

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**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 Motion to Correct the October 27, 2017 Hearing Transcript, a copy of which is hereby served upon you.

MIDWEST GENERATION, LLC

By: /s/ Jennifer T. Nijman

Dated: November 28, 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 Motion to Correct the October 27, 2017 Hearing Transcript was filed electronically on November 28, 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 November 28, 2017 to the parties listed on the foregoing Service List.

/s/ Jennifer T. Nijman

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<b>LAW AND POLICY CENTER,</b>	)	
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<b>CITIZENS AGAINST RUINING THE</b>	)	
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	)	<b>PCB 2013-015</b>
<b>Complainants,</b>	)	<b>(Enforcement – Water)</b>
	)	
<b>v.</b>	)	
	)	
<b>MIDWEST GENERATION, LLC,</b>	)	
	)	
<b>Respondent.</b>	)	

**MIDWEST GENERATION, LLC’S MOTION TO CORRECT  
THE OCTOBER 27, 2017 HEARING TRANSCRIPT**

Pursuant to 35 Ill. Adm. Code 101.604, Respondent Midwest Generation, LLC (“MWG”), by its undersigned counsel, submits to the Hearing Officer this motion to correct the transcript for the October 27, 2017 hearing date and states as follows:

- 1) On November 7, 2017, the transcript for the fifth day of the hearing for the above captioned matter (October 27, 2017) was filed with the Illinois Pollution Control Board Clerk’s Office.
- 2) Pursuant to 35 Ill. Adm. Code 101.604, a party has 21 days from the date the transcript is filed with the Clerk’s Office to file a motion with the Hearing Officer to correct the transcript.
- 3) MWG has noted the following typographical errors in the October 27, 2017 hearing transcript and requests that the Hearing Officer make the following corrections:

Page No.	Line No.	Now Reads	Requested Correction
74	13-15	And Will County when you spoke about Complainants' Exhibit 36 the data tables from Mr. Frenndt and e-mail from Mr. Frenndt at Patrick to Maria Race, do you remember that document?	<del>And At</del> Will County <del>when</del> you spoke about Complainants' Exhibit 36, the data tables from Mr. Frenndt and e-mail from Mr. Frenndt at Patrick to Maria Race, do you remember that document?
75	6-7	Q. You mentioned several times, quote, high levels of boron or high levels of sulfate.	Q. You mentioned several times, <del>quote,</del> "high" levels of boron or "high" levels of sulfate.
89	2-6	Q. That's the, quote, Montana Environmental Information Center, Sierra Club and National Wildlife Federation versus the Montana Department of Environmental Quality and Talen T-A-L-E-N, Montana, that's the case?	Q. That's the, <del>quote,</del> "Montana Environmental Information Center, Sierra Club and National Wildlife Federation versus the Montana Department of Environmental Quality and Talen T-A-L-E-N, Montana," that's the case?
95	12-24	Q. So at page 29 of the deposition pages. We also have it up on the screen for you. So starting at line 18 it says -- and that would be by the attorney in that case. Q. I'm sorry. I may have misunderstood a minute ago. I thought -- did you tell me that you reviewed documents showing hydrostatic uplift at one of the impoundments near the plant site? Answer -- and that would be by you, Dr. Kunkel. A. Yes. Yes. Q. Which document is that?	Q. So at page 29 of the deposition pages. We also have it up on the screen for you. So starting at line 18 it says -- and that would be by the attorney in that case. <del>Q.</del> "Question: Q. I'm sorry. I may have misunderstood a minute ago. I thought -- did you tell me that you reviewed documents showing hydrostatic uplift at one of the impoundments near the plant site? Answer -- and that would be by you, Dr. Kunkel. -- <del>A.</del> Answer: Yes. Yes. <del>Q.</del> Question: Which document is that?

