ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
PETITION OF SOUTHERN	)	
ILLINOIS POWER COOPERATIVE	)	
FOR AN ADJUSTED STANDARD	)	AS 21-6
FROM 35 ILL. ADMIN. CODE	)	(Adjusted Standard)
PART 845 OR, IN THE	)	
ALTERNATIVE, A FINDING OF	)	
INAPPLICABILITY	)	

DAY ONE -- JUNE 10, 2025
(Pages 1 - 220)

Proceedings held on June 10, 2025, commencing at 9:59 a.m., at the Market Street Hall, 310 North Market Street, Marion, Illinois, before Carol Webb, Hearing Officer.

Reported By: Karen Waugh, CSR, RPR
CSR License No: 084-003688

APPEARANCES

Board Staff Members present:

Essence Brown, Technical Unit

ARENTFOX SCHIFF LLP
BY: Ms. Sarah L. Lode
233 South Wacker Drive, Suite 7100
Chicago, IL 60606
On behalf of the Petitioner, SIPC

BY: Ms. Bina Joshi
233 South Wacker Drive, Suite 7100
Chicago, IL 60606
On behalf of the Petitioner, SIPC

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: Mr. Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62794-9276
On behalf of the Illinois EPA
BY: Ms. Rebecca Strauss
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, IL 62794-9276
On behalf of the Illinois EPA

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PROCEEDINGS

(June 10, 2025; 9:59 a.m.)

HEARING OFFICER WEBB: Good morning. My name is Carol Webb, and this is the hearing for AS 21-6, Petition of Southern Illinois Power Cooperative for an Adjusted Standard from 35 Illinois Administrative Code 845 or, in the Alternative, a Finding of Inapplicability for the Marion Generating Station in Williamson County. Joining me today is Board Scientist Essence Brown.

It is June 10th. We are beginning at 10 a.m. The Pollution Control Board members will make the final decision in this case. My purpose is to conduct the hearing in a neutral and orderly manner so that we have a clear record of the proceedings. This hearing was noticed pursuant to the Act and the Board's rules and will be conducted pursuant to Sections 101.600 through 101.632 and 104.422 of the Board's procedural rules.

At this time I would like to ask the parties to please make their appearances on the record.

MS. JOSHI: Bina Joshi of ArentFox Schiff here on behalf of Southern Illinois Power Cooperative.

MS. LODE: Sarah Lode of ArentFox Schiff

here on behalf of Southern Illinois Power Cooperative.

MR. NEIBERGALL: Gabe Neibergall on behalf of Illinois EPA.

MS. STRAUSS: Rebecca Strauss on behalf of Illinois EPA.

HEARING OFFICER WEBB: All right. Thank you. We will begin this hearing with some public comment. If you are unable to finish your comment during the time allowed, you may submit written public comment to the board clerk, Don Brown, in the Chicago office by June 30th. That deadline assumes that we finish on Thursday. If we do not finish on Thursday, that deadline will be extended.

Written public comment carries the same weight as oral comment, and I will reserve the right to limit comment period this morning and add some time tomorrow morning if we need it. So I'd like to maybe have you come up in groups of three so we can keep things moving. We'll start with Mr. Carson, and after Mr. Carson we'll do Mr. Logan and Mr. Marlo, if you'd please line up and speak at that microphone in front there. And please state your name before you begin speaking, and spell it if it's not common.

MR. CARSON: Good morning. My name is Phil

Carson, C-A-R-S-O-N, and I stand here before you this morning -- these -- the experts will come later. I'm not an expert. I will speak to you as a pastor of a church up in Nashville, Illinois, Washington County, Illinois, and I myself am a member of Tri-County Electric, which is part of the Southern Illinois Power footprint. We receive our power from them. A number of my parishioners are also a part of Tri-County Cooperative as well, and what I want to state is my concern with regard to what's going on here. Every time there is -- there are moves made, they have implications on bills that are paid, and I know that some of my parishioners struggle with that. I know that Southern Illinois Power covers six of the poorest counties in the state of Illinois. Those issues, these things matter economically. We are for environmental, but we want to balance that with the economic as well. I would ask you to consider that, if you would.

As I say, I'm a pastor so I'm speaking as a citizen, and I would ask you to listen to what SIPC will prepare. I think there are millions of dollars, as I understand it, on the table, and all of those ultimately will flow back to us in terms of pricing on the bill. So I thank you for the opportunity to speak and for your

attention here today. Thank you.

HEARING OFFICER WEBB: Thank you, sir. Mr. Logan? Please state your name and spell it for the court reporter.

MR. LOGAN: My name is Kevin Logan, and last name L-O-G-A-N. I'm the -- I'm a member, owner, consumer of power from Clay Electric, which is in northwest -- north of here. I live in the northwest corner of Clay County. I'm a retired farmer. My son took over the farm, has a lot of equipment on the farm that runs on electricity, grain bins, dryers, shop equipment, a house. Of course our homes are just as modern as homes in town.

But coming back up a little bit here in time, maybe you don't quite understand electric co-ops, but co-ops were built back in the '30s -- actually, FDR, Franklin Delano Roosevelt, passed the New Deal back in 1936, signed the bill into law with the REA, Rural Electrification Act, which allowed the USDA to loan money to electric co-ops to build co-ops in rural areas because they were left behind. Cities and towns received electricity back in 1900 or in that time period. 1936, nobody in the rural areas had electricity, so they built co-ops.

And so Clay Electric is a small -- smallest co-op

in the state, and I'm a member of that, buy power from them. I've been on their lines since I was born. 69 years old. I've been a member of them since I got married 51 years ago, and so I don't have any other choices. There's -- If I don't buy power from a co-op in my area, there's nothing -- it'd be like go off the grid and I'm going to buy a diesel generator to run my power, which is going to pollute the air more than a power plant would. So that's beside the point.

But anyway, I buy power from Clay Electric and been a member of those, a consumer for 51 years, and so my power bill will be affected by any actions that is taken that will cause the power plants out in Marion here more money. It's going to come right out of this wallet right here to pay that fine or whatever costs they have to pay to meet the standards that's being asked for, so I'm the one that's going to pay the bill here, folks. I'm the -- You're looking at the grassroots of the co-op world, and we pay the bills, so whatever bills you charge them, they pass it on, we pay for it, because it's a non-for-profit organization. That's why co-ops exist, because nobody else would come to Clay Electric to put power in our area. It wasn't profitable. So when you have three meters per mile of line, somebody has to pay

for that, and low-interest loans from --

HEARING OFFICER WEBB: Could you wrap it up, please?

MR. LOGAN: I can. That's how things happen with electric co-op. So anyway, appreciate your time. Thank you.

HEARING OFFICER WEBB: Thank you. Mr. Marlo, and next up will be Mr. Steger, Ms. Sullivan and Mr. Rehn, if you'd like to move forward.

Please state your name and spell it for the court reporter.

MR. MARLO: Hi. My name is Tim Marlo, M-A-R-L-O, and thank you for letting me have this moment to speak with you as well. I am a professor. I'm a CPA PhD over at Southern Illinois University, and I'm taking time out right now because I'm very concerned about what's going on in this area. I'm not sure, but -- if you're aware, but in this area, Williamson County, this last year our property taxes increased 20 percent in this area alone. This area is depressed in terms of monetary support, and as was said earlier, this will be passed along to the citizens of this area.

Whenever I looked at what was going on -- I really first of all want to say I really appreciate what

the Illinois EPA does. I truly appreciate what you guys do, but by not having a minimis in this situation, it's creating situations where we are having to basically front pay for that lack of information, and that's what we have going on here. The costs that are basically going to be passed to us, I quite honestly am quite afraid for this area's low-income parts. And what I'm also really concerned about is seeing what's happening on, like, the federal government with what they're doing with the EPA. I'm afraid if you guys make this overreach, it's going to happen to you guys as well, and basically we won't be able to cover some items that really need to be covered because we're worried about ponds that have de minimis CCR. So that was my comments, and I really appreciate your time. Thank you.

HEARING OFFICER WEBB: Thank you.

Mr. Steger, please state your name and spell it for the court reporter.

MR. STEGER: Yeah, good morning. I'm Rick Steger, S-T-E-G-E-R. Yeah, I'm a concerned citizen really committed to protecting the environment and public health. I'm here to urge the Board to deny SIPC's petition for adjusted standards that would exempt eight coal ash ponds at the Marion plant from complying with

Illinois' coal ash rules. A final rule was finalized in 2021. These rules were put into effect to save our water, our air and our communities from the well-documented dangers of coal ash emissions. Allowing SIPC to sidestep these intentionally sets a dangerous precedent. The fact that simply filing a petition has allowed these ash ponds to remain out of compliance is already troubling. Granting a permanent exemption would only worsen the risk of environmental damage and send a message that communities can avoid accountability.

This issue also has a personal interest to me. My family and I have friends that live on the Lake of Egypt and we often spend time with them, enjoying the water and the natural beauty of the area. The fact that these ash ponds are located on the lake is really ridiculous. It's a threat to the health of the lake, the people who live and recreate there and the general ecosystem. As you all realize probably, coal ash contains a lot of harmful substances, like arsenic, lead and mercury, which will leach into the groundwater and the surface water, threatening both the environment and human health. So we must not allow short-term convenience for a single operator to evade or override long-term protection for the entire community.

The Board has a responsibility to enforce the rules as written and to ensure that all facilities, including those operated by SIPC, honor safety and environmental standards. Please do the right thing. Deny SIPC's petition and require full compliance with Illinois coal ash regulations. Our health, our environment and future may need to depend on it. Thank you.

HEARING OFFICER WEBB: Thank you.

Miss Sullivan, can we -- this is the most important woman who has to hear what you're saying, so please speak into the microphone, and if you could maybe face this way, that would help a lot. Thank you. Thank you. Go ahead. Please spell your name for the court reporter.

MS. SULLIVAN: As the gentleman before me, I am a retired college --

HEARING OFFICER WEBB: Could you please state and spell your name?

MS. SULLIVAN: My name is Sherry Sullivan, and like I said, I'm a retired college professor, and I am a resident of Lake of Egypt. I have four adjacent lots there, two of them are waterfront lots, so obviously I'm part of the Southern Illinois Power Cooperative,

because that's, you know, our source of electricity and so forth. So just by virtue of living at the lake, I'm a part of this cooperative.

I can remember when I first moved there to Lake of Egypt in 2006. I was more concerned about the smoke that was coming out of the stacks there, because they had all coal generators at that time, and I was thinking at the time, wow, I'm glad I don't live up here, I live down in Johnson County at the other end of the lake, and I was thinking that. But now, with the recent finding out that there -- the coal ash ponds, the eight of them that have been exempted for I guess three different times now or twice and they're trying to get it exempted for the third time, is leaking into the groundwater, and so it doesn't matter that I live down in Johnson County at the other end of the lake, because if that groundwater is leaking into the lake, it's affecting how -- you know, what I drink, how I bathe, what I cook with and so forth, so it's very concerning to me. I did think at the time that I thought it was strange that the power cooperative cooled their burnt coal in a pond next to the power plant, but like I said, I didn't think too much of it because I didn't live there. I'm trying to keep this to three minutes, because, like I said, I'm a college

professor.

Okay. So why do we need regulation of these coal ash ponds? I think the gentleman before me had something to say about that, but as I've learned more about these ponds, I found out that the water in the entire lake can be polluted by this groundwater that flows into it. Coal ash has serious contaminants in it. It has contaminants such as chromium, cadmium, mercury, arsenic, boron and more, and so it requires very strict monitoring of these coal ponds to make sure that they're not leaking, and we get annual reports about, you know, their monitoring, and what I found out is that there are some very high levels of some of these contaminants, not -- supposedly not more than what the Illinois Environmental Protection Agency allows, but they -- it is a -- still concerning.

HEARING OFFICER WEBB: Can you sum it up, ma'am?

MS. SULLIVAN: Okay. So in conclusion, I think that these eight ponds should be closed down according to state law, and I very much am in favor of endorsing that, that they do be required to shut these eight coal ponds down.

HEARING OFFICER WEBB: Okay. Thank you very much. Mr. Rehn, and next three will be Miss Linsin,

Mr. Whitecotton and Jane -- I'm sorry, I can't quite make out your last name. You will be the next three if you want to move up.

Mr. Rehn, would you go ahead and state and spell your name?

MR. REHN: Andrew Rehn, R-E-H-N. I'm the Director of Climate Policy at Prairie Rivers Network, and Prairie Rivers has members that live near and recreate on the Lake of Egypt. I want to say thank you for holding this opportunity for public comment. We have already submitted comments written with Earthjustice and Sierra Club that have a lot more detail, but I just want to add some quick highlights here of what we're all discussing.

Illinois' Part 845 coal ash rules provide critical protections for our health and the environment. They provide a clear process for the safe operation and closure of coal ash impoundments, and operating permits include review and approval of groundwater monitoring plan, which is critical for the identification and correction of pollution. Without an operating permit, we are unable to understand the full scope of harms caused by the coal ash impoundments in the Marion coal plant.

It's clear that Part 845 rules should apply here. The evidence as laid out by the Illinois EPA in the

docket shows that the impoundments contain more than a negligible amount of coal ash. The Illinois state legislature has made it clear that the rules should apply to inactive coal ash ponds from which water has already been drained out, and whether the ponds here receive indirectly, temporary or intermittent ash doesn't matter. Likewise, whether or not any of the ash ponds at SIPC were formally regulated as landfills does not matter. What matters is that these ponds meet the definition -- the Board's definition of a CCR surface impoundment, and they do.

So these ponds are covered under 845. They're actively harming the environment. That harm grows as long as the adjusted standard proceeding continues, so please deny the adjusted standard. Thank you for your time.

HEARING OFFICER WEBB: Thank you.

Miss Linsin? Would you please spell your name for the court reporter?

MS. LINSIN: I sure will. I am Linda Linsin, L-I-N-S-I-N. I'm a concerned citizen of Marion, Illinois. I'm concerned for my daughter and son-in-law, who own property here. I'm concerned for my son, his wife and three daughters, who own property here. I'm

concerned for my golden retriever, who loves to swim in the waterways of Marion.

As citizens of this community, we pay taxes and follow rules that are in place to protect us. I feel that it is imperative that the Southern Illinois Power Cooperative comply with the Illinois coal ash rules as the Marion -- at the Marion coal plant. The rules should be applied to all eight of the coal ash ponds in question. These ponds meet the definition of coal combustion residual surface impoundment under Illinois law. The Illinois Environmental Protection Agency agrees that these ponds meet this definition. The IEPA has explained that the ponds are likely holding a lot of coal ash and have not been closed in accordance with Illinois law. Coal ash at the SIPC Marion coal plant is polluting groundwater. SIPC's own monitoring shows that its coal ash ponds are polluting groundwater with antimony, arsenic, beryllium, boron, cadmium, chloride, cobalt, lead, sulphate, thallium and total dissolved solids.

My family and friends swim in the Lake of Egypt. I don't want my three beautiful granddaughters to be exposed to toxins while swimming and enjoying water sports at the Lake of Egypt. My friends and I kayak and paddleboard on the Lake of Egypt. As a citizen, I

deserve clean drinking, cooking and bathing water. Are these toxins going to leach into that supply as well?

I implore you, the Illinois Pollution Control Board, to deny SIPC's request to exempt eight of its coal ash ponds at the Marion coal plant from complying with regulations to clean up the pond. Respectfully, I thank you for your time.

HEARING OFFICER WEBB: Thank you.

Mr. Whitecotton? Also coming up -- oh, we've -- Jane, Lucia and Steve, you will be the next group, so --

MR. WHITECOTTON: Hi.

HEARING OFFICER WEBB: Hi. Go ahead and spell your --

MR. WHITECOTTON: Rick Whitecotton, W-H-I-T-E-C-O-T-T-O-N. I live about three miles from that main plant on Lake of Egypt Road. I live right off of Lake of Egypt Road. I get my water from the Lake of Egypt and I get my power from the power company. I appreciate that. I have some questions -- I should say this. I retired from a major utility, DTE Energy, so that's same thing as Ameren up in the Detroit, Michigan, area. So I've worked in both the fossil side, the nuclear side and the gas side.

So at any rate, I have questions about your

monitoring, about the levels of contamination. So I read in the report that it measures from de minimis to negligible or non-existent in certain ponds, but we have eight ponds. I would really like to know what de minimis means. You know, it's a term, it's a legal term, but is it really below all levels? I'd just like to know quantitatively what that means and what happens at that level or what happens above that level. How often do we monitor for this level of contaminants that are in the ash ponds? Are there measures in place if there were to be an escape from the ash ponds such that we mitigate them in some fashion immediately, inform the public? I'm seeking transparency. What is the risk to the area, how far around the area is this risk pattern, and what would we as a public do to respond to that? Thank you very much.

HEARING OFFICER WEBB: Thank you.

Jane -- I'm sorry. I'm not sure what your last name --

MS. COGIE: C-O-G-I-E, Cogie.

HEARING OFFICER WEBB: C-O-G-I-E?

MS. COGIE: Yes, Jane Cogie.

HEARING OFFICER WEBB: Okay. Thank you. Go ahead.

MS. COGIE: Yeah. Thank you very much, Illinois Control Board, for this time to comment on the Illinois Power Cooperative's petition to exempt eight of its coal ash ponds from the Illinois coal ash rules. In my comments this morning I'm asking the Board to deny this petition by SIPC. Illinois coal ash rules must apply here. Indeed, SIPC needs to be held to the standards set from the rules, and I did list some of them, but I think you probably know some of the things that are in there, so I'll skip that.

SIPC has argued, as I understand it -- I'm not a scientist, but I have read a fair amount about this -- that these coal ash ponds should be exempt because some of them are already closed and because they hold de minimis -- and that's been brought up recently, of course, too -- amounts of coal ash. Yet as I understand it, the -- some of the IEPA findings, again, as I understand it, have called these arguments to some extent into question. Coal ash ponds haven't been closed as far as I can tell from what I've read. All of them have been assessed as holding at least a significant amount of coal ash, and according to SIPC's own findings, these ponds have been found to some extent to be contaminating groundwater with toxic pollution, arsenic, boron and

cadmium, among others.

I'm citing these facts -- they've been cited already -- because they make clear the certainty of harm to public health that would result should SIPC's exemption be granted, and some of the folks who live closer have cited their concerns about the health and just being close to that water, drinking it, recreating in it. Any contamination of water from toxic coal ash should not be permitted, but that's especially true for the Lake of Egypt. It's a public water source and a destination for family outings and tourism. Families have a right to know if their drinking water or lakes were -- where their children swim are toxic and harmful to their health, and that's, again, transparency, and how is transparency going to be brought forward if there's no monitoring? And monitoring seems to be one of the rules that may not apply if the exemption is granted.

If these eight ponds are exempted from Illinois coal ash rules, not only will the public be denied a voice in closure and cleanup process -- which is one of the rules, as I understand it, of the Illinois coal ash rules -- but they won't even know if the toxins in the water they swim in and drink every day are toxic. They won't have a way that it's measured, and that seems to be

very much needed.

Thank you again for your time, and again, I'm urging the Board to deny SIPC's petition for an exemption to the Illinois coal ash rules. Thank you.

HEARING OFFICER WEBB: Thank you.

MS. COGIE: Thank you very much.

HEARING OFFICER WEBB: Ms. Amorelli. Please spell your name for the court reporter.

MS. AMORELLI: My name is Lucia Amorelli, L-U-C-I-A, A-M-O-R-E-L-L-I. I'm a resident -- long-term resident of southern Illinois and a teacher, and a couple years ago I bought two lots of Lake -- at Lake of Egypt with the intention to build there for retirement. Therefore, I'm a citizen with equity in William -- or Johnson County and a personal stake in this matter of the coal ash ponds. I also have several close friends that live there, so I'm very concerned. My water, if I were to build there, of course would be coming from Lake of Egypt. I'm a swimmer and a kayaker. I swim as much as I can in the summer. So I'm very concerned about the pollution that coal ash ponds have already caused and will continue to cause now and into the future, so I'm asking the Pollution Board to deny this petition and not allow them to be exempt from coal ash rules. Okay. This

is supposed to be a country with rules. We're supposed to live by the rule of the law, and letting them be exempt is an abomination.

Okay. Coal ash ponds are coarse and toxic. They are a result and byproduct of burning coal, which we all know are toxic. That's why we're trying to get rid of and move away from coal. Coal ash pond -- and we already know that it's full of all these chemicals, the arsenic, lead and more.

Second, coal ash ponds, these eight that I read are -- most of them are unlined, and of course the toxins are going to leach into the ground. That is common sense. We don't even need to know all the science. Any child would understand that. And they're man-made. It's man-made. It will fail. They always do. Anything man-made is going to fail.

These coal ash ponds should have never even been built to a source of drinking water, or if they had to use the water to cool, they shouldn't have allowed the homes to be built there and people to be swimming and recreating all these years, but it's all about money probably. So they should be closed. They should be regulated. And we're talking about small children here are swimming in these lakes, in this lake with lead and

all these other chemicals, and they're the most susceptible, and so are the pregnant women that may be using that as well.

The EPA simply must do its job as the Environmental Protection Agency to not let these be deregulated and to not allow these exemptions. The Southern Illinois Power Cooperative needs to be held accountable, and I will be getting power from there and I appreciate that we need energy and all that, but they need to be held accountable for the safety of our land, our earth, our water, our air, so that we're not polluted, because in Illinois it is a constitutional right for a healthy environment, and if I'm not mistaken, we are still trying to uphold the constitutions in this country, in the state and in our country. It is in our constitution, so if you deregulate them as the Illinois Pollution Control Board, you're not doing your job. You're not following our constitution.

HEARING OFFICER WEBB: Can you wrap it up, please?

MS. COGIE: I will wrap it up that I am seriously considering selling my lots, and I'm telling all my friends -- which I do, all my friends from southern Illinois, and I have many -- that this is what's

happening at the Lake of Egypt; do not buy there, do not build there if you want to be polluted.

HEARING OFFICER WEBB: Thank you.

Mr. Steve Belletire, and after that we will have Amanda, Jill and Tabitha, if you want to move up to the front.

Please spell your name for the court reporter, sir.

MR. BELLETIRE: Steve Belletire, B-E-L-L-E-T-I-R-E.

HEARING OFFICER WEBB: Thank you.

MR. BELLETIRE: I reside with my wife, Kathy, at 6710 Wards Mill Road. Since '97 we have been members of the Southeastern Electric Co-Op, part owner of Southern Illinois Power Cooperative, located at Lake of Egypt. We also obtain our drinking water from Lake of Egypt Water District. We're approximately five miles from both entities.

First I'm going to go briefly off topic. We'd like to thank all the power crews and related personnel who went out the night of the EF4 tornado that struck approximately two-thirds of a mile from our home. They did a magnificent job leading in rescue efforts and quickly restoring power to many thousands of customers

that were impacted by outages. Their efforts were nothing short of heroic.

