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JUL 20 2007

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION, LLC,)
 WILL COUNTY GENERATING STATION)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

PCB 08-9
(Permit Appeal - Air)

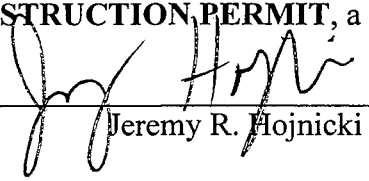
NOTICE OF FILING

TO:

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

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

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the **APPEARANCES OF SHELDON A. ZABEL, KATHLEEN C. BASSI, STEPHEN J. BONEBRAKE; JEREMY R. HOJNICKI and APPEAL OF CONSTRUCTION PERMIT**, a copy of which is herewith served upon you.



Jeremy R. Hojnicky

Dated: July 20, 22007

Sheldon A. Zabel
Kathleen C. Bassi
Stephen J. Bonebrake
Jeremy R. Hojnicky
SCHIFF HARDIN, LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500
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Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

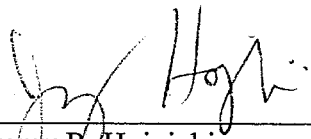
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

08-9
PCB ~~07-~~
(Permit Appeal – Air)

APPEARANCE

I, Jeremy R. Hojnicky, hereby file my appearance in this proceeding on behalf of
Petitioner, Midwest Generation, LLC – Will County Generating Station.



Jeremy R. Hojnicky
SCHIFF HARDIN LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500
Fax: 312-258-5600

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08-9
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(Permit Appeal - Air)

APPEARANCE

I, Kathleen C. Bassi, hereby file my appearance in this proceeding on behalf of Petitioner,
Midwest Generation, LLC - Will County Generating Station.

 For:
Kathleen C. Bassi
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233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500
Fax: 312-258-5600

Dated: July 20, 2007

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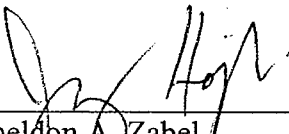
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APPEARANCE

I, Sheldon A. Zabel, hereby file my appearance in this proceeding on behalf of Petitioner,
Midwest Generation, LLC – Will County Generating Station.

 For:

 Sheldon A. Zabel
 SCHIFF HARDIN LLP
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 Chicago, Illinois 60606
 312-258-5500
 Fax: 312-258-5600

Dated: July 20, 2007

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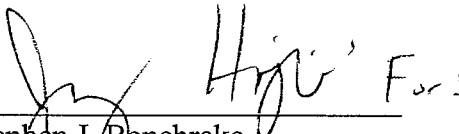
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 (Permit Appeal – Air)

APPEARANCE

I, Stephen J. Bonebrake, hereby file my appearance in this proceeding on behalf of
Petitioner, Midwest Generation, LLC – Will County Generating Station.



 Stephen J. Bonebrake
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 Chicago, Illinois 60606
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Dated: July 20, 2007

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APPEAL OF CONSTRUCTION PERMIT

NOW COMES Petitioner, MIDWEST GENERATION, LLC, WILL COUNTY GENERATING STATION (“Petitioner” or “Midwest Generation”), 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 permit¹ issued to Petitioner on June 15, 2007,² pursuant to Section 39(a) of the Act (415 ILCS 5/39(a) and 35 Ill. Adm. Code § 201.142 (“the construction permit”) and attached hereto as Exhibit 1. 35 Ill. Adm. Code §§ 105.210(a) and (b). Pursuant to Section 39(a) of the Act and 35 Ill. Adm. Code § 105.206(a), this Petition is timely filed with the Board. In support of its Petition, Petitioner states as follows:

¹ Application No. 07030069.

² Received via U.S. mail, but receipt date not noted; therefore, Midwest Generation relies on the issuance date identified on the face of the permit.

I. BACKGROUND

1. The Will County Generating Station (“Will County” or the “Station”), Agency I.D. No. 197810AAK, is an electric generating station owned by Midwest Generation, LLC, and operated by Midwest Generation, LLC – Will County Generating Station. The Will County electrical generating units (“EGUs”) went online between 1955 and 1963. The Station is located at 529 East 135th Road, Romeoville, Will County, Illinois 60446-1538, within the Chicago ozone and PM_{2.5}³ nonattainment areas. Will County is an intermediate load plant and can generate approximately 1,100 megawatts. Midwest Generation generally employs 190 people at the Will County Generating Station.

2. Will County 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 Midwest Generation for Will County on September 29, 2005. Subsequently, on November 2, 2005, Midwest Generation timely appealed the CAAPP permit for Will County at PCB 06-060. The Board accepted the appeal for hearing on November 17, 2005. On February 16, 2006, the Board found that, pursuant to Section 10-65(b) of the Administrative Procedure Act (5 ILCS 100/10-65(b)) (“APA”) and the holding in *Borg-Warner Corp. v. Mauzy*, 427 N.E. 2d 415 (Ill.App.Ct. 1981) (“*Borg-Warner*”), the CAAPP permit is stayed, upon appeal, as a matter of law. Order, *Midwest Generation, LLC, Will County Generating Station v. Illinois Environmental Protection Agency*, PCB 06-060 (February 16, 2006) (“Order 1”), p. 2.

3. Midwest Generation operates four coal-fired boilers at Will County and associated coal handling, coal processing, and ash handling activities. Coal is crushed and prepared in the breaker building and then sent through a series of conveyors to the bunkers. The

³ Particulate matter less than 2.5 microns in aerodynamic diameter.

coal is transferred from the bunkers through pulverizers to further reduce the coal size and then blown into the boilers.

4. The construction permit issued to Will County that is the subject of this appeal authorizes the construction of a soda ash handling system, including a silo, feeder hopper and enclosed screw conveyors, and a soda ash application system. The soda ash application system will apply soda ash to the coal on the conveyor belt from the rail car dumper. Soda ash will enhance the performance of the electrostatic precipitators (“ESPs”), which control emissions of particulate matter (“PM”) by treating the coal supply to the boilers with soda ash.

5. The Agency received Midwest Generation’s application for the construction permit on February 6, 2007, and issued the construction permit on June 15, 2007. Despite Midwest Generation’s comments alerting the Agency to the facts that the permit contains language or conditions that have been appealed in PCB 06-060 (*see* Exhibit 2) and that Midwest Generation has appealed similar language included in other construction permits issued since November 2005 (*see* PCB 06-156 and 07-101), the Agency has included language or conditions that continue to require Midwest Generation to appeal the construction permit.

