

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION, LLC	)	
& INEOS JOLIET, LLC,	)	
Petitioners,	)	
v.	)	PCB 16-19 (Midwest Generation)
	)	PCB 16-24 (INEOS)
ILLINOIS ENVIRONMENTAL	)	(Time-Limited Water Quality Standard)
PROTECTION AGENCY	)	(Consolidated)
Respondent.	)	

**NOTICE OF FILING**

TO:

Don Brown  
 Clerk of the Board  
 Illinois Pollution Control Board  
 100 W. Randolph Street, Suite 11-500  
 Chicago, Illinois 60601  
**VIA ELECTRONIC MAIL**

Brad Halloran  
 Hearing Officer  
 Illinois Pollution Control Board  
 100 W. Randolph Street, Suite 11-500  
 Chicago, Illinois 60601  
**VIA ELECTRONIC MAIL**

**(SEE PERSONS ON ATTACHED SERVICE LIST)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **Joint Motion for Extension of Time to File a Recommendation**, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ Sara Terranova  
 Sara Terranova  
 Assistant Counsel  
 Division of Legal Counsel

DATED: September 9, 2019

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION, LLC	)	
& INEOS JOLIET, LLC,	)	
Petitioners,	)	
v.	)	PCB 16-19 (Midwest Generation)
	)	PCB 16-24 (INEOS)
ILLINOIS ENVIRONMENTAL	)	(Time-Limited Water Quality Standard)
PROTECTION AGENCY	)	(Consolidated)
Respondent.	)	

**JOINT MOTION FOR  
EXTENSION OF TIME TO FILE A RECOMMENDATION**

NOW COME the Illinois Environmental Protection Agency (Agency or Illinois EPA), by one of its attorneys, Sara G. Terranova, Midwest Generation, LLC (MWGen), by one of its attorneys, Susan M. Franzetti, and INEOS Joliet, LLC, by one of its attorneys, Michael P. Murphy, pursuant to 35 Ill. Adm. Code 101.500 and 101.522, to jointly request that the Illinois Pollution Control Board (Board) grant Illinois EPA additional time to file a recommendation in the above-captioned consolidated alternative thermal effluent limitations proceedings. In support of this motion, Petitioners and Respondent state as follows:

1. On July 1, 2015, MWGen filed a Petition for Variance for the Will County and Joliet Stations, pursuant to Section 35 of the Illinois Environmental Protection Act (the "Act").
2. On February 24, 2017, MWGen's variance petition was automatically converted to a Petition for a Time-Limited Water Quality Standard (TLWQS) by operation of 415 ILCS 5/38.5(c).
3. On April 12, 2017, the Board ruled that MWGen's "converted" variance petition did not substantially comply with Section 38.5(e) of the Act—an entirely new provision of the Act that was enacted after MWGen filed its 2015 petition.

4. On June 27, 2018, MWGen filed an amended TLWQS petition (the "Amended Petition").

5. On July 25, 2019, the Board ruled that MWGen's Amended Petition substantially complied with the substantial or essential content requirements of 40 C.F.R. § 131.14, 415 ILCS 5/38.5, and 35 Ill. Adm. Code 104.530.

6. The Board also ordered the Agency to submit a Recommendation regarding the Amended Petition by September 9, 2019. See 35 Ill. Adm. Code 104.545(b), 104.550(a).

7. Additionally, the Board's July 25, 2019 Order consolidates the MWGen TLWQS proceeding with PCB 16-24, which concerns the TLWQS petition filed by INEOS. The Board entered a separate Order in PCB 16-24 on July 25, 2019, ruling that INEOS' Amended Petition substantially complied with the substantial or essential content requirements of 40 C.F.R. § 131.14, 415 ILCS 5/38.5, and 35 Ill. Adm. Code 104.530, ordering the Agency to submit its Recommendation by September 9, 2019, and consolidating the proceeding with PCB 16-19.

8. The Agency has been diligently working on its recommendations but needs more time to have further discussions with U.S. EPA and MWGen concerning issues related to the interpretation and application of (1) the Use Attainability Analysis factors on which MWGen's TLWQS Petition is based, and (2) the Pollution Minimization Program requirement of the TLWQS regulations for both the Will County and Joliet Station discharges. MWGen is working to address the issues raised to date in these discussions but also will need to seek further clarification from the U.S. EPA regarding these issues before it can determine what additional information to provide to the Agency to allow it to prepare its recommendation.