Next I'd like to briefly comment on the ongoing consideration of the Board regarding the SIPC's efforts to waive state law. These rules must be applied to the eight ponds in question. If allowed to be set aside, this will only result in ongoing needs to establish yet more ponds, as this facility's likely to stay in use beyond the State's 2030 sunset deadline.

I have a minor thought on a solution. As a co-op member/owner, we would also like to recommend that SIPC invest all or part of the members' accrued capital credits for full conversion to an all-gas-fired facility and/or add solar arrays, thus ending the need for coal ash ponds. Thank you.

HEARING OFFICER WEBB: Thank you.

Miss Pankau, would you please spell your name for the court reporter?

MS. PANKAU: Amanda Pankau, A-M-A-N-D-A, P-A-N-K-A-U.

Good morning, and thank you for this opportunity to speak. As I said, my name is Amanda Pankau, and I'm a member/owner of the Southern Illinois Electric Cooperative, which is a member or co-op of SIPC. I also

work for Prairie Rivers Network, where I help communities across Illinois clean up coal pollution and explore new clean energy opportunities.

Southern Illinois already bears deep and permanent scars from coal. The region will live with the legacy of coal mining for generations to come. We're still cleaning up the damage from mine sites that were abandoned before 1977, before basic regulations were in place. In Williamson County alone, we've cleaned up over 5,000 acres of these pre-1977 abandoned mine lands, and an estimated 55 million dollars is still needed to clean up the thousands and thousands of acres that remain.

Abandoned coal mines have degraded lands, polluted water and left dangerous public health hazards. One of the most toxic AML sites is located just 13 miles east of the coal plant. It's called Will Scarlet, also known as the Red Sea or Demon Waters by those who live nearby. We've learned the hard way what happens when cleanup is delayed or ignored, and we cannot afford to make the same mistake again with coal ash. That's why I'm asking the Board to deny SIPC's petition for adjusted coal ash standards. Illinois' coal ash rules were created to prevent exactly the kind of long-term damage that we're still dealing with from past coal activity in

southern Illinois. Their own -- SIPC's own data shows these eight ponds are leaking dangerous contaminants into groundwater, and the Illinois EPA has twice made recommendations that these ponds are not closed and are not exempt under the law.

I cannot speak for every SIPC co-op member, but I know southern Illinoisans care about clean water and about protecting the land for future generations. Our co-op has benefited for decades from the electricity generated at the Marion coal plant. With that benefit comes responsibility. We must now meet the coal ash cleanup standards and ensure that Lake of Egypt property is safe, healthy and suitable for future development when that time comes. I urge the Board to deny SIPC's petition and require full compliance with the Illinois coal ash standards. Thank you.

HEARING OFFICER WEBB: Thank you.

Miss Adams? Please spell your name for the court reporter.

MS. ADAMS: I'm Jill Adams. I live in Makanda, Illinois. I am a -- I get my electricity from Egyptian Electric, which is one of the cooperatives that is an owner of SIPC, and I'm asking that you deny the request for exemption that SIPC is asking for.

You have heard some speak today about the economic impact of denying that request, but the standard set by the State is not a balancing act. It is that coal ash ponds must be cleaned up. The question is, is this a coal ash pond that fits under the statute? The Illinois EPA, which has twice found that it is, that these ponds meet the requirements of the law, they are the agency with expertise on this, and they have found as -- that there is contamination from these ponds and that they meet the definition of being CCR surface impoundments, that they are -- that there is probably large amounts of coal ash within these ponds.

As a southern Illinoisan, I have friends who live on Lake of Egypt. I have boated on Lake of Egypt. I have swam in Lake of Egypt, and I anticipate that I will at other times. I have drunk water of -- at those friends' houses that come from Lake of Egypt. And it's not a balancing act. These are coal ash ponds. The State of Illinois has a policy that these ponds should be closed and monitored. There's no safe level of lead for children, and lead is one of the things that is leaching out. I ask you to deny the request for exemption.

HEARING OFFICER WEBB: Thank you.

Miss Tripp? Please spell your name for the court

reporter.

MS. TRIPP: Hi. Tabitha Tripp, T-A-B-I-T-H-A, T-R-I-P-P. I am a user and owner of SIPC in Dongola. I live 15 miles south of the coal ash impoundments and I rely on groundwater for my only source of drinking water and farm use. I am concerned about what I see in the reports that have been posted by SIPC's own reporting that show that there is groundwater contamination by pollutants.

It was stated in the SIPC's petition dated 5-11-21, page 191 through 194, table 2, groundwater monitoring wells showed several ponds exceed Class 1 standards of arsenic, lead, selenium, cobalt, cadmium, thallium, iron, magnesium and zinc. In the SIPC amended complaint dated on 12-20 of '24, Exhibit 37, tables 3.2 and 3.3 display groundwater monitoring well results at the Marion Station with exceedances of antimony, arsenic, beryllium, boron, cadmium, chloride, cobalt, lead, sulfate, thallium and total dissolved solids. And not only this -- this is really concerning to me -- additionally, out of 11 samples analyzed, they included radionuclides in nine samples and had detectable levels of water-soluble radioactive particles of radium-226 and 228. This is bioaccumulative.

According to the IEPA 2025 recommendations on page 7, Section 16 clearly states that the Petitioner's exhibits demonstrates that there's an environmental risk posed by the storage pond even though the existing groundwater monitoring well system is inadequate. It's time for SIPC to clean up their mess and stop polluting the groundwater that I rely on for my family and for my farm. Please deny the permit. Thank you.

HEARING OFFICER WEBB: Thank you.

Okay. Well, that is everybody who signed in. Is there anybody here who would like to make an oral public comment who did not sign in? No? I don't see any hands.

Okay. Well, let's go ahead and proceed with -- would the Petitioner like to make an opening statement?

MS. JOSHI: Yes, please. And this is Bina Joshi on behalf of SIPC.

This case involves Southern Illinois Power Cooperative's -- or SIPC's, as we'll call it for shorthand -- petition for a finding of inapplicability or, in the alternative, an adjusted standard for two categories of units located at its Marion Generating Station. The first category of units are those SIPC refers to in its petition as the de minimis units. The de minimis units consist of pond 4, former pond B-3,

pond 3 and 3A, pond 6, sometimes also referred to as S-6, and the south fly ash pond.

As SIPC's witnesses will discuss at this hearing, SIPC's petition requests a finding of inapplicability for the de minimis units on the basis that they contain a de minimis amount of CCR and therefore are not intended to be regulated as CCR surface impoundments. If the Board finds that a finding of inapplicability is not appropriate for these units, SIPC's petition requests a limited adjusted standard that mostly involves adjustments to the compliance schedules for these units.

SIPC's corporate witnesses, Wendell Watson, Todd Gallenbach and Jason McLaurin, will explain how the operation of the Marion Station and use of the de minimis units result in these units being de minimis and unique from the CCR surface impoundments intended to be regulated under Part 845. In particular, they will explain how the de minimis units consist of several small current and former ponds at the Marion Station used primarily as secondary, tertiary or final finishing ponds for stormwater management and for coal pile runoff management.

These units never directly receive CCR for storage with the exception of former pond B-3, which

received CCR for a period amounting to no more than a few weeks in the entirety of its operation. Any CCR that entered these units would have been insignificant amounts that entered through decanted water that flowed through the ponds as part of the polishing process for the water's ultimate discharge out of an NPDES-permitted outfall or through stormwater runoff, including in some cases stormwater runoff management of the on-site CCR landfill.

SIPC's expert witnesses, Dave Hagen, Ari Lewis and Andrew Bittner, will further explain how these units present characteristics that make them de minimis and how they do not pose a risk to human health or the environment. Mr. Hagen and Miss Lewis will explain how the sediment and potential CCR in each pond is less than one would expect to see in a CCR surface impoundment. Mr. Hagen will further explain how an investigation on these ponds provides evidence that they contain sediment sources other than CCR and that they are not contributing to groundwater contamination.

Miss Lewis will explain the finding of her human health and ecological risk assessment, which demonstrates the de minimis units do not pose a risk to human health or the environment as well as how these units are

different from those CCR surface impoundments that USEPA has found may pose a risk.

Mr. Bittner will focus on pond 4, where I think you see it has requested a finding of inapplicability and requested a longer compliance timeline as far as alternative relief for an adjusted standard. He will explain how his closure impact assessment demonstrates that continued operation of pond 4 would not result in an adverse impact to human health or the environment compared to closure and, in fact, that closure could result in greater negative impacts to human health and the environment compared to the pond's continued operation.

The second category of units at issue in this proceeding are those in what SIPC refers to in its petition as the former landfill area. As SIPC's witnesses will explain, SIPC's petition requests a finding of inapplicability for this area because it is a landfill, not a surface impoundment. In the alternative, SIPC's petition requested an adjusted standard that would allow for the area's closure in place or by removal with the CCR being used for a beneficial use. In either instance, under the adjusted standard, the ultimate closure will be consistent with Part 845 performance

standards.

As SIPC's company witnesses and expert witnesses, Ken Liss and Dave Hagen, will explain, the former landfill area consists of an area where dry CCR was conveyed for disposal upon dry land. The southern portion of it includes former surface impoundments that stopped operating decades ago, that have been dewatered and that have been topped or overfilled with the dry conveyed landfill material.

The company witnesses and Mr. Liss will further describe how this area does not exhibit the characteristics of a surface impoundment and how it was treated for decades as a Part 815 landfill under the Illinois landfill regulations, including by IEPA. Mr. Liss will further explain why the entirety of the former landfill area, which includes the former impoundment that now serve as structural fill for the landfill and the CCR landfill located on top and -- on top of and adjacent to that area, should be closed together.

Finally, with respect to SIPC's alternative relief for an adjusted standard, for all of the units subject to this petition, Mr. Liss will explain why a year or more as requested in SIPC's petition for adjusted

standard is required to collect the groundwater data necessary for a thorough operating permit application for each of these units.

And I would also like to address here at the opening one administrative matter before we start with SIPC's witnesses. SIPC received the Board's filing of Friday, June 6, that included hearing questions for SIPC, and we appreciate the Board providing these questions in advance. The Board question number 1 asks for records. SIPC will briefly address that during the hearing today but also when the hearing is finished would like to consult with the Hearing Officer to propose a time period by which to complete a search for any such documents that exist or -- and provide those documents or otherwise notify the Board that no such records exist.

For the remaining questions, SIPC intends to address those questions as part of the direct examination of its witnesses. As the Board is aware, there are several witnesses here at the hearing on behalf of SIPC, and various witnesses are responsible for the various topics raised by the Board. In some instances there may be multiple witnesses with the information required to respond to a particular question or covering different parts of a single question, which is all to say, we're

very appreciative of getting the questions in advance and we're going to try to address the Board's questions during our witnesses' direct examination testimony and will also call out when any of the Board's questions are being addressed, of course welcoming any additional follow-up questions the Board may have for each witness.

We're also happy to address a response to additional questions from the Board in panel style if that would be necessary because multiple witnesses are covering the topic. I should note that this afternoon we should have present all of the witnesses for the topics that are the subject of the Board's questions if that panel style questioning becomes required. And that's all I have. Thank you.

HEARING OFFICER WEBB: Okay. Would the Agency like to make an opening statement?

MR. NEIBERGALL: Yes. Thank you. Can you hear me?

All right. My name is Gabe Neibergall. I work for the Division of Legal Counsel for the Illinois Environmental Protection Agency, along with Rebecca Strauss, my co-counsel, and Mr. Lynn Dunaway, our technical expert. I wanted to thank the Board for holding the hearing today. I wanted to thank all the

members of the public who came and made public comments. We appreciate those comments and we definitely consider them carefully as we review this case.

So one thing I wanted to note from the outset here is this is Southern Illinois Power Cooperative's burden to prove two things in the adjusted standard proceeding. One, they're seeking inapplicability from Section 22.59 of the Act and Part 845 which resulted from that, and two, they're seeking an adjusted standard in the event the Board applies those two laws. It's not the Agency's burden to prove anything, and I expect that it will hear a lot today and the next few days about the Agency's recommendation's alleged flaws and things like -- of that nature. What's important is that it's SIPC's burden to prove that the ponds in question, nine of which by the Agency's count, are not by definition CCR surface impoundments, and also that some of those ponds which they term de minimis units contain a truly de minimis amount of CCR. The Agency doesn't have to prove anything. We don't have to prove what the material is. It's SIPC's burden to prove that, so remember that throughout the case. They also need to prove the adjusted standard factors that are required by the statute and the regs.

And as the public commenters mentioned, a couple other things that are important to note is that Lake of Egypt is adjacent to this power plant and the subject ponds in the petition, nine. There's also three other ponds that are left out of this petition and there's one other CCR surface impoundment that SIPC has acknowledged to be a CCR surface impoundment. Everybody already mentioned that there's boating, fishing, swimming, and people live on that lake.

Also it's important to note that SIPC as a not-for-profit electric cooperative is not required to maintain financial assurance under 22.59(f), as in Frank, of the Act or Subpart I, as in Ida, of Part 845, so there's no money set aside to clean this up in the event something goes wrong.

At the end of the hearing, the Agency will come back, likely in the briefing phase, and ask that the Board deny SIPC's petition for inapplicability and also for the adjusted standard. Thank you very much for your time.

HEARING OFFICER WEBB: Thank you.

I did forget to mention one thing. Please put your phones on silent if you have not already done that.

UNIDENTIFIED AUDIENCE MEMBER: Excuse me,

ma'am. Is there any way the microphones can be louder?

HEARING OFFICER WEBB: I can talk to the facilities manager tomorrow or -- but I -- or I'll try to call him during a break, but not right now, I can't. There's nothing I can do about it right now. I'm not sure where the controls are.

Okay. So we are ready for Petitioner's first witness. Do you think the direct examination might go more than an hour?

MS. JOSHI: I think that it will be approximately an hour.

HEARING OFFICER WEBB: Okay. Well, let's just take a five-minute break before we start our first witness. Thank you.

(Brief recess taken.)

HEARING OFFICER WEBB: All right. We'll go back on the record. The Petitioner may call their first witness. The witness could come up here, please, and sit next to me.

MS. JOSHI: Yes. SIPC calls Wendell Watson.

HEARING OFFICER WEBB: And would the court reporter please swear in the witness?

(Witness sworn.)

WENDELL WATSON, produced, sworn and examined on

behalf of the Petitioner, testified as follows:

DIRECT EXAMINATION

BY MS. JOSHI:

Q. Can you please state and spell your name for the record?

A. Wendell Watson, W-E-N-D-E-L-L, W-A-T-S-O-N.

Q. Thank you, Mr. Watson. What is your educational background?

A. I have a degree -- a bachelor of science degree in chemistry with a math minor.

Q. And is that from Illinois State University?

A. Yeah. Yes. I graduated from Illinois State in Normal, Illinois.

Q. Where are you currently employed?

A. I am currently employed at Southern Illinois Power Cooperative.

Q. What is your current title?

A. Director of environmental services.

Q. What are your duties as director of environmental services for Southern Illinois Power Cooperative?

A. I'm responsible for environmental compliance, so I do record-keeping, reporting and maintaining with the regulations as they're promulgated.

Q. How long have you been in this role?
A. Since 2018.
Q. And can you please briefly describe your work history prior to joining SIPC?
A. I'm sorry. I didn't hear that.
Q. Yeah. Can you please briefly describe your work history prior to joining SIPC?
A. I worked for Illinois Power, which also became Dynegy and then later Vistra, for over 30 years in the environmental department, generally in the air regulations.
Q. And, Mr. Watson, what was your involvement in helping to prepare SIPC's petition in this matter?
A. I helped to gather the facts surrounding the use of the ponds and just information that we required for this proceeding.
Q. Thank you. And did you prepare a declaration in support of SIPC's petition?
A. I did.
Q. I'm going to show you what's been marked as revised Exhibit 1 to SIPC's petition. Do you recognize this document?
A. Yes.
Q. Is this the declaration you prepared in

support of SIPC's petition in this matter?

A. Yes.

Q. Do the statements in this declaration remain true and correct?

A. I'm sorry. I didn't hear that.

Q. Do the statements made in the declaration remain true and correct?

A. Yes.

Q. And I understand you have a Powerpoint to accompany your testimony today. Is that correct?

A. Yes.

Q. Okay. Once again, we may approach. We're going to hand you a copy of a Powerpoint that I marked as SIPC Exhibit 48 where the title slide reads "Testimony of Wendell Watson," which is also displayed as slide 1 on the screen that's in the room. Mr. Watson, do you recognize this document?

A. Yes.

Q. Is this a true and correct copy of the Powerpoint prepared to accompany your testimony?

A. Yes.

Q. Did you assist in drafting or otherwise review and approve the contents of this Powerpoint?

A. Yes.

Q. And just generally, what does the Powerpoint contain?

A. It contains information regarding the ponds that are under -- in this proceeding and what we are asking of the Board.

Q. I'm going to walk you through some facts first related to SIPC and the facility, the Marion facility itself. SIPC is a power cooperative; is that right?

A. Yes, it is.

Q. So pulling up slide 3 of your Powerpoint presentation, what is a power cooperative?

A. It is a non-profit that provides power to the lesser served areas, the less -- the lower population areas of the state which are not served by the other utilities of the state, the for-profit utilities.

Q. Who makes up the SIPC power cooperative?

A. There are seven distribution cooperatives, which include Clinton County Electric Cooperative, Egyptian Electric Cooperative Association, Monroe County Electric Cooperative, Southeastern Illinois Electric Cooperative, Southern Illinois Electric Cooperative, Tri-County Electric Cooperative and Clay Electric Cooperative.

Q. Thank you. And of these seven individual cooperatives you just mentioned, who make up the members of those individual cooperatives?

A. Just regular people in -- homeowners, small businesses, some larger businesses, but just generally a good cross-section of different types of people.

Q. So who would you say owns Marion Station?

A. Just normal, ordinary people like the people that were up here commenting. Those are the members and owners of the cooperatives which are the member/owners of SIPC.

Q. And how would you describe the economic condition of the area served by SIPC?

A. Southern Illinois is one of the poorest areas in the state, is actually the poorest area in the state, and it's a large -- large rural, a lot of farming, some mining.

Q. How are the members of SIPC impacted by expenditures that may need to be made at the facility?

A. Since we're a non-profit, all expenditures pass down to the member/owners, so whatever rates that they pay will be reflected by whatever expenditures that we have to make.

Q. Okay. And again, I think you've covered

this already, but is SIPC a for-profit company?

A. It is not.

Q. Moving on to the facility itself, what is Marion Station?

A. Marion Station consists of a coal-fired unit, a -- which generates a little over 100 megawatts. We have approximately 77 employees, and it is the -- Lake of Egypt is the cooling pond for the coal plant.

Q. Are there any units located at Marion Station other than the one coal-fired generating unit you just mentioned?

A. There is a retired coal unit, and we have two combustion turbines which run on natural gas or diesel.

Q. You mentioned Lake of Egypt, which is located next to the plant and used as cooling water. Approximately when was Lake of Egypt constructed?

A. It was constructed in the early 1960s in preparation for the construction of the coal plant.

Q. Who owns Lake of Egypt?

A. Lake of Egypt is owned by SIPC.

Q. And where do wastewater discharges from Marion Station operations occur?

A. Wastewater discharges?

Q. Yes.

A. So there -- we have the water from the plant drains and -- that go to the ponds, the NPDES -- National Pollution Discharge Emission System -- permitted ponds that are used to polish the water before it is discharged.

Q. And where is the NPDES discharge point? To what body of water?

A. It is discharged into Saline Creek.

Q. Mr. Watson, are you familiar with whether there are any drinking water wells in the vicinity of the Marion Station?

A. There is one well that is at the golf course, which is uphill from the plant.

Q. Is there any reason to believe that this drinking water well would be impacted by Marion Station operations?

A. If there -- There's no reason to believe that there's any impact.

Q. And why not?

A. We have monitoring wells around the property, and the wells between the golf course and our property show there's no contamination.

Q. And is this -- the drinking water located

upgradient or downgradient from the station?

A. It's upgradient.

Q. And has SIPC ever investigated the drinking water quality of Lake of Egypt?

A. Yes, we did. We did sampling of the water closest to the power plant and did have that analyzed for any contamination.

Q. And what did that analysis show?

A. It showed that there was no appreciable contamination. Everything was within drinking water quality standards. And that data, I might add, was also provided to the IEPA.

Q. Thank you. All right. Mr. Watson, I'd like to move on to talk a little bit more about the facility itself. Now, you mentioned the generating units that currently operate at the facility, including the one coal-fired unit that currently operates. What unit is that again that currently operates at the station?

A. Unit 123.

Q. Does unit 123 generate any CCR?

A. Yes, it does.

Q. You also mentioned two additional gas-fired units at the facility? Do they generate any CCR?

A. No, they do not.

Q. Let's talk a little bit more about unit 123 or 123. When was it constructed?

A. The original construction of unit 123 was in 19 -- I believe it was finished in 1963. It was also reconstructed. The boilers were replaced -- The three boilers were replaced with one boiler in 2000.

Q. Okay. And why was the replacement of unit 123 as it's called right now, instead of historic units 1, 2, 3 -- why was replacement of unit 123 constructed in early 2000, or in the early 2000s?

A. Well, I wasn't directly involved in the decision-making for the reconstruction, but I believe it's because the age of the boilers, they needed to build something that was more reliable and efficient.

Q. And what type of CCR does unit 123 generate?

A. It generates bed ash and fly ash.

Q. How does SIPC manage the CCR generated by unit 123?

A. It is handled dry and used for mine reclamation.

Q. Has CCR from unit 123 been managed in any other way since you started at the facility?

A. No.

Q. And you mentioned that it produces fly ash

and bed ash. What is bed ash?

A. I'm sorry. I didn't hear that.

Q. What is bed ash?

A. What is bed ash?

Q. Yes.

A. It is the ash that is collected at the bottom of the boiler and includes coal ash and limestone, which is used for removing emissions such as sulfur dioxide and nitrogen oxide.

Q. Is there currently any wet handling of CCR at Marion Station?

A. No.

Q. Is any CCR currently disposed of on site at Marion Station?

A. No.

Q. And for background, you said that unit 123 replaced historic units 1, 2 and 3 in the early 2000s; is that right?

A. Yes.

Q. And were those coal-fired generating units as well?

A. Yes, they were.

Q. Besides currently operating the 123 and historic units 1, 2 and 3, what other coal-fired units

has SIPC's Marion Station operated during the life of the plant?

