brother is passionate about his land." In our mobile society now, where people often don't stay in the same place or job for an extended time, this may be hard for some to understand. But most farm families still have a deep history and attachment with their farms. The farm that I live on now is a centennial farm, being purchased by my grandfather over 100 years ago and remaining in my family. The farm that I grew up on was purchased by my father in the 1940's and 1950's. Family members still live there and my brother still farms it. How many of you still share this kind of attachment to where you grew up? How many have worked the same job at the same location for 40, 50, or 60 years? This is why farmers care so much about their land.

A government mining official once commented that longwall mining's planned subsidence was preferable to the unplanned subsidence from room and pillar mining that could have impacts 50 or 100 years later. I doubt that anyone directly affected by the extensive subsidence from longwall mining would agree. But in the coming years, we can ask the families within the additional 7,731.8 acres of shadow area approved in April, 2021 with Revision 2 to Permit 399.

Questions: How can private companies be allowed to damage private property for their own profit? Why is longwall mining allowed?

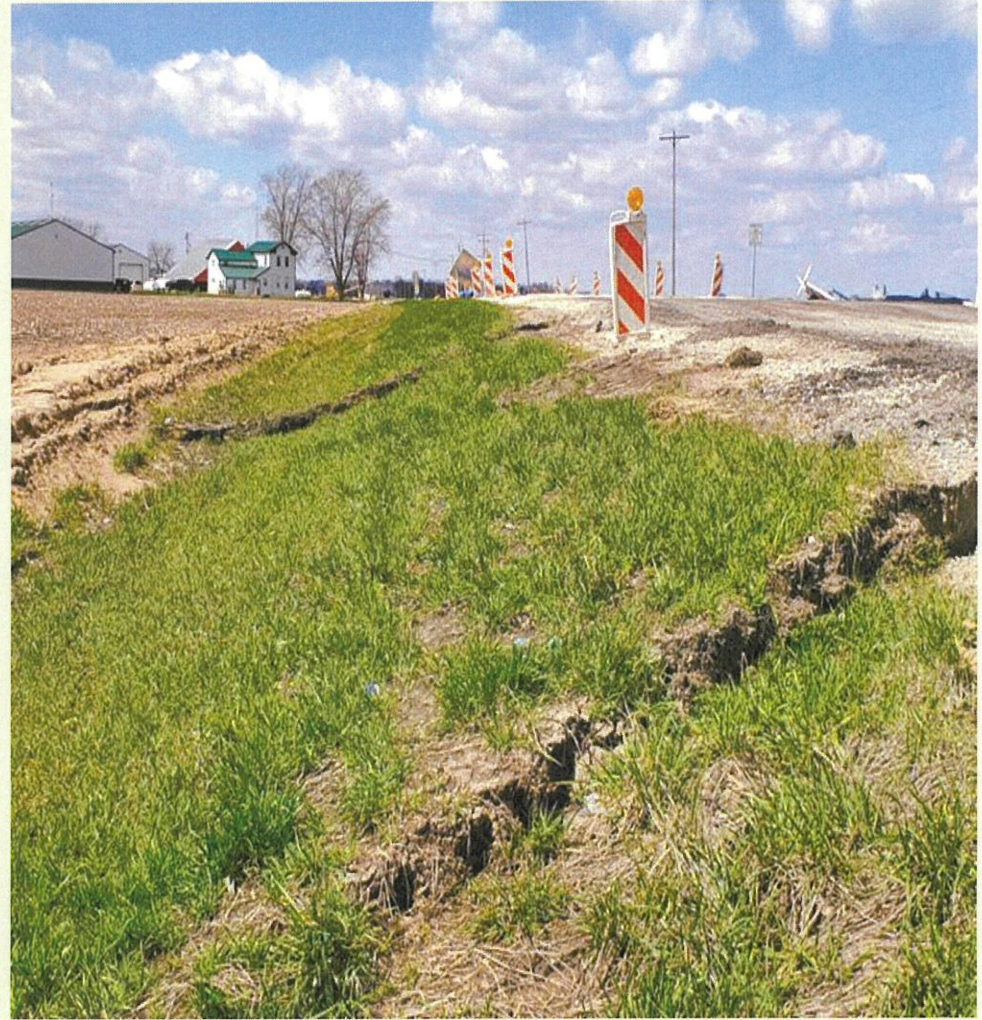
From the longwall damage I have already witnessed, my opinion is that the permit renewal should be denied.

Thank you for the opportunity to speak.

