

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) R14-10
COAL COMBUSTION WASTE (CCW))
SURFACE IMPOUNDMENTS AT POWER) (Rulemaking- Water)
GENERATING FACILITIES: PROPOSED)
NEW 35 ILL. ADM. CODE 841)

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S RESPONSE TO QUESTIONS POSED BY THE BOARD a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Joanne M. Olson
Joanne M. Olson
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Date: March 6, 2017

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THIS FILING IS SUBMITTED ELECTRONICALLY AND SERVED ON RECYCLED PAPER

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ILLINOIS EPA'S RESPONSE TO QUESTIONS POSED BY THE BOARD

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, ("Illinois EPA" or "Agency") by and through its counsel, and for its Response to Questions Posed by the Board, states as follows.

- 1) On January 20, 2017, the hearing officer entered an order directing the Agency to respond within 45 days to questions posed by the Illinois Pollution Control Board (Board.)
- 2) The Illinois EPA's response is attached hereto as Exhibit A.

Wherefore, the Illinois EPA respectfully submits its Responses to Questions Posed by the Board.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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EXHIBIT A

- 1) **On December 16, 2016, the President signed into law the Water Infrastructure Improvements for the Nation (WIIN) Act, Title II of which is designated as the Water and Waste Act of 2016. P.L. No. 114-322. Section 2301 specifically addresses USEPA approval of state programs for control of coal combustion residuals. *Id.* (amending Section 4005 of the Solid Waste Disposal Act (SWDA), 42 U.S.C. § 6901 et seq.).**

Is IEPA aware whether USEPA intends to propose rules to implement review and approval of state CCR programs?

Agency Response: Illinois EPA is unsure if USEPA intends to propose rules to implement review and approval of state CCR programs. USEPA indicated to Illinois EPA that it was not sure if it would approve state programs based on guidance documents, existing rules in 40 C.F.R. Part 239, or new rules. Any rules adopted by USEPA would most likely be similar to or involve a modification of Part 239. Additionally, the WIIN Act did not authorize funding for the federal program, and currently the federal program lacks funding.

If USEPA intends to propose such rules, is it appropriate for the Board to consider CCR rules pending final adoption of those rules?

Agency Response: Under the Board's procedural rules in Section 102.425, all information that is relevant and not repetitious or privileged is admissible. If a participant submits to the Board for inclusion in the rulemaking record USEPA's proposed implementation rules, the Board could consider the rules. Such rules, however, should not be given too much weight unless they are final.

Has IEPA discussed with USEPA whether its amended proposal is approvable under the revised Section 4005(d)(1) of the SWDA? If so, please comment on the results of those discussions.

Agency Response: Illinois EPA has described its amended proposal to USEPA, but has not shared its proposed language with USEPA. USEPA has not provided any comments on the Agency's amended proposal. Illinois EPA has asked USEPA about partial state program approvals and USEPA agreed to look into the issue and report back at a later date.

Revised Section 4005(d)(6) of the SWDA considers coal combustion residuals units to be sanitary landfills under specified conditions. Please comment on IEPA's rationale for proposing permitting requirements under Part 309 rather than the solid waste disposal permit requirements under Part 807 or 813.

Agency Response: Under Section 1004 of SWDA, the definition of sanitary landfill means "a facility for the disposal of solid waste which meets the criteria published" in 40 C.F.R. Part 257. 42 U.S.C. § 6903; 42 U.S.C. § 6944. Section 4004 of the SWDA authorizes USEPA to promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps. 42 U.S.C. § 6944. These criteria are found in 40 C.F.R. Part 257. At a minimum, a sanitary landfill must have no reasonable probability of adverse effects on health or the environment from disposal of solid waste. *Id.* Conversely, open dump is defined in Section 1004 of SWDA as "any facility or site where solid waste is disposed of which is not a sanitary landfill . . . and which is not a facility for disposal of hazardous waste." 42 U.S.C. § 6903.

Part 257 of Title 40 of the Code of Federal Regulations contains the regulations used to determine which solid waste disposal facilities and practices pose a reasonable probability of adverse effects on health and the environment under Section 4004 of the SWDA. 40 C.F.R. § 257.1. In Section 257.2, the definition of sanitary landfill is "a facility for the disposal of solid waste which complies with this part." Open dump is defined as a "facility for the disposal of solid waste which does not comply with this part."

The WIIN Act amended Section 4005 of the SWDA, Upgrading of Open Dumps, to add subsection (d)(6). This subsection specifies that CCR units that comply with permits issued by a federally-approved state program, permits issued by USEPA or 40 C.F.R. Part 257, are considered sanitary landfills. When the term sanitary landfill is used, it is not categorizing all CCR surface impoundments as "landfills" as that term is defined in 40 C.F.R. § 257.2 (Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile). Instead, a surface impoundment can be a "sanitary landfill," which means that it complies with Part 257, a federally-approved state permit, or a permit issued by USEPA; or it can be an open dump, which means that the facility does not comply with Part 257, a federally-approved state permit, or a permit issued by USEPA.

In Illinois, in the Environmental Protection Act (Act), the terms sanitary landfill and open dump are defined in a manner similar to the federal definitions in the SWDA and Part 257. A sanitary landfill means "a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the" SWDA. 415 ILCS 5/3.445. While surface impoundments in Illinois are considered "sanitary landfills" under the SWDA, they are not considered "sanitary landfills" under the Act because surface impoundments containing coal combustion waste (CCW) are not permitted by the Agency for the disposal of waste on land.

CCW surface impoundments are not permitted for the disposal of waste on land for two reasons. First, the definition of waste in the Act excludes industrial discharges which are point sources subject to permitting under the Clean Water Act. 415 ILCS 5/3.535. CCW surface impoundments at power generating facilities contain industrial waste water.

Discharges into the CCW surface impoundments are permitted as an industrial discharge to a wastewater treatment system (i.e. a treatment lagoon or settling pond). The discharge of effluent from these systems is then a point source discharge permitted under the Clean Water Act. Second, if a CCW surface impoundment no longer had a discharge to a water of United States permitted under the CWA and the CCW remained in the surface impoundment, the surface impoundment could arguably contain waste as defined by the Act. This waste disposal, however, would not require a permit from the Agency under Section 21(d) of the Act because all the waste was generated by the owner's activities and are stored on site. 415 ILCS 5/21(d)(1)(i). Because these surface impoundments would be exempt from permitting even if they contained waste as defined in the Act, Parts 807 and 813 do not apply.

In its amended proposal, Illinois EPA chose to regulate CCW surface impoundments in Illinois under the Board's water pollution regulations because these facilities were constructed, operated and managed throughout their operating life as a surface impoundment used for the treatment of wastewater. Under Section 12(b) of the Act, "no person shall . . . construct, install, or operate any equipment, facility vessel or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency." 415 ILCS 5/12(b). The Board's regulations in Section 309.202 further specify that no person shall cause or allow the modification of an existing treatment works without a construction permit. CCW surface impoundments are required by state law to have a Section 12(b) permit issued by the Agency before construction and during operation. The Agency believes that construction of any final capping system is a modification of the existing treatment works, and therefore also needs a construction permit. Furthermore, the continued groundwater monitoring that must be conducted through post-closure care period necessitates the need for an operating permit because these groundwater monitoring systems are designed to prevent water pollution.