A. We had unit 4, which was retired in 2020.

Q. And to your knowledge, what type of CCR did unit 4 generate?

A. Unit 4 generated fly ash and bottom ash, and as well, it had a scrubber which generated gypsum.

Q. During your time at the facility, how did SIPC manage the CCR generated by unit 4? Let's start with the fly ash.

A. The fly ash was handled dry and used for mine reclamation.

Q. And what about the scrubber, the scrubber sludge?

A. The -- While I was there, that was collected and sold for the use in production of concrete.

Q. And how about the bottom ash? How was that disposed of?

A. We collected the bottom ash and sold that for different purposes, such as asphalt shingles and -- I think that was predominantly what we sold it for.

Q. And where was the bottom ash collected?

A. It was collected in ponds 1 and 2.

Q. And where was the fly ash collected before

it was sent for beneficial use?

A. I didn't understand the question.

Q. Where was the fly ash collected before it was sent off site?

A. For unit 4?

Q. Yes.

A. Yeah, it was collected -- are you talking about before I worked there or --

Q. No, while you worked there.

A. Okay. Well, yeah, it was always collected dry and sent for mine reclamation.

Q. Okay. Thank you. So now I'm going to turn to slide 5 of your Powerpoint and move to discussing the units at issue in SIPC's petition in this matter. Which units has SIPC been calling or designating the de minimis units in its petition?

A. They would be pond B-3, pond 3/3A, pond 6, pond 4 and the south fly ash pond.

Q. And are those the ponds that are depicted with the red arrows here on slide 5?

A. Yes.

Q. Let's start with the south fly ash pond and move on to slide 6. What materials does this pond receive?

A. We have not sent any materials directly to that pond. It is -- But we do -- we have sent -- well, we are sending water from Emery Pond, what's the former Emery Pond, which is now our stormwater basin, to the south fly ash pond, and the decant water from that pond goes to the south fly ash pond.

Q. Has the south fly ash pond ever received materials from anywhere else during your time working at the Marion Station?

A. No.

Q. When you say the south fly ash pond was a secondary pond to Emery Pond, what does that mean?

A. It's a pond to receive the water from that pond and is like a polishing pond for that. It's part of the NPDES pond system that we have.

Q. And what kind of water -- or what is the quality of water that is sent from -- was sent from Emery Pond to -- or is sent from Emery Pond to the south fly ash pond?

A. Only the water is sent over to south fly ash pond. We allow the solids to settle out in Emery Pond before they're -- the water is sent to the south fly ash pond.

Q. And what's the current status of Emery Pond?

A. Emery Pond was closed and retrofit with a liner now and is only used for stormwater and some plant drain water that is collected in the stormwater basin.

Q. And to your knowledge, what was Emery Pond used for prior to its closure?

A. It -- Again, it was also used for stormwater, plant drains, and it did receive some scrubber sludge.

Q. Does it receive that scrubber sludge anymore?

A. It does not.

Q. And previously you talked about the quality of the water going from Emery Pond to the south fly ash pond. I'd just like to hone in on the details. How would you describe the quality of water going from Emery Pond to the south fly ash pond before Emery Pond's closure?

A. The -- Well, it was -- again, it was decant water so that the solids were separated from the water before it went to the south fly ash pond.

Q. Thank you. And how would you describe the quality of water going from Emery Pond to the south fly ash pond after Emery Pond's closure?

A. It would be about the same. There's

still -- There's -- Whatever solids -- although there's no solids being sent to the basin now -- whatever would be in there would be separated from the water and only the water would be going to the south fly ash pond.

Q. All right. So returning to talking about the south fly ash pond itself, did it ever directly receive CCR from boiler operations?

A. It did not.

Q. And is the south fly ash pond currently being regulated as a CCR surface impoundment under Part 257, Subpart D, otherwise commonly referred to as the federal CCR rule?

A. No.

Q. Moving on to pond 3/3A in slide 7, what materials has pond 3/3A received during your time at the facility?

A. Pond 3 is another finishing pond, and it received stormwater runoff and water from the facility's floor drains.

Q. And does 3/3A also receive water from the south fly ash pond?

A. Yes, it does.

Q. Was the unit used for anything else other than what you've already described during your time at

the facility?

A. No.

Q. How would you describe the quality of water flowing from the south fly ash pond to pond 3/3A?

A. It is decant water, so whatever solids were in the previous would be separated and only the water would be going to the pond.

Q. To your knowledge, did pond 3/3A ever receive CCR from boiler operations?

A. No.

Q. And can you please explain, how are 3 -- how are the 3 and 3A portions of this unit related?

A. It's -- It is -- They are the same pond. There was a berm -- and this was done before I began working there, but there was a berm that was constructed in the pond to help facilitate the separation of solids from the water.

Q. Is pond 3/3A currently being regulated as a CCR surface impoundment under Part 257, Subpart D, otherwise more commonly referred to as the federal CCR rule?

A. No.

Q. Moving right along here to slide 8, I'd like to talk about pond 6. What function does pond 6 serve?

A. It serves as a stormwater runoff collection for the landfill and it also receives water from pond 3/3A.

Q. What is the purpose of pond 6 receiving water from pond 3/3A?

A. It's receiving the decant water from pond 3 so that that water then can be conveyed on further to the discharge -- NPDES discharge point.

Q. Was pond 6 used for anything other than what you've already described during your time at the facility?

A. No.

Q. Is pond 6 sometimes also referred to as S-6 in documents and figures related to the facility?

A. Yes.

Q. To your knowledge, did pond 6 ever directly receive CCR from boiler operations?

A. No.

Q. And is this unit currently being regulated as a CCR surface impoundment under Part 257, Subpart D, otherwise commonly referred to as the federal CCR rule?

A. No.

Q. The next unit I'd like to talk about is pond 4, and turn to slide 9. What function does pond 4

serve?

A. It is -- also receives stormwater runoff. It's a -- It's the final finishing pond for the NPDES system. It received decant water from ponds 1 and 2 when they were in operation. It received coal pile runoff at one time, receives decant overflow from pond 6, and I believe that's it.

Q. Thank you. Does pond 4 continue to receive water from ponds 1 and 2?

A. No.

Q. When did that stop?

A. When unit 4 was retired in the fall of 2020.

Q. Has pond 4 been used for anything other than what you've just described during your time at the facility?

A. No.

Q. How did water travel from ponds 1 and 2 to pond 4 back when water from ponds 1 and 2 did go there?

A. It -- There's a drain that feeds into a pipe that runs into pond 4.

Q. What was the quality of that water that went from ponds 1 and 2 to pond 4?

A. It was decant water that had -- the solids had settled out of and separated from the water so that

only water went to pond 4.

Q. And what leads you to the conclusion that it was decant water?

A. Well, I've seen the water.

Q. Was it likely that that water would have contained any appreciable amounts of bottom ash from ponds 1 and 2?

A. Not appreciable, no.

Q. And why not?

A. The characteristics of the bottom ash, it's a very coarse particle, very dense, heavy, so it's very difficult to keep that suspended in the water. It falls out very quickly and it's very easy to separate the bottom ash from the water.

Q. To your knowledge, has pond 4 ever received CCR directly from boiler operations?

A. No.

Q. And again, taking a step back, you said that pond 4 receives water from pond 6; is that correct?

A. Yes.

Q. Okay. And what is the quality of water flowing from pond 6 to pond 4?

A. Again, it's very clear. There's not any visible particulate. The -- It's decant water,

basically, and by -- usually by the time the water gets to pond 6, it's already been decanted, and so it's very clear.

Q. And to your knowledge, has pond 4 ever received CCR directly from boiler operations?

A. No.

Q. And is pond 4 currently being regulated as a CCR surface impoundment under the federal CCR rule?

A. No.

Q. I'd like to now turn to the last of the de minimis ponds in slide 10 of your Powerpoint and discuss former pond B-3. To your knowledge, what function did former pond B-3 serve?

A. It was a secondary finishing pond to pond A-1.

Q. Was former pond B-3 in operation when you arrived at the facility?

A. No.

Q. Is this unit being regulated as a CCR surface impoundment under the federal CCR rule?

A. No.

Q. What was the status of former pond B-3 when you arrived at the Marion Station?

A. Well, I wouldn't even really call it a pond.

It was completely cleaned out and empty. It is overgrown with weeds and basically empty.

Q. And what is the current status of former pond B-3?

A. That is the current status.

Q. Since you arrived at the facility, has pond B-4 or pond B-3 been used for any operational purpose?

A. No.

Q. To your knowledge, is there currently any sediment in this unit?

A. No.

Q. Is there currently any water in this unit?

A. No.

Q. All right. Let's move on to slide 11 of your Powerpoint and the former landfill and former fly ash holding units. Are you familiar with an area referred to in SIPC's petition as the former landfill area?

A. Yes, I am.

Q. I see that there is an excerpt on page 5 of SIPC's response to IEPA's recommendation shown here on slide 11, which is a map. Looking at this map, what area does the former landfill area encompass?

A. That would be the area within the red line.
Q. Moving to the next slide, slide 12, what units make up what SIPC is calling the former fly ash holding units?
A. Those would be the fly ash holding area extension, the replacement fly ash holding area and the initial fly ash holding area.
Q. And are those the areas depicted in green on the map located here on slide 12?
A. Yes.
Q. When did you first become aware of the former fly ash holding area?
A. It was just a few years ago when the IEPA first said that they were surface impoundments.
Q. What is the current status of the former fly ash holding area? What's the current status of this area?
A. The current status is it's completely underneath the landfill.
Q. And how would you describe the extents to which the former landfill covers this former fly ash holding area?
A. It -- That area in green -- All those areas in green are completely covered with material that was

put in the landfill.

Q. And are any of the units we just discussed, meaning the former CCR landfill and the former fly ash holding areas, currently subject to federal regulations for CCR surface impoundments?

A. No.

Q. Turning to slide 13 and discussing the CCR landfill a little bit more that you just referred to, what is the former CCR landfill?

A. What is the what?

Q. What is the former CCR landfill?

A. That is the landfill that was used to take the scrubber sludge. Unit 4 had a scrubber that was used to remove air emissions, and so the scrubber sludge was sent by a conveyor belt over to the area that was identified by the red line to store the sludge that was produced from that operation. There was also some fly ash that was also mixed in with the scrubber sludge.

Q. And I think you just mentioned that the scrubber sludge was conveyed over. Was the fly ash conveyed over as well?

A. Yes.

Q. And how were they conveyed over?

A. There was a conveyor belt that was used to

remove it from the power plant. It was taken across the street to the landfill, and from that point it was distributed across the landfill using a bulldozer.

Q. And what is the current status of the former landfill area?

A. It is inactive. It has not received any materials since 2015.

Q. To your knowledge, prior to the passage of Part 845, how did IEPA treat or regulate the former landfill area?

A. It was operated as a Section 815 landfill.

Q. And what is your basis for the -- what is the basis of your understanding that it was a Section 815 or Part 815 landfill?

A. Every year we receive a request from the IEPA to submit an annual report for 815 landfill.

Q. Has IEPA continued to request these annual landfill reports post the promulgation of Part 845?

A. Yes, they do.

Q. Now, we will have Mr. Liss address this in more detail later, but with respect to the Board's question number 9b, to your knowledge -- again, I just wanted to reiterate -- what are the landfill regulations under which the former landfill was operated?

A. It would be under 815.

Q. Did you ever have any interactions with IEPA regarding this landfill area?

A. Yes. We had an inspector come out to look at it in 2019.

Q. And what were the results of that inspection?

A. The results of the inspection was we received a notice of violation because we had not closed the landfill.

Q. Were any steps -- And what did the notice of violation allege, to your knowledge?

A. That we had a land -- an inactive landfill that should have been closed in accordance with the state regulations, but we had not as of that moment done that yet.

Q. And you said in accordance with the state regulations. What state regulations are you referring to there?

A. 815.

Q. What -- Were any steps taken to resolve the NOV?

A. We began to prepare a closure plan -- We submitted a closure plan to the IEPA and we had contacted

contractors to initiate the closure of the landfill.

Q. And what did that closure plan cover? What area did it cover?

A. It covered the area that was encircled by red on the diagram that was discussed earlier.

Q. Did SIPC proceed with closing the landfill under that closure plan?

A. We did not. The IEPA withdrew the notice of violation and we were informed that we were going to -- they were going to regulate it under a different statute.

Q. And approximately when did that occur?

A. I'm not 100 percent sure, but I believe that was in 2020, or it may have been 2021.

Q. Up to that point, had IEPA ever indicated to SIPC that it believed the landfill was a surface impoundment, to your knowledge?

A. No.

Q. To that point, based on your knowledge and experience, had IEPA ever treated that former landfill area as a surface impoundment?

A. No.

Q. All right. Thank you. Next I'd like to address SIPC's requested relief in this proceeding and move on to slide 14 of your Powerpoint. Now, Mr. Watson,

you're not an attorney, correct?

A. Correct.

Q. So here I'm just going to ask you to walk through your non-attorney layman's understanding of what SIPC is seeking as relief in this proceeding, okay? So what relief is SIPC requesting in this proceeding?

A. We're requesting to find that the ponds that do not contain CCR, what we are calling the de minimis ponds, are inapplicability of the Part 845 regulations, and also to the former CCR landfill and those units that -- the former ash holding units as well. In the alternative, SIPC is requesting the Board to adopt SIPC's proposed adjusted standard for the de minimis units and the former fly ash holding units and the former CCR landfill.

Q. If SIPC's finding of inapplicability is granted for the former landfill area, will this area still be closed in accordance with Part 811 and any other regulatory requirements that may apply to it as a landfill?

A. Yes.

Q. Would that closure be conducted with IEPA oversight?

A. Yes.

Q. If not for the Agency changing the way it viewed the former landfill area, would SIPC have already closed this area in accordance with the Part 811 landfill regulations?

A. Yes.

Q. If a finding of inapplicability is granted for one or more of the de minimis units, will these ponds still eventually be closed in accordance with other Illinois regulatory programs?

A. Yes.

Q. And would that closure occur with IEPA oversight?

A. Yes.

Q. Moving on to SIPC's alternative relief for an adjusted standard, will SIPC's requested adjusted standard require SIPC to comply with the groundwater monitoring and corrective action requirements in Part 845 for the units that are at issue in this proceeding?

A. Yes.

Q. And will SIPC's requested adjusted standard require SIPC to close all of the units in compliance with Part 845 performance standards?

A. Yes.

Q. SIPC narrowed the scope of what it was

requesting in the adjusted standard in its second amended petition; is that right?

A. Yes.

Q. Why did SIPC do that?

A. I'm sorry. Could you repeat that?

Q. Yeah. Why did SIPC narrow the scope of its requested adjusted standard?

A. Oh, okay. I'm sorry. Because these ponds are going to be closed anyway, and so that we would agree to go ahead and close them in accordance with the regulations.

Q. Thank you. And now I'm just going to at a high level walk you through the adjusted standard requested for each unit, again, at a high level, beginning with pond 3/3A and the south fly ash pond. SIPC -- which I think we've got addressed here on your slide 15. SIPC is requesting the same adjusted standard for both of these units; is that correct?

A. Yes.

Q. What are the primary adjustments SIPC is seeking for pond 3/3A and the south fly ash pond?

A. We're looking for time frames for submitting operating and closure construction permit applications, and that would specifically be operating permit

application due 12 months after adjusted standard entry and closure construction permit application due 16 months after adjusted standard entry.

Q. And through the adjusted standard, would SIPC be proposing or committing to closing pond 3/3A and the south fly ash pond in any particular way?

A. We would agree to close by removal, so closure alternative assessment would include only looking at closure by removal with on-site or off-site disposal.

Q. All right. So next let's move to slide 16 and talk about former pond B-3. What are the primary adjustments SIPC is seeking for this unit?

A. We are seeking a time frame for submitting the operating permit application, specifically the operating permit application due 12 months after the adjusted standard entry. We're seeking an exemption from closure construction permit application requirements except for a final closure plan, which will due -- be due within 16 months, and exemptions from location restriction, design criteria and other operating criteria that do not make sense given the former pond B-3's current physical state.

Q. And what is it about the nature of former pond B-3 that makes it unique compared to pond 3/3A and

the south fly ash pond?

A. It currently does not hold water and it does not have any sediment. The only thing that is in that area is the naturally-to-be-found clay and other materials that you'd find in -- anywhere.

Q. Thank you. Moving on to pond 4 and slide 17, what are the primary adjustments that SIPC is seeking for this unit?

A. We're seeking time frames for submitting the operating and closure construction permit applications, specifically the operating permit application due 12 months after adjusted standard entry and closure construction or retrofit permit application due upon the earlier of the following occurrences; one, within 12 months of a finding that CCR within pond 4 is the source of groundwater protection standard exceedances, or the end of the life of the Marion Generating Station, and SIPC will agree to close by removal, so the closure alternatives assessment would include only looking at closure by removal with on-site or off-site disposal.

Q. Thank you. And why is it that SIPC is requesting additional time to close pond 4 in the event it's confirmed that it's not contributing to any groundwater protection standard exceedances?

A. Pond 4 is an integral part of our NPDES discharge system and is needed for that purpose.

Q. Will there be any CCR flowing to pond 4?

A. No.

Q. What would be its continued use?

A. What would be going to it?

Q. Yes.

A. Just stormwater runoff, plant drain waters and possibly coal pile runoff.

Q. Thank you. Moving to slide 18, the final set of units for discussion are the former landfill area and pond 6. Is SIPC requesting one adjusted standard for the former landfill area and pond 6?

A. Yes.

Q. Why are the former fly ash holding areas being grouped together with the former CCR landfill for purposes of an adjusted standard?

A. They're not separate from the landfill. They're all together as one continuous unit.

Q. And why is pond 6 being grouped together with the former landfill area for purposes of the requested adjusted standard?

A. Because pond 6 is the stormwater runoff collection area for the landfills. It's part of that

system.

Q. And what are the primary adjustments that SIPC is seeking for the former landfill area and for pond 6?

A. We're looking for time frames for submitting operating and closure construction permit applications, operating permit and construction permit application due in 18 months, and which will allow time to determine if beneficial use of the CCR is viable.

Q. And what if beneficial use is not viable? Then what does the adjusted standard propose for the former landfill area?

A. Then we would close it within -- with -- in compliance with the regulations.

Q. Okay. Is that with the Part 845 closure -- in accordance with the Part 845 closure in place requirements?

A. Yes.

Q. So the petition and requested adjusted standard discusses potential use of CCR from the landfill for beneficial use. Can you explain in more detail what that means?

A. Yeah. The material in the landfill is valuable because it can be used in other ways if it is

harvested, and it can be recycled and reused in other ways such as production of concrete. There are some rare earths metals that can be harvested. There's a -- quite a few different things that can be done with that material other than just leaving it in the landfill.

Q. And why is it that SIPC is proposing removal by beneficial use as an option under its proposed adjusted standard?

A. We just believe that it makes sense to use those materials in some manner rather than just leaving them.

Q. Does SIPC believe that there would be a market for those materials?

A. Yes. If that -- those materials can be separated and removed, then there definitely is a market for them.

Q. What makes you say that? What leads you to say that?

A. Well, we've had the material sent to a lab and tested, and so it's verified that those materials are of commercial use.

Q. Thank you. Okay. And going -- And commercial use, and also is it verified that they would qualify as CCBs under the Illinois regulations?

A. Yes.

Q. And by CCBs, I mean coal combustion byproducts. You agree that --

A. Yes.

Q. Okay. Thank you. And going back, the first relief SIPC is requesting with respect to all of the units at issue in this proceeding is a finding of inapplicability, correct?

A. I'm sorry.

Q. So just going back, the first relief SIPC is requesting with respect to all of the units at issue in this proceeding is a finding of inapplicability, correct?

A. Yes.

Q. I'd like to address, to the extent that you can, the Board's questions 10b, 10c and 10d. For unit 4, under the adjusted standard that is being proposed as an alternative to the finding of inapplicability, is SIPC proposing to install a Part 845 compliant groundwater monitoring system which would then be used to determine whether pond 4 is causing or contributing to exceedances of Part 845 groundwater protection standards?

A. Yes.

Q. And does SIPC believe an interim adjusted standard would or could be appropriate to allow for the

collection of reliable groundwater monitoring data using the enhanced groundwater monitoring network to better characterize the environmental impacts of the units at issue in this proceeding?

A. Yes.

Q. And can you just explain a little bit further your position on that?

A. Yeah. We believe that pond 4 is de minimis, but if the Board finds in the alternative, we'd be willing to monitor the pond to determine whether or not there's any groundwater exceedances being caused by material in pond 4.

MS. JOSHI: All right. Thank you, Mr. Watson. I have no more questions.

HEARING OFFICER WEBB: Thank you.

MR. NEIBERGALL: We have quite a few, I believe, so I didn't know if the Board wanted to --

HEARING OFFICER WEBB: Well, it's 10 to 12. I was hoping to finish with this witness before we break for lunch, but if public consensus is that we break now, I will do that. Any thoughts?

MR. NEIBERGALL: I think it'll take at least an hour.

HEARING OFFICER WEBB: Would you -- people

want to break for lunch?

MR. NEIBERGALL: I think it would be smart probably.

HEARING OFFICER WEBB: All right. It is 11:50. Why don't we convene at 12:50, 1 o'clock. Does that sound good?

MR. NEIBERGALL: Yes.

HEARING OFFICER WEBB: All right. Thank you. We're off the record.

(A recess was taken from 11:50 a.m. to 12:51 p.m.)

HEARING OFFICER WEBB: We are back on record. We are back from lunch and we are picking up with the cross examination of Mr. Watson, and I will remind you, sir, you are still under oath.

CROSS EXAMINATION

BY MR. NEIBERGALL:

Q. Good afternoon, Mr. Watson. Can you hear me?

A. If you could speak up a little louder. I am hard of hearing.

Q. How is this? Is this better?

A. A little bit.

Q. All right. First of all, I want to go over some of your testimony on direct. One of the first

things you said is that you helped gather the facts for SIPC to use in the petitions in this case; is that correct?

A. Yes.

Q. And by the facts, you mean, like, permitting record?

A. Like -- I'm sorry -- what kind of records?

Q. The record of permits for the various impoundments?

A. I mean, can you be more specific?

Q. So there's a lot of different permits in the Agency's exhibits for nine impoundments. Did you look at those?

A. I'm still not clear on what permit you're referring to.

Q. So for -- like, for example, construction permits?

A. I don't remember if I have or not.

Q. Okay. In a lot of your questions and answers with counsel, you specified that your knowledge was for the time you worked there; is that correct?

A. Yes.

Q. So you started work in 2018 for SIPC?

A. Yes.

Q. So basically, all of your testimony about the operations at SIPC to the various impoundments in question are from 2018 to present.

A. Yes.

Q. You stated in direct examination numerous times that the various impoundments are not subject to the federal rule, Part 257; is that correct?

A. Yes.

Q. Whose decision was it -- Who made the decision that you weren't subject to that rule?

A. I don't think I was working there at the time that decision had to be made. That was -- would have been in 2015 or prior.