Karyl Dressen

Longwall Subsidence Impacts on Public Highway

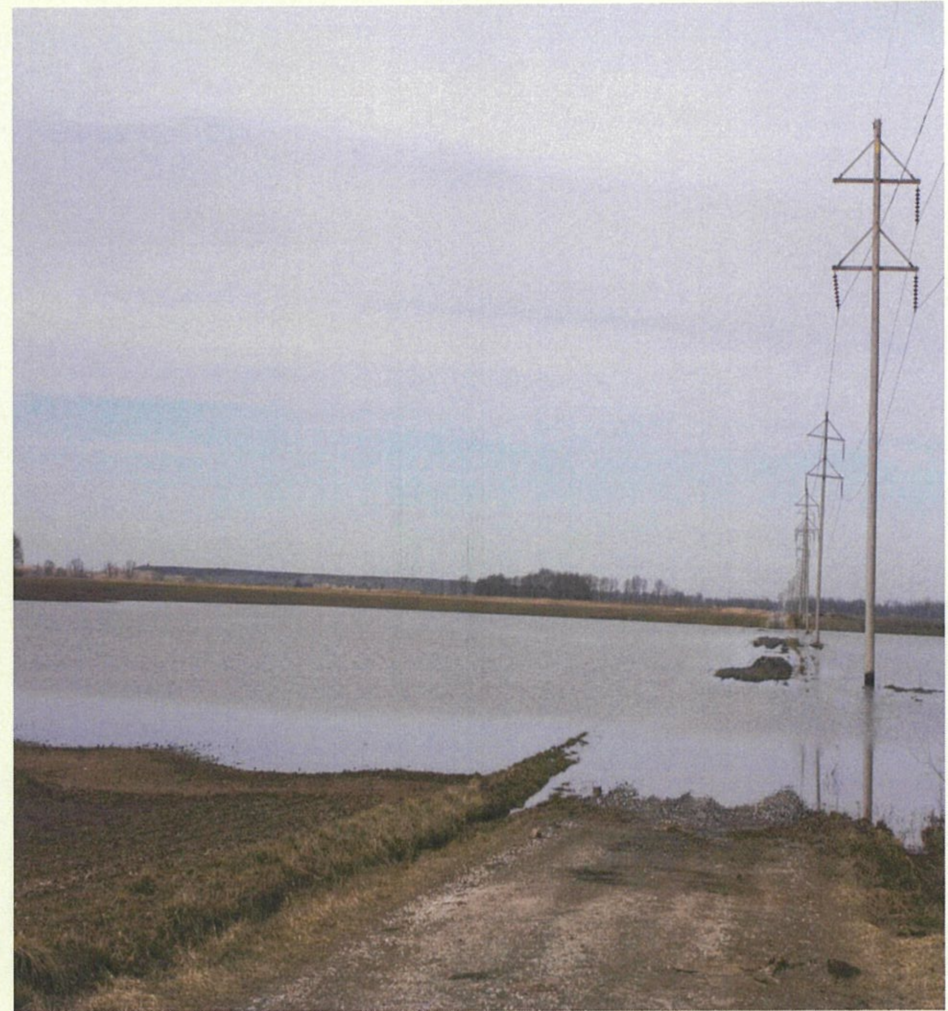
IL Route 185 subsidence additional highway damages



Ongoing damages to highway affect the public

Flat field before subsidence

Same field after subsidence



Subsidence is not uniform as stated in IDNR Mine permits.

Field before subsidence is efficient to farm

Same field after subsidence

Same field in the following year

Aerial view of further subsidence impacting field back section

New erosion from longwall slope causing more topsoil loss

Another field before subsidence

Same field after longwall subsidence

Mary Ellen DeClue

LONGWALL MINING: FAILED PROMISES 12/4/2023

Realities of Deer Run Mine, a Longwall Mine Owned by Hillsboro Energy LLC (HEL) in Montgomery County Illinois. Foresight Energy is the Corporate Head Overseeing 3 Other Longwall Mines in Illinois.

Citizens Against Longwall Mining (CALM) is a non-profit organization that was established to protect Montgomery County's farmland, water resources, and quality of life.

Can we afford the real cost of allowing "coal privilege" in the form of inadequate regulatory practice and oversight?

Coal Privilege Demands That Coal Cannot Be Considered Toxic.

1. The toxicity of coal is ignored until it settles in miners' lungs and destroys their body with black lungs.
2. Coal dust in the air during Hillsboro High School football practice is ignored, but the intense heat further aggravates breathing problems for the athletes.
3. Hillsboro Hospital is forced to use air filters that must be replaced often to trap coal dust to help patients breathe better.
4. Children on the playground suffer more from coal dust due to their asthmatic conditions.
5. Residents with respiratory problems should not be exposed to harmful coal dust.
6. Carcinogenic chemicals like polycyclic aromatic hydrocarbons (PAHs) and heavy metals (lead, mercury, cadmium, cobalt, etc.) exist in coal dust that prevails in communities surrounding Deer Run Mine.
7. Particulate coal dust the size of 2.5 microns is especially harmful for residents. There is no protection from exposure since no restrictions or monitoring of coal particles is required. Remarkedly, IEPA does not enforce the Clean Air Act in coalfield areas!

