

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DYNEGY MIDWEST GENERATION, INC.	)	
(WOOD RIVER POWER STATION),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 09-_____
	)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

NOTICE OF FILING

To:

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

Alec Messina, General Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that we have today filed with the Office of the Clerk of the Pollution Control Board **APPEAL OF CONSTRUCTION PERMIT and the APPEARANCES OF KATHLEEN C. BASSI, STEPHEN J. BONEBRAKE, and SHELDON A. ZABEL**, copies of which are herewith served upon you.

  
\_\_\_\_\_  
Kathleen C. Bassi

Dated: July 21, 2008

Kathleen C. Bassi  
Stephen J. Bonebrake  
Sheldon A. Zabel  
SCHIFF HARDIN LLP  
Attorneys for Dynegy Midwest Generation, Inc.  
6600 Sears Tower  
233 South Wacker Drive  
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**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 21st day of July, 2008, I have served electronically the attached **APPEAL OF CONSTRUCTION PERMIT and the APPEARANCES OF KATHLEEN C. BASSI, STEPHEN J. BONEBRAKE, and SHELDON A. ZABEL**, upon the following persons:

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

and by first-class mail with postage thereon fully prepaid and affixed to the following persons:

Alec Messina, General Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

  
Kathleen C. Bassi

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PROTECTION AGENCY, )

Respondent. )

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of Dynegy Midwest Generation, Inc., (Wood River Power Station).

  
\_\_\_\_\_  
Kathleen C. Bassi  
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6600 Sears Tower  
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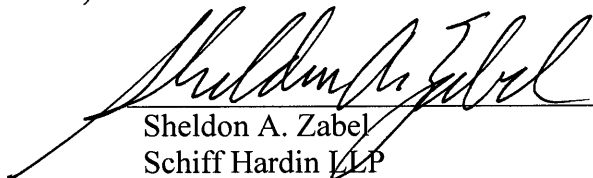
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	)	<b>(Permit Appeal – Air)</b>
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ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
<b>Respondent.</b>	)	

**APPEAL OF CONSTRUCTION PERMIT FOR THE INSTALLATION OF A SORBENT INJECTION SYSTEM AT WOOD RIVER POWER STATION, UNIT 5**

NOW COMES Petitioner, DYNEGY MIDWEST GENERATION, INC. (WOOD RIVER POWER STATION) (“Petitioner” or “Dynegy”), pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (“Act”) (415 ILCS 5/40(a)(1)) and 35 Ill.Adm.Code § 105.200 *et seq.*, and requests a hearing before the Board to contest the decisions contained in the construction permit<sup>1</sup> issued to Petitioner on June 12, 2008, pursuant to Section 39(a) of the Act (415 ILCS 5/39(a)) and 35 Ill.Adm.Code § 201.142 (“permit” or “construction permit”) and attached hereto as Exhibit 1. 35 Ill.Adm.Code §§ 105.210(a) and (b). Petitioner received the construction permit on June 17, 2008. *See* Exhibit 1. Pursuant to Sections 39(a) and 40(a)(1) of the Act, 35 Ill.Adm.Code §§ 105.206(a) and 105.208(a), this Petition is timely filed with the Board.

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<sup>1</sup> Application No. 08020011.

In support of its Petition to appeal Conditions 2(b)(iii), 2(b)(vi), 4, 5(b), 7(a), 7(b)(i)(A) and (B), 7(b)(ii), and 11 of the construction permit issued June 12, 2008, for Unit 5 of the Wood River Power Station, Petitioner states as follows:

**I. BACKGROUND**  
**(35 Ill. Adm. Code § 105.304(a))**

1. The Wood River Power Station (“Wood River”), Illinois Environmental Protection Agency (“Agency”) I.D. No. 119020AAE, is an electric generating station owned and operated by Dynegy Midwest Generation, Inc. The Wood River electrical generating units (“EGUs”) went online between roughly 1954 and 1964. The Wood River Power Station is located at # 1 Chessen Lane, Alton, Madison County, Illinois 62002. Madison County is attainment for all National Ambient Air Quality Standards except fine particulate matter (“PM2.5”) and ozone. Madison County is part of the Metro-East/St. Louis PM2.5 and ozone nonattainment areas. Dynegy employs approximately 98 people at Wood River.

2. Dynegy operates two coal-fired boilers at Wood River, but only one boiler, Unit 5, is the subject of this appealed construction permit. Unit 5, whose principal fuel is coal, fires natural gas as auxiliary fuel during startup and for flame stabilization. Certain alternative fuels may be utilized in Unit 5 as well. Unit 5 operates an electrostatic precipitator (“ESP”) to control particulate matter emissions and, to control nitrogen oxides (“NOx”), utilizes low NOx burners and over-fired air. Wood River operates associated coal handling, coal processing, and ash handling equipment and systems in conjunction with Unit 5.