Page No.	Line No.	Now Reads	Requested Correction
96	1,7,11,12,13,14,16,17,19	A. Q. A. Q. A. Q. A. Q. A.	In order to reflect that this is a quote from another transcript, revise all A.s to <a href="#">Answer:</a> and revise all Q.s to <a href="#">Question:</a>  <a href="#">Answer:</a> <a href="#">Question:</a> <a href="#">Answer:</a> <a href="#">Question:</a> <a href="#">Answer:</a> <a href="#">Question:</a> <a href="#">Answer:</a> <a href="#">Question:</a> <a href="#">Answer:</a>
97	1,6,14,17	Q. A. Q. A. Yes.	In order to reflect that this is a quote from another transcript, revise all Q.s to <a href="#">Question:</a> Revise all A.s to <a href="#">Answer:</a> and end the quotation that begins on page 95.  <a href="#">Question:</a> <a href="#">Answer:</a> <a href="#">Question:</a> <a href="#">Answer: Yes'</a>
99	10-11	Ash settling secondary basin	Ash <a href="#">settling</a> <a href="#">settling</a> /secondary basin
100	1-2	Q. You testified yesterday we were talking about Exhibit 33,	Q. <a href="#">When y</a> <del>Y</del> ou testified yesterday, we were talking about Exhibit 33,
102	9-10	Q. Have you reviewed the as-built drawings for the secondary ash station?	Q. Have you reviewed the as-built drawings for the secondary ash <a href="#">station</a> <del>basin</del> ?
107	20	layer	layer <u>s</u>

Page No.	Line No.	Now Reads	Requested Correction
127	16-22	<p>Q. So on page 34 lines starting at line 4 it says -- this is the attorney, the Talen attorney asking you</p> <p>Q. The next thing under this bullet point you mentioned is liner damage during ash dredging, what do you mean by that?</p> <p>A. Well, typically the pond ash..</p>	<p>Q. So on page 34 <del>lines</del> starting at line 4 it says -- this is the attorney, the Talen attorney asking you:</p> <p><del>“Q-Question:-</del> The next thing under this bullet point you mentioned is liner damage during ash dredging, what do you mean by that?</p> <p><del>A-Answer:-</del> Well, typically the pond ash...</p>
128	6	<p>on other projects, that leads to liner damage.</p>	<p>on other projects, that leads to liner damage.”</p>
128	14-16	<p>Q. Well, he was reading from your report, the next thing under this bullet of your report.</p>	<p>Q. Well, he was reading from your report:- “the next thing under this bullet of your report.”</p>
129	15-24	<p>look -- I'm going to start at the bottom of page 34, line 23.</p> <p>Q. Did you review any documents that discuss ash dredging at those two ponds?</p> <p>A. No.</p> <p>Q. Did you review any documents that talk about dredging in any of the ponds?</p> <p>A. No.</p> <p>Q. If dredging does occur, is it fair to say you likewise didn't review any...</p>	<p>look -- I'm going to start at the bottom of page 34, line 23:-</p> <p><del>“Q-Question:</del> Did you review any documents that discuss ash dredging at those two ponds?</p> <p><del>A-Answer:-</del> No.</p> <p><del>Q-Question:</del> Did you review any documents that talk about dredging in any of the ponds?</p> <p><del>A-Answer:</del> No.</p> <p><del>Q-Question:</del> If dredging does occur, is it fair to say you likewise didn't review any...</p>

Page No.	Line No.	Now Reads	Requested Correction
130	3,4,7,8,10,11,12,13,15,16	<p>A. Q. A. Q. A. Q. A. Q. A. That's an assumption on my part.</p>	<p>In order to reflect that this is a quote from another transcript, revise all A.s to <u>Answer:</u> and revise all Q.s to <u>Question:</u> and end the quotation that starts on page 129.</p> <p><u>Answer:</u> <u>Question:</u> <u>Answer:</u> <u>Question:</u> <u>Answer:</u> <u>Question:</u> <u>Answer:</u> <u>Question:</u> <u>Answer:</u> That's an assumption on my part.”</p>
131	3-9	<p>Q. Look at this deposition one more time on page 38 on line three. Q. And that's a fundamental basis for your opinions, isn't it, that you are assuming these things happen all the time and just weren't documented? A. Possibly, yes. Uh-huh.</p>	<p>Q. Look at this deposition one more time on page 38 on line three. “ <u>Q-Question:</u> And that's a fundamental basis for your opinions, isn't it, that you are assuming these things happen all the time and just weren't documented? <u>A-Answer:</u> Possibly, yes. Uh-huh.”</p>