The Agency further based its decision to require permitting under Section 12(b) of the Act for CCW surface impoundments because the Board has specifically declined to regulate ash ponds as landfills by excluding ash ponds from the definition of landfill. *In the Matter of: Development, Operating and Reporting Requirements for Non-Hazardous Waste Landfills*, R88-7, slip op. at 16-18 (Mar. 13, 1990). Instead, the Board included ash ponds in the definition of land application unit, which refers to the Board's water pollution permit requirements. *Id.* Moreover, the Board in *the Matter of: Petition of Ameren Energy Generating Company for Adjusted Standards from 35 Ill. Adm. Code Part 811, 814, 815*, AS09-01, slip. Op at 1 (Mar. 5, 2009), declined to regulate CCW surface impoundments as a landfill under Parts 811, 814, and 815.

What does IEPA consider the potential advantages and potential disadvantages of creating a state permit program addressing coal combustion residual units?

Agency Response: At this time, the Agency believes it would be more advantageous to move forward with its amended proposal than to create a federally-approved state permitting program under the WIIN Act. The Agency believes too much uncertainty

surrounds the federal permitting program and USEPA approval of state programs to make changes to its current proposal. Over the course of the next year or two, the Agency will be in a better position to determine the potential advantages and disadvantages of creating a state permitting program for CCR units. As time passes, the Agency will know whether the federal program will be funded, potentially subjecting facilities in Illinois to dual permitting regimens. The Agency's current proposal should not remain on hold while the federal program unfolds. The federal requirements of Part 257 are currently in place, and the Agency believes the permitting structure proposed in Part 841 will give the Agency the necessary oversight to ensure environmental protection of the State's waters as regulated entities start implementing Part 257. While the scope and nature of the federal program takes shape, the Agency plans to conduct outreach with interested stakeholders and potentially develop a path forward under the WIIN Act. Should the Agency decide to design and implement a federally-approvable state program, the Agency would do so under a separate rulemaking after all necessary legislative changes have been made.

How does this legislation and potential approval of an Illinois state program affect IEPA's view of the nature of the regulations appropriate for controlling coal combustion residuals?

Agency Response: The WIIN Act, and the potential for a federally-approved state program, do not change the Agency's view that the amended proposal is currently the best path forward for regulating surface impoundments containing CCW. The Agency's proposal is protective of the environment, provides for public participation, and allows for certainty for owners and operators of CCW surface impoundments moving forward.

- 2) **In its motion to amend its rulemaking proposal, IEPA identifies six Illinois facilities with surface impoundments that are exempt from USEPA rules: Vermilion; Meredosia; Crawford; Pearl; Venice; and Hutsonville. Mot. Amend at 5. IEPA proposes to exempt the last four of those six facilities from its amended rules. IEPA states that “[t]hese sites should be treated differently because they already have an Agency approved closure plan . . . *Id.* at 6; see *id.* at 5, n.1-4. Please clarify whether these six facilities are exempt from USEPA rules under 40 C.F.R. § 257.50(d) or (e).**

Agency Response: The facilities of Vermilion, Meredosia, Crawford and Hutsonville are exempt under 40 C.F.R. § 257.50(e), which provides: "This subpart does not apply to electric utilities or independent power procedures that have ceased producing electricity prior to October 19, 2015." The facilities of Venice and Pearl are exempt under 40 C.F.R. § 257.53 because the former impoundments no longer meet the definition of a CCR surface impoundment (i.e. they are no longer designed to hold an accumulation of ash and liquid). The former impoundments at both Venice and Pearl were closed with covers that exceed the requirements of 40 C.F.R § 257.100 prior to October 19, 2015. The Agency further notes that Crawford's CCW impoundment was closed by removal of ash prior to October 19, 2015 and Hutsonville Pond D was closed under site specific rule 35 Ill. Adm. Code 840, prior to October 19, 2015. The remaining CCW impoundments at Hutsonville were closed in 2016, with a combination of removal of ash from certain

impoundments or a cover exceeding the requirements of 40 C.F.R § 257.100. The construction quality assurance report for the Hutsonville closure plan is currently under review by the Agency.

IEPA does not propose to exempt Vermilion or Meredosia from its amended rules. See Mot. at 5. Please explain why IEPA's amended proposal does not exempt these two facilities from the proposed rules. Please provide the status of any remedial action or closure activities at any impoundments at Vermilion and Meredosia.

Agency Response: At the time the Agency's Motion to Amend was filed, closure plans had not been reviewed for either of these facilities, and therefore they were not exempt from the Agency's proposal.

No closure plan is under review for Vermilion. Corrective Action Plans and a Groundwater Management Zone ("GMZ") application, pursuant to 35 Ill. Adm. Code 620.250 (1997), were submitted to the Agency in April 2014 for the North Ash Pond and Old East Ash Pond. However, the Agency requested further information from Dynegy in September 2014 and in February 2017 concerning a number of issues, one of which is addressing the encroachment of the Middle Fork of the Vermilion River, a National Scenic Waterway, on the CCW surface impoundments at Vermilion. The encroachment became a priority at the New East Ash Pond and a River Bank Stabilization Project had to be approved and installed along a section due to accelerated erosion in 2015. The Agency believes Dynegy is working on putting together the information requested by the Agency.

Since the time that the Motion to Amend was filed, Medina Valley CoGen LLC submitted for Agency review, a closure/post closure plan for Meredosia. The Agency provided comments to the company requesting certain modifications and clarifications of the plan. The Agency believes the company is amending their plan and will submit the revisions for Agency review. If Meredosia were to commence closure before the effective date of the amended proposal under and Agency approved construction permit application, GMZ or compliance commitment agreement, the Agency's amended proposal would not apply to Meredosia.

- 3) **Since IEPA filed its original rulemaking proposal, the electric generating industry and its facilities have undergone changes in ownership, ownership structure, and financial condition including bankruptcy. Several entities that own or control CCR units in Illinois have been subject to voluntary bankruptcy proceedings, including at least one current proceeding. Some entities that own or control CCR units have financial structures that appear to insulate parent corporate entities from financial responsibility in certain instances. Environmental Groups and the Office of the Attorney General have favored rules requiring financial assurance for CCR units, particularly as the CCR units may exist after the electric generating stations they serve cease operations.**

How does IEPA understand its ability to require entities that own or operate a CCR unit to meet financial obligations concerning the closure and post-closure care of CCR units?

Agency Response: A requirement to conduct closure and post-closure care will be included within the permits issued pursuant to Part 309. A failure to complete or comply with closure or post-closure care criteria could result in referral of the potential violations to the Office of the Illinois Attorney General ("AGO") for the review of initiating a legal action against the permittee or those ultimately responsible for the failure to comply with the permit.

The rulemaking proposals before the Board address a class of facilities for which there is no clear authority for the Board to require financial assurance. All of the CCW surface impoundments of which the Agency is aware are located at the site on which the coal ash treated, is generated. The Act identifies specific types of facilities for which the Board may require financial assurance. These facilities include waste disposal operations that require a permit under Section 21(d) of the Act, certain compost sites, clean construction and demolition debris fill operations, and tire storage sites. 415 ILCS 5/21.1(a); 415 ILCS 5/22.34(a)(5); 415 ILCS 5/22.35(a)(6); 415 ILCS 5/22.51(f)(1); 415 ILCS 5/55.2(b). CCW surface impoundments are not among those facilities for which the General Assembly has authorized the Board to require financial assurance. The Illinois EPA is not aware of any instance in which the Board has required a class of facilities to maintain financial assurance absent a specific direction from the General Assembly. Accordingly, it does not appear that the authority exists to require CCW surface impoundments to maintain financial assurance as part of this rulemaking.

