

ILLINOIS POLLUTION CONTROL BOARD
July 22, 2021

MIDWEST GENERATION, LLC,)
)
 Petitioner,)
)
 v.) PCB 21-108
) (Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

HEARING OFFICER ORDER

The parties are advised that the Board may ask the following questions at hearing.

Petition Requirements (35 Ill. Adm. Code 204.104)

1. Section 104.204(b)(1) requires the petitioner to provide the location of the facility and area affected. Midwest Generation (MWG) has provided the general location, but not an address for the Will County Station. Please provide the address of the Will County Station. Also, please describe the area impacted by the facility, including locations of any potable wells, surface waters and groundwater.
2. Section 104.204(b)(2) requires the location of the nearest air monitoring station. The Agency notes that this requirement is not applicable in this matter. Please comment on whether location of air monitoring station has any bearing on measuring the impact of fugitive dust emissions from the facility.
3. Section 104.204(b)(8) requires the nature and amount of emissions, discharges, or releases of the constituent in question currently generated by the petitioner's activity. MWG states that dewatering systems have been installed at both Ponds 1N and 1S to prevent the ponds from accumulating liquids exceeding a depth of one foot above the bottom of the ponds. Pet. at 8. Please provide the volume of liquids held in the ponds based on the 1-foot depth. Also provide the annual amounts of liquids drained from the ponds to the Station's wastewater treatment plant.

IEPA Recommendation/ MWG Response

4. IEPA states that it "considers Petitioner's requested time extension to submit the initial operating permit application to be unnecessary based on its interpretation of 35 Ill. Adm. Code §845.230(d)(1) and §845.230(d)(2)." Rec. at 13-14. In response, MWG disagrees noting "Section 845.230(d)(2)(I)(iii) requires a groundwater sampling and analysis

program that includes selection of the statistical procedures for evaluating the groundwater monitoring data under Section 845.640.” MWG Resp. at 2.

- a. Please clarify whether statistical procedures for evaluating groundwater data is selected only after data collection is completed.
 - b. Please comment on whether the statistical procedures could be chosen on the basis of existing groundwater monitoring data.
 - c. Please provide citation to IEPA’s CCR rulemaking testimony stating that the groundwater monitoring data and statistical procedures must be submitted with the operating permit.
5. While noting that Ponds 1N and 1S may be contributing to groundwater contamination, IEPA states, “choosing the higher Category 4 and respective construction permit application submission date would be conservative, but appropriately protective, especially considering the location of the CCR surface impoundments within the groundwater table.” IEPA Rec. at 19. In response, MWG states, “until sufficient groundwater data is collected, the ponds cannot be categorized as either Category 4 (inactive ponds with groundwater exceedances) or Category 6 (inactive ponds without groundwater exceedances). MWG Rep. at 4.
- a. If the Ponds 1N and 1S are initially designated as Category 4, as recommended by IEPA, please comment on whether the CCR rules under Part 845 would allow MWG to redesignate the ponds as Category 6 if new data supports such redesignation at later date.
 - b. If so, comment on any adverse implications of such redesignation would have on the closure of the MCB as well as on MWG.
6. In response to IEPA’s statements regarding designation of Ponds 1N and 1S noted above, MWG states, “there is no harm caused by waiting a mere five months to collect the requisite data to accurately identify the Category designation for the basins. MWG Resp. at 5.
- d. Please clarify whether causation of “harm” in the above statement refers to any adverse environmental impact due to extension of the deadline to designate the closure priority category of the ponds.
 - e. IEPA’s recommendation indicates exceedances of Class I groundwater quality standards for boron, chloride sulfate and TDS in certain monitoring wells downgradient of the ponds. Rec. at 10. Please comment on any implications of

extending the deadline for submitting construction permit application on mitigating potential groundwater impacts.

7. In response to IEPA's concerns regarding the completion of the location restriction demonstration by October 30, 2021 in compliance with Section 845.230 and Subpart C, MWG states, "First, there is no evidence that MWG will not do so. Second, in its variance petition, MWG is not requesting any relief from the substantive location restriction requirements and hence, this issue is not relevant to the requested variance." MWG Resp. at 5.
 - a. Please clarify if MWG plans to submit the location restriction demonstration along with the initial operating permit application on the proposed deadline of March 31, 2022.
 - b. If not, please comment on whether additional relief from Section 845.700(d)(1) would be necessary.

IT IS SO ORDERED.



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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on July 22, 2021, to each of the person on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on July 22, 2021:

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