

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 <a href="mailto:don.brown@illinois.gov">don.brown@illinois.gov</a>	Michelle M. Ryan, Assistant Counsel Illinois Environmental Protection Agency 1021 N. Grand Avenue East P.O. Box 19276 Springfield, IL 62794 <a href="mailto:michelle.ryan@illinois.gov">michelle.ryan@illinois.gov</a>
Bradley P. Halloran, Hearing Officer Illinois Pollution Control Board 100 West Randolph Street Suite 11-500 Chicago, IL 60601 <a href="mailto:brad.halloran@illinois.gov">brad.halloran@illinois.gov</a>	Jennifer Cassel Earthjustice 1010 Lake Street, Suite 200 Oak Park, IL 60301 <a href="mailto:jcassel@earthjustice.org">jcassel@earthjustice.org</a>

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: February 3, 2020

MIDWEST GENERATION, LLC



By: \_\_\_\_\_

Kristen L. Gale  
 Susan M. Franzetti  
 NIJMAN FRANZETTI LLP  
 10 South LaSalle Street Suite 3600  
 Chicago, IL 60603  
 (312) 251-5255

**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 February 3, 2020 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  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

and that a true copy was emailed on February 3, 2020 to the parties listed on the above foregoing Service List.

Dated: February 3, 2020



---

Kristen L. Gale  
Susan M. Franzetti  
Nijman Franzetti LLP  
10 S. LaSalle Street, Suite 3600  
Chicago, IL 60603  
(312) 251-5255

**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 December 5, 2019 Order granting a stay. MWGen 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 ("P.A.") 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 P.A. 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. On December 2, 2019, MWGen filed a status report pursuant to the Board's Order. In that status report, MWGen reported that the statutory and regulatory landscape for CCR and CCR surface impoundments in Illinois was evolving. Specifically, that the Illinois Senate had passed an amendment to P.A. 101-171, (SB-0671 - "EPA-CCR SURFACE IMPOUNDMENT") that was pending with the Illinois House of Representatives for the 2020 legislative session, and also that Illinois EPA was in the process of drafting the underlying CCR regulations. Concurrent with its status report, MWGen also filed a request for an additional sixty (60) days of any action by the Board and the Illinois EPA did not object to the request.

6. On December 5, 2019, the Board granted MWGen's request and ordered that a status be filed on February 5, 2020.

7. Since the December 2, 2019 status report, SB-0671, the amendment to P.A. 101-171, has been presented in the Illinois House of Representatives. On January 8, 2020, the Illinois House of Representatives referred SB-0671 to the Rules Committee. Additionally, Illinois EPA issued a draft of its proposed regulations of CCR and CCR surface impoundments requesting comments. MWGen prepared comments on draft CCR regulations and submitted the comments to the Illinois EPA. Illinois EPA will submit its proposal for the CCR regulations to the Board on or before March 30, 2020, and MWGen intends on being an active participant in the rulemaking process.

8. MWGen is continuing to evaluate the impacts of Public Act 101-171, the proposed amendment to Public Act 101-171, and the draft CCR regulations on the operation and closure of the Lincoln Stone Quarry. MWGen also 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.

9. 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

Kristen L. Gale  
Susan M. Franzetti  
Nijman Franzetti LLP  
10 S. LaSalle St, Suite 3600  
Chicago, Illinois 60603  
(312) 262-5524  
[kg@nijmanfranzetti.com](mailto:kg@nijmanfranzetti.com)  
[sf@nijmanfranzetti.com](mailto:sf@nijmanfranzetti.com)