

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**NOTICE OF FILING**

<b>To:</b> John Therriault, Clerk	Tim Fox
Illinois Pollution Control Board	Hearing Officer
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Persons included on the attached  
SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **Environmental Groups' Responses to Board Questions** copies of which are served on you along with this notice.

Respectfully submitted,



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Dated: March 6, 2017

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**ENVIRONMENTAL GROUPS' RESPONSES TO BOARD QUESTIONS**

Below, Environmental Groups (Prairie Rivers Network, Sierra Club, and Environmental Law & Policy Center) submit for the Board's consideration responses to Board Questions 1(a)-(d); 2-3, 5-13 and 17 propounded in the January 20, 2017 Hearing Officer Order. We appreciate this opportunity to weigh in on the matters identified by the Board and have provided answers to selected questions posed by the Board. We hope our responses assist the Board in finding a swift path forward toward state rules governing coal combustion waste.

**Question 1**

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

**(a) Is IEPA aware whether USEPA intends to propose rules to implement review and approval of state CCR programs? If USEPA intends to propose such rules, is it appropriate for the Board to consider CCR rules pending final adoption of those rules?**

Environmental Groups continue to support adoption of state rules governing CCR impoundments, as we have throughout this proceeding. The shift in the federal CCR rules from a "self-implementing" regulatory system to a permitting system is a positive one, and we hope to see Illinois adopt rules to become an "approved state" under the WIIN Act without delay.

We are not aware of whether USEPA intends to propose rules to implement the WIIN Act, and suspect that with the administration change, no one really knows. But that should not stop the Board from proceeding to develop regulations to implement the CCR rules in Illinois.

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

The Board may be interested to know that Indiana is proceeding promptly to become an approved state. IDEM is already in the process of developing the necessary amendments to its solid waste rules. As recently as February 23, 2017, IDEM sent a request to Region 5 to have part of its program approved. We cannot speak to the merits of the proposal, but the example does support our contention that the Board need not wait to develop rules for Illinois. In case they are of interest, we have attached the Indiana materials for the Board's consideration. Indiana CCR Plan Letter, (Attachment 1) and Indiana CCR Part 256 Solid Waste Management Plan Amendment (Attachment 2.)

In addition, as discussed in Question 5 below, Kansas has already received conditional approval for its program, subject to the legislature's adoption of some necessary amendments to the existing solid waste program.

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

As discussed in our response to Question 10 below, the IEPA July 15, 2016 proposal would not qualify Illinois to become an "approved state" under 42 U.S.C.S. § 6945(d)(1) because that proposal does not "require[] each coal combustion residuals unit located in the State to achieve compliance with" either the applicable criteria of the federal CCR rules (40 C.F.R. Part 257) or state criteria that are at least as protective as the CCR rules. 42 U.S.C.S. § 6945(d)(1)(B).

We also note that the proposals in this proceeding thus far do not encompass coal ash *landfills*, which are included among the "coal combustion residuals units" governed by the federal CCR rule. An approvable Illinois program to implement the CCR rules would need to include coal ash landfills. Landfills in Illinois contain a significant amount of coal ash and that number is only increasing. Just last year, reports indicate that Prairie State Generating Company added almost three million cubic yards of ash to its landfill. See our answer to Question 17 for more details.

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

Environmental Groups believe it is appropriate for the coal combustion residuals ("CCR") unit permit requirements to fall under Part 807 because, as the Attorney General has argued, those provisions very likely already apply to such units but have not been strictly enforced in many circumstances. *See* Post-Hearing Comments of the Illinois Attorney General's Office, dated Oct. 20, 2014, at 12-16. Including these requirements under Part 807 is consistent with federal CCR rule approach of treating CCR as solid

waste, and fits the reality that CCR waste not only pollutes groundwater, but can contaminate surface water and land as well. Putting the permitting requirements under 807 would, appropriately, subject CCR units to closure and post-closure plans as well as financial assurance requirements, easing the burden on the Board to adopt new regulations for those particular requirements. We do note, however, that the concept of corrective action is not reflected in the Part 807 rules, so that would need to be incorporated in some other way.

However, even if CCR units are already covered by Part 807, the Board would have to establish specific standards and procedures that ensure compliance with the CCR rules. These kinds of supplemental rules are already contemplated in 35 Ill. Adm. Code 807.501. (“These general provisions may be supplemented by more specific closure and post-closure care requirements for certain types of waste management sites, specifically the closure and post-closure care requirements for sanitary landfills contained in Subpart C.”) For example, the requirements for solid waste disposal sites under 807 are currently not “as protective as” the federal CCR rule because they do not include, among other things: (1) clear, explicit design requirements for ash ponds, as the CCR rules do (40 C.F.R. §§ 257.70 – 257.74); (2) location requirements for ash ponds, as specified by the federal CCR rules (40 C.F.R. §§ 257.60 – 257.64); (3) detailed, protective requirements for a final cover system if closure is completed via cap-in-place, as required by the federal CCR rules (40 C.F.R. § 257.102); and (4) triggers requiring corrective action, retrofit, and/or closure of CCR units within specific timeframes when groundwater contamination is discovered or if location or certain design standards are not met (40 C.F.R. § 257.101). (See Environmental Groups’ response to Question 10 below). In addition, as discussed in Environmental Groups’ response to Question 11 below, the Part 807 regulations would need to incorporate the public participation requirements for RCRA solid waste permits in order to qualify as an EPA-approved state RCRA permit program.

The CCR-specific requirements within Part 807 would also need to incorporate provisions that assure compliance with Illinois Environmental Protection Act and state groundwater quality standards over the long term. For example, the Alternatives Impact Analysis that Environmental Groups have proposed in Section 841.410(a)(6) of the Environmental Groups’ September 15, 2015 Amended Proposal would help ensure that an adequately protective, cost-effective method for ash pond closure is chosen by requiring transparent evaluation of different closure methods, their environmental impacts and costs. (See response to Question 8).

In addition, the CCR-specific provisions within Part 807 should mandate financial assurance for closure of all coal ash impoundments, regardless of method of closure. Such broad financial assurance

requirements are needed to make sure that Illinois taxpayers are not left “holding the bag” for the legacy pollution these CCR units may leave behind, and serve as an incentive for CCR unit operators to prevent further costly pollution going forward.

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

From Environmental Groups’ perspective, a state permit program continues to have the same advantages that have been discussed throughout this rulemaking. A state-based process gives a greater opportunity to ensure that important state resources are protected when decisions are made about the long-term management of these toxic waste sites. State permits can ensure that coal ash impoundments not covered by the federal rules (e.g. those associated with facilities that no longer generate power) are regulated, that financial assurances are required, that an adequate range of corrective action and closure alternatives are considered, and that state groundwater quality standards are met.

If Illinois becomes an approved state, the Agency will have oversight authority to monitor and enforce the reporting requirements established by the CCR rule. Environmental Groups have noted many filing omissions in the documents that have been due thus far, many of which remain unexplained. Prairie Rivers Network, Missing Documents Table, March 6, 2017 (Attachment 3).

Another benefit of a state permitting program is that Illinois can control the timing of when its program takes effect. Because the CCR rules remain in effect until a federal and/or state program is developed, many important decisions and actions continue to be made about the long-term management of these coal ash impoundments in our communities. Over the next two years, more CCR rule deadlines will come to pass that could lead to the mandatory closure of many ash impoundments under the CCR rules. For example, by October 17, 2018, owners and operators must complete an evaluation of whether existing impoundments meet the location restrictions of 40 C.F.R. 257.60-257.64. Those that are not certified to meet those requirements must begin the process of closing the unit within six months. 40 C.F.R. 257.101(b)(1). Recalling the Agency’s March 25, 2014 responses to Board Questions 7-10, this could include many Illinois CCR units. As another example, coal plant dischargers will begin to be required to meet the requirements of the 2015 Effluent Limitation Guidelines “as soon as possible” after November 1, 2018 (but no later than December 31, 2023). 40 C.F.R. 423.13. Meeting these effluent limitations will in most (if not all) cases require coal plants to transition to dry handling of coal ash. This

will mean that most (if not all) coal ash impoundments statewide will no longer continue to receive waste, triggering the requirement in the CCR rules that closure be commenced within 30 days of the “known final receipt of waste.” 40 CFR 257.102 (e)(1). The attached letter from Dynegy to IEPA regarding its Hennepin facility provides a specific illustration of how the ELG rule will be driving closure of coal ash impoundments in the near future. Letter from Dynegy to IEPA, “ELG Effluent Limitations Applicability Date” Oct. 3, 2016 (Attachment 4.)

The coming onslaught of coal ash impoundment closures necessitates swift action to adopt state rules to ensure that closure and corrective action occur in an orderly manner. Closure especially is a long-term commitment to managing a toxic waste site, and it needs to be done right the first time. We cannot simply accept the industry’s preferred easiest solution without appropriate oversight and evaluation of whether closure-in-place can be achieved without unnecessarily burdening our communities with the long-term risk of severe contamination and/or ash spills.

## **Question 2**

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

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

Exempting entire specific facilities by name from the application of the state rules is improper and probably not approvable under 42 U.S.C.S. § 6945(d)(1). A state permitting program approved pursuant to the WIIN Act will no longer be an additional layer over the self-implementing federal program, but rather it will stand in place of and implement the federal program. An approvable state program must require permits for at least the CCR units that fall within the coverage of the federal rule, and can also require permits for a larger universe of CCR units, as the Agency has advocated doing in this proceeding. Exempting entire facilities by name risks an overly broad exemption that conflicts with the federal rule. For example, if one of the now-closed coal plants at those locations were brought back online and utilized CCR impoundments and/or landfills, it would be covered by the federal rules and therefore must be subject to the state rules as well. In addition, the justification that IEPA provides for exempting those plants – namely, that the ash ponds at those plants are already subject to closure agreements with the state – would not apply if, for example, a previously-unknown CCR unit is discovered at one of those facilities. Moreover, exempting coal plants by name is not necessary: if the rules do not apply, then the facility will not need a permit; which facility qualifies for an exemption need not—and should not—be spelled out in the regulations themselves. In short, exempting facilities by name is not necessary and could exclude CCR units to which either the federal CCR rule or the state rule should or does apply; therefore, it is not appropriate.

Furthermore, the Agency ought not to take an official position about whether those facilities are exempt from the federal rules. Such determinations should be made through the permitting process.

We appreciate that IEPA has thus far in the proceeding indicated that it intends for the state rules to cover CCR units at facilities that no longer generate power. However, the proposal to exempt certain facilities from the Illinois rule because according to IEPA they already have approved closure plans is troubling. Once the dust settles on what requirements for closure apply in an Illinois permitting program, it would be worthwhile to review those closure plans to ensure they are as protective as those in the rest of

the state. The communities around closed coal plants are no less deserving of protection, and in most cases they had no opportunity to weigh in on what those closure plans look like, an opportunity that other communities will be afforded under the rules.

The reporting requirements in the federal CCR Rule have been incredibly beneficial for public understanding and monitoring of the sites that are covered by the federal rule. The Illinois rule should include those reporting requirements across all sites in Illinois, including closed facilities with already approved closure plans.

The Vermilion and Meredosia sites are perfect examples of one of the most compelling reasons to adopt a state permitting program that implements the federal rule, because the federal rule in itself exempts facilities that stopped generating electricity before October 19, 2015. These sites remain an imminent threat to the communities in which they are located and need to be covered by the state CCR rules.

The Vermilion Power Station closed in 2011. The site is home to three coal ash impoundments which store 3.3 million cubic yards of coal ash. The three impoundments are called the Old East Ash Pond, the North Ash Pond System and the New East Ash Pond. All three impoundments sit on the banks of the Middle Fork of the Vermilion River, Illinois' only National Scenic River. Dynegy's proposed solution at the site is a cap system for both the Old East Ash Pond and the North Ash Pond System. The caps would do nothing to solve the multiple problems at the site. The coal ash is within the groundwater table, continually contaminating the groundwater, and contaminants appear to be seeping through the riverbanks and into the river. In 2012, Illinois EPA issued a groundwater violation notice to Dynegy for exceedances of Boron, Manganese, Sulfate, Total Dissolved Solids, and Iron, which is still unresolved. Additionally, the river has been meandering towards the impoundments for years, threatening catastrophic failure of the impoundments if they are capped in place.

The Meredosia Station also closed in 2011. At least five coal ash impoundments are present at the Meredosia Station at this time: the Bottom Ash Pond, Fly Ash Pond and three closed coal ash impoundments. In July 2012, Illinois EPA issued a groundwater violation notice to Ameren for the Meredosia Station for exceedances of Boron, Manganese, Arsenic, Iron and pH. A recently proposed project at the site seeks to alter at least one existing coal ash impoundment at Meredosia Station that would be covered under the current version of the rules proposed by the Illinois EPA.<sup>1</sup> This highlights the

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<sup>1</sup> See, Illinois Department of Natural Resources Public Notice, February 3, 2017, Proposed Changes to Dams at the Former Meredosia Station in Morgan County, Illinois found at [https://www.dnr.illinois.gov/WaterResources/Documents/PublicNotice\\_DamsAtMeredosiaStation.pdf](https://www.dnr.illinois.gov/WaterResources/Documents/PublicNotice_DamsAtMeredosiaStation.pdf)

need for the Illinois Pollution Control Board to proceed expediently with the adoption of state rules, before actions to alter the impoundment are taken that may ultimately be inconsistent with those rules.

### **Question 3**

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

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

As the Illinois Attorney General's Office and Environmental Groups have explained in detail, IEPA is fully authorized to require financial assurance from CCR unit owners/operators. *See* Post-Hearing Comments of the Illinois Attorney General's Office, R14-10 (Oct. 20, 2014) at 6-16; Post-Hearing Comments of Environmental Integrity Project, Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club, R14-10 (Oct. 20, 2014) at 41-46.

Financial assurance is, as the Board implies, all the more necessary in light of the economic challenges facing the coal power generation companies that own or operate CCR units. As the Board correctly notes, many such entities claim to have structured their companies in ways that "ring-fence" CCR-unit owning subsidiaries from their larger, and often financially healthier, parent companies. Indeed, coal generation subsidiaries have argued to this Board that they are unable to access or count on financial assets of parent companies to address contamination. For example, Illinois Power Holdings, a Dynegy subsidiary which, through its own subsidiaries,<sup>2</sup> owns coal plants with CCR units in Illinois, argued that it needed a variance from the state's Multi-Pollutant Standard in part because Dynegy "c[ould] not integrate IPH into the Dynegy capital structure" and therefore Dynegy could not finance a sulfur dioxide pollution scrubber ("FGD") at the Newton plant. *See* Illinois Power Holdings Petition for Variance, PCB 14-10 (Jul. 22, 2013) at Section V(D)(4). If companies like IPH are correct that parent company assets are not available to them to address contamination, then financial assurance requirements are all the more essential, because these generation companies' economic stresses cast serious doubt on their ability to supply the funds needed to address the pollution their CCR units have caused and continue to cause.

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<sup>2</sup> One of those subsidiaries, Illinois Power Generating Company ("Genco"), just emerged from Chapter 11 bankruptcy. *See* <http://www.powermag.com/press-releases/illinois-power-generating-company-emerges-from-chapter-11/> (last visited March 1, 2017).

## **Question 5**

**As IEPA knows, on December 19, 2014, USEPA finalized rules for disposal of CCR from electric utilities. The rules were published in the Federal Register (80 Fed. Reg. 21302-21501 (Apr. 17, 2015)) and became effective on October 19, 2015 (80 Fed Reg. 37988-89 (July 2, 2015)). While USEPA “strongly encourages the states to adopt at least the federal minimum criteria into their regulations” (80 Fed. Reg. 21430 (Apr. 17, 2015)), IEPA recommends that the Board should not incorporate the federal rules into its proposed Part 841. IEPA Rpt. at 2, 7. What were the chief factors leading IEPA to this recommendation?**

In their July 15, 2016 Motion to Amend, the Agency states that it does not “want the Board to adopt the minimum federal requirements into its regulations because it would like to be more stringent in instances where the federal design standards will not result in compliance with the Board's groundwater quality standards in Part 620.” IEPA Motion to Amend, R14-10 p. 8 (July 15, 2016). While we support the Agency in any instance where their rules would be more stringent than the federal CCR rule, the Agency’s proposal not only fails to include provisions as protective as the federal rule, it also entirely leaves out whole areas of protection that are provided by the federal rule. For example, as discussed in more detail in the answer to Question 10, the federal rule creates location restrictions which affect new CCR landfills, existing and new CCR surface impoundments, and all lateral expansions of CCR units. Under WIIN, the Illinois rules must adopt at least the federal minimums in order to be an EPA-approvable state program, and should put in place even more protective requirements where necessary – for example, by applying the rules to CCR units at closed facilities.

Other states have begun moving forward on the USEPA recommendation to adopt the federal minimum criteria into their regulations. In addition to Indiana, as noted in our reply to Question 1, Kansas has received conditional approval of their Solid Waste Management Plan which incorporates the federal CCR disposal regulations by reference. USEPA’s approval is conditional upon Kansas completing their legislative process to incorporate Part 257 Subpart D into requirements for their state recommendations.<sup>3</sup>

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<sup>3</sup> See <https://www.epa.gov/coalash/us-state-kansas-solid-waste-management-plan-approval>

## **Question 6**

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

Programs developed pursuant to the WIIN Act will eventually replace the self-implementing system set up by the CCR rules. Under 42 U.S.C.S. § 6945 (d) (3), the CCR rules will continue to apply to each coal combustion residuals unit until such time as the site receives either a federal permit or a state "permit ... or other system of prior approval and conditions."

The WIIN Act for the first time gives U.S. EPA inspection and enforcement authority over CCR sites. 42 U.S.C.S. § 6945 (d) (4). Until such time as Illinois has an approved program under § 6945 (d) (1), U.S. EPA's enforcement authority is up to its discretion. 42 U.S.C.S. § 6945 (d)(4)(A)(i). If Illinois becomes an "approved state," then U.S. EPA can exercise enforcement authority if the state requests such assistance or if U.S. EPA "determines that an enforcement action is likely to be necessary to ensure that the coal combustion residuals unit is operating in accordance with the [program] criteria," after considering "any other administrative or judicial enforcement action." 42 U.S.C.S. § 6945 (d)(4)(B)(i). U.S. EPA must notify an approved state prior to initiating an enforcement action in that state. 42 U.S.C.S. § 6945 (d)(4)(B)(ii).

### **Question 7**

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

The reporting that has been completed so far pursuant to the federal CCR rule has been very illuminating. To comply with the federal rule, coal ash operators have produced annual inspection reports, fugitive dust plans, dam stability and safe assessments, closure plans, liner reports and more at many sites across the state. These reports allow the public (as well as agencies) to gain insight into the status of coal ash in the state, how that ash could be impacting their health and the environment, and the intended fate of that ash.

However, the federal CCR Rule does not automatically give Illinois EPA the authority to require coal ash operators to produce these reports if they fail to do so. Environmental Groups have identified numerous instances where required documents appear to be missing. We have brought this to IEPA's attention, but we understand the Agency does not feel it has the authority to compel those reports to be produced and made public. A state program implementing the CCR rule could fix that.

The reports we have seen bring into contrast the lack of corresponding information at sites that are not covered by the federal CCR Rule, such as the six facilities identified in the proposed rule. The dams at closed facilities generally pose the same potential risks as dams at operating facilities. They should not be exempt simply because the coal plant is no longer producing electricity. Explicitly including the federal rule reporting requirements into the rule would provide coverage at closed facilities and facilitate enforcement of the rule.

## **Question 8**

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

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

The alternative impact analysis proposed by IEPA in July 2014, as well as by Environmental Groups in their Sept. 15, 2015 proposal, is a sound and necessary analysis that should be made a part of these rules. As noted above, the alternative impact analysis will help ensure that an adequately protective, cost-effective method for ash pond closure is chosen by requiring transparent evaluation of different closure methods, their environmental impacts and costs. This analysis will likely save Illinoisans money and decrease pollution in the long run by allowing IEPA and the public to fairly compare available options.

Moreover, the alternative impacts analysis will help IEPA and the public confirm that the CCR unit will close in compliance with the federal CCR rule's requirement that CCR units be closed "in a manner that will: [c]ontrol, minimize or eliminate, to the maximum extent feasible, post-closure infiltration of liquids into the waste and releases of CCR, leachate, or contaminated run-off to the ground or surface waters or to the atmosphere." 40 C.F.R. § 257.102(d)(1)(i). USEPA has indicated that, where coal ash is in the water table, closure by cap-in-place would not meet those standards and thus would not be allowable. *See* USEPA, "Relationship Between the Resource Conservation and Recovery Act's Coal Combustion Residuals Rule and the Clean Water Act's National Pollutant Discharge Elimination System Permit Requirements:"<sup>4</sup>

In order to close a unit with waste in place, the facility must meet all of the performance standards in § 257.102(d).... Whether any particular unit or facility can meet the performance standards for closure with waste in place is a site-specific determination that will depend on a number of factual and engineering considerations, such as the hydrogeology of the site, the engineering of the unit, and the kinds of engineering measures available. For example, if a small corner of a unit is submerged in the underlying aquifer, a facility might be able to meet the performance standard for closure with waste in place for the majority of the unit, by "clean closing" the submerged portion of the unit, and installing the necessary engineering measures to ensure that the rest of the unit meets the performance standards in § 257.102(d). (emphasis added).

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<sup>4</sup> Available at <https://www.epa.gov/coalash/relationship-between-resource-conservation-and-recovery-acts-coal-combustion-residuals-rule>, updated December 16, 2016 (last visited March 1, 2017).

The alternative impact analysis will help ensure that the owner/operator, IEPA, and the public have the information necessary to make the site-specific, fact-specific evaluation of closure methods, and to ensure that CCR units “clean close” (close by removal) when necessary under the federal CCR rule.

Due to how critical the alternative impact analysis is to ensure compliance with both state and federal requirements, it must not be included solely within a GMZ application. GMZ applications are not a required component under IEPA’s proposal (nor should they be; see answer to Question 13), and therefore cannot be relied upon to ensure that analysis is completed and provided to IEPA and the public. Rather, the alternative impact analysis must be a required component of CCR units’ closure plans, as it is in the Environmental Groups Sept. 15, 2015 proposal (proposed § 841.410). It must also be made available for public review and comment, along with the remainder of the closure plan, to ensure that IEPA benefits from the public’s evaluation and analysis of the plan. Especially in view of Illinois’ budget crisis and potential constraints on IEPA’s resources and time, Environmental Groups believe public participation in permitting decisions that may have very serious, long-term impacts on our ground- and surface waters is imperative.

## **Question 9**

**In their response to IEPA's motion to amend, Environmental Groups note that IEPA's July 2014 proposal at Section 841.500(c)(3) includes 11 factors for reviewing plans for corrective action, closure, and post-closure care.**

**Does IEPA intend to consider these factors when reviewing proposed plans under the permit provisions at Part 309? If so, please identify the authority or authorities under which it can evaluate these factors. If not, please explain why IEPA has not proposed to require consideration of these factors in its review of these plans.**

The 11 factors proposed by Environmental Groups are critical to ensure the management of risk from coal ash contamination on human health and the environment. Inclusion of these factors in the final state rule would provide clarity, guidance, and transparency to owner/operators, the Agency, and the public on the issues that most influence the environmental risks and benefits associated with plans for corrective action, closure, and post-closure care.

