

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS POWER)	
GENERATING COMPANY,)	
)	
Petitioner,)	
)	
v.)	
)	PCB 2024-043
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List (Via Electronic Filing)

PLEASE TAKE NOTICE that the undersigned filed today with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following RESPONDENT'S ANSWERS TO PETITIONER ILLINOIS POWER GENERATING COMPANY'S REQUESTS TO ADMIT, a copy of which is attached hereto and hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: /s/ Mallory Meade

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Dated: July 10, 2024

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 10, 2024, she caused to be served by electronic mail, a true and correct copy of the following instruments entitled Notice of Filing and Respondent's Answers to Petitioner Illinois Power Generating Company's Requests to Admit to:

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s/ Mallory Meade
Mallory Meade
Assistant Attorney General
Environmental Bureau

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

s/ Mallory Meade
Mallory Meade
Assistant Attorney General
Environmental Bureau

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ILLINOIS POWER)	
GENERATING COMPANY,)	
)	
Petitioner,)	
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v.)	
)	PCB 2024-043
ILLINOIS ENVIRONMENTAL)	(Petition for review – Alternative
PROTECTION AGENCY,)	Source Determination)
)	
Respondent.)	

**RESPONDENT’S ANSWERS TO PETITIONER ILLINOIS POWER
GENERATING COMPANY’S REQUESTS TO ADMIT**

NOW COMES Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by and through its attorney, KWAME RAOUL, Attorney General of the State of Illinois, and hereby answers PETITIONER ILLINOIS POWER GENERATING COMPANY’S REQUESTS TO ADMIT as follows.

1. Admit that there are no published IEPA guidelines setting forth the process for performing an alternative source demonstration in accordance with Part 845.

Answer: Respondent objects to this request as vague and ambiguous. Subject to and without waiving that objection, deny.

2. Admit that the law of conservation of mass, as referenced in the May 28, 2024 Deposition Testimony of Lauren Hunt, pages 43, 119-121, and 126, is not referenced in the text of Part 845.

Answer: Deny the characterization of Part 845, which speaks for itself.

3. Admit that in a closed system (i.e. a natural system that does not allow matter to enter or leave the system), the mass of reactants equals the mass of products during a chemical reaction.

Answer: Respondent objects to this request as irrelevant. The request appears to seek an admission of a general principle rather than any fact at issue in this case. General principles of chemistry and

physics are equally accessible to both parties and do not require discovery. Subject to and without waiving that objection, admit.

4. Admit that in an open system (i.e. a system that allows matter to enter or leave the system), the apparent mass of reactants does not always equal the apparent mass of products for a given chemical reaction.

Answer: Respondent objects to this request as irrelevant. The request appears to seek an admission of a general principle rather than any fact at issue in this case. General principles of chemistry and physics are equally accessible to both parties and do not require discovery. Moreover, a statement that something is “not always” the case appears to refer to a theoretical possibility without any apparent relevance to the facts of this case. Respondent further objects that this request is ambiguous, vague and overly broad, because the terms used, including “apparent mass” and “system,” are capable of multiple definitions and are not defined. Subject to and without waiving those objections, admit.

5. Admit that R26 from Illinois Part 742 Appendix C Table C (“R26”), copied below, is an example of a mass or contaminant transport equation.

$C_{(x)} = C_{source} \cdot \exp\left[\left(\frac{X}{2\alpha_x}\right) \cdot \left(1 - \sqrt{1 + \frac{4\lambda \cdot \alpha_x}{U}}\right)\right] \cdot \operatorname{erf}\left[\frac{S_w}{4 \cdot \sqrt{\alpha_y \cdot X}}\right] \cdot \operatorname{erf}\left[\frac{S_d}{2 \cdot \sqrt{\alpha_z \cdot X}}\right]$	R26
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Answer: Respondent objects to this request as irrelevant given that it references an equation that is not in the administrative record as filed by the Agency and that was never submitted to the Agency in connection with the alternative source demonstration that is the subject of this appeal.

Respondent also objects that the term “mass or contaminant transport equation” is vague and undefined. Subject to and without waiving these objections, deny.

6. Admit that Part 845 does not include any specific reference for the term “source characterization.”

Answer: Deny the characterization of Part 845, which speaks for itself.

7. Admit that Part 845 does not specify how “source characterization” should be performed.

Answer: Deny the characterization of Part 845, which speaks for itself.

8. Admit that a CCR surface impoundment can be a source of contamination to groundwater.

Answer: Admit.

9. Admit there are multiple ways by which to analyze the chemical constituents found within CCR.

Answer: Respondent objects to this request as vague and undefined given that it does not define the term “chemical constituents” or specify a media from which to characterize those chemical constituents. Subject to and without waiving these objections, deny.

10. Admit a material safety data sheet or safety data sheet (as defined in 29 C.F.R. 1910.1200) contains information regarding the chemical constituents found within a material.