II. EFFECTIVENESS OF THE CONSTRUCTION PERMIT AND REQUEST FOR PARTIAL STAY

6. Pursuant to Section 10-65(b) of the Illinois Administrative Procedures Act (“APA”), 5 ILCS 100/10-65, and the holding in *Borg-Warner Corp.*, the construction permit issued by the Agency to Will County is not effective by operation of law until after a ruling by the Board on the permit appeal and, in the event of a remand, until the Agency has issued the permit consistent with the Board’s order. *See* Order, *Midwest Generation, LLC, Will County Generating Station v. Illinois Environmental Protection Agency*, PCB 06-060 (February 26, 2006) (“Order 2”). Historically, the Board has granted partial stays in permit appeals where a

petitioner has so requested. *C.f.* Order 2 at p. 8, fn 3; *Midwest Generation, LLC, Will County Generating Station v. Illinois Environmental Protection Agency*, PCB 06-156 (July 20, 2006) (“Order 3”) (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. Midwest Generation will suffer irreparable harm and the environment will not receive the benefit of the improvement in the efficiency of the electrostatic precipitators, used to control emissions of particulate matter, if Midwest Generation is not allowed to construct and operate the soda ash system for the Will County Generating Station. Midwest Generation’s request for stay of the contested language would result in a construction permit providing the necessary and appropriate authorizations to install and operate the equipment in a manner to protect the environment.

8. Midwest Generation requests in this instance that the Board exercise its inherent discretionary authority to grant a partial stay of the construction permit, staying only those portions of the following conditions, as the Board stayed conditions in *Midwest Generation, LLC, Will County Generating Station*: the contested conditions: Conditions 2, 4(a)(ii), 5(b), 6(b), 7(a), 8(a)(i), 8(c)(ii), 8(c)(vii), and 9.

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

9. Midwest Generation appealed various conditions in the CAAPP permit, including actual language or concepts that are incorporated into this construction permit. The construction permit allows for operation of the new equipment until such time as an operating permit issued to Will County becomes effective. *See* Exhibit 1, Condition 11. In essence, then, the construction permit is also, at least temporarily, an operating permit. In issuing the construction permit, the Agency is attempting to impose conditions through the construction permit that have been appealed in the context of the CAAPP permit appeal prior to the Board's decision on these points or to impose CAAPP concepts prior to the effectiveness of the CAAPP permit. Additionally, Midwest Generation questions the Agency's use of the word *running* in Condition 4(a)(iii) and conditions requiring data and other recordkeeping for a filter that is not expressly required by the permit.

A. The Agency Has Inappropriately Imposed Language in the Construction Permit That Was Appealed in PCB 06-060 (Will County CAAPP Appeal) and Has Included Other Inappropriate Conditions in the Construction Permit.

10. In this situation where ultimately the operating permit will be the CAAPP permit, that the Agency included in the construction permit language or concepts appealed in the CAAPP permit in Docket 06-060 ignores Midwest Generation's right to challenge and have a fair hearing on the appropriateness of the language or concept in the CAAPP permit. The implication of the language is that the operating conditions identified in the construction permit will become the applicable operating conditions during operation pursuant to the construction permit and eventually in the CAAPP permit, even though that language or concept is currently being challenged in the CAAPP Appeal. Inclusion of such language forces Midwest Generation into this appeal in order to preserve the integrity of its appeal of the CAAPP permit, as well as to

prevent the imposition of inappropriate conditions in the construction permit, the state operating permit, and ultimately the CAAPP permit.⁴ It undermines the Board's authority to determine whether challenged language or concept is appropriate through the statutory process established in the Act by the General Assembly. If the Board determines that the challenged language or concept is appropriate, then the language or concept will become applicable to the equipment at the time that the CAAPP permit becomes effective, as the language or concept is already in the CAAPP permit. If the Board determines that the challenged language or concept is not appropriate, then the Agency will have undermined that decision by including the language or concept in this construction permit (unless it is appealed), which would be rolled into the CAAPP permit upon termination of the CAAPP Appeal process under Docket 06-060. Meanwhile, if Midwest Generation did not appeal the construction permit, the challenged language or concept would apply during the operation phase of the construction permit. The challenged language or concept has no more stature when included in the construction permit than it did in the CAAPP permit.

11. Regardless of one's perspective, the Agency's inclusion of the challenged language or concept during the pendency of the appeal of Will County's CAAPP permit is inappropriate, injurious to Midwest Generation's rights under Sections 39, 39.5, and 40.2 of the Act and under the APA, subversive and disrespectful of the Board's Order 2 in PCB 06-060 regarding the applicability of the APA to appealed permits, and not in good faith. Midwest Generation will suffer irreparable harm if this language or concept is allowed to remain in the construction permit for inclusion, ultimately, in the CAAPP permit if the Board finds in Docket

⁴ Midwest Generation understands that the operating conditions included in the construction permit will roll into the CAAPP permit when it becomes effective. See Exhibit 1, Condition 11.

06-060 that the language or concept should be stricken from the CAAPP permit. Moreover, Midwest Generation would suffer irreparable harm if it were required to comply now, through the construction permit, with conditions that the Board may determine in Docket 06-060 are inappropriate.

i. Process Weight Rate – Condition 2

12. Midwest Generation appealed the Agency’s application of the process weight rate (“PWR”) rule to fly ash handling in the CAAPP Appeal at paragraphs 102-104 of the Appeal in Docket 06-060. Midwest Generation argued that because there was no processing involved in the fly ash system, PWR could not apply. The definition of *process weight rate* refers to “materials . . . introduced into any process per hour.” 35 Ill.Adm.Code § 211.5250. As with the fly ash system, there is no “process” involved in the handling and application of the soda ash.

13. For this reason, 35 Ill.Adm.Code § 212.321 should not apply to the soda ash system, and Midwest Generation requests that the Board stay the applicability of Section 212.321 to this activity. *See* Exhibit 3, a redlined version of the permit indicating those conditions or parts of conditions that Midwest Generation requests that the Board stay during the pendency of this appeal.

ii. Testing the Handling System – Condition 6(b)

14. At paragraph 110 of the CAAPP Appeal, Midwest Generation discussed the problems with testing operations pursuant to Method 5 where the physical parameters of the operation are not conducive to compliance with Method 1. As with the small baghouses discussed in paragraph 110 of the CAAPP Appeal, the vent for the type of system that includes this soda ash system is not structurally able to accommodate Method 5 testing. The inspections, monitoring, and recordkeeping requirements applicable to this system should be sufficient to ensure compliance.

15. For this reason, Condition 6(b) should be deleted from the permit, and Midwest Generation requests that the Board stay this condition during the pendency of this permit appeal. *See Exhibit 3.*

iii. Inspection Requirements – Condition 7(a)

16. Conditions 7.2.8(a), 7.3.8(a), and 7.4.8(a) of the CAAPP permit issued to Midwest Generation for the Will County Generating Station contains inspection requirements for the coal and ash handling operations at the plant. Both these conditions of the CAAPP Permit and Condition 7(a) of the construction permit require that “[t]hese inspections shall be performed with supervisory personnel or other personnel not directly involved in the day-to [sic] day operation of the affected operations. . . .” These inspection requirements were appealed in Docket No. 06-060 at paragraphs 116-117 of Midwest Generation’s CAAPP Appeal, and Midwest Generation is compelled to appeal them again here with respect to the construction permit. Although the construction permit addresses an operation that is different from coal and ash handling, the concept is the same.

17. In addition to the apparent attempt to undermine the appeal process initiated for the CAAPP permit, the Agency again provides no basis for this requirement. There is no basis in law or practicality for this provision. To identify in a construction permit condition who can perform an inspection is overstepping the Agency’s authority.