Q. Okay. And so you don't know who made the decision prior to you working there?

A. No.

Q. But it would have been somebody at SIPC that made that decision?

A. I can only assume.

Q. And you would assume that because it's a self-implementing rule? It's not one where they -- actually the USEPA says, you follow under our rule, right?

A. I believe that's true.

Q. Okay. I want to go back to your role. You said you were the director of environmental services?

A. Yes.

Q. What -- You said your responsibilities are environmental compliance, which included maintaining compliance with the regulations?

A. Yes.

Q. Are you familiar with Section 22.59 of the Act?

A. Well, not from memory.

Q. Okay. Do you understand that that's the coal ash regulations in the state of Illinois, or the coal ash statute in the state of Illinois?

A. I have read it.

Q. Okay. Are you familiar with Part 845, the subject of these proceedings?

A. Yes.

Q. Are you familiar with the definitions?

A. Yes.

Q. Do you remember the definition for CCR?

A. Not -- I couldn't quote it from memory, no.

Q. Would it refresh your recollection to see a copy of it?

A. You want me to say it from the best of my

recollection?

Q. No, would it refresh your recollection what it is if you saw it?

A. Oh, yeah. Go ahead.

Q. So, Mr. Watson, I'm on page 2 of 7, the definition for coal combustion residuals, CCR. Do you see that?

A. Yes.

Q. It says it "means fly ash, bottom ash, boiler slag and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers"; is that correct?

A. Yes.

Q. Okay. If you go three down from that one, do you see the definition of CCR surface impoundment?

A. Yes.

Q. It says, "CCR surface impoundment or impoundment means a natural topographic depression, man-made excavation or diked area which is designed to hold an accumulation of CCR and liquids, and the surface impoundment treats, stores or disposes of CCR"; is that correct?

A. Yes.

Q. Regarding that CCR surface impoundment definition, in your direct testimony I heard you say a few times or in response to your counsel's questioning that -- I'll quote you here -- various ponds never received CCR from the boiler operations. Is that correct?

A. I'm sorry. Could you repeat that?

Q. So in response to your counsel's questions about whether or not certain impoundments received CCR from boiler operations, you continually answered that they did not. Does that sound fair?

A. Well --

MS. JOSHI: I'm sorry. Can you repeat the question, please?

MR. NEIBERGALL: Sure.

Q. (By Mr. Neibergall) Your counsel asked you whether or not various impoundments received CCR from boiler operations.

A. Yes.

MS. JOSHI: I'd just like to object to the extent that it's mischaracterizing counsel's previous question, which should be in the record, but I believe the question was whether they directly received CCR from boiler operations.

HEARING OFFICER WEBB: I didn't hear the whole -- I have to admit I didn't hear everything you said.

MS. JOSHI: I'd just like to object to the extent that that's mischaracterizing counsel's previous question on direct. He's stating that it's a quote. Obviously the record or the transcript will have the actual question that was asked, but my recollection of what I asked was not whether they'd ever received CCR from boiler operations, but whether they ever directly received CCR from boiler operations.

HEARING OFFICER WEBB: Would you like to amend your --

MR. NEIBERGALL: Sure. Yeah, that sounds good.

HEARING OFFICER WEBB: -- question? Okay.

Q. (By Mr. Neibergall) Does that make sense, sir, what she just stated?

A. Honestly, I can't say that I heard everything.

HEARING OFFICER WEBB: Why don't you re-ask the question the way she would like.

Q. Did -- I believe the question was, did any of these impoundments directly receive CCR from boiler

operations.

Is that correct?

MS. JOSHI: I have no objection to that characterization.

HEARING OFFICER WEBB: Okay. Thank you.

A. I don't remember that question specifically, but we're -- I was asked questions about each pond individually with regards to what they received, so --

Q. (By Mr. Neibergall) So for pond 3/3A, did it ever directly receive CCR from boiler operations during your tenure at SIPC?

A. No.

Q. Okay. Going back to the definition of CCR surface impoundment that's in front of you, can you point me to where direct receipt of CCR is in the definition?

A. I apologize. I didn't hear that.

Q. I didn't hear you. I'm sorry.

A. I didn't hear you either. I'm sorry.

Q. The definition there for CCR surface impoundment that's in front of you --

A. Oh, okay. Yes.

Q. -- does it require a CCR surface impoundment to directly receive CCR from boiler operations?

MS. JOSHI: Objection. Counsel's asking for

a legal conclusion.

HEARING OFFICER WEBB: What was -- Can you say your question again?

MR. NEIBERGALL: The definition of CCR, I'm asking whether it includes any mention of direct receipt of CCR from boiler operations.

MS. JOSHI: That's a slight rephrasing of the previous question.

HEARING OFFICER WEBB: Well, I mean, he's reading it. I don't think it calls for a legal conclusion.

MS. JOSHI: No, I -- the previous question had asked for an interpretation of what it said. I'm fine with that last question as raised.

A. So the question, just so I understand, is does the definition ask if they have to receive it directly from the boiler.

Q. (By Mr. Neibergall) Correct.

A. I do not see the word "boiler" in the definition, so --

Q. Do you see the words "direct receipt"?

A. No.

Q. Does that definition have any time factor for how long water and CCR must be accumulated together

in the impoundment?

A. Well, the tense of the verbs may imply that there's time, yes.

Q. Which verbs?

A. "Treats, stores or disposes."

Q. I was asking about that second factor, the "designed to hold an accumulation of liquids." Is there a time factor for that one?

A. Well, I would assume it's not instantaneous, so there would be some time factor, yes.

Q. But it doesn't say how long?

A. Not specifically, no.

Q. Does the definition contain a volume factor for how much CCR must be treated, stored or disposed of to qualify as a surface impoundment?

A. It does say an accumulation.

Q. Does it say any amount of, like, percentage or anything like that?

A. I don't know how much an accumulation is, so I can't answer that.

Q. Thank you. I want to move to your knowledge of fuel procurement at the SIPC facility. Do you have knowledge of how it buys its fuel?

A. My involvement in my declaration of fuel

procurement relates to the environmental factors of fuel that we purchase for the operation of the facility.

Q. So are you aware of the -- for example, the British term, and that's the BTU values of the fuel that you purchase?

A. I do not review the BTU value of the coal on a continuous basis, but I do know what it is and -- I mean, I do know what a BTU is.

Q. Okay. Your coal is from the Illinois basin; is that correct?

A. The -- I don't have an expert level of understanding of where we get our fuel. Like I said, my involvement when I put that in the declaration was to communicate that I am involved in the environmental aspect of it, like percent sulfur, those kind of things, for environmental compliance.

Q. So you don't know the source of the Illinois basin coal?

A. Not specifically, no.

Q. Do you know if the coal is run through a preparation plant?

MS. JOSHI: Objection. This is going beyond the scope of direct examination. We didn't talk about fuel sources as part of Mr. Watson's direct examination,

and nor does his declaration or the facts that he supports in the petition specifically discuss fuel procurement.

HEARING OFFICER WEBB: What --

MR. NEIBERGALL: He's the director of environmental services.

MS. JOSHI: I understand, but cross is supposed to stay within the scope of direct.

HEARING OFFICER WEBB: I don't recall discussing it, but if you were going to call him as a witness and do direct, I mean, we can --

MR. NEIBERGALL: If he doesn't know --

HEARING OFFICER WEBB: He doesn't --

MR. NEIBERGALL: -- that's fine, but I'd like to know if he knows.

HEARING OFFICER WEBB: Okay.

A. I don't know.

Q. (By Mr. Neibergall) Okay. As far as the definition that's in front of you for CCR, one of those listed possible CCR sources is flue gas desulfurization materials; is that correct?

A. You said for which definition?

HEARING OFFICER WEBB: Coal combustion residuals.

A. Oh, I'm sorry. Yes, that is in the definition.

Q. SIPC installed a unit 4 scrubber, SO2 scrubber, in 1978; is that correct?

A. Yes.

Q. Is a scrubber the technology that creates flue gas desulfurization materials?

A. Yes.

Q. I'd like to move to SIPC's Exhibit 29. I'm going to bring you a copy to look at, sir. It's Exhibit 29 on page 13.

Is this going to have any room up there or shall I bring the page?

HEARING OFFICER WEBB: It's up to you.

MR. NEIBERGALL: I'll bring him the page. Just one moment, please.

Q. (By Mr. Neibergall) So I'm looking at the fourth paragraph down on that page 13. Are you seeing that paragraph, sir? It starts with "The scrubber sludge"?

A. Yes.

Q. It says, "The scrubber sludge sample has no identifiable fly ash, bed ash, bottom ash and slag components; all particles are classified in the 'other'

category." Is that what you read as well?

A. That's what it says.

Q. So your understanding is that this document is classifying scrubber sludge as "other" instead of some form of CCR?

MS. JOSHI: Objection. Foundation. Counsel hasn't established that this witness has any familiarity with this document or its underlying facts.

MR. NEIBERGALL: Sure.

Q. (By Mr. Neibergall) Mr. Watson, back in 2020, 2021, there was a pond investigation that was done regarding de minimis units at SIPC; is that correct?

A. Yes.

Q. Okay. And as a course of that investigation, there was a bathymetric survey performed; is that correct?

A. I didn't hear you.

Q. There was a bathymetric survey performed by SIPC?

A. Yes.

Q. There was also what's called a PLM -- I want to make sure I don't butcher the -- polarized light microscopy, which is a technique that SIPC had its consultant use to identify the material; is that correct?

A. Yes.
Q. Were you familiar with this pond investigation?
A. Yes.
Q. And have you read this report?
A. Yes.
Q. Okay. So my question is, regarding page 13, paragraph 4, is it true that this report classifies scrubber sludge as "other"?
A. I don't believe that's what it's saying here.
Q. Okay. What does it say?
A. I think they're -- I'm really not qualified to speak on this particular thing, but I don't think it is equating, in other words, X equals Y, like what I think you're implying there with that.
Q. Earlier when I asked you about the definition of CCR and it included flue gas desulfurization materials, do you remember that?
A. Yes.
Q. And do you remember that in 1978, unit 4, the scrubber that was installed creates those materials? Is that correct?
A. Yes.

Q. And the scrubber sludge we're talking about would be those materials; is that correct?

A. Produced by the scrubber, yes.

Q. So are we talking about a different substance or are we talking about a component of CCR?

A. I don't understand by -- what you mean by we're talking about another substance.

Q. Well, I guess I'm just asking, this report says that scrubber sludge is "other" and listed as a different percentage than slag, fly ash and bottom ash, but the definition of CCR contains FGD materials as well.

A. Well, it doesn't specifically in that sentence that you read say what those particles are, so I really don't feel qualified to answer that.

Q. Okay. I'm going to turn to the same exhibit, 29. It's at PDF page 205 if anybody's on the PDF document. It's a letter from RJ Lee Group, and I'm going to bring you a copy in just a moment.

MS. LODE: Do you have the attachment, please?

MR. NEIBERGALL: It's your Exhibit 29.

MS. JOSHI: Yeah. Do you have the attachment?

MR. NEIBERGALL: It's in the appendix. It's

after attachment D as in dog. May I approach? Just one moment. Thank you.

(Discussion held off the record.)

Q. (By Mr. Neibergall) Sorry for the delay there. Mr. Watson, are you familiar with that document at all?

A. Well, I can't say that I remember seeing it before. I probably have, but I can't say for sure.

MS. JOSHI: I'm just going to raise an objection here. Again, outside the scope. Mr. Watson was not asked about this report, its contents, PLM analysis, as part of his direct testimony.

HEARING OFFICER WEBB: Well, I don't know what it goes -- I'm assuming you're leading to something, but I'm not sure what it goes -- what you're going towards.

MR. NEIBERGALL: I think I just need him to acknowledge that scrubber sludge is classified as 100 percent "other" in their pond investigation report.

MS. JOSHI: And Mr. Watson's not the author of this report. The witness who did author this report is going to be a direct witness here in this proceeding later, and he will have an opportunity to cross-examine the author of the report.

MR. NEIBERGALL: If he doesn't know, then that's fine.

HEARING OFFICER WEBB: Okay. Well, go ahead. If you don't know, just say you don't know and we can move on.

Q. (By Mr. Neibergall) Sir, do you know that --

MS. JOSHI: I kind of -- I don't know what -- Could counsel clarify the question that they're asking?

HEARING OFFICER WEBB: Well, I guess -- I mean, as the director of environmental services, I don't know what he knows. Maybe he can tell us, I don't know, shed light on this. I mean, we did talk about -- he did talk about what was in the ponds, right? He did talk about CCR.

MS. JOSHI: Yes, but this is a report analyzing the ponds --

HEARING OFFICER WEBB: Yeah, I don't --

MS. JOSHI: -- and part of our expert report that -- and that expert will be testifying later in the hearing.

HEARING OFFICER WEBB: I mean, maybe we can just -- you can just ask one or two questions quickly and

save the bulk of your questions for the --

MR. NEIBERGALL: Sounds fair.

Q. (By Mr. Neibergall) Mr. Watson, basically just -- have you reviewed this report before today?

A. I believe I have.

Q. Okay. And does it classify SIPC sludge as 100 percent "other"?

A. I'm sorry. You're going to have to speak up.

Q. At the bottom of the page there's a table, table 2. SIPC sludge is the second thing listed and it's classified as 100 percent "other"; is that correct?

A. It is in the column that you state. It's in a column as 100 percent under the "other."

Q. Thank you. You said earlier you're not familiar with the history of construction for the various ponds you testified about before 2018; is that accurate?

A. That's correct.

Q. So you don't know anything about when they were created, back in the '60s, '70s, '80s?

A. I -- Yeah, I'm not familiar with the dates of the --

Q. In your direct testimony you were explaining the relief that you were seeking, SIPC was seeking; is

that correct?

A. Yes.

Q. You testified that one thing you're seeking is inapplicability from the regulations, Part 845?

A. Yes.

Q. And the other thing you're seeking is an adjusted standard in the event that the regulations are applicable.

A. In the alternative, yes.

Q. So your comments about cleaning up and groundwater monitoring, everything, were if inapplicability is not granted.

A. Could you repeat that?

Q. Well, you testified earlier that there were various things that you were doing pursuant to Part 845 closure for all the different ponds that Miss Joshi went through; is that correct?

A. Currently doing?

Q. No, you would be doing if you were granted an adjusted standard.

A. Yes.

Q. But if inapplicability is what you're seeking first, you would never get to all those other things to clean up the ponds; is that correct?

A. If we get the inapplicability, we would still proceed with closure on some of the ponds as we discussed. It would not necessarily be under 845, but whatever the relevant standard would be, we would still be closing it.

Q. What would the relevant standards be?

A. Right off the top of my head, I couldn't tell you. I mean, we -- I'm just saying that we would do it in accordance with the standards that are applicable.

MR. NEIBERGALL: Moment to confer?

(Off the record.)

Q. One last question about pond 4 as far as current operations. Does coal pile runoff go to pond 4 always?

A. Always?

Q. Yes.

A. No. I think that was -- I'm not real sure. Somebody else would probably be more qualified to answer that question. I think right now the coal pile runoff goes to pond 3.

Q. Is it pumped there?

A. Is it what?

Q. Pumped?

A. A pump?

Q. Yes, sir.
A. Somebody else would be better qualified to answer that.
MR. NEIBERGALL: No further questions at this time.
HEARING OFFICER WEBB: All right. Thank you.
MS. JOSHI: I have just a brief redirect.

REDIRECT EXAMINATION

BY MS. JOSHI:

Q. Mr. Watson, did you prepare SIPC Exhibit 29, which IEPA counsel just asked you about?
A. I'm sorry. Could you repeat that?
Q. Yeah. IEPA counsel just asked you about SIPC Exhibit 29, which is a pond investigation report. Do you remember that?
A. Yes.
Q. Okay. Did you prepare that report?
A. No.
Q. That report discusses PLM or polarized light microscopy analysis. Are you an expert in PLM analysis?
A. No.
Q. Did you conduct the PLM analysis that's presented in that report?

A. No.

Q. You were asked a couple of questions about scrubber sludge. Where is scrubber sludge generated from unit 4 at the facility disposed of?

A. It was generated in the scrubber of unit 4.

Q. And then where was it disposed?

A. When I was there, it was sold for beneficial use of the production of cement.

Q. So while you've been at the station, has it ever been disposed of on site?

A. I'm sorry. Could you repeat?

Q. While you've been at the station, has it ever been disposed of at the Marion Station?

A. Yes, in the landfill.

Q. And was it ever disposed of anywhere other than the landfill? Let me go back and clarify. From the time you started at the station, you started working at the station, has it ever been disposed of at the Marion Station, the unit 4 scrubber sludge?

A. No.

Q. Prior to your time at the station, to the best of your knowledge, was the scrubber sludge ever disposed of on site at the Marion Station?

A. It was my understanding that that was sent

to the landfill.

Q. Okay. And then let's talk about unit 123. Does unit 123 also have scrubber sludge generated from its operations?

A. It does not.

Q. Okay. And I believe we talked about this before, but any CCR that's been generated by units 1, 2 and 3, has it ever been disposed of at the Marion Station? Not historic units 1, 2, 3. Let me clarify. Current unit 123.

A. No. At the best of my -- from 2018 on, it was not, and I -- yeah, I'd be hesitant to comment before that time period.

Q. Okay. So to the best of your knowledge, has CCR -- any type of CCR from unit 123, including scrubber sludge, if it existed, ever been disposed of on site at the Marion Station?

A. Not since I've worked there, it has not.

MS. JOSHI: Thank you, Mr. Watson. That's all I have.

RECROSS EXAMINATION

BY MR. NEIBERGALL:

Q. I just had one follow-up. One of the questions Ms. Joshi just asked was about whether sludge

from unit 4 was ever disposed on site, and I want to make sure that you're -- you said it was not, but you're speaking only from 2018 on.

A. Yeah, just from 2018 on, it was never disposed on site.

MR. NEIBERGALL: That's all I have. Thanks.

MS. JOSHI: Nothing further.

HEARING OFFICER WEBB: Okay. Does the Board have any questions for this witness?

MS. BROWN: Yes.

EXAMINATION

BY MS. BROWN:

Q. Earlier in your testimony you stated you were sampling the Lake of Egypt. Is that sampling on the record? If so, do you know where the attachment is?

A. I'd have to defer to counsel to answer that.

MS. JOSHI: There are some drinking water quality results in the record, and I believe -- let me confirm. So SIPC Exhibit 4 does include an annual drinking water quality report for the Lake of Egypt. I am not sure whether those are the specific results Mr. Watson was referring to or not, but we can certainly go back, confirm and provide the Board with a more fulsome response.

MS. BROWN: All right. Thank you.

Q. (By Ms. Brown) I also have another question. I wanted to ask you for clarification. Do you know when pond B-3 was cleaned and/or dewatered, what year?

A. Well, all I can say, it was done before 2018 when I began working there.

Q. Okay. And last question, I wanted to clarify, are the de minimis units proposed to be closed under Part 811 as well, or is that just the former CCR landfill area?

A. I'm sorry. Could you say that again?

Q. So I wanted to clarify, all the units at issue were going to be proposed to be closed under Part 811 even with a finding of inapplicability, or is that just the former CCR landfill area?

A. Just the landfill.

MS. BROWN: Okay. Thank you. Nothing further.

HEARING OFFICER WEBB: Thank you, Mr. Watson. You made it.

THE WITNESS: Thank you.

HEARING OFFICER WEBB: All right. Petitioner, you may call your next witness.

MS. JOSHI: We call Todd Gallenbach.

HEARING OFFICER WEBB: And would the court reporter please swear in the witness?

(Witness sworn.)

THE REPORTER: Would you spell your name for me, please?

MR. GALLENBACH: Todd, T-O-D-D, Gallenbach, G-A-L-L-E-N-B-A-C-H.

TODD GALLENBACH, produced, sworn and examined on behalf of the Petitioner, testified as follows:

DIRECT EXAMINATION

BY MS. JOSHI:

Q. And I think the court reporter took my first question. So moving on, Mr. Gallenbach, what is --

A. Were you --

Q. Yes. Can you hear me okay?

A. But my slides --

Q. Oh, yes, we'll get them to you in a moment.

A. Okay. Thank you.

Q. Mr. Gallenbach, what is your educational background?

A. I have a bachelor's in science from Southern Illinois University in mechanical engineering.

Q. Are you currently employed?

A. No, I am not.
Q. Are you currently retired?
A. Yes, I am.
Q. Prior to retirement, where did you work?
A. I worked at Southern Illinois Power Cooperative.
Q. How long did you work at Southern Illinois Power Cooperative?
A. I was hired April of '91.
Q. And --
A. And I retired --
Q. When did you retire from there?
A. February of 2022.
Q. What was your role when you worked at SIPC?
A. I was originally hired as a plant engineer, and then I was promoted to a maintenance supervisor and eventually to vice president of power production.
Q. In your past role as vice president of power production, what were your core duties for SIPC?
A. I was responsible for the safe, reliable operation of the Marion Generating Station.
Q. And what were your duties at the Marion Station prior to becoming vice president of power production?

A. I ran the maintenance department.
Q. And what were your duties as part of the maintenance department?
A. Responsible for all the equipment in the plant.
Q. Do you or did you carry any professional licenses?
A. Yes. I was a licensed professional engineer in the state of Illinois.
Q. And were you a licensed professional engineer while working for SIPC?
A. Yes, I was.
Q. And what was your involvement in preparing SIPC's petition in this matter?
A. More for historical basis.
Q. Can you expand on that? Did you help collect some historical facts and information?
A. Yes.
Q. Thank you. Did you prepare a declaration in support of the petition?
A. Yes, I did.
Q. I'm now, if we can approach, going to show you Exhibit 2 to SIPC's petition in this matter. Do you recognize this document?

A. Yes, I do.
Q. Is this a copy of the declaration you prepared in support of SIPC's petition?
A. Yes, it is.
Q. Other than the change in your employment status, do the statements in this declaration remain true and correct?
A. Correct.
Q. I understand that you had a Powerpoint to accompany your testimony today. Is that correct?
A. Yes.
Q. Again, if we can approach, we're going to hand you a copy of a Powerpoint marked as SIPC Exhibit 49 where the title slide reads "Testimony of Todd Gallenbach," which is also displayed on the screen in the room. Do you recognize this document?
A. Yes, I do.
Q. Is this a true and correct copy of the Powerpoint prepared to accompany your testimony today?
A. Yes, it is.
Q. Did you assist in drafting or otherwise review and approve the contents of this Powerpoint?
A. Yes, I did.
Q. Did you have some edits or corrections to

the version of this demonstrative Powerpoint that was circulated yesterday?

A. Yes, I did.

Q. Okay. Can you walk us through those changes or corrections that you made?

A. On page 3, from '78 to '85, the words "may have" have been added, and also from '85 to 2003.

Q. Okay. Are there changes --

MR. NEIBERGALL: Can he say that one more time? I'm sorry.