3. Wood River is a major source subject to the Clean Air Act Permitting Program (“CAAPP”) (415 ILCS 5/39.5). The Agency issued a CAAPP permit to Dynegy for Wood River on September 29, 2005. Subsequently, on November 2, 2005, Dynegy timely appealed the CAAPP permit for Wood River at PCB 06-074. The Board accepted the appeal for hearing on



November 17, 2005. On February 16, 2006, the Board found that the CAAPP permit is stayed. Order, *Dynegy Midwest Generation, Inc. (Wood River Power Station) v. Illinois Environmental Protection Agency*, PCB 06-074 (February 16, 2006), p. 2. Wood River is subject to the federal Acid Rain Program at Title IV of the Clean Air Act and has been issued a Phase II Acid Rain Permit.

4. Dynegy entered into a Consent Decree in the matter of the *United States of America, et al. v. Dynegy Midwest Generation, et al.*, Case No. 99-833-MJR in the United States District Court for the Southern District of Illinois (the "Consent Decree"). Applicable provisions in the Consent Decree must be reflected in permits issued to Dynegy. Among other things, the Consent Decree requires Unit 5 to meet a stringent particulate matter emissions limit of 0.030 lb/mmBtu. Dynegy's operation of the Wood River Power Station must comply with the provisions of the Consent Decree as well as with applicable law and regulations. However, the Consent Decree does not require the sorbent injection system that is the subject of this appealed construction permit and so is not a factor in this permit.

5. Relevant to this appeal, PM emissions from Unit 5 are currently controlled by an ESP with a flue gas conditioning system. The permit at issue here authorizes the construction and operation of a sorbent injection system to reduce emissions of mercury pursuant to the Multiple Pollutant Standard ("MPS") of 35 Ill. Adm. Code § 225.233. Dynegy opted in to the MPS on November 26, 2007.

## **II. REQUEST FOR PARTIAL STAY OF THE PERMIT**

6. Historically, the Board has granted partial stays in permit appeals where a petitioner has so requested. See, e.g., *Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. Illinois Environmental Protection Agency*, PCB 08-066 (May 15, 2008) (granted

stay of the portions of the permit contested by Dynegy); *Dynegy Midwest Generation, Inc. (Havana Power Station) v. Illinois Environmental Protection Agency*, PCB 07-115 (October 4, 2007) (same); *Dynegy Midwest Generation, Inc. (Vermilion Power Station) v. Illinois Environmental Protection Agency*, PCB 06-194 (October 19, 2006) (granted stay “of the portions of the permit Dynegy contests”); *Midwest Generation, LLC, Will County Generating Station v. Illinois Environmental Protection Agency*, PCB 06-156 (July 20, 2006) (granted stay of the effectiveness of contested conditions of a construction permit); *Hartford Working Group v. Illinois Environmental Protection Agency*, PCB 05-74 (November 18, 2004) (granted stay of the effectiveness of Special Condition 2.0 of an air construction permit); *Community Landfill Company and City of Morris v. Illinois Environmental Protection Agency*, PCB 01-48 and 01-49 (Consolidated) (October 19, 2000) (granted stay of effectiveness of challenged conditions for two permits of two parcels of the landfill); *Allied Tube & Conduit Corp. v. Illinois Environmental Protection Agency*, PCB 96-108 (December 7, 1995) (granted stay of the effectiveness of Conditions 4(a), 5(a), and 7(a) of an air permit).

7. Dynegy will suffer irreparable harm and the environment will not receive the benefit of the pollution control facilitated by the sorbent injection system if Dynegy is not allowed to construct and operate the sorbent injection system for Unit 5 at the Wood River Power Station. Dynegy’s request for stay of the contested language would provide the necessary and appropriate authorizations to install and operate the sorbent injection system in a manner to protect the environment while allowing Dynegy to exercise its right to an appeal under Section 40(a) of the Act.

8. Dynegy requests in this instance that the Board exercise its inherent discretionary authority to grant a partial stay of the construction permit, staying only those conditions or

portions of conditions indicated in Exhibit 2, *i.e.*, Conditions 2(b)(iii), 2(b)(vi), 4, 5(b), 7(a), 7(b)(i)(A) and (B), 7(b)(ii), and 11. In the alternative, if the Board believes that it must stay the entirety of an appealed condition rather than only the portions of the condition where so indicated in Exhibit 2, Dynegey requests that the Board stay the entirety of each of the conditions identified in Exhibit 2 except for Conditions 2(b)(iii), 7(b)(ii), and 11.

