

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION, LLC,)	
Petitioner,)	
)	
v.)	PCB 24-
)	
ILLINOIS ENVIRONMENTAL)	(Permit Appeal – Ninety Day
PROTECTION AGENCY,)	Extension)
Respondent.)	

NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board Petitioner Midwest Generation, LLC’s **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD**, a copy of which is herewith served upon you.

Dated: August 5, 2024

MIDWEST GENERATION, LLC

By: /s/Kristen L. Gale

Kristen L. Gale
 Susan M. Franzetti
 Genevieve J. Essig
 NIJMAN FRANZETTI LLP
 10 South LaSalle Street Suite 3400
 Chicago, IL 60603
 (312) 251-5590
kg@nijmanfranzetti.com
sf@nijmanfranzetti.com
ge@nijmanfranzetti.com

SERVICE LIST

Don Brown, Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
don.brown@illinois.gov

Rebecca Strauss
Charles Matoesian
Illinois Environmental Protection Agency
1021 North Grand Ave., E.
Springfield, IL 62702
charles.matoesian@illinois.gov
Rebecca.Strauss@Illinois.gov

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing and Petitioner Midwest Generation, LLC's Request for Ninety Day Extension of Appeal Period was electronically filed on August 5, 2024 with the following:

Don Brown, Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
don.brown@illinois.gov

and that copies were sent via e-mail on August 5, 2024 to the parties on the service list.

Dated: August 5, 2024

/s/Kristen L. Gale

Kristen L Gale
Susan M. Franzetti
Genevieve J. Essig
Nijman Franzetti LLP
10 S. LaSalle Street, Suite 3400
Chicago, IL 60603
(312) 251-5590
kg@nijmanfranzetti.com
sf@nijmanfranzetti.com
ge@nijmanfranzetti.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION, LLC,)	
Petitioner,)	
)	
v.)	PCB 24-
)	
ILLINOIS ENVIRONMENTAL)	(Permit Appeal – Ninety Day
PROTECTION AGENCY,)	Extension)
Respondent.)	

REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD

NOW COMES Petitioner, Midwest Generation, LLC (“MWG”), and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to November 5, 2024, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, MWG respectfully states as follows:

1. On or about July 3, 2024, the Illinois EPA issued to the Petitioner a Coal Combustion Residual Surface Impoundment Retrofit Construction Permit for MWG’s Powerton Generating Station. *See* Attachment 1.
2. Petitioner received the permit on or about July 3, 2024.
3. On August 4, 2024, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. On August 5, 2024, Illinois EPA responded stating that it was amenable to the extension of the permit appeal period and joins in the request. *See* Attachment 2.

4. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety day extension of the third-five day period for petitioning a hearing.

Respectfully submitted,

MIDWEST GENERATION, LLC

Petitioner,

By: /s/Kristen L. Gale
One of its attorneys

Kristen L Gale
Susan M. Franzetti
Genevieve J. Essig
Nijman Franzetti LLP
10 S. LaSalle Street, Suite 3400
Chicago, IL 60603
(312) 251-5590
kg@nijmanfranzetti.com
sf@nijmanfranzetti.com
ge@nijmanfranzetti.com

ATTACHMENT 1



217/782-0610

July 3, 2024

Midwest Generation, LLC
13082 East Manito Road
Pekin, Illinois 61554

Re: Midwest Generation, LLC
Powerton Generating Station
Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030
Bureau ID: W1798010008

Dear Permittee:

Attached is the final Coal Combustion Residual Surface Impoundment Retrofit Construction Permit for your facility. The Permit as issued covers monitoring and related reporting requirements. Failure to meet any portion of the Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge. Since the public notice of your permit, the following changes have been made:

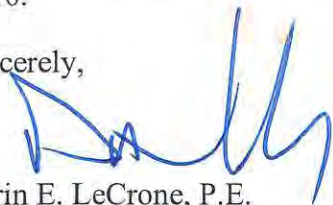
1. Special Condition 7 now notes that financial assurance information was submitted both in their initial application received October 21, 2021 and in a separate submission dated June 21, 2021.
2. Special Condition 9 now correctly references the Annual Consolidated Report in Special Condition 17.
3. Special Condition 13 now requires that the permittee shall notify the Agency within 7 days of construction being completed.
4. Reference to leachate monitoring data has been removed from Special Condition 11.
5. Special Condition 15 has been revised to not include CCR.
6. Various spelling and grammar mistakes have been corrected.

