

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
SIERRA CLUB, ENVIRONMENTAL)	
LAW AND POLICY CENTER,)	
PRAIRIE RIVERS NETWORK, and)	
CITIZENS AGAINST RUINING THE)	
ENVIRONMENT)	
)	PCB 2013-015
Complainants,)	(Enforcement – Water)
)	
v.)	
)	
MIDWEST GENERATION, LLC,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Don Brown, Assistant Clerk	Attached Service List
Illinois Pollution Control Board	
James R. Thompson Center	
100 West Randolph Street, Suite 11-500	
Chicago, IL 60601	

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board Respondent, Midwest Generation LLC’s Joint Agreed Stipulations, a copy of which is herewith served upon you.

MIDWEST GENERATION, LLC

By: /s/ Jennifer T. Nijman

Dated: October 2, 2017

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing and Respondent, Midwest Generation LLC's Joint Agreed Stipulations was filed electronically on October 2, 2017 with the following:

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

and that true copies were emailed on October 2, 2017 to the parties listed on the foregoing Service List.

/s/ Jennifer T. Nijman

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JOINT AGREED STIPULATIONS

Pursuant to the Illinois Pollution Control Board Order of August 31, 2017, Midwest Generation, LLC (MWG), Sierra Club, Environmental Law and Policy Center, Prairie Rivers Network, and the Citizens Against Ruining the Environment (together, the “Parties”) submit the following stipulations for use at the Hearing scheduled to begin October 23, 2017.

No.	Stipulation
1.	An HDPE liner is a high-density polyethylene liner.
Joliet 29 Station	
2.	MWG operates the Joliet 29 Electric Generating Station (“Joliet 29”) located in Joliet, Will County, Illinois.
3.	MWG has operated the Joliet 29 Station since 1999.
4.	MWG leases the Joliet 29 Station.
5.	Ponds 1, 2, and 3 were constructed in 1978 with a poz-o-pac liner.
6.	In 2007, MWG relined Pond 1 with a 60 mil HDPE liner.
7.	In 2008, MWG relined Pond 2 with a 60 mil HDPE liner.
8.	Only one pond (Pond 1 <i>or</i> Pond 2) was in service at a time.
9.	Ponds 1 <i>or</i> 2 were dredged approximately every one to two years.
10.	Pond 3 was used as a finishing pond.
11.	In 2013, MWG relined Pond 3 with a 60 mil HDPE liner.

No.	<u>Stipulation</u>
12.	By October 12, 2015, MWG removed all coal ash from Pond 1 and removed Pond 1 from service for coal ash.
13.	On March 18, 2016, the Joliet 29 Station ceased burning coal for the generation of electricity.
14.	On May 26, 2016, the Joliet 29 Station began generating electricity with natural gas.
15.	Coal ash was removed from Pond 3 at the Joliet 29 Electric Generating Station in 2013.
16.	Coal ash was removed from the ponds at Joliet 29 Electric Generating Station by Beemsterboer.
Powerton Station	
17.	MWG operates the Powerton Electric Generating Station (“Powerton”) located in Pekin, Tazewell County, Illinois.
18.	MWG has operated the Powerton Station since 1999.
19.	MWG leases the Powerton Station.
20.	The Ash Surge Basin was constructed in 1978 with a poz-o-pac liner on the bottom and a Hypalon liner on the sides.
21.	In 2013, MWG relined the Ash Surge Basin with a 60 mil HDPE liner.
22.	Since before 1999, the Secondary Ash Settling Basin had a Hypalon liner.
23.	The Secondary Ash Settling Basin is used as a finishing pond.
24.	In 2013, MWG relined the Secondary Ash Settling Basin with a 60 mil HDPE liner.
25.	The Metal Cleaning Basin was constructed in 1978 with a poz-o-pac liner on the bottom and a Hypalon liner on the sides.
26.	In 2010, MWG relined the Metal Cleaning Basin with a 60 mil HDPE liner.
27.	The ash in the Metal Cleaning Basin is dredged approximately on an annual basis.
28.	The Bypass Basin had a poz-o-pac liner on the bottom and Hypalon liner on the sides.
29.	In 2010, MWG relined the Bypass Basin with a 60 mil HDPE liner.
30.	The Bypass Basin receives ash when Powerton is emptying the Ash Surge Basin.