The considerations included in the 11 factors are critical to decision-making on whether a proposed plan will provide long-term protection to public safety and the environment. Considerations of whether a surface impoundment is located in a wetland, floodplain or water table is critical to the long-term protection of both surface water and groundwater. The federal CCR rule does not allow an impoundment to remain in a wetland, be within five feet of the uppermost aquifer or have a seasonal hydraulic connection to groundwater. Likewise the federal CCR has restrictions on the location of surface impoundments in fault areas, seismic impact zones and unstable areas. These location restrictions are determinative factors for site corrective action and closure. Site operators must look at these issues as they develop their plans. We note, however, that including location considerations as a factor the agency consider when issuing a corrective action or closure permit does not alleviate the need to formally incorporate the location restrictions from the federal CCR rule into the state rule in order to qualify as an approved state under the WIIN Act.

Likewise, factor six requires that "the long-term and short-term effectiveness and protectiveness of the alternative corrective action or closure options evaluated in the alternative impact assessment as required by Section 841.410(e)(6) or Section 841.410(a)(6)" be an important part of the Agency's review of a proposed plan. As discussed in our answer to Question 8, this alternative impact analysis is a critical piece of ensuring that any plan conforms with federal and state requirements. Spelling out in the rules the factors that the Agency will consider in its review of plans provides clarity for the industry and transparency for the public.

## **Question 10**

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

The Board is correct: IEPA's proposal nowhere incorporates the requirements of the federal CCR rule, and must do so explicitly if IEPA intends to incorporate those requirements. As it stands, IEPA's July 2016 proposal could not be approved by USEPA, as it falls far short of the WIIN Act's mandate that only state plans "at least as protective as" the federal CCR rule may be approved by that agency. IEPA's proposal lacks numerous key protections included in the federal rule, including but not limited to:

- Clear design requirements for ash ponds, required by the federal CCR rule at 40 C.F.R. §§ 257.70 – 257.74, including proper, protective liners for CCR units as well as structural stability protections to guard against the dangerous collapse of ash ponds;
- Key location requirements for ash ponds, included in the federal CCR rule at 40 C.F.R. §§ 257.60 – 257.64, including common sense protections to ensure that ash ponds are not in unstable areas, wetlands, fault or seismic impact areas, or sitting in groundwater;
- Critical performance standards for closure, set forth in the federal CCR rule at 40 C.F.R. § 257.102(d), including the mandate that CCR units must be closed in a manner that will: "control, minimize or eliminate, to the maximum extent feasible, post-closure infiltration of liquids into the waste and releases of CCR, leachate, or contaminated run-off to the ground or surface waters or to the atmosphere;"
- Detailed final cover system requirements for closure via cap-in-place, required by the federal CCR rule at 40 C.F.R. § 257.102;
- Essential triggers for corrective action, retrofit, and/or closure of CCR units within specific timeframes when groundwater contamination is discovered or if location or certain design standards are not met, set forth at 40 C.F.R. § 257.101.

In sum, the July 2016 IEPA proposal absolutely does not incorporate minimum USEPA requirements into state permits, and must be broadly expanded before it could be approved by USEPA under the WIIN Act.

## **Question 11**

**In their response to IEPA's motion to amend, Environmental Groups acknowledge that IEPA's amended proposal provides for public comment on an application for a groundwater management zone but state that "not every site will necessarily have a GMZ." Groups' Resp. at 8. IEPA anticipates that facilities will seek a groundwater management zone to obtain an alternative groundwater quality standard during corrective action and to avoid enforcement. Mot. Amend at 6-7, citing 35 Ill. Adm. Code 620.450.**

**Please comment on any opportunities for public participation in the permitting process under IEPA's amended proposal for any facility that pursues corrective action without seeking a groundwater management zone.**

The WIIN Act sets in motion a process to allow for permits that ensure compliance with the CCR rules to replace the "self-implementing" CCR rules adopted by USEPA. RCRA regulations require public participation in permitting for solid waste disposal facilities. 40 C.F.R. § 256.63. Under the regulatory definitions, "[t]he term 'permit' includes any functional equivalent such as a registration or license." 40 C.F.R. § 256.06. CCR impoundments are solid waste disposal facilities under the definitions established by RCRA. 42 U.S.C.S. § 6903 (3), (27), (29).

Specifically, 40 C.F.R. § 256.63 requires a State to "hold a public hearing to solicit public reaction and recommendations on the proposed permit application if the State determines there is a significant degree of public interest in the proposed permit." If Illinois proceeds with developing a program that can be approved under the WIIN Act, the permit approval process must include at least a public hearing that meets the terms of 40 C.F.R. § 256.63.

In its July 15, 2016 Motion to Amend, IEPA stated that both corrective action and closure of CCW surface impoundments require state construction and operation permits. IEPA Motion to Amend, R14-10 p. 4 (July 15, 2016). The lack of public participation opportunities is but one important reason why the Agency's proposal will not be approvable under the WIIN Act. Explicitly, "[t]he Agency excludes public participation of the construction and operating permits because these permits typically do not have public participation under Part 309 and because the public will have an opportunity to comment on any proposed corrective action or closure under the groundwater management zone application process. ... Additionally, under the Act, the Agency must take a final action on the construction and operating permit applications within 90 days; this short time frame is not conducive to meaningful public participation." IEPA Motion to Amend, R14-10 p. 8 (July 15, 2016).

Instead, the Agency's proposed amendments include public participation in the process of a Groundwater Management Zone (GMZ). However, there are several problems with this approach. First, not all owners or operators are required to seek a GMZ to undertake corrective action consistent with the CCR rule (nor should they be required to do so, because a GMZ suspends application of the groundwater

standards – see our answer to Question 13). 35 Ill. Adm. Code § 620.250 (e). Therefore, opportunities for the public to review and comment on these critical decisions of longstanding impact to our ground and surface waters are not ensured under the Agency’s proposal. Second, even the opportunities for public participation that are present in the Agency’s proposal fail to meet minimum requirements, as they do not provide for a public hearing as required by 40 C.F.R. § 256.63. The Agency’s July 15, 2016 proposal therefore offers an incomplete solution to the public hearing requirement for corrective action plans.

This problem is further magnified when it comes to permitting closure plans. The Agency states that “closure may be performed as corrective action under a groundwater management zone.” But not all corrective action plans will include closure as part of the corrective action. And, critically, there are many avenues to closure that would not involve corrective action or a GMZ. For example, the CCR rule requires closure of existing CCR impoundments that do not comply with location restrictions. 40 C.F.R. §§ 257.60-257.64; 257.101. As another example, closure must be initiated within a certain amount of time after the unit stops receiving waste. 40 C.F.R. § 257.102 (e). The CCR rule contemplates that closure plans will be in place prior to an event that triggers closure under the rules. None of these events in themselves would trigger a GMZ process under the Agency’s July 15, 2016 proposal, but would be governed by state construction and operating permits under the rules. Those permits explicitly preclude public participation. Thus, the Agency proposal lacks adequate public participation in the closure permitting procedures, and would not be approvable under the WIIN Act.

As stated above, because the solid waste rules set forth in Part 807 are already structurally similar to the requirements set forth in the CCR rules, if Illinois seeks approval to oversee the CCR permitting process under the WIIN Act, it would make sense to promulgate the necessary rules in Part 807. However, the Part 807 rules do not provide for public participation, so such provisions must be specifically included if that is the approach the Board takes. The minimum requirement under 40 C.F.R. § 256.63 is a provision for a public hearing, but we recommend that Board include all of the public participation provisions that the Agency proposes in Section 841.125 of the July 15, 2016 Motion to Amend (and which have been incorporated in prior proposals in this matter), substituting language allowing for a public hearing for proposed Section 841.125 (c). We understand that the Agency has limited resources, and that public hearings can be a drain on those resources. A notice and comment procedure for public participation can allow the public its right to be heard, and prevent us from having to call for a hearing in every circumstance. Accepting public comments will also allow the agency to assess whether “there is a significant degree of public interest in the proposed permit,” to meet its obligations under 40 C.F.R. § 256.63

Corrective action and closure of coal combustion waste impoundments have enormous long-term impact on the communities where such facilities are sited. The community above all bears the risk when corrective action and closure decisions are made, and has a right to be heard. We therefore urge the Board to include full public participation opportunities in any program the state develops.

## **Question 12**

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

Whatever approach the Board takes in developing an Illinois program to implement the CCR rules, it is important to clarify citizens' rights to obtain review of any permits issued for corrective action or closure plans. The most straightforward approach would be to confirm third-party appeal rights in a provision that parallels that which is already available for certain RCRA permits as well as NPDES permits. The Board's rule at 35 Ill. Adm. Code 105.204 states, for example, that "If the Agency grants a RCRA permit for a hazardous waste disposal site, a third party, other than the permit applicant or Agency, may petition the Board for a hearing to contest the issuance of the permit." 35 Ill. Adm. Code 105.204 (c).

Several recent Illinois cases have made it difficult for citizens to gain access to the courts to review agency actions that impact the public's right to a healthful environment. *See Helping Others Maintain Environmental Standards v. Bos*, 941 N.E.2d 347 (Ill. App. 2010) (Denying citizens' action to review a permit issued by Illinois Department of Agriculture); *Sierra Club v. Office of Mines and Minerals of the Department of Natural Resources*, 29 N.E.3d 1068 (Ill. App. 2015) (Denying citizens' action to review a permit issued by Illinois Department of Natural Resources); *Save Our Sandy v. Department of Agriculture*, 56 N.E.3d 584 (Ill. App. 2016) (Denying citizens' action to review a permit issued by Illinois Department of Agriculture). The rule that emerges from these cases is that administrative review of an agency action is only available if: 1) the plaintiff has an explicit statutory right to bring such an action, or 2) if the plaintiff can demonstrate "party status" in the challenged agency action. *HOMES*, 941 N.E.2d 347, 360-61.

The program contemplated in this rulemaking—agency action concerning corrective action and closure of CCW impoundments—is distinguishable from the above-cited case law because it falls under the authority of the Illinois Environmental Protection Act. The Illinois Environmental Protection Act includes an explicit citizen suit provision that allows "any person" to "file with the Board a complaint... against any person allegedly violating this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order." 415 ILCS 5/31 (d)(1). *See also*, 35 Ill. Adm. Code § 103.106. Ostensibly, this statute provides citizens with the ability to challenge an Agency action approving corrective action or closure of a CCW impoundment if the Agency's approval does not comply with the standards the Board establishes for taking such action.

However, citizens' access to review of an Agency permitting action under Section 5/31 (d) is in question. A 1978 case, *Landfill, Inc. v. IPCB*, disallowed a rule authorizing third party plaintiffs to pursue review of an agency permit under Section 5/31 (d) as being beyond the Board's authority. Since that case, third party appeal rights have been concretely established in the statute and regulations, but the right to appeal the permits contemplated here has not been specifically addressed.

On the other side, the availability of Section 5/31(d) state citizen suits has caused at least one federal court to use the abstention doctrine to deny a plaintiff's federal citizen suit to review an agency-issued permit. *Sierra Club, Inc. v. Futuregen Industrial Alliance, Inc.*, 2014 U.S. Dist. LEXIS 77902 (C.D. Ill. 2014). The federal court found that "[a]fter the IEPA has made a determination regarding the issuance of a permit, review may be had before the IPCB. Any person may file a complaint with the IPCB attacking any permit or term or condition of a permit. 415 ILCS 5/31(d)(1)." *Futuregen* at \*11. Consequently the federal court abstained from the citizen suit, "declin[ing] to interfere with proceedings or orders of state administrative agencies where timely and adequate state court review is available." *Id.* at \*8.

Given the tension created by these conflicting court decisions, the Board's regulations in this matter need to clearly indicate whether there is an opportunity with the Board for third-party review of a permit issued under this program. RCRA provides an opportunity for federal court review of RCRA permits (including permits developed pursuant to the WIIN Act) through its citizen suit provision. 42 U.S.C.S. 6972(a)(1) (Establishing a civil right of action "against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this Act.") If the Board feels it does not have the authority to entertain state third-party review of the permits contemplated in this proceeding, the regulations should make clear that no such review is available. If the Board believes it does have such authority, it should exercise that authority and explicitly provide for third-party review.

### **Question 13**

**In its motion to amend, IEPA states that, to align existing state standards with the USEPA rule, it proposes “changing the Class IV groundwater quality standards to match the standards in the federal rule and moving the point of compliance to the edge of the waste boundary.” Mot. Amend at 10.**

**Executive Order 16-13 (Oct. 17, 2016) directs State agencies to ensure that new and existing regulations are up to date and coordinated to avoid conflict. Has IEPA determined when it intends to file a rulemaking proposal to amend these rules? If so, when does it intend to do so?**

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

Environmental Groups have several concerns with the Agency position regarding groundwater quality standards in its revised July 2016 proposal. First, the Agency’s statement that groundwater underlying coal ash impoundments is necessarily Class IV is simply incorrect. Under 35 Ill. Adm. Code § 620.240(e), Class IV groundwater includes groundwater underlying a potential primary source, “if the owner or operator of such source notifies the Agency in writing and the following conditions” are met:

1. The outermost edge is the closest practicable distance from such source, but does not exceed: A) A lateral distance of 25 feet from the edge of such potential source or the property boundary, whichever is less, and B) A depth of 15 feet from the bottom of such potential source or the land surface, whichever is greater;
2. The source of any release of contaminants to groundwater has been controlled;
3. Migration of contaminants within the site resulting from a release to groundwater has been minimized;
4. Any on-site release of contaminants to groundwater has been managed to prevent migration off-site; *and*
5. No potable water well exists within the outermost edge as provided in subsection (e)(1).

(emphasis added).

Because the conjunctive word “and” is used, clearly each of those five conditions must be met in order for the groundwater to qualify as Class IV groundwater. However, at many, if not most, of the coal ash impoundments in our state, the majority of those five conditions are not met. In particular, the source of release of contaminants to groundwater (35 Ill. Admin. Code § 620.240(e)(2)) has, in many circumstances, not been controlled. Where coal ash contaminants have been found in groundwater monitoring wells close to the impoundments, IEPA itself has effectively recognized that a source of that contamination is ash from ash impoundments, as evidenced by Notices of Violation (NOVs) it has issued

at multiple impoundment sites. *See, e.g.*, Notice of Violation issued to Joliet 29, Will County, Baldwin, and Coffeen (Attachments 5-8). Many impoundments are not lined or have liners that do not meet the requirements of the federal CCR rule, including, among many others, ash ponds at Baldwin and Coffeen.<sup>5</sup> As such, a source of contaminants is not controlled. Because all of the five 35 Ill. Adm. Code § 620.240(e) conditions must be met for groundwater to qualify as Class IV, the impoundments' failure to meet 620.240(e)(2) alone means the groundwater underlying is not Class IV, but rather is either Class I or Class II, depending on the site-specific conditions. *See* 35 I.A.C. §§ 620.210 and 620.220.

As such, changing the Class IV groundwater standards to match those of Appendix IV of the federal CCR rules would not make Illinois rules consistent with the federal CCR rules. Moreover, doing so would not ensure that Illinois fulfills the mandate of the Illinois Groundwater Protection Act, ensuring protection for our state's groundwater. *See* 415 ILCS 55/2(b) ("it is the policy of the State of Illinois to restore, protect, and enhance the groundwaters of the State, as a natural and public resource..."). The need to keep our Class I or II groundwater standards in place at ash impoundments is underscored by the absence, in the federal rule, of Appendix IV standards for several harmful contaminants that are recognized indicators of coal ash pollution, including boron, sulfate and manganese. *See* Illinois EPA's Ash Impoundment Strategy Progress Report, October 2010, (Attachment 9). To ensure proper protection of our limited, vital groundwater resources, the Board should not change Class IV groundwater standards to match the federal Appendix IV standards. Instead, these rules should clearly specify that the applicable groundwater standards (Class I or Class II) continue to apply to the groundwater at impoundment sites except that, where the Appendix IV standards of the federal CCR rule (set out at 40 C.F.R. 257.95(h)) are more protective than those state groundwater standards, that more protective federal standard applies.

Finally, Environmental Groups note that using GMZs to provide for corrective action at impoundments is not consistent with, or allowed under, the federal CCR rules. Under state rules, groundwater standards cease to apply while a GMZ is in effect. *See* 35 Ill. Adm. Code § 620.250(e). By contrast, under the federal rules, the Appendix IV standards continue to apply, even during corrective action. *See, e.g.*, 40 C.F.R. § 257.98(c) (stating that remedies are not complete until the CCR unit demonstrates compliance with the Appendix IV standards). Moreover, the federal CCR rules identify failure to comply with the Appendix IV groundwater standards is a violation of RCRA. *See* 40 C.F.R. 257.1 (2) (providing that failure to comply with 40 C.F.R. §§ 257.50 through 257.107 constitutes open

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<sup>5</sup> Liner assessments for Baldwin ash ponds are available at [https://ccr.dynegy.com/uploads/473/Doc\\_636143642802062558.pdf?ts=636243320789678658](https://ccr.dynegy.com/uploads/473/Doc_636143642802062558.pdf?ts=636243320789678658) and [https://ccr.dynegy.com/uploads/473/Doc\\_636143645088644242.pdf?ts=636243321468920400](https://ccr.dynegy.com/uploads/473/Doc_636143645088644242.pdf?ts=636243321468920400). Liner assessments for Coffeen ash ponds are available at [https://ccr.dynegy.com/uploads/472/Doc\\_636143665271625909.pdf?ts=636243324397145108](https://ccr.dynegy.com/uploads/472/Doc_636143665271625909.pdf?ts=636243324397145108).

dumping, which is prohibited under Section 4005 of RCRA). Therefore, to be consistent with the CCR rule, there must be groundwater standards in effect, and those standards must be at least as stringent as those provided by the federal CCR rule.

## **Question 17**

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

Environmental Groups have produced a report that answers this question to the best of our ability, compiling information from three major sources of information on coal ash impoundments in Illinois: 1) the Illinois EPA Ash Impoundment Strategy Report that was submitted to the record as Hearing Exhibit 14<sup>6</sup>; 2) the US EPA CCR Impoundment Assessment Reports; and 3) the documentation provided by the coal ash operators to comply with the federal CCR Rule. Our findings are summarized in the attached Inventory of Coal Ash Impoundments and Volumes Illinois. Prairie Rivers Network, March 6, 2017 (Attachment 10.)

We have found a number of inconsistencies between these three sources that point to the need for a consistent, complete, thoroughly documented, and publicly-available inventory of all coal ash impoundments in Illinois, with clear indications of names, spatial extents (maps), and coal ash volumes.

Finally, we note that Prairie Rivers Network has developed a mapping resource which (to the best of our knowledge) compiles the publicly-available information to show the location of each coal ash impoundment in Illinois and provides detailed information about each site, including maps of known coal ash impoundments, and links to many useful documents: <https://prairierivers.org/coalashmap/>.

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<sup>6</sup> We have noted the Agency's March 25, 2014 response to Board Question 20, which identifies a number of inaccuracies in Exhibit 14, as well as the updated table the Agency submitted as Attachment 2 to April 30, 2014 post hearing comments. We used this information to develop our report..

**ATTACHMENT 1**



**INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

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Eric J. Holcomb  
Governor

February 23, 2017

Bruno L. Pigott  
Commissioner

Ignacio L. Arrázola, Acting Director  
Land and Chemicals Division  
U.S. EPA Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

Dear Mr. Arrázola:

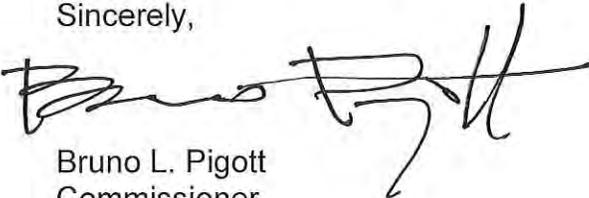
Re: Indiana CCR Part 256 Plan Amendment

Please find enclosed Indiana's Coal Combustion Residuals Part 256 Plan, which amends Indiana's Solid Waste Management Plan. Pursuant to 40 CFR 256.03(f), this amendment constitutes the portion of Indiana's Solid Waste Management Plan satisfying the requirements of 40 CFR 256.26. The amendment describes the criteria IDEM will use when determining whether to approve an entity's request, under 42 U.S.C. 6945(a) and 40 CFR 256.26, for an extended "schedule for compliance" with the requirements of 40 CFR 257 Subpart D (CCR Rule). This amendment also describes, and proposes a schedule for, planned revisions to Indiana's regulations for Solid Waste Land Disposal Facilities at 329 IAC 10 to address the standards in the CCR Rule. Indiana would appreciate U.S. EPA's timely consideration of this amendment pursuant to 40 CFR 256.04(f).

This plan was developed and adopted in accordance with State administrative procedures, including IC 13-21-1-1, and with the requirements of 40 CFR 256, including the public notice and public participation requirements of sections 256.03 and 256.60.

Thank you for your consideration of this plan. If you have questions please contact Jeff Sewell at [jsewell@idem.IN.gov](mailto:jsewell@idem.IN.gov) or by phone at (317) 234-1000.

Sincerely,



Bruno L. Pigott  
Commissioner

Enclosures: Indiana Coal Combustion Residuals Part 256 Plan  
Public Participation Response to Comments

**ATTACHMENT 2**



**Indiana  
Coal Combustion Residuals  
Part 256  
Solid Waste Management Plan  
Amendment**

**Indiana Department of Environmental Management  
Office of Land Quality**

February 23, 2017

## Purpose and Scope of this CCR Part 256 Plan

In consideration of the interests of the Indiana Department of Environmental Management (IDEM), the Coal Combustion Residuals (CCR) regulated community, elected government officials, and the public; IDEM prepared this amendment to Indiana's solid waste management plan and submits it for review and approval by the United States Environmental Protection Agency (EPA). The plan describes IDEM's intent and approach to modify and expand the scope of Indiana's solid waste regulations to address the requirements of the Coal Combustion Residuals Rule in 40 CFR 257, Subpart D (CCR Rule). The plan also describes IDEM's intended approach for following section 2301 of the Water and Waste Act of 2016 in order to establish a permit program under Indiana law for the regulation of coal combustion residuals units that are located in Indiana. As contemplated by section 2301 of the Water and Waste Act of 2016, IDEM's permit program would operate in lieu of Federal regulations or a permit program implemented by the EPA.

This plan does not address requirements of Part 256 solid waste management plans that are addressed in and met by Indiana's previously approved solid waste management plans (dated 1980 and 1991) except to the extent that those requirements are applicable to this amendment. This plan does not propose any changes to the procedures in the previously approved solid waste management plans. The responsible State agency has not changed. There are no changes in the coverage periods from the previously approved plans.

The Indiana Code (IC) and Indiana Administrative Code (IAC) references in this document may be viewed on the Indiana General Assembly website at [iga.in.gov](http://iga.in.gov).