Q. Oh, sure. Can you please repeat the changes that have been made?

And I should just note for the record that the changes Mr. Gallenbach is referring to have been made by hand on the copies that have -- the hard copies that have been handed out in the room, and they have been made electronically on the version that's being displayed on the screen.

MR. NEIBERGALL: Thank you.

MS. JOSHI: Would you still like for him to repeat?

MR. NEIBERGALL: No. I see them now.

MS. JOSHI: All right. Great.

Q. (By Ms. Joshi) Mr. Gallenbach, can you

please point us to the next edit that you've made?

A. On page 5, the removal of bed ash being similar to bottom ash.

Q. Thank you. And are there any additional changes? Let me help you. Is your next change on page 17?

A. Yes. Not two to three days. It's two to three weeks.

Q. Thank you. And do you have a final change on page 20?

A. Yes, the way it's written now.

Q. The way it's been edited?

A. Yeah.

Q. So the removal of the words "during SSM events"; is that right?

A. Uh-huh.

Q. Thank you. And, Mr. Gallenbach, what does the Powerpoint contain, just generally?

A. You'll have to speak up. Will you pull that mic a little closer?

Q. Mr. Gallenbach, can you just describe generally what this Powerpoint contains?

A. It's a historical of the Marion operating plant.

Q. All right. Thank you. I'd like to start with some questions that focus on the units and waste production at the facility, so moving on to slide 3 of your Powerpoint, are you familiar with the operation of former units 1, 2 and 3 at the Marion Power Station?

A. Yes, I am.

Q. To your knowledge, when did these units operate?

A. From 1962 to June of 2003.

Q. And what types of units were historic units 1, 2 and 3?

A. They were a B&W cyclone unit.

Q. To your knowledge, what kind of CCR did those units produce?

A. They made a bottom ash and a fly ash.

Q. Did they produce scrubber sludge?

A. No, they did not.

Q. What volume of fly ash did units 1, 2 and 3 as cyclone units produce when operating compared to other types of coal-powered generating units?

A. So the cyclone units produced predominantly boiler slag, bottom ash, like, 70, 80 percent, and around 20 to 30 percent fly ash.

Q. I'd like to talk about how fly ash from

units 1, 2 and 3 were disposed of throughout these boilers' operation. So let's start with when the units first started operating in 1962 through 1975. How was fly ash generated from units 1, 2 and 3 disposed of during that time period?

A. So it was collected in Multiclones at the time and then was transported to the initial fly ash holding area.

Q. And then SIPC states in its petition that electrostatic precipitators were installed on units 1, 2 and 3 in 1975. Is that correct?

A. Yes.

Q. After the installation of the electrostatic precipitators in 1975 and through 1977, how was the fly ash from units 1, 2 and 3 disposed of?

A. So it was also collected wet and disposed of in the initial fly ash holding area.

Q. And I understand that in 1978 the hydroveyor system at the plant was modified. Is that right?

A. That's correct.

Q. What is a hydroveyor system?

A. So a fly ash silo was installed, and on top of that then there's dry collection separators and a baghouse, so then the ash was separated. It never came

in contact with the water. Then it went into the fly ash silo.

Q. Is 1978 also when unit 4 started operating?

A. Correct.

Q. Once the hydroveyor was modified in 1978 and through 1985, how was fly ash from units 1, 2 and 3 disposed?

A. For mostly it was into the fly ash silo, but the plant expansion going from just the three small units which produced a total of maybe 100 megawatts to adding unit 4 increased, you know, almost -- from 100 to almost 300 megawatts, so they kept the wet fly ash storage also available so it could go to either place.

Q. Okay. And when that fly ash was disposed of wet from 1978 through 1985, where would it have been disposed of?

A. Into the replacement fly ash holding area.

Q. Okay. Thank you. And so we just talked about how unit 4 also started operating in 1978. Once unit 4 started operating, how often were historic units 1, 2 and 3 actually used?

A. So several things happened when unit 4 was built. We went into -- The economy went into a recession and so our generation -- our prices went up, the

generation went down, so units 1, 2 and 3 really did not run after unit 4 was built for many years except when unit 4 was offline, and then they would try to start them.

Q. So you mentioned that some fly ash from units 1, 2 and 3 went to the replacement fly ash holding area from 1978 through 1985, but you also mentioned that some of it was disposed of dry; is that correct?

A. Correct.

Q. Okay. And can you -- where was -- or how was that fly ash disposed of dry?

A. So we had a pugmill which would take the scrubber sludge and the fly ash out of the bottom of the fly ash silo and mix them together, and it was disposed of in the landfill.

Q. And was there any spent water coming from the operation of the boilers at this time?

A. No. Well, yes. I'm sorry. The -- We did not install the dry collection till later. I mean, they're actually called vacuum pumps. We did use sluice pumps. So the water -- the lake water from the sluice pump did go to the holding area, but the ash did not.

Q. So again, just to clarify for the record --

A. Yeah.

Q. -- where did that ash go that was collected dry?

A. The ash went to the landfill.

Q. And where did the water go?

A. Into the fly ash holding area.

Q. And that's the replacement fly ash holding area that you're referring to?

A. Yes.

Q. And would this spent water that you just referred to have contained CCR?

A. It should not have.

Q. All right. So let's move on to 1985 to 2003 when these former fly ash holding area -- sorry. Let's move on to 1985 to 2003 when historic units 1, 2 and 3 stopped operating. During this time period, how was fly ash from historic units 1, 2 and 3 disposed of?

A. It could have either been combined with the unit 4 scrubber sludge or then it could have went to pond A-1.

Q. Okay. So again, when you say it could have gone to pond A-1, are you saying it could have been disposed of with water in pond A-1?

A. It could.

Q. Okay. And for -- And you also mentioned it

could have been mixed with scrubber sludge. Can you describe where the fly ash would have ultimately been disposed of that was mixed into the --

A. To the landfill.

Q. Okay. And was that -- again, was that fly ash collected wet or dry?

A. Dry.

Q. And was there spent water from the dry collection process of this fly ash?

A. Yes.

Q. Okay. And where was that spent water sent?

A. To pond A-1.

Q. And again, would the spent water have contained CCR?

A. It should not have.

Q. And when you say it should not have, can you just explain what you mean by that?

A. I mean, I want to say no, but, I mean, there's -- you know, yes, it should not have had fly ash in it because it would have been separated and went into the silo.

Q. Is it possible that there could have been a few particles of CCR or fly ash that --

A. Correct.

Q. -- stayed in the water? Okay. Thank you. All right. And then you also mentioned that historic units 1, 2 and 3 generated bottom ash; is that right?

A. That's correct.

Q. Okay. Where was the bottom ash from units 1, 2 and 3 disposed of?

A. Ponds 1 and 2.

Q. And what happened to the bottom ash after it went to ponds 1 and 2?

A. It was sold.

Q. And can you just describe operationally how the process worked of the bottom ash being sold from ponds 1 and 2?

A. So the way we handled it, we had a contractor then that took care of it. They bought it from us. They loaded it into trucks, hauled it off and then paid us for it.

Q. And about how frequently would the bottom ash be collected from these units?

A. Back then there would not have been very much.

Q. So moving on to generating unit number 4 that Mr. Watson referred to earlier and I believe slide 4 of your Powerpoint, are you familiar with the operation

of former unit 4?

A. Yes, I am.

Q. When did unit 4 operate?

A. From 1978 until October of 2020.

Q. And what type of CCR did unit 4 produce when it was operating?

A. So it produced scrubber sludge and bottom ash and fly ash.

Q. So again, starting with the fly ash, I'd like to ask you chronologically where the fly ash generated from unit 4 was disposed, okay? So from 1978 when it first started operating to 1985, how was fly ash from unit 4 disposed?

A. Disposed of?

Q. Yes.

A. It would have went to the fly ash holding area.

Q. Sorry. So this is unit 4 I'm talking about, starting in 1978. Okay. Is 1978 also when the hydroveyor system was modified?

A. Yes.

Q. Okay. So where was fly ash from unit 4 disposed of --

A. Yeah.

Q. -- yeah, from -- starting in 1978 when it started operating through 1985?

A. Yeah, I apologize. The fly ash was mixed with the scrubber sludge and went to the landfill.

Q. And was there any spent water generated from this method of disposal of the fly ash --

A. Yes.

Q. -- from unit 4? Sorry. Can you reply again just so it's clear for the record?

A. Yes.

Q. Okay. And where would the spent water have gone?

A. So that would have went to the replacement fly ash holding area.

Q. Okay. And just generally, for any spent water that we're discussing here today, what amount, if any, of CCR would you expect that water to have in it?

A. It would have been de minimis. It would have been very little.

Q. From 1978 to 1985, was fly ash from unit 4 ever disposed of with water?

A. If -- It could be, yes.

Q. Okay. Under what circumstances?

A. Some startup or shutdowns or freezing

conditions, malfunctions.

Q. And during those periods, where would -- how would the fly ash have been disposed of from 1978 to 1985?

A. It would have went to the replacement fly ash holding area.

Q. And can you just describe in a little more detail under what circumstances the fly ash would have had to be sent to the replacement fly ash holding area?

A. Because we relied on mixing it with the scrubber sludge, during extreme cold weather conditions -- it was an overland conveyor -- if that scrubber sludge froze, rather than shut the plant down, we would then have to transport the fly ash wet.

Q. So freezing conditions --

A. Freezing conditions.

Q. -- is really when that would occur?

A. Yes.

Q. Okay. And about -- again, I wouldn't expect you to have an exact number, but approximately how often would freezing conditions occur in a year?

A. Those conditions were usually maybe three to five days a year.

Q. Thank you. Moving on, starting in 1985 to

2003, how was fly ash removed or disposed?

A. It was collected dry, mixed with unit 4 scrubber sludge and sent to the landfill.

Q. Was there any spent water generated from the collection during this time period?

A. Yes.

Q. And where did that spent water go?

A. To pond A-1.

Q. Was fly ash from unit 4 ever disposed of with water during this time period?

A. Again, for the same conditions, freezing conditions, if the overland conveyor was not operating.

Q. And during these freezing conditions, where would the fly ash be disposed of?

A. Pond A-1.

Q. And how was fly ash from unit 4 disposed of between 2003 and 2009?

A. They remained the same except that's when the CFB was built, and so when the CFB was built, we no longer used the water at all. We had vacuum pumps that created a vacuum to pull the fly ash.

Q. Can you just explain what a CFB is?

A. I'm sorry. A CFB is a circulating fluidized bed boiler.

Q. And how did that allow you to no longer use any water in the ash collection process?

A. So the ash off of CFB has calcium oxide in it, quicklime. It cannot come in contact with the water. It's exothermic. So in the design of it, we had to pull all our ash completely dry. It could not come in contact with water.

Q. So as a follow-up, was there any spent water to manage or dispose of during this period?

A. No.

Q. And were the materials -- or the fly ash during this time still disposed of -- mixed with scrubber sludge and disposed of in the landfill?

A. Correct.

Q. And then how was fly ash from unit 4 disposed of from 2009 until the unit stopped operating in 2020?

A. Repeat that.

Q. So then starting in 2009, how was fly ash from unit 4 disposed of?

A. Oh, okay. So then the unit 4 fly ash was pulled into the new hopper. It was mixed with the CFB unit 123 ash.

Q. And where was -- where were those materials

disposed of?

A. It was all sold for mine reclamation.

Q. So you mentioned that unit 4 also generated scrubber sludge; is that right?

A. Correct.

Q. And did it also generate gypsum? Gypsum?

A. Yes, it did.

Q. What is scrubber sludge?

A. It's calcium sulfite.

Q. And to your knowledge, from 1978 through 2009, how was this scrubber sludge from unit 4 and any of its byproducts managed?

A. It was mixed -- from '78 to 2009?

Q. Yes.

A. Yes. It was mixed and disposed of in the landfill.

Q. And how was it taken to the landfill?

A. I'm sorry. What?

Q. How was it taken to the landfill?

A. On an overland conveyor.

Q. And then how was scrubber sludge from unit 4 managed from 2009 until unit 4 stopped operating?

A. So when we put in the forced oxidation, it's no longer calcium sulfite. It's calcium sulfate, which

is in gypsum, and so it was sold to Buzzi -- we had a contract -- and they took 100 percent of the material.

Q. And then you also mentioned that unit 4 generated bottom ash; is that right?

A. Correct.

Q. Okay. How was the bottom ash from unit 4 managed?

A. Again, we had a contract with a -- at the time a shingle manufacturer, and he took all of the material, loaded it into trucks. We sold it to him.

Q. And where did he take that material from?

A. He would get it out of ponds 1 and 2.

Q. And I just want to clarify. For the scrubber sludge that was sold after 2009, was that ever placed into a pond as a temporary storage while it was waiting for pickup?

A. It was no longer possible.

Q. Okay. So where was it stored prior to it being removed from Marion Station?

A. We built two conveyers, and there's a pad there, and so then there was a storage facility right on the plant site.

Q. And so it was taken from that storage facility?

A. Correct.

Q. And would that be the same for the fly ash that was taken off site after 2009?

A. There was two separate silos, and again, it had a separate truck loading, so you could load directly from the new silo into a truck, and so it never came in contact. It just went from the silo to the truck and off the property.

Q. When you say it never came in contact, it never came in contact with what?

A. Well, with water or anything else out of that loading area.

Q. Thank you. A couple of additional questions regarding unit 4 addressing Board questions 4a and 4c from the Board's filing on Friday. How is the composition of CCR generated from unit 4 compared to the CCR generated from historic units 1, 2 and 3?

A. The historic units 1, 2 and 3, because they were older and they weren't quite as efficient -- was the question just on fly ash?

Q. Well, this is CCR generally.

A. Okay. So the bottom ash was pretty much identical coming out of the boiler side, but the fly ash, the unit wasn't quite as efficient at burning coal, the

123 compared to 4, so there was more unburned carbon than the original units 1, unit 2 and 3 compared to unit 4.

Q. And with fly ash specifically, how did the fly ash generated at unit 4 compare to the fly ash generated from historic units 1, 2 and 3?

A. Just really the amount of unburned carbon that was in it.

Q. All right. I'd like to move on to slide 5 of your Powerpoint. Are you familiar with unit 123 or 123, as some call it?

A. Yeah. It's 123, 1-2-3, yes. Yes, I'm very familiar.

Q. Okay. What is it?

A. It is a circulating fluidized bed boiler.

Q. And when did unit 123 or 123 first start operating at Marion Station?

A. June of 2003.

Q. And what type of CCR does unit 123 produce?

A. Fly ash and bed ash.

Q. And again, how is the fly ash from unit 123 disposed of?

A. It went directly into trucks and hauled off the property.

Q. And how -- And was that since unit 123 first

started operating?

A. Yes.

Q. And moving on to the bed ash produced by unit 123, how is the bed ash from unit 123 disposed of?

A. It had its own silo, but again, it was loaded directly in trucks.

Q. And again, is that from the start of unit 123's operation?

A. Correct.

Q. And again, addressing the Board's question 4, how does CCR from unit 123 compare to the CCR from unit 4?

A. The big difference in a circulating fluidized bed is you're doing your sulfur removal during combustion, so you're adding limestone to calcium to the combustion, and so the bed ash and fly ash would always have some calcium sulfate in it, so there's no longer a scrubber needed. You remove the SO2 during combustion, so the mineral matter ash is identical except for the addition of the calcium sulfate.

Q. And again, was CCR from unit 123 ever disposed of on site at Marion Station?

A. No.

Q. Thank you for all that information on ash

separation. Now I'm going to move on to discussing with you some of the ponds at issue in SIPC's petition. Let's move to slide 6. Are you familiar with the units referred to in Mr. Watson's testimony as de minimis units, and more particularly, the south fly ash pond, pond 3/3A, pond 6, pond 4 and former pond B-3?

A. Yes.

Q. So let's start by talking about the south fly ash pond, which I believe is mentioned on your slide 7. What is the original purpose of building the south fly ash pond?

A. It was designed as a replacement for pond A-1.

Q. Is that why it has the name fly ash pond?

A. Yes.

Q. Okay. And I believe you just discussed this briefly, but again, what was pond A-1's function at the facility?

A. It took the water from the sluice conveyers.

Q. Was the south fly ash pond ever actually used as replacement for pond A-1?

A. No, it was not.

Q. Why not, to the best of your knowledge?

A. We never outgrew pond A-1.

Q. During your time at the facility, if the south fly ash pond didn't function as a replacement for pond A-1, what was the function of the south fly ash pond?

A. The stormwater collected off the coal pile runoff into what we called Emery Pond was pumped to the south fly ash pond.

Q. How did the south fly ash pond receive water from Emery Pond?

A. So there's a lift station there with -- it's a pump station. It has wickets in front of it. This is, like, a wicket dam, and then a -- kind of a rock dam in front of that to keep any solids, and so the -- there's, like, a deep well pump that pumps it from there up to the south fly ash pond.

Q. You said there's a deep well pump? Can you just describe a little bit further what a deep well pump is?

A. Well, it's not a -- like a sludge pump or the -- it's not designed to really pump solids. It's just designed to pump water.

Q. To your knowledge, did the south fly ash pond ever receive anything other than water from Emery Pond?

A. No, it did not.
Q. And how would you describe the quality of water going from Emery Pond to the south fly ash pond?
A. It was just kind of a gray water, your process plant water, stormwater runoff.
Q. So you mentioned the type of pump that was used and I think you also mentioned, like -- was it a sluice pump that you mentioned, or what were the other types of pumps mentioned?
A. I was comparing the design of that pump to the design of a pump designed to pump material, like a sluice water -- or a -- yeah.
Q. And what's the difference between a pump that would be designed to move water with sediment versus the type of pump that was used to move water from Emery Pond to the south fly ash pond?
A. Right. So the ones we have in the plant, they have, like, a hard nickel chrome liner, or you have to put an abrasive liner in them so they don't fall apart.
Q. And what kind of pump do you have to put the liner into?
A. Like, a sludge -- a sluice pump.
Q. Okay. But this pump --

A. Oh, I'm sorry. No, the --
Q. This pump did not have this characteristic, the one we're talking about that goes --
A. Correct.
Q. -- from Emery Pond to the south fly ash pond?
A. The one in Emery Pond does not. It's just a water pump. I'm sorry.
Q. Thank you. And during your -- to your knowledge, was CCR from the facility ever directly placed or sluiced into the south fly ash pond?
A. It was never.
Q. And how would you characterize the amount of CCR that may have gone to the south fly ash pond historically?
A. A very, very small amount.
Q. All right. Let's move on to pond 3/3A in your slide 8. What has this area received historically?
A. The stormwater runoff from -- and the coal pile runoff, and then some plant floor drains.
Q. Does it also receive water from south fly ash pond?
A. Yes.
Q. So you mentioned stormwater runoff, coal

pile runoff, water from the south fly ash pond. Is there anything else that pond 3/3A receives?

A. There was some plant floor drains. Original part of the plant still drained in that direction.

Q. And what was the purpose of sending water to the south fly ash pond -- oh, sorry. Let me go back. Did it also at some point historically receive overflow from the initial fly ash holding area?

A. You'll have -- There's some background noise.

HEARING OFFICER WEBB: Yeah. That door is closed, isn't it? Sorry.

Q. And I'll try to speak up.

A. Okay.

Q. Did -- Historically, did 3/3A also receive anything from the initial fly ash holding area?

A. Yes.

Q. Okay. And what kind of water would it have received from the initial fly ash holding area?

A. It would have been decanted water, the overflow.

Q. And would it have stopped receiving that overflow once the initial fly ash holding area stopped operating?

A. Correct.

Q. To your knowledge, did pond 3 ever directly receive CCR or have CCR directly placed within it?

A. It did not.

Q. Are you familiar with the berm that was constructed to the west of pond 3/3A that is kind of on the western portion of that red circle that you've got on slide 8 here?

A. Yes.

Q. What was the purpose of this berm?

A. The landfill, the stormwater runoff was starting to run -- that would be east as opposed to north, so it was to stop the erosion and the runoff from making it to those ponds.

Q. All right. Thank you. How would you characterize the amount of CCR that may have gone to pond 3/3A historically?

A. Can you repeat that?

Q. How would you characterize the amount of CCR that may have gone to pond 3/3A historically?

A. It would have been very small amounts.

Q. All right. Moving right along here to slide 9, what function has pond 6 served at the station?

A. It's the stormwater runoff collecting pond

off the landfill.

Q. Does pond 3/3A also flow into pond 6?

A. Yes.

Q. To your knowledge, has pond 6 ever been used for any other purpose?

A. It has not.

Q. And how long has pond 6 been in operation?

A. It kind of -- It's part of the landfill, so from when the landfill was constructed.

Q. When you say part of the landfill, can you explain what you mean?

A. So a berm was built, you know, to keep the landfill from flowing into the creek, and so when that berm was built, so then the water running off of the landfill would collect in this pond 6.

Q. So this is to collect the stormwater runoff from the landfill area?

A. Correct.

Q. So where does water from pond 6 flow?

A. Where does the water end up?

Q. Yeah.

A. There's a lift station on the west side that pumps it into pond 4.

Q. To your knowledge, is the former CCR

landfill sitting within the water of pond 6?

A. Can you ask that again?

Q. Yeah. To your knowledge, is the former CCR landfill sitting within the water of pond 6?

A. It is not.

Q. And what makes you say that?

A. The way the landfill was constructed, you know, it started on the east side and was built up and then slowly, you know, moved west and south, so as that was built up, you know, eventually the stormwater runoff had to go somewhere. But, no, we spent millions of dollars dewatering the sludge. We wouldn't just dump it back in the water.

Q. Thank you. During your time -- or to your knowledge, was CCR ever directly sluiced or placed into pond 6?

A. It was not.

Q. How would you characterize the amount of CCR that may have gone to pond 6?

A. A small amount. It's -- The scrubber sludge, you know, as it's in it, it just would be on the bottom of the pond.

Q. You mean the scrubber sludge from the runoff?

A. The stormwater runoff, yeah, yeah.
Q. Thank you. So the next pond I'd like to talk about is pond 4, turning to page 10 of your Powerpoint. What function did pond 4 serve?
A. The decanted water out of ponds 1 and 2 flowed into pond 4.
Q. Did anything else flow into pond 4?
A. The coal pile runoff also had the ability to go into pond 4.
Q. And I believe you just mentioned earlier that pond 6 also flows into pond 4; is that right?
A. Correct.
Q. Other than that, is there anything else that you're aware of that has ever flowed -- gone into -- or flowed into pond 4?
A. No.
Q. How would you describe the quality of water going from pond 6 to pond 4?
A. I mean, it was decanted, fairly clean water.
Q. And what makes you say that it was decanted water?
A. You can -- There's some berms there -- if you look even in the picture, they show up -- that stopped any solids from flowing to where -- the pumping

station is in that bottom left corner, and you can see those berms there. They stopped anything from going to it.

