

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF MIDWEST)
GENERATION, LLC FOR AN) AS 2019-001
ADJUSTED STANDARD FROM) (Adjusted Standard – Land)
PORTIONS OF 35 ILL. ADM. CODE)
PART 811)

NOTICE OF FILING

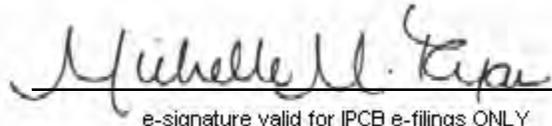
To: Kristen L. Gale
Susan M. Franzetti
Nijman Franzetti LLP
10 s. LaSalle Street
Suite 3600
Chicago, Illinois 60603

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph
Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the RECOMMENDATION OF THE ILLINOIS EPA and APPEARANCE, a copy of which is served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Assistant Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
michelle.ryan@illinois.gov

Dated: March 25, 2019

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RECOMMENDATION OF THE ILLINOIS EPA

Now comes the Illinois Environmental Protection Agency (“Illinois EPA”) by its attorney, Michelle M. Ryan, and pursuant to 35 Ill. Adm. Code 104.416 provides this Recommendation to the Petition for Adjusted Standard filed in this cause on February 5, 2019. For the reasons that follow, Illinois EPA recommends that the adjusted standard petition be granted.

I. BACKGROUND

Midwest Generation, LLC (“MWGen”) is the permitted operator of a coal combustion waste landfill in unincorporated Will County known as the Joliet/Lincoln Quarry (“Site”). MWGen requests modification of Condition 7(c) of an Adjusted Standard previously granted by the Pollution Control Board (“Board”) in AS 96-9 (August 15, 1996). MWGen seeks an adjusted standard from 35 Ill. Adm. Code 811.314(c) to apply a final cover system for the Main Quarry portion of the Site developed with new technology known as “ClosureTurf,” which is inconsistent with the requirements of the regulation and the prior Adjusted Standard granted by the Board in AS 96-9.

II. SECTION 104.406 FACTORS

A. Section 104.406(a) – Standards from which adjusted standard is sought

The Illinois EPA does not take issue with MWGen's statements on this subject. However, the Petition does not include the effective date of the regulation of general applicability, as required by 35 Ill. Adm. Code 104.406(a).

B. Section 104.406(b) – Promulgation of regulation of general applicability

Illinois EPA does not agree with MWGen's statements on this subject. Although some of the regulations in 35 Ill. Adm. Code Part 811 are correlated with explicit requirements of RCRA Subtitle D, the specific regulation from which the adjusted standard is being sought in this petition (35 Ill. Adm. Code 811.314) is not federally required (*see* 35 Ill. Adm. Code 811.Appendix B).

C. Section 104.406(c) – Level of Justification

The Illinois EPA does not take issue with MWGen's statements on this subject.

D. Section 104.406(d) – Petitioner's Activity

The Illinois EPA does not take issue with MWGen's statements on this subject.

E. Section 104.406(e) – Efforts necessary to comply

The Illinois EPA does not take issue with MWGen's statements on this subject.

F. Section 104.406(f) – Proposed Adjusted Standard

The Illinois EPA does not take issue with MWGen's statements on this subject.

G. Section 104.406(g) – Quantitative and Qualitative impact on the environment

The Illinois EPA does not take issue with MWGen's statements on this subject.

H. Section 104.406(h) – Justification for the proposed adjusted standard

The Illinois EPA does not take issue with MWGen's statements on this subject.

I. Section 104.406(i) – Consistency with Federal Law

The Illinois EPA does not take issue with MWGen's statements on this subject.

J. Section 104.406(j) – Hearing

The Illinois EPA does not request a hearing on this matter. If the Board schedules a hearing, the Illinois EPA intends to participate.

K. Section 104.406(k) – Supporting documents or legal authorities

The Illinois EPA does not take issue with MWGen's statements on this subject.

L. Section 104.406(l) – Additional information

No additional information was provided in the Petition.

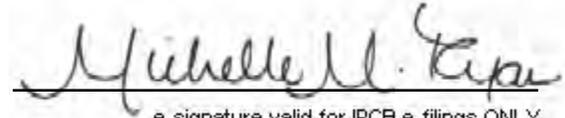
Illinois EPA would like to note that if the requested Adjusted Standard is granted, additional issues will need to be addressed in MWGen's permit application in order to apply the ClosureTurf system to the Main Quarry, including proposed final design plans, clarification on how anticipated hydrostatic uplift forces caused by groundwater inflow below the geomembrane will be counteracted to ensure integrity of the final cover, and compliance with other relevant requirements of 35 Ill. Adm. Code 810 through 813.

III. CONCLUSION

WHEREFORE the Illinois EPA recommends that the adjusted standard be GRANTED.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

A handwritten signature in black ink, appearing to read "Michelle M. Ryan", is written over a horizontal line.

e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Assistant Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: March 25, 2019

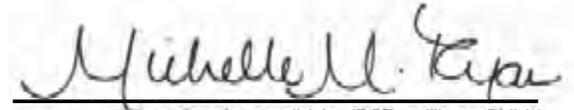
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ENTRY OF APPEARANCE

The undersigned hereby enters her appearance in the above-captioned matter as counsel for the Illinois Environmental Protection Agency.

Respectfully submitted,



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Michelle M. Ryan
Assistant Counsel

DATED: March 25, 2019

Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62702-4059
(217) 782-5544
michelle.ryan@illinois.gov

PROOF OF SERVICE

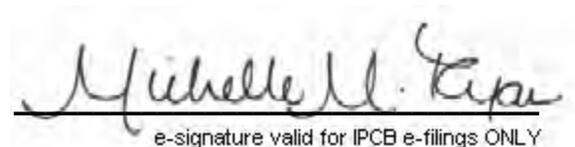
I hereby certify that I did on the 25th day of March, 2019, send by electronic mail a true and correct copy of the following instrument(s) entitled RECOMMENDATION OF THE ILLINOIS EPA and APPEARANCE

To: Kristen L. Gale
Susan M. Franzetti
Nijman Franzetti LLP
10 s. LaSalle Street
Suite 3600
Chicago, Illinois 60603
sf@nijmanfranzetti.com
kg@nijmanfranzetti.com

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph
Suite 11-500
Chicago, Illinois 60601
brad.halloran@illinois.gov

and an electronic copy of the same foregoing instrument on the same date via electronic filing

To: Don Brown, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601



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Michelle M. Ryan
Assistant Counsel

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