Page No.	Line No.	Now Reads	Requested Correction
134	11,12,18,21	<p>you, I want to remind you what you said to me then</p> <p>A. You know, I think if one reads through the documents that were provided that removal -- or the dredging of the ash with a backhoe is very dangerous and if the equipment is running around on the bottom of the ponds, that's not an acceptable way to dredge ash.</p> <p>Q. Right. And I'm asking what's the basis for saying that that happened at Powerton?</p> <p>A. I assume that your two contractors either -- that serve all four power plants -- I mean, two -- one serves two and the other serves two.</p>	<p>you, I want to remind you what you said to me then:  <del>A.</del><u>Answer:</u> You know, I think if one reads through the documents that were provided that removal -- or the dredging of the ash with a backhoe is very dangerous and if the equipment is running around on the bottom of the ponds, that's not an acceptable way to dredge ash.</p> <p><del>Q.</del><u>Question:</u> Right. And I'm asking what's the basis for saying that that happened at Powerton?</p> <p><del>A.</del><u>Answer:</u> I assume that your two contractors either - - that serve all four power plants -- I mean, two -- one serves two and the other serves two.</p>
135	1-8	<p>Q. So you're assuming that that's what Lafarge --</p> <p>A. Yes.</p> <p>Q. -- did, that Lafarge uses poor --</p> <p>A. Yes.</p> <p>Q. -- practices?</p> <p>A. Yes.</p>	<p><del>Q.</del><u>Question:</u> So you're assuming that that's what Lafarge --</p> <p><del>A.</del><u>Answer:</u> Yes.</p> <p><del>Q.</del><u>Question:</u> -- did, that Lafarge uses poor --</p> <p><del>A.</del><u>Answer:</u> Yes.</p> <p><del>Q.</del><u>Question:</u> -- practices?</p> <p><del>A.</del><u>Answer:</u> Yes.”</p>
147	11	is	are
149	2	fixed?	fixed.
154	6-8	partial response, do you	partial response. <u>Do</u>
154	17	report identified, and you relied on that report	report <del>identified</del> , and you relied on that report
158	15	sworn certification	sworn <del>certification</del> <u>Certification</u>

Page No.	Line No.	Now Reads	Requested Correction
159	14-20	Q. So looking at this sworn certification in your response to number two, I asked you for support for your assertion that, quote, plastic was placed directly on the side slope poz-o-pac and attached to the ash pond concrete discharge structures, do you recall saying that in -- in your report?	Q. So looking at this sworn certification in your response to number two, I asked you for support for your assertion that, <del>quote,</del> "plastic was placed directly on the side slope poz-o-pac and attached to the ash pond concrete discharge structures," do you recall saying that in -- in your report?
161	13	sworn certification	sworn <del>certification</del> Certification
174	18,20	certification	<del>certification</del> Certification
175	4-10	supporting the statement that, quote, written documentation available from MWG on Will County ash pond reconstruction, retirement and maintenance in 2012 and 2013 indicates that the ash ponds leaked until 2013 and likely continued to leak due to poor liner construction and maintenance, close quote, and that is from page 30	supporting the statement that, <del>quote,</del> "written documentation available from MWG on Will County ash pond reconstruction, retirement and maintenance in 2012 and 2013 indicates that the ash ponds leaked until 2013 and likely continued to leak due to poor liner construction and maintenance," <del>close quote,</del> and that is from page 30
206	18	one	1
207	22	looking at boron, for the past eight quarters	looking at boron, for the past eight quarters, <u>the</u>
208	23	Q. Manganese past eight quarters	Q. Manganese. <u>For the</u> past eight quarters <u>the</u>
209	10-12	Q. Let's go to next page MW-4. This is now Midwest Gen Bates 62548 for monitoring well sample MW-04. If we look at boron, past eight	Q. Let's go to <u>the</u> next page, MW-4. This is now Midwest Gen Bates 62548 for monitoring well sample MW-04. If we look at boron, <u>the</u> past eight
210	4-5	62549. Looking at boron past eight quarters concentration of boron in MW-5 is all below the	62549. Looking at boron, <u>for the</u> past eight quarters <u>the</u> concentrations of boron in MW-5 <del>is-are</del> all below the