Q. And how does water travel from pond 6 to pond 4?

A. There's a pumping station.

Q. And we talked a little bit earlier about pumping stations. Is this a pumping station meant to pump water and sediment?

A. No, no.

Q. How would you describe the pumping station?

A. Again, there's, like, wickets around the pump station. It just pumps the water.

Q. Based on your operational experience, would you expect a different type of pump to have to be used if the water did contain sediments?

A. It would be a different type of pump.

Q. How would you describe the quality of water going from ponds 1 and 2 into pond 4? How would you describe the quality of water from ponds 1 and 2 that went into pond 4?

A. It again is decanted water, so it's just the overflow.

Q. And what's your basis for saying that it was

decanted water?

A. So as Wendell mentioned also, the boiler slag is extremely dense, it's made of iron, and it separates from the water in matters of seconds, you know, and so as it was pumped over there, the water ran away from it and then overflowed into pond 4.

Q. And how did water flow from -- this decanted water you just talked about flow from ponds 1 and 2 to pond 4?

A. There's a pipe with a valve on it, and it flows through the -- it's like a culvert pipe, that it flows across through that berm.

Q. All right. To your knowledge, was any CCR ever placed or sluiced directly into pond 4?

A. It was not.

Q. And how would you characterize the amount of CCR that may have gone to pond 4?

A. A very, very, very small amount.

Q. All right. Let's turn to slide 11 and talk about the last of what SIPC's petition refers to as de minimis, and it's former pond B-3. What was the function of former pond B-3?

A. Pond B-3, it was a finishing pond for pond A-1.

Q. And when you say a finishing pond, what do you mean?

A. So the water would overflow from pond A-1 down into pond B-3.

Q. And then what happened to that water after it went into pond B-3?

A. Then there was actually another small clear well that -- and when it went from there, there used to be a discharge through a different outfall.

Q. Was that an NPDES outfall that --

A. Yes, it -- yes.

Q. Other than being used as a finishing pond for water from pond A-1, was pond B-3 used for any other purpose historically?

A. If we were cleaning out pond A-1, it did provide the flexibility if we couldn't get pond A-1 cleaned in time that you could take that water off the sluice pumps and go into pond B-3.

Q. About how often, in your estimation, during the operational history when A-1 was being used did B-3 have to be used instead of A-1?

A. During my career, I only remember one time. It was, like, a week tops.

Q. Are you familiar with the dewatering and

cleaning of former pond B-3 that occurred in 2017?

A. Yes.

Q. Was former pond B-3 capable of holding water after that cleaning in 2017?

A. It is not.

Q. Okay. Why not?

A. On the topo map in the picture, you can see the -- we've cut the berm completely through, and so water cannot -- no longer.

Q. And are you referring to the topo map that's on slide 11 of your Powerpoint?

A. Yes.

Q. Okay. Which comes from SIPC's Exhibit 3; is that right?

A. Yes.

Q. And after its cleaning, to your knowledge, did it contain any sediments?

A. After the cleaning?

Q. Yes.

A. No.

Q. So you said you retired from the plant in 2022; is that right?

A. Correct.

Q. All right. What was the state of former

pond B-3 when you retired from the plant?

A. It was just a big empty hole.

Q. Thank you. Mr. Gallenbach, just generally, for each of these ponds that we've just discussed, the ponds that SIPC has referred to as the de minimis units, would the ponds include sedimentation from sources other than plant operations?

A. Can you repeat that question?

Q. Yeah. Is it possible -- or -- the pond that we just discussed, the de minimis ponds, would the ponds include sedimentation from sources other than operations of the Marion Station?

A. Yes.

Q. What kind?

A. We have a tremendous amount of phragmites that grows around our ponds, and grass, and so as the groundskeeper -- once or twice a year when he cuts that, it falls in the pond, and all your leaves. It's southern Illinois. There are a lot of trees. So all that organic material makes its way to the pond.

Q. How would you characterize the physical characteristics of this organic matter in the pond?

A. Kind of a black muck.

Q. All right. And, Mr. Gallenbach, I'd also

just like to address, if you can, question number 6 from the Board, which asks about documentation quantifying the various materials that may have entered the de minimis units. So you mentioned for several of these ponds that they receive coal pile runoff; is that right?

A. Correct.

Q. Based on your operational experience, is it possible to have documentation regarding the amount of coal entering into these units?

A. The amount of actual --

Q. Coal, yeah.

A. Volume?

Q. Yeah, volume.

A. No. Sorry.

Q. Okay. And just why not, if you could explain?

A. I mean, the -- so the coal pile runoff, it did -- we did have three other smaller ponds that eliminate the majority of -- because you don't want to -- we have -- we buy the coal. You don't want to lose it, you know, so you try to control it as much as possible, but during heavy rain events you'd really have no way of calculating how much you lose.

Q. And is it possible to have documentation

regarding the amount of CCR that might have entered into these units?

A. No.

Q. And just kind of following up on that, you talked about how the -- how, like, it would be impossible to calculate the amount of -- or the volume of coal pile runoff entering during rain events, but you also noted that these ponds received decant water from preceding ponds, right? Based on your operational experience, is it possible to measure the amount of CCR or other sediment that might be entering into these units with the decant water that was being pumped or piped through?

A. Yeah, it would -- it wasn't measured. It wasn't possible to really measure that.

Q. Are you aware of any, like, process by which it could have been measured?

A. Could you repeat the last --

Q. Yeah. Are you aware of any process by which it could have been measured?

A. No.

Q. And based on your operational experience, would it be possible in the case, for example, of pond 6 to measure the volume of sediment or other CCR from the landfill that would have been entering through stormwater

runoff?

A. Yeah, it would not have been possible to measure, yeah, the landfill runoff.

Q. Okay. Thank you. All right. Moving to slide 12, SIPC's petition mentions that the de minimis units were cleaned of debris and sediment back in 2003. Are you familiar with that fact?

A. Yes.

Q. Were you present at the plant when these cleanings took place in 2003?

A. Yes, I was.

Q. I'd like to discuss the nature of the cleaning that took place at each unit, starting with the south fly ash pond. Were -- Turning to slide 13 of your presentation, were materials removed from the south fly ash pond in 2003?

A. Yes.

Q. Can you please describe what was done at the south fly ash pond to remove those materials?

A. So we lowered the water level and we took our long stick excavator and just was able to scrape the sediment, you know, off and load it in trucks.

Q. And what was the amount of the materials removed, to the best that you can characterize that?

A. A very small amount.
Q. If you had to guesstimate in truckloads, for example, what would you say?
A. It would have been maybe 10, 20 truckloads tops, you know, because -- maybe a week's worth.
Q. Okay. I see on the slide that you have a couple of truckloads. You said 10, 20. Just want to circle back, and it's fine if you need to clarify. So for the south fly ash pond --
A. Right.
Q. -- yeah, how would you describe the amount of materials that were removed?
A. Describe the actual materials?
Q. Yeah, the amount. The amount of materials.
A. A very small amount.
Q. Okay. And can you just clarify how many truckloads you believed it would have been?
A. It's a very small amount of trucks, you know, because our guys -- there was less than a week's worth of work, so 10 or 20 trucks.
Q. And is that at most?
A. Yeah.
Q. Okay. And why would you say 10 or 20 at most?

A. Because I know how long it takes to kind of load a truck, you know, and so it's based off of that.

Q. All right. And again, we're talking about the south fly ash pond right now.

A. Right.

Q. Okay. For the south fly ash pond, do you recall from what portion of the pond the sediments were taken?

A. There's a -- Where the pipe discharge is, there's just a little -- it kind of formed a delta right there.

Q. And so was it -- did it just comprise of an area of the pond?

A. We cleaned just -- yeah, that's -- you could see where the sediment stopped as you looked out on it, so we only cleaned out -- it didn't go very far into the pond.

Q. By it, do you mean the sediment didn't go very far into the pond?

A. Correct, correct.

Q. Where were those materials removed from the south fly ash pond disposed of?

A. They went to the landfill, the CCR landfill.

Q. Sorry. Just one moment. All right. Let's

move on and -- to slide 14 of your presentation and start a discussion of pond 4. Were materials removed from pond 4 in 2003?

A. Correct.

Q. Can you describe how pond 4 was cleaned in 2003?

A. We used excavators.

Q. Okay. Was the pond dewatered before going in with the excavator?

A. Dewatered, yes, yes.

Q. Okay. And can you please describe what was done with the materials removed from pond 4?

A. That material was burned.

Q. How was it burned?

A. Well, we hauled it to our coal yard and then let it dry and mixed it with our coal and burned it in our boiler.

Q. How would you describe the amount of materials that were removed from pond 4 in 2003?

A. That was around 50 truckloads.

Q. Moving to former pond B-3 and your slide 15, I believe, were materials removed from former pond B-3 in 2003?

A. Yes.

Q. Can you please describe how former pond B-3 was cleaned at that time?

A. Similar to 4. We dewatered it and we used excavators to clean it out.

Q. And where was the material cleaned out of pond B-3 taken?

A. It was also hauled over to the coal yard, mixed with our coal and burned.

Q. And how would you characterize the amount of materials that were taken out of B-3 at that time?

A. Less than 50 truckloads.

Q. And again, can you just describe how you're estimating the amount of truckloads?

A. So we used our own operators to run the equipment. We don't own trucks, so we would have a trucking company by the hour, so we would have been in that pond during an outage for a couple weeks, and just knowing how long it takes to load the trucks, that's where I got my approximation from.

Q. And when you're describing a truck for all of these units, like, what kind of truck are you talking about?

A. Yeah, not to confuse people. Not the big semi trucks. They're a little tandem. They hauled

around 10 tons.

Q. Moving on to pond 6 in your slide 16, were materials removed from pond 6 in 2003?

A. Yes.

Q. Could you describe what was done to remove materials from pond 6?

A. So we have a long stick excavator, and again, we used our own people and they drive around the edge of the pond, and they just scooped it out and turned around and put it back -- the landfill was directly behind them, and they just put it back into the landfill.

Q. How would you describe the volume of sediment cleaned from pond 6 at that time to the volume of the unit?

A. It was around 20 to 30 percent of the volume.

Q. And then finally, moving on to pond 3/3A, were materials removed from this pond in 2003?

A. Yes.

Q. And how would you describe what was done to remove the materials?

A. So again, similar. We used our own people. We dewatered the pond and we used excavators to remove the material.

Q. And how would you describe the amount of materials that were removed?
A. In the 20- to 50-truckload range.
Q. And where were the materials from 3/3A taken?
A. The material from there?
Q. Uh-huh.
A. It was taken --
Q. Yes.
A. -- up and put into the landfill.
Q. Sorry. All right. First of all, I just want to check in. Are you doing okay?
A. Yeah, yeah.
Q. All right. So let's move on to the former landfill -- the former CCR landfill and former fly ash holding units that are at issue in this matter. You heard Mr. Watson testify that the initial fly ash holding area, replacement fly ash holding area and fly ash holding area extension make up the area SIPC refers to as the former fly ash holding units; is that correct?
A. Yes.
Q. Okay. Based on your experience at the facility, where are the former fly ash holding units located compared to the location of the former CCR

landfill?

A. They are within the boundary of the CCR landfill.

Q. And when you say within the boundary, are they located next to it? Are they located under it? Can you just --

A. They are now underneath it. They are now underneath it.

Q. And based on your last observation at the plant, how much of the former fly ash holding units are covered by the CCR landfill?

A. I believe 100 percent.

Q. All right. Great. Let's start discussing the specific units, starting with the initial fly ash holding area. To your knowledge, what was the purpose of the initial fly ash holding unit during its operation?

A. So it was designed to receive the wet fly ash from units 1, 2 and 3.

Q. And again, to your knowledge, how long did the initial fly ash holding area receive this wet fly ash?

A. Until 1977.

Q. And what was the status of the initial fly ash holding area during your time at the facility?

A. It had been dewatered and closed.
Q. So you started working at the plant around the early '90s; is that right?
A. '91, yes.
Q. Okay. And during the time you were at the facility -- I guess at the time you arrived at the facility, was it covered by the landfill at all?
A. I believe so.
Q. Moving on to the replacement fly ash holding area and the next slide here, which I believe is slide 20 --
A. Slide 20?
Q. Yes.
A. Okay.
Q. What waste streams did the replacement fly ash holding area receive?
A. They received the spent water from the hydroveyor system.
Q. Anything else?
A. They could have received fly ash from the original units 1, units 2 and units 3.
Q. And when -- like, during what time period would that have occurred?
A. It would have ended around '85 when pond A-1

was built.

Q. And what was the status of the replacement fly ash area during your time at the facility?

A. It had been dewatered and closed.

Q. All right. Moving on to our last former fly ash holding unit, the former fly ash holding area extension, to your knowledge, around when was this unit constructed?

A. Around --

Q. And I believe we're on page 21 of your slide deck. Sorry. So to repeat the question, around when was the former fly ash holding area extension first constructed?

A. 1982.

Q. And what was the original purpose of building the former fly ash holding area extension?

A. It would have been to receive the fly ash from the plant.

Q. And what was the purpose of -- I guess what was the intended purpose of it receiving the fly ash from the plant?

A. So when unit 4 was built, again, and they were growing, I think they were concerned about not having enough room for their water and their fly ash, but

because they pulled it dry and mixed it with the scrubber sludge, I don't believe it was really utilized.

Q. Okay. So to your knowledge, was it ever used for the purpose of receiving fly ash?

A. I don't believe so.

Q. And just based on your understanding, why would SIPC build an additional pond with the intention of storing fly ash if it was unlikely to receive that fly ash?

A. You know, I believe they were going through some growing pains, you know, and they wanted -- you know, you always need a backup of that -- you can't just let your fly ash pond fill up. You have to get one permitted and built, so I think they were anticipating, again, having something ready for the future.

Q. And what was the status of the former fly ash holding area extension during your time at the facility?

A. So it had been dewatered and partially covered by the landfill.

Q. And then did it continue to be covered during your time at the facility?

A. Yes.

Q. Once the former fly ash holding units were

dewatered, how were the units treated?

A. It became part of the landfill.

Q. During your time at the facility, did SIPC treat these areas as landfill?

A. Yes.

Q. Let's discuss the former CCR landfill itself. How did the former CCR landfill operate during your time at the facility?

A. Can you repeat the question?

Q. Yeah. I'll rephrase. Generally, how did the former CCR landfill operate during your time at the facility?

A. They received fly ash and scrubber sludge from '78 to 2015.

Q. Okay. Yeah, and let's move on to slide 22 of your presentation that I think talks about the former landfill. So you said it received fly ash and scrubber sludge. Once that fly ash and scrubber sludge was deposited onto the landfill area, how was it managed?

A. How was it handled?

Q. Yeah. How was it managed once it was deposited into that area?

A. So again, we had a contract with a company and they kept an operator and a dozer, so as it fell off

of the conveyor, he would dress the landfill, push it around. You obviously couldn't just let it pile up right under the conveyor, and so he took that material over time and spread it out.

Q. And approximately when did the former landfill cease operations?

A. It really stopped receiving material when we did the forced oxidation, you know, in '09, but then it was completely closed in '15.

Q. Based on your personal operational knowledge, during your time at the facility, did this area ever exhibit characteristics of a surface impoundment?

A. Can you repeat that question?

Q. Yeah. Based on your personal operational knowledge, during your time at the facility, did this area of the former CCR landfill ever exhibit characteristics of a surface impoundment?

A. No, it did not.

Q. And are you generally familiar with what a surface impoundment looks like?

A. Yes.

Q. Okay. And how a surface impoundment operates, are you familiar with that?

A. Yes.

Q. During your time at the facility, did you ever have any interactions with IEPA regarding the former landfill area?

A. Yes.

Q. Can you describe those interactions?

A. A representative came down. I believe Jason and I took her around the landfill and showed it to her. She asked some questions about when we were going to cover it, and that was really my extent of the interaction.

Q. And during that interaction, was there any indication of how IEPA viewed this area; specifically, whether it viewed it as a landfill or a surface impoundment?

A. Well, she was from the Division of Land. She definitely treated it as a landfill.

Q. And finally, I'd like to talk to you about something referenced in Mr. Watson's testimony. Are you familiar with Lake of Egypt?

A. Yes, I am.

Q. What is your familiarity with Lake of Egypt?

A. I live on Lake of Egypt.

Q. And that is the lake that is next to Marion

Station; is that correct?

A. It is.

Q. Are you familiar with Lake of Egypt's use as drinking water?

A. Yes, I am.

Q. Is it provided as a drinking water source by the local municipality?

A. Can you repeat the question?

Q. Yeah. Is it provided or used as a drinking water source by the local municipality?

A. Yes, it is.

Q. Okay. And to your knowledge, does the municipality monitor the drinking water quality of Lake of Egypt?

A. Yes, they do.

Q. And to your knowledge, has there ever been any issues with drinking water quality in Lake of Egypt as a result of the Marion Station operations?

A. No, there has not.

Q. And just generally, what is your understanding of the drinking water quality of the water in Lake of Egypt?

MR. NEIBERGALL: I'm going to object as speculation on that.

HEARING OFFICER WEBB: If you know, you can answer.

A. Well, Lake of Egypt, they're really technically a water district, but they won the best-tasting water in the United States a couple years ago.

MS. JOSHI: Okay. I have no further questions. Thank you.

HEARING OFFICER WEBB: Okay. Why don't we take a break, five or ten minutes. We'll go off the record.

(Brief recess taken.)

HEARING OFFICER WEBB: We are back on the record. Mr. Gallenbach, you are still under oath, and we will pick up with your cross examination.

CROSS EXAMINATION

BY MR. NEIBERGALL:

Q. Good afternoon, sir. I want to start -- I think you probably heard my questions earlier to Mr. Watson about fuel?

A. Yes.

Q. Are you familiar with the fuel procurement at the SIPC station?

A. I was never responsible for the procurement.

Q. Are you familiar with the fuel combustion?
A. Yes.
Q. You're aware of British thermal units, BTUs?
A. Yes.
Q. Do you know the source of the Illinois basin coal that was used at SIPC?
A. Could you ask that again?
Q. Do you know the source of the Illinois basin coal that was used?
A. We sourced fuel from multiple mines over many years, so there is no single source.
Q. But from Illinois, locally?
A. Mostly, but we did bring some from Kentucky and some as far as Springfield, Illinois.
Q. Do you know if the coal that you used at SIPC was run through a preparation plant?
A. Some was.
Q. Could you estimate how much?
A. You mean over the last 40 years or --
Q. In your experience from 1991 to 2022, roughly how much was run through a preparation plant?
A. What percentage of the fuel we burned was -- went through a prep -- I really can't.
Q. Okay. That's fine. When coal isn't

prepared, when it's not run through the preparation plant, does it contain non-coal materials?

MS. JOSHI: I'm just going to object again to this being outside the scope of the direct examination of the witness. The witness testified about waste that was generated from the boilers, the operation of the units at issue in this proceeding.

MR. NEIBERGALL: The response is that somebody at SIPC should know the content of the coal, and it's their burden to prove which is CCR material and which is not, so I'm hoping that somebody with as much experience as he has at the facility can answer some questions about the content.

HEARING OFFICER WEBB: Okay. I'll let you answer.

A. Well, to be clear, and since we haven't talked about this, but our original air permit required us to burn mine waste, I believe 25 percent, but it could be 20. So not only was that not washed coal; that was actually -- and the reason that was done is because with the abandoned mines there's a tremendous amount of mine waste, and some kids got killed, you know, because it caught on fire, and so they permitted our plant to burn the mine waste. So it's a very tough question when you

asked about washed coal, because we also blend it in the tailings from a prep plant.

Q. (By Mr. Neibergall) So for the mine waste, how much was blended in over time?

A. We were required to do around 20 percent, but the CFB burned -- was designed to burn 100 percent, and that's why we did it. We eventually burned up almost all the economical mine waste in southern Illinois, and so now, I'm not there, but I believe they burn a blend of coal and mine waste.

Q. Thank you. Does the mine waste come from RDAs, refuse disposal areas?

A. Can you say that -- you're using an acronym?

Q. Yes, sir. Refuse disposal areas, RDA.

A. I'm not familiar -- They were pre-law mines, if that helps you.

Q. Okay. Thanks. Does the combustion process in the different units at SIPC -- is it hot enough to melt all the materials that are in the coal and the mixture?

A. So again, we have two different units. Unit 4, yes, it goes over 3,000 degrees, and everything turns into a liquid in unit 4.

Q. And how about 123?

A. It's a circulating fluidized bed, so it burns around 1500 to 1800 degrees, so, no, it does not liquefy any of the minerals.

Q. I'm sorry. Can you clarify? The degrees you just mentioned, is that Fahrenheit or Celsius?

A. Those are Fahrenheit. I'm sorry.

Q. Thank you. Is it fair to say for the coal-fueled units that the combustion produces heat, light and gases?

A. And maybe if -- you're looking down when you're asking the question and --

Q. Sure.

A. Okay. Yeah, into the mic.

Q. Is it fair to say for the coal-fueled units that combustion produces heat, light and gases?

A. Yes, it's fair to say that.

Q. Any --

A. I don't know -- the light --

Q. Sure.

A. We produce heat and you would produce some flue gas, but I don't know what you mean by light.

Q. Okay. Any fuel that doesn't burn is the residue of the coal combustion?

A. So your question is any fuel --

Q. Fuel.
A. -- that does not burn, how would I classify it?
Q. Is it a residue of the combustion process?
A. Well, I mean, you have mineral matter in the fuel. You burn all the hydrocarbons, the hydrogen and carbon, and what's left is mineral matter. That's --
Q. That's the residuals, right?
A. I don't know how you define it. I'm just -- That's what it is.
Q. And you're familiar -- or you know the definition of CCR earlier?
A. I do not know the definition of CCR.
Q. Would it refresh your recollection if you saw it? I'll bring it up to you.
A. Okay.
Q. So I'm showing you 35 Illinois Administrative Code 845.120, Definitions, page 2, coal combustion residuals or CCR. Do you see that paragraph, sir?
A. It's in italics?
Q. Yes, sir.
A. I see it.
Q. Okay. And CCR means fly ash, bottom ash,

boiler slag and flue gas desulfurization materials? Do you see that there?

A. Yes.

Q. Okay. So flue gas desulfurization materials, FGD, is part of what CCR is; is that correct?

A. Was there a question?

Q. Sorry. I was asking if FGD is one of the components that makes up CCR.

A. Yes.

Q. And the unit 4 SO2 scrubber in 1978 was what was producing that sludge?

A. I don't know the definition exactly that they're saying, but using generic terms, I believe what you're saying is correct.