19. The requirement must be stricken from the permit. Midwest Generation requests that the Board stay Condition 7(a) during the pendency of this appeal. *See Exhibit 3.*

iv. Recordkeeping Requirements: Magnitude of PM Emissions During an Incident – Condition 8(c)(ii)

18. Condition 8(c)(ii) requires Midwest Generation to provide the magnitude of PM emissions during an incident where the soda ash handling operation continues without the use of

customary control measures. Midwest Generation has established that it has no means to measure exact PM emissions from the coal bunkers or wet dust extractors. The same is true of the soda ash system. Therefore, for the Agency to require reporting of the magnitude of PM emissions is inappropriate. Midwest Generation appealed the requirement to provide the magnitude of PM emissions in the Will County CAAPP Appeal. *See* paragraph 127 in the CAAPP Appeal.

19. Midwest Generation requests that the Board order the Agency to delete the reference to provision of the magnitude of PM emissions during an incident and stay Condition 8(c)(ii) or the portion of Condition 8(c)(ii) indicated in Exhibit 3 during the pendency of this appeal.

v. Recordkeeping Requirements: Discussion of Speculation on Occurrence of Violation – Condition 8(c)(vii)

20. Midwest Generation appealed conditions in the CAAPP Appeal where the Agency required Midwest Generation to speculate as to whether there was a violation of an emissions limit when there was no way for Midwest Generation to accurately determine whether there was a violation. *C.f.*, paragraphs 47-48 of the CAAPP Appeal. As with speculating about the “magnitude of PM emissions,” Midwest Generation has no way to definitively determine whether there has been a violation of an emissions limit associated with the soda ash system. A report of a violation should not be based upon pure speculation.

20. Midwest Generation requests that the Board order the Agency to delete Condition 8(a)(vii) from the permit and that the Board stay the applicability of this condition during the pendency of this permit appeal. *See* Exhibit 3.

B. The Agency Has Inappropriate Included Conditions with No Basis for Their Inclusion or That Are Features of CAAPP Permitting Inappropriately Included While the CAAPP Permits Are Pending Before the Board.

21. There are a number of conditions in the permit that require amendment. The Agency has not provided a basis for their inclusion, and their inclusion is not readily apparent or a term is not clear or the permit is internally inconsistent.

i. Emissions Limitation Where Emissions Are Negligible – Condition 4(a)(ii)

22. In response to a comment from Midwest Generation, the Agency amended Condition 4(a)(ii) to reflect that the emissions from the soda ash system are negligible. *Compare* Exhibit 2 with Exhibit 1. However, The Agency neglected to delete the emissions limitation in that condition.

23. The soda ash application system is enclosed and underground. Emissions from the system will be negligible to non-existent. If emissions are negligible, they cannot be measured, as discussed above regarding other conditions. Imposing an emissions limitation on the soda ash application system is inappropriate. It would, perhaps, be more appropriate for the Agency to simply designate the soda ash system as an insignificant activity pursuant to 35 Ill.Adm.Code § 201.210(a).

24. For these reasons, Midwest Generation requests that the Board order the Agency to delete the emissions limitation in Condition 4(a)(ii) and stay that condition or portion of that condition as set forth in Exhibit 3 during the pendency of this appeal.

ii. Use of the Term *Running* – Condition 4(a)(iii)

25. Midwest Generation interprets the use of the phrase “running total of 12 months of data” in Condition 4(a)(iii) to determine annual compliance to mean that commencing on January 1 each year and ending on December 31 of that same year, Midwest Generation is to add

iii. Records of a Filter for the Soda Ash Handling System – Condition 8(a)(i)

30. Condition 8(a)(i) creates the requirement for records of a filter for the soda ash handling system that is not required by the permit or any underlying regulation. Presumably, Condition 8(a)(i) refers to Condition 5(b), where the permit requires Midwest Generation to “implement and maintain control measures for PM emissions from the affected systems, such as a filter an enclosure, that minimize visible emissions. . . .” Condition 5(b). (Emphasis added.)

31. A filter is not, *per se*, required. Some emission control methodology intended to “minimize visible emissions” from both the soda ash handling and soda ash application systems are required. The soda ash application system is underground and enclosed; therefore, there will be no visible emissions from that system. *See* Exhibit 2. That leaves only the soda ash handling system where there might be visible emissions, but the control methodology for the handling system is left to Midwest Generation’s discretion under Condition 5(b). Therefore, the requirement that Midwest Generation create records and provide data for a filter on the handling system in Condition 8(a)(i) is inconsistent with Condition 5(b).

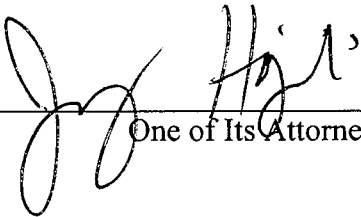
32. Midwest Generation requests that the Board order the Agency to delete Condition 8(a)(i) from the permit and that it stay the effectiveness of Condition 8(a)(i) during the pendency of this appeal. *See* Exhibit 3.

WHEREFORE, for the reasons set forth above, Midwest Generation requests that the Board grant its petition to appeal Conditions 2, 4(a)(ii), 4(a)(iii), 6(b), 7(a), 8(a)(i), 8(c)(ii), 8(c)(vii), and 9 of the construction permit issued June 15, 2007, and that it stay all or portions of Conditions 2, 4(a)(ii), 6(b), 7(a), 8(a), 8(a)(i), 8(c)(ii), 8(c)(vii), and 9, as set forth in Exhibit 3.

Respectfully submitted,

MIDWEST GENERATION, LLC,
WILL COUNTY GENERATING STATION

by:



One of Its Attorneys

Dated: July 20, 2007

SCHIFF HARDIN, LLP
Sheldon A. Zabel
Kathleen C. Bassi
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EXHIBIT LIST

Exhibit No.

- 1 Construction permit
- 2 Email correspondence between Crapisi and Patel
- 3 Redlined permit

CH2\ 1929724.2

Exhibit 1

Construction Permit

Issued June 15, 2007,

for the Will County Generating Station

Soda Ash Handling and Application Systems



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

Midwest Generation EME, LLC
Attn: Andrea Crapisi
440 South LaSalle Street, Suite 3500
Chicago, Illinois 60605

Application No.: 07030069

I.D. No.: 197810AAK

Applicant's Designation:

Date Received: March 26, 2007

Subject: Soda Ash Handling and Application Systems

Date Issued: June 15, 2007

Location: Will County Generating Station, 529 East 135th Street, Romeoville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a soda ash (sodium carbonate) handling system and a soda ash application system, 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 a soda ash handling system, which includes a silo, feeder hopper and enclosed screw conveyors, (the affected handling system), and a soda ash application system, which will apply soda ash to the coal on the conveyor belt from the rail car dumper (the affected application system). This permit is issued based on the affected systems being an emission control project whose principle purpose is to enhance the performance of the electrostatic precipitators, which control particulate matter (PM) emissions from the existing coal-fired boilers at the source, by treating the coal supply to the boilers with soda ash. As such this project also facilitates use of coal from mines that do not or have not treated their coal with soda ash.
 - b. Other than installation of the affected systems, this permit does not authorize changes to the boilers or existing coal handling operations at the source to handle coal that that they are not currently capable of handling.
 - c. This permit does not relax or otherwise revise any requirements and conditions that apply to the boilers and other existing operations at the source, including applicable monitoring, testing, recordkeeping, and reporting requirements pursuant to current operating permits issued for this source.
2. For the affected systems, the Permittee shall comply with the applicable State rules that limit PM emissions, including 35 IAC Part 212, Sections 212.123, 212.301, 212.307, 212.313, and 212.321.