The attached Permit is effective as of the date indicated on the first page of the Permit. Until the effective date of any re-issued Permit, the limitations and conditions of the previously issued Permit remain in full effect. You have the right to appeal any condition of the Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

Page 2

Should you have questions concerning the Permit, please contact Mark E. Liska at 217/782-0610.

Sincerely,



Darin E. LeCrone, P.E.
Manager, Permit Section
Division of Water Pollution Control

DEL:MEL:24032601.docx

Attachment: Final Permit

cc: Records
Compliance Assurance Section
Peoria Region
Billing
USEPA

Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue East

Post Office Box 19276

Springfield, Illinois 62794-9276

Coal Combustion Residual Surface Impoundment Retrofit Construction Permit

Expiration Date: June 30, 2029

Issue Date: July 3, 2024

Name and Address of Permittee:

Midwest Generation, LLC
13082 East Manito Rd.
Pekin, IL 61554

Name and Address of Facility:

Midwest Generation, LLC
Powerton Generating Station
13082 East Manito Rd.
Pekin, IL 61554
(Tazewell County)

CCR Impoundment:

W1798010008-04 Ash Bypass Basin

In compliance with the provisions of the Illinois Environmental Protection Act, Title 35 of Ill. Adm. Code, Subtitle C and/or Subtitle D, Chapter 1, and the Clean Water Act (CWA), the above-named permittee is hereby authorized to retrofit construct a coal combustion residual (CCR) surface impoundment, at the above location in accordance with the standard conditions and attachments herein.

Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030 authorizes the retrofit construction of the Ash Bypass Basin in accordance with 35 Illinois Administrative Code Part 845 as described below.

Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030 does not authorize the operation of the Ash Surge Basin, the Metal Cleaning Basin, the Ash Bypass Basin, or the Former Ash Basin.

Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030 does not authorize the closure of the Ash Bypass Basin, corrective action for the Ash Bypass Basin, or any construction activities associated with the closure of the Ash Bypass Basin.

Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030 does not authorize the closure, corrective action, or any construction for the Ash Surge Basin, the Former Ash Basin, or the Metal Cleaning Basin.

Coal Combustion Residual Surface Impoundment Permit No. 2024-CC-100030 does not authorize the discharge of any wastewater to waters of the United States. NPDES Permit No. IL0002232 authorizes this facility to discharge wastewater to waters of the United States.

Coal combustion residuals, consisting of bottom ash discharged from the station's dewatering bins and other process waste streams related to electric power-generating operations when the Ash Surge Basin was being cleaned. The Ash Bypass Basin covers approximately 0.83 acres and has a storage capacity of approximately 6,700 cubic yards.

Permit is hereby granted to the above designated permittee(s) to construct facilities described as follows:

The retrofit construction of the Ash Bypass Basin including the removal of the gravel warning and sand cushion layers over the existing

geomembrane liner, decontaminating the basin's existing geomembrane liner for re-use as a supplemental liner, decontaminating the basin's appurtenant structures, installing a new basin floor and slopes, installing a composite liner system consisting of a 60-mil HDPE geomembrane over a geosynthetic clay liner, installing a leachate collection and removal system consisting of a drainage geocomposite, leachate collection pipe, and submersible sump pump, installing a sand filter layer over the leachate collection and removal system, and installing a protective warning layer over the sand filter layer. Retrofit construction includes all pipes, pumps, and appurtenances as specified in the Application for Retrofit Construction Permit application dated July 15, 2022 and the Amended Written Retrofit Plan Revision 1 dated March 5, 2024.