**III. ISSUES ON APPEAL**  
**(35 Ill.Adm.Code §§ 105.210(c))**

9. The conditions on appeal are as follows:

**A. Condition 2(b)(vi) – Sunset on authorization to operate the boiler.**

10. A general problem with the permit is that the Agency is using this construction permit as the vehicle to implement the mercury requirements of 35 Ill.Adm.Code 225.Subpart B (“Subpart B”) contrary to the provisions of Subpart B. Subpart B provides that the rule will be implemented through CAAPP permits, not construction permits. *See* 35 Ill.Adm.Code § 225.210(a). The Agency has included requirements in the permit that reflect Subpart B generally without regard to the specific subject of the construction activity for which Dynegey submitted its application. Generally speaking, Condition 2 addresses operation of the boiler, not of the sorbent injection system. To the extent that the sorbent injection system affects operation of the boiler, Dynegey does not disagree with the Agency that such conditions are appropriate. However, when the conditions address operation of the boiler in a fashion that exceeds the scope of the activity for which the permit was issued, Dynegey objects.

11. Condition 2(b)(vi) prohibits Dynegey from operating the boiler past January 1, 2015, or once Dynegey complies with the general mercury emission limitations of Subpart B. Dynegey acknowledges that this is a requirement of Subpart B and of the MPS; however, this requirement is not relevant to Dynegey’s request to install and operate a sorbent injection system.

Dynegy has an independent obligation to comply with applicable regulations. Omission of this particular condition would not relieve Dynegy of its requirement to comply with the Subpart B mercury emission limitations by January 1, 2015. Likewise, inclusion of this condition does not obligate Dynegy to comply with the mercury limitations by January 1, 2015. Condition 2(b)(vi) exceeds the scope of Dynegy's request to construct and operate a sorbent injection system.

12. The condition is meaningless and inappropriate and should be deleted from the permit. Dynegy requests that the Board stay Condition 2(b)(vi), as set forth in Exhibit 2, during the pendency of this appeal.

**B. Condition 4 – Instrumentation to Record the Rate of Sorbent Injection**

13. Condition 4 requires that Dynegy install and operate instrumentation that will measure and record the rate of sorbent injection. This condition exceeds the scope of the applicable regulation, 35 Ill.Adm.Code § 225.233(c)(5). The pertinent provisions of Section 225.233(c)(5) are as follows:

- A) For the first 36 months that injection of sorbent is required, it must maintain records of the usage of sorbent, the exhaust gas flow rate from the EGU, and the sorbent feed rate, in pounds per million actual cubic feet of exhaust gas at the injection point, on a weekly average;
- B) After the first 36 months that injection of sorbent is required, it must monitor activated sorbent feed rate to the EGU, flue gas temperature at the point of sorbent injection, and exhaust gas flow rate from the EGU, automatically recording this data and the sorbent carbon feed rate, in pounds per million actual cubic feet of exhaust gas at the injection point, on an hourly average.

35 Ill.Adm.Code § 225.233(c)(5)(A)-(B). (Emphasis added.) According to the regulation, Dynegy is not required to “install and operate instrumentation” that will measure and record the sorbent injection rate until three years after installation, or some time in 2012.

14. Therefore, Condition 4 exceeds the scope of the Agency's authority and should be deleted or modified to reflect the requirements of the rule. Dynegey requests that the Board stay Condition 4, as set forth in Exhibit 2, during the pendency of this appeal.

**C. Condition 5(b) – Recordkeeping Required Before the Dates Set Forth in the Regulation and Recordkeeping of Mercury Data, Including Coal Analyses**

15. Condition 5(b) says, "During the period before the Permittee is required to keep records pursuant to 35 IAC Part 225 Subpart B. . . ." The Agency has authority to require of sources only what the Environmental Protection Act or the Board's regulations grant it authority to require. This requirement exceeds the scope of the Agency's authority and is, therefore, illegal.

16. Moreover, the records that Condition 5(b) requires prior to the dates set forth in the applicable regulations include coal supply data. Condition 5(b)(i) requires records of otherwise existing mercury emissions data and does not impose an independent requirement to collect data, but Condition 5(b)(ii) requires the collection of data to characterize the mercury content of the coal supply. While the data collected pursuant to Condition 5(b)(ii) can be as little as a single sample from the current coal supplier, coal supply data is relevant only when Dynegey must comply with the mercury emission limitations, *i.e.*, beginning January 1, 2015, and then only if Dynegey chooses to comply by reducing mercury from input coal by 90%. *See* 35 Ill.Adm.Code § 225.233(d).

17. For these reasons, Dynegey appeals Condition 5(b) and requests that the Board stay Condition 5(b), as set forth in Exhibit 2, during the pendency of this appeal.