3. This permit is issued based on the affected systems not being subject to the federal New Source Performance Standards (NSPS) for Nonmetallic Mineral Processing Plants, 40 CFR 60, Subpart 000, because soda ash is not ground or crushed in the affected systems.
- 4a.
 - i. The emissions of PM from the affected handling system shall not exceed 0.3 lbs/hour and 1.4 tons/year.
 - ii. This permit is issued based on negligible PM emissions from the affected application system. For this purpose emissions shall not exceed 0.1 lbs/hour and 0.44 tons/year.
 - iii. Compliance with annual limits shall be determined from a running total of 12 months of data.
- b. This permit is issued based on the application of soda ash with the affected systems not increasing emissions from the boilers and other existing operations at the source as coal that has been treated with soda ash at the mine is currently being used at the source.
- 5a. At all times, the Permittee shall, to the extent practicable, maintain and operate the affected systems, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing PM emissions.
- b. The Permittee shall implement and maintain control measures for PM emissions from the affected systems, such as a filter and enclosure, that minimize visible emissions of PM and provide assurance of compliance with the applicable emission standards, as addressed in Condition 2.
- 6a.
 - i. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar quarter, the Permittee shall have the opacity of the emissions from the affected systems determined within 45 calendar days of a written request by the Illinois EPA or by the date agreed upon by the Illinois EPA, whichever is later, during representative weather and operating conditions by a qualified observer in accordance with USEPA Test Method 9, as further specified below.
 - ii. The duration of opacity observations shall be at least 30 minutes (five 6-minute averages) unless the average opacities for the first 12 minutes of observations (two six-minute averages) are both less than 10.0 percent.
 - iii. A. The Permittee shall notify the Illinois EPA at least 7 days in advance of the date and time of these observations, in order to allow the Illinois EPA to witness observation. This notification shall include the name(s) and employer(s) of the qualified observer(s).

- B. The Permittee shall promptly notify the Illinois EPA of any changes in the time or date for observations.
- iv. The Permittee shall provide a copy of its observer's readings to the Illinois EPA at the time of observation, if Illinois EPA personnel are present.
- v. The Permittee shall submit a written report for these observations within 15 days of the date of observation. This report shall include:
 - A. Date and time of observations.
 - B. Name and employer of qualified observer.
 - C. Copy of current certification.
 - D. Description of observation condition, including recent weather.
 - E. Description of the operating conditions of the affected operations.
 - F. Raw data.
 - G. Opacity determinations.
 - H. Conclusions.
- b.
 - i. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar year, within 90 days of a written request from the Illinois EPA, the Permittee shall have the PM emissions at the stack or vent of the affected handling system measured during representative operating conditions, as further specified below.
 - ii.
 - A. Testing shall be conducted using appropriate USEPA Reference Test Methods, including Method 5 for PM emissions.
 - B. Compliance may be determined from the average of three valid test runs, subject to the limitations and conditions contained in 35 IAC Part 283.
 - iii. The Permittee shall submit a test plan to the Illinois EPA at least 60 days prior to testing in accordance with 35 IAC Part 283.
 - iv. The Illinois EPA shall be notified prior to these tests to enable the Illinois EPA to observe these tests. Notification of the expected date of testing shall be submitted a minimum of 30 days prior to the expected date. Notification of the actual date and

expected time of testing shall be submitted a minimum of 5 working days prior to the actual date of the test. The Illinois EPA may, at its discretion, accept notification with shorter advance notice provided that the Illinois EPA will not accept such notification if it interferes with the Illinois EPA's ability to observe the testing.

- v. The Permittee shall expeditiously submit complete Final Report(s) for required emission testing to the Illinois EPA, no later than 90 days after the date of testing. These reports shall include the following information:
 - A. A summary of results.
 - B. Detailed description of test method(s), including description of sampling points, sampling train, analysis equipment, and test schedule.
 - C. Detailed description of the operating conditions of the affected system during testing, including operating rate (tons/hour) and the control measures being used.
 - D. The date and time of the sampling or measurements;
 - E. The date any analyses were performed;
 - F. The name of the company that performed the tests and/or analyses;
 - G. The detailed results of the tests including raw data, and/or analyses including sample calculations; and
 - H. The name of any relevant observers present including the testing company's representatives, any Illinois EPA or USEPA representatives, and the representatives of the source.
- 7a. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar month, the Permittee shall perform inspections of the affected systems during the month while the systems are operating to verify compliance with the requirements of this permit. These inspections shall be performed with supervisory personnel or other personnel not directly involved in the day-to day operation of the affected systems.
- b. The Permittee shall maintain records of the following for the above inspections:
 - i. Date and time the inspection was performed and name(s) of inspection personnel.

- ii. The observed condition of PM control measures, including the presence of any visible emissions.
 - iii. A description of any maintenance or repair associated with the PM control measures that is recommended as a result of the inspection and a review of outstanding recommendations for maintenance or repair from previous inspection(s), i.e., whether recommended action has been taken, is yet to be performed or no longer appears to be required.
 - iv. A summary of the observed implementation or status of actual PM control measures as compared to the customary PM control measures.
8. The Permittee shall maintain following records for the affected systems:
- a. File(s) containing the following data, with supporting information, which file(s) shall be kept up to date:
 - i. For the filter for the affected handling system: The design PM control efficiency or performance specification for PM emissions, gr/dscf.
 - ii. For each affected system: 1) The applicable PM emission factor normally used by the Permittee to calculate actual PM emissions, if a factor other than the standard emission rate is normally used; and 2) A determination of the maximum hourly emission rate of the system (pounds/hour) during normal operation.
 - b. Records for the amount of soda ash handled, operating hours, or other measure for the activity of the systems on a monthly and annual basis, which data is in the terms normally used by the Permittee to calculate actual emissions of the affected systems.
 - c. Records of the following for each incident when a system operates without the customary control measures:
 - i. The date of the incident.
 - ii. A description of the incident, including the customary control measures that were not present or implemented; the customary control measures that were present, if any; other control measures or mitigation measures that were implemented, if any; and the magnitude of PM emissions during the incident.
 - iii. The time at and means by which the incident was identified, e.g., scheduled inspection or observation by operating personnel.
 - iv. The length of time after the incident was identified that the affected system continued to operate before customary

