



**MIDWEST  
GENERATION EME, LLC**

An EDISON INTERNATIONAL® Company

Amy L. Hanrahan  
Senior Environmental  
Engineer  
Environmental Services

January 18, 2013

Ms. Andrea Rhodes  
Illinois Environmental Protection Agency – DPWS  
MC #19  
1021 North Grand Avenue East  
Springfield, IL 62702

VIA FEDERAL EXPRESS

Re: Compliance Commitment Agreement – ELUC  
Midwest Generation, LLC, Waukegan Station; ID No. 6281  
Violation Notice W-2012-00056

Dear Ms. Rhodes:

The Compliance Commitment Agreement (CCA) for the above referenced site relative to Violation Notice W-2012-00056 was signed by Midwest Generation on October 15, 2012 and executed by Illinois Environmental Protection Agency (IEPA) signature on October 24, 2012 (effective date). Item 5 (f) of the CCA requires that Midwest Generation submit a proposed Environmental Land Use Control (ELUC) to cover the remaining Waukegan Station property to the east that is not already included in the existing ComEd Former Tannery Site ELUC. The proposed ELUC extension is to be submitted to IEPA within 90 days of the effective date of the CCA.

The areal extent of the proposed ELUC extension is provided with the attached documentation (Exhibit B Figure B-4). The western boundary of the proposed ELUC extension abuts the boundary of the existing ELUC. The south boundary is defined by the existing property line. The east boundary is Lake Michigan and the north boundary is defined by the northern extent of the ash pond system. The proposed vertical extent of the ELUC is the unconsolidated overburden deposits overlying the Silurian dolomite bedrock beneath the site. The estimated vertical thickness of the unconsolidated deposits is 100 feet below ground surface based on information provided in the Hydrogeologic Assessment Report dated February 2011 that was submitted to the IEPA.

Attached is a proposed ELUC for the Waukegan Station. Please note that the formal legal description that would be included as part of Exhibit A will be completed upon IEPA approval of the proposed ELUC. This submittal fulfills the requirements set forth under Item 5 (f) of the signed CCA. Please call me at 630-771-7863 if there are any questions.

235 Remington Blvd.  
Suite A  
Bolingbrook, IL 60440  
Tel: 630 771 7863  
Fax: 949 225 0813  
ahanrahan@mwgen.com

MWG13-15\_599

Comp. Ex. 263

Ms. Andrea Rhodes  
IEPA – DPWS  
Re: ELUC – Waukegan Station

Page 2  
January 18, 2013

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Sincerely,  
Midwest Generation, LLC



Amy Hanrahan  
Senior Environmental Engineer

cc: Ms. Maria Race, Midwest Generation EME, LLC  
Mr. Basil Constantelos, Midwest Generation EME, LLC  
Mr. Robert Chmielewski, Midwest Generation, LLC  
Mr. Christopher Foley, Midwest Generation EME, LLC  
Ms. Susan Franzetti, Nijman Franzetti, LLP  
Mr. Richard Gnat, KPRG and Associates, Inc.  
Mr. Bill Buscher, IEPA

PREPARED BY:

Name: Christopher M. Foley  
Address: Midwest Generation, LLC  
500 West Madison Street  
Suite 2640  
Chicago, Illinois 60661

RETURN TO:

Name: Christopher M. Foley  
Address: Midwest Generation, LLC  
500 West Madison Street  
Suite 2640  
Chicago, Illinois 60661

**THE ABOVE SPACE FOR RECORDER'S OFFICE**

**Environmental Land Use Control**

THIS ENVIRONMENTAL LAND USE CONTROL ("ELUC"), is made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Midwest Generation, LLC, ("Property Owner") of that portion (as identified in Exhibit A) of the real property located at the common address of Waukegan Station, 401 E. Greenwood Avenue, Waukegan, Illinois 60087 ("Property").

WHEREAS, 415 ILCS 5/58.17 and 35 Ill. Adm. Code 742 provide for the use of an ELUC as an institutional control in order to impose land use limitations or requirements related to environmental contamination so that persons conducting remediation can obtain a No Further Remediation determination from the Illinois Environmental Protection Agency ("IEPA"). The reason for an ELUC is to ensure protection of human health and the environment. The limitations and requirements contained herein are necessary in order to protect against exposure to contaminated groundwater that may be present on the property as a result of past industrial activities on or in the vicinity of the property. Under 35 Ill. Adm. Code 742, the use of risk-based, site-specific remediation objectives may require the use of an ELUC on real property, and the ELUC may apply to certain physical features (e.g., engineered barriers, monitoring wells, caps, etc.).