If the entity that owns or operates a CCR unit is unable to meet its financial obligations concerning closure and post-closure care of one or more CCR units, what steps can IEPA now take to require corporate parents to meet those financial obligations?

Agency Response: The Agency believes entities that own and operate CCW surface impoundments can be compelled to meet financial obligations when under bankruptcy. The Agency can work through the AGO and the Board to obtain closure and post closure commitments from a company. The Board would have to defer any decisions until the bankruptcy is settled, or the AGO could solicit an offer from the company contingent upon bankruptcy court approval. The AGO would also have to seek relief from a stay in order to pursue a trial if one was needed, therefore a motion to the bankruptcy court would be necessary. Any monetary judgment or expenditure of funds in any forum would require the express permission of the bankruptcy court, therefore interaction between the AGO and the bankruptcy court early in the process would give the State the best position for having environmental concerns addressed.

- 4) **IEPA met with participants on May 3, 2016 and asked participants whether state rules should require financial assurance. IEPA received comments and made minor changes to its proposed rules but maintained its position that state rules should not**

require financial assurance. Please summarize participants' comments and positions on this issue and elaborate on IEPA's position that state rules should not require financial assurance.

Agency Response: When preparing a rulemaking package, the Agency feels it should not put forth other participants' positions. The Agency is not responsible for accurately depicting other participants' policies, objectives and goals. Comments given to the Agency during outreach are for the Agency's consideration in formulating a regulatory proposal. The Agency does not want to presume that the participants' comments would be the same before the Board. Therefore, as a general matter, the Agency does not routinely report to the Board the substance of participants' comments during regulatory outreach. However, in this instance, and in response to the Board's question, the Agency includes the following summary.

During the meeting on May 3, 2016, participants were asked the three questions contained in the Board's March 17, 2016 order, including whether the state rules should require financial assurance. After the Agency announced its position that the rules should not include financial assurance, the Agency opened the floor for discussion. The participants largely agreed that whether the Board can require financial assurance is a legal issue and did not offer discussion other than they will present their positions and arguments to the Board.

After the stakeholder meeting, the Illinois Chapter of the Sierra Club asked the Agency to include financial assurances. For the reasons stated in response to Question 3 above, the Agency declined to include financial assurance in its amended proposed. The AGO requested that the Agency ask the Board for an order determining whether it has authority to require financial assurance. The Agency also declined this request because the Board will make this determination in its own course.

If state rules do not require financial assurance, do local governments such as counties, municipalities, and townships have the authority to impose such a requirement? If so, please elaborate on that authority.

Agency Response: If state rules do not require financial assurance, local governments may be able to require financial assurance to the extent not already provided for under Illinois law. To the extent financial assurance has been established as being the exclusive providence of the State, local governments would not have the authority to impose a financial assurance requirement.

Generally speaking, a home rule municipality may enact local ordinances with different requirements than state statutes, as long as the General Assembly has not expressly exercised exclusive control over the particular subject matter of the laws. *Schillerstrom Homes, Inc. v. City of Naperville*, 198 Ill. 2d 281, 287 (2001). "A home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt." Ill. Const. 1970, art. VII,

§ 6(a). If the legislature intends to limit or deny the exercise of home rule powers, the statute must contain an express statement to that effect. *Id.* at 6(h); *City of Evanston v. Create, Inc.*, 85 Ill. 2d 101, 108 (1981); citing *Stryker v. Village of Oak Park*, 62 Ill. 2d 523, 528 (1976). If the General Assembly does not expressly limit or deny home rule authority, a municipal ordinance and a state statute may operate concurrently as provided in article VII, section 6(i).

Here, the Act establishes “a unified state-wide program for environmental protection” while also recognizing an obligation “to encourage and assist local governments to adopt and implement environmental-protection programs consistent with this Act.” 415 ILCS 5/2(a)(ii), (iv) (West 2016). In addition, the Act contains select references to exclusive authority, such as the hazardous waste disposal permits and inspection fees in section 22.8(d) or the new pollution control facilities siting procedures in section 39.2(g). The Act, though, does not contain overarching or exclusive authority language providing the State with exclusive power and authority to act on financial assurance matters. There may be room for a local government to require some forms of financial assurance.

Some authority exists that suggests regulation of the environment in Illinois, may be the sole providence of the State. For example, the Illinois Constitution provides:

“The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy.” Ill. Const. 1970, art. XI, § 1.

“Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law.” *Id.* at § 2.

In some instances, this could be read to mean that only the General Assembly, and not a local government, may provide law for the implementation and enforcement of environmental protections. In dicta, and in deciding a home rule case, the Illinois Supreme Court opined that it has “intervened, however, only in cases involving environmental regulations based on specific language in the Illinois Constitution establishing the state’s supremacy in that field.” *Palm v. 2800 Lake Shore Drive Condo. Ass’n*, 2013 IL 110505, ¶ 24. Thus, to the extent a local government would craft a financial assurance requirement in a manner exclusively in terms of regulation of the environment, as already provided for by state law, the authority to do so may be limited. However, a financial assurance requirement by a local government could possibly be drafted in a way to address other, non-environmental, concerns of the local government such as public safety or economic security.

- 5) **As IEPA knows, on December 19, 2014, USEPA finalized rules for disposal of CCR from electric utilities. The rules were published in the Federal Register (80 Fed.**

Reg. 21302-21501 (Apr. 17, 2015)) and became effective on October 19, 2015 (80 Fed Reg. 37988-89 (July 2, 2015)). While USEPA “strongly encourages the states to adopt at least the federal minimum criteria into their regulations” (80 Fed. Reg. 21430 (Apr. 17, 2015)), IEPA recommends that the Board should not incorporate the federal rules into its proposed Part 841. IEPA Rpt. at 2, 7. What were the chief factors leading IEPA to this recommendation?

Agency Response: One factor in its recommendation is the Agency’s desire to be able to be more stringent than the federal rule with regard to the constituents in 40 C.F.R. Part 257, App. III. All of the Appendix III constituents with the exception of calcium have numerical groundwater quality standards in 35 Ill. Adm. Code 620, yet the federal rule requires only additional monitoring if these constituents are detected above background concentrations. The Agency prefers to be able to require remediation and/or closure under the Act and Board rules if these constituents exceed Part 620 standards. Appendix III constituents are indicative of releases from CCW impoundments and monitoring data available to the Agency indicates these constituents are the ones most commonly found to exceed their respective Part 620 standards at CCW impoundments. State rules are therefore already more strict than the federal rule so no environmental protection is gained by adopting the federal rule.

Another factor is the uncertainty surrounding the federal rule since several of its provisions have been appealed. The Agency believes that it will maintain greater flexibility and be able to accommodate any subsequent changes to the federal rule better if proposed Part 841 does not directly incorporate provisions of the federal rule, but instead obligates the Agency to, at a minimum, meet those requirements as they exist over time.