This plan explains the State's intent to develop the State's CCR permit program through the following steps, which are described in detail in the corresponding sections that follow:

1. IDEM will review requests from electric utilities and independent power producers for approval of compliance schedules for CCR impoundments under 40 CFR 256.26 using the criteria explained in Section 1 of this plan.
2. IDEM will use existing regulations and authorities for CCR landfills and has incorporated the CCR Rule provisions for surface impoundments by reference to Indiana law as an interim and temporary step in regulating CCR facilities until a full update to Indiana's regulations can be completed. The first incorporation by reference was accomplished through an emergency rule that took effect on February 12, 2016. Subsequent rulemaking has extended the effectiveness of these changes until they can eventually be replaced with updated regulations as noted in item 3 below.
3. IDEM will use existing authorities to update Indiana's solid waste land disposal facility regulations. In pertinent part, that update will address the substance of the CCR Rule. IDEM anticipates completing these rules by December 31, 2018. This target date provides time for IDEM to collaborate

with stakeholders in drafting rule language and to complete the required steps for rulemaking described in Section 6.2.

4. IDEM will petition EPA for recognition and approval of Indiana's CCR permit program within 180 days after final adoption of Indiana's CCR regulations by the Indiana Environmental Rules Board. As of the writing of this plan, EPA has not indicated the requirements for requesting approval of a CCR permit program. IDEM intends to submit any additional information that may be required to establish a State program for control of coal combustion residuals under section 4005(d) of the Solid Waste Disposal Act (42 U.S.C. 6945).

This plan will be referred to as the "Indiana Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment" or "CCR Part 256 Plan." This plan has been adopted following a public process involving key stakeholders. The procedures included a notice and public hearing, in accordance with the requirements of 40 CFR 256.03 and 256.60. Additional information regarding coordination with other programs and public participation is provided in Sections 5 and 6.

### **Summary of Indiana CCR Universe**

Indiana has 14 permitted CCR landfills and an unknown number of historical landfills that predate State permitting requirements. EPA's *Coal Combustion Residuals Impoundment Assessment Report* summary table of July 31, 2014<sup>1</sup> lists 74 Indiana CCR impoundments that were assessed as part of the national effort to assess the management of CCR. The number of historical CCR impoundments not reflected in this table is unknown.

### **Priorities**

IDEM will prioritize CCR disposal facilities with known releases and CCR impoundments subject to closure deadlines that are actively developing and implementing closure plans.

## **1. Approving Compliance Schedules**

IDEM will consider the following factors, along with the relevant statutory and regulatory requirements, described in the Final Rule at 80 Federal Register 21,431-21,433 (April 17, 2015), when determining whether to approve a compliance schedule under 40 CFR 256.26 to extend the compliance dates in the CCR Rule for CCR impoundments:

1. Whether other disposal units can be used. The utility or independent power producer must demonstrate it has considered other public or private alternatives to comply with the CCR Rule and is unable to use such

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<sup>1</sup> <https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/html/index-4.html>

alternatives. The utility or independent power producer must demonstrate there are no alternative units that meet the Federal requirement, either on-site or off-site, that can be used to dispose of the CCR.

2. Whether the utility or independent power producer has made a good faith effort to meet the compliance deadline.
3. Whether there are factors beyond the utility or independent power producer's control that have made it unable to meet the compliance deadline.
4. Whether the utility or independent power producer has identified the specific activities that remain to be completed and proposed a clear, enforceable schedule for completing those activities that will bring it into compliance within a reasonable time (not to exceed 5 years from the date of publication of the new Federal criteria).
5. Factors that IDEM will require the utility or independent power producer to address, and that IDEM will consider in determining whether a proposed compliance schedule is reasonable: the technical complexity of the requirements; the activities that remain to be completed; the reasons for the lack of compliance; the hazard potential classification of a diked CCR surface impoundment; other site-specific factors such as geology, geography, weather and engineering considerations; and the potential risks to human health and the environment resulting from extending compliance dates and any steps taken, or other considerations, that mitigate those risks.
6. Whether the utility can document the above claims or an independent investigation can verify the claims.

At a public meeting on February 10, 2016, the Indiana Environmental Rules Board adopted an emergency rule, which became effective on February 12, 2016, that incorporates by reference into 329 IAC 10 the requirements for CCR surface impoundments in 40 CFR 257.50 through 40 CFR 257.106. Since emergency rules expire after 90 days under Indiana law, the Environmental Rules Board adopted the emergency rule again on May 11, 2016, August 10, 2016, and November 9, 2016. On August 10, 2016, the Environmental Rules Board also adopted amendments to 329 IAC 10 to permanently incorporate the requirements for CCR surface impoundments in 40 CFR 257.50 through 40 CFR 257.107. The permanent amendments became effective on December 10, 2016. Incorporation of these requirements enables IDEM to grant compliance schedules under IC 13-14-8-8, and enforce those schedules using State enforcement authorities and processes under IC 13-30.

## **2. Interim Regulation of CCR Facilities**

### **CCR Landfills**

Indiana's solid waste land disposal facility regulations already require a permit for CCR landfills. Even though existing regulations do not meet the minimum criteria in the CCR Rule, most permitted CCR landfills in Indiana were designed with composite liner systems and are already compliant with the CCR Rule in most respects under the terms of the existing permits. Under 329 IAC 10-13-1, IDEM may impose conditions in a permit as may be necessary to protect human health and the environment. Until Indiana's regulations are brought up to date with the minimum requirements of the CCR Rule as discussed in Section 3 of this plan, IDEM will review each existing CCR landfill permit for equivalence to all applicable requirements of the CCR Rule. IDEM will impose permit conditions as necessary to achieve the minimum criteria in the CCR Rule through a permit modification or renewal. Permit provisions that already meet or exceed the minimum requirements of the CCR Rule will remain unchanged. IDEM plans to review each existing CCR landfill permit and issue a modification or renewal as necessary by the end of 2017.

When reviewing an application for a new CCR landfill, IDEM will use the State rules in 329 IAC 10 and the Federal criteria in the CCR Rule to evaluate the application. IDEM will impose permit conditions as necessary to achieve the minimum criteria in the CCR Rule if the permit is granted.

IDEM can enforce CCR landfill permits using State enforcement authorities and processes under IC 13-30. CCR landfills not in compliance with the Federal requirements would be classified as open dumps.

### **CCR Impoundments**

Before February 12, 2016, Indiana's solid waste land disposal facility regulations in 329 IAC 10 excluded CCR impoundments from the requirements of the regulations. This had the effect that a CCR impoundment could not be classified as an open dump under Indiana's regulations. To remedy this issue, IDEM modified the exclusions and incorporated by reference provisions of the CCR Rule which apply to CCR impoundments. This enables Indiana to classify CCR impoundments that are not in compliance with the Federal provisions as open dumps and to use State authorities to enforce these provisions under IC 13-30. The modified exclusions and incorporation by reference will eventually be replaced or supplemented to establish a complete set of Indiana regulations for CCR impoundments, as discussed in Section 3 of this plan.

### 3. Developing an Indiana CCR Permit Program

IDEM plans to amend Indiana's administrative code provisions for Solid Waste Land Disposal Facilities at 329 IAC 10 to incorporate the CCR Rule standards for the disposal of CCR in landfills and surface impoundments. The revised regulations will be at least as stringent as the following CCR Rule provisions in 40 CFR 257:

- General Provisions in 257.50 through 257.53
- Location Restrictions in 257.60 through 257.64
- Design Criteria in 257.70 through 257.74
- Operating Criteria in 257.80 through 257.84
- Ground Water Monitoring and Corrective Action Standards in 257.90 through 257.98
- Closure and Post-Closure Care Standards in 257.100 through 257.104
- Recordkeeping, Notification, and Posting of Information to the Internet in 257.105 through 257.107.

The existing landfill requirements in 329 IAC 10 for CCR landfills are based on compacted soil liner landfill designs. The landfill regulations will require a comprehensive update to address the composite liner landfill design requirements of the CCR Rule. Other aspects of the requirements for landfills, such as the operational requirements and ground water monitoring requirements, are already similar to the CCR Rule and will require fewer updates and changes.

Before the CCR Rule requirements for CCR impoundments were incorporated by reference on February 12, 2016, the existing surface impoundment requirements in 329 IAC 10 were very minimal. CCR impoundments were only regulated at final closure if waste was closed in place. Addressing the CCR Rule requirements for CCR impoundments will involve expanding the scope of Indiana's regulations.

As noted in the April 12, 2016 draft of this plan, IC 13-19-3-3 currently prohibits the Indiana Environmental Rules Board (IERB) from adopting rules to regulate certain uses of coal combustion products. However, as of February 13, 2017, House Enrolled Act 1230 has passed both houses of the Indiana General Assembly and is awaiting signature by the Governor of the State of Indiana. House Enrolled Act 1230 would amend IC 13-19-3-3 to allow the IERB to adopt rules consistent with the CCR Rule. In other words, the amendment would clear the way for rules that are equivalent to the CCR Rule in all respects.

Due to the complexity of the anticipated rules governing CCR, and the length of time necessary to solicit and receive input from stakeholders and complete the administrative and public participation requirements for promulgating regulations, IDEM anticipates having rules adopted and effective by December 31, 2018. IDEM will use the following target dates for intermediate milestones in the rulemaking process:

- First Notice of public comment period – within 180 days of adoption of plan
- Stakeholder engagement and rule drafting – 1st Quarter 2017 to April 2018
- Draft to EPA for comment – April 2018\*

- Second Notice of public comment period – May 2018
- Environmental Rules Board preliminary adoption – June 2018
- Environmental Rules Board final adoption – September 2018
- Attorney General and Governor review – October 2018
- Publication in Indiana Register – November 2018
- Rules effective – December 2018

\* IDEM proposes to offer EPA the opportunity to review and comment on draft rule language at least 30 days before the draft rules will be presented to the Environmental Rules Board for preliminary adoption.

#### **4. EPA Approval of Indiana's CCR Permit Program**

Within 180 days after final adoption, IDEM proposes to submit to EPA the final CCR-related rules discussed in Section 3 as evidence of a permit program for regulation by IDEM of coal combustion residuals units in Indiana. As contemplated by section 2301 of the Water and Waste Act of 2016, after approval by the EPA Administrator, IDEM's permit program will operate in lieu of regulation of coal combustion residuals units in Indiana under Federal regulations or a permit program implemented by the EPA Administrator. As of the writing of this plan, EPA has not indicated the requirements for requesting approval of a CCR permit program. IDEM intends to submit any additional information that may be required to establish a State program for control of coal combustion residuals under section 4005(d) of the Solid Waste Disposal Act (42 U.S.C. 6945).

#### **5. Coordination with Other Programs (See 40 CFR 256.50)**

The full scope of coordination with other programs is addressed in Indiana's previously approved solid waste management plans. The following points of coordination are added or are particularly relevant to regulation of CCR facilities:

##### **5.1 Coordination within IDEM**

IDEM's Office of Land Quality (OLQ) is staffed with environmental project managers, chemists, engineers, geologists, compliance inspectors, and enforcement case managers that specialize in waste facility design, construction and operations. The OLQ staff coordinates regularly with Office of Air Quality (OAQ) and Office of Water Quality (OWQ) staff on air and water regulations affecting waste facilities such as air permits, fugitive dust, and NPDES permits. IDEM's OLQ administers storm water regulations for landfills which have been incorporated into 329 IAC 10 and coordinates with the OWQ staff on the storm water program as necessary.

## **5.2 Coordination with the Indiana Department of Natural Resources**

CCR surface impoundments and landfills are commonly located near rivers where floodway construction permitting regulations or dam and levee safety regulations administered by the Indiana Department of Natural Resources (IDNR) frequently apply. IDEM's Office of Land Quality routinely coordinates with IDNR staff to make sure permitting and compliance actions by both agencies are compatible and well-coordinated.

## **5.3 Coordination with Other Agencies and Stakeholders**

IDEM routinely coordinates with or notifies other Federal, State and local agencies and regulatory programs regarding solid waste facility location, design, and operation issues, including: local health departments, State and local elected officials, wetlands and floodplains (U.S. Army Corps of Engineers), and zoning (local government planning agencies).

## **6. Public Participation (See 40 CFR 256.60 through 256.64)**

IDEM completed or will complete the public participation steps required under 40 CFR 256.60 through 256.64 as described in the following subsections:

### **6.1 Public Participation in CCR Part 256 Plan (See 40 CFR 256.60)**

#### **256.60(a)(1) List of Affected Parties**

IDEM will maintain a list of agencies, government entities, organizations and individuals affected by or interested in the plan, including parties that request to be on the list, the owner or operator of each electric utility or independent power producer, the owner or operator of any CCR landfill or impoundment that is an open dump, and other parties IDEM determines to be affected by or interested in the plan.

#### **256.60(a)(2) Depositories of Relevant Information**

IDEM created a CCR website to make relevant information conveniently accessible throughout the state. The draft plan, final adopted plan, responsiveness summary, open dump inventory and other relevant information are posted on the website: [www.IN.gov/idem/landquality/ccr](http://www.IN.gov/idem/landquality/ccr).

#### **256.60(a)(3) Responsiveness Summary**

IDEM prepared a responsiveness summary which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to public input.

#### **256.60(b)(1-4) Provide Information and Consult with the Public**

IDEM published public notices in major newspapers in the state and on the agency's public notice website. The public notice noted the availability of the plan and responsiveness summary on the CCR website.

This information was also mailed or e-mailed to parties on the list of affected parties and was posted on the CCR website described above.

**256.60(c) Public Hearing Regarding CCR Part 256 Plan**

IDEM conducted a public hearing on June 16, 2016 to solicit reactions and recommendations from interested or affected parties and to explain the primary provisions of the proposed plan. A responsiveness summary will be posted to the CCR website. The responsiveness summary will also be mailed or e-mailed to the list of affected parties including those that signed up for notices at the hearing.

**6.2 Public Participation in Regulatory Development (See 40 CFR 256.62)**

IDEM will follow the public participation requirements of the Indiana Code under IC 13-14-9 when developing the rules described in Section 3 of this plan. The public will be provided with two opportunities to submit written comments during public comment periods, and two opportunities to be heard by the Environmental Rules Board at public hearings. IDEM accepts written public comments through mail, facsimile, and e-mail as described in the public notices.

IDEM will publish the first notice describing the basic purpose of the rulemaking and will allow at least 30 days for the public to submit written comments. IDEM will then publish a second notice, which will include draft rule language and the responses to previous comments. Again at least 30 days for the public to submit written comments will be allowed. IDEM is required to respond to any written comments received during the public comment periods. The responses to comments must be included in the materials provided to the Environmental Rules Board prior to the public hearings.

At the first public hearing, the Environmental Rules Board may preliminarily adopt the proposed rules after allowing for the public to provide comment. If the preliminarily adopted rule is substantively different from the proposed rule published in the second notice, a third public comment period will be provided in accordance with IC 13-14-9-4.5. At the second public hearing, the Environmental Rules Board may proceed with final adoption of the rules after allowing for the public to provide comment.

After the final hearing, the Attorney General and then the Governor will have an opportunity to review and approve the rules in accordance with IC 4-22-2-31 through IC 4-22-2-34. If approved, the final rules will be filed with the publisher of the Indiana Register. Effective dates of rules are governed by IC 4-22-2-36. Typically a final rule will become effective 30 days after filing with the publisher.

Although not required, IDEM may also be invited to make presentations on the issues related to the rules, or may choose to conduct special meetings to receive input from the public and key stakeholders and to discuss the issues involved in the rules. Comments received during such presentations or workgroup meetings may be considered in the development of the rules, but are not required to be included in materials presented to the Environmental Rules Board.

### **6.3 Public Participation in the Permitting of Facilities**

(See 40 CFR 256.63)

The public participation process for IDEM permit decisions is specified in the Administrative Orders and Procedures Act at IC 4-21.5 and in the Solid Waste Land Disposal Facilities rules at 329 IAC 10-12-1. A public hearing is required for new facilities applying for an original permit or a major modification to the permit (expansion of the disposal facility). A public hearing may be held at the discretion of the agency in response to public interest for renewals or other minor permit modifications.

### **6.4 Public Participation in Open Dump Inventory (See 40 CFR 256.64)**

IDEM anticipates that only a very small number of CCR facilities will become "open dumps" through the implementation of this plan. Generally speaking, the vast majority of CCR disposal facilities in Indiana were closed or taken out of service before any regulations applied to them; are already operating under an Indiana Solid Waste Land Disposal Facility permit that effectively requires compliance with the CCR Rule; or will be closed in compliance with the Federal CCR Rule and a closure plan approved under 329 IAC 10. Facilities in these situations are not classified as open dumps. IDEM will publish information about CCR facilities in these categories on the CCR website so the public has access to information about CCR facilities in their community.

In the few cases where a regulated CCR facility cannot be closed within the deadlines contained in the Federal CCR Rule, or otherwise does not achieve compliance with a State or Federal waste disposal facility requirement within a prescribed timeframe, IDEM will notify the owner or operator that the CCR facility is classified as an open dump at least 30 days before submitting information about the classification to the Federal Government. Upon approval of a compliance schedule or other information that describes the steps being taken to bring the facility into compliance, IDEM will post that information on the CCR website.

The CCR website will also provide a mechanism for the public to submit information about CCR facilities they believe are missing from the facility inventory. IDEM will review such information to determine appropriate follow up steps, update the information on the website if necessary, and follow up with the person submitting the information to inform them of the steps taken.

### Point of Contact for More Information

IDEM looks forward to partnering with EPA and Indiana stakeholders in the implementation of this plan. If you have questions or comments, please contact Jeff Sewell at [jsewell@idem.in.gov](mailto:jsewell@idem.in.gov), call toll free at (800) 451-6027, or call direct at (317) 234-1000.

### Adoption

This Indiana Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment is hereby adopted in accordance with IC 13-21-1-1.

  
\_\_\_\_\_  
Bruno L. Pigott, Commissioner  
Indiana Department of Environmental Management

2/23/17  
\_\_\_\_\_  
Date

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**Attachment 1 – CCR Emergency Rule**

**TITLE 329 SOLID WASTE MANAGEMENT DIVISION**

**Emergency Rule**  
LSA Document #16-XXX(E)

**DIGEST**

Temporarily amends 329 IAC 10-3-1, and 329 IAC 10-9-1 to incorporate by reference the federal requirements for the operation and closure of a coal combustion residuals impoundment.  
Effective \_\_\_\_\_.

**SECTION 1. (a) This SECTION supersedes 329 IAC 10-3-1(8).**

**(b) Except for coal combustion residuals impoundments subject to 40 CFR 257, Subpart D, disposal of coal ash transported by water into an ash pond that has received a water pollution control facility construction permit under 327 IAC 3.**

**SECTION 2. (a) This SECTION supersedes 329 IAC 10-3-1(9).**

**(b) Except for coal combustion residuals impoundments subject to 40 CFR 257, Subpart D, the operation of surface impoundments; however, the final disposal of solid waste in surface impoundments at the end of their operation is subject to approval by the commissioner, except as excluded under SECTION 1(b) of this document and 329 IAC 10-3-1(10). The commissioner's approval is based on management practices that are protective of human health and the environment.**

**SECTION 3. (a) This SECTION supplements 329 IAC 10-9-1.**

**(b) The owner and operator of a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, shall comply with the requirements for surface impoundments in accordance with 40 CFR 257.50\* through 40 CFR 257.106\*, except the phrase “not to exceed a height of 6 inches above the slope of the dike” is deleted from the following sections:**

- (1) 40 CFR 257.73(a)(4).**
- (2) 40 CFR 257.73(d)(1)(iv).**
- (3) 40 CFR 257.74(a)(4).**
- (4) 40 CFR 257.74(d)(1)(iv).**

**(c) For a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, final disposal of solid waste in the impoundment at the end of the operation of the impoundment is subject to approval by the commissioner, based on the requirements for coal combustion residuals impoundments in 40 CFR 257.50\* through 40 CFR 257.106\* and on other management practices that are protective of human health and the environment.**

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402, viewed at [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

SECTION 4. A variance request from the requirements of this document shall be made in accordance with IC 13-14-8-8.

**Bold** = new language

Strikeout = existing language deleted in this rulemaking

**TITLE 329 SOLID WASTE MANAGEMENT DIVISION**

**DRAFT RULE**

LSA Document #16-217

DIGEST

Amends 329 IAC 10-3-1 and 329 IAC 10-9-1 to incorporate by reference the federal requirements found at 40 CFR 257, Subpart D, for the operation and closure of a coal combustion residuals (CCR) impoundment. Effective 30 days after filing with the Publisher.

**HISTORY**

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8: June 1, 2016, Indiana Register (DIN: 20160601-IR-329160217FDA).

Notice of First Hearing: June 1, 2016, Indiana Register (DIN: 20160601-IR-329160217PHA).

Date of First Hearing: August 10, 2016.

**329 IAC 10-3-1; 329 IAC 10-9-1**

**DRAFT RULE**

SECTION 1. 329 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-3-1 Exclusions; general**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

**Affected:** IC 13-14; IC 13-19-3; IC 13-20; IC 36-9-30

Sec. 1. The following solid waste management activities are not subject to the provisions of this article:

- (1) Disposal of only uncontaminated rocks, bricks, concrete, road demolition waste materials, or dirt.
- (2) Land application activities regulated ~~under rules of the water pollution control board at 327 IAC 6.1 and 327 IAC 7.1.~~
- (3) Confined feeding control activities regulated ~~under rules of the water pollution control board at 327 IAC 16-327 IAC 19.~~
- (4) Wastewater discharge activities regulated under rules of the water pollution control board at 327 IAC 5.
- (5) Solid waste management activities regulated under 329 IAC 11.
- (6) Disposal of uncontaminated and untreated natural growth solid waste, including tree limbs, stumps, leaves, and grass clippings.
- (7) Disposal of saw dust derived from processing untreated natural wood.

(8) **Except as provided in 329 IAC 10-9-1, coal combustion residuals impoundments subject to 40 CFR 257, Subpart D**, disposal of coal ash, transported by water, into an ash pond which has received a water pollution control facility construction permit ~~under rules of the water pollution control board at 327 IAC 3.~~

(9) **Except as provided in 329 IAC 10-9-1, coal combustion residuals impoundments subject to 40 CFR 257, Subpart D**, the operation of surface impoundments; however, the final disposal of solid waste in ~~such facilities~~ **surface impoundments** at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (8) and (10). The commissioner's approval is based on management practices that are protective of human health and the environment.

(10) Disposal of coal ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards per year.

(11) The uses and disposal of coal waste as exempted under IC 13-19-3-3.

(12) Activities concerning wastes containing polychlorinated biphenyls (PCBs) regulated under 329 IAC 4.1, except those regulated as alternative daily cover under 329 IAC 10-20-14.1.

(13) Storage, transportation, and processing of used oil as regulated under 329 IAC 13.

(14) The legitimate use of slag under IC 13-19-3-8.

(15) The legitimate use of foundry sand under IC 13-19-3-7.

(16) Any other use of solid waste approved by the commissioner based on the commissioner's determination that the use is a legitimate use that does not pose a threat to public health or the environment.

*(Solid Waste Management Division; 329 IAC 10-3-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2749; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3771; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Feb 9, 2004, 4:51 p.m.: 27 IR 1797, eff Apr 1, 2004)*

SECTION 2. 329 IAC 10-9-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-9-1 Types of facilities**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 1. (a) The following categories will be used for the purpose of defining site requirements and permissible wastes to be received for all solid waste land disposal facilities:

(1) Municipal solid waste landfill (MSWLF).

(2) Construction/demolition site.

(3) Restricted waste site as follows:

(A) Restricted waste site Type I.

(B) Restricted waste site Type II.

(C) Restricted waste site Type III.

(D) Restricted waste site Type IV.

(4) Nonmunicipal solid waste landfill.