- control measures were in place or the system was shutdown (to resume operation only after customary control measures were in place) and, if this time was more than one hour, an explanation why this time was not shorter, including a description of any mitigation measures that were implemented during the incident.
- v. The estimated total duration of the incident, i.e., the total length of time that the affected system ran without customary control measures and the estimated amount of soda ash handled or applied during the incident.
 - vi. A discussion of the probable cause of the incident and any preventative measures taken.
 - vii. A discussion whether an applicable emission standard (as listed in Condition 2) may have been violated during the incident, with an estimate of the amount of any additional or excess PM emissions (pounds) from the incident, with supporting explanation.
- d. Records of PM emissions (tons/month and tons/year) from each affected system, based on the above records, with supporting calculations.
 - e. Maintenance and repair log(s) or other records for the systems that, at a minimum, list the activities performed, with date and description.
9. If there is any deviation from the requirements of this permit, the Permittee shall submit a report to the Illinois EPA within 30 days after the deviation or such other time period specified in the current CAAPP permit issued for the source. The report shall include a description of the deviation, a copy of relevant records, and measures to reduce emissions and future occurrences.
10. Two copies of required reports and notifications shall be sent to the Illinois EPA at the following address unless otherwise indicated:

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

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

Illinois Environmental Protection Agency
Division of Air Pollution Control - Regional Office
9511 West Harrison
Des Plaines, Illinois 60016

Telephone: 847/294-4000 Facsimile: 847/294-4018

11. The Permittee may operate the affected systems under this construction permit until a CAAPP permit is issued that addresses them, provided that the Permittee submits a timely and complete application for such CAAPP permit.

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

ECB:CPR:KMP:psj

cc: Region 1



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

**STANDARD CONDITIONS FOR CONSTRUCTION/DEVELOPMENT PERMITS
ISSUED BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

July 1, 1985

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) authorizes the Environmental Protection Agency to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year from the date of issuance, unless a continuous program of construction or development on this project has started by such time.
2. The construction or development covered by this permit shall be done in compliance with applicable provisions of the Illinois Environmental Protection Act and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any duly authorized agent of the Agency upon the presentation of credentials, at reasonable times:
 - a. to enter the permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit,
 - b. to have access to and to copy any records required to be kept under the terms and conditions of this permit,
 - c. to inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit,
 - d. to obtain and remove samples of any discharge or emissions of pollutants, and
 - e. to enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located,
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities,
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations,
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project, and

DIRECTORY
 ENVIRONMENTAL PROTECTION AGENCY
 BUREAU OF AIR

For assistance in preparing a permit application contact the Permit Section.

Illinois Environmental Protection Agency
 Division of Air Pollution Control
 Permit Section
 1021 N. Grand Ave E.
 P.O. Box 19506
 Springfield, Illinois 62794-9506

or a regional office of the Field Operations Section. The regional offices and their areas of responsibility are shown on the map. The addresses and telephone numbers of the regional offices are as follows:

Illinois EPA
 Region 1
 Bureau of air, FOS
 9511 West Harrison
 Des Plaines, Illinois 60016
 847/294-4000

Illinois EPA
 Region 2
 5415 North University
 Peoria, Illinois 61614
 309/693-5463

Illinois EPA
 Region 3
 2009 Mall Street
 Collinsville, Illinois 62234
 618/346-5120

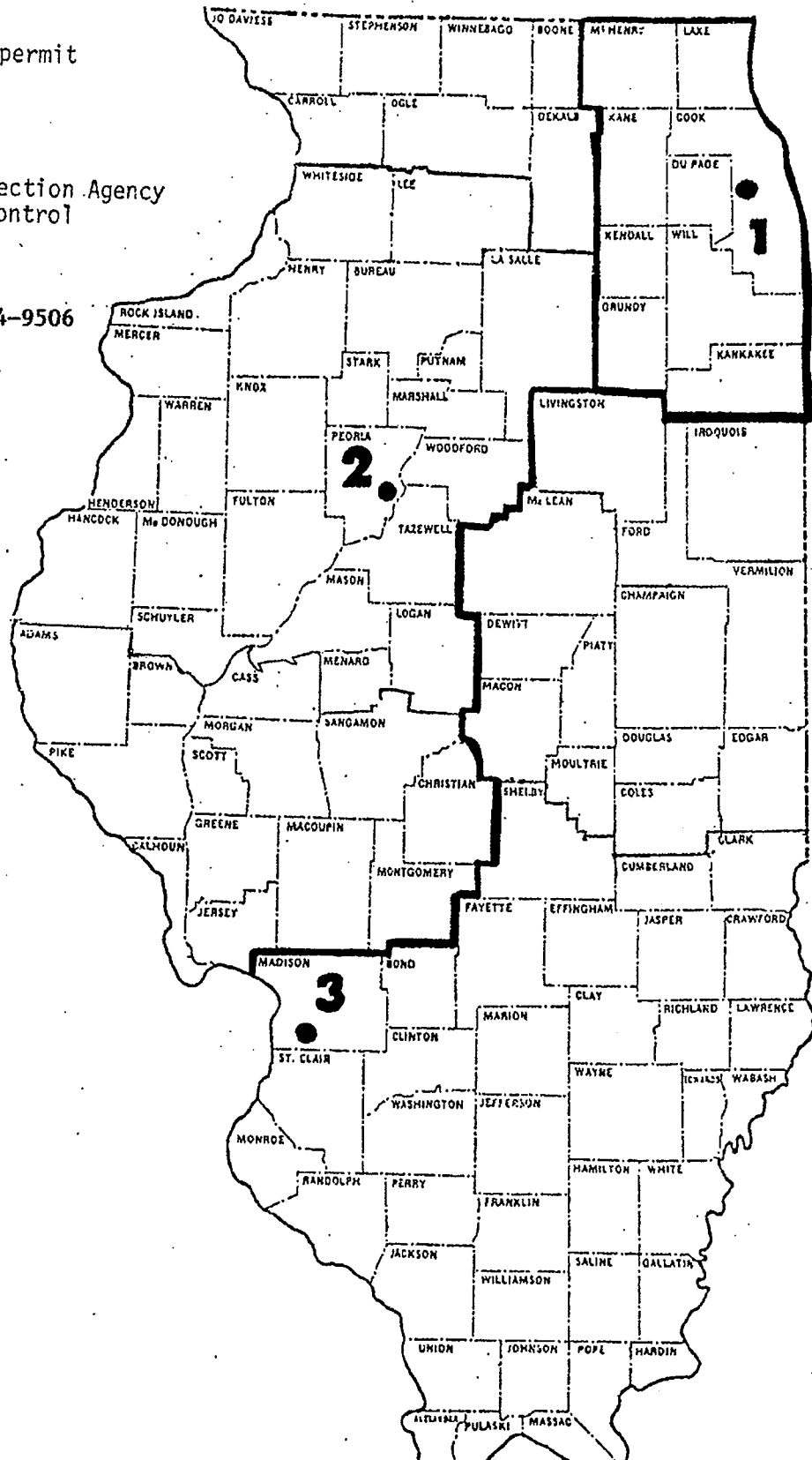


Exhibit 2

**Email Correspondence Providing Comments
on Draft Construction Permit
Between Andrea Crapisi at Midwest Generation
and Kunj Patel at Illinois EPA**

June 13, 2007

Bassi, Kathleen C.