A third factor in the Agency’s recommendation is that the federal rule conflicts with certain specifics as well as some key overarching concepts of 35 Ill. Adm. Code 620, because the federal rule doesn’t recognize the existence of state specific groundwater quality standards. Part 620 has more constituents with numerical standards than the federal rule though calcium, lithium and molybdenum don’t have numerical groundwater quality standards and the radium 226 and 228 standard is higher in Part 620. Several of the federal rule Appendix III constituents, such as chloride, sulfate and total dissolved solids (“TDS”), which do not have maximum contaminant levels (“MCLs”), have groundwater standards based on constituent concentrations found in Statewide groundwater monitoring conducted pursuant to 415 ILCS 5/13.1(b) and 415 ILCS 55/7(b)(1). The Part 620 classification system recognizes that groundwater has variable uses, values, and vulnerabilities pursuant to 415 ILCS 55/8. The federal rule establishes standards which are the same in all locations and hydrogeologic settings. Under the federal rule if a constituent exceeds its background concentration but does not exceed the MCL, a notification is placed in the facilities operating record. Therefore, any constituent without an MCL (boron, calcium, chloride, pH, sulfate, total dissolved solids, cobalt, lead, lithium and molybdenum) will never initiate corrective action or closure under the federal rule. Constituents with an MCL will not initiate any type of remedial action until pollution up to the MCL has occurred. This is inconsistent with the

prevention requirements in the Illinois Groundwater Protection Act (“IGPA”) [415 ILCS 55/2(b) and 415 ILCS 55/8]. Part 620 requires that a preventive response be taken when a statistical increase over background occurs in Class I and Class III groundwaters, to prevent pollution up to the numerical groundwater standard. While Part 620 applies the term “corrective action” only when a constituent exceeds the numerical standard, Part 620 does not limit what actions may be taken as preventive responses. The same remedial activities may be used for preventive responses as would be employed under a corrective action [Section 620.310(c)]. State rules are therefore already more strict than the federal rule so no environmental protection is gained by adopting the federal rule. In fact by establishing the current minimum cover criteria for the disposal of CCR in place (two feet of soil with hydraulic conductivity of 1×10^{-5} centimeters per second) the federal rule may undermine Board rules and the Act which require that threats of water pollution (including groundwater) be prevented. The federal rule’s minimum required cover may not prevent water pollution in some hydrogeologic settings. The federal rule does not require that groundwater use for drinking water or its potential contribution to environmentally sensitive areas be considered. The federal rule’s groundwater protection standards most closely resemble Part 620 Class IV groundwater since it is groundwater associated with impoundments and landfills from which releases have or could occur. While the federal rule has stricter groundwater protection standards for certain constituents, it includes a compliance point at the waste boundary. Class IV groundwater uses existing concentrations (therefore allowing no statistical increases) and has a point of compliance 25 feet laterally and 15 feet vertically from a waste unit, similar to the zone of attenuation established by the Board under Parts 811 and 814. While the federal rule has a more restrictive point of compliance, it does not provide any space for economically achievable corrective action measures such as slurry walls or hydraulic control designed to protect groundwater while it's within the zone of anthropogenic impacts. The Board recognized this utility in Part 620 and in Parts 811-814. To avoid conflicts with the federal rule, the Agency has proposed to add the federal rules groundwater requirements to proposed Part 841.

Lastly, the IGPA (415 ILCS 55/8) requires certain criteria be met before a constituent can be proposed for a groundwater quality standard. It is unclear whether lithium could meet these criteria, since for example it is not known if lithium commonly occurs in Illinois groundwater, which is one of the criteria. While this is just one example, it is in conflict with State law that has been in use for nearly 30 years. While the Board could incorporate the federal rule into Part 841, for the reasons discussed herein, the Agency recommends against such an action as additional regulatory modification to existing Board rules and potentially the Act would be necessary to eliminate conflicts between the federal rule and State regulations.

- 6) **IEPA’s motion to amend notes that USEPA has established self-implementing requirements “that owners or operators of regulated units can implement without any interaction with regulatory officials.” 80 Fed. Reg. 21 330 (Apr. 1 7, 201 5); see Mot. Amend at 4. Please clarify whether USEPA has authority or mechanisms with which to enforce its CCR rules.**

Agency Response: The WIIN Act provides that the Administrator may use the authority provided by Section 3007 and 3008 of RCRA to enforce the prohibition on open dumping with respect to coal combustion residual units. See Section 4005(d)(4). As noted above, failure to comply with Part 257 results in a facility being an open dump.

- 7) **In their response to IEPA's motion to amend, Environmental Groups state that IEPA's proposal does not include federal reporting requirements and suggest that incorporating those requirements into Board rules will strengthen their enforcement. Please explain why IEPA has not proposed reporting requirements in its amended proposal.**

Agency Response: The Agency's motion to amend does not incorporate the entirety of the Federal rule, including the reporting requirements. The Agency has not proposed a one size fits all approach to reporting, and will determine reporting requirements through the GMZ process, and/or during the issuance of a State operating permit in accordance with 35 Ill. Adm. Code 309. A State operating permit would be the vehicle for including enforceable reporting requirements based on site specific conditions.

- 8) **In their response to IEPA's motion to amend, Environmental Groups note that IEPA's July 2014 proposal required that corrective action plans include an alternative impact analysis. Groups' Resp. at 4. Proposed Section 841.125(d)(9) of IEPA's proposal requires that a groundwater management zone application contain a "[d]escription of selected remedy and why it was chosen" (emphasis added).**

Does IEPA intend that describing the choice of a remedy encompasses assessing alternatives to the proposed remedy? If so, would IEPA consider amending its proposed Section 841.125(d)(9) to include the elements of this assessment? If not, please explain why IEPA has not proposed to require this assessment in a groundwater management zone application.

Agency Response: The Illinois EPA intended proposed Section 841.120(d)(9)(A) to require the applicant to explain the selected remedy and why it was chosen. The Agency expects the applicant to have conducted an alternatives analysis, and if the information submitted to the Agency is insufficient, the Agency will have the authority to ask for additional information under proposed Section 841.120(d)(10). The details and specifics of what must be conducted for an alternatives analysis are not included in the GMZ regulations in a Part 620. Including these details and specifics in Part 841 is not necessary because the Agency will be able to assess whether the remedy selected was appropriate based on the information contained in the GMZ application. Under its current proposal, the Agency will have the information to assess:

- the purpose and anticipated benefits of closure or corrective action;
- the surface water and ground waters affected by the proposed closure or corrective action;
- whether additional treatment will be necessary for any discharges to surface waters;

- whether CCW can be reused;
- whether closure by removal is technically feasible or economically reasonable; and
- whether additional pollution prevention measures are necessary.

One of the Agency's goals in compiling its amended proposal was to use existing regulatory mechanisms to carry out Part 257. Part 257 does not require an alternatives analysis, and the Agency does not believe it should change the current GMZ application process to include a detailed and prescriptive alternatives assessment. The proposal the Agency set forth is environmentally protective, effectuates Part 257, and upholds the purposes of the Act and the IGPA.