Q. Okay. You were familiar with the pond investigation that was done in 2021 and 2022 regarding the de minimis units?

A. I am aware it was done. I'm not familiar with it.

Q. So Petitioner's Exhibit 29, the pond investigation report, are you saying you're not familiar with that at all?

A. I am not familiar with it.

Q. What month of 2022 did you stop?

A. Technically January, but I think my retirement day was somewhere in February.

MR. NEIBERGALL: May I approach?

HEARING OFFICER WEBB: Uh-huh.

Q. (By Mr. Neibergall) Sorry for the giant binder. Give me one second. Mr. Gallenbach, have you ever seen that report?

A. No, I have not.

Q. So the date on there, looks like 1st of September, 2021? Were you working for SIPC at the time?

A. I was employed there, yes.

Q. Do you recall being on some calls for a violation notice back in 2020, in 2021, where we discussed this investigation?

A. I do not.

Q. Were you working for SIPC in March of 2021?

A. Yes, I was.

Q. Did you see an earlier version of this report that was authored by the same parties?

A. I do not remember ever seeing this report.

Q. I'm going to come grab that back from you real quick. All right. We'll move on to some of what you testified about earlier. The 2003 cleanings that you discussed on your direct testimony, was that amount that

you testified to ever codified anywhere? Was it ever written down as far as the truckloads?

A. No, sir.

Q. Was the fact that the cleaning occurred in 2003 for all of these de minimis units ever written down anywhere?

A. I don't believe so.

Q. You testified that a truckload in the trucks you were using was about 10 tons per truck? Is that accurate?

A. Correct.

Q. South fly ash, you said 10 to 20 truckloads; is that correct?

A. I do believe I said that, yes.

Q. Pond 4, you said approximately 50 truckloads?

A. Yes.

Q. B-3, you said less than 50 truckloads?

A. Yes.

Q. Pond 6, you said 20 to 30 percent of the volume because there were no trucks because you were putting it right back in the landfill?

A. Correct.

Q. 3 and 3A, you said 20 to 50 truckloads.

A. Correct.

Q. All right. We're going to go back pond by pond that you went through in your direct testimony and talk about those a little bit. In the course of your time at SIPC, from 1991 to 2022, did you review any construction permits or operating permits, historical documents for the various ponds?

A. I have seen them.

Q. Okay. I'm going to bring you some exhibits and we're going to flip through them.

MS. JOSHI: Could you please let us know what exhibits you're --

MR. NEIBERGALL: Yep. I have -- That's the record containing our exhibits and he's going to flip through as I indicate which exhibits.

Q. (By Mr. Neibergall) So we'll start, sir, with pond 3, and we're going to look at Exhibit -- Agency Exhibit O as in ocean. And I can either say OO like it is or I can just say it one time. It's all -- There's no --

A. So I'm not real familiar with your filing system. You want me to go to tab O?

Q. Yes, sir. Thank you.

MS. JOSHI: And since they are in the

response, I would just ask for, like, 30 seconds for us to be able to pull up the exhibit on our end before you start.

MR. NEIBERGALL: Sure, that sounds good.

THE WITNESS: All right. I'm on tab O.

MR. NEIBERGALL: Counsel, let me know when you're ready.

MS. JOSHI: Yeah, we're ready. Thank you.

Q. (By Mr. Neibergall) All right, sir. Exhibit OO, there is an October 6, 1969, permit document at page 1. It says -- titled "Slag and Fly Ash Disposal," is that accurate, at the very top there?

A. I see it, yes.

Q. Down at the bottom of that page it says, "PS to Region, project consists of 53,000-cubic-yard settling pond and surface water diversion." Do you see that, sir?

A. Yes.

Q. So this permit document, which is for pond 3, indicates that this unit is designed to hold CCR and liquid?

A. It appears so.

Q. If you flip to page 3 of that document -- so it's front and back, but it's the third page -- it's a handwritten cursive document. Do you see that?

A. Yes.

Q. Proposal, in the middle of the page, it says, "Construct a third fly ash and slag settling lagoon to relieve overloading"? Do you see that?

A. Yes.

Q. So it would be a construction, a man-made construction? Is that how you would interpret that?

A. I don't understand your question.

Q. Well, the construction -- it's not a -- it's not just a hole that's near the unit, right? Somebody had to build it.

A. I'm --

Q. Let's move -- We'll move to another page. It's page 9. It's a typewritten page. The top says "Slag Settling Ponds."

A. You said they're numbered front and back?

Q. They're not numbered, but if you keep flipping, you're going to see a page called "Slag Settling Ponds," typewritten.

A. Yes.

Q. Middle of the page, under Procedure, it says "land cut and fill"? Do you see that?

A. Yes.

Q. Would you consider that a man-made

excavation?

MS. JOSHI: Sorry. Are you on page 9 of the PDF?

MR. NEIBERGALL: No. I don't know where I'm at on the PDF, but I'm on the 9th page of Agency Exhibit OO.

A. So you're asking me if this was a permit to build a pond?

Q. (By Mr. Neibergall) I'm asking specifically about --

HEARING OFFICER WEBB: Can I interrupt for a second? She had 1107 for the PDF page number?

MS. LODE: Got it. Thank you.

HEARING OFFICER WEBB: You got it? I'm sorry. Sorry. Go ahead.

Q. (By Mr. Neibergall) I'm asking about the terminology of land cut and fill to construct a levee, and I'm asking if that's a man-made excavation or diked area.

A. It's hard to tell from the description.

MS. JOSHI: So objection. I'd just like to point out that this is the Agency's exhibit, not one that's been offered by this witness, and it is not a document that he testified to in his direct testimony.

HEARING OFFICER WEBB: It's not what?

MS. JOSHI: A document that he testified to or brought into evidence during his direct testimony.

MR. NEIBERGALL: The Agency filed a recommendation I believe in 2021 that contained all of these exhibits when he still worked for SIPC. He testified about the historical receipt of waste at the facility. I believe he's the only witness right now that can testify to this.

HEARING OFFICER WEBB: That's fine. Go ahead.

Q. (By Mr. Neibergall) So the question again, Mr. Gallenbach, is --

MS. JOSHI: Just again, I'd just reiterate that the Agency could have called further witnesses to bring documents into the record should they have chosen to, and again, you know, I do object to this area of questioning as going beyond the scope of the direct examination.

HEARING OFFICER WEBB: Well, I guess we can do it that way if you would like. I mean, we could -- but then that would require the witness to be available when the Agency makes their case. It might be --

MS. JOSHI: Well, the Agency was supposed to

provide its list of witnesses two weeks ago, so --

MR. NEIBERGALL: I mean, they filed a witness list that Mr. Gallenbach was on, so I'm prepared to question him in cross examination for something he knows and in fact testifies he knows about, and he's gone through every one of these files --

MS. JOSHI: Well, I --

MR. NEIBERGALL: -- and knows the history.

MS. JOSHI: Sure. Well, I suppose that I would ask the Agency to provide foundational questions to ensure that Mr. Gallenbach is in fact knowledgeable about what they're asking about.

HEARING OFFICER WEBB: I'm fine with that.

MR. NEIBERGALL: Sure.

Q. (By Mr. Neibergall) So I'm asking about the history of construction, Mr. Gallenbach, for pond 3, and --

A. What -- Are you calling this pond 3?

Q. This document, Exhibit O as in ocean.

A. You're saying the whole tab?

Q. I'm saying the first page for sure, and I'm pretty sure the 9th page I was talking about.

HEARING OFFICER WEBB: If you'd like to approach to help him find the page.

MR. NEIBERGALL: Sure.

Q. (By Mr. Neibergall) Land cut and fill.

A. Right, but as I'm reading it, it's talking about building a pond to sell slag. There are commercial uses for slag for -- such as landfill, substitute in blacktop. This looks like it's our ponds 1 and 2.

Q. Okay. That particular page?

A. That -- It's not labeled what pond it is.

Q. That's right. I didn't make exhibits and I agree. It's not. All right. I'll rephrase and I'll clarify. Your knowledge of pond 3 is that historically it didn't exist on its own.

A. So on pond 3, it what?

Q. Did pond 3 exist on its own or was it made by people?

A. It was made by people.

Q. Thank you.

A. Okay.

Q. We've already established that you don't know anything about the pond investigation report that was authored at the time you still worked for SIPC; is that correct?

A. Correct.

Q. So you don't have any knowledge of the

amounts of CCR material that were found in that investigation; is that correct?

A. I do not.

Q. Okay. But you do know that in 2003 there were cleanouts done.

A. Correct.

Q. And that 3 and 3A had 20 to 50 truckloads of material removed.

A. Correct.

Q. Thank you. Let's talk about 3A. Are you aware of any permit for the construction of pond 3A?

A. I am not.

Q. Did pond 3A exist on its own or was it made by people?

A. It would have been made by people.

Q. It was designed to hold CCR and liquid?

A. No.

Q. Okay. Pond 3 received some overflow from the initial fly ash holding area?

A. Correct.

Q. And received overflow from the fly ash holding area extension?

A. Correct.

Q. Later served as a secondary finishing pond;

is that correct?

A. Yes, that's what I referred to it as.

Q. You said earlier in the direct testimony that there was a berm to the west that was built?

A. Correct.

Q. That was to stop erosion or runoff from the sludge storage area?

A. Correct.

Q. So presumably there was sludge running off into pond 3 and 3A?

A. During heavy rain incidents.

Q. That earlier total for what was removed in 2003 out of pond 3 and 3A, that included both, right, 20 to 50 truckloads?

A. I'm sorry.

Q. The estimate of 20 to 50 truckloads in 2003 that was removed, it included both 3 and 3A.

A. It would have been each, actually.

Q. Okay. Let's go to pond 4. Can you flip to Agency Exhibit QQ as in queen? And I'll give opposing counsel time.

A. Q?

Q. Q as in queen.

A. I believe I'm here.

MS. JOSHI: Again, this isn't an SIPC exhibit or an exhibit that was brought into the record by this witness. I would ask that the Agency ensure that there -- any foundational questions are addressed prior to asking the witness about this exhibit.

HEARING OFFICER WEBB: Sounds good.

Q. (By Mr. Neibergall) Mr. Gallenbach, have you ever seen this permit?

A. I'm sorry. Did you ask me a question?

Q. Yes, sir. Did you ever -- Have you ever seen this permit document for QQ?

A. And it says QQ on -- it says QQ, not -- does it say QQ on the back of that page you're holding?

Q. Yes, sir.

A. Okay. I read it.

Q. Have you ever seen it before today?

A. No, I have not.

Q. Did you review in preparation for your testimony any of the Agency exhibits at all or --

A. I did not review this exhibit.

Q. Pond 4 was made around 1970? Does that sound right?

A. I believe so.

Q. Was it made by people?

A. I believe so.
Q. Was it designed to hold CCR and liquid?
A. It doesn't appear so.
Q. I see down at the bottom of that page 1 on QQ, it says, "settling pond of 18 million gallons to provide a month's detention of yard drainage, coal yard drainage, boiler blowdown and effluent from existing slag-fly ash settling ponds," so --
A. Effluent. But it's decanted water. It was all decanted water that went in there.
Q. What do you mean by decanted?
A. The effluent, it wasn't -- none of the material you just described was actually sent to that pond. It's -- the boiler blowdown or the effluent overflow of what they're describing.
Q. If you can turn to page 7 of that document, it's a typewritten document, starts "Coal Storage Area Drainage."
A. How does it start?
Q. It's titled "Coal Storage Area Drainage," underlined. It would be near the back of that exhibit.
HEARING OFFICER WEBB: Would you like to maybe help him find it?
MR. NEIBERGALL: I can, yeah.

A. I have it. I found it.

Q. (By Mr. Neibergall) Thank you, sir. Down at the -- Are you guys ready? Number 3 on that page, down to the bottom, it says "Slag Line." It says, "The location of this pond will serve as a catch basin for any slag washing downhill from the storage pile west of settling pond 1 and 2. Also, the suspended solids in the boiler blowdown water will settle in this pond." Is slag -- Is that a different slag than CCR?

A. But again, they're describing the water from ponds 1 and 2, is the way I read it. There was never a line run from the plant to pond 4.

Q. Yeah, I wasn't asking about a line. I was asking about the washing downhill. It says "slag washing downhill."

A. It's describing a storage pile that I'm not familiar with.

Q. If you want to go to I guess it was your testimony about how much was removed from pond 4, about 50 truckloads?

A. Correct.

Q. And you said that that was taken to the coal yard and burned?

A. Correct.

Q. But you said it was mixed with other coal, didn't you?
A. Yes.
Q. Let's go to B-3, which is at Agency Exhibit 48.
A. You say B as in boy?
Q. Well, it's at Exhibit 48, but the pond B-3. Exhibit 48.
A. All right. I got it. All right. I'm on Exhibit 48.
MR. NEIBERGALL: Counsel?
MS. JOSHI: Oh, yes.
Q. (By Mr. Neibergall) Page 3 of that document is the permit. First page it's describing something. It's dated January 21, 1986? Do you see that?
A. I'm reading the document.
Q. Let me know when you're ready.
MS. JOSHI: Again, I would note that this document was not offered into evidence by this witness or as part of his direct testimony and it's not an SIPC exhibit, and so I would ask that counsel for IEPA make sure any foundational issues are addressed when asking the witness about this document.
HEARING OFFICER WEBB: Duly noted.

Q. (By Mr. Neibergall) Just let me know when you're ready, sir.

A. All right. What was your question?

Q. I didn't ask it yet, but it's on that page 3, that first page of the permit. It's the second paragraph. And my question is, is it a man-made earthen dam impoundment?

A. You said tab 48, correct?

Q. Tab 48, page 3, the first one that's actually got some text on it, and I can come up there if you'd like.

A. It's a -- So that's a handwritten document?

Q. Nope, it's a typed document. This is it. Sorry. It would be my page 3, the front and back, 1, 2, 3, this document here, and I'm asking specifically about this part right here.

A. Okay. What was your question?

Q. Is it a man-made structure?

A. It appears so.

Q. Is it designed to hold CCR and liquid?

A. It appears so.

Q. And you said that B-3 in 2003 had less than 50 truckloads of material removed?

A. Yes.

Q. Can you flip to Exhibit B as in boy, BB?
A. Exhibit B?
Q. Yes, sir.
A. Got it.
Q. Have you ever seen that document?
A. No, I have not.
Q. It's dated November 22nd, 2017. You were still working for SIPC?
A. Yes.
Q. Were you aware of a cleaning that occurred in 2017 for pond B-3?
A. Yes.
Q. So there was some material you cleaned out in 2017?
A. Of B-3?
Q. Yes, sir.
A. Yeah, I don't see where it says this is pond B-3.
Q. You're right. It doesn't say it on that page, but if you look at the second paragraph, it says, "Holding and settling of a 6.6-acre impoundment with storage capacity of 72,600 cubic yards." Do you see that?
A. Yes.

Q. If you flip back to Exhibit 48, it would be page 5, which is the handwritten document, and I can come up if you would like.

A. What page?

Q. Page 5. It's not numbered, but it's the handwritten one following the standard conditions of the permit.

MS. JOSHI: I'm sorry. What exhibit number are we on?

MR. NEIBERGALL: Back to 48, Agency 48.

A. And then counting the front, 1, 2, 3 --

Q. (By Mr. Neibergall) The second page.

A. Okay. So on -- okay.

Q. In the middle of that page, Facility?

A. Yeah.

Q. It says 72,600-cubic-yard capacity.

A. Correct.

Q. So it'd probably be the same pond as the other document?

A. It would appear so.

Q. What did you build the internal berm out of inside of pond B-3?

A. B-3?

Q. Yes, sir.

A. Which one?
Q. If you can flip to Agency Exhibit 4.
A. Got it.
Q. Do you see that -- This is an SIPC April 1998 --
A. Yes.
Q. -- image? Can you describe what you're seeing for pond B-3 there?
A. Describe it?
Q. Sure.
A. I mean, it's a pond. The south side is grass and exposed and then the northeast corner has a berm in it.
Q. You're saying that south portion that looks like a delta is grass?
MS. JOSHI: Objection. Counsel is testifying by saying -- by describing what that area is.
HEARING OFFICER WEBB: You can ask what the area is.
Q. (By Mr. Neibergall) Just confirming that the southern area that you described as grass is grass. Is that what you said?
A. I believe it was.
Q. If you can flip to the next exhibit, Agency

Exhibit 5, this is from March 2005.

A. Right.

Q. How would you describe that southern area now?

A. So a berm was built across it and then the water level was raised.

Q. So I guess I'm confused. In the previous picture you said the southern area was a grass area, and now the southern area looks to be another pond.

A. The water level is higher in Exhibit 5, and so then it would overflow -- so it overflowed from pond A-1 into that holding area and then into B-3.

Q. When you built the berm, was a new pond constructed to the south, or is that still pond B-3?

A. It would have been pond B-3, but if your question -- that berm was built out of clay. Is that what your original question was?

Q. That was the original question.

A. Yes.

Q. Where did you get the clay? Sorry. Where did you get the clay?

A. Most of the clay we got is -- when we built the south fly ash pond, all of the material was lined up on the west side of the coal pile, and so we had an

abundant source, so generally that's where we would have got it, but my memory of exactly where we got it, I don't believe --

Q. Okay. Thank you. Let's move on to the south fly ash. It's at Agency Exhibit N as in Nora, NN.

A. You said N?

Q. N as in Nora, yes. I appreciate you going through those binders. Thank you.

Counsel, you good?

MS. LODE: Yes.

Q. First page, was this a combination of a natural depression and man-made and diked area?

MS. JOSHI: Again, objection just to the extent that counsel hasn't laid any foundation for this witness' knowledge of this document.

HEARING OFFICER WEBB: Would you like to --

Q. (By Mr. Neibergall) Sure. Have you ever seen this document, sir?

A. I don't believe so.

Q. So this is from May 17, 1989, issuance of this permit. You started a couple years later; is that correct?

A. What was the end of your question?

Q. Did you start two years -- roughly two years

after this permit was issued?

A. Correct.

Q. And you're saying that you never reviewed this permit before today?

A. I had not.

Q. Okay. If you want to take a moment to read it, or you can just tell me your own knowledge of the south fly ash pond and whether it was constructed by people.

A. It was constructed by people.

Q. Was it designed to hold CCR and liquid?

A. That's what the original intent was.

Q. You said on direct that in 2003, 10 to 20 truckloads were removed from the south fly ash pond?

A. Correct.

Q. If you could go to Agency Exhibit 18.

A. Got it.

Q. It's probably kind of hard to see, but -- Counsel, are you there?

MS. LODE: Uh-huh.

Q. This is summer 2021, an aerial photo. Can you describe what you see at the south fly ash pond?

A. So during the mine development of Prairie State -- we're part owner of Prairie State -- they gave

us I believe around 30,000 tons of mine development coal which really wasn't similar to any of our products, so we lowered the level of the fly ash pond, built a berm across and then put the Prairie State development coal on the north side, and then you can see that delta where I'd said we'd cleaned.

Q. That delta you just described, I didn't hear everything you said. Was that from the coal ash pile or was that from something else?

A. The only material or line that can go to the south fly ash pond is the pump in Emery Pond. There's nothing connecting the south fly ash pond to anything else in the plant.

Q. When was Emery Pond closed?

A. I don't remember the exact date. It was --

Q. Roughly.

A. It was right before I retired.

Q. And Emery Pond is the only acknowledged CCR surface impoundment at SIPC currently; is that correct?

A. I can't answer for currently. I mean, I --

Q. Well, when you retired --

A. When I retired, yes, we --

Q. Right. And so Emery Pond, you know, closed essentially as a CCR surface impoundment, had CCR in it,

right?

A. It had material in it, yes.

Q. And you said that the pipe from Emery Pond to south fly ash is the only way water and material gets to south fly ash.

A. Correct.

Q. Thank you. Earlier you were talking about on direct the pumps related to Emery Pond and south fly ash pond?

A. Correct.

Q. Did the pump type change from the time that Emery Pond was a CCR surface impoundment to the time it's a stormwater basin?

A. No.

MS. JOSHI: Objection --

A. As I described, we have wickets that are in front, you know, so you kind of control the -- in front of the pump in a rock dam, so that -- my memory is it's exactly the same way. Nothing changed.

Q. Okay. Thank you.

THE REPORTER: Miss Joshi, what was your objection? I didn't hear it.

MS. JOSHI: No, you can strike that. It's fine.

MR. NEIBERGALL: Does anybody need a break? I was going to move into the former fly ash holding areas.

HEARING OFFICER WEBB: I think we can keep going.

Q. (By Mr. Neibergall) Let's start with initial fly ash, if you could turn to Agency Exhibit T as in Tom, TT.

A. Can you --

HEARING OFFICER WEBB: T as in Tom.

THE WITNESS: T? Okay. Thank you. I believe I'm on T.

Q. (By Mr. Neibergall) Have you ever seen this document?

A. Yeah. That's drawing G-12.

Q. Say that one more time. I'm sorry. I didn't hear you.

HEARING OFFICER WEBB: He didn't hear you.

A. Yes, I've seen this document.

Q. Okay. Was initial fly ash pond a man-made or diked area?

A. This document only has the fly ash holding, the proposed fly ash.

Q. So the fly ash holding would be the initial;

am I right?

A. Yes.

Q. So the -- was it a man-made structure?

A. Yes.

Q. Was it designed to hold CCR and liquid?

A. I believe so.

Q. And you I believe previously testified that it did receive wet fly ash until 1977?

A. Yes.

Q. If you could flip to Agency Exhibit S as in Sam.

A. Okay.

MR. NEIBERGALL: Counsel?

MS. JOSHI: Yes.

Q. (By Mr. Neibergall) I'm going to be asking about the third page, which is the permit document. Have you ever seen that document?

A. I don't recall, but that doesn't mean I haven't.

Q. I was going to ask about special condition number 2. So it's asking -- or I'm sorry. It's saying in this permit, which is for the second fly ash pond, the replacement, that the initial should be abandoned and covered; is that correct?

A. You're on what you're calling what page?
Q. S as in Sam, the third page, which is the permit document, special condition 2, signed by Thomas McSwiggin.
A. Okay.
Q. And the question was, special condition 2 states that initial fly ash should be abandoned and covered.
A. Correct, that's what it says.
Q. And --
MS. JOSHI: I think it says existing fly ash, not initial fly ash.
MR. NEIBERGALL: Yeah, I was trying to clarify that this is a permit for the replacement that's referring to the initial, but I'm trying to use the right terminology here so everybody can understand.
Q. (By Mr. Neibergall) So what's your understanding of the abandonment and covering of that area?
A. I believe it was done.
Q. Okay. It wasn't still being used in 2000?
A. No.
Q. Let's go to SIPC Exhibit 41.
A. Oh.

