

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF MIDWEST) AS 19-1
GENERATION, LLC FOR AN) (Adjusted Standard – RCRA)
ADJUSTED STANDARD FROM 35 ILL.)
ADM. CODE PARTS 811 AND 814)

NOTICE OF FILING

To:

Don Brown, Clerk of the Board Illinois Pollution Control Board James R. Thompson Center, Suite 11-500 100 W. Randolph Street Chicago, IL 60601 don.brown@illinois.gov	Michelle M. Ryan, Assistant Counsel Illinois Environmental Protection Agency 1021 N. Grand Avenue East P.O. Box 19276 Springfield, IL 62794 michelle.ryan@illinois.gov
Bradley P. Halloran, Hearing Officer Illinois Pollution Control Board 100 West Randolph Street Suite 11-500 Chicago, IL 60601 brad.halloran@illinois.gov	Jennifer Cassel Earthjustice 1010 Lake Street, Suite 200 Oak Park, IL 60301 jcassel@earthjustice.org

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board Petitioner, Midwest Generation, LLC's Status Report, a copy of which is herewith served upon you.

Dated: December 2, 2019

MIDWEST GENERATION, LLC



By: _____

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing and Midwest Generation, LLC's Status Report was electronically filed on December 2, 2019 with the following:

Don Brown, Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601
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and that a true copy was emailed on December 2, 2019 to the parties listed on the above foregoing Service List.

Dated: December 2, 2019



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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

**PETITION OF MIDWEST GENERATION
FOR AN ADJUSTED
STANDARD FROM 35 ILL. ADM. CODE
PARTS 811 and 814**

**AS 19-1
(Adjusted Standard-RCRA)**

MIDWEST GENERATION, LLC'S STATUS REPORT

Petitioner, Midwest Generation, LLC ("Respondent" or "MWGen"), by its undersigned counsel, respectfully provides this status report to the Hearing Officer and the Illinois Pollution Control Board ("Board") regarding recent activities in this matter pursuant to the Board's October 3, 2019 Order granting a stay. MWG provides as follows:

1. On February 5, 2019, MWGen filed a petition for a revision to its existing adjusted standard. *In the Matter of Petition of Midwest Generation for an Adjusted Standard from 35 Ill. Adm. Code Parts 811 and 814*, PCB AS 19-1, Petition (Feb. 5, 2019). MWGen's Petition requested that the Board revise a condition of its existing adjusted standard. On March 25, 2019, Illinois EPA filed its recommendation that the Board grant the revision to the adjusted standard.

2. On July 30, 2019, Public Act 101-171 was enacted, which amended the Illinois Environmental Protection Act ("Act") and added new sections regarding the regulation, management, and permitting of coal combustion residual ("CCR") and CCR surface impoundments. 2019 ILL. ALS 171, 2019 Ill. Laws 171, 2019 ILL. P.A. 171, 2019 Ill. SB 9.

3. On September 27, 2019, MWGen sought a stay for sixty (60) days of any action of the Board in this matter in consideration of Public Act 101-171, and the Illinois EPA did not object to the request.

4. On October 3, 2019, the Board granted MWGen's request and ordered that a status be filed on December 2, 2019.

5. The statutory and regulatory landscape for CCR and CCR surface impoundments in Illinois continues to evolve. On November 14, 2019, the Illinois Senate passed an amendment to Public Act 101-171, SB-0671 "EPA-CCR SURFACE IMPOUNDMENT," which made various changes to the application of Public Act 101-171 and added new permitting requirements. The amendments to Public Act 101-171 have moved to the Illinois House of Representatives for the 2020 legislative session. Illinois EPA is also drafting the regulations of CCR and CCR surface impoundments pursuant to Public 101-171. MWGen prepared comments to the Illinois EPA and also was an active participant in the Illinois EPA's listening sessions regarding the CCR regulations. Illinois EPA must submit its proposal for the CCR regulations to the Board on or before March 30, 2020, and it is MWGen's understanding that Illinois EPA will issue a draft of the regulations before its submittal to the Board.

6. MWG is continuing to evaluate the impacts of Public Act 101-171 and the proposed amendments to Public Act 101-171 on the operation and closure of the Lincoln Stone Quarry. MWGen is also monitoring the status of Illinois EPA's preparation of the CCR regulations, and will evaluate the potential application and impacts of the proposed regulations upon their issuance. Moreover, MWGen continues to engage in discussions with Illinois EPA concerning issues related to the applicability and interpretation of the CCR statutes and regulations as applied to the Lincoln Stone Quarry.

7. Because the statutory and regulatory requirements are still evolving, MWGen has consulted with Illinois EPA regarding the status of this matter. Concurrent with this status report,

MWGen has filed a motion for a continuance of the stay, and Illinois EPA does not object to the motion.

Respectfully submitted,
Midwest Generation, LLC



By: _____
One of its Attorneys

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