- 9) **In their response to IEPA's motion to amend, Environmental Groups note that IEPA's July 2014 proposal at Section 841.500(c)(3) includes 11 factors for reviewing plans for corrective action, closure, and post-closure care. Does IEPA intend to consider these factors when reviewing proposed plans under the permit provisions at Part 309? If so, please identify the authority or authorities under which it can evaluate these factors. If not, please explain why IEPA has not proposed to require consideration of these factors in its review of these plans.**

Agency Response: Yes, the Illinois EPA intends to consider the eleven factors included in Section 841.500(c)(3) of the Illinois EPA's July 2014 proposal, where applicable, in its review of GMZ, including the factors proposed by the Agency and adopted by the Board in Section 620.Appendix D in 1991, corrective action, closure and post-closure care plans. Illinois EPA intends to carefully consider the requirements contained in part 40 C.F.R. § 257.60 (Placement above uppermost aquifer), 40 C.F.R. § 257.61 (Wetlands), 40 C.F.R. § 257.62 (Fault areas), 40 C.F.R. § 257.64 (Unstable areas), 40 C.F.R. § 257.91 (Groundwater monitoring), 40 C.F.R. § 257.96 (Assessment of corrective measures), 40 C.F.R. § 257.97 (Selection of remedy), 40 C.F.R. § 257.98 (Implementation of the corrective action program), 40 C.F.R. § 257.101 (Closure or retrofit of CCR units), 40 C.F.R. § 257.102 (Criteria for conducting closure or retrofit of CCR units), and 40 C.F.R. § 257.104 (Post-closure care) as well as state requirements in 35 Ill. Adm. Code 620 Subparts C and D.

Under Section 39 of the Act, the Agency shall issue a permit if it does not cause a violation of the Act or Board's regulations. Under Section 12, no person shall "cause or threaten or allow the discharge of any contaminant into the environment in any State so as to cause or tend to cause water pollution in Illinois," or "deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard." The factors listed in the previously proposed Section 841.500(c)(3)(B) are a non-exhaustive list of factors that could result in violations of Section 12. Additionally, under the Agency's proposed Section 841.100, any permits or GMZ issued pursuant to Part 841 must be at least as stringent as Part 257. The factors in proposed Section 841.500(c)(3)(B) reflect many of requirements in Part 257. Therefore, under Section 39, the Agency must consider these things as a part of its analysis before determining the requested permit does not violate the Act or Board regulation.

- 10) **In their response to IEPA's motion to amend, Environmental Groups note IEPA's statement that state operating permits will include the minimum USEPA requirements, but they assert that the rule does not include these requirements. IEPA's stated purpose in Section 841.100 is that "[c]onstruction permits, operating permits, and groundwater management zones issued pursuant to this Part must be at least as stringent as the federal requirements found in 'Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments,' 40 C.F.R. Part 257, Subpart D." Please indicate how IEPA's amended proposal incorporates minimum USEPA requirements into a state permit.**

Agency Response: In order to implement proposed Section 841.100, the Agency will require the regulated entity to include in its construction permit application the necessary information to document compliance with location restrictions, design criteria and corrective action measures contained in 40 C.F.R. Part 257. The implementation of the Agency's amended proposal will require operating permits to include the necessary information to document compliance with the groundwater monitoring, corrective action, and post closure care requirements contained in 40 C.F.R. Part 257. Surface impoundment dam safety issues are under the jurisdiction of the Illinois Department of Natural Resources, Dam Safety Program.

- 11) **In their response to IEPA's motion to amend, Environmental Groups acknowledge that IEPA's amended proposal provides for public comment on an application for a groundwater management zone but state that "not every site will necessarily have a GMZ." Groups' Resp. at 8. IEPA anticipates that facilities will seek a groundwater management zone to obtain an alternative groundwater quality standard during corrective action and to avoid enforcement. Mot. Amend at 6-7, citing 35 Ill. Adm. Code 620.450. Please comment on any opportunities for public participation in the permitting process under IEPA's amended proposal for any facility that pursues corrective action without seeking a groundwater management zone.**

Agency Response: The Illinois EPA does not foresee a corrective action being initiated unless there is a violation of the groundwater standards in Part 620 or the proposed Section 841.115. To avoid a continuing groundwater standards violation and daily fines and penalties, it would be advantageous for facilities to obtain a GMZ.

Currently, there is not a public comment process for permits issued under Part 309 Subpart B. It is not practical to include public comments during the permitting process because the manner of corrective action or closure will have already been determined as a part of the GMZ application. Additionally, under the Act, the Agency must issue permits under Section 39 within 90 days. 415 ILCS 4/39(a). Failure to take a final action within 90 days results in the automatic issuance of the permit. The Agency will be unable to process public comment within this 90 day time frame, and to include a public comment process may result in automatic issuances of permits. Finally, including public comment process in Part 309 Subpart B permits is unprecedented.

- 12) **Please comment on how existing authorities on appealing IEPA permit determinations apply to groundwater management zone applications and construction and operating permit applications under IEPA's amended proposal.**

Agency Response: Part 105, Subpart B of the Board's rules provides the process for appeal of Agency permit decisions and other final Agency decisions. Section 105.204(a) provides:

- a) *General. If the Agency refuses to grant or grants with conditions a permit under Section 39 of the Act, the applicant may petition for a hearing before the Board to contest the decision of the Agency. [415 ILCS 5/40(a)(1)]*

and Section 105.204(f) provides:

- f) *Other Agency Final Decisions. If the Agency's final decision is to deny or to conditionally grant or approve, the person who applied for or otherwise requested the Agency decision, or the person to whom the Agency directs its final decision, may petition the Board for review of the Agency's final decision. In addition, any third party authorized by law to appeal a final decision of the Agency to the Board may file a petition for review with the Clerk.*

Based on the Board's rules, permit applicants and any person who applied for the GMZ will be able to appeal the Agency's final decision.

- 13) **In its motion to amend, IEPA states that, to align existing state standards with the USEPA rule, it proposes “changing the Class IV groundwater quality standards to match the standards in the federal rule and moving the point of compliance to the edge of the waste boundary.” Mot. Amend at 10. Executive Order 16-13 (Oct. 17, 2016) directs State agencies to ensure that new and existing regulations are up to date and coordinated to avoid conflict.**

Has IEPA determined when it intends to file a rulemaking proposal to amend these rules? If so, when does it intend to do so?

Agency Response: The Agency proposed changes to Class IV groundwater and the point of compliance in the amended proposal in proposed Section 841.115. Part 620 and proposed Section 841.115 are not currently conflicting. The Agency believes these groundwater standards are most appropriately added to Part 841, which solely regulates CCW impoundments. The federal groundwater protection standards apply to a very narrowly defined group of potential sources, that already reside within a class of groundwater (Class IV) previously defined in Part 620. To preserve the applicability of the federal groundwater protection standards to only CCW surface impoundments, the Agency has decided not to make changes to Part 620 to address 40 C.F.R. Part 257.

Section 620.250(e) refers specifically to groundwater management zones established under the Site Remediation Program at Part 740. Please comment on whether any proposed amendments to the Class IV groundwater quality standards would similarly recognize groundwater management zones approved under Part 841.

Agency Response: No. The Agency is no longer proposing to amend Part 620. Pursuant to proposed Section 841.120(c), the GMZ will be established pursuant to 35 Ill. Adm. Code 620.250 (1997).

- 14) Please provide any updated information on the current status of the consolidated appeals of the USEPA rules, Utility Solid Waste Activities Group, et al. v. USEPA, No. 15-1219 et al. (cons.) (D.C. Cir.).**

Agency Response: The appeal of the federal rule is being heard by the United States Court of Appeals for the District of Columbia; Utility Solid Waste Activities Group, et al., v. USEPA, D.C. Cir. 15-1219. Since the Agency's last status report, the Environmental and Industry Petitioners' filed reply briefs, and all final briefs were filed by September 6, 2016. The court is currently in the process of scheduling oral argument.