From: Andrea Crapisi [ACrapisi@mwgen.com]
Sent: Tuesday, June 19, 2007 3:20 PM
To: Bassi, Kathleen C.
Subject: Fw: Will County Generating Station -Soda Ash Addition System Permit Comments
Attachments: Draft Permit Will County Soda Ash MWGen Comments.doc

Below are my comments to Kunj.

----- Forwarded by Andrea Crapisi/Chicago/MWGEN on 06/19/2007 03:06 PM -----

Andrea Crapisi/Chicago/MWGEN

To Kunj.Patel@illinois.gov

06/13/2007 09:58 AM

cc Scott Miller/Chicago/MWGEN@EME, acrapisi@mwgen.com

Subject Will County Generating Station -Soda Ash Addition System Permit Comments

Kunj,

Our comments are outlined below and a red-lined version of the draft permit is attached as well.

Condition 4(a)(ii) The soda ash application system is enclosed and underground and the emissions from it will be negligible.

Condition 6(b) We are appealing this condition in the Title V permit because the vent for this type of a system is not structurally built to accommodate Method 5 testing. The inspections, monitoring and recordkeeping should be enough to ensure that this source remains in compliance.

Condition 8(a) - (should actually be condition 7(a)) - the requirement for the inspection to be done by someone not involved in the day to day process is being appealed through the Title V process and should be removed.

Condition 8(c)(ii) and 8(c)(vii) are being appealed through the TV process and should be removed.

If you have any questions on these comments, please let me know.

Andrea Crapisi
Midwest Generation
Office (312) 583-6126
Cell (312) 636-3228
acrapisi@mwgen.com

6/19/2007

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Midwest Generation EME, LLC
Attn: Andrea Crapisi
440 S. LaSalle Street, Suite 3500
Chicago, Illinois 60605

Application No.: 07030069

I.D. No.: 197810AAK

Applicant's Designation:

Date Received: February 6, 2007

Subject: Soda Ash Handling and Application Systems

Date Issued:

Location: Will County Generating Station, 529 E. 135th Street, Romeoville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a soda ash (sodium carbonate) handling system and a soda ash application system, 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 a soda ash handling system, which includes a silo, feeder hopper and enclosed screw conveyors, (the affected handling system), and a soda ash application system, which will apply soda ash to the coal on the conveyor belt from the rail car dumper (the affected application system). This permit is issued based on the affected systems being an emission control project whose principle purpose is to enhance the performance of the electrostatic precipitators, which control particulate matter (PM) emissions from the existing coal-fired boilers at the source, by treating the coal supply to the boilers with soda ash. As such this project also facilitates use of coal from mines that do not or have not treated their coal with soda ash.
- b. Other than installation of the affected systems, this permit does not authorize changes to the boilers or existing coal handling operations at the source to handle coal that that they are not currently capable of handling.
- c. This permit does not relax or otherwise revise any requirements and conditions that apply to the boilers and other existing operations at the source, including applicable monitoring, testing, recordkeeping, and reporting requirements pursuant to current operating permits issued for this source.

2. For the affected systems, the Permittee shall comply with the applicable State rules that limit PM emissions, including 35 IAC Part 212, Sections 212.123, 212.301, 212.307, 212.313, and 212.321.
3. This permit is issued based on the affected systems not being subject to the federal New Source Performance Standards (NSPS) for Nonmetallic Mineral Processing Plants, 40 CFR 60, Subpart 000, because soda ash is not ground or crushed in the affected systems.
- 4a.
 - i. The emissions of PM from the affected handling system shall not exceed 0.3 lbs/hour and 1.4 tons/year.
 - ii. This permit is issued based on ~~minimal-negligible~~ emissions from the affected application system. ~~For this purpose emissions shall not exceed 0.25 lb/hour and 1.0 ton/year.~~
 - iii. Compliance with annual limits shall be determined from a running total of 12 months of data.
- b. This permit is issued based on the application of soda ash with the affected systems not increasing emissions from the boilers and other existing operations at the source as coal that has been treated with soda ash at the mine is currently being used at the source.
- 5a. At all times, the Permittee shall, to the extent practicable, maintain and operate the affected systems, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing PM emissions.
- b. The Permittee shall implement and maintain control measures for PM emissions from the affected systems, such as a filter and enclosure, that minimize visible emissions of PM and provide assurance of compliance with the applicable emission standards, as addressed in Condition 2.
- 6a.
 - i. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar quarter, the Permittee shall have the opacity of the emissions from the affected systems determined within 45 calendar days of a written request by the Illinois EPA or by the date agreed upon by the Illinois EPA, whichever is later, during representative weather and operating conditions by a qualified observer in accordance with USEPA Test Method 9, as further specified below.
 - ii. The duration of opacity observations shall be at least 30 minutes (five 6-minute averages) unless the average opacities for the first 12 minutes of observations (two six-minute averages) are both less than 10.0 percent.
 - iii. A. The Permittee shall notify the Illinois EPA at least 7 days in advance of the date and time of these observations, in order to allow the Illinois EPA to witness observation. This notification shall include the name(s) and employer(s) of the qualified observer(s).

- B. The Permittee shall promptly notify the Illinois EPA of any changes in the time or date for observations.
- iv. The Permittee shall provide a copy of its observer's readings to the Illinois EPA at the time of observation, if Illinois EPA personnel are present.
- v. The Permittee shall submit a written report for these observations within 15 days of the date of observation. This report shall include:
 - A. Date and time of observations.
 - B. Name and employer of qualified observer.
 - C. Copy of current certification.
 - D. Description of observation condition, including recent weather.
 - E. Description of the operating conditions of the affected operations.
 - F. Raw data.
 - G. Opacity determinations.
 - H. Conclusions.
- ~~b. i. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar year, within 90 days of a written request from the Illinois EPA, the Permittee shall have the PM emissions at the stack or vent of the affected handling system measured during representative operating conditions, as further specified below.~~
- ~~ii. A. Testing shall be conducted using appropriate USEPA Reference Test Methods, including Method 5 for PM emissions.~~
 - ~~B. Compliance may be determined from the average of three valid test runs, subject to the limitations and conditions contained in 35 IAC Part 283.~~
- ~~iii. The Permittee shall submit a test plan to the Illinois EPA at least 60 days prior to testing in accordance with 35 IAC Part 283.~~
- ~~iv. The Illinois EPA shall be notified prior to these tests to enable the Illinois EPA to observe these tests. Notification of the expected date of testing shall be submitted a minimum of 30 days prior to the expected date. Notification of the actual date and expected time of testing shall be submitted a minimum of 5~~

~~working days prior to the actual date of the test. The Illinois EPA may, at its discretion, accept notification with shorter advance notice provided that the Illinois EPA will not accept such notification if it interferes with the Illinois EPA's ability to observe the testing.~~

~~v. The Permittee shall expeditiously submit complete Final Report(s) for required emission testing to the Illinois EPA, no later than 90 days after the date of testing. These reports shall include the following information:~~

~~A. A summary of results.~~

~~B. Detailed description of test method(s), including description of sampling points, sampling train, analysis equipment, and test schedule.~~

~~C. Detailed description of the operating conditions of the affected system during testing, including operating rate (tons/hr) and the control measures being used.~~