Answer: Respondent objects to this request as irrelevant because it does not reference any specific document in the administrative record as filed by the Agency or that was submitted to the Agency in connection with the alternative source demonstration that is the subject of this appeal. Respondent also objects to this request as vague and ambiguous, because it would require Respondent to agree to the contents of “a” material safety data sheet without knowing the specific document in question. Respondent cannot fairly evaluate and respond to a request regarding a document it has not seen. Moreover, the request is vague and ambiguous because it is unclear whether “the chemical constituents found within a material” refers to all of the constituents or just some of them. To the extent that this request seeks a response based solely on the definition in 29 C.F.R. 1910.1200, Respondent objects to this request as unnecessarily burdensome and irrelevant because it asks for characterization of a document that speaks for itself. Subject to and without waiving those objections, deny the characterization of 29 C.F.R. 1910.1200, which speaks for itself.

11. Admit Attachment H, Table 2.2 of the Newton PAP Operating Permit Application (Page R000738 of the Record) sets forth total solids sampling results for the CCR within the Newton PAP.

Answer: Deny the characterization of page R000738 of the Record, which speaks for itself.

12. Admit total solids sampling can provide an analysis of the chemical constituents found within CCR.

Answer: Respondent objects to this request as irrelevant. The request appears to address an abstract possibility rather than any sampling or analysis specific to this case. Respondent also objects to this request as vague and ambiguous, because the term “total solids sampling” is not

defined and it is moreover unclear how “sampling” can provide “analysis.” Sampling and analysis are different things. Subject to and without waiving these objections, deny.

13. Admit total solids sampling of CCR does not provide an analysis of the chemical constituents found within the liquid contained in a CCR surface impoundment.

Answer: Respondent objects to this request as vague and ambiguous, because the term “total solids sampling of CCR” is not defined and it is moreover unclear how “sampling” would provide “analysis.” Sampling and analysis are different things. Subject to and without waiving these objections, admit that total solids sampling is different from liquid sampling.

14. Admit that the Newton PAP contains liquid.

Answer: Respondent objects that this request is vague and ambiguous, because the terms “contains” and “liquid” are undefined. Respondent also objects to this request as unnecessarily burdensome and irrelevant because it asks for characterization of property that is under Petitioner’s possession and control. Respondent cannot fairly evaluate and respond to a request regarding the current state of property that is in Petitioner’s possession. Petitioner can better seek this information from its own agents. Subject to and without waiving those objections, admit.

15. Admit that the Newton PAP generates leachate.

Answer: Respondent objects to this request as unnecessarily burdensome and irrelevant because it asks for characterization of property that is under Petitioner’s possession and control. Respondent cannot fairly evaluate and respond to a request regarding the current state of property that is in Petitioner’s possession. Petitioner can better seek this information from its own agents. Subject to and without waiving those objections, admit.

16. Admit that liquid within the Newton PAP is a potential source of contamination to groundwater.

Answer: Admit.

17. Admit porewater sampling within a CCR surface impoundment allows for the characterization of liquid that could potentially migrate from a CCR surface impoundment.

Answer: Respondent objects that this request is vague, ambiguous, and overly broad. Subject to and without waiving that objection, deny.

18. Admit porewater sampling within a CCR surface impoundment collects and analyzes samples from the mobile liquid phase in the pore spaces of the CCR material in that CCR surface impoundment.

Answer: Respondent objects to this request as irrelevant. The request appears to address an abstract definition of “porewater sampling” rather than any sampling or analysis specific to this case. Respondent also objects to this request as vague and ambiguous, because the term “porewater sampling” is undefined and it is moreover unclear how “sampling” can “analyz[e] samples.” Sampling and analysis are different things. Subject to and without waiving these objections, deny.

19. Admit that leachate from the Newton PAP, in a mobile phase, moving from the Newton PAP to groundwater is the only method by which the Newton PAP could have caused or contributed to the contamination of groundwater in APW15.

Answer: Deny.

20. Admit total solids sampling of CCR does not provide data on the mobile contaminant phases associated with CCR.

Answer: Respondent objects that this request is vague and ambiguous, because the term “total solids sampling” is undefined and the phrases “data on” and “associated with” are vague and ambiguous. Respondent cannot determine whether Petitioner is asking about data relating in any way to “mobile contaminant phases” that might be associated in any way with CCR or specifically data that could be used to characterize those phases as they existed at the time of sampling. Subject to and without waiving that objection, deny.

21. Admit that Part 845 does not reference leach testing.

Answer: Deny the characterization of Part 845, which speaks for itself.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Samuel Henderson
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Dated: July 10, 2024

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GENERATING COMPANY,)

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ILLINOIS ENVIRONMENTAL PROTECTION)
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Respondent.)

PCB 2024-043
(Petition for review – Alternative
Source Determination)

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109 (2022), Lauren Hunt certifies that she is employed by the Illinois Environmental Protection Agency; that she has direct and personal knowledge as to the IEPA nonconcurrency decision at issue in this matter, that she has read the foregoing RESPONDENT'S ANSWERS TO PETITIONER'S REQUESTS TO ADMIT; and that the factual statements set forth in said answers are true and correct, except as to those matters stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



Lauren Hunt

Dated: 7-10-24