**D. Conditions 7(a) and (b)(ii) – Deviation Reporting**

18. Condition 7(a) requires that Dynegey report deviations from the requirements of the permit. Deviation reporting is a function of CAAPP permitting, not of Part 201, construction

permitting. Although this construction permit will, indeed, serve as an operating permit for the sorbent injection system authorized by the permit until such time as the pertinent provisions are transferred to the CAAPP permit, this construction permit is not a CAAPP permit. It is not subject to any of the CAAPP requirements for permitting. Requiring deviation reporting exceeds the scope of the Agency's authority. For this reason, Dynegy appeals Condition 7(a) and requests that the Board stay the condition, as set forth in Exhibit 2, during the pendency of this appeal. Dynegy appeals Condition 7(b)(ii) to the extent it references Condition 7(a) and requests that the Board stay those portions of Condition 7(b)(ii), as set forth in Exhibit 2, during the pendency of this appeal.<sup>2</sup>

**E. Conditions 7(b)(i)(A) and (B) – Reporting When Boiler Continues Operation During Malfunction or Breakdown of the Sorbent Injection System**

19. Condition 7(b) requires notification and reporting when Dynegy continues “operation of the affected boiler . . . during a malfunction or breakdown with a violation of 35 IAC 225.233(c)(2). . . .” Section 225.233(c)(2) sets forth sorbent injection requirements for sources in the MPS. However, the timeframes provided in Conditions 7(b)(i)(A) and (B) do not correspond with the timeframes contained in Section 225.233(c)(5), which dictate the averaging periods applicable to the rate of sorbent injection. *See* paragraph 13 above. For example, Condition 7(b)(i)(A) requires notification and reporting if the “violation exceeds or may exceed 24 hours.” Condition 7(b)(i)(B) refers to incidents that are 72 hours or more in duration. Dynegy does not know how to calculate these provisions in light of the weekly averaging provisions of Section 225.233(c)(5).

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<sup>2</sup> If the Board finds that it cannot stay only a portion of Condition 7(b)(ii), then Dynegy requests that it not stay the entirety of the condition.

20. For these reasons, Dynegy appeals Conditions 7(b)(i)(A) and (B) and requests that the Board stay Condition 7(b)(i)(A) and (B), as set forth in Exhibit 2, during the pendency of this appeal.

**F. Condition 2(b)(iii) – References to Appealed Conditions 5(b) and 7(b)**

21. Condition 2(b)(iii) references Conditions 5(b) and 7(b), both of which are appealed here. Dynegy appeals those cross-references, consistent with its appeals of Conditions 5(b) and 7(b). Dynegy requests that the Board stay Condition 2(b)(iii), as set forth in Exhibit 2, during the pendency of this appeal; however, if the Board determines that it cannot stay only a portion of a condition, then Dynegy does not request that Condition 2(b)(iii) be stayed.

**G. Condition 11 – Authority to Operate the Boiler**

22. Condition 11 grants Dynegy the authority to operate the boiler but does not specifically grant Dynegy the authority to operate the sorbent injection system, though such authority is implied. Dynegy applied to construct and operate a sorbent injection system. It already has the necessary permits authorizing operation of the boiler. This additional authorization seems duplicative, and the authority to operate seems misplaced. The authority granted here should be to operate the sorbent injection system. For this reason, Dynegy appeals Condition 11 but does not request that Condition 11 be stayed.

WHEREFORE, for the reasons set forth above, Dynegy appeals Conditions 2(b)(iii), 2(b)(vi), 4, 5(b), 7(a), 7(b)(i)(A) and (B), 7(b)(ii), and 11 of the construction permit issued June 12, 2008, for the Wood River Power Station. Additionally, Dynegy requests that the Board stay all or the portions of the conditions appealed above except for Condition 11, as set forth in Exhibit 2. In the event the Board believes it cannot stay part of a condition, Dynegy requests that

the Board stay all the conditions appealed above except for Conditions 2(b)(iii), 7(b)(ii) and 11.

Dynegy will extend its current practices of recordkeeping and reporting to the new sorbent injection system, as appropriate, and will, of course, comply with all requirements of the Board's regulations applicable to the new sorbent injection system during the pendency of this appeal. Operation of the sorbent injection system will benefit air quality by reducing the amount of mercury emitted to the environment.

Respectfully submitted,

DYNEGY MIDWEST GENERATION, INC.  
(WOOD RIVER POWER STATION)

by:

  
\_\_\_\_\_  
One of Its Attorneys

Dated: July 21, 2008

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**EXHIBIT 1**

**Construction Permit**

**Issued to**

**Dynegy Midwest Generation (Wood River Power Station)**

**(June 12, 2008)**

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR

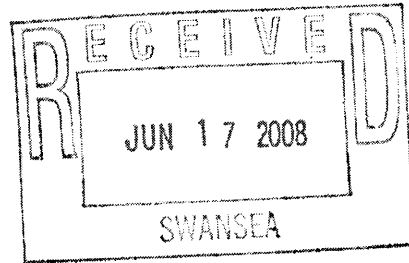
DOUGLAS P. SCOTT, DIRECTOR

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Dynegy Midwest Generation, Inc.  
Attn: Rick Diericx  
Operations Environmental Compliance  
604 Pierce Blvd  
O'Fallon, Illinois 62269