- 15) IEPA reported that settlement resulted in remanding for further proceedings specific provisions of USEPA rules known as the "Extension Rule" and "Remand Rule." IEPA Rpt. at 4-6. Please also provide the Board with any updated information on the current status of these further rulemaking proceedings. Does IEPA now expect that this settlement concerning the "Extension Rule" and the "Remand Rule" will cause IEPA to revise its amended proposal? If so, what revisions does IEPA expect to propose?**

Agency Response: The Extension Rule does not affect this rulemaking. The Remand Rule may result in changes to the Agency's proposal if Boron is added to Appendix IV.

- 16) Please provide any updated information on any pending federal or Illinois legislation addressing control of coal combustion residuals.**

Agency Response: Illinois EPA is not aware of any pending State or federal legislation.

- 17) **In the course of this proceeding, the Board has received detailed information on CCR facilities in Illinois, including Hearing Exhibit 14 admitted on February 27, 2014. Please provide a thorough and complete updated inventory of CCR facilities in Illinois: location including GPS and links to Google Earth; owner; entity responsible for site operation if different from owner; number of CCR surface impoundments at each facility; current and maximum volume of CCR in each CCR surface impoundment; and current status regarding corrective action or closure of each CCR surface impoundment.**

Agency Response:

Facility Site Operation/Owner Information:

Venice

Site Name / Address: Venice Energy Center, 701 Main Street, Venice, IL 62090

Owner Name / Address: Union Electric d/b/a Ameren Missouri, 1901 Chouteau Ave (MC-602), P.O. Box 66149, St. Louis, MO 63166

Hutsonville

Site Name / Address: Hutsonville Power Station, 15142 East 1900th Avenue, Hutsonville, IL 62433

Owner Name / Address: AmerenEnergy Medina Valley Cogen, LLC, 1901 Chouteau Ave (MC-602), P.O. Box 66149, St Louis, MO 63166

Meredoisa

Site Name / Address: Meredosia Power Station, 800 South Washington Street, Meredosia, IL 62665

Owner Name / Address: AmerenEnergy Medina Valley Cogen, LLC, 1901 Chouteau Ave (MC-602), P.O. Box 66149, St Louis, MO 63166

CWLP:

Site Name / Address: City Water Light and Power, 201 East Lake Shore Drive, Springfield , IL 62707

Owner Name / Address: City Water Light and Power, 201 East Lake Shore Drive, Springfield , IL 62707

Baldwin

Site Name / Address: Baldwin Energy Complex, 10901 Baldwin Rd, Baldwin, IL 62217

Owner Name / Address: Dynegy Midwest Generation, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

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Coffeen

Site Name / Address: Coffeen Power Station, 134 Cips Lane, Coffeen, IL 62017

Owner Name / Address: Illinois Power Generating Company, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Duck Creek

Site Name / Address: Duck Creek Power Station / 17751 North CILCO Road, Canton, IL 61520

Owner Name / Address: Illinois Power Generating Company, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Edwards

Site Name / Address: Edwards Power Station, 7800 South CILCO Lane, Bartonville, IL 61607

Owner Name / Address: Illinois Power Resources Generating, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Havana

Site Name / Address: Havana Power Station, 15260 N. State Route 78, Havana, IL 62644

Owner Name / Address: Dynegy Midwest Generation, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Hennepin

Site Name / Address: Hennepin Power Station, 13498 E. 800th Street, Hennepin, IL 61327

Owner Name / Address: Dynegy Midwest Generation, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Joppa

Site Name / Address: Joppa Power Station, 2100 Portland Road, Joppa, IL 62953

Owner Name / Address: Electric Energy, Inc., 1500 Eastport Plaza Drive, Collinsville, IL 62234

Kincaid

Site Name / Address: Kincaid Power Station, 199 Illinois Route 104, Kincaid, IL 62540

Owner Name / Address: Kincaid Generation, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Newton

Site Name / Address: Newton Power Station, 6725 North 500th Street, Newton, IL 62448

Owner Name / Address: Illinois Power Generating Company, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Vermilion

Site Name / Address: Vermilion Power Station (Retired) Site, 10188 East 2150 North, Oakwood, IL 61858

Owner Name / Address: Dynegy Midwest Generation, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Wood River

Site Name / Address: Wood River Power Station , #1 Chesson Lane, Alton, IL 62002

Owner Name / Address: Dynegy Midwest Generation, LLC, 1500 Eastport Plaza Drive, Collinsville, IL 62234

Grand Tower Energy Center

Site Name / Address: Grand Tower Energy Center, LLC, 1820 Power Plant Road, Grand Tower, Illinois 62924

Owner Name / Address: Main Line Generation, LLC - Grand Tower Energy Center, LLC, 24 Waterway Avenue, Suite 800, The Woodlands, TX 77380

Joliet 29

Site Name / Address: Joliet Generating Station, 1800 Channahon Road, Joliet, IL 60436

Owner Name / Address: Midwest Generation LLC, 804 Carnegie Center Princeton, NJ 08540

Powerton

Site Name / Address: Powerton Generating Station, 13082 E. Manito Road, Pekin, IL 61554

Owner Name / Address: Midwest Generation LLC, 804 Carnegie Center Princeton, NJ 08540

Waukegan

Site Name / Address: Waukegan Generating Station, 400 E. Greenwood Ave, Waukegan 60087

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Owner Name / Address: Midwest Generation LLC, 804 Carnegie Center
Princeton, NJ 08540

Will County

Site Name / Address: Will County Generating Station, 529 E. 135th St,
Romeoville, IL 60446

Owner Name / Address: Midwest Generation LLC, 804 Carnegie Center
Princeton, NJ 08540

Prairie Power

Site Name / Address: Prairie Power, Inc., P.O. Box 10 Pearl IL 62361

Owner Name / Address: Prairie Power, Inc., 3130 Pleasant Run, Springfield, IL
62711

Prairie State Generating

Site Name / Address: State Generating Company, LLC, 3872 County Highway 12
Marissa, IL 62257

Owner Name / Address: State Generating Company, LLC, 3872 County Highway
12 Marissa, IL 62257

Southern Illinois Power Cooperative

Site Name / Address: Southern Illinois Power Cooperative , 10825 Lake Of
Egypt Rd, Marion, IL 62959

Owner Name / Address: Southern Illinois Power Cooperative , 11543 Lake Of
Egypt Rd, Marion, IL 62959