9. For the sake of clarity, it should be noted that MWGen's Subpart K Petition for thermal Alternative Effluent Limitations (AELs) for the Will County Station, PCB 2018-058, is currently

awaiting a decision by the Board. (The Agency filed its recommendation to approve the AELs on March 12, 2018.) Should the Board grant the Subpart K relief requested in that petition, it will not be necessary to continue the discussions with U.S. EPA concerning the issues related to the Will County Station, and MWGen would no longer need a TLWQS for that station's receiving waters (the Chicago Sanitary & Shipping Canal and the Brandon Pool).

10. Under 35 Ill. Admin. Code 104.570(a), a TLWQS is not effective for Clean Water Act purposes until approved by the U.S. EPA.

11. The Board's TLWQS regulations seek to avoid "extended delays at the federal level and last-minute, previously unexplained, variance disapprovals" by the U.S. EPA. *Regulatory Relief Mechanisms: Proposed New 35 Ill. Adm. Code Part 104.Subpart E*, R 18-18, slip op. at 8 (Feb. 8, 2018). The regulations do so by encouraging parties to begin informal discussions with U.S. EPA representatives early in the petition process. Illinois EPA and MWGen have been engaging U.S. EPA representatives in informal discussion and request additional time to pursue those discussions to their conclusion.

12. INEOS' Amended Petition for Time-Limited Water Quality Standard for Temperature, filed on July 26, 2018, was supplemented by certain information in MWGen's Amended Petition. INEOS' Amended Petition provided INEOS' discharger-specific information required for coverage under the temperature multi-discharger TLWQS and, where appropriate, referenced and incorporated required information provided in the MWGen Amended Petition that is commonly applicable to dischargers that may be covered by this temperature multi-discharger TLWQS. INEOS incorporated by reference the discussion of the Use Attainability Analysis factors in the MWGen Amended Petition (See INEOS' Amended Petition, p. 4).

13. The relief requested by INEOS is dependent upon the information contained in MWGen's Amended Petition and the interpretation and application of the Use Attainability Analysis factors discussed in the Amended Petition. Accordingly, the Agency's recommendation as to INEOS' Amended Petition is also dependent upon completion of the above-referenced discussions with U.S. EPA. Illinois EPA and INEOS therefore also request an extension of time for the Agency to file a recommendation as to INEOS' Amended Petition for TLWQS.

WHEREFORE, MWGen, INEOS, and the Illinois EPA respectfully request the Illinois Pollution Control Board to grant their Motion for an Extension of Time to file the Agency's recommendation and grant the Agency until December 9, 2019 to file its recommendation with the Board.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

Dated: September 9, 2019

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By: /s/ Sara G. Terranova  
Sara G. Terranova  
Assistant Counsel  
Division of Legal Counsel

INEOS JOLIET, LLC, Petitioner,

Dated: August 28, 2019

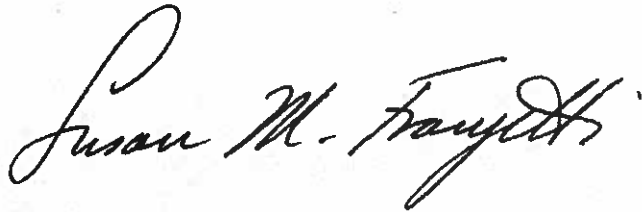
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By: /s/ Michael P. Murphy  
Michael P. Murphy

MIDWEST GENERATION, LLC, Petitioner,

Dated: September 9, 2019

By:

A handwritten signature in black ink that reads "Susan M. Franzetti". The signature is written in a cursive, flowing style.

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**CERTIFICATE OF SERVICE**

I, the undersigned, on affirmation state the following:

That I have served the attached **NOTICE OF FILING AND JOINT MOTION FOR EXTENSION OF TIME TO FILE A RECOMMENDATION** via electronic mail upon:

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That my e-mail address is [Sara.Terranova@illinois.gov](mailto:Sara.Terranova@illinois.gov).

That the number of pages in the e-mail transmission is seven (7).

That the e-mail transmission took place before 5:00 p.m. on the date of September 9, 2019.

[/s/Sara G. Terranova](#)  
Sara G. Terranova

Date: September 9, 2019