~~D. The date and time of the sampling or measurements;~~

~~E. The date any analyses were performed;~~

~~F. The name of the company that performed the tests and/or analyses;~~

~~G. The detailed results of the tests including raw data, and/or analyses including sample calculations; and~~

~~H. The name of any relevant observers present including the testing company's representatives, any Illinois EPA or USEPA representatives, and the representatives of the source.~~

~~§a7a. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar month, the Permittee shall perform inspections of the affected systems during the month while the systems are operating to verify compliance with the requirements of this permit. These inspections shall be performed with supervisory personnel or other personnel not directly involved in the day-to-day operation of the affected systems.~~

b. The Permittee shall maintain records of the following for the above inspections:

i. Date and time the inspection was performed and name(s) of inspection personnel.

ii. The observed condition of PM control measures, including the presence of any visible emissions.

iii. A description of any maintenance or repair associated with the PM control measures that is recommended as a result of the inspection

- and a review of outstanding recommendations for maintenance or repair from previous inspection(s), i.e., whether recommended action has been taken, is yet to be performed or no longer appears to be required.
- iv. A summary of the observed implementation or status of actual PM control measures as compared to the customary PM control measures.
8. The Permittee shall maintain following records for the affected systems:
- a. File(s) containing the following data, with supporting information, which file(s) shall be kept up to date:
- i. For the filter for the affected handling system: The design PM control efficiency or performance specification for PM emissions, gr/dscf.
- ii. For each affected system: 1) The applicable PM emission factor normally used by the Permittee to calculate actual PM emissions, if a factor other than the standard emission rate is normally used; and 2) A determination of the maximum hourly emission rate of the system (pounds/hour) during normal operation.
- b. Records for the amount of soda ash handled, operating hours, or other measure for the activity of the systems on a monthly and annual basis, which data is in the terms normally used by the Permittee to calculate actual emissions of the affected systems.
- c. Records of the following for each incident when a system operates without the customary control measures:
- i. The date of the incident.
- ii. A description of the incident, including the customary control measures that were not present or implemented; the customary control measures that were present, if any; other control measures or mitigation measures that were implemented, if any; ~~and the magnitude of PM emissions during the incident.~~
- iii. The time at and means by which the incident was identified, e.g., scheduled inspection or observation by operating personnel.
- iv. The length of time after the incident was identified that the affected system continued to operate before customary control measures were in place or the system was shutdown (to resume operation only after customary control measures were in place) and, if this time was more than one hour, an explanation why this time was not shorter, including a description of any mitigation measures that were implemented during the incident.

- v. The estimated total duration of the incident, i.e., the total length of time that the affected system ran without ~~customary control measures and the estimated amount of soda ash handled or applied during the incident.~~
 - vi. A discussion of the probable cause of the incident and any preventative measures taken.
 - vii. ~~A discussion whether an applicable emission standard (as listed in Condition 2) may have been violated during the incident, with an estimate of the amount of any additional or excess PM emissions (pounds) from the incident, with supporting explanation.~~
- d. Records of PM emissions (tons/month and tons/year) from each affected system, based on the above records, with supporting calculations.
 - e. Maintenance and repair log(s) or other records for the systems that, at a minimum, list the activities performed, with date and description.
9. If there is any deviation from the requirements of this permit, the Permittee shall submit a report to the Illinois EPA within 30 days after the deviation or such other time period specified in the current CAAPP permit issued for the source. The report shall include a description of the deviation, a copy of relevant records, and measures to reduce emissions and future occurrences.
10. Two copies of required reports and notifications shall be sent to the Illinois EPA at the following address unless otherwise indicated:
- Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276
- and one copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:
- Illinois Environmental Protection Agency
Division of Air Pollution Control - Regional Office
9511 West Harrison
Des Plaines, Illinois 60016
- Telephone: 847/294-4000 Facsimile: 847/294-4018
11. The Permittee may operate the affected systems under this construction permit until a CAAPP permit is issued that addresses them, provided that the Permittee submits a timely and complete application for such CAAPP permit.

Page 7

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

ECB:CPR:KMP

cc: Region 1

Exhibit 3

Redlined Permit Reflecting Provisions Midwest Generation Requests Be Stayed

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9S06 - (217) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR _____ DOUGLAS P. SCOTT, DIRECTOR _____

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Midwest Generation EME, LLC
Attn: Andrea Crapisi
440 South LaSalle Street, Suite 3500
Chicago, Illinois 60605

Application No.: 07030069

I.D. No.: 197810AAK

Applicant's Designation:

Date Received: March 26, 2007

Subject: Soda Ash Handling and Application Systems

Date Issued: June 15, 2007

Location: Will County Generating Station, 529 East 135th Street, Romeoville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a soda ash (sodium carbonate) handling system and a soda ash application system, 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 a soda ash handling system, which includes a silo, feeder hopper and enclosed screw conveyors, (the affected handling system), and a soda ash application system, which will apply soda ash to the coal on the conveyor belt from the rail car dumper (the affected application system). This permit is issued based on the affected systems being an emission control project whose principle purpose is to enhance the performance of the electrostatic precipitators, which control particulate matter (PM) emissions from the existing coal-fired boilers at the source, by treating the coal supply to the boilers with soda ash. As such this project also facilitates use of coal from mines that do not or have not treated their coal with soda ash.
- b. Other than installation of the affected systems, this permit does not authorize changes to the boilers or existing coal handling operations at the source to handle coal that they are not currently capable of handling.
- c. This permit does not relax or otherwise revise any requirements and conditions that apply to the boilers and other existing operations at the source, including applicable monitoring, testing, recordkeeping, and reporting requirements pursuant to current operating permits issued for this source.

2. For the affected systems, the Permittee shall comply with the applicable State rules that limit PM emissions, including 35 IAC Part 212, Sections 212.123, 212.301, 212.307, 212.313, and ~~212.321~~.
3. This permit is issued based on the affected systems not being subject ~~to the federal New Source Performance Standards (NSPS) for Nonmetallic Mineral Processing Plants, 40 CFR 60, Subpart 000, because soda ash is not ground or crushed in the affected systems.~~
- 4a.
 - i. The emissions of PM from the affected handling system shall not exceed 0.3 lbs/hour and 1.4 tons/year.
 - ii. This permit is issued based on negligible PM emissions from the affected application system. ~~For this purpose emissions shall not exceed 0.1 lbs/hour and 0.44 tons/year.~~
 - iii. Compliance with annual limits shall be determined from a running total of 12 months of data.
- b. This permit is issued based on the application of soda ash with the affected systems not increasing emissions from the boilers and other existing operations at the source as coal that has been treated with soda ash at the mine is currently being used at the source.
- 5a. At all times, the Permittee shall, to the extent practicable, maintain and operate the affected systems, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing PM emissions.
- b. The Permittee shall implement and maintain control measures for PM emissions from the affected systems, such as a filter and enclosure, that minimize visible emissions of PM and provide assurance of compliance with the applicable emission standards, as addressed in Condition 2.
- 6a.
 - i. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar quarter, the Permittee shall have the opacity of the emissions from the affected systems determined within 45 calendar days of a written request by the Illinois EPA or by the date agreed upon by the Illinois EPA, whichever is later, during representative weather and operating conditions by a qualified observer in accordance with USEPA Test Method 9, as further specified below.
 - ii. The duration of opacity observations shall be at least 30 minutes (five 6-minute averages) unless the average opacities for the first 12 minutes of observations (two six-minute averages) are both less than 10.0 percent.
 - iii. A. The Permittee shall notify the Illinois EPA at least 7 days in advance of the date and time of these observations, in order to allow the Illinois EPA to witness observation. This notification shall include the name(s) and employer(s) of the qualified observer(s).