Coal Privilege Means That the Coal Operator Is Not Obligated to Residents.

1. Problems at a coal mine like a fire, leakage of coal slurry, or excursion of chemicals off the mine site do not require that HEL communicate with neighbors.
2. The host community has no mandated source of valid mine information. The local newspapers publish the few letters to the editor, but do not interview or document what the coal company is doing. In fact, if CALM wants the public to know about Deer Run Mine public meetings it has to pay for ads in the local paper. Deer Run Mine's halo image is protected at the expense of the community.
3. Likewise, the regulatory agencies like IDNR and IEPA do not communicate effectively with residents. They require a freedom of information request for specific information. The problem is that coal operators can make many changes and additions to their public permits that are erroneously considered "insignificant" with no notices to the public. How do you request FOI about a change that is unknown to you?
4. One "insignificant" revision approved by IDNR involved the habitat of the threatened ornate box turtle. The habitat infringement and danger to the turtle happened with no

consideration for the unknown consequences to the little creatures. IDNR was careless with this conservation area that was awarded to it by advocates in Montgomery County. HEL's longwall mining self-interested needs superseded the protective purpose of the conservation area.

Coal Privilege Exists Since State and Federal Mining Regulations Cater to the Coal Operator.

1. Coal operators self-report outfall events and contamination occurrences. When a violation occurs, there is little pressure to fix it in a timely manner or prevent repeat offenses. Reasonable deadlines for coal operators to mitigate violations do not exist. Instead, violations accumulate. Unresolved violations should be used to prevent renewals of permits or expansions, but that does not happen.
   Coal permits are rubber stamped for approval, renewal, or temporary furlough to the detriment of our community.
2. If a requirement is burdensome for the longwall mining operator, exemptions, exceptions, and qualifications are allowed by IDNR and IEPA. HEL was exempt from monitoring ground water in the 7,731.8-acre expansion with the erroneous assumption that most residents were not dependent on well water.
3. Documentation of Deer Run Mine's damage in the community comes mainly from residents in the community, not from the state or federal agencies tasked with oversight.
4. The original Permit 399 application had many errors, inadequacies, and misleading information that CALM members raised. However, the predicted drainage problems, threat to water resources, and safety issues were ignored by IDNR.
5. HEL did not submit how it would correct the ponding of water, drainage, and restoration of the sunken land in 399 Permit application or renewals. These impacts have not been corrected and increase as more longwall panels are mined.
6. Approval of Permit 424 allowed a huge high-hazard coal slurry impoundment to disastrously inundate several communities upon failure. The manager of the Office of Water Resources, a Division in IDNR, admitted that a risk assessment was not done. HEL's preference for that location superseded the long-term safety of Montgomery County. The impoundment will remain in place in perpetuity.

Coal Privilege Allows Inadequate Mining Laws to Continue Without Changes.

1. Subsidence impacts to land, water resources, or anything above the longwall mining machine happen in the shadow area of Deer Run Mine. The coal industry is not required by any state or federal mining law to cover the costs of subsidence mitigation. Amazingly, there is no more financial requirement for longwall mining than room and pillar mining. The bonding requirements for "room and pillar" mining are the same as the bonding requirements for longwall mining despite the substantially greater risk longwall mining poses to surface land and water resources. The amount of bonding is determined by the estimated cost of reclamation of the mine site area, not the subsidence damage in the shadow area. Revision 2 of Permit 399 expanded the shadow

area of Deer Run Mine by 7,731.8-acres with no additional escrow money required by HEL.

2. This lack of financial guarantees to repair material damage to land and water resources is especially egregious since Foresight Energy has questionable economic stability following a recent bankruptcy.
3. Current state and federal mining laws do not require that HEL compensate landowners for loss or contamination of streams, wells, or springs unless the water is used for household drinking water.
4. Mining laws do not require compensation for the permanent damage to farmland. Long-term flooding, increased erosion due to more slopes, compaction of soils, and mixing of topsoil that negatively affect viability and productivity of cropland. If the soil can grow crops at all, even significantly less productive after longwall mining, the low standard is met. No harm done!
5. Landowners in Montgomery County that no longer have their coal and subsidence rights have effectively lost control of their land and property. HEL's coal extraction interests supersede the farmer's interest in planting crops.