NOW, THEREFORE, the recitals set forth above are incorporated by reference as if fully set forth herein and the Property Owner agrees as follows:

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**Section One.** Property Owner does hereby establish an ELUC on the real estate, situated in the County of Lake, State of Illinois and further described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

Attached as Exhibit B are site maps that show the legal boundary of the Property, any physical features to which the ELUC applies, the horizontal and vertical extent of the contaminants of concern above the applicable remediation objectives for groundwater and the nature, location of the source, and direction of movement of the contaminants of concern, as required under 35 Ill. Adm. Code 742.

**Section Two.** Property Owner represents and warrants it is the current owner of the Property and has the authority to record this ELUC on the chain of title for the Property with the Office of the Recorder or Registrar of Titles in Lake County, Illinois.

**Section Three.** The Property Owner hereby agrees, for itself, and its heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein, that the groundwater under the Property shall not be used as a potable supply of water.

**Section Four.** This ELUC is binding on the Property Owner, its heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein. This ELUC shall apply in perpetuity against the Property and shall not be released until the IEPA determines there is no longer a need for this ELUC as an institutional control or until the IEPA, upon written request, issues a no further remediation determination approving modification or removal of the limitation(s) or requirement(s); and until a release or modification of the land use limitation or requirement is filed on the chain of title for the Property.

**Section Five. Future Improvement of Property:** This ELUC does not limit Property Owner's or its successors' or assigns' ability to construct on or otherwise improve the Property or to allow others to use the Property. Property Owner reserves the right to remove contaminated groundwater from the Property and to dispose of it as is appropriate under applicable laws.

**Section Six. Future Monitoring:** Until such time as this ELUC is released or modified pursuant to the terms of Section Four above, Property Owner shall conduct the following groundwater monitoring program on the Property:

Monitoring wells MW-1 through MW-7 surrounding the East and West Ash Ponds will be sampled as required under Item 5 (d) of the CCA. These wells will continue to be monitored on a quarterly basis for constituents listed in 35 IAC 620.410(a), with the exception of radium 226/228. The monitoring data will be reported to IEPA within 30 days of the end of each quarter. In addition, an updated groundwater potentiometric surface map will be provided with each quarterly submittal. IEPA, upon written request, may approve a reduction in the frequency and scope of the sampling program in the future. Upon the IEPA's approval, the approved changes in the frequency and scope of the monitoring

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program shall be implemented. A change in the frequency and scope of the monitoring program does not require the filing of a modification of this ELUC in the chain of title for the Property.

**Section Seven.** The effective date of this ELUC shall be the date that it is officially recorded in the chain of title for the Property to which the ELUC applies.

WITNESS the following signatures:  
Property Owner(s)

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

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STATE OF ILLINOIS        )  
                                          ) SS:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_ the undersigned, a Notary Public for said County and State,  
DO HEREBY CERTIFY, that \_\_\_\_\_, personally known to me to be the  
\_\_\_\_\_ of Midwest Generation, LLC, the Property Owner and personally known  
to me to be the same person whose name is subscribed to the foregoing instrument, appeared  
before me this day in person and severally acknowledged that in said capacity signed and  
delivered the said instrument as their free and voluntary act for the uses and purposes therein set  
forth.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

**PIN NO. 08-15-200-006 (partial)**

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**EXHIBIT A**

The subject property is located in the City of Waukegan, Lake County, State of Illinois, commonly known as Waukegan Station, Waukegan, Illinois and more particularly described as:

**COMMON ADDRESS:**

Waukegan Station (portion)  
401 E. Greenwood Avenue  
Waukegan, Illinois 60087

**LEGAL DESCRIPTION:**

(The legal description of the proposed area will be formalized upon IEPA approval of this proposed ELUC)

