

ILLINOIS POLLUTION CONTROL BOARD
February 6, 2020

IN THE MATTER OF:)
)
PETITION OF MIDWEST GENERATION,) AS 19-1
LLC FOR AN ADJUSTED STANDARD) (Adjusted Standard - Land)
FROM 35 ILL. ADM. CODE 811 AND 814)

ORDER OF THE BOARD (by C.M. Santos):

On February 5, 2019, Midwest Generation, LLC (MG) filed a petition (Pet.) requesting that the Board revise an adjusted standard the Board granted in 1996. Petition of Midwest Generation for Adjusted Standard from 35 Ill. Adm. Code 811 and 814, AS 96-9 (Aug. 15, 1996). MG requests relief for the Main Quarry of its Joliet/Lincoln Quarry site, which is located south of the Des Plaines River at the intersection of Brandon and Patterson Roads in unincorporated Will County. MG has used the Main Quarry site to dispose of coal combustion residuals (CCR) from two of its generating stations. Pet. at 10. Condition 7 of the adjusted standard addresses closing the Main Quarry. MG requests that the Board revise Condition 7 to allow it to use a new final cover technology known as “ClosureTurf” that was not available in 1996. Pet. at 3.

On October 3, 2019, the Board granted MG’s motion to stay and stayed this proceeding—including the pending request for a public hearing—to December 2, 2019. On December 2, 2019, MG filed a status report and motion to extend the stay for 60 days. On December 5, 2019, the Board granted the motion, extended the stay to Monday, February 3, 2020, and directed MG to file a status report at the close of the extended stay. *See* 35 Ill. Adm. Code 101.514(b).

On February 3, 2020, MG filed a status report and a motion to extend the stay by 45 days. (Mot.).


MG states that “the statutory and regulatory landscape continues to develop.” Mot. at 2. Public Act 101-171, effective July 30, 2019, added to the Environmental Protection Act provisions regulating CCR surface impoundments. MG reports that the Senate passed Senate Bill 671 amending the requirements of Public Act 101-171, and the House of Representatives has received the bill for consideration during the 2020 legislative session. *Id.* Also, the Illinois Environmental Protection Agency (IEPA) has issued a draft proposal of CCR rules required by Public Act 101-171. MG submitted comments on the draft proposal to IEPA. MG requests that the Board extend the stay for 45 days to evaluate these evolving requirements and commits to file a status report at the end of an extended stay. Mot. at 2-3, citing 35 Ill. Adm. Code 101.514. IEPA does not object to the extension. Mot. at 3.

The Board recognizes that Public Act 101-171 significantly amended statutory requirements for the management of CCR surface impoundments and that the General Assembly is considering changes to these requirements in Senate Bill 671. The Board also recognizes that

IEPA is required by Public Act 101-171 to propose rules regulating CCR surface impoundments. MG requests that the Board extend the stay for 45 days to consider these developments, and IEPA does not oppose the request. Mot. at 2. Under these circumstances, the Board finds that a 45-day extension is reasonable. The Board grants the motion, extends the stay for 45 days, and directs MG to file a status report at the end of the extended stay. 35 Ill. Adm. Code 101.514(b).

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 6, 2020 by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board