Application No.: 08020011

I.D. No.: 119020AAE

Applicant's Designation:

Date Received: February 5, 2008

Subject: Sorbent Injection System for Unit 5

Date Issued: June 12, 2008

Location: Wood River Generating Station, #1 Chessen Lane, Alton

Permit is hereby granted to the above-designated Permittee to CONSTRUCT equipment consisting of a sorbent injection system to control mercury emissions for the Unit 5 boiler, as described in the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This Permit authorizes construction of sorbent injection system (the affected system) for the existing coal-fired boiler for Unit 5 (the affected boiler). The new sorbent injection system would be used to control mercury emissions to comply with 35 IAC Part 225, Subpart B, Control Of Mercury Emissions From Coal-Fired Electric Generating Units, by injecting sorbent, i.e., halogenated activated carbon, into the ductwork prior to the particulate control device on the affected boiler.
- b.
  - i. This permit is issued based on this project being an emissions control project, whose purpose and effect will be to reduce emissions of mercury from the affected boiler and which will not significantly increase emissions of other PSD pollutants. As such, the terms and conditions of the existing permits will continue to govern emissions and operation of the affected boiler or generating unit except as specifically indicated in this permit.
  - ii. This permit is issued based on the storage and handling of activated carbon for the affected system qualifying as insignificant activity, with annual emissions of PM in the absence of control equipment that would be no more than 0.44 tons, so that this activity need not be addressed by this permit.
- c. Other than the use of the sorbent injection system on the affected boiler, this permit does not authorize any modifications to the affected boiler or the generating unit, which would increase its capacity or potential emissions.

Page 2

- 2a. For the affected boiler, beginning on the applicable dates specified by 35 IAC Part 225, Subpart B, the Permittee shall comply with applicable requirements in this rule for control of mercury emissions and associated requirements in this rule for sampling, monitoring, recordkeeping, and reporting.

Note: For the affected boiler, the Permittee has notified the Illinois EPA that it intends to comply with 35 IAC Part 225 Subpart B by means of the Multi-Pollutant Standards (MPS), 35 IAC 225.233, which has a compliance date of July 1, 2009 for units, like the affected boiler, which is not equipped with a scrubber or fabric filter.

- b. Subject to the following provisions, if an affected boiler is complying with 35 IAC Part 225 by means of 35 IAC 225.233(c), the Control Technology Requirements for Control of Emissions of Mercury under the Multi-Pollutant Standards, the Permittee is authorized to continue operation of the boiler in violation of the applicable requirements of 35 IAC 225.233(c)(2) in the event of a malfunction or breakdown of the sorbent injection system for the boiler or the associated sorbent storage and handling system. This authorization is provided pursuant to 35 IAC 201.149, 201.161 and 201.262, as the Permittee has applied for such authorization, generally explaining why such continued operation would be required to provide essential service and describing the measures that would be taken to minimize emissions from any malfunctions and breakdowns.
- i. This authorization only allows such continued operation of an affected boiler as necessary to provide essential service and does not extend to continued operation solely for the economic benefit of the Permittee.
- ii. Upon occurrence of a violation of 35 IAC 225.233(c)(2) due to malfunction or breakdown, the Permittee shall as soon as practicable repair the sorbent injection system, take actions to reduce the magnitude of the violation or excess emissions, or undertake other actions so that the violation ceases.
- iii. The Permittee shall fulfill applicable recordkeeping and reporting requirements of Conditions 5(b) and 7(b). For these purposes, time shall be measured from the start of a particular incident. The absence of a violation for a short period shall not be considered to end an incident if violations resume. In such circumstances, the incident shall be considered to continue until corrective actions are taken so that violations cease or the Permittee takes the affected boiler out of service.
- iv. Following notification to the Illinois EPA for a malfunction or breakdown of the affected system, the Permittee shall comply with all reasonable directives of the Illinois EPA with respect to such incident, pursuant to 35 IAC 201.263.