Permittee is not authorized to operate after the above expiration date. In order to receive authorization to operate beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.



Darin E. LeCrone P.E.
Manager, Permit Section
Division of Water Pollution Control

DEL:MEL:24032601.docx

CCR Impoundment Permit No. 2021-CO-100029

Special Conditions

SPECIAL CONDITION 1: This permit does not relieve the Permittee of the responsibility of complying with the provisions of the State of Illinois Rules and Regulations, 35 Ill. Adm. Code Subtitle B, Air Pollution Control, Chapter 1 and 35 Ill. Adm. Code Subtitle G, Land Pollution Control, Chapter 1. The Permittee may be required to file reports and/or obtain applicable permits through the Illinois EPA's Bureau of Air (BOA) - Division of Air Pollution Control (DAPC) and/or Illinois EPA's Bureau of Land (BOL) – Division of Land Pollution Control (DLPC).

SPECIAL CONDITION 2: This construction permit is for Retrofitting of the Ash Bypass Basin and does not cover any closure construction or post-closure care of the Ash Bypass Basin. This permit does not authorize any construction activities necessary for closure and/or corrective action of the Ash Bypass Basin.

SPECIAL CONDITION 3: The operator shall implement methods for controlling dust, including the Fugitive Dust Control Plan included in Application Log No. 2021-100029, so as to prevent wind dispersal of particulate matter off-site.

SPECIAL CONDITION 4: A permanent sign shall be maintained at each CCR impoundment that contains the information required under 35 IAC, Section 845.130.

SPECIAL CONDITION 5: The written Emergency Action Plan (EAP), shall be maintained by the facility. The EAP and all amendments must be placed in the facility's operating record. Upon activation of the EAP, the facility must notify Illinois EPA in writing within 30 days of activation and place all corresponding documentation in the facility operating record. The permittee may amend the EAP at any time but must amend the EAP when there is a change in conditions that would substantially affect the EAP.

SPECIAL CONDITION 6: The Safety and Health Plan and accompanying certification has been submitted as part of Permit Application Log No. 2021-100029 and must be maintained by the facility. The plan must be updated annually and on an as needed basis. The Safety and Health Plan and all amendments must be placed in the facility operating record.

SPECIAL CONDITION 7: The permittee submitted financial assurance in accordance with Part 845 Subpart I in their application and in a separate submission dated June 21, 2021. The permittee shall provide and maintain financial assurance in accordance with Part 845 Subpart I.

SPECIAL CONDITION 8: All CCR impoundments and any lateral expansion of a CCR surface impoundment must be inspected by a qualified person on a weekly basis and after each 25-year, 24-hour storm event. All CCR surface impoundment instrumentation must be inspected at least every 30 days. A report for each inspection shall be generated and placed into the facility operating record.

SPECIAL CONDITION 9: Each CCR Surface impoundment must be inspected on an annual basis by a qualified Professional Engineer, in accordance with 35 IAC 845.540. An inspection report must be completed and included with the Annual Consolidated Report, as specified in Special Condition 17.

SPECIAL CONDITION 10: Within 60 days of the effective date of this construction permit, the facility must install and begin to monitor at least two additional down gradient wells in the Silty Clay/Silt Unit, two piezometers in the fill unit, and two staff gages in the intermittent stream and standing water within the wetlands north of the service road splitting up the Former Ash Basin.