(b) **The owner and operator of a coal combustion residuals impoundment subject to 40**

CFR 257, Subpart D, shall comply with the requirements for surface impoundments in accordance with 40 CFR 257.50\* through 40 CFR 257.106\*, except the phrase “not to exceed a height of 6 inches above the slope of the dike” is deleted from the following sections:

- (1) 40 CFR 257.73(a)(4).
- (2) 40 CFR 257.73(d)(1)(iv).
- (3) 40 CFR 257.74(a)(4).
- (4) 40 CFR 257.74(d)(1)(iv).

(c) For a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, final disposal of solid waste in the impoundment at the end of the operation of the impoundment is subject to approval by the commissioner, based on the requirements for coal combustion residuals impoundments in 40 CFR 257.50\* through 40 CFR 257.106\* and on other management practices that are protective of human health and the environment.

\*These documents are incorporated by reference. Copies may be viewed online from the Government Publishing Office at [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Solid Waste Management Division; 329 IAC 10-9-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1805; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3787; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-329130179BFA*)

**Attachment 3 – Text of House Enrolled Act 1230**

**HOUSE ENROLLED ACT No. 1230**

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AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 13-11-2-30.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 30.8. "Coal combustion residuals", for purposes of IC 13-19-3-3, has the meaning set forth in IC 13-19-3-3(a).**

SECTION 2. IC 13-19-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) As used in this section, "coal combustion residuals" 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.**

**(b) Except as provided in subsection (c),** the board may not adopt rules under section 1 of this chapter to regulate the following:

(1) The disposal of waste indigenous to the coal mining process and coal combustion products (as defined by ASTM E-2201-02a), including fly ash, bottom ash, boiler slag, fluidized bed combustion ash, or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units if the material:

(A) is not included in the definition of hazardous waste or is exempt from regulation as a hazardous waste under 42 U.S.C. 6921; and

**HEA 1230**

(B) is disposed of at a facility regulated under IC 14-34.

(2) The use of coal combustion products (as defined by ASTM E-2201-02a), including fly ash, bottom ash, boiler slag, fluidized bed combustion ash, or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units, if the use includes one (1) of the following uses:

- (A) The extraction or recovery of materials and compounds contained within coal combustion products.
- (B) Bottom ash as an antiskid material.
- (C) Raw material for manufacturing another product.
- (D) Mine subsidence, mine fire control, and mine sealing.
- (E) Structural fill when combined with cement, sand, or water to produce a controlled strength fill material.
- (F) A base in road construction.
- (G) Cover for coal processing waste disposal locations to inhibit infiltration at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.
- (H) Providing buffering or enhancing structural integrity for refuse piles at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.
- (I) Agricultural applications, when applied using appropriate agronomic amounts to improve crop or vegetative production.

**(c) The board may adopt rules under section 1(1) of this chapter that are consistent with the regulations of the United States Environmental Protection Agency concerning standards for the disposal of coal combustion residuals in landfills and surface impoundments, as set forth in 40 CFR 257.50 et seq.**

**SECTION 3. An emergency is declared for this act.**

**HEA 1230**

**Attachment 4 – Draft 256 checklist for CCR solid waste plan revisions**

The EPA provided this checklist to help states prepare Part 256 state plans. Green bold text in the right-hand column indicates where each item is addressed in the Indiana CCR Part 256 Plan.

256 state plan requirements	Types of info State could provide to meet requirements
<b>Subpart A—Purpose, General Requirements, Definitions</b>	
<b>§ 256.01 Purpose and scope of the guidelines</b>	
<p>(b) These guidelines address the minimum requirements for approval of State plans as set forth in section 4003 of the Act. These are:</p> <p>(1) The plan shall identify, in accordance with section 4006(b), (i) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (ii) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (iii) the means for coordinating regional planning and implementation under the State plan.</p> <p>(2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (i) utilized for resource recovery or (ii) disposed of in sanitary landfills (within the meaning of section 4004(a)) or otherwise disposed of in an environmentally sound manner.</p> <p>(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.</p> <p>(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.</p> <p>(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.</p> <p>(6) The plan shall provide for resource conservation or recovery and for the disposal of solid waste in sanitary landfills or for any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound.</p> <p>(c) These guidelines address the requirement of section 4005(c) that a State plan:</p> <p>Shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule of compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed five years from the date of publication of the inventory).</p>	<p>This section provides a general overview of the guidelines for the plan. The state doesn't need to provide any information related to this section.</p> <p>General note for all sections: if a state is submitting a revised plan, the state will need to either:</p> <ul style="list-style-type: none"> <li>• Attach the original approved plan, provide references to the relevant sections and indicate what, if anything has or is changing, or</li> <li>• If a physical copy of the final approved plan is not available, the state must provide references or links to the existing information (e.g., legal authorities, regulatory powers, etc). and indicate what, if anything, has or is changing in this revision.</li> </ul>
<b>§ 256.02 Scope of the state solid waste management plan.</b>	
<p>(a)(1) The State plan shall address all solid waste in the State that poses potential adverse effects on health or the environment or provides opportunity for resource conservation or resource recovery. The plan shall consider:</p>	<p>A revised plan would specify they are adding CCRs and the disposal systems addressed in the rule to the original scope of their approved plan. They will need to clearly describe the universe they are covering in the submittal.</p>

256 state plan requirements	Types of info State could provide to meet requirements
<p>(i) Hazardous wastes;                      (ii) Residential, commercial and institutional solid waste;                      (iii) Wastewater treatment sludge;                      (iv) Pollution control residuals;                      (v) Industrial wastes;                      (vi) Mining wastes;                      (vii) Agricultural wastes;                      (viii) Water treatment sludge; and                      (ix) Septic tank pumpings.                      (2) The State plan shall consider the following aspects of solid waste management:                      (i) Resource conservation;                      (ii) Source separation;                      (iii) Collection;                      (iv) Transportation;                      (v) Storage;                      (vi) Transfer;                      (vii) Processing (including resource recovery);                      (viii) Treatment; and                      (ix) Disposal.</p>	<p>See Section 3.</p>
<p>(b) The State Plan shall establish and justify priorities and timing for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the State, the extent of the solid waste management problem, the health, environmental and economic impacts of the problem, and the resources and management approaches available.</p>	<p>A revised plan would specify priorities and timing of actions within the scope of CCR universe only (i.e., focus on CCR disposal facilities with known releases). The state can either be specific about priorities or identify the criteria they will use to prioritize actions.</p> <p>See Priorities Section.</p>
<p>(c) The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and meeting the requirements of these guidelines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.</p>	<p>A revised plan would only need to specify the process related to CCRs.</p> <p>The plan as a whole accomplishes this purpose. The Purpose and Scope Section provides a summary of the overall approach.</p>
<p>(d) The State plan shall cover a minimum of a five year time period from the date submitted to EPA for approval.</p>	<p>A revised plan would indicate there are no changes in time period from original plan or explain change (see general note, above).</p> <p>See Purpose and Scope Section, 2<sup>nd</sup> paragraph.</p>
<p>(e) The State plan shall identify existing State legal authority for solid waste management and shall identify modifications to regulations necessary to meet the requirements of these guidelines.</p>	<p>Revised plan should indicate if legal authorities outlined in original plan apply to CCRs or if a different authority is used. Revised plan should address any necessary modifications to regulations for universe of CCR disposal facilities.</p> <p>This item is covered in detail in Indiana's previously approved solid waste management plans. The Purpose and Scope Section and Sections 2 and 3 address this item for CCR facilities in the Part 256 CCR Plan.</p>
<p><b>§ 256.03 State plan submission, adoption, and revision.</b></p>	
<p>(a) To be considered for approval, the State plan shall be</p>	<p>No information needs to be submitted.</p>

256 state plan requirements	Types of info State could provide to meet requirements
submitted to EPA within a reasonable time after final promulgation of these guidelines.	
(b) Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.	<p>A revised plan should indicate how the revision was approved and if the procedures were the same or different from what was used for the original plan (see general note above). The state should use their current plan approval procedures and participation process.</p> <p><b>See Purpose and Scope.</b></p>
(c) The plan shall be developed in accord with public participation procedures required by Subpart G of this part.	<p>A revised plan should confirm that the public participation procedures were implemented.</p> <p><b>See Section 6.1.</b></p>
(d) The plan shall contain procedures for revision. The State plan shall be revised by the State, after notice and public hearings, when the Administrator, by regulation, or the State determines, that: (1) The State plan is not in compliance with the requirements of these guidelines; (2) Information has become available which demonstrates the inadequacy of the plan; or (3) Such revision is otherwise necessary.	<p>A revised plan should indicate either that there are no changes to the procedures outlined in the original plan or explain any changes (see general note above).</p> <p><b>See Purpose and Scope, 2<sup>nd</sup> paragraph.</b></p>
(e) The State plan shall be reviewed by the State and, where necessary, revised and readopted not less frequently than every three years.	<p>A revised plan should indicate either that there are no changes to the procedures outlined in the original plan or explain any changes (see general note above).</p> <p><b>See Purpose and Scope, 4<sup>th</sup> paragraph.</b></p>
(f) States which are developing a complete State plan may submit the portion of the plan designed to satisfy the requirements of § 256.26 prior to submission of the complete plan.	<p>A revised plan can initially focus on the compliance schedule per the requirements in 256.26 prior to submitting the rest of the information needed for plan approval.</p> <p><b>Indiana's Part 256 CCR Plan addresses all of the items needed for plan approval conditioned on the development and submittal of final regulations for EPA review and approval, as described in Sections 3 and 4.</b></p>
<b>§ 256.04 State plan approval, financial assistance.</b>	
(a) The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that: (1) It meets the requirements of these guidelines which address sections 4003(1), (2), (3), and (5), and (2) It contains provisions for revision pursuant to § 256.03.	No information needed from the state.
(b) The Administrator shall review approved plans from time to time, and if he determines that revisions or corrections are necessary to bring such plan into compliance with all of the requirements of these guidelines, including the requirements which address sections 4003(4) and (6) and any new or revised requirement established by amendment to this part, he shall notify the State and provide an opportunity for such revisions	No information needed from the state

256 state plan requirements	Types of info State could provide to meet requirements
and corrections and for an appeal and public hearing. If the plan continues to remain out of compliance, he shall withdraw his approval of such plan.	
(c) Such withdrawal of approval shall cease to be effective upon the Administrator's determination that the State plan complies with the requirements of these guidelines.	No information needed from the state
(d) The Administrator shall approve a State application for financial assistance under subtitle D of the Act, and make grants to such State, if the Administrator determines that the State plan continues to be eligible for approval and is being implemented by the State.	No information needed from the state
(e) Upon withdrawal of approval of a State plan, the Administrator shall withhold Federal financial and technical assistance under subtitle D (other than such technical assistance as may be necessary to assist in obtaining reinstatement of approval) until such time as approval is reinstated. (Procedures for termination of financial assistance and for settlement of disputes are contained in 40 CFR part 30, appendix A, articles 7 and 8.)	No information needed from the state
(f) If a State submits to EPA the portion of the plan by which entities may, pursuant to § 256.26, obtain timetables or schedules of compliance for complying with the open dumping prohibition, the Administrator shall approve such portion of the plan if he determines that: (1) The portion submitted satisfies the requirements of § 256.26; (2) The State has the general legal authority to issue and enforce compliance schedules; and (3) The remainder of the plan is being developed in conformity with these guidelines and will be completed within a reasonable period of time. In giving partial plan approval, the Administrator shall specify in writing the timetable for completion of the final plan as required in paragraph (f)(3) of this section.)	No information needed from the state.
§ 256.05 Annual work program	No information needed from the state
§ 256.06 Definitions	
<b>Subpart B—Identification of Responsibilities; Distribution of Funding</b>	
<p>§ 256.10 Requirements</p> <p>(a) In accordance with sections 4003(1) and 4006 and the interim guidelines for identification of regions and agencies for solid waste management (40 CFR part 255), the State plan shall provide for:</p> <ol style="list-style-type: none"> <li>(1) The identification of the responsibilities of State and substate (regional, local and interstate) authorities in the development and implementation of the State plan;</li> <li>(2) The means of distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and</li> <li>(3) The means for coordinating substate planning and implementation.</li> </ol> <p>(b) Responsibilities shall be identified for the classification of disposal facilities for the inventory of open dumps.</p> <p>(c) Responsibilities shall be identified for development and implementation of the State regulatory program described in subpart C of this part.</p> <p>(d) Responsibilities shall be identified for the</p>	<p>A revised plan would need to address the requirements under (a)(1), (a)(3), (b), (c), and (e). The state would need to confirm that the responsible state agencies haven't changed since the original plan was approved or describe changes (see general note above).</p> <p><b>See Purpose and Scope, 2<sup>nd</sup> paragraph.</b></p>

256 state plan requirements	Types of info State could provide to meet requirements
<p>development and implementation of the State resource conservation and resource recovery program described in subpart D of this part.</p> <p>(e) State, substate and private sector responsibilities shall be identified for the planning and implementation of solid and hazardous waste management facilities and services.</p> <p>(f) Financial assistance under sections 4008(a)(1) and (2) shall be allocated by the State to State and substate authorities carrying out development and implementation of the State plan. Such allocation shall be based on the responsibilities of the respective parties as determined under section 4006(b).</p>	
<p><b>Subpart C—Solid Waste Disposal Programs</b></p>	
<p><b>§ 256.20 Requirements for State legal authority.</b></p>	
<p>In order to comply with sections 4003 (2) and (3), the State plan shall assure that the State has adequate legal authority to prohibit the establishment of new open dumps and to close or upgrade existing open dumps. The prohibition of the establishment of new open dumps shall take effect no later than six months after the date of promulgation of the criteria or on the date of approval of the State plan, whichever is later.</p>	<p>A revised plan would need to describe how the state's legal authority to prohibit open dumps would apply to CCR disposal facilities (see general note above).</p> <p><b>See Sections 1 and 2.</b></p>
<p><b>§ 256.21 Requirements for State regulatory powers.</b></p>	
<p>In order to comply with section 4003(4), the State plan shall provide for the establishment of State regulatory powers. These powers:</p> <p>(a) Shall be adequate to enforce solid waste disposal standards which are equivalent to or more stringent than the criteria for classification of solid waste disposal facilities (40 CFR part 257). Such authority shall be as definitive as possible and clearly establish the means for compliance.</p> <p>(b) Shall include surveillance capabilities necessary to detect adverse environmental effects from solid waste disposal facilities. Such capabilities shall include access for inspection and monitoring by regulatory officials and the authority to establish operator monitoring and reporting requirements.</p> <p>(c) Shall make use of a permit program which ensures that the establishment of new open dumps is prohibited.</p> <p>(d) Shall have administrative and judicial enforcement capabilities, including enforceable orders, fines or other administrative procedures, as necessary to ensure compliance.</p>	<p>A revised plan would need to indicate whether the original state regulatory powers would apply to CCR disposal facilities or if there are different powers involved (see general note above).</p> <p><b>See Purpose and Scope.</b></p>
<p><b>§ 256.23 Requirements for closing or upgrading open dumps.</b></p>	
<p>In meeting the requirement of section 4003(3) for closing or upgrading open dumps:</p> <p>(a) The State plan shall provide for the classification of existing solid waste disposal facilities according to the criteria. This classification shall be submitted to EPA, and facilities classified as open dumps shall be published in the inventory of open dumps.</p> <p>(b) The State plan shall provide for an orderly time-phasing of the disposal facility classifications described in paragraph (a) of this section. The determination of priorities for the classification of disposal facilities shall be based upon:</p> <p>(1) The potential health and environmental impact of the solid waste disposal facility;</p>	<p>A revised plan would describe the specific approach the state would use for classifying, closing, or upgrading CCR disposal units that are open dumps. EPA's CCR rules can be referenced when discussing the approach the state would take to upgrade and/or close the open dumps.</p> <p>Sufficient information must be provided in order for EPA to evaluate the state's approach (i.e., the state could submit a side-by-side comparison of the state's regulatory requirements (or proposed requirements) with the federal requirements).</p> <p><b>See Sections 2 and 3.</b></p>

256 state plan requirements	Types of info State could provide to meet requirements
<p>(2) The availability of State regulatory and enforcement powers; and                      (3) The availability of Federal and State resources for this purpose.                      (c) For each facility classified as an open dump the State shall take steps to close or upgrade the facility. Evidence of that action shall be incorporated by reference into the annual work program and be made publicly available. When the State's actions concerning open dumps are modified, the changes shall be referenced in subsequent annual work programs.                      (d) In providing for the closure of open dumps the State shall take steps necessary to eliminate health hazards and minimize potential health hazards. These steps shall include requirements for long-term monitoring or contingency plans where necessary.</p>	
<p><b>§ 256.26 Requirement for schedules leading to compliance with the prohibition of open dumping.</b></p>	
<p>In implementing the section 4005(c) prohibition on open dumping, the State plan shall provide that any entity which demonstrates that it has considered other public or private alternatives to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, may obtain a timetable or schedule for compliance which specifies a schedule of remedial measures, and an enforceable sequence of actions, leading to compliance within a reasonable time (not to exceed 5 years from the date of publication of the inventory).</p>	<p>A revised plan would address the approach a state would follow if requested by a utility to extend any of the compliance dates in the federal rule within the first 5 years after promulgation. With an approved plan, a state will be able to extend dates, but must consider the following:</p> <ul style="list-style-type: none"> <li>• Whether other disposal units can be used</li> <li>• Whether the facility has made a good faith effort to meet compliance deadline</li> <li>• Whether there are factors beyond the facility's control that have made it unable to meet the compliance deadlines</li> <li>• Documentation from the facility supporting their claims and/or the results of an independent investigation</li> <li>• The technical complexity of the requirements, the activities that remain to be completed, the reasons for the lack of compliance, and other site-specific factors such as geology, geography, weather, and engineering considerations.</li> </ul> <p>Any approval of a compliance schedule would need to identify the specific activities that remain to be completed, along with clear and enforceable deadlines for each. See p 21,431-21,433 of the final rule preamble for further guidance.</p> <p><b>See Section 1.</b></p>
<p><b>Subpart D – Resource Conservation and Resource Recovery Programs</b></p>	
<p><b>§ 256.30</b></p>	<p>This section is not relevant to the CCR rule. The revised plan would confirm that they are not submitting any changes to this section of the original plan.</p> <p><b>See Purpose and Scope, 2<sup>nd</sup> paragraph.</b></p>
<p><b>Subpart E—Facility Planning and Implementation</b></p>	
<p><b>§ 256.40</b></p>	<p>This section is not relevant to the CCR rule. The revised plan would confirm that they are not submitting any changes to this section of the original plan.</p>

256 state plan requirements	Types of info State could provide to meet requirements
See Purpose and Scope, 2 <sup>nd</sup> paragraph.	
<b>Subpart F – Coordination with Other Programs</b>	
<p><b>§ 256.50 Requirements.</b>                      Section 4003(1) requires the State solid waste management plan to identify means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts that grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. In order to meet these requirements:</p> <p>(a) The State solid waste management plan shall be developed in coordination with Federal, State, and substate programs for air quality, water quality, water supply, waste water treatment, pesticides, ocean protection, toxic substances control, noise control, and radiation control.</p> <p>(b) The State plan shall provide for coordination with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). In identifying agencies for solid waste management planning and implementation, the State shall review the solid waste management activities being conducted by water quality planning and management agencies designated under section 208 of the Clean Water Act. Where feasible, identification of such agencies should be considered during the identification of responsibilities under subpart B of this part. Where solid waste management and water quality agencies are separate entities, necessary coordination procedures shall be established.</p> <p>(c) The State plan shall provide for coordination with the National Pollutant Discharge Elimination System (NPDES) established under section 402 of the Clean Water Act, as amended (33 U.S.C. 1342). The issuance of State facility permits and actions taken to close or upgrade open dumps shall be timed, where practicable, to coordinate closely with the issuance of a new or revised NPDES permit for such facility.</p> <p>(d) The State plan shall provide for coordination with activities for municipal sewage sludge disposal and utilization conducted under the authority of section 405 of the Clean Water Act, as amended (33 U.S.C. 1345), and with the program for construction grants for publicly owned treatment works under section 201 of the Clean Water Act, as amended (33 U.S.C. 1281).</p> <p>(e) The State plan shall provide for coordination with State pretreatment activities under section 307 of the Clean Water Act, as amended (33 U.S.C. 1317).</p> <p>(f) The State plan shall provide for coordination with agencies conducting assessments of the impact of surface impoundments on underground sources of drinking water under the authority of section 1442(a)(8)(C) of the Safe Drinking Water Act (42 U.S.C. 300j-1).</p> <p>(g) The State plan shall provide for coordination with State underground injection control programs (40 CFR Parts 122, 123, 124, and 146) carried out under the authority of the Safe Drinking Water Act (42 U.S.C. 300f <i>et seq.</i>) and with the designation of sole source aquifers under section 1424 of that Act.</p> <p>(h) The State plan shall provide for coordination with State implementation plans developed under the Clean Air Act (42 U.S.C. 7401 <i>et seq.</i>; incineration and open burning limitations; and, State implementation plan requirements impacting resource</p>	<p>A revised plan would need to address how the coordination with other programs would be adjusted due to the addition of CCR disposal facilities and the new regulatory requirements to the plan. Sections (d), (g), (h), (i), (k), (l) would most likely not be relevant to the CCR requirements.</p> <p>See Section 5.</p>

256 state plan requirements	Types of info State could provide to meet requirements
<p>recovery systems).</p> <p>(i) The State plan shall provide for coordination with the Army Corps of Engineers permit program (or authorized State program) under section 404 of the Clean Water Act, as amended (33 U.S.C. 1344) for dredge and fill activities in waters of the United States.</p> <p>(j) The State plan shall provide for coordination with the Office of Endangered Species, Department of the Interior, to ensure that solid waste management activities, especially the siting of disposal facilities, do not jeopardize the continued existence of an endangered or threatened species nor result in the destruction or adverse modification of a critical habitat.</p> <p>(k) The State plan shall provide for coordination, where practicable, with programs under:</p> <p>(1) The Toxic Substances Control Act (15 U.S.C. 2601 <i>et seq.</i>; disposal of chemical substances and mixtures).</p> <p>(2) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 1362 <i>et seq.</i>; disposal and storage of pesticides and pesticide containers).</p> <p>(3) The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1420 <i>et seq.</i>; disposal in ocean waters).</p> <p>(l) The State plan shall provide for coordination, where practicable, with programs of other Federal agencies, including:</p> <p>(1) Department of the Interior.</p> <p>(i) Fish and Wildlife Service (wetlands),</p> <p>(ii) Bureau of Mines and Office of Surface Mining (mining waste disposal and use of sludge in reclamation),</p> <p>(iii) U.S. Geological Survey (wetlands, floodplains, ground water);</p> <p>(2) Department of Commerce, National Oceanic and Atmospheric Administration (coastal zone management plans);</p> <p>(3) Water Resources Council (floodplains, surface and ground waters);</p> <p>(4) Department of Agriculture, including Soil Conservation Service (land spreading solid waste on food chain croplands);</p> <p>(5) Federal Aviation Administration (locating disposal facilities on or near airport property);</p> <p>(6) Department of Housing and Urban Development (701 comprehensive planning program, flood plains mapping);</p> <p>(7) Department of Defense (development and implementation of State and substate plans with regard to resource recovery and solid waste disposal programs at various installations);</p> <p>(8) Department of Energy (State energy conservation plans under the Energy Policy and Conservation Act (42 U.S.C. 6321)); and</p> <p>(9) Other programs.</p> <p>(m) The State plan shall provide for coordination, where practicable, with solid waste management plans in neighboring States and with plans for Indian reservations in the State.</p>	
<p><b>Subpart G—Public Participation</b></p>	
<p><b>§ 256.60 Requirements for public participation in State and substate plans.</b></p>	
<p>(a) State and substate planning agencies shall:</p> <p>(1) Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan, which shall include any parties that request to be on the list, the owner or operator of each facility classified as an open dump and any other parties which the State determines to be affected by or interested in the plan;</p>	<p>A revised plan would need to address how the public was involved in development of CCR-specific revised plan and how the state addressed public comments.</p> <p><b>See Section 6.1.</b></p>