Electronic Filing: Received, Clerk's Office 3/6/2017

Facility Name	NPDES Number	Latitude	Longitude	Link to Map
<u>Will County Station</u>	IL0002208	41.6403	-88.0606	https://www.google.com/maps/place/41%C2%B038'25.1%22N+88%C2%B003'38.2%22W/@41.630298,-88.058463,2712m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d41.6403!4d-88.0606?hl=en
<u>Waukegan Station</u>	IL0002259	42.3833	-87.8061	https://www.google.com/maps/place/42%C2%B022'59.9%22N+87%C2%B048'22.0%22W/@42.3830863,-87.8118647,1593m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d42.3833!4d-87.8061?hl=en
<u>Powerton</u>	IL0002232	40.5472	-89.6783	https://www.google.com/maps/place/40%C2%B032'49.9%22N+89%C2%B040'41.9%22W/@40.5439466,-89.6800458,2734m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d40.5472!4d-89.6783?hl=en89.6800458,1640m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d40.5472!4d-89.6783?hl=en
<u>Joliet 29</u>	IL0064254	41.4875	-88.1250	https://www.google.com/maps/place/41%C2%B029'15.0%22N+88%C2%B007'30.0%22W/@41.4875,-88.1271887,674m/data=!3m2!1e3!4b1!4m5!3m4!1s0x0:0x0!8m2!3d41.4875!4d-88.125?hl=en88.1271887,674m/data=!3m2!1e3!4b1!4m5!3m4!1s0x0:0x0!8m2!3d41.4875!4d-88.125?hl=en
<u>Electric Energy Inc.</u>	IL0004171	37.2111	-88.8667	https://www.google.com/maps/place/37%C2%B012'40.0%22N+88%C2%B052'00.1%22W/@37.2140713,-88.8607274,2983m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d37.2111!4d-88.8667?hl=en
<u>Baldwin Energy Cen.</u>	IL0000043	38.2050	-89.8553	https://www.google.com/maps/place/38%C2%B012'18.0%22N+89%C2%B051'19.1%22W/@38.2050042,-89.857494,736m/data=!3m2!1e3!4b1!4m5!3m4!1s0x0:0x0!8m2!3d38.205!4d-89.8553?hl=en
<u>Havana Station</u>	IL0001571	40.2800	-90.0858	https://www.google.com/maps/place/40%C2%B016'48.0%22N+90%C2%B005'08.9%22W/@40.2805424,-90.0764954,2022m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d40.28!4d-90.0858?hl=en
<u>Hennepin Station</u>	IL0001554	41.3058	-89.3017	https://www.google.com/maps/place/41%C2%B018'20.9%22N+89%C2%B018'06.1%22W/@41.3024067,-89.2965505,1179m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d41.3058!4d-89.3017?hl=en
<u>Wood River Station</u>	IL0000701	38.8717	-90.1283	https://www.google.com/maps/place/38%C2%B052'18.1%22N+90%C2%B007'41.9%22W/@38.8686522,-90.1337038,2454m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d38.8717!4d-90.1283?hl=en

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<u>Vermilion Station</u>	IL0004057	40.1853	-87.7436	https://www.google.com/maps/place/40%C2%B011'07.1%22N+87%C2%B044'37.0%22W/@40.1794589,-87.7487887,2020m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d40.1853!4d-87.7436?hl=en
<u>Newton Station</u>	IL0049191	38.9358	-88.2694	https://www.google.com/maps/place/38%C2%B056'08.9%22N+88%C2%B016'09.8%22W/@38.9359044,-88.2724625,1224m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d38.9358!4d-88.2694?hl=en
<u>Edwards Station</u>	IL0001970	40.5922	-89.6606	https://www.google.com/maps/place/40%C2%B035'31.9%22N+89%C2%B039'38.2%22W/@40.5942343,-89.6659004,2653m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d40.5922!4d-89.6606?hl=en
<u>Duck Creek Station</u>	IL0055620	40.4236	-89.9522	https://www.google.com/maps/place/40%C2%B027'38.5%22N+89%C2%B058'59.5%22W/@40.460684,-89.98538,793m/data=!3m2!1e3!4b1!4m5!3m4!1s0x0:0x0!8m2!3d40.460684!4d-89.983186?hl=en
<u>Coffeen Station</u>	IL0000108	39.0600	-89.3933	https://www.google.com/maps/place/39%C2%B003'36.0%22N+89%C2%B023'35.9%22W/@39.058969,-89.3967942,1926m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d39.06!4d-89.3933?hl=en
<u>Meredosia Station</u>	IL0000116	39.8203	-90.5725	https://www.google.com/maps/place/39%C2%B049'13.1%22N+90%C2%B034'21.0%22W/@39.8202225,-90.5699,2696m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d39.8203!4d-90.5725?hl=en
<u>Hutsonville Station</u>	IL0004120	39.1340	-87.6550	https://www.google.com/maps/place/39%C2%B008'02.4%22N+87%C2%B039'18.0%22W/@39.1304405,-87.6584617,1360m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d39.134!4d-87.655?hl=en
<u>Venice</u>	IL0000175	38.6547	-90.1727	https://www.google.com/maps/place/38%C2%B039'16.9%22N+90%C2%B010'21.7%22W/@38.6618958,-90.1765464,1624m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d38.6547!4d-90.1727?hl=en
<u>Grand Tower</u>	IL0000124	37.6517	-89.5097	https://www.google.com/maps/place/37%C2%B039'06.1%22N+89%C2%B030'34.9%22W/@37.6558658,-89.5098393,1387m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d37.6517!4d-89.5097?hl=en
<u>Kincaid Generation</u>	IL0002241	39.5894	-89.5044	https://www.google.com/maps/place/39%C2%B035'21.8%22N+89%C2%B030'15.8%22W/@39.5888522,-89.5047481,1911m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d39.5894!4d-89.5044?hl=en

<u>City Water Light and Power</u>	IL0024767	39.7603	-89.5981	https://www.google.com/maps/place/39%C2%B045'37.1%22N+89%C2%B035'53.2%22W/@39.7583857,-89.6009088,1345m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d39.7603!4d-89.5981?hl=en
<u>Prairie Power Inc.</u>	IL0036765	39.4483	-90.6133	https://www.google.com/maps/place/39%C2%B026'53.9%22N+90%C2%B036'47.9%22W/@39.4482691,-90.6159373,1354m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d39.4483!4d-90.6133?hl=en
<u>Southern Illinios Power Co-op.</u>	IL0004316	37.6250	-88.9572	https://www.google.com/maps/place/37%C2%B037'30.0%22N+88%C2%B057'25.9%22W/@37.6213812,-88.9548716,1457m/data=!3m1!1e3!4m5!3m4!1s0x0:0x0!8m2!3d37.625!4d-88.9572?hl=en

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 IPCB January 20, 2017 Question Number 17-CCR Inventory

Company / Facility	Impoundment ID	Liner Type	Maximum CCR Volume (Acre-Feet)*	Current CCR Volume (Acre-Feet)*	Approved Closure Plan	Closure Completed	Approved Post Closure Care Plan	Approved Corrective Action	Approved GMZ
Ameren									
Venice									
	N. Pond	No Liner	448	442	Yes	Yes	Yes	Yes	Yes
	S. Pond	No Liner	442	442	Yes	Yes	Yes	Yes	Yes
AmerenEnergy Medina Valley Cogen									
Hutsonville									
Facility is closed	Pond A	Synthetic	78	78	Yes	Yes	Yes	Yes	Yes
	Pond B	Synthetic	0	0	Yes	Yes	Yes	Yes	yes
	Pond C	Synthetic	0	0	Yes	Yes	Yes	Yes	yes
	Pond D	No Liner	589	589	Yes	Yes	Yes	Yes	No
	Bottom Ash	No Liner	0	0	Yes	Yes	Yes	Yes	yes
Meredosia									
Facility is closed.	Bottom Ash Pond	No Liner	186	46	No	No	No	No	No
	Fly Ash	No Liner	620	465	No	No	No	No	No
City Water Light and Power									
City Water Light and Power									
	Lake Side Pond	No Liner	824	669	No	No	No	No	No
	Dallman Pond	No Liner	930	589	No	No	No	No	No