Page 3

- v. This authorization does not relieve the Permittee from the continuing obligation to minimize emissions during malfunction or breakdown. As provided by 35 IAC 201.265, an authorization in a permit for continued operation with a violation during malfunction or breakdown does not shield the Permittee from enforcement for any such violation and only constitutes a prima facie defense to such an enforcement action provided that the Permittee has fully complied with all terms and conditions connected with such authorization.
- vi. For the affected boiler, this authorization will end on January 1, 2015, or such earlier date that the Permittee begins complying with 35 IAC Part 225 Subpart B by a means other than 35 IAC 225.233(c), e.g., compliance by means of the Emission Standards for Mercury under the Multi-Pollutant Standards, 35 IAC 225.233(d).
- c. For storage and handling of sorbent, the Permittee shall comply with applicable standards in 35 IAC Part 212 for opacity and particulate matter emissions that apply to the new process emission units associated with the affected system.
- 3. At all times, the Permittee shall, to the extent practicable, maintain and operate the affected system including storage and handling of sorbent, in a manner consistent with good air pollution control practice for minimizing emissions from the affected boiler and the source.
- 4. The Permittee shall install, operate, and maintain instrumentation on the affected system to measure and record the rate of sorbent injection.
- 5a. The Permittee shall maintain the following records for the affected system on the affected boiler:
  - i. Records for the system that, at a minimum, when the affected boiler is in operation, identify the sorbent that is being used and each period of time when the affected system was not being operated or was not able to meet the applicable sorbent injection rate, with explanation, e.g., blockage of the sorbent supply system.
  - ii. Maintenance and repair records for the affected system that, at a minimum, list the activities performed, with date and description.
- b. During the period before the Permittee is required to keep records pursuant to 35 IAC Part 225 Subpart B, the Permittee shall maintain records of the following:
  - i. Data for mercury emissions of the affected boiler collected by the Permittee, if any, including but not limited to emission rate

Page 4

(micrograms per cubic meter, pounds per hour, or pounds per million Btu) and mercury control efficiency, with identification and description of the mode of operation of the affected boiler and the affected system.

- ii. Data for the mercury and heat content of the current coal supply to the affected boiler, with supporting data for the associated sampling and analysis methodology, so as to have data to characterize the mercury content of the coal supply.
6. The Permittee shall retain all records required by this permit at the source for at least 5 years from the date of entry and these records shall be readily accessible to the Illinois EPA for inspection and copying, upon request.
- 7a. The Permittee shall notify the Illinois EPA of deviations from the requirements of this permit as follows unless otherwise specified in the current CAAPP permit for the source. These notifications shall include a description of the deviation and the probable causes, a copy of relevant records, a description of the corrective actions taken, and a description of the preventative measures taken to avoid similar future occurrences.
- i. When 35 IAC Part 225, Subpart B, becomes applicable, i.e., on and after July 1, 2009, notifications for deviations shall be submitted with the periodic reports required by Subpart B, except as provided by Condition 7(b)(i).
  - ii. Before 35 IAC Part 225, Subpart B, becomes applicable, notifications for deviations from the requirements of this permit shall be submitted with the quarterly monitoring reports required for the affected boiler.
- b. Pursuant to 35 IAC 201.263, the Permittee shall provide the following notifications and reports to the Illinois EPA for incidents when operation of the affected boiler continue during a malfunction or breakdown with a violation of 35 IAC 225.233(c)(2), as addressed by Condition 2(b).
- i. A. The Permittee shall immediately notify the Illinois EPA's Regional Office, by telephone (voice, facsimile or electronic) if the duration of a violation exceeds or may exceed 24 hours. (Otherwise, if the duration of the violation is no more than 24 hours, the Permittee need only report the incident in accordance with Condition 7(b)(ii).)
  - B. Upon conclusion of any incident that is 72 hours or more in duration, the Permittee shall submit a written follow-up notice to the Illinois EPA, Compliance Section and Regional Office, within 15 days providing a detailed description of the incident and its cause(s), an explanation why continued operation was necessary, the length of time during which

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operation continued under such conditions, the measures taken by the Permittee to minimize and correct deficiencies with chronology, and when the repairs were completed or the affected boiler was taken out of service.

- ii. The Permittee shall submit periodic reports to the Illinois EPA that include the following information for incidents during the reporting period in which an affected boiler continued to operate during malfunction or breakdown with violation of 35 IAC 225.233(c)(2). These reports shall be submitted with the periodic reports submitted for the boiler pursuant to Condition 7(a).
  - A. A listing of such incidents, in chronological order, that includes: (1) the date, time, and duration of each incident, (2) the identity of the affected boiler involved in the incident, and (3) whether a follow-up notice was submitted for the incident pursuant to Condition 7(b)(i)(B), with the date of the notice.
  - B. The detailed information for each such incident required pursuant to Condition 7(a) (as each incident constitutes a deviation) and Condition 7(b)(i)(B). For this purpose, the Permittee need not resubmit information provided in a prior report for an incident, as identified above, but may elect to supplement the prior submittal.
  - C. The aggregate duration of all incidents during the reporting period (hours).
  - D. If there have been no such incidents during the reporting period, this shall be stated in the report.
8. The Permittee shall notify the Illinois EPA when the affected system on the affected boiler starts operation.
9. The Illinois EPA has determined that this project, as described in the application, will not constitute a modification of the affected boiler under the federal New Source Performance Standards, 40 CFR Part 60, as the project has the primary function of reducing emissions and is not considered a modification pursuant to 40 CFR 60.14(e)(5).
10. Two copies of required reports and notifications shall be sent to the Illinois EPA's Compliance Section at the following address unless otherwise indicated:

Illinois Environmental Protection Agency  
Division of Air Pollution Control  
Compliance Section (#40)  
P.O. Box 19276  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

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and one copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:

Illinois Environmental Protection Agency  
Regional Office/Division of Air Pollution Control  
2009 Mall Street  
Collinsville, Illinois 62234

11. The affected boiler may be operated with the sorbent injection system pursuant to this construction permit until an operating permit becomes effective that addresses operation of the boiler with this system.