256 state plan requirements	Types of info State could provide to meet requirements
<p>(2) Provide depositories of relevant information in one or more convenient locations; and</p> <p>(3) Prepare a responsiveness summary, in accord with 40 CFR 25.8, where required by this subpart or by an approved public participation work plan, which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to the public input.</p> <p>(b) State and substate planning agencies shall provide information and consult with the public on plan development and implementation. Provision of information and consultation shall occur both early in the planning process (including the preparation and distribution of a summary of the proposed plan) and on major policy decisions made during the course of plan development, revision and implementation. To meet this requirement, planning agencies shall:</p> <p>(1) Publicize information in news media having broad audiences in the geographic area;</p> <p>(2) Place information in depositories maintained under paragraph (a)(2) of this section;</p> <p>(3) Send information directly to agencies, organizations and individuals on the list maintained under paragraph (a)(1) of this section; and</p> <p>(4) Prepare and make available to the public a responsiveness summary in accord with 40 CFR 25.8.</p> <p>(c) State and substate planning agencies shall conduct public hearings (and public meetings, where the agency determines there is sufficient interest) in accord with 40 CFR 25.5 and 25.6. The purpose of the hearings and meetings is to solicit reactions and recommendations from interested or affected parties and to explain major issues within the proposed plan. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR 25.8.</p>	
<b>§ 256.61 Requirements for public participation in the annual State workplan.</b>	
	No information needed from the state
<b>§ 256.62 Requirements for public participation in State regulatory development.</b>	
<p>(a) The State shall conduct public hearings (and public meetings where the State determines there is sufficient interest) on State legislation and regulations, in accord with the State administrative procedures act, to solicit reactions and recommendations. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR 25.8.</p> <p>(b) In advance of the hearings and meetings required by paragraph (a) of this section, the State shall prepare a fact sheet on proposed regulations or legislation, mail the fact sheet to agencies, organizations and individuals on the list maintained under § 256.60(a)(1) and place the fact sheet in the State information depositories maintained under § 256.60(a)(2).</p>	<p>A revised plan would need to confirm that the approach described in the original plan would apply to CCR regulatory development (or present new approach) (see general note above).</p> <p><b>See Section 6.2.</b></p>
<b>§ 256.63 Requirements for public participation in the permitting of facilities.</b>	
<p>(a) Before approving a permit application (or renewal of a permit) for a resource recovery or solid waste disposal facility the State shall hold a public hearing to solicit public reaction and recommendations on the proposed permit application if the State determines there is a significant degree of public interest in the proposed permit.</p>	<p>A revised plan would need to confirm original approach would apply to CCR regulatory development (or present new approach) (see general note above).</p> <p><b>See Section 6.3.</b></p>

256 state plan requirements	Types of info State could provide to meet requirements
(b) This hearing shall be held in accord with 40 CFR 25.5.	
<b>§ 256.64 Requirements for public participation in the open dump inventory.</b>	
<p>(a) The State shall provide an opportunity for public participation prior to submission of any classification of a facility as an open dump to the Federal Government. The State shall accomplish this by providing notice as specified in § 256.64(b) or by using other State administrative procedures which provide equivalent public participation.</p> <p>(b) The State may satisfy the requirement of § 256.64(a) by providing written notice of the availability of the results of its classifications to all parties on the list required under § 256.60(a)(1) at least 30 days before initial submission of these classifications to the Federal Government. For those parties on the list required under § 256.60(a)(1) who are owners or operators of facilities classified as open dumps, such notice shall indicate that the facility has been so classified.</p>	<p>A revised plan would need to confirm original approach would apply to CCR regulatory development (or present new approach) (see general note above).</p> <p><b>See Section 6.4.</b></p>

**ATTACHMENT 3**

**Missing Document Table (Prairie Rivers Network), March 6, 2017**

----- October 2016 Federal CCR Rule Reporting Documents -----									
Plant (Operator)	Initial Safety Assessment	Structural Stability	Hazard Potential	History	Liner	Closure plan	Post-closure plan	Flood control system plans	Run-on and run-off plans
<b>Baldwin (Dynergy)</b>									
West Fly Ash Pond <sup>1</sup>	MISSING	MISSING	LATE	OK	OK	OK	OK	MISSING	N/A
Secondary Pond	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	N/A
Tertiary Pond	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	N/A
<b>Wood River (Dynergy)</b>									
West Ash Pond 1	MISSING	MISSING	OK	MISSING	MISSING	OK	OK	MISSING	N/A
West Ash Pond 2E	MISSING	MISSING	OK	MISSING	MISSING	OK	OK	MISSING	N/A
Primary East Ash Pond	MISSING	MISSING	OK	MISSING	MISSING	OK	OK	MISSING	N/A
<b>Joliet 9 (NRG)</b>									
Lincoln Stone Quarry	N/A					OK	OK	OK	MISSING
<b>Will County (NRG)</b>									
South Ash Pond 2S	MISSING	MISSING	OK	MISSING	MISSING	OK	OK	OK	N/A
South Ash Pond 3S	MISSING	MISSING	OK	MISSING	MISSING	OK	OK	OK	N/A
<b>Marion (SIPC)</b>									
Emory Pond	PRESENT BUT POSSIBLY INCOMPLETE								N/A
12 other ponds.... <sup>2</sup>	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	MISSING	N/A
<p>OK' indicates that the document was released, but does not evaluate the documents content. 'MISSING' indicates documents that were not released, but does not indicate that they SHOULD have been released. 'N/A' is used at landfills for impoundment requirements, and impoundments for landfill requirements.</p> <p><sup>1</sup>They have announced closure of the West Fly Ash Pond, but it was announced well beyond the October 2015 deadline to be exempt from reporting.</p> <p><sup>2</sup> Reporting at Marion seems to be very incomplete. There are many impoundments present that appear to be coal ash impoundments.</p>									

**ATTACHMENT 4**



DYNEGY MIDWEST GENERATION, LLC  
10901 Baldwin Rd.  
Baldwin, IL 62217  
618 785 2294

Via E-mail and UPS

October 3, 2016

Illinois Environmental Protection Agency  
Bureau of Water, Division of Water Pollution Control  
Permitting Section  
1021 North Grand Avenue East  
Springfield, IL 62794-9276

Attn: Darin LeCrone, P.E.  
Manager, Industrial Unit

**Subject: Hennepin Power Station  
NPDES Permit IL0001554: Oct. 30, 2015 Application Supplemental Information  
USEPA's New Effluent Limitations Guidelines and Standards (ELG), 40 C.F.R. Part 423**

Mr. LeCrone:

Upon further review of the project schedule, Dynegy Midwest Generation, LLC request a change in the ELG Best Available Technology Economically Achievable (BAT) effluent limitations applicability date in the Hennepin Power Station's soon-to-be-reissued NPDES permit.

As you know, the USEPA's new ELG rule (80 Fed. Reg. 67838 (Nov. 3, 2015); effective Jan. 4, 2016) established BAT effluent limitations on the following discharges from steam-electric power plants to waters of the U.S.: fly ash transport waters, bottom ash transport waters, flue gas desulfurization (FGD) wastewaters, combustion residual leachate, flue gas mercury control (FGMC) wastewaters, and gasification wastewaters.<sup>1</sup> The new ELG limits do not apply until -- at the earliest -- November 1, 2018. See, e.g., 40 C.F.R. § 423.13(k)(1)(ii) (bottom ash transport water) ("Dischargers must meet the [relevant new ELG effluent limit] by a date determined by the permitting authority that is as soon as possible beginning November 1, 2018 but no later than December 31, 2023.").

The USEPA CCR rule will have a significant effect on CCR surface impoundments at Hennepin Station, including the need to close one or more CCR surface impoundments and the likely need to construct several new wastewater treatment facilities. Closure of the CCR surface impoundments will involve "dewatering" the impoundments and discharging those dewatering wastewaters in order to avoid interfering with the Station's wastewater recycling operations and the closure schedule for the impoundments. Importantly, the new ELG rule expressly allows the discharge of the "legacy wastewaters" after the applicability date of the new ELGs, i.e., the date determined by the permitting authority that is "as soon as possible" beginning November 1, 2018 but no later than December 31, 2023.<sup>2</sup> That is, certain wastewaters covered by the new ELG rule that are generated prior to the

<sup>1</sup> As with the previously established 40 C.F.R. Part 423 ELG regulations, the new ELG rule "reserves" BAT effluent limits for non-chemical metal cleaning wastewaters.

<sup>2</sup> The ELG rule, 40 C.F.R. § 423.11(t), defines "as soon as possible" for purposes of the ELG rule in terms of several factors including (in relevant part): "(1) Time to expeditiously plan (including to raise capital), design, procure, and install equipment to comply with the requirements of [40 C.F.R. Part 423]. (2) Changes being made or planned at the plant in response to: ... (iii) Regulations that address the disposal of coal combustion residuals as solid waste, under sections 1006(b), 1008(a), 2002(a), 3001, 4004, and 4005(a) of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act

Mr. Darin LeCrone, P.E.  
October 3, 2016  
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applicability date of the new ELGs may be discharged after that applicability date subject to the BAT limits on total suspended solids (TSS) applicable to legacy wastewaters. See, e.g., 40 C.F.R. § 423.13(k)(1)(ii); see also 80 Fed. Reg. at 67854-55, 67883 (preamble discussion of legacy wastewater). Thus, for example, when dewatering a surface impoundment as part of the closure process under the USEPA CCR rule, the new ELG rule would allow the discharge of legacy bottom ash transport waters from the impoundment after the ELG applicability date, subject to the BAT TSS limits.

At this time, we anticipate that the Hennepin Station's active, 21 acre fly ash surface impoundment (East Ash Pond) and inactive CCR surface impoundments (33 acre West Ash Pond, cells 1 & 3 and 20 Acre, East Ash Pond, cell 2) will all be closed-in-place as a result of the USEPA CCR rule. Closure of active East Ash Pond would require reconfiguration of bottom ash transport water processes at Hennepin Station to comply with the new ELG rule. Other factors also will affect the "as soon as possible" date by which Hennepin Station could comply with the new ELG limit for bottom ash transport water. As a result and as further discussed below, we believe the "as soon as possible" date for applicability of the new ELG limit at Hennepin Station for the bottom ash transport water is April 1, 2019, recognizing that legacy bottom ash transport wastewaters can be discharged after that date.

#### Active East Ash Pond

We currently anticipate that, under the USEPA CCR rule, the active East Ash Pond may be required to be taken out of service by April 2019. After that date, the East Ash Pond would not receive any bottom ash transport waters. However, as part of dewatering needed to implement the anticipated closure of the East Ash Pond, bottom ash transport waters already in the East Ash Pond on (and generated prior to) that date will need to be discharged to the Illinois River. The dewatering process is preliminarily estimated to occur over a period of several months. Discharge of the dewatering wastewaters will be necessary to avoid interfering with the Station's recycling of wastewaters and the closure schedule for the impoundment.

Under the USEPA CCR rule, existing CCR surface impoundments must demonstrate compliance with specified location restrictions by October 2018. See 40 C.F.R. § 257.60-64. If any one of those demonstrations cannot be made, placement of CCR into the impoundment must cease within six months (e.g., April 2019) and the impoundment must close. See 40 C.F.R. § 257.101(b). Evaluations concerning the East Ash Pond are ongoing. However, at this time, we anticipate that the East Ash Pond may not be able to demonstrate compliance with each of the location restrictions, such that placement of CCR into East Ash Pond would be required to cease by April 2019.

The anticipated need to close the East Ash Pond as a result of the CCR rule will require Hennepin Station to reconfigure how it addresses the contributory waste streams (see Table 1) currently being discharged to the East Ash Pond. Reconfiguring the Station's bottom ash transport water flows, and the other contributory wastewater that currently flow to the East Ash Pond, will necessarily involve conceptual planning,<sup>3</sup> detailed design engineering, procurement, permitting, construction/installation, and commissioning of new systems. Further, the reconfigured bottom ash transport water system must comply with the new ELG requirements (i.e., no discharge of bottom ash transport water). The preliminary conceptual plan of changes needed to address bottom ash transport water at Hennepin Station is to construct new concrete basins that would receive bottom ash transport water, which would be used to dewater the CCR and recycle the water back through the system without discharge to waters of the U.S. The entire process (i.e., from conceptual planning through commissioning) of redirecting bottom ash transport water flows and other contributory wastewater flows currently being discharged to the East Ash Pond to new wastewater treatment facilities at Hennepin Station is preliminarily anticipated to take until April 1, 2019, including appropriate time for unanticipated contingencies.

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of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6906(b), 6907(a), 6912(a), 6944, and 6945(a). ... (4) Other factors as appropriate."

<sup>3</sup> As discussed further below, conceptual planning in this context requires integrated compliance planning and scheduling concerning not only for the CCR rule and new ELG rule at Coffeen Station but also at other power stations in Dynegy's fleet.

Mr. Darin LeCrone, P.E.  
 October 3, 2016  
 Page 3 of 5

Table 1: Active East Ash Pond Contributory Waste Streams

Units 1 and 2 Bottom Ash and Fly Ash
Units 1 and 2 Non-Chemical Metal Cleaning Wash
Units 1 and 2 Ash Hopper Overflow 0.2
Fly Ash Air Separator Overflow
Ash Hopper Tank Overflow
Power Block Building Floor Drains and Sump
Reverse Osmosis Unit Concentrate and Reject
Coal Breaker Building Drain Sump
Coal Pile Runoff
Units 1 and 2 Ash Line Low Point Drain off
Crib House Sump
Crib House Plant Sump
Boiler Drum Chemical Tank Drainage
Illinois River Dredge Spoils
Mercury Sorbent Residues
Deep Well Acid Cleaning Wastewaters
Bag House Diatomaceous Earth Solids
Landfill Leachate and Stormwater
Stormwater Runoff
Truck Wash Water and Pug Mill Mixer Wash Water
Coal-Pile Runoff Mechanical and Wet Dredge Spoils

At this preliminary juncture, conceptual integrated planning for reconfiguring the Station’s bottom ash transport water flows (and other contributory wastewaters) that currently flow to the East Ash Pond is anticipated to be initially completed by year-end 2016, to be followed sequentially by detailed design engineering, procurement, contract bid/award, permitting, construction and commissioning (to be completed by April 1, 2019), see Table 2 below.

Table 2: Hennepin ELG Project-- Bottom Ash Tank & Low Volume Wastewater Pond

Activity Name	Start	Finish
Detailed Engineering	03-Jan-17	20-Mar-18
Procurement	01-May-17	30-Jan-18
GWC Bid/Award	26-Sept-17	02-Jan-18
EGWC Bid/Award	21-Nov-17	28-Feb-18
Construction	03-Jan-18	28-Feb-19
LVW Pond Construction (On Cell 2)	01-Aug-18	31-Mar-19
Commissioning	06-Oct-18	31-Mar-19
System Operational		31-Mar-19

In short, for Hennepin Station, BAT technology (i.e., zero discharge) for bottom ash transport waters is not feasible until April 1, 2019. Legacy bottom ash transport waters generated prior to that date may, however, be discharged subject to the BAT TSS limits.

**Other Appropriate Factors**

In addition to the time needed to make changes at Hennepin Station to comply with the new ELG rule and the changes preliminarily planned to meet the USEPA CCR rule, other appropriate factors support a April 1, 2019 applicability date at Hennepin Station for the new ELG limit for bottom ash transport water. Specifically, Dynegy has numerous CCR impoundments fleet wide which necessitates the creation of an integrated compliance planning schedule that addresses not only the new ELG rule and the CCR rule but also the USEPA’s Clean Water Act section 316(b) rule for cooling water intake

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Attachment 2: Updated ELG applicability information

Mr. Darin LeCrone, P.E.  
October 3, 2016  
Page 4 of 5

structures. Moreover, the compliance planning schedule must consider not only the regulatory compliance deadline of each rule but also numerous engineering factors, including the time needed to design, procure (i.e., material lead time) and install the new equipment/facilities, the availability of civil, electrical and mechanical contractors, and preliminary structural, groundwater and locations assessments. These engineering factors must be considered in conjunction with the plants' physical considerations, including the remaining capacity of existing CCR impoundments, access to the location of the planned facilities and reasonable contingencies for unforeseen weather circumstances or permitting or other unexpected delays. Economic factors that must be considered include the timing of planned unit outages (including coordination with the relevant regional transmission organizations (RTO's) to maintain grid reliability) and corporate cash flow. Because the activities of each station's and each system's compliance plan has either a manpower, material or economic impact on the rest of Dynegy's project schedule, it is imperative that IEPA affirm the April 1, 2019 ELG bottom ash transport water applicability date identified for Hennepin Station by including it in Hennepin Station's reissued NPDES permit.

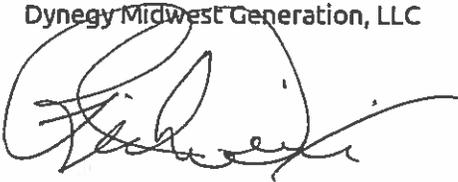
\* \* \* \* \*

In sum, Hennepin Station requests that its reissued NPDES permit identify April 1, 2019 as the applicability date of the new ELG effluent limit for the bottom ash transport water.

We appreciate the opportunity to provide the above information concerning incorporation of the new ELG effluent limits in Hennepin Station's soon-to-be-reissued NPDES permit. Please feel free to call me (tel. no. 618-343-7761) or Thomas L. Davis on my staff (tel. no. 618-343-7757) if you have questions regarding the information.

Sincerely,

Dynegy Midwest Generation, LLC



Rick Diericx  
Managing Director, Environmental Compliance Group

cc: Leslie Lowry, IEPA

**ATTACHMENT 5**



Electronic Filing Received, Clerks Office 3/6/2017  
**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

**PAT QUINN**, GOVERNOR

**JOHN J. KIM**, INTERIM DIRECTOR

217/785-0561

June 11, 2012

CERTIFIED MAIL # 7010 2780 0002 1163 7223  
RETURN RECEIPT REQUESTED

Mr. Basil G. Constantelos: Managing Director, Environmental Services  
Midwest Generation EME, LLC  
2535 Remington Blvd  
Suite A  
Bolingbrook, IL 60440

**Re: Violation Notice: Midwest Generation, LLC, Joliet #29 Generating Station  
Identification No.: 6284  
Violation Notice No.: W-2012-00059**

Dear Mr. Constantelos:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

IEPA - DIVISION OF RECORDS MANAGEMENT  
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AUG 22 2012

REVIEWER EAV  
PLEASE PRINT ON RECYCLED PAPER

4302 N. Main St., Rockford, IL 61103 (815)987-7760  
595 S. State, Elgin, IL 60123 (847)608-3131  
2125 S. First St., Champaign, IL 61820 (217)278-5800  
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000  
5407 N. University St., Arbor 113, Peoria, IL 61614 (309)693-5462  
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200  
100 W. Randolph, Suite 11-300, Chicago, IL 60601 (312)814-6026

Page 2 of 2

ID: 6284 Midwest Generation, LLC, Joliet #29 Generating Station  
VN W-2012-00059

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies  
Attn: Andrea Rhodes, CAS #19  
P.O. BOX 19276  
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2012-00059.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Michael Crumly  
Manager, Compliance Assurance Section  
Division of Public Water Supplies  
Bureau of Water

Attachments

cc: Maria Race

CASE ID: 2012-006

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, JOLIET #29 GENERATING STATION, ID:6284  
VIOLATION NOTICE NO. W-2012-00059:**

A review of information available to the Illinois EPA indicates the following on-going violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation.