Page No.	Line No.	Now Reads	Requested Correction
213	5-19	<p>Q. Looking at page 146 of your deposition transcript. So starting at line 7 I asked you</p> <p>Q. And given that the prior owner of the Tannery was a coal company, isn't it likely that there is historic ash on that property?</p> <p>A. On the Tannery site?</p> <p>Q. Uh-huh.</p> <p>A. There could be, but we don't -- I don't have any information that indicates there was ash on the Tannery site. I have information there was ash north of the Tannery site and maybe north of the General Water site. I think you meant General Boiler site. Because I don't think I had well logs at the Tannery site, but it's inconsequential to my conclusions.</p>	<p>Q. Looking at page 146 of your deposition transcript. So starting at line 7 I asked you:</p> <p><del>Q</del>Question: And given that the prior owner of the Tannery was a coal company, isn't it likely that there is historic ash on that property?</p> <p><del>A</del>Answer: On the Tannery site?</p> <p><del>Q</del>Question: Uh-huh.</p> <p><del>A</del>Answer: There could be, but we don't -- I don't have any information that indicates there was ash on the Tannery site. I have information there was ash north of the Tannery site and maybe north of the General Water site. <del>I think you meant General Boiler site.---</del> <del>Because because</del> I don't think I had well logs at the Tannery site, but it's inconsequential to my conclusions.”</p>
214	15	dated September 4th, 2012, on Midwest Gen Bates	dated September 4th, 2012, <del>on</del> Midwest Gen Bates
215	4-7	benchmarks in a fly ash fill area because, quote, the remedial objectives and/or remedial action for the fly ash area had yet to be developed, close quote, the cleanup possibilities for this area	benchmarks in a fly ash fill area because, <del>quote,</del> ‘the remedial objectives and/or remedial action for the fly ash area had yet to be developed,’ <del>close quote,</del> the cleanup possibilities for this area
217	16	west of the Midwest Gen property, Tannery property	west of the Midwest Gen property, <u>and the</u> Tannery property
220	6	MR. RUSS	A.

Page No.	Line No.	Now Reads	Requested Correction
230	2	monitoring well result from up gradient monitoring	monitoring well result from up <u>or down</u> gradient monitoring
230	16	say	see
234	21	are	in
234	23-24	believe you've been informed that groundwater management zones, meaning the Class 1 standards,	believe you've been informed that <u>in</u> groundwater management zones, <u>meaning</u> the Class 1 standards,
236	20	millionths	million
237	8-10	Q. You are showing in this table solely based on the number of times sampled that there are, quote, results greater than Class 1, correct,	Q. You are showing in this table, solely based on the number of times sampled, that there are, <u>quote</u> , "results greater than Class 1," correct,
240	21	graphs that you put together for Joliet and the	graphs that you put together for Joliet, <u>and the The</u>
243	6	photograph	graph
250	2	flip	blip
250	21-23	Q. -- for sulfate now we're looking at?MW-2, same, looking at the standard for sulfate at 400 we're seeing everything way below Class 1	Q. -- for sulfate now we're looking at? <u>2</u> MW-2, same, looking at the standard for sulfate at 400, we're seeing everything way below Class 1

WHEREFORE, for the reasons stated above, MWG requests that the Hearing Officer correct the October 27, 2017 transcript.

Respectfully submitted,  
Midwest Generation, LLC

By: /s/ Jennifer T. Nijman  
One of Its Attorneys

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