Q. Thanks.
A. Do you still need me to go to 41?
Q. Well, this is actually a different book, so I brought you the page, so you're good. This is your own exhibit, 41.
MS. JOSHI: And I again would just like to, I mean, just at the forefront mention that this is beyond the scope of direct. This is a declaration from another witness who is testifying at the hearing today that counsel has brought to Mr. Gallenbach as Exhibit 41.
HEARING OFFICER WEBB: What are you using this to show?
MR. NEIBERGALL: Well, Mr. Gallenbach is, I believe, VP of --
Q. (By Mr. Neibergall) What were you VP of, sir, when you retired?
A. Of power production.
MR. NEIBERGALL: Yeah. So he would have known or should have known how this pond is still being used and has testified to it being abandoned and dewatered, so I'm asking about whether that's true, because this document seems to show that it's not.
HEARING OFFICER WEBB: Okay. Go ahead.
Q. (By Mr. Neibergall) So I'm looking at

item 2d as in dog.

A. Are you -- The document you just handed me, is that what we're talking about?

Q. Yes, sir. It's the second declaration of Jason McLaurin.

A. Right.

Q. And it's 2d as in dog, at the bottom of the page.

A. Okay.

Q. You there?

A. Yes.

Q. Cool. It says, "Starting around 2000, a cavity on top of the closed initial fly ash holding unit was used as a holding pond for coal yard runoff. It was also occasionally used during emergency conditions due to sub-freezing temperatures to receive scrubber solids, which were removed and placed dry onto the CCR landfill"; is that correct?

A. That's what it says.

Q. So the abandonment and cover of initial fly ash pond in the '70s does not appear to have occurred because you're still using it; is that correct?

A. That's not how I interpret this.

Q. How do you interpret it?

A. There is a holding facility on top of the initial fly ash holding area.

Q. So if you call it a holding -- what did you call it? A holding --

A. There is -- The CCR -- The landfill is on top of that initial fly ash holding area, and then a cavity was developed. This is in 2000. I'm not really sure what that's referring to.

Q. Okay. Let's go to Agency Exhibit 3 in the big book, No. 3.

A. Okay.

Q. This is an SIPC March 1993 aerial photo? Do you -- Can you describe where you see the former fly ash pond --

A. Yes.

Q. -- where the initial fly ash is?

A. Yes.

Q. What does it look like to you?

A. Well, it's underneath what was being described there.

Q. Okay. So you don't see anything on this picture?

A. I see that it's covered.

Q. Let's go to the next one, Exhibit 4. This

is in 1998. What do you see there?

A. The same thing.

Q. Still covered, no water?

A. During that time frame you can see those cuts. That was used then, you know, as Jason described, to pump material during freezing conditions and other upsets. But I believe that's sitting on top of the initial fly ash pond.

Q. Where does that water go?

A. That water would eventually -- because it's made of calcium sulfite would eventually end up in pond 6.

Q. I mean, there's no liner in the initial fly ash pond, right?

A. It would have been clay-lined. I mean, it's a --

Q. So --

A. It wouldn't have held water if it wasn't lined.

Q. So the water does drain, though, eventually, right?

A. Well, no, none of our ponds would drain.

Q. So no water escapes from the bottom of an unlined surface impoundment?

A. I can't say no water, but, I mean, it's southern Illinois. A clay-lined pond, you're talking very minimal amount.

Q. Okay. Go to the next one, Agency 5, March 2005.

A. Yes.

Q. Still water there?

A. It's mostly slurry. There's a little bit.

Q. Agency 6?

A. What?

Q. The next exhibit.

A. Okay.

Q. What do you see there?

A. It looks dry in that picture.

Q. 7?

MS. JOSHI: If counsel wouldn't mind allowing us to stay caught up with the exhibits.

MR. NEIBERGALL: My apologies. I'll slow down.

A. You want me to just comment on these? I'm not sure what your question is.

Q. (By Mr. Neibergall) I basically am asking you, you continued to use -- SIPC continued to use the initial fly ash pond. It appears that they did.

MS. JOSHI: Objection. Counsel's testifying.

A. No.

Q. So in 2000, in that exhibit we just looked at for Mr. McLaurin, a cavity on top of the closed initial fly ash holding unit was used --

HEARING OFFICER WEBB: Are you reading something or are you --

MR. NEIBERGALL: I was going to ask him that question.

HEARING OFFICER WEBB: Oh, okay.

MR. NEIBERGALL: I can move on. I think we're good on this one.

Q. (By Mr. Neibergall) Let's do replacement fly ash pond, so we'll go to -- back to SS, S as in Sam.

A. Okay. I'm there.

Q. Have you ever seen this before, other than the time I showed you it 15 minutes ago?

A. I don't believe so.

Q. Based on your historical knowledge of the replacement fly ash pond, was it man-made or diked?

A. The replacement?

Q. Yes, sir.

A. It was man-made.

Q. Was it designed to hold CCR and liquid?
A. I believe so.
Q. Did it treat, store and dispose of CCR?
MS. JOSHI: Objection to the --
A. Can you repeat the question?
HEARING OFFICER WEBB: I'm sorry?
MS. JOSHI: I'm sorry. Just the -- yeah.
Q. (By Mr. Neibergall) Did the replacement fly ash pond treat, store or dispose of CCR during its use?
A. I mean, it stored it, so -- I mean, you're asking three questions, but it was designed to store it.
Q. Okay. And it wasn't removed, right? It's still there?
A. Which pond is this?
Q. The replacement fly ash holding area.
A. The replacement one?
Q. Yes, sir.
A. I don't know if it was actually covered, but in my time frame it was underneath the landfill.
Q. Did it receive discharges of fly ash from units 1 and 2 and 3 prior to construction of A-1?
A. Yes.
Q. It may have been -- also been designated to receive sluiced fly ash from unit 4 during intermittent

emergencies?

A. I believe so.

Q. It was pretty full of CCR, because you needed to build an extension in 1981; is that correct?

A. Could you repeat the question?

Q. Well, the fly ash extension was proposed to accommodate the extra fly ash, correct?

A. After 4 was built, it was more of a water issue than an ash issue, so I believe they built it for water.

Q. If you could turn to Agency 34.

A. I'm there.

Q. So way in the back of this -- it's almost the last page, is the last page of 34 -- it's a letter dated July 30th, 1981.

A. I'm there.

MR. NEIBERGALL: Counsel?

MS. LODE: Yeah.

Q. (By Mr. Neibergall) It says, "We have determined that an extension to our existing fly ash pond is necessary. The extension is required as the present pond" -- which would be the replacement fly ash pond -- "has almost reached its limits as regards fly ash storage." So would that be you needed it because you had

more fly ash?

A. I think they had a water issue, but you can interpret that the way you want.

Q. Well, I mean, this letter -- who is Richard Myott?

A. I'm sorry. What?

Q. Who is the person who signed this, Richard Myott?

A. Yeah, he's retired.

Q. Well, if he's asking for more space for fly ash, wouldn't he need more space for fly ash?

A. Yeah.

Q. In your direct testimony you stated that the replacement fly ash holding area was dewatered and closed?

A. I believe so.

Q. How was it dewatered?

A. I believe that pond drained down into pond 3/3A, or either -- yes.

Q. So -- wait. I'm -- It drained naturally or you, like, drained it on purpose?

A. Well, it would have had a drain and then it would have been drained into -- the water would have been drained out.

Q. So you didn't do anything additional to dewater it. It just was the natural construction of it.
A. That's how the ponds are designed.
Q. When would that have occurred?
A. Whenever they closed and covered it.
Q. If you could go to A4, Exhibit 4 of the Agency.
A. Could you repeat that?
Q. No. 4. Flip to Exhibit 4, please. Have you ever seen that? I guess you have seen that. I showed it to you, right? Could you describe what you see in the area of the replacement fly ash pond?
A. I see the landfill.
Q. Okay. Do you see the strips of water?
A. Yes.
Q. Is that on top of where the replacement fly ash pond was?
A. It's on top of the landfill.
Q. Does the water go through the landfill?
A. It would permeate towards pond 6.
Q. Would it also permeate down?
A. Until it hit, you know, the clay or the cover.
Q. So the clay at the bottom of the replacement

fly ash pond.

A. It'd be on top of the replacement fly ash pond.

Q. You put a layer -- a cover of clay on top of the replacement fly ash pond?

A. It said they --

MS. JOSHI: Objection. Foundation.

A. It said they covered it.

MR. NEIBERGALL: Well, I'm asking -- I mean, he just said that the water wouldn't permeate down into the replacement fly ash pond, but we're --

HEARING OFFICER WEBB: Foundation for --

MS. JOSHI: For the question that was asked. Also I'm going to object as this being outside of the scope of this witness' direct testimony.

MR. NEIBERGALL: Well, he's directly testified that it was dewatered and closed, so I'm asking about a subsequent date in 1998 when it appears there's water right on top of it.

HEARING OFFICER WEBB: Yeah, I think he did testify quite a bit about the site. I'll let you answer.

A. Those strips were only a couple feet deep and they weren't there very long, but that water would -- eventually ended up in pond 6.

Q. (By Mr. Neibergall) Are you familiar with the federal CCR rule?

A. I'm sorry. I don't -- I couldn't understand you.

Q. Are you familiar with Part 257 of the federal coal combustion residual rule at all?

A. No, I'm not.

Q. It came out in 2015, so you would have had about seven years?

A. Yeah, I believe I heard about it.

Q. So you've heard about it? Are you familiar with the definitions in that federal CCR rule?

A. Not off the top of my head.

Q. Have you ever looked at the federal CCR rule?

A. Not in the last five or ten years, so --

Q. All right. I'm going to move on to the fly ash holding area extension, if you could flip to Agency Exhibit 34.

A. All right. I'm here.

MR. NEIBERGALL: Counsel?

MS. JOSHI: Yeah.

Q. (By Mr. Neibergall) Have you ever seen this document?

A. I don't believe so.
Q. Based on your historical knowledge of the fly ash extension, was it man-made or diked?
A. Yes.
Q. Was it designed to hold CCR and liquid?
A. Yes, it was.
Q. Did it treat and store and dispose of CCR?
A. It was designed to store.
Q. Any idea how much fly ash it received?
A. No.
Q. You also said on direct that this one was dewatered and closed? You said partially covered, actually.
A. Yes.
Q. Dewatering, can you describe how that happened?
A. Again, the end of the pond had a drain, and so it would have been drained.
Q. So you didn't do anything additional to dewater it.
A. No, sir.
Q. Are you familiar with how Emery Pond was unwatered and dewatered?
A. It had a pump in it.

Q. Correct, but it also had a period of time over weeks where material was laid out and allowed to drain to dewater it. Are you familiar with that?

A. No.

Q. So you said Emery Pond closed when?

A. I don't remember the exact date.

Q. Ballpark?

A. Around twenty -- I really don't know.

Q. Okay. Let's see. If you would flip to Agency Exhibit I as in Ida.

A. All right. I'm here.

Q. The date on page 2 that Mr. Watson signed it looks like October of 2021?

A. Yes.

Q. You were still working for SIPC?

A. Yes.

Q. Have you ever seen this document, the operating permit, or this permit document for Emery Pond?

A. No, I have not.

Q. If you could go to -- it's appendix B as in boy, the closure plan.

A. About how far back is that?

Q. It's 25 pages back. And then you're going to go to page 6 of that closure plan.

A. I found appendix A. I'm not seeing anything labeled appendix B.

Q. Okay. I'm going to just go to appendix C as in Charlie, and I'll come up there. Thanks.

MS. JOSHI: To clarify, we're looking at appendix B or appendix C?

MR. NEIBERGALL: We're going to look at C as in Charlie. You are correct. It's not easy.

Q. (By Mr. Neibergall) So I'm on appendix C, page C-1, C as in Charlie 1.

A. Yes.

Q. Have you ever seen this before?

A. I don't believe so.

Q. The reason I'm asking is that I was asking you earlier about whether you were familiar with how to dewater and unwater a CCR surface impoundment or a pond in general.

A. Right.

Q. This looks like a construction schedule there? Is that what you see?

A. Yes.

Q. And it says unwater Emery Pond, week 1?

A. Yeah.

Q. And then it says on item 4, continue

unwatering/dewatering as necessary for the next eight weeks, so nine weeks.

A. Correct.

Q. So did you do any similar unwatering or dewatering for the fly ash extension?

A. For -- Did we do it for what?

Q. The fly ash extension pond that we're currently talking about.

A. I mean, that was done before my time, so --

Q. Do you have any historical knowledge of whether they did that?

A. No, I don't.

Q. If you could go to Agency No. 3.

A. All right.

Q. Could you describe what you see in the fly ash extension pond on the 1993 aerial photo?

A. Yes. There's still some water in it.

Q. Okay. Next one, A4, same question.

A. Yes. There's still some water in it.

Q. A5? This is in 2005.

MS. JOSHI: A5, do you mean Agency Exhibit 5?

MR. NEIBERGALL: Yes, I do.

MS. JOSHI: Okay.

A. I believe the water's gone in that.
Q. (By Mr. Neibergall) Okay. Last one, let's talk about pond 6. If you could go to C as in Charlie, Agency CC.
A. Okay.
MR. NEIBERGALL: Counsel?
MS. LODE: Just one moment. We're there. Thank you.
Q. (By Mr. Neibergall) If you could go to the 6th page, it's got some handwriting on the side and it has a large dark berm on it.
A. Yes.
Q. This is a 1981 permit document?
A. I -- Yeah, I see that written across the top.
Q. Have you ever seen this before?
A. No, I have not.
Q. What is that dark line around the top?
A. It appears to be the berm to go around the landfill.
Q. Okay. And then what's that in the middle, the bar area?
A. I don't know. I'd have to describe it somewhere else in this document.

Q. If you go to the -- it's actually that next page -- it'd be the 7th page -- it's got a schematic that shows stripping the topsoil?

A. The page after what I was on?

Q. Yes, sir.

A. A schematic?

Q. Well, I'm not a technical person, but it's got a drawing that says "strip topsoil" and then it shows borrow area right underneath that, and I think it's saying they used that to build the berm.

A. And what's your question on it?

Q. I was asking whether that borrow area material was excavated.

A. I don't know. This just shows a cross-section. I'm not actually sure what it is.

Q. What does "strip topsoil" mean to you?

A. To strip topsoil?

Q. Yes, sir.

A. Well, you would remove the topsoil so you could get to clay.

Q. You excavate it?

A. Yes.

Q. And then that berm is obviously a man-made structure?

A. I'm sorry. You -- I can't hear you.
Q. The berm specifically on page 6 and also on page 7 of that document is man-made?
A. Yes.
Q. If you could flip to Agency R as in Roger.
A. Okay. I'm here.
Q. You beat me that time. Have you ever seen this before?
A. No.
Q. It's a 1982 permit document; is that correct?
A. Correct.
Q. So on page 3, which is the one that's at the front of the document, number 3, it says, "The construction of a dike around the scrubber sludge/fly ash/bottom ash storage area to contain runoff"; is that accurate?
A. That is correct.
Q. You said that, on your direct testimony, in 2003, 20 to 30 percent of the volume of what you considered to be pond 6 was removed?
A. Correct.
Q. What was done with that?
A. I didn't hear you.

Q. What was done with that material in 2003?
A. It was put on the landfill.
Q. So a question on pond 4. Based on your knowledge of the practices there, is the coal pile runoff always directed to pond 4?
A. No.
Q. Where does it go?
A. To pond 3A.
Q. How does it get there?
A. Gravity.
Q. So it's not pumped?
A. Yes. The south pond's the highest point in the plant.
Q. Say that one more time.
A. The south fly ash pond is the highest point in the plant, so gravity flows around the coal pile through three other coal pile runoff areas, crosses the road and then goes to 3A. It can be pumped there also.
MR. NEIBERGALL: Just one moment.
THE WITNESS: I'm sorry. I didn't understand you.
MR. NEIBERGALL: Sorry. I just need a moment to talk to my co-counsel.
THE WITNESS: Okay.

(Off the record.)

MR. NEIBERGALL: No further questions. Thank you very much, sir.

HEARING OFFICER WEBB: Thank you.

MS. JOSHI: I do have a few follow-up questions, but just a few, all right?

REDIRECT EXAMINATION

BY MS. JOSHI:

Q. So first of all, Mr. Gallenbach, counsel for IEPA asked you some questions about fuel content.

A. Correct.

Q. Do you remember that?

A. Yes.

Q. Sitting here today, could you testify as to all of the different types of fuel that was used at the plant historically?

A. No.

Q. And sitting here today, could you speak to the content of those various types of fuel that were used at the facility?

A. No.

Q. You were also asked about some permit documents, including Exhibit OO, for example. That's the Agency's Exhibit OO. Just a question. Are permitted

uses for a pond necessarily reflective of their actual use?

A. I mean, your -- if I understand your question, you actually permit for everything you want to do but not -- if you -- if we just want to put water in it and you permit it for fly ash and water, you're still allowed to put water in it. Does that answer your question?

Q. Yes. I was just asking whether --

A. Yeah. Yes.

Q. -- just because a pond is permitted for a particular function if it means that it was used for that function necessarily.

A. Correct.

Q. I'm sorry. Can you expand on that?

A. Yes. Like, the south fly ash pond, we never put anything in it but water, but yet it was permitted for fly ash.

Q. And are permitted volumes that might be located, like, within agency permits necessarily reflective of the actual volumes that may exist in a unit --

A. No.

Q. -- from its operations?

A. No.
Q. And can you just expand upon that? Why not?
A. Because you may or may not actually put anything in it.
Q. Then what's the point of getting the permit?
A. Well, you can never afford not to have -- you can never run out of coal and you can never afford not to have a place, you know, for your water to go or your -- so you always have something built ahead of time in case you need it.
Q. And you mentioned the south fly ash pond a moment ago, and you were also asked about the south fly ash pond in cross examination. Again, what was the original purpose of the south fly ash pond being built?
A. It was originally permitted to be a fly ash pond.
Q. Was the south fly ash pond used for that permitted purpose?
A. No.
Q. And I think we covered this on direct, but just as a follow-up to the cross examination, why wasn't it used for that original purpose?
A. We never outgrew pond A-1 and B-3, and then, you know, once we built the CFB, we didn't need any

storage area.

Q. And you were also asked about Emery Pond. Before Emery Pond was closed, did it also receive coal pile runoff?

A. Yes, it did.

Q. And then just for clarity, on your direct -- in your direct testimony you testified that by the time you arrived at the plant in the early '90s that the initial fly ash pond area was covered by landfill; is that right?

A. The initial fly ash pond?

Q. Yes.

A. Correct.

Q. The one on the easternmost side?

A. East side?

Q. Yes.

A. Correct.

Q. So for clarity, by the early 2000s, had the landfill expanded over the top of what you describe as the dewatered and closed initial fly ash holding area?

A. Yes.

Q. So do you recall the questions you received on cross regarding that horseshoe shape on top of -- sort of that area of --

A. Yes, yes.

Q. To your knowledge, would that horseshoe shape not only be located above the initial fly ash holding area but also on top of the landfill that was disposed of on top of the initial fly ash holding area?

A. Correct.

Q. And what makes you say correct to that?

A. Because you -- when you drive out on it and drive on it, I mean, you can tell -- and especially it's empty now -- it's 100 percent scrubber sludge.

Q. Have you driven out onto the landfill?

A. I used to all the time, but I'm not driving my personal vehicle out there.

Q. So you were also asked a little further about the westernmost of those fly ash holding area ponds or former ponds, the fly ash holding extension pond. Do you remember that?

A. Yes.

Q. Okay. And what is your recollection for the purpose for which that westernmost area or pond was built? If there's something you'd like to refer to to refresh your recollection, feel free.

A. We're talking about the extension?

Q. Yes. Actually, maybe why don't I refer you

to --

A. The fly ash --

Q. -- the unit you talked about and had information about on page 21 of your Powerpoint.

A. Yes.

Q. And on the Powerpoint, do you -- on page 21, do you see the box highlighted in yellow showing a fly ash holding extension?

A. Yes.

Q. Okay. That's the area that I'm referring to. So again, what was its -- why -- what was its intended purpose for being built?

A. I believe, you know, after they built unit 4, they just had a lot more water, you know, and they anticipated -- again, they went from a very small plant and tripled in size, so they needed places for their water to go.

Q. And again, to your knowledge, do you know whether fly ash and water were actually switched over to that area during its operation?

A. I don't believe so.

Q. And why do you not believe so?

A. We just don't have any real records ever showing that we did that.

Q. And would you expect to have some records showing that you did that if you did in fact do that?

A. I believe we would.

Q. Okay. And given your time at the facility starting in the early '90s, would you expect to have known about that happening if it actually occurred?

A. Yes.

Q. All right. I believe you were also asked about the strips on top of the landfill area, the long, narrow water strips. Just to clarify, did you provide a declaration in this matter related to those areas or was that covered by Mr. McLaurin?

A. I don't believe mine said anything about them.

MS. JOSHI: That's it. Thank you.

HEARING OFFICER WEBB: Okay. Thank you. Anything further?

MR. NEIBERGALL: No recross. Thank you.

HEARING OFFICER WEBB: Okay. Does the Board have any questions?

MS. BROWN: Just one.

EXAMINATION

BY MS. BROWN:

Q. It was stated that pond 3/3A stopped

receiving decanted water when the initial fly ash holding area closed, but it was also stated that it received decanted water from both the initial and replacement fly ash holding areas. Did the replacement area stop sending decanted water to ponds 3/3A once the initial area was closed?

A. So I understand your question, the water coming off of the initial fly ash holding area when it overflowed, did it stop once it was closed?

Q. For the replacement areas at that --

A. Yes, right. The water no longer flowed, yeah, into pond 3A or 3 after --

Q. So nothing else from the replacement area as well.

A. Correct, once the landfill covered it.

MS. BROWN: Thank you.

HEARING OFFICER WEBB: Thank you. You're done. Let's go off the record for a minute.

(Discussion held off the record.)

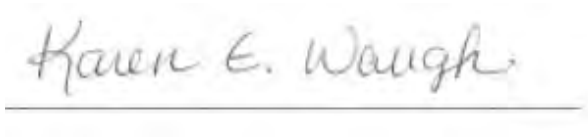
HEARING OFFICER WEBB: Okay. We'll -- We're going back on the record. We have decided it is 4:40 and we need to be out by 5, so we are going to recess for the evening until 9 a.m. tomorrow morning. Thank you.

(Hearing recessed at 4:40 p.m.)

STATE OF ILLINOIS)
) SS
COUNTY OF BOND)

I, KAREN WAUGH, a Certified Shorthand Reporter in and for the State of Illinois, DO HEREBY CERTIFY that I was present at the Market Street Hall, Marion, Illinois, on June 10, 2025, and did record the aforesaid proceedings; that same was taken down in shorthand by me and afterwards transcribed, and that the above and foregoing is a true and correct transcript of said proceedings.

IN WITNESS WHEREOF I have hereunto set my hand this 27th day of June, 2025.



/s/Karen E. Waugh, CSR, RPR, CRR, RMR
Illinois CSR #084--003688

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