- B. The Permittee shall promptly notify the Illinois EPA of any changes in the time or date for observations.
- iv. The Permittee shall provide a copy of its observer's readings to the Illinois EPA at the time of observation, if Illinois EPA personnel are present.
- v. The Permittee shall submit a written report for these observations within 15 days of the date of observation. This report shall include:
 - A. Date and time of observations.
 - B. Name and employer of qualified observer.
 - C. Copy of current certification.
 - D. Description of observation condition, including recent weather.
 - E. Description of the operating conditions of the affected operations.
 - F. Raw data.
 - G. Opacity determinations.
 - H. Conclusions.
- ~~b. i. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar year, within 90 days of a written request from the Illinois EPA, the Permittee shall have the PM emissions at the stack or vent of the affected handling system measured during representative operating conditions, as further specified below.~~
- ~~ii. A. Testing shall be conducted using appropriate USEPA Reference Test Methods, including Method 5 for PM emissions.~~
- ~~B. Compliance may be determined from the average of three valid test runs, subject to the limitations and conditions contained in 35 IAC Part 283.~~
- ~~iii. The Permittee shall submit a test plan to the Illinois EPA at least 60 days prior to testing in accordance with 35 IAC Part 283.~~
- ~~iv. The Illinois EPA shall be notified prior to these tests to enable the Illinois EPA to observe these tests. Notification of the expected date of testing shall be submitted a minimum of 30 days prior to the expected date. Notification of the actual date and expected time of testing shall be submitted a minimum of 5 working days prior to the actual date of the test. The Illinois EPA may, at its discretion, accept notification with shorter advance notice provided that the Illinois EPA will not accept~~

~~such notification if it interferes with the Illinois EPA's ability to observe the testing.~~

- ~~v. The Permittee shall expeditiously submit complete Final Report(s) for required emission testing to the Illinois EPA, no later than 90 days after the date of testing. These reports shall include the following information:~~
- ~~A. A summary of results.~~
 - ~~B. Detailed description of test method(s), including description of sampling points, sampling train, analysis equipment, and test schedule.~~
 - ~~C. Detailed description of the operating conditions of the affected system during testing, including operating rate (tons/hour) and the control measures being used.~~
 - ~~D. The date and time of the sampling or measurements.~~
 - ~~E. The date any analyses were performed.~~
 - ~~F. The name of the company that performed the tests and/or analyses.~~
 - ~~G. The detailed results of the tests including raw data, and/or analyses including sample calculations, and~~
 - ~~H. The name of any relevant observers present including the testing company's representatives, any Illinois EPA or USEPA representatives, and the representatives of the source.~~
- 7a. If the affected systems routinely apply soda ash to the coal supply for the boilers during a calendar month, the Permittee shall perform inspections of the affected systems during the month while the systems are operating to verify compliance with the requirements of this permit. ~~These inspections shall be performed with supervisory personnel or other personnel not directly involved in the day to day operation of the affected systems.~~
- b. The Permittee shall maintain records of the following for the above inspections:
- i. Date and time the inspection was performed and name(s) of inspection personnel.
 - ii. The observed condition of PM control measures, including the presence of any visible emissions.
 - iii. A description of any maintenance or repair associated with the PM control measures that is recommended as a result of the inspection and a review of outstanding recommendations for maintenance or repair from previous inspection(s), i.e., whether recommended action has been taken, is yet to be performed or no longer appears to be required.

- iv. A summary of the observed implementation or status of actual PM control measures as compared to the customary PM control measures.
8. The Permittee shall maintain following records for the affected systems:
- a. File(s) containing the following data, with supporting information, which file(s) shall be kept up to date:
 - ~~i. For the filter for the affected handling system: The design PM control efficiency or performance specification for PM emissions, gr/dscf.~~
 - ii. For each affected system: 1) The applicable PM emission factor normally used by the Permittee to calculate actual PM emissions, if a factor other than the standard emission rate is normally used; and 2) A determination of the maximum hourly emission rate of the system (pounds/hour) during normal operation.
 - b. Records for the amount of soda ash handled, operating hours, or other measure for the activity of the systems on a monthly and annual basis, which data is in the terms normally used by the Permittee to calculate actual emissions of the affected systems.
 - c. Records of the following for each incident when a system operates without the customary control measures:
 - i. The date of the incident.
 - ii. A description of the incident, including the customary control measures that were not present or implemented; the customary control measures that were present, if any; other control measures or mitigation measures that were implemented, if any; ~~and the magnitude of PM emissions during the incident.~~
 - iii. The time at and means by which the incident was identified, e.g., scheduled inspection or observation by operating personnel.
 - iv. The length of time after the incident was identified that the affected system continued to operate before customary control measures were in place or the system was shutdown (to resume operation only after customary control measures were in place) and, if this time was more than one hour, an explanation why this time was not shorter, including a description of any mitigation measures that were implemented during the incident.
 - v. The estimated total duration of the incident, i.e., the total length of time that the affected system ran without customary control measures and the estimated amount of soda ash handled or applied during the incident.

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

**STANDARD CONDITIONS FOR CONSTRUCTION/DEVELOPMENT PERMITS
ISSUED BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

July 1, 1985

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) authorizes the Environmental Protection Agency to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year from the date of issuance, unless a continuous program of construction or development on this project has started by such time.
2. The construction or development covered by this permit shall be done in compliance with applicable provisions of the Illinois Environmental Protection Act and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless written request for modification, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any duly authorized agent of the Agency upon the presentation of credentials, at reasonable times:
 - a. to enter the permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit,
 - b. to have access to and to copy any records required to be kept under the terms and conditions of this permit,
 - c. to inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit,
 - d. to obtain and remove samples of any discharge or emissions of pollutants, and
 - e. to enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located,
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities,
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations,
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project, and

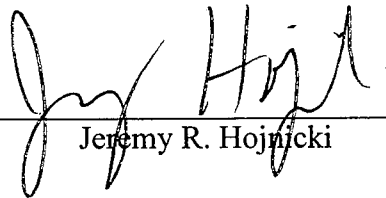
CERTIFICATE OF SERVICE

I, the undersigned, certify that on this day of July 20, 2007, I have served electronically the attached **APPEARANCES OF SHELDON A. ZABEL, KATHLEEN C. BASSI, STEPHEN J. BONEBRAKE; JEREMY R. HOJNICKI and APPEAL OF CONSTRUCTION PERMIT** upon the following persons:

John T. 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, postage affixed, upon the following persons:

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



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