Coal Privilege Has Perpetuated the Myth That the National Energy Supply Must Include Coal-fired Utilities with a Carbon Capture Assembly Attached.

1. Currently, the energy supply from coal in the US is around 20%. Coal proponents are eager to increase and stabilize coal use by lowering the carbon dioxide emitted through carbon capture and storage. The climate crisis demands that fossil fuels stay in the ground, but the coal legacy remains a lucrative and protected industry.
2. Carbon capture and storage (CCS) is well subsidized through federal funding, but CCS will not help to lower greenhouse gases or improve air quality.
3. CCS is expensive, inefficient, and hazardous. Most captured CO2 has been used for enhanced oil recovery which is counter to climate goals.
4. The promise of wealth has encouraged several pipeline companies to get land easements in Montgomery County for transporting dangerous high-pressure CO2 from ethanol plants to store in suitable geological areas. Several acres have already been acquired to be used for underground storage of CO2.
5. Miles of CO2 pipelines transporting a dangerous, potentially lethal, high-pressure asphyxiant near homes, businesses, farmland, and communities should be a non-starter. The presumption that CO2 injected several hundred feet underground will stay in place forever with no complications is wishful thinking, but not reasonable. Carbon capture and storage is a complete boondoggle.

Coal's legacy has been duly recognized and honored. Energy must come from the above ground clean resources such as sun, wind, and water. It is time for our country to move on to the 21st Century.

Mary Ellen DeClue

Informal Conference December 4, 2023

Thank you for arranging this important meeting.

Renewal of all Deer Run Mine Permits must not happen.

I have learned a lot about the process of getting a coal mine permit approved, especially a longwall mine permit. I have learned that a coal mining permit does not preserve the land, water, and quality of life in communities that host a longwall mine. IDNR gave the right to Hillsboro Energy LLC (HEL) to extract coal from land that no longer had coal and subsidence rights. The landowners have lost control over their property and now have a new overlord.

State and federal mining laws strongly favor the business plan of the longwall coal operator to make maximum profits while extracting as much coal as fast as possible.

Oversight by IDNR is supposed to "strike the balance between protection of the environment and agricultural productivity and the Nation's need for coal as a source of energy."

The nation's need for coal is a question that we all must consider. Currently, 20% of our energy comes from coal in the US according to the most recent estimate.

Coal has supplied most of our energy needs for the last 2 centuries using room and pillar mining. Federal and state mining regulations for underground mining are based on room and pillar and do not cover the impacts to communities from the supposed planned subsidence resulting from longwall mining.

I am perplexed that the State of Illinois with its oversite responsibilities, has not addressed this unjust, inequitable mandate for Montgomery County residents. Believe me, the State of Illinois has been alerted to the disastrous impacts from Deer Run Mine.

Reflecting on the past years struggling with Deer Run Mine, it is apparent to me that the coal industry has manipulated and established an aura of privilege that has dominated public policy and unduly influenced regulatory agencies.

IDNR has allowed HEL to extract coal at the lowest cost possible. No financial constraints on requiring more bonding or monitoring of water and air. There is no mandate to pay for permanent harm to land, creeks, streams, and springs. Compensation for all damage to structures must be negotiated with HEL. Why are the profits of HEL the primary consideration above the economic viability of residents. If a farmer is subjected to HEL's longwall plan, the financial outcome of the family is determined by HEL. The continuation of the family's livelihood is threatened, the family loses money, and its land value will decrease. Why is this injustice acceptable for Montgomery County residents?

The right to subside property without the owner's approval must be based on a public need, not on a private industry profit margin. IDNR must shift the paradigm to what will promote farm

communities, preserve farmland, maintain water resources, and establish rural economic development.

The 7,731.8-acre expansion of Deer Run Mine in 2021 confirmed that IDNR did not care about preserving Montgomery County's farmland or water resources. It is difficult to comprehend why an expansion of 7,731.8-acres with subsidence planned in 4 areas of Coffeen Lake, Miller Creek, Bear Cat Creek, and McDavid Branch Creek would not require additional planning to preserve the hydrologic balance. The devastating impact of subsidence on ponds, streams, wells, and springs was not assessed in a comprehensive analysis. Water in the air, water on land, and water in the ground are connected and the hydrologic balance must be preserved.

The coal privilege in Montgomery County is well documented in a handout that I am giving you tonight. Please do what you can to convert the attention from HEL's profits to preservation of a lovely rural county. I cannot image the destruction and harm that will happen when all 17 panels are longwall mined. Preserve the community rather than the coal profits.

DO NOT RENEW THE DEER RUN MINE PERMITS NOW OR EVER

Mary Ellen DeClue