SPECIAL CONDITION 11: All certifications, logs, reports, plan sheets, notices, and groundwater monitoring data required to be submitted to the Illinois EPA by the permittee shall be mailed to the following address:

Illinois Environmental Protection Agency
Compliance Assurance Section
Bureau of Water
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Information submittals transmitted by FedEx or UPS shall be mailed to the following address:

Illinois Environmental Protection Agency
Compliance Assurance Section
Bureau of Water
1021 North Grand Avenue East
Springfield, Illinois 62702

CCR Impoundment Permit No. 2021-CO-100029

Special Conditions

Electronic groundwater monitoring data shall be emailed to Illinois EPA at the following email address:
EPA.BOW.GWS.CCR@illinois.gov

Except for electronic groundwater, the operator shall provide the Illinois EPA with the original and two (2) copies of all certifications, logs, reports, and plan sheets required by this permit.

SPECIAL CONDITION 12: The permittee will commence construction in accordance with the specifications listed in the Application for Retrofit Construction Permit application dated July 15, 2022 and the Amended Written Retrofit Plan Revision 1 dated March 5, 2024. Any changes made to the construction plans must be approved by the Agency.

SPECIAL CONDITION 13: The permittee shall notify the Agency within 7 days of construction being completed.

SPECIAL CONDITION 14: Issuance of this permit does not release the Permittees from any liability for prior violations of the Act or Rules and Regulations promulgated thereunder.

SPECIAL CONDITION 15: All sludges not considered Coal Combustion Residual as defined under 35 Ill. Adm. Code Part 845, if generated, shall be disposed of at a site and in a manner acceptable to the Agency, including obtaining required state construction and/or operating permits from the Agency.

SPECIAL CONDITION 16: All discharges to a Water of the United States shall be governed by NPDES Permit No. IL0002232.

SPECIAL CONDITION 17: All certifications, logs, reports, plan sheets, notices, and groundwater monitoring data generated as a part of the construction quality assurance program must be reported in the retrofit construction completion report in accordance with 35 IAC 845.770(g) and is required to be submitted to the Illinois EPA prior to termination of the retrofit construction permit by the permittee. The permittee shall mail the retrofit construction completion report to the following address:

Illinois Environmental Protection Agency
Compliance Assurance Section
Bureau of Water
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Information submittals transmitted by FedEx or UPS shall be mailed to the following address:

Illinois Environmental Protection Agency
Compliance Assurance Section
Bureau of Water
1021 North Grand Avenue East
Springfield, Illinois 62702

ATTACHMENT 2

From: [Strauss, Rebecca Y.](#)
To: [Kristen Gale](#); [Matoesian, Charles](#)
Cc: [Diers, Stefanie](#); [Genevieve Essig](#)
Subject: RE: Powerton Operating Permit and Construction Permit Appeal Extension
Date: Monday, August 5, 2024 8:39:31 AM

Hi Kristen,

Yes, the Agency is amenable to a 90-day extension of the appeal period for both permits and joins in the request.

Thanks,
Rebecca

Rebecca Strauss
Assistant Counsel, Water Regulatory Unit
Illinois Environmental Protection Agency
1021 North Grand Ave., E.
Springfield, IL 62702
(217) 557-1451

From: Kristen Gale <kg@nijmanfranzetti.com>
Sent: Sunday, August 4, 2024 4:17 PM
To: Strauss, Rebecca Y. <Rebecca.Strauss@Illinois.gov>; Matoesian, Charles <Charles.Matoesian@Illinois.gov>
Cc: Diers, Stefanie <Stefanie.Diers@Illinois.gov>; Genevieve Essig <ge@nijmanfranzetti.com>
Subject: [External] Powerton Operating Permit and Construction Permit Appeal Extension

Hi Rebecca:

Section 105.208(c) of the Board rules states that "any request for extension of time under this Section must be accompanied by written evidence that the Agency joins in the request, e.g., affidavit of the petitioner or signature of the Agency's representative." Following up on our oral agreement on Wednesday, please confirm by responding to this email tomorrow that you are amenable to a 90-day extension of the appeal period for both the Powerton Operating Permit and Construction Permit and that the Agency joins in the Request.

Upon receipt we will get it on file.

Thanks
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

CONFIDENTIALITY NOTICE: This E-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of this E-mail or any attachment is prohibited. If you have received this E-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system.

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.