If you have any questions on this permit, please call Kunj Patel at 217/782-2113.



Edwin C. Bakowski, P.E.  
Acting Manager, Permit Section  
Division of Air Pollution Control

Date Issued: June 12, 2008

ECB:CPR:KMP:psj

cc: Region 3





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affected boiler or the generating unit, which would increase its capacity or potential emissions.

- 2a. For the affected boiler, beginning on the applicable dates specified by 35 IAC Part 225, Subpart B, the Permittee shall comply with applicable requirements in this rule for control of mercury emissions and associated requirements in this rule for sampling, monitoring, recordkeeping, and reporting.

Note: For the affected boiler, the Permittee has notified the Illinois EPA that it intends to comply with 35 IAC Part 225 Subpart B by means of the Multi-Pollutant Standards (MPS), 35 IAC 225.233, which has a compliance date of July 1, 2009 for units, like the affected boiler, which is not equipped with a scrubber or fabric filter.

- b. Subject to the following provisions, if an affected boiler is complying with 35 IAC Part 225 by means of 35 IAC 225.233(c), the Control Technology Requirements for Control of Emissions of Mercury under the Multi-Pollutant Standards, the Permittee is authorized to continue operation of the boiler in violation of the applicable requirements of 35 IAC 225.233(c)(2) in the event of a malfunction or breakdown of the sorbent injection system for the boiler or the associated sorbent storage and handling system. This authorization is provided pursuant to 35 IAC 201.149, 201.161 and 201.262, as the Permittee has applied for such authorization, generally explaining why such continued operation would be required to provide essential service and describing the measures that would be taken to minimize emissions from any malfunctions and breakdowns.
- i. This authorization only allows such continued operation of an affected boiler as necessary to provide essential service and does not extend to continued operation solely for the economic benefit of the Permittee.
- ii. Upon occurrence of a violation of 35 IAC 225.233(c)(2) due to malfunction or breakdown, the Permittee shall as soon as practicable repair the sorbent injection system, take actions to reduce the magnitude of the violation or excess emissions, or undertake other actions so that the violation ceases.
- iii. The Permittee shall fulfill applicable recordkeeping and reporting requirements of ~~Conditions 5(b) and 7(b)~~. For these purposes, time shall be measured from the start of a particular incident. The absence of a violation for a short period shall not be considered to end an incident if violations resume. In such circumstances, the incident shall be considered to continue until corrective actions are taken so that violations cease or the Permittee takes the affected boiler out of service.
- iv. Following notification to the Illinois EPA for a malfunction or breakdown of the affected system, the Permittee shall comply with

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all reasonable directives of the Illinois EPA with respect to such incident, pursuant to 35 IAC 201.263.

v. This authorization does not relieve the Permittee from the continuing obligation to minimize emissions during malfunction or breakdown. As provided by 35 IAC 201.265, an authorization in a permit for continued operation with a violation during malfunction or breakdown does not shield the Permittee from enforcement for any such violation and only constitutes a prima facie defense to such an enforcement action provided that the Permittee has fully complied with all terms and conditions connected with such authorization.

~~vi. For the affected boiler, this authorization will end on January 1, 2015, or such earlier date that the Permittee begins complying with 35 IAC Part 225 Subpart B by a means other than 35 IAC 225.233(c), e.g., compliance by means of the Emission Standards for Mercury under the Multi-Pollutant Standards, 35 IAC 225.233(d).~~

c. For storage and handling of sorbent, the Permittee shall comply with applicable standards in 35 IAC Part 212 for opacity and particulate matter emissions that apply to the new process emission units associated with the affected system.

3. At all times, the Permittee shall, to the extent practicable, maintain and operate the affected system including storage and handling of sorbent, in a manner consistent with good air pollution control practice for minimizing emissions from the affected boiler and the source.

~~4. The Permittee shall install, operate, and maintain instrumentation on the affected system to measure and record the rate of sorbent injection.~~

5a. The Permittee shall maintain the following records for the affected system on the affected boiler:

i. Records for the system that, at a minimum, when the affected boiler is in operation, identify the sorbent that is being used and each period of time when the affected system was not being operated or was not able to meet the applicable sorbent injection rate, with explanation, e.g., blockage of the sorbent supply system.

ii. Maintenance and repair records for the affected system that, at a minimum, list the activities performed, with date and description.