**Groundwater Quality**

No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that: treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or an existing or potential use of such groundwater is precluded. No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded. Midwest Generation, LLC must take actions to mitigate existing contamination and prevent the continuing release of contaminants into the environment.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-2 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	230 mg/l	200 mg/l	06/14/2011
Antimony	0.012 mg/l	0.006 mg/l	12/06/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-3 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	250 mg/l	200 mg/l	03/15/2012
Chloride	260 mg/l	200 mg/l	12/07/2011
Chloride	300 mg/l	200 mg/l	06/14/2011
Chloride	240 mg/l	200 mg/l	03/28/2011
Chloride	260 mg/l	200 mg/l	12/07/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, JOLIET #29 GENERATING STATION, ID:6284  
VIOLATION NOTICE NO. W-2012-00059:**

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-4 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	210 mg/l	200 mg/l	03/15/2012
Chloride	250 mg/l	200 mg/l	06/14/2011
Chloride	270 mg/l	200 mg/l	03/28/2011
Chloride	270 mg/l	200 mg/l	12/07/2010
Manganese	0.33 mg/l	0.15 mg/l	12/07/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-5 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	210 mg/l	200 mg/l	03/15/2012
Chloride	220 mg/l	200 mg/l	06/14/2011
Chloride	240 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-6 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	270 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A****MIDWEST GENERATION, LLC, JOLIET #29 GENERATING STATION, ID:6284  
VIOLATION NOTICE NO. W-2012-00059:****Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-7 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	320 mg/l	200 mg/l	03/28/2011
Chloride	430 mg/l	200 mg/l	12/06/2010
Manganese	0.29 mg/l	0.15 mg/l	12/07/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-8 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	410 mg/l	200 mg/l	03/15/2012
Chloride	350 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-9 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	290 mg/l	200 mg/l	06/14/2011
Iron	7.3 mg/l	5.0 mg/l	06/14/2011
Manganese	1.3 mg/l	0.15 mg/l	03/15/2012
Manganese	0.66 mg/l	0.15 mg/l	12/07/2011
Manganese	0.82 mg/l	0.15 mg/l	09/14/2011
Manganese	0.95 mg/l	0.15 mg/l	06/14/2011
Manganese	1.6 mg/l	0.15 mg/l	03/28/2011
Manganese	1.1 mg/l	0.15 mg/l	12/06/2010
Sulfate	1,600 mg/l	400 mg/l	03/15/2012
Sulfate	1,600 mg/l	400 mg/l	12/07/2011
Sulfate	750 mg/l	400 mg/l	09/14/2011
Sulfate	580 mg/l	400 mg/l	06/14/2011

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, JOLIET #29 GENERATING STATION, ID:6284  
VIOLATION NOTICE NO. W-2012-00059:**

**Violation  
Description**

MW-9 continued

Parameter	Sample Value	GW Standard	Collection Date
Sulfate	1,100 mg/l	400 mg/l	03/28/2011
Sulfate	1,600 mg/l	400 mg/l	12/06/2010
TDS	2,600 mg/l	1,200 mg/l	03/15/2012
TDS	2,400 mg/l	1,200 mg/l	12/07/2011
TDS	1,700 mg/l	1,200 mg/l	09/14/2011
TDS	1,500 mg/l	1,200 mg/l	06/14/2011
TDS	2,400 mg/l	1,200 mg/l	03/28/2011
TDS	2,600 mg/l	1,200 mg/l	12/06/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-10 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Chloride	300 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-11 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	2.2 mg/l	2.0 mg/l	06/14/2011
Boron	2.6 mg/l	2.0 mg/l	03/28/2011
Chloride	240 mg/l	200 mg/l	03/15/2012
Chloride	280 mg/l	200 mg/l	06/14/2011
Chloride	270 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

DW Distribution List and/or bccs

<input checked="" type="checkbox"/>	VN Central File (Bev)	02 File	Marcia Willhite	Geoff Andres
<input checked="" type="checkbox"/>	Mike Crumly	Dianne Potter	Jeri Long	<input checked="" type="checkbox"/> Andrea Rhodes
	Paul Connelly	Allison Ristau	Mary Reed	Jewel Brant
	Sharon Dowson			
	Dave McMillan	<input checked="" type="checkbox"/> Rick Cobb	Jerry Kuhn	
	Springfield FOS	Champaign FOS	Collinsville FOS	Elgin FOS
	Rockford FOS	Marion FOS		
<input checked="" type="checkbox"/>	Connie Tonsor	DLC File	Chuck Gunnarson	<input checked="" type="checkbox"/> Chad Kruse
	Jason Boltz	John Kim	Joey Logan-Wilkey	<input checked="" type="checkbox"/> Tom Kauter

Meeting/Response Due Date

Agency Response Due:	Meeting Due:
----------------------	--------------

Approvals (when Applicable)

Dave McMillan Approval On	Jerry Kuhn Approval On
Marcia Willhite Approval On	John Kim Approval On

cc: Addresses (if not already provided on merge)


SPECIAL INSTRUCTIONS:

\_\_\_\_\_

Correspondence Route Slip

Initiated By <u>GW</u>	CAS Contact <u>Andrea Rhodes</u>
Mail Out DUE Date	Today's Date <u>6-4-11</u>
Peer Review Completed On <u>Mary Reed</u>	Peer Reviewer
Supervisor Review Initials <u>SRH 6/11/12</u>	

**ATTACHMENT 6**



Electronic Filing: Received, Clerk's Office 3/6/2017  
**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

**PAT QUINN, GOVERNOR**

**JOHN J. KIM, INTERIM DIRECTOR**

217/785-0561

June 11, 2012

CERTIFIED MAIL # 7010 2780 0002 1163 7230  
RETURN RECEIPT REQUESTED

Mr. Basil G. Constantelos: Managing Director, Environmental Services  
Midwest Generation EME, LLC  
2535 Remington Blvd  
Suite A  
Bolingbrook, IL 60440

**Re: Violation Notice: Midwest Generation, LLC, Will County Generating Station**  
**Identification No.: 6283**  
**Violation Notice No.: W-2012-00058**

Dear Mr. Constantelos:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

AUG 22 2012

REVIEWER EAV

4302 N. Main St., Rockford, IL 61103 (815)987-7760  
595 S. State, Elgin, IL 60123 (847)608-3131  
2125 S. First St., Champaign, IL 61820 (217)278-5800  
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000  
5407 N. University St., Arbor 113, Peoria, IL 61614 (309)693-5462  
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200  
100 W. Randolph, Suite 11-300, Chicago, IL 60601 (312)814-6026

Page 2 of 2

ID: 6283 Midwest Generation, LLC, Will County Generating Station  
VN W-2012-00058

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies  
Attn: Andrea Rhodes, CAS #19  
P.O. BOX 19276  
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2012-00058.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Michael Crumly  
Manager, Compliance Assurance Section  
Division of Public Water Supplies  
Bureau of Water

Attachments

cc: Maria Race

CASE ID: 2012-006

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:**

A review of information available to the Illinois EPA indicates the following on-going violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation.

**Groundwater Quality**

No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that: treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or an existing or potential use of such groundwater is precluded. No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded. Midwest Generation, LLC must take actions to mitigate existing contamination and prevent the continuing release of contaminants into the environment.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-1 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Antimony	0.0063 mg/l	0.006 mg/l	12/08/2011
Manganese	0.16 mg/l	0.15 mg/l	03/16/2012
Manganese	0.17 mg/l	0.15 mg/l	12/08/2011
Manganese	0.16 mg/l	0.15 mg/l	09/15/2011
Manganese	0.22 mg/l	0.15 mg/l	06/15/2011
Manganese	0.20 mg/l	0.15 mg/l	12/13/2010
Sulfate	430 mg/l	400 mg/l	03/16/2012
Sulfate	530 mg/l	400 mg/l	12/13/2010
Chloride	210 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:**

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-2 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Antimony	0.017 mg/l	0.006 mg/l	12/08/2011
Antimony	0.0073 mg/l	0.006 mg/l	09/15/2011
Boron	2.30 mg/l	2.0 mg/l	09/15/2011
Boron	2.30 mg/l	2.0 mg/l	06/15/2011
Sulfate	430 mg/l	400 mg/l	12/13/2010
Chloride	250 mg/l	200 mg/l	03/28/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-3 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	2.7 mg/l	2.0 mg/l	03/16/2012
Boron	2.8 mg/l	2.0 mg/l	12/08/2011
Boron	3.3 mg/l	2.0 mg/l	09/15/2011
Boron	2.6 mg/l	2.0 mg/l	06/15/2011
Boron	2.4 mg/l	2.0 mg/l	03/28/2011
Boron	2.7 mg/l	2.0 mg/l	12/13/2010
Chloride	250 mg/l	200 mg/l	03/28/2011
Manganese	0.27 mg/l	0.15 mg/l	03/16/2012
Manganese	0.29 mg/l	0.15 mg/l	12/08/2011
Manganese	0.26 mg/l	0.15 mg/l	09/15/2011
Manganese	0.34 mg/l	0.15 mg/l	06/15/2011
Manganese	0.31 mg/l	0.15 mg/l	03/28/2011
Manganese	0.34 mg/l	0.15 mg/l	12/13/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:**

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-4 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	4.0 mg/l	2.0 mg/l	03/16/2012
Boron	3.0 mg/l	2.0 mg/l	12/08/2011
Boron	4.3 mg/l	2.0 mg/l	09/15/2011
Boron	3.6 mg/l	2.0 mg/l	06/15/2011
Boron	3.3 mg/l	2.0 mg/l	03/29/2011
Boron	3.7 mg/l	2.0 mg/l	12/13/2010
Manganese	0.60 mg/l	0.15 mg/l	03/16/2012
Manganese	0.60 mg/l	0.15 mg/l	12/08/2011
Manganese	1.00 mg/l	0.15 mg/l	09/15/2011
Manganese	0.70 mg/l	0.15 mg/l	06/15/2011
Manganese	0.58 mg/l	0.15 mg/l	03/29/2011
Manganese	0.52 mg/l	0.15 mg/l	12/13/2010
Sulfate	2,000 mg/l	400 mg/l	03/16/2012
Sulfate	1,600 mg/l	400 mg/l	12/08/2011
Sulfate	4,800 mg/l	400 mg/l	09/15/2011
Sulfate	1,600 mg/l	400 mg/l	06/15/2011
Sulfate	1,500 mg/l	400 mg/l	03/29/2011
Sulfate	1,500 mg/l	400 mg/l	12/13/2010
TDS	3,700 mg/l	1,200 mg/l	03/16/2012
TDS	3,100 mg/l	1,200 mg/l	12/08/2011
TDS	6,000 mg/l	1,200 mg/l	09/15/2011
TDS	2,800 mg/l	1,200 mg/l	06/15/2011
TDS	2,600 mg/l	1,200 mg/l	03/29/2011
TDS	2,500 mg/l	1,200 mg/l	12/13/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation  
Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-5 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	9.3 su	6.5-9.0 su	03/16/2012
pH	9.51 su	6.5-9.0 su	03/28/2011

**ATTACHMENT A****MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:****Violation****Description**

MW-5 continued

Parameter	Sample Value	GW Standard	Collection Date
Boron	2.9 mg/l	2.0 mg/l	03/16/2012
Boron	3.2 mg/l	2.0 mg/l	12/08/2011
Boron	4.0 mg/l	2.0 mg/l	09/15/2011
Boron	3.2 mg/l	2.0 mg/l	06/15/2011
Boron	2.7 mg/l	2.0 mg/l	03/29/2011
Boron	2.6 mg/l	2.0 mg/l	12/13/2010
Sulfate	500 mg/l	400 mg/l	12/08/2011
Sulfate	690 mg/l	400 mg/l	09/15/2011
Sulfate	540 mg/l	400 mg/l	06/15/2011
Sulfate	570 mg/l	400 mg/l	03/29/2011
Sulfate	580 mg/l	400 mg/l	12/13/2010
TDS	1,500 mg/l	1,200 mg/l	09/15/2011
TDS	1,400 mg/l	1,200 mg/l	06/15/2011
TDS	1,300 mg/l	1,200 mg/l	03/29/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-6 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	9.39 su	6.5-9.0 su	03/16/2012
pH	9.44 su	6.5-9.0 su	09/15/2011
pH	9.27 su	6.5-9.0 su	06/15/2011
pH	9.65 su	6.5-9.0 su	03/29/2011
Boron	2.5 mg/l	2.0 mg/l	03/16/2012
Boron	2.5 mg/l	2.0 mg/l	12/08/2011
Boron	3.0 mg/l	2.0 mg/l	09/15/2011
Boron	2.4 mg/l	2.0 mg/l	06/15/2011
Boron	2.5 mg/l	2.0 mg/l	03/28/2011
Boron	2.7 mg/l	2.0 mg/l	12/13/2010
Chloride	210 mg/l	200 mg/l	03/28/2011
Sulfate	440 mg/l	400 mg/l	12/08/2011
Sulfate	420 mg/l	400 mg/l	09/15/2011

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:**

**Violation**

**Description**

MW-6 continued

Parameter	Sample Value	GW Standard	Collection Date
Sulfate	570 mg/l	400 mg/l	06/15/2011
Sulfate	540 mg/l	400 mg/l	03/28/2011
Sulfate	500 mg/l	400 mg/l	12/13/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-7 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.20 mg/l	0.15 mg/l	03/16/2012
Manganese	0.20 mg/l	0.15 mg/l	12/08/2011
Manganese	0.18 mg/l	0.15 mg/l	09/15/2011
Boron	5.1 mg/l	2.0 mg/l	03/16/2012
Boron	5.0 mg/l	2.0 mg/l	12/08/2011
Boron	3.4 mg/l	2.0 mg/l	09/15/2011
Boron	5.7 mg/l	2.0 mg/l	06/15/2011
Boron	5.0 mg/l	2.0 mg/l	03/29/2011
Boron	4.7 mg/l	2.0 mg/l	12/13/2010
Sulfate	770 mg/l	400 mg/l	03/16/2012
Sulfate	710 mg/l	400 mg/l	12/08/2011
Sulfate	710 mg/l	400 mg/l	09/15/2011
Sulfate	1,000 mg/l	400 mg/l	06/15/2011
Sulfate	650 mg/l	400 mg/l	03/29/2011
Sulfate	610 mg/l	400 mg/l	12/13/2010
TDS	1,400 mg/l	1,200 mg/l	03/16/2012
TDS	1,300 mg/l	1,200 mg/l	12/08/2011
TDS	1,400 mg/l	1,200 mg/l	09/15/2011
TDS	1,600 mg/l	1,200 mg/l	06/15/2011
TDS	1,500 mg/l	1,200 mg/l	03/29/2011
TDS	1,300 mg/l	1,200 mg/l	12/13/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:**

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-8 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	2.3 mg/l	2.0 mg/l	09/15/2011
Chloride	270 mg/l	200 mg/l	03/29/2011
Manganese	0.40 mg/l	0.15 mg/l	12/08/2011
Manganese	0.45 mg/l	0.15 mg/l	09/15/2011
Manganese	0.47 mg/l	0.15 mg/l	06/15/2011
Manganese	0.44 mg/l	0.15 mg/l	03/29/2011
Manganese	0.33 mg/l	0.15 mg/l	12/13/2010
Sulfate	600 mg/l	400 mg/l	09/15/2011
Sulfate	420 mg/l	400 mg/l	06/15/2011
Sulfate	440 mg/l	400 mg/l	03/29/2011
Sulfate	440 mg/l	400 mg/l	12/13/2010
TDS	1,300 mg/l	1,200 mg/l	09/15/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-9 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	10.56 su	6.5-9.0 su	03/16/2012
pH	9.55 su	6.5-9.0 su	12/08/2011
pH	10.27 su	6.5-9.0 su	09/15/2011
pH	10.44 su	6.5-9.0 su	06/15/2011
pH	10.87 su	6.5-9.0 su	03/29/2011
Boron	2.2 mg/l	2.0 mg/l	12/13/2010
Chloride	230 mg/l	200 mg/l	06/15/2011
Chloride	280 mg/l	200 mg/l	03/29/2011
Sulfate	410 mg/l	400 mg/l	06/15/2011
Sulfate	410 mg/l	400 mg/l	12/13/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION, ID:6283  
VIOLATION NOTICE NO. W-2012-00058:**

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-10 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	2.1 mg/l	2.0 mg/l	03/16/2012
Boron	2.5 mg/l	2.0 mg/l	12/08/2011
Boron	2.8 mg/l	2.0 mg/l	09/15/2011
Boron	2.2 mg/l	2.0 mg/l	06/15/2011
Boron	2.1 mg/l	2.0 mg/l	12/13/2010
Manganese	0.25 mg/l	0.15 mg/l	03/16/2012
Manganese	0.29 mg/l	0.15 mg/l	12/08/2011
Manganese	0.27 mg/l	0.15 mg/l	09/15/2011
Manganese	0.25 mg/l	0.15 mg/l	06/15/2011
Manganese	0.22 mg/l	0.15 mg/l	03/28/2011
Manganese	0.25 mg/l	0.15 mg/l	12/13/2010
Sulfate	420 mg/l	400 mg/l	09/15/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

*Will County*

W-20 *12-00058*

DW Distribution List and/or bccs

<input checked="" type="checkbox"/>	VN Central File (Bev)	02 File	Marcia Willhite	Geoff Andres
	Mike Crumly	Dianne Potter	Jeri Long	Andrea Rhodes
	Paul Connelly	Allison Ristau	Mary Reed	Jewel Brant
	Sharon Dowson			
	Dave McMillan	<input checked="" type="checkbox"/> Rick Cobb	Jerry Kuhn	
	Springfield FOS	Champaign FOS	Collinsville FOS	Elgin FOS
	Rockford FOS	Marion FOS		
<input checked="" type="checkbox"/>	Connie Tonsor	DLC File	Chuck Gunnarson	<input checked="" type="checkbox"/> Chad Kruse
	Jason Boltz	John Kim	Joey Logan-Wilkey	<input checked="" type="checkbox"/> <i>TOM Reuter</i>

Meeting/Response Due Date

Agency Response Due:		Meeting Due:	
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Approvals (when Applicable)

Dave McMillan Approval On	Jerry Kuhn Approval On
Marcia Willhite Approval On	John Kim Approval On

cc: Addresses (if not already provided on merge)


SPECIAL INSTRUCTIONS:

\_\_\_\_\_

Correspondence Route Slip

Initiated By	CAS Contact
Mail Out DUE Date	Today's Date
Peer Review Completed On <i>6-4-12</i>	Peer Reviewer <i>Mary Reed</i>
Supervisor Review Initials <i>SRH 6/11/12</i>	

**ATTACHMENT 7**



Page 2 of 2

ID: 6292 Dynegy Midwest Generation LLC; Baldwin Generating Station  
VN W-2012-00070

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

Written communications should be directed to:

Illinois EPA—Division of Public Water Supplies  
Attn: Andrea Rhodes, CAS #19  
P.O. BOX 19276  
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2012-00070.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Michael Crumly  
Manager, Compliance Assurance Section  
Division of Public Water Supplies  
Bureau of Water

Attachments

**ATTACHMENT A**

**DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:**

A review of information available to the Illinois EPA indicates the following on-going violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation.

**Groundwater Quality**

No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that: treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or an existing or potential use of such groundwater is precluded. No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded. Dynegy Midwest Generation LLC must take actions to mitigate existing contamination and prevent the continuing release of contaminants into the environment.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-9 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Iron	7.53 mg/l	5.0 mg/l	02/23/2010
Lead	0.0101 mg/l	0.0075 mg/l	02/23/2010
Manganese	0.372 mg/l	0.15 mg/l	02/23/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-10 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.464 mg/l	0.15 mg/l	02/23/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:**

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-11 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.972 mg/l	0.15 mg/l	02/23/2010
TDS	1413 mg/l	1,200 mg/l	02/23/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW-12 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	6.86 mg/l	2.0 mg/l	02/23/2010
Manganese	0.506 mg/l	0.15 mg/l	02/23/2010
Sulfate	805 mg/l	400 mg/l	02/23/2010
TDS	1,813 mg/l	1,200 mg/l	02/23/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW104S for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	6.44 su	6.5-9.0 su	09/13/2011
Iron	14.0 mg/l	5.0 mg/l	06/07/2011
Iron	18.0 mg/l	5.0 mg/l	11/15-16/2010
Manganese	1.1 mg/l	0.15 mg/l	12/08/2011
Manganese	1.2 mg/l	0.15 mg/l	09/13/2011
Manganese	4.0 mg/l	0.15 mg/l	06/07/2011
Manganese	3.0 mg/l	0.15 mg/l	03/23/2011
Manganese	6.8 mg/l	0.15 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A****DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:****Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW104D for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.28 mg/l	0.15 mg/l	12/08/2011
Manganese	0.42 mg/l	0.15 mg/l	09/13/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW150 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Sulfate	585 mg/l	400 mg/l	12/07/2011
Sulfate	513 mg/l	400 mg/l	09/13/2011
Sulfate	696 mg/l	400 mg/l	06/07/2011
Sulfate	555 mg/l	400 mg/l	03/23/2011
Sulfate	507 mg/l	400 mg/l	11/15-16/2010
TDS	1,278 mg/l	1,200 mg/l	12/07/2011
TDS	1,396 mg/l	1,200 mg/l	06/07/2011
TDS	1,205 mg/l	1,200 mg/l	03/23/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW350 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	12.59 su	6.5-9.0 su	12/6-8/2011
pH	12.14 su	6.5-9.0 su	09/13/2011
pH	12.19 su	6.5-9.0 su	06/07/2011
pH	11.67 su	6.5-9.0 su	03/23/2011
pH	12.24 su	6.5-9.0 su	11/15-16/2010

**ATTACHMENT A**

**DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:**

**Violation**

**Description**

MW350 continued

Parameter	Sample Value	GW Standard	Collection Date
Antimony	0.007 mg/l	0.006 mg/l	12/6-8/2011
Antimony	0.008 mg/l	0.006 mg/l	09/13/2011
TDS	1,423 mg/l	1,200 mg/l	12/6-8/2011
TDS	1,257 mg/l	1,200 mg/l	06/07/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW152 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	18.0 mg/l	2.0 mg/l	12/6/2011
Boron	7.8 mg/l	2.0 mg/l	09/13/2011
Boron	3.6 mg/l	2.0 mg/l	06/07/2011
Boron	9.0 mg/l	2.0 mg/l	03/23/2011
Boron	12.0 mg/l	2.0 mg/l	11/15-16/2010
Sulfate	1,030 mg/l	400 mg/l	12/6/2011
Sulfate	763 mg/l	400 mg/l	09/13/2011
Sulfate	772 mg/l	400 mg/l	06/07/2011
Sulfate	914 mg/l	400 mg/l	03/23/2011
Sulfate	859 mg/l	400 mg/l	11/15-16/2010
TDS	1,983 mg/l	1,200 mg/l	12/6/2011
TDS	1,607 mg/l	1,200 mg/l	09/13/2011
TDS	1,634 mg/l	1,200 mg/l	06/07/2011
TDS	1,768 mg/l	1,200 mg/l	03/23/2011
TDS	1,759 mg/l	1,200 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A****DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:****Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW252 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	1.2 mg/l	0.15 mg/l	12/6/2011
Manganese	0.97 mg/l	0.15 mg/l	09/13/2011
Manganese	0.61 mg/l	0.15 mg/l	06/07/2011
Manganese	0.93 mg/l	0.15 mg/l	03/23/2011
Manganese	1.7 mg/l	0.15 mg/l	11/15-16/2010
Sulfate	490 mg/l	400 mg/l	12/6/2011
Sulfate	510 mg/l	400 mg/l	09/13/2011
Sulfate	578 mg/l	400 mg/l	06/07/2011
Sulfate	559 mg/l	400 mg/l	03/23/2011
Sulfate	528 mg/l	400 mg/l	11/15-16/2010
TDS	1,224 mg/l	1,200 mg/l	12/6/2011
TDS	1,301 mg/l	1,200 mg/l	09/13/2011
TDS	1,341 mg/l	1,200 mg/l	06/07/2011
TDS	1,335 mg/l	1,200 mg/l	03/23/2011
TDS	1,318 mg/l	1,200 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW352 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	10.66 su	6.5-9.0 su	12/8/2011
pH	10.96 su	6.5-9.0 su	09/13/2011
pH	11.20 su	6.5-9.0 su	06/07/2011
pH	11.55 su	6.5-9.0 su	03/23/2011
pH	10.63 su	6.5-9.0 su	11/15-16/2010
Chloride	603 mg/l	0.15 mg/l	09/13/2011
Chloride	514 mg/l	0.15 mg/l	06/07/2011
Chloride	535 mg/l	0.15 mg/l	03/23/2011
Chloride	521 mg/l	0.15 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:**

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW153 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Nitrate	15.0 mg/l	10.0 mg/l	12/08/2011
Nitrate	18.0 mg/l	10.0 mg/l	09/14/2011
Nitrate	12.0 mg/l	10.0 mg/l	06/07/2011
Nitrate	15.0 mg/l	10.0 mg/l	03/23/2011
Nitrate	13.2 mg/l	10.0 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW253 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
pH	09.79 su	6.5-9.0 su	09/14/2011
pH	11.34 su	6.5-9.0 su	06/07/2011
Sulfate	483 mg/l	400 mg/l	12/08/2011
Sulfate	424 mg/l	400 mg/l	09/14/2011
Sulfate	411 mg/l	400 mg/l	06/07/2011
Sulfate	806 mg/l	400 mg/l	11/15-16/2010
TDS	1,441 mg/l	1,200 mg/l	11/15-16/2010
Manganese	0.37 mg/l	0.15 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW154 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.18 mg/l	0.15 mg/l	06/07/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**DYNEGY MIDWEST GENERATION LLC; BALDWIN GENERATING STATION, ID:6292  
VIOLATION NOTICE NO. W-2012-00070:**

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW155 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.18 mg/l	0.15 mg/l	12/07/2011
Manganese	0.37 mg/l	0.15 mg/l	09/12/2011
Manganese	0.28 mg/l	0.15 mg/l	03/23/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well MW355 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Manganese	0.43 mg/l	0.15 mg/l	12/07/2011
Manganese	0.34 mg/l	0.15 mg/l	09/12/2011
Manganese	0.20 mg/l	0.15 mg/l	06/07/2011
Manganese	0.45 mg/l	0.15 mg/l	03/23/2011
Manganese	0.87 mg/l	0.15 mg/l	11/15-16/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT 8**



Electronic Filing: Received, Clerk's Office 3/6/2017  
**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

**PAT QUINN, GOVERNOR**

**JOHN J. KIM, INTERIM DIRECTOR**

217/785-0561

June 27, 2012

CERTIFIED MAIL # 7010 2780 0002 1163 7148  
RETURN RECEIPT REQUESTED

Mr. John C. Pozzo  
Managing Supervising Engineer  
1 Ameren Plaza  
1901 Chouteau Ave.  
St. Louis, Mo 63103

**Re: Violation Notice: Ameren; Coffeen Generating Station  
Identification No.: 6287  
Violation Notice No.: W-2012-00064**

Dear Mr. Pozzo:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

OCT 12 2012

4302 N. Main St., Rockford, IL 61103 (815)987-7760  
595 S. State, Elgin, IL 60123 (847)608-3131  
2125 S. First St., Champaign, IL 61820 (217)278-5800  
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000  
5407 N. University St., Arbor 113, Peoria, IL 61614 (309)693-5462  
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200  
100 W. Randolph, Suite 11300, Chicago, IL 60601 (312)814-6026

Page 2 of 2

ID: 6287 Ameren, Coffeen Generating Station  
VN W-2012-00064

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

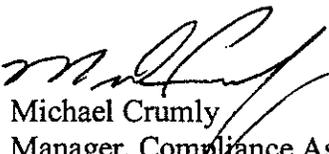
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies  
Attn: Andrea Rhodes, CAS #19  
P.O. BOX 19276  
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2012-00064.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,

  
Michael Crumly  
Manager, Compliance Assurance Section  
Division of Public Water Supplies  
Bureau of Water

Attachments

CASE ID: 2012-007

PAGE NO. 1 OF 3

**ATTACHMENT A****AMEREN, COFFEEN GENERATING STATION, ID:6287  
VIOLATION NOTICE NO. W-2012-00064:**

A review of information available to the Illinois EPA indicates the following on-going violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation.