No.	<u>Stipulation</u>
31.	The limestone basin at the Powerton Electric Generating Station is lined on the bottom with Poz-o-Pac and with a Hypalon liner on the sides.
Waukegan Station	
32.	MWG owns and operates the Waukegan Electric Generating Station (“Waukegan”) located in Waukegan, Lake County, Illinois.
33.	MWG has owned and operated the Waukegan Station since 1999.
34.	East Pond and West Pond at Waukegan were originally constructed in 1977 with a Hypalon liner.
35.	In 2003, MWG relined the East Pond with a 60 mil HDPE liner.
36.	In 2004, MWG relined the West Pond with a 60 mil HDPE liner.
37.	Only one pond (East Pond <i>or</i> West Pond) is in service at a time.
38.	In 2003, the prior property owner established an Environmental Land Use Control (“ELUC”) on the western side of the property.
39.	The ELUC was established to protect against “exposure to contaminated soil or groundwater or both, that may be present on the property as a result of past industrial activities on adjacent property known as the Griess-Pfleger Tannery Site.” <i>Environmental Land Use Control</i> , filed with Lake County, IL Recorder, June 6, 2003.
Will County Station	
40.	MWG owns and operates the Will County Electric Generating Station (“Will County”) located in Romeoville, Will County, Illinois.
41.	MWG has owned and operated the Will County Station since 1999.
42.	Will County has one active electric generating unit, Unit 4.
43.	There are two active ash ponds at the Will County Station: Pond 2 South (“2S”) and Pond 3 South (“3S”).
44.	Pond 1N, 1S, 2S and Pond 3S were each originally constructed in 1977 with a poz-o-pac liner.
45.	Pond 2S has a concrete geocell on the sides of the basin.
46.	Only one pond (2S <i>or</i> 3S) is in service at a time.
47.	Pond 2S or Pond 3S are dredged approximately on an annual basis.
48.	There are two inactive ponds at the Will County Station: Ponds 1 North (1N) and 1 South (1S).

No.	<u>Stipulation</u>
49.	Ponds 1N and 1S at the Will County Electric Generating Station have Poz-o-Pac liners.
50.	Ponds 1N and 1S were removed from service in 2010 and neither receive any ash or process water.
Coal and Coal Ash	
51.	The Powerton Station, Waukegan Station and Will County Station burn subbituminous coal sourced from the Powder River Basin in Wyoming. ¹
52.	Until it ceased burning coal for the generation of electricity, Joliet 29 Station burned subbituminous coal sourced from the Powder River Basin in Wyoming. ²
53.	There are different types of coal ash, including but not limited to fly ash and bottom ash.
Compliance Commitment Agreements	
54.	On June 11, 2012, Illinois EPA issued Violation Notices (“VNs”) to MWG alleging violations of groundwater quality standards at the Stations.
55.	At Joliet 29, MWG applied for a Groundwater Management Zone (“GMZ”) for the area including the ash ponds.
56.	Illinois EPA approved the Joliet 29 GMZ on August 8, 2013.
57.	On October 9, 2013, MWG submitted to Illinois EPA its certification that all of the Joliet 29 CCA measures were successfully completed.
58.	At Powerton, MWG applied for a GMZ that covers the eastern part of the Station including the ash ponds.
59.	Illinois EPA approved the Powerton GMZ on October 3, 2013.
60.	At Powerton, MWG applied for an ELUC that covers the eastern part of the Station including the ash ponds.
61.	Illinois EPA approved the Powerton ELUC on August 26, 2013.
62.	On October 17, 2013, MWG submitted to Illinois EPA its certification that all of the Powerton CCA measures were successfully completed.
63.	At Waukegan, MWG applied for an ELUC that covers the remaining Waukegan Station property that was not already included in the existing Former Tannery Site ELUC, including the ash ponds.