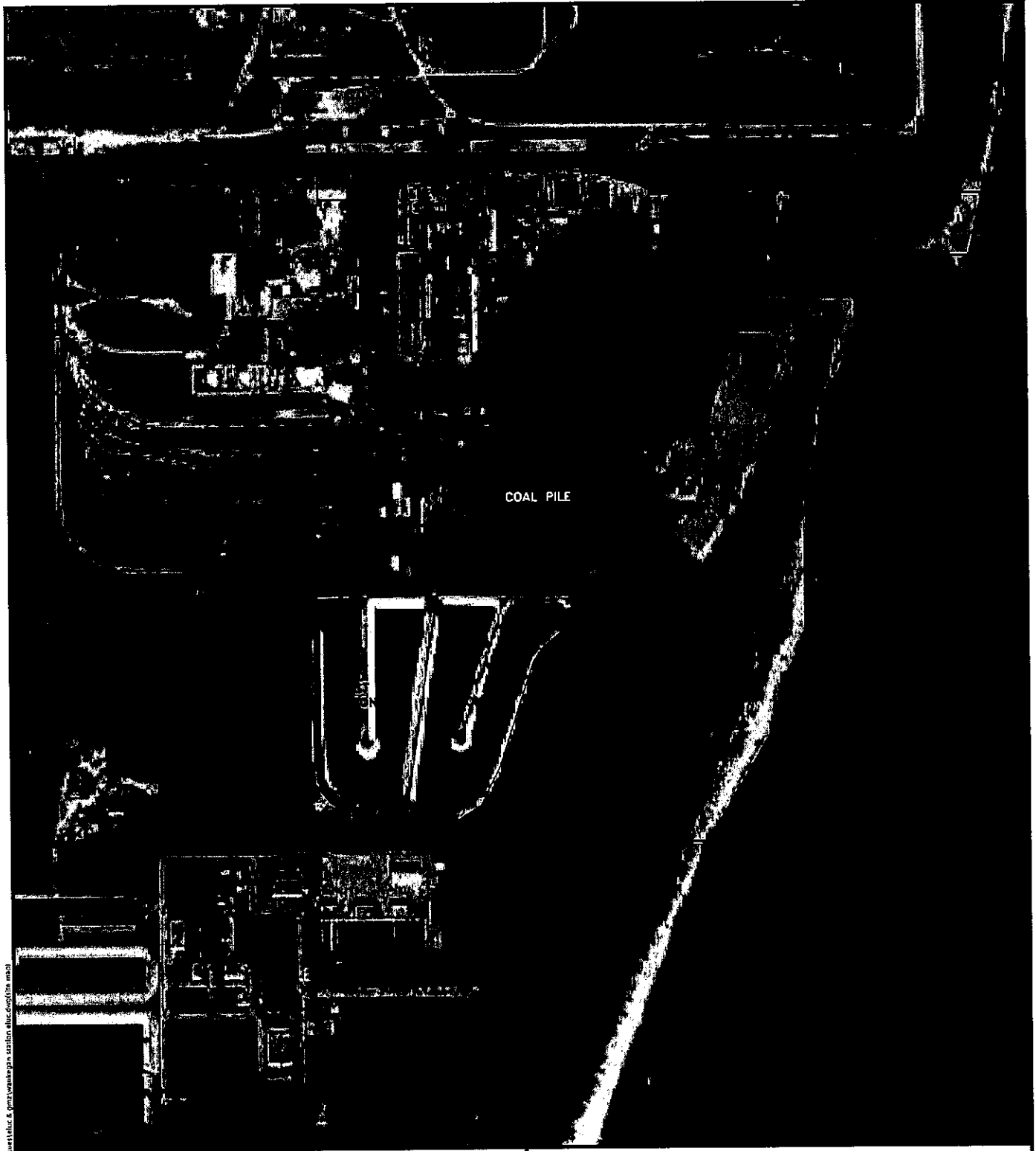
**REAL ESTATE TAX INDEX OR PARCEL #**

**08-15-200-006 (partial)**

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**EXHIBIT B**  
**Maps**



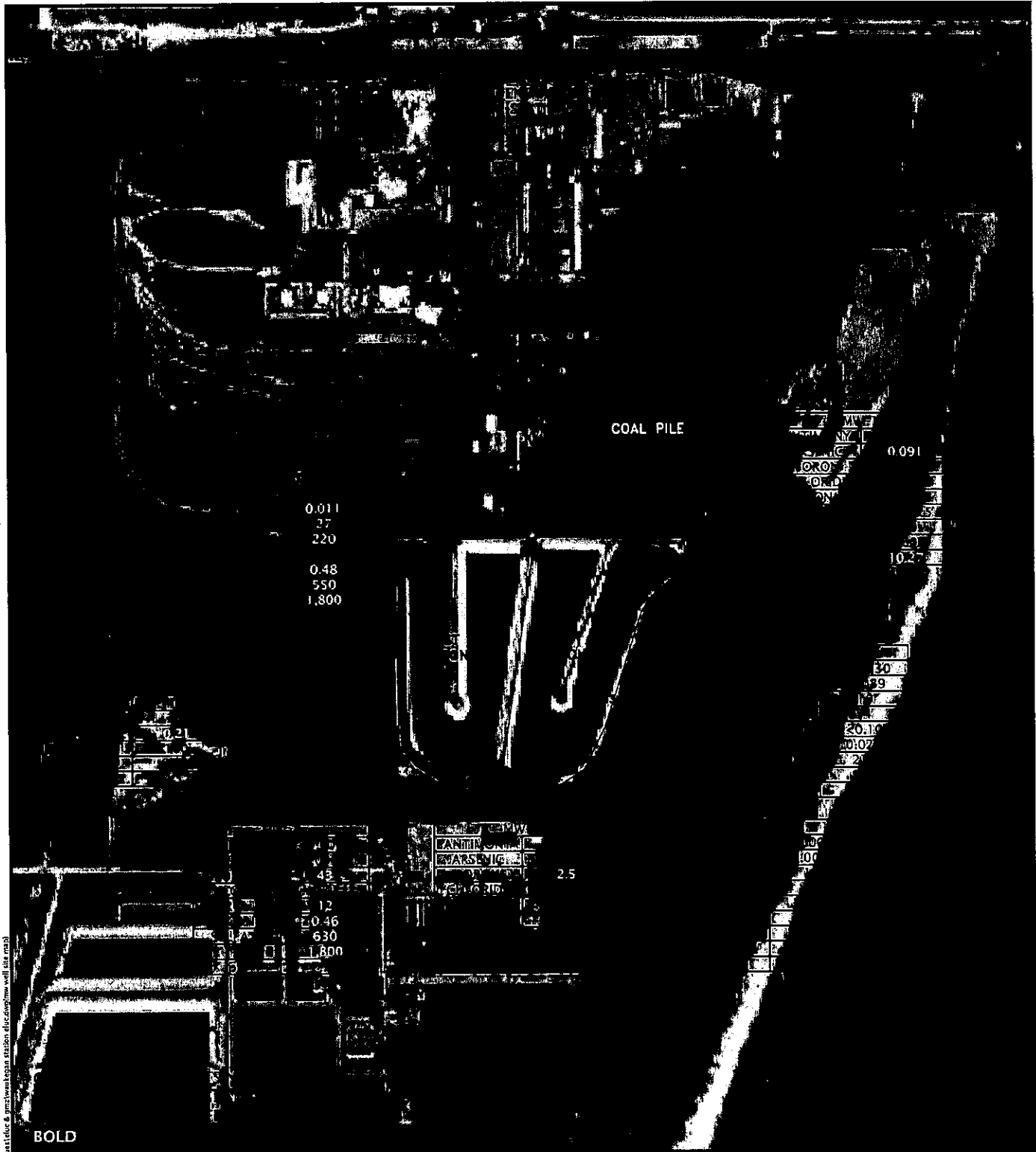


COAL PILE

Environmental Remediation & Construction Services, Inc. 14665 West Lisbon Road, Suite 26 Brookfield, Wisconsin 53005 Telephone 262-781-0475 Facsimile 262-781-0478

ENVIRONMENTAL CONSULTATION & REMEDIATION		SITE MAP WITH PROPERTY BOUNDARY	
<b>K P R G</b> KPRG and Associates, Inc. 414 Plaza Drive, Suite 106 Westmont, Illinois 60559 Telephone 630-325-1300 Facsimile 630-325-1593 14665 West Lisbon Road, Suite 26 Brookfield, Wisconsin 53005 Telephone 262-781-0475 Facsimile 262-781-0478		WAUKEGAN STATION WAUKEGAN, ILLINOIS	
		Scale: 1" = 550'	Date: January 14, 2013
KPRG Project No. 18311.31		EXHIBIT B-1	





Environmental Remediation and Construction Services, Inc. & Environmental Remediation and Construction Services, Inc.

ENVIRONMENTAL CONSULTATION & REMEDIATION		AREAL DISTRIBUTION OF GROUNDWATER IMPACTS	
<b>K P R G</b> KPRG and Associates, Inc. 414 Plaza Drive, Suite 106 Westmont, Illinois 60559 Telephone 630-325-1300 Facsimile 630-325-1593 14665 West Lisbon Road, Suite 2B Brookfield, Wisconsin 53005 Telephone 262-781-0475 Facsimile 262-781-0478		WAUKEGAN STATION WAUKEGAN, ILLINOIS	
		Scale: 1" = 500'	Date: January 14, 2013
KPRG Project No. 18311.3		EXHIBIT B-3	