~~b. During the period before the Permittee is required to keep records pursuant to 35 IAC Part 225 Subpart B, the Permittee shall maintain records of the following:~~

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- ~~i. Data for mercury emissions of the affected boiler collected by the Permittee, if any, including but not limited to emission rate (micrograms per cubic meter, pounds per hour, or pounds per million Btu) and mercury control efficiency, with identification and description of the mode of operation of the affected boiler and the affected system.~~
  - ~~ii. Data for the mercury and heat content of the current coal supply to the affected boiler, with supporting data for the associated sampling and analysis methodology, so as to have data to characterize the mercury content of the coal supply.~~
6. The Permittee shall retain all records required by this permit at the source for at least 5 years from the date of entry and these records shall be readily accessible to the Illinois EPA for inspection and copying, upon request.
- 7a. ~~The Permittee shall notify the Illinois EPA of deviations from the requirements of this permit as follows unless otherwise specified in the current CAAPP permit for the source. These notifications shall include a description of the deviation and the probable causes, a copy of relevant records, a description of the corrective actions taken, and a description of the preventative measures taken to avoid similar future occurrences.~~
  - ~~i. When 35 IAC Part 225, Subpart B, becomes applicable, i.e., on and after July 1, 2009, notifications for deviations shall be submitted with the periodic reports required by Subpart B, except as provided by Condition 7(b)(i).~~
  - ~~ii. Before 35 IAC Part 225, Subpart B, becomes applicable, notifications for deviations from the requirements of this permit shall be submitted with the quarterly monitoring reports required for the affected boiler.~~
- b. ~~Pursuant to 35 IAC 201.263, the Permittee shall provide the following notifications and reports to the Illinois EPA for incidents when operation of the affected boiler continue during a malfunction or breakdown with a violation of 35 IAC 225.233(e)(2), as addressed by condition 2(b).~~
  - ~~i. A. The Permittee shall immediately notify the Illinois EPA's Regional office, by telephone (voice, facsimile or electronic) if the duration of a violation exceeds or may exceed 24 hours. (Otherwise, if the duration of the violation is no more than 24 hours, the Permittee need only report the incident in accordance with Condition 7(b)(ii).)~~
    - ~~B. Upon conclusion of any incident that is 72 hours or more in duration, the Permittee shall submit a written follow-up notice to the Illinois EPA, Compliance Section and Regional Office, within 15 days providing a detailed description of~~

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~~the incident and its cause(s), an explanation why continued operation was necessary, the length of time during which operation continued under such conditions, the measures taken by the Permittee to minimize and correct deficiencies with chronology, and when the repairs were completed or the affected boiler was taken out of service.~~

- ii. The Permittee shall submit periodic reports to the Illinois EPA that include the following information for incidents during the reporting period in which an affected boiler continued to operate during malfunction or breakdown with violation of 35 IAC 225.233(c)(2). ~~These reports shall be submitted with the periodic reports submitted for the boiler pursuant to Condition 7(a).~~
  - A. A listing of such incidents, in chronological order, that includes: (1) the date, time, and duration of each incident, (2) the identity of the affected boiler involved in the incident, and (3) whether a follow-up notice was submitted for the incident pursuant to Condition 7(b)(i)(B), with the date of the notice.
  - B. ~~The detailed information for each such incident required pursuant to Condition 7(a) (as each incident constitutes a deviation) and Condition 7(b)(i)(B).~~ For this purpose, the Permittee need not resubmit information provided in a prior report for an incident, as identified above, but may elect to supplement the prior submittal.
  - C. The aggregate duration of all incidents during the reporting period (hours).
  - D. If there have been no such incidents during the reporting period, this shall be stated in the report.
- 8. The Permittee shall notify the Illinois EPA when the affected system on the affected boiler starts operation.
- 9. The Illinois EPA has determined that this project, as described in the application, will not constitute a modification of the affected boiler under the federal New Source Performance Standards, 40 CFR Part 60, as the project has the primary function of reducing emissions and is not considered a modification pursuant to 40 CFR 60.14(e)(5).
- 10. Two copies of required reports and notifications shall be sent to the Illinois EPA's Compliance Section at the following address unless otherwise indicated:

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P.O. Box 19276  
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Springfield, Illinois 62794-9276

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Illinois Environmental Protection Agency  
Regional Office/Division of Air Pollution Control  
2009 Mall Street  
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11. The affected boiler may be operated with the sorbent injection system pursuant to this construction permit until an operating permit becomes effective that addresses operation of the boiler with this system.

If you have any questions on this permit, please call Kunj Patel at 217/782-2113.

Edwin C. Bakowski, P.E.  
Acting Manager, Permit Section  
Division of Air Pollution Control

Date Issued: \_\_\_\_\_

ECB:CPR:KMP:psj

cc: Region 3

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