¹ Paragraph No. 51 is “Non-Disclosable Information”, and should be redacted if it is filed with the Illinois Pollution Control Board.

² Paragraph No. 52 is “Non-Disclosable Information” and should be redacted if it is filed with the Illinois Pollution Control Board.

No.	<u>Stipulation</u>
64.	Illinois EPA approved the Waukegan ELUC on August 26, 2013.
65.	On October 22, 2013, MWG submitted to Illinois EPA its certification that all of the Waukegan CCA measures were successfully completed.
66.	At Will County, MWG applied for a GMZ that covers the middle part of the Station including the ash ponds.
67.	Illinois EPA approved the Will County GMZ on July 2, 2013.
68.	At Will County, MWG applied for an ELUC that covers the middle part of the Station including the ash ponds.
69.	Illinois EPA approved the Will County ELUC on September 26, 2013.
70.	On October 17, 2013, MWG submitted to Illinois EPA its certification that all of the Will County CCA measures were successfully completed.

In addition, the Parties agree and stipulate that the document titled “ADDITIONAL ITEMS ON WHICH COMPLAINANTS’ EXPERT INTENDS TO RELY, filed by Complainants with the Illinois Pollution Control Board on September 7, 2017, is hereby corrected and modified consistent with the e mail from Abel Russ to Jennifer Nijman, attached hereto as Exhibit 1.

Jennifer Nijman

From: Abel Russ <aruss@environmentalintegrity.org>
Sent: Friday, September 15, 2017 12:18 PM
To: Jennifer Nijman
Subject: Midwest Generation - Documents for Dr. Kunkel

Hi Jennifer – As we discussed yesterday, here is a more detailed description of the additional documents that Dr. Kunkel is relying on, originally disclosed to you on September 7, 2017.

Dr. Kunkel discussed and presented groundwater data from wells MW-6 through MW-15 at Waukegan in his first expert report (see, for example, Figures 17 through 25). Not all of the documents containing groundwater reports and groundwater data have been specifically cited by either expert, but for completeness we wanted to include the following. Note that Dr. Kunkel did cite one of the ELUC reports on page 41 of his first report (see “URS 2013”). We can stipulate that Dr. Kunkel is only relying on the groundwater data points from the following documents:

- MWG13-15_178-248 (July 2013 ELUC groundwater report)
- MWG13-15_5093-5136 (July 2012 ELUC groundwater report)
- MWG13-15_43854-43855 (Groundwater data for wells MW6 and MW7 at Waukegan, Dec. 2012 – Aug. 2014; please note that we inadvertently omitted the second page of this two-page range in our September 7 filing)
- MWG13-15_43856-43857 (Wells MW-8 and MW-9, May and August, 2014)
- MWG13-15_43858-43862 (Wells MW-10 through MW-15, August 2014)
- MWG13-15_44125-44146 (July 2014 ELUC groundwater report)
- MWG13-15_45513-45647 (Wells MW-8 through MW-15, May through November 2014)
- MWG13-15_46140-46193 (June 2004 ELUC groundwater report)
- MWG13-15_56632-56638 (Wells MW-8 through MW-15, May 2014 through November 2015)

Dr. Kunkel presented information about the boring log for well MW-16 at Powerton in his first report (Table 6), but did not know how to cite the boring log. The following page range is a letter from Amy Hanrahan to Andrea Rhodes (Illinois EPA), dated Dec. 14, 2012, transmitting the boring log for well MW-16. Again, we can stipulate that Dr. Kunkel is only relying on the boring log itself:

- MWG13-15_21746-21750

Dr. Kunkel no longer plans to rely on the two following documents:

- MWG13-15_41172-41183
- MWG13-15_44558-44583

And finally, the following page ranges were produced after our initial disclosures, but we have discussed these by email and I believe you are comfortable with Dr. Kunkel relying on them:

- MWG13-15_61411-61552
- MWG13-15_61553-61574
- MWG13-15_61575-62839

I hope this email resolves your concerns; let me know if you have any further questions.

-Abel

Abel Russ

Attorney

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