**Groundwater Quality**

No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that: treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or an existing or potential use of such groundwater is precluded. No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard to be exceeded. Ameren must take actions to mitigate existing contamination and prevent the continuing release of contaminants into the environment.

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well APW-2 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	7.4 mg/l	2.0 mg/l	01/25/2012
Boron	8.1 mg/l	2.0 mg/l	11/11/2011
Boron	6.3 mg/l	2.0 mg/l	07/28/2011
Boron	6.7 mg/l	2.0 mg/l	05/04/2011
Boron	7.2 mg/l	2.0 mg/l	01/26/2011
Boron	7.16 mg/l	2.0 mg/l	12/01/2010
Manganese	0.730 mg/l	0.150 mg/l	01/25/2012
Manganese	0.40 mg/l	0.150 mg/l	11/11/2011
Manganese	0.410 mg/l	0.150 mg/l	07/28/2011
Manganese	0.530 mg/l	0.150 mg/l	05/04/2011
Manganese	0.418 mg/l	0.150 mg/l	12/01/2010
Sulfate	840 mg/l	400 mg/l	01/25/2012
Sulfate	650 mg/l	400 mg/l	11/11/2011
Sulfate	840 mg/l	400 mg/l	05/04/2011
Sulfate	840 mg/l	400 mg/l	01/26/2011
Sulfate	833 mg/l	400 mg/l	12/01/2010
TDS	1600 mg/l	1200 mg/l	01/25/2012
TDS	1600 mg/l	1200 mg/l	11/11/2011
TDS	1600 mg/l	1200 mg/l	07/28/2011

**ATTACHMENT A**

**AMEREN, COFFEEN GENERATING STATION, ID:6287  
VIOLATION NOTICE NO. W-2012-00064:**

**Violation**

**Description**

APW-2 continued

Parameter	Sample Value	GW Standard	Collection Date
TDS	1700 mg/l	1200 mg/l	05/04/2011
TDS	1600 mg/l	1200 mg/l	01/26/2011
TDS	1810 mg/l	1200 mg/l	12/01/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**Violation**

**Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well APW-3 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	2.1 mg/l	2.0 mg/l	01/25/2012
Boron	2.5 mg/l	2.0 mg/l	01/26/2011
Boron	2.07 mg/l	2.0 mg/l	12/01/2010
Manganese	0.37 mg/l	0.150 mg/l	01/25/2012
Manganese	0.866 mg/l	0.150 mg/l	11/11/2011
Manganese	0.84 mg/l	0.150 mg/l	07/28/2011
Manganese	0.85 mg/l	0.150 mg/l	05/04/2011
Manganese	0.44 mg/l	0.150 mg/l	01/26/2011
Manganese	0.866 mg/l	0.150 mg/l	12/01/2010
Sulfate	830 mg/l	400 mg/l	01/25/2012
Sulfate	761 mg/l	400 mg/l	11/11/2011
Sulfate	940 mg/l	400 mg/l	05/04/2011
Sulfate	810 mg/l	400 mg/l	01/26/2011
Sulfate	761 mg/l	400 mg/l	12/01/2010
TDS	1900 mg/l	1200 mg/l	01/25/2012
TDS	1760 mg/l	1200 mg/l	11/11/2011
TDS	2100 mg/l	1200 mg/l	07/28/2011
TDS	1800 mg/l	1200 mg/l	05/04/2011
TDS	1800 mg/l	1200 mg/l	01/26/2011
TDS	1760 mg/l	1200 mg/l	12/01/2010

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT A**

**AMEREN, COFFEEN GENERATING STATION, ID:6287**  
**VIOLATION NOTICE NO. W-2012-00064:**

**Violation****Description**

Operations at ash impoundments have resulted in violations of the Groundwater Quality Standards at monitoring well APW-4 for the following constituents:

Parameter	Sample Value	GW Standard	Collection Date
Boron	3.6 mg/l	2.0 mg/l	01/25/2012
Boron	3.9 mg/l	2.0 mg/l	11/11/2011
Boron	3.2 mg/l	2.0 mg/l	07/25/2011
Boron	3.9 mg/l	2.0 mg/l	05/04/2011
Boron	3.8 mg/l	2.0 mg/l	01/26/2011
Boron	3.54 mg/l	2.0 mg/l	12/01/2010
Manganese	0.460 mg/l	0.150 mg/l	01/25/2012
Manganese	0.670 mg/l	0.150 mg/l	11/11/2011
Manganese	0.740 mg/l	0.150 mg/l	07/25/2011
Manganese	0.81 mg/l	0.150 mg/l	05/04/2011
Manganese	0.240 mg/l	0.150 mg/l	01/26/2011
Manganese	0.78 mg/l	0.150 mg/l	12/01/2010
Sulfate	680 mg/l	400 mg/l	01/25/2012
Sulfate	450 mg/l	400 mg/l	11/11/2011
Sulfate	750 mg/l	400 mg/l	07/25/2011
Sulfate	650 mg/l	400 mg/l	05/04/2011
Sulfate	670 mg/l	400 mg/l	01/26/2011
Sulfate	600 mg/l	400 mg/l	12/01/2010
TDS	1300 mg/l	1200 mg/l	11/11/2011
TDS	1300 mg/l	1200 mg/l	07/25/2011
TDS	1300 mg/l	1200 mg/l	05/04/2011

Rule/Reg. Section 12 of the Act, 415 ILCS 5/12, 35 Ill. Adm. Code 620.115, 620.301, 620.401, 620.405, and 620.410.

**ATTACHMENT 9**

**Illinois EPA's Ash Impoundment Strategy Progress Report  
October 2010**

In regard to coal combustion residues (CCR) at surface impoundments and coal fired electric generating plants; the Illinois EPA's Bureau of Water (BOW) has been implementing a program **very similar to the proposed "D prime" option.**

In response to last year's massive coal ash spill at a Tennessee Valley Authority facility in Kingston, Tennessee, Illinois EPA developed an aggressive strategy to assess ash impoundments at coal fired power plants. Since the early 1990s, new ash ponds (surface impoundments) have been required to be lined and groundwater monitoring wells have been installed at many of these new ash impoundments. There are also older ash ponds at many of these facilities.

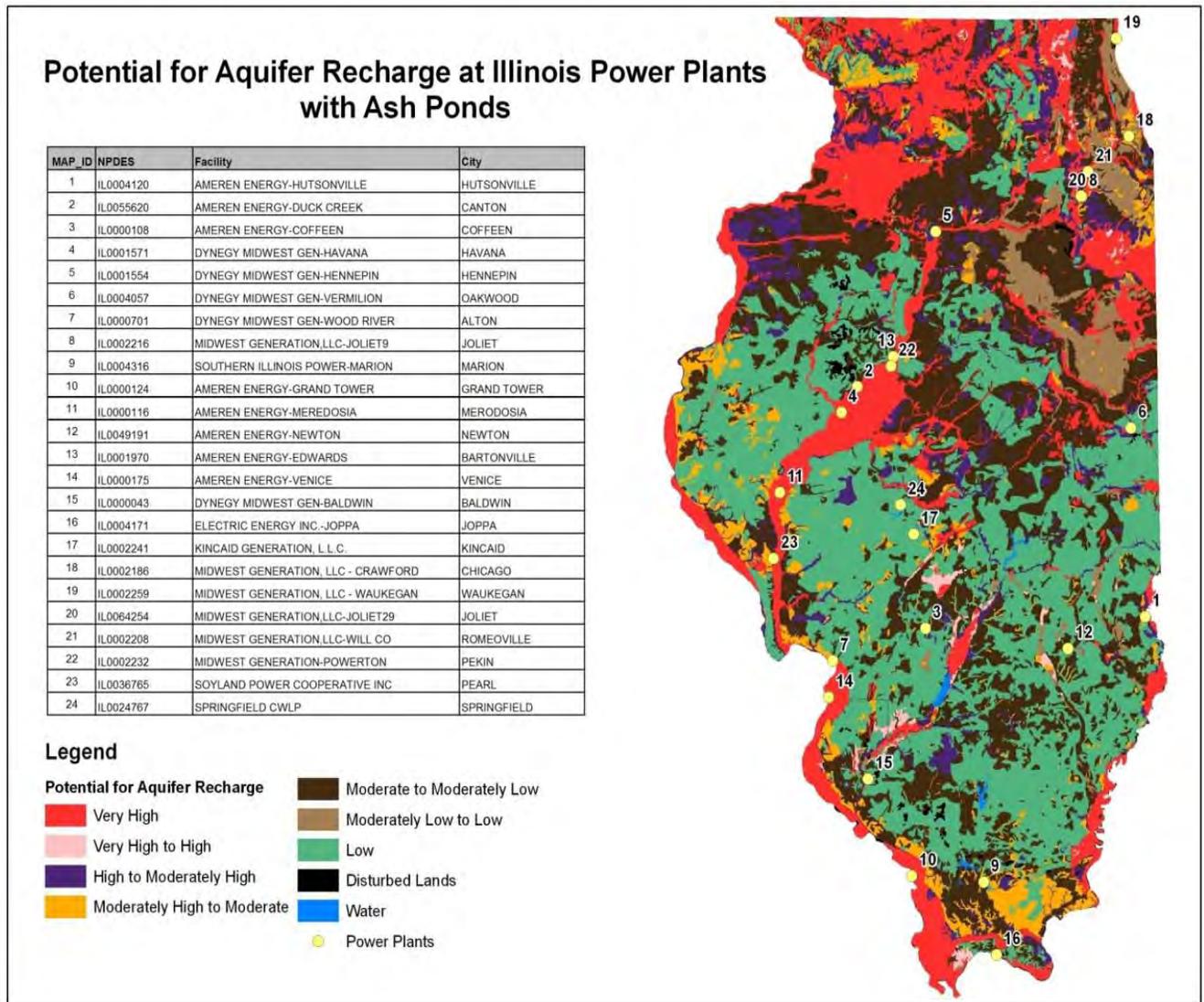
An inventory of power plants with surface impoundments permitted by the Illinois EPA under the National Pollutant Discharge Elimination System permit program has been created. There are 24 power plants in Illinois with a total of 83 ash impoundments. Table 1 below indicates the number of impoundments that are active, those that have low permeability liners, and those that have groundwater monitoring.

<b>Total Impoundments</b>	<b>Active Impoundments</b>	<b>Inactive Impoundments</b>	<b>Lined Impoundments</b>	<b>Impoundments with Groundwater Monitoring</b>
83	68	15	31	28

**Table 1. Number of Impoundments that are Active, have Low Permeability Liners, and Groundwater Monitoring Systems**

The geologic vulnerability of groundwater at the 24 power plants was assessed using the Illinois' "Potential for Aquifer Recharge" map which classifies the potential for precipitation to infiltrate the surface and reach the water table. This map can also be used to determine the potential for groundwater contamination on a regional scale. Figure 1 shows the location of each power plant and the potential for aquifer recharge at each plant. This information, along with the presence of potable wells identified near the plants, was used to determine the potential contamination threat to those wells. The contamination potential ranges from "very high" to "low."

The aforementioned criteria were used to develop assessment priorities for these facilities under an action-oriented strategic plan. The plan was finalized and implementation began on February 26, 2009.



**Figure 1. Illinois Power Plants with CCR Surface Impoundments**

Priority 1 facilities (i.e., high potential for aquifer recharge, and existing or future potable uses) were requested, under a modified BOW permit, to install a groundwater monitoring well system, implement a monitoring program, and submit electronic compliance reports to the Illinois EPA. This information was requested at these 10 facilities, identified in Table 2, because they did not have groundwater monitoring systems. Additionally, the five facilities classified as Priority 2 because of the low potential for aquifer recharge and existing or future potable uses in the area, were requested to assess the potential for contaminant migration at their respective sites.

Priority 1	Priority 2
Ameren - Edwards Station, IL0001970	City Water Light and Power, IL0024767
Ameren - Grand Tower Station, IL0000124	Kincaid Generation, IL0002241
Ameren - Meredosia Station, IL0000116	Ameren - Newton Station, IL0049191
Ameren - Venice Station, IL0000175	Midwest Generation EME - Crawford Station, IL0002186
Dynegy Midwest - Baldwin Energy Center, IL0000043	Midwest Generation EME - Waukegan Station, IL0002259
Electric Energy Inc., IL0004171	
Midwest Generation EME - Powerton, IL0002232	
Midwest Generation EME - Joliet 29, IL0064254	
Midwest Generation EME - Will County Station, IL0002208	
Prairie Power Inc., IL0036765	

Table

**Table 2. Priority 1 and 2 under Illinois EPA's CCR Impoundment Strategy**

The following provides a summary of the progress for each of the Priority 1 and 2 facilities:

*Priority 1*

- Ameren Facilities - Hydrogeologic assessments plans for Edwards Station, Meredosia Station, and Grand Tower have been approved and are being implemented. Groundwater results are scheduled to be submitted by December 31, 2010. A hydrogeologic assessment has been completed and a proposed corrective action plan to address impacted groundwater at Venice Station is under review. The corrective action plan has been posted on the Illinois EPA website and comments on the plan are being accepted by the Illinois EPA. The 45 day comment period ends on October 10, 2010.
- Dynegy Midwest, Baldwin Energy Center - A hydrogeologic assessment plan has been submitted and approved. Groundwater results are scheduled to be submitted by December 31, 2010.
- Electric Energy Facility – A hydrogeologic assessment plan for this facility has been submitted and approved. Groundwater results are scheduled to be submitted by October 31, 2010

- Midwest Generation Facilities - Hydrogeologic assessments plans which include groundwater monitoring for Waukegan Station, Will County Station, Powerton Station, Crawford and Joliet 29 Station have been approved.
- Prairie Power - A hydrogeologic assessment plan has been submitted and approved. Preliminary groundwater sampling results have been received indicating potential groundwater impacts. Additional sampling data is being collected to establish background water quality at the site.

*Priority 2*

- Ameren Facility - Hydrogeologic assessments plans for Newton Station have been submitted and approved. Groundwater results are scheduled to be submitted by December 31, 2010.
- City Water Light and Power – A hydrogeologic assessment for City Water Light and Power has been received and is currently under review.
- Kincaid Generation - A review of the hydrogeologic assessment plan for Kincaid Generation has been completed. Illinois EPA has requested further study of the site including the construction of monitor wells.

In addition to the priorities described above, Illinois EPA concurrently continues to work with the nine facilities listed in Table 3 below to assess and remediate groundwater impacts (corrective action).

<b>Facility</b>	<b>Status</b>
Ameren -Coffeen Station, IL0000108	Further Assessment Underway
Ameren -Duck Creek Station, IL0055620	Remedial Action Under Development
Ameren -Hutsonville Station, IL0004120	Site Specific Rule Making
Dynegy Midwest - Havana Station, IL 0001571	Approved Groundwater Management Zone
Dynegy Midwest - Hennepin Station, IL0001554	Approved Groundwater Management Zone
Dynegy Midwest - Vermillion Station, IL0004057	Remedial Action Under Development
Dynegy Midwest - Wood River Station, IL0000701	Approved Groundwater Management Zone
Midwest Generation EME - Joliet 9, IL0002216	Remedial Action Under Development
Southern Illinois Power, IL0004316	Further Assessment Underway

**Table 3. Facilities with On-going Groundwater Assessment and Remediation Activities**

Corrective action plans have been implemented at three of these facilities. Groundwater samples were analyzed for the full spectrum of inorganic parameters at

these sites. The constituents listed in Table 4 were identified as contaminants of concern at one or more these facilities.

Boron
Sulfate
Chloride
Iron
Manganese
Total Dissolved Solids (TDS)

**Table 4. Contaminants of Concern**

One of these facilities has returned to compliance with Illinois' numerical groundwater quality standards. One facility continues to exceed the standard for Boron, Sulfate, Manganese, and pH. The other facility exceeds the numerical standard for Boron, Manganese, pH and TDS.

**ATTACHMENT 10**

# Inventory of Coal Ash Impoundments and Volumes in Illinois

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## **Overview**

Following the November 2016 reporting date of the federal CCR Rule, it became clear that not all coal ash impoundments in Illinois had associated documentation. Illinois EPA reported that there are 85 coal ash impoundments in Illinois<sup>1</sup>, but only 43 impoundments have been documented in the federal rule reporting. The information produced by the federal rule reporting is extremely valuable to the public. It is crucial that the proposed Illinois rules require reporting at all impoundments in Illinois, and provide clarity such that each ash impoundment has a consistent name and spatial extent. If we lose track of coal ash we will leave an unknown legacy of pollution.

To identify which impoundments have not been documented, our team has collected reports from numerous sources outlining the number of coal ash impoundments in Illinois. We've found

<sup>1</sup> <http://www.ipcb.state.il.us/documents/dsweb/Get/Document-84222> Attachment 2

that at approximately 47 coal ash impoundments have not been documented in the federal CCR Rule reporting, and 29 of these are at active facilities, the other 18 at inactive facilities. We've also found that there is often disagreement about the names and spatial extent of the impoundments, with some reports showing much smaller areas than others.

## **Methodology**

We have made an attempt to identify all coal ash impoundments in Illinois. The number and extent of coal ash impoundments in Illinois was garnered primarily through three sources; first, the Illinois EPA Ash Impoundment Strategy Report that was submitted to the record as Hearing Exhibit 14 and later updated in Illinois EPA's 4/30/2014 post-hearing comments ('IEPA Assessment' hereafter)<sup>2</sup>; second, the US EPA CCR Impoundment Assessment Reports<sup>3</sup> ('US EPA Assessment'), and third, the documentation provided by the coal ash operators to comply with the federal CCR Rule<sup>4</sup> ('CCR Rule Reporting').

Each of these sources contains different parts of the picture of the coal ash impoundments at a particular site. Sometimes, by putting all the sources together, a complete picture is formed, but often there are gaps and inconsistent information between the three sources.

The IEPA Assessment contained counts of the number of impoundments at each facility. Illinois EPA had previously released a version with some inaccuracies,<sup>5</sup> but has provided an updated and accurate version. This is probably the best available source for the total number of impoundments at each site. The available information from the IEPA Assessment only identifies the number of impoundments at each site; it does not attempt to name or map them. This assessment also does not seem to include landfills.

The US EPA Assessment provided maps with labels on each impoundment. We've only been able to find US EPA Assessment documents at 15 of the coal power plants in Illinois. These reports contained satellite maps with the names and extents of the impoundments, however, they often did not line up with names and extents identified in the CCR Rule reporting.

The CCR Rule Reporting provided detailed images of most of the impoundments included in the documentation, but not all impoundments were documented. The CCR Rule Reporting also provided the source for the volume of coal ash at these impoundments.

<sup>2</sup> Id.

<sup>3</sup> <https://www.epa.gov/coalash/coal-combustion-residuals-impoundment-assessment-reports>

<sup>4</sup> <https://www.epa.gov/coalash/coal-ash-rule>

<sup>5</sup> Illinois EPA March 25, 2014 post-hearing comments: <http://www.ipcb.state.il.us/documents/dsweb/Get/Document-83859>

### **Findings – Number of Impoundments**

The goal of this exercise is to create an accurate inventory of the coal ash in Illinois so that none of the impoundments are missed in the rulemaking process. The IEPA Assessment reported that there are 85 coal ash impoundments in Illinois. We've done our best to identify which of these impoundments appear in the CCR Rule Reporting, and which do not have documentation. The results of the analysis are summarized in **Table 1**, attached.

There appears to be 29 coal ash impoundments at facilities active before October 19, 2015 that have not been documented in the federal CCR Rule documentation. There are an additional 18 impoundments at inactive facilities which are excluded from the federal rule, leaving a total of **47 impoundments in Illinois have not been documented in the federal rule reporting**. It is crucial that the state rule requires documentation at all impoundments. There appear to be impoundments at operating plants not documented in the federal CCR Rules Reporting from Dynegy's Baldwin, Coffeen, Duck Creek, Havana, Hennepin, Joppa, Newton, Wood River, NRG's Joliet 29, Powerton and Will County, and Southern Illinois Power Cooperative's Marion Power Station.

The physical extents of the coal ash impoundments reported vary from source to source. For example, at Hennepin, the US EPA Assessment and the CCR Rule Reports identify coal ash impoundments with different names covering different areas, as illustrated in Figure 1 on the following page. It's crucial that the Illinois coal ash rule makes the extent of coal ash reporting clear so waste doesn't get lost along the way.



Figure 1. A comparison between the impoundments reported in the US EPA Assessment and for the CCR Rule. Spatial extents do not match.

### **Findings - Coal Ash Volumes**

The CCR Rule Reporting has resulted in annual inspection report at some impoundments, which include estimates of coal ash volumes stored there, in addition to some other information. The volumes reported have been summarized in **Table 2**, attached. At sites where two annual reports have been released, a comparison of coal ash volumes is shown in the table in both volume difference and percentage form.

It should be noted that the reporting has been in the form of CCR plus water, so the total volume of coal ash alone cannot be determined from these numbers. This is a potential flaw in the federal rule. If possible, the Illinois rules should require reporting of CCR volume not including water.

The table shows that, with the exception of Prairie State, the volume of coal ash stored has gone up anywhere from 0% to 3.5% this year at most sites. However, Prairie State has increased their volume stored of coal ash at Prairie State Generating Station by 38% this year, from 4463 acre-ft to 6180 acre-ft, an increase of almost three million cubic yards.