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Company / Facility	Impoundment ID	Liner Type	Maximum CCR Volume (Acre-Feet)*	Current CCR Volume (Acre-Feet)*	Approved Closure Plan	Closure Completed	Approved Post Closure Care Plan	Approved Corrective Action	Approved GMZ
Dynergy									
Baldwin Energy Center									
	Old East Fly Ash Pond	No Liner	3,450	2,963	Yes	No	Yes	Yes	Yes
	East Fly Ash Pond	No Liner	4,300	2,218	Yes	No	Yes	Yes	Yes
	West Fly Ash Pond	No Liner	3,700	886	Yes	No	Yes	Yes	Yes
	Tertiary Pond	No Liner	60	Diminimus	No	No	No	No	No
	Secondary Pond	No Liner	18	Diminimus	No	No	No	No	No
	Bottom Ash Pond	No Liner	5,900	1,717	No	No	No	No	No
Coffeen Station									
	Ash Pond 1	No Liner	900	770	No	No	No	No	No
	Ash Pond 2	No Liner	1,650	1,300	No	No	No	No	No
	GMF Pond	Synthetic	1,150	721	No	No	No	No	No
	GMF Recycle Pond	Synthetic	470	126	No	No	No	No	No
	Landfill Runoff Pond	Synthetic	49	Diminimus	No	No	No	No	No
Duck Creek Station									
	Ash Pond No.1	No Liner	3,200	2,015	Yes	No	Yes	Yes	Yes
	Ash Pond No.2	No Liner	5,300	3,340	Yes	No	Yes	Yes	Yes
	Bottom Ash Basin	Concrete/Synthetic/Clay	18	5	No	No	No	No	No
	GMF Pond	Synthetic	1,100	700	No	No	No	No	No
	GMF Recycle Pond	Synthetic	80	Diminimus	No	No	No	No	No

Electronic Filing: Received - Clerk's Office 3/6/2017
 IPCB January 20, 2017 Question Number 17-CCR Inventory

Company / Facility	Impoundment ID	Liner Type	Maximum CCR Volume (Acre-Feet)*	Current CCR Volume (Acre-Feet)*	Approved Closure Plan	Closure Completed	Approved Post Closure Care Plan	Approved Corrective Action	Approved GMZ
Edwards Station									
	Ash Pond (Pond 1)	No Liner	3,300	3,000	No	No	No	No	No
Joppa Station									
	West (Pond 1)	No Liner	2,000	2,000	No	No	No	No	No
	East Ash Pond (Pond 2)	No Liner	8,900	2,745	No	No	No	No	No
	Landfill Runoff Pond	Synthetic	52	Diminimus	No	No	No	No	No
Havana Station									
	East Ash Pond Cell 1	Clay	All cells 4,200	All cells 3,616	No	No	No	No	No
	East Ash Pond Cell 2	Synthetic			No	No	No	No	No
	East Ash Pond Cell 3	Synthetic			No	No	No	No	No
	East Ash Pond Cell 4	Clay			No	No	No	No	No
Hennepin Station									
	Old West Ash Pond	No Liner	720	310	No	No	No	No	Yes
	Ash Pond No. 2; East	No Liner	775	435	No	No	No	No	Yes
	East Ash Pond	Synthetic	800	384	No	No	No	No	No
	East	Synthetic	80	Diminimus	No	No	No	No	No
	Pond 2 East	Synthetic	26	Diminimus	No	No	No	No	No
Kincaid Generation									
	Ash Pond	No Liner	5,600	2,400	No	No	No	No	No

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Newton Station									
	Primary Ash Pond	No Liner	31,000	13,060	No	No	No	No	No
	Secondary Ash	No Liner	104	Diminimus	No	No	No	No	No
Vermilion Site									
	North Pond Cell 1	No Liner	1,015	994	No	No	No	No	No
Facility Closed	North Pond Cell 2	No Liner	34	Diminimis	No	No	No	No	No
	Old East Pond	No Liner	735	733	No	No	No	No	No
	New East Pond C1	Clay	875	131	No	No	No	No	No
	New East Pond C2	Clay	6	Diminimis	No	No	No	No	No
Wood River Site									
Facility Closed	West Ash Pond 1	No Liner	435	410	No	No	No	No	Yes
	West Ash Pond 2W	No Liner	240	208	No	No	No	No	Yes
	West Ash Pond 2E	Synthetic	355	119	No	No	No	No	No
	West	Synthetic	60	Diminimus	No	No	No	No	No
	Primary East Ash Pond	Synthetic	550	325	No	No	No	No	No
Grand Tower									
Grand Tower	Ash Pond	No Liner	403	403	No	No	No	No	No

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Midwest Generation									
Will County Station	N. Pond	No Liner	12	12	No	No	No	No	Yes
	S. Pond 1	Synthetic	10	10	No	No	No	Yes	Yes
	S. Pond 2	Synthetic	13	7	No	No	No	Yes	Yes
	S. Pond 3	No Liner	15	4	No	No	No	No	Yes
Waukegan Station	East Pond	Synthetic	92	26	No	No	No	No	No
	West Pond	Synthetic	112	26	No	No	No	No	No
Powerton									
	Ash Basin	Synthetic	87	7				Yes	Yes
	Sec. Ash Basin	Synthetic	23	diminimus	No	No	No	Yes	Yes
	Metal Cleaning Basin	Synthetic	16	0.61	No	No	No	Yes	Yes
	Bypass Basin	Synthetic	5.2	0.07	No	No	No	Yes	Yes
	Former Ash Basin	No Liner	310	310	No	No	No	No	No
Joliet 29	Pond 1	Synthetic	38	0	No	No	No	Yes	Yes
	Pond 2	Synthetic	38	9	No	No	No	Yes	Yes
	Pond 3	Synthetic	25	diminimus	No	No	No	Yes	Yes
Prairie Power Inc.									
Prairie Power Inc.	N. Pond	No Liner	285	285	Yes	Yes		Yes	Yes
Facility is closed									

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Souther Illinois Power Cooperative									
Southern Illinois Power Co-op	Pond 1	No Liner	9	3	No	No	No	No	No
	Pond 2	No Liner	15	0	No	No	No	No	No
	Pond 4	No Liner	55	Diminimus	No	No	No	No	No
	Pond A-1	No Liner	32	0	No	No	No	No	No
	Pond B-3	No Liner	45	0	No	No	No	No	No
	South Fly Ash Pond	No Liner	103	Diminimus	No	No	No	No	No
	Pond 3	No Liner	20	Diminimus	No	No	No	No	No
	Pond 3A	No Liner	19	3	No	No	No	No	No
* Estimated Values									
1 Acre Foot is equivalent to 328,851 Gallons									
Note: Paraire State Genration and Joliet Generating Station operate onsite landfills under 35 Il. Adm.Code 815 to dispose of CCR.									

CERTIFICATE OF SERVICE

Joanne M. Olson, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING, and ILLINOIS EPA'S RESPONSE TO QUESTIONS POSED BY THE BOARD, upon persons listed on the Service List, by placing a true copy in an envelope duly addressed bearing proper first class postage in the United States mail at Springfield, Illinois on March 6, 2017, or by sending an email from my email account (joanne.olson@illinois.gov) to the email addresses designated below with the following attached as a 33 PDF document in an e-mail transmission on or before 5:00 pm on March 6, 2017.

By: /s/Joanne M. Olson

THIS FILING IS SUBMITTED ELECTRONICALLY AND SERVED ON RECYCLED PAPER

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