## **Site by Site Analysis**

Here, the impoundments at each site are identified by owner and site. Landfills are also included in the inventory reported here. Some comments are made to clarify sources of data and gaps.

### **Owner: Dynegy**

#### **► Baldwin : [Plant Profile](#)**

##### **Impoundments (7 impoundments in IEPA Assessment):**

###### Documented in CCR Rule Reporting

- Bottom Ash Pond
- West Fly Ash Pond
- Old East Fly Ash Pond
- East Fly Ash Pond

###### Not Documented

- Secondary Pond
- Intermediate Pond
- Final Pond

Comments - The Secondary, Intermediate, and Final Ponds were identified in the US EPA Assessment<sup>6</sup>. In the CCR Rule Reports, Dynegy identifies a Secondary<sup>7</sup> and Tertiary Pond<sup>8</sup> in their Annual Inspection Report in February 2016, but provided no documentation for these impoundments in the November 2016 reporting deadline<sup>9</sup>. There is no explanation for why these ponds were no longer included. Additionally, the Tertiary pond is likely the same as the Final Pond, but it is not made clear in the documentation.

#### **► Coffeen : [Plant Profile](#)**

##### **Impoundments (5 impoundments in IEPA Assessment):**

###### Documented in CCR Rule Reporting

- Ash Pond No 1
- Ash Pond No 2
- GMF/gypsum stack
- GMF recycle pond
- Landfill (probably excluded from IEPA Assessment)

###### Not Documented

- Unknown impoundment

Comments – The IEPA Assessment identifies five impoundments, but only four are documented in the CCR Rule Reporting, and the US EPA Assessment only covered two impoundments.

<sup>6</sup> [https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/dynegy\\_baldwin\\_final.pdf](https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/dynegy_baldwin_final.pdf)

<sup>7</sup> [https://ccr.dynegy.com/uploads/453/Doc\\_635908729286984546.pdf#page=13](https://ccr.dynegy.com/uploads/453/Doc_635908729286984546.pdf#page=13)

<sup>8</sup> [https://ccr.dynegy.com/uploads/453/Doc\\_635908729286984546.pdf#page=15](https://ccr.dynegy.com/uploads/453/Doc_635908729286984546.pdf#page=15)

<sup>9</sup> <https://ccr.dynegy.com/document.aspx>

**Owner: Dynegy**

► **Duck Creek** : [Plant Profile](#)

Impoundments (5 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

Ash Pond 1

Ash Pond 2

Bottom Ash Basin (perhaps called Recycle Pond in USEPA assessment)

GMF Pond

Landfill (excluded from IEPA Assessment)

Not Documented

Unknown

Comments - The IEPA Assessment identifies 5 impoundments at Duck Creek. IEPA usually does not include landfills in the impoundment list, so that leaves one impoundment not documented in the CCR Rule Reporting.

► **Edwards** : [Plant Profile](#)

Impoundments (1 impoundment in IEPA Assessment):

Documented in CCR Rule Reporting

Ash Pond

Comments - All impoundments at Edwards appear to be documented in the federal rule reporting.

► **Havana** : [Plant Profile](#)

Impoundments (4 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

East Ash Pond System

Not Documented

South Ash Pond System

North Ash Pond System

Unknown Impoundment

Comments – The US EPA study identifies the South Ash Pond System and North Ash Pond System<sup>10</sup>. The South Ash Pond is labeled as closed in the US EPA study. The East Ash Pond is a four cell system. Unless this impoundment was divided for the IEPA Assessment, there is an impoundment not documented in the CCR Reporting.

<sup>10</sup> <https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/havana-final.pdf#page=32>

► **Hennepin** : [Plant Profile](#)

Impoundments (7 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

- Ash Pond 2
- East Ash Pond
- Old West Pond
- Old West Polishing Pond
- Landfill (excluded from IEPA Assessment)

Not Documented

- Pond 2E
- Secondary Pond
- Portions of the Ash Pond No 2 (East Ash Pond in USEPA Assessment)

Comments - As illustrated in the figure a few pages above, the areas designated as coal ash impoundments at Hennepin varies significantly between the US EPA Assessment and the CCR Rule Reports. It's not clear that the entire extent of those ponds is documented in the federal rule reporting.

► **Joppa** : [Plant Profile](#)

Impoundments (2 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

- East Ash Pond
- Landfill (excluded from IEPA assessment)

Not Documented

- Capped Ash Pond

Comments - IEPA Assessment may have identified the East Ash Pond as two ash ponds. Indeed, the US EPA Assessment identifies the East Ash Pond as the North Ash Pond and South Ash Pond<sup>11</sup>. Another ash pond at Joppa is identified in the US EPA Assessment as the Capped Ash Pond. It is west of the facility.

► **Kincaid** : [Plant Profile](#)

Impoundments (1 impoundment in IEPA Assessment):

Documented in CCR Rule Reporting

- Ash Pond

Comments - All impoundments at Kincaid appear to be documented in the federal rule reporting.

<sup>11</sup> [https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/ameren\\_joppa\\_final.pdf#page=23](https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/ameren_joppa_final.pdf#page=23)

**Owner: Dynegy**

► **Newton** : [Plant Profile](#)

Impoundments (2 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

Primary Ash Pond

Landfill (excluded from IEPA Assessment)

Not Documented

Secondary Ash Pond

Comments - The Secondary Ash Pond was not documented in the federal coal ash rule.

► **Vermilion** : [Plant Profile](#)

Impoundments (3 ponds, 5 cells in IEPA assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

North Ash Pond System

Old East Ash Pond

New East Ash Pond

Comments - Vermilion was closed before the federal rule was implemented, and therefore is exempt from the federal rule.

► **Wood River** : [Plant Profile](#)

Impoundments (5 impoundments in IEPA assessment):

Documented in CCR Rule Reporting

West Ash Pond 1

West Ash Pond 2E

West Ash Pond 2W

Primary East Ash Pond

Not Documented

West Ash Pond 3

Comments - The IEPA Assessment originally identified 6 cells, but was later updated to five impoundments, which matches the US EPA Assessment.

**Owner: NRG**

► **Crawford** : [Plant Profile](#)

Impoundments (1 impoundment in IEPA Assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

Coal Ash Impoundment

Comments - Crawford was closed before the federal rule was implemented, and therefore is exempt from the federal rule.

► **Joliet 29** : [Plant Profile](#)

Impoundments (3 impoundments in IEPA assessment):

Documented in CCR Rule Reporting

Ash Pond 2

Not Documented

Ash Pond 1

Ash Pond 3

Comments - The Ash Pond 1 and Ash Pond 3 were not included in the CCR Rule Reporting, but appear in technical documentation.

► **Joliet 9** : [Plant Profile](#)

Impoundments (0 impoundments in IEPA assessment):

Documented in CCR Rule Reporting

Lincoln Stone Quarry

Not Documented

None

Comments –The Lincoln Stone Quarry was originally included in the IEPA Assessment, but later removed. It is seemingly one of the only landfills included in the original IEPA Assessment.

**Owner: NRG**

► **Powerton** : [Plant Profile](#)

Impoundments (5 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

Ash Surge Basin

Bypass Basin

Former Ash Basin

Not Documented

Ash Settling Basin(?)

Unknown impoundment

Comments – The IEPA Assessment identifies two more impoundments than the CCR Rule Reporting. We were unable to find the US EPA Assessment of this site. Some technical documentation notes an Ash Settling Basin, which may be one of the two additional impoundments in the IEPA Assessment.

► **Waukegan** : [Plant Profile](#)

Impoundments (2 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

East Ash Basin

West Ash Basin

Not Documented

None

Comments – All impoundments at Waukegan appears to be documented in the federal rule reporting.

► **Will County** : [Plant Profile](#)

Impoundments (4 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

South Ash Pond 2S

South Ash Pond 3S

Not Documented

North Ash Pond 1N

South Ash Pond 1S

Comments - Two impoundments at Will County were not included in the federal CCR Rule Reporting, and the US EPA Assessment did not include Will County. There are additional impoundment structures on satellite, but we were unable to determine their function.

**Owner: Ameren**

► **Grand Tower** : [Plant Profile](#)

Impoundments (1 impoundment in IEPA Assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

Coal Ash Impoundment

Comments - Grand Tower was closed before the federal rule was implemented, and therefore is exempt from the federal rule.

► **Hutsonville** : [Plant Profile](#)

Impoundments (5 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

Pond A

Pond B

Pond C

Pond D

Pond D (inactive)

Comments - Hutsonville was closed before the federal rule was implemented, and therefore is exempt from the federal rule.

► **Meredosia** : [Plant Profile](#)

Impoundments (4 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

Fly Ash Pond (Cells 1-4)

Bottom Ash Pond

Old Ash Pond (Decommissioned)

Unknown Impoundment

Comments - Meredosia was closed before the federal rule was implemented, and therefore is exempt from the federal rule. Technical documentation indicates that the Old Ash Pond may be referenced as multiple ponds, but clarity is needed.

**Owner: Ameren**

► **Venice** : [Plant Profile](#)

Impoundments (2 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

Ash Pond 2

Ash Pond 3

Comments - Venice was closed before the federal rule was implemented, and therefore is exempt from the federal rule. The location or existence of Ash Pond 1 is unknown.

**Owner: CWLP**

► **Dallman** : [Plant Profile](#)

Impoundments (2 impoundments in IEPA Assessment):

Documented in CCR Rule Reporting

Dallman Impoundments

Lakeside Impoundments

Dallman Landfill (

Not Documented

None

Comments - Dallman is another case where the extent of the coal ash impoundments is not clear. The specified extents of the Lakeside and Dallman coal ash impoundments change between two documents released to comply with the federal CCR Rule; the Feb 2016 First Annual Inspection Report<sup>12</sup> and the Nov 2016 History of Construction Report<sup>13</sup>.

<sup>12</sup> <http://ehs.cwlp.com/Document/AnnualInspectionReportCCRSurfaceImpoundments0116.pdf#page=7>

<sup>13</sup> <http://ehs.cwlp.com/Document/CWLP2016HistoryofConst.pdf#page=10>

**Owner: Prairie Power Inc.**

► **Pearl Station** : [Plant Profile](#)

Impoundments (1 impoundment in IEPA Assessment):

Documented in CCR Rule Reporting

None (facility closed)

Not Documented

Ash Pile

CCW Impoundment/Ash Pond

Comments - Pearl Station was closed before the federal rule was implemented, and therefore is exempt from the federal rule. The Ash Pile and Ash Pond were identified in the US EPA Assessment<sup>14</sup> and it's possible the IEPA Assessment combined these two impoundments.

<sup>14</sup> [https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/prairie\\_pearl\\_fnl\\_rpt.pdf#page=35](https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/pdf/prairie_pearl_fnl_rpt.pdf#page=35)

**Owner: Prairie State Generating Company**

► **Prairie State Generating Station** : [Plant Profile](#)

Impoundments (absent from IEPA Assessment):

Documented in CCR Rule Reporting

Landfill

Not Documented

None

Comments - Prairie State was not covered in the Illinois EPA Assessment, and it appears to have no non-landfill impoundments.

**Owner: Southern Illinois Power Coop**

► **Marion** : [Plant Profile](#)

Impoundments (12 in Illinois EPA assessment):

Documented in CCR Rule Reporting

Emory Pond

Not Documented

Ash Pond 1 (US EPA assessment)

Ash Pond 2 (US EPA assessment)

Ash Pond 4 (US EPA assessment)

Ash Pond 3

Ash Pond 3A

Ash Pond S-1

Ash Pond S-2

Ash Pond S-3

Ash Pond S-6

Ash Pond A-1

South Fly Ash Pond

Fly Ash Disposal Pond B-3

Comments - Marion has failed to report the vast majority of their impoundments. In the US EPA Assessment, they included Ash Pond 1, Ash Pond 2 and Ash Pond 4 as coal ash impoundments, and specified that the remaining impoundments contained no ash (despite one of the ponds being named Fly Ash Disposal Pond B-3). For the CCR Rule Reports, only the Emory Pond had any documentation, and it was minimal. This is an example of why it is necessary for the Illinois EPA to be able to include the reporting from the federal rule in the state specific regulations.

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**Table 1. An inventory of coal ash impoundments in Illinois, comparing multiple data sources.**

Owner	Facility	IEPA Assessment	CCR Rule Reporting		Comments
		Impoundments	Documented Impdmts	No Documentation Reported	
Dynegy	Baldwin	7	4	3	The secondary and tertiary ponds were in CCR Rule reports for Feb 2015, but not Nov 2016.
	Coffeen	5	4	1	There is also a landfill at this site.
	Duck Creek	5	4	1	
	Edwards	1	1	0	
	Havana	4	3	1	
	Hennepin	7	4	3	
	Joppa	2	1	1	It's possible that the East Ash Pond was reported as two sites in the IEPA Assessment. There is also a landfill at this site. There is also a Capped Ash Pond at this site.
	Kincaid	1	1	0	
	Newton	2	1	1	The Secondary Ash Pond is not included in the CCR Rule Reporting. There is also a landfill at this site.
	Vermilion	3	0	3	Facility closed before October 29, 2015.
Wood River	5	4	1		
NRG	Crawford	1	0	1	Facility closed before October 29, 2015.
	Joliet 29	3	1	2	
	Joliet 9	0	1	0	The IEPA Assessment does not include the landfill.
	Powerton	5	3	2	
	Waukegan	2	2	0	
Will County	4	2	2		
Ameren	Grand Tower	1	0	1	Facility closed before October 29, 2015.
	Hutsonville	5	0	5	Facility closed before October 29, 2015.
	Meredosia	5	0	5	Facility closed before October 29, 2015.
	Venice	2	0	2	Facility closed before October 29, 2015.
Prairie Power	Pearl Station	1	0	1	Facility closed before October 29, 2015.
CWLP	Dallman	2	2	0	
PSGC	PSGS	0	1	0	The IEPA Assessment did not include Prairie State.
SIPC	Marion	12	1	11	There are numerous other impoundments (13) referenced in the US EPA Assessment.
<b>TOTALS</b>		<b>85</b>		<b>47</b>	
				<b>29</b>	Excluding facilities closed before October 29, 2015.

**Legend**

Facility has undocumented impoundments.

Facility closed before October 19, 2015.

Table 1 compares the number of impoundments documented in the IEPA Assessment to the number of impoundments with documents in the CCR Rule Reporting with the objective of identifying the number of impoundments that do not have documentation from the CCR Rule Reporting. For a more detailed assessment at each particular location, see the Site by Site Analysis in this report.

There appear to be impoundments at operating plants not documented in the federal CCR Rules Reporting from Dynegy's Baldwin, Coffeen, Duck Creek, Havana, Hennepin, Joppa, Newton, Wood River, NRG's Joliet 29, Powerton and Will County, and Southern Illinois Power Cooperative's Marion Power Station.

**Table 2. Combined volume of CCR and water at some coal ash impoundments in Illinois.**  
**Data is from documents released for compliance with the federal CCR Rule.**

Plant	Operator	February 2016			February 2017			Difference		
		Annual Dam/Landfill Inspection Report	Current Storage, CCR + Water (acre-ft)	Capacity (acre-ft)	Annual Dam/Landfill Inspection Report	Current Storage, CCR + Water (acre-ft)	Capacity (acre-ft)	New Ash - Difference (acre-ft)	Percent increase in ash	Change in capacity (acre-ft)
<b>Baldwin</b>	Dynegy		<b>7668</b>	<b>17815</b>		<b>7784</b>	<b>17815</b>	<b>166<sup>1</sup></b>	<b>2.2%</b>	<b>0</b>
Bottom Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	1591	5900	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	1717	5900	127		0
West Fly Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	847	3700	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	886	3700	39		0
Old East Fly Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2963	3450	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2963	3450	0		0
East Fly Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2218	4300	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2218	4300	1		0
Secondary Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	21	400	Not released. <sup>5</sup>		400			0
Tertiary Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	29	65	Not released. <sup>5</sup>		65			0
<b>Coffeen</b>	Dynegy (IPH)		<b>3064</b>	<b>4170</b>		<b>3171</b>	<b>4170</b>	<b>107</b>	<b>3.5%</b>	<b>0</b>
Ash Pond No. 1		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	750	900	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	770	900	20		0
Ash Pond No. 2		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	1300	1650	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	1300	1650	0		0
GMF/gypsum stack pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	692	1150	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	721	1150	29		0
Recycle pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	112	470	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	126	470	14		0
Landfill		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	210	Not reported. <sup>4</sup>	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	254	Not reported. <sup>4</sup>	44		Not reported. <sup>4</sup>
<b>CWLP</b>	CWLP		<b>1272</b>	<b>2144</b>		<b>1272</b>	<b>2475</b>	<b>0</b>	<b>0.0%</b>	<b>331</b>
Dallman Impoundments		<a href="http://ehs.cwlp.com/">http://ehs.cwlp.com/</a>	589	680	<a href="http://ehs.cwlp.com/">http://ehs.cwlp.com/</a>	589	930	0		250
Lakeside Impoundments		<a href="http://ehs.cwlp.com/">http://ehs.cwlp.com/</a>	669	744	<a href="http://ehs.cwlp.com/">http://ehs.cwlp.com/</a>	669	824	0		80
Dallman Landfill		<a href="http://ehs.cwlp.com/">http://ehs.cwlp.com/</a>	14	720	<a href="http://ehs.cwlp.com/">http://ehs.cwlp.com/</a>	14	720	0		0
<b>Duck Creek</b>	Dynegy (IPH)		<b>6566</b>	<b>9618</b>		<b>6599</b>	<b>9618</b>	<b>34</b>	<b>0.5%</b>	<b>0</b>
Ash Pond 1		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2015	3200	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2015	3200	0		0
Ash Pond 2		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	3340	5300	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	3340	5300	0		0
Bottom Ash Basin		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	3	18	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	5	18	3		0
GMF Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	700	1100	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	700	1100	0		0
Landfill		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	508	Not reported. <sup>4</sup>	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	539	Not reported. <sup>4</sup>	31		Not reported. <sup>4</sup>
<b>Edwards</b>	Dynegy (IPH)		<b>4050<sup>2</sup></b>	<b>3300</b>		<b>3000</b>	<b>3300</b>	<b>-1050<sup>2</sup></b>	<b>-35.0%</b>	<b>0</b>
Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	4050	3300	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	3000	3300	-1050		0
<b>Havana</b>	Dynegy		<b>3590</b>	<b>4200</b>		<b>3616</b>	<b>4200</b>	<b>26</b>	<b>0.7%</b>	<b>0</b>
East Ash Pond System		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	3590	4200	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	3616	4200	26		0
<b>Hennepin</b>	Dynegy		<b>1150</b>	<b>2355</b>		<b>1163</b>	<b>2355</b>	<b>13</b>	<b>1.1%</b>	<b>0</b>
Ash Pond 2		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	435	775	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	435	775	0		0
East Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	371	800	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	384	800	13		0
Old West Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	310	720	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	310	720	0		0
Old West Polishing Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	30	60	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	30	60	0		0
Landfill		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	4	Not reported. <sup>4</sup>	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	4	Not reported. <sup>4</sup>	0		Not reported. <sup>4</sup>
<b>Joliet 29</b>	NRG		<b>9</b>	<b>38.4</b>						
Ash Pond 2		<a href="http://3659839d00ee">http://3659839d00ee</a>	9	38.4	Not released. <sup>5</sup>					
<b>Joliet 9</b>	NRG									
Lincoln Stone Quarry		Not released. <sup>5</sup>			Not released. <sup>5</sup>					
<b>Joppa</b>	Dynegy (IPH)		<b>2693</b>	<b>8900</b>		<b>2745</b>	<b>8900</b>	<b>52</b>	<b>1.9%</b>	<b>0</b>
East Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2693	8900	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2745	8900	52		0
Landfill		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	0	Not reported. <sup>4</sup>	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	0	Not reported. <sup>4</sup>	0		Not reported. <sup>4</sup>
<b>Kincaid</b>	Dynegy		<b>2390</b>	<b>5600</b>		<b>2400</b>	<b>5600</b>	<b>10</b>	<b>0.4%</b>	<b>0</b>
Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2390	5600	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	2400	5600	10		0
<b>Marion</b>	SIPC									
Emory Pond		Not released. <sup>5</sup>			Not released. <sup>5</sup>					
<b>Newton</b>	Dynegy (IPH)		<b>13391</b>	<b>31000</b>		<b>13452</b>	<b>31000</b>	<b>62</b>	<b>0.5%</b>	<b>0</b>
Primary Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	13000	31000	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	13060	31000	60		0
Landfill		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	391	Not reported. <sup>4</sup>	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	392	Not reported. <sup>4</sup>	2		Not reported. <sup>4</sup>
<b>Powerton</b>	NRG		<b>5</b>	<b>97.2</b>						
Ash Surge Basin		<a href="http://3659839d00ee">http://3659839d00ee</a>	5	92.1	Not released. <sup>5</sup>					
Bypass Basin		<a href="http://3659839d00ee">http://3659839d00ee</a>	0	5.1	Not released. <sup>5</sup>					
Former Ash Basin		Not released. <sup>5</sup>			Not released. <sup>5</sup>					
<b>Prairie State</b>	Prairie State Gen Co		<b>4463</b>			<b>6180</b>		<b>1717</b>	<b>38.0%</b>	
Landfill		<a href="http://nffacility.com/">http://nffacility.com/</a>	4463	Not reported. <sup>4</sup>	<a href="http://nffacility.com/">http://nffacility.com/</a>	6180	Not reported. <sup>4</sup>	1717		Not reported. <sup>4</sup>
<b>Waukegan</b>	NRG		<b>65</b>	<b>282.3</b>						
East Ash Basin		<a href="http://3659839d00ee">http://3659839d00ee</a>	32	138.5	Not released. <sup>5</sup>					
West Ash Basin		<a href="http://3659839d00ee">http://3659839d00ee</a>	33	143.8	Not released. <sup>5</sup>					
<b>Will County</b>	NRG									
South Ash Pond 2S		Not released. <sup>5</sup>			Not released. <sup>5</sup>					
South Ash Pond 3S		Not released. <sup>5</sup>			Not released. <sup>5</sup>					
<b>Wood River</b>	Dynegy (IPH)		<b>1029</b>	<b>1460</b>		<b>1062</b>	<b>1580</b>	<b>33</b>	<b>3.2%</b>	<b>120</b>
West Ash Pond 1		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	410	435	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	410	435	0		0
West Ash Pond 2E		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	119	335	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	119	355	0		20
West Ash Pond 2W		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	208 <sup>3</sup>	140	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	208	240	0		100
Primary East Ash Pond		<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	292	550	<a href="https://ccr.dynegey.cc">https://ccr.dynegey.cc</a>	325	550	33		0

<sup>1</sup> This number accounts for the fact that the Secondary and Tertiary Ash Ponds were not reported on in 2017.

<sup>2</sup> The volume of coal ash at Edward was reported as 4050, which is greater than the listed capacity, in Feb 2016. This may have been an error, or ash may have been removed, but in Feb 2017 the coal ash volume was reported at 3000.

<sup>3</sup> The reported quantity of coal ash this year was larger than the capacity of the impoundment.

<sup>4</sup> Values 'Not reported,' where not reported in the report. We are not claiming this values should or should not have been reported.

<sup>5</sup> Documents were not released at these impoundments by 3/1/2017. We are not claiming these documents should or should not have been released.