

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R 2020-019
STANDARDS FOR THE DISPOSAL)	
OF COAL COMBUSTION RESIDUALS)	(Rulemaking - Water)
IN SURFACE IMPOUNDMENTS:)	
PROPOSED NEW 35 ILL. ADM.)	
CODE 845)	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S FIRST POST-HEARING COMMENTS**, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: September 24, 2020

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Christine Zeivel
Division of Legal Counsel
Illinois Environmental Protection Agency
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Petitioner,

BY: /s/ Christine Zeivel
Christine Zeivel

THIS FILING IS SUBMITTED ELECTRONICALLY

SERVICE LIST

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S
FIRST POST-HEARING COMMENTS

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through one of its attorneys, and hereby submits its responses to questions raised and requests made of the Agency preceding and during the August hearing on proposed new 35 Ill. Adm. Code 845. In support therefore, the following statements are made:

1. The Illinois EPA filed its proposed rulemaking for coal combustion residual surface impoundments on March 31, 2020 pursuant to Section 22.59 of the Illinois Environmental Protection Act.
2. The Illinois Pollution Control Board (“Board”) held the first public hearing on proposed new 35 Ill. Adm. Code 845: standards for the disposal of coal combustion residuals in surface impoundments on August 11, 12, 13 and 25, 2020.
3. The Agency’s written responses to questions asked but unanswered at hearing are contained in Attachment 1.
4. The Agency proposed changes to the rule language, as well as provided revised regulatory language for the Board’s consideration, in response to pre-filed questions. The Agency has compiled those pre-hearing revisions provided or suggested for the Board’s consideration in Attachment 2.

5. During the August hearing, the Board asked Illinois EPA to provide certain regulatory language. The Agency also indicated certain support or lack of objection to concepts and provisions proposed by participants. On August 13, 2020, Agency counsel stated on the record that the Agency panel was not in a position to state the entirety of the Agency's support or opposition for proposed revisions without management review, and that any statements made as to such support or opposition during the hearing would be subject to management approval. *See* Hrg. Transcript pp.108-113. The Agency now provides comments on certain regulatory proposals made and exchanges it had with participants during the August hearing, as well as proposed regulatory language, for the Board's consideration in Attachment 3.

6. The Board requested that the Agency provide Violation Notices issued for failure to pay fees under Section 22.59 into the record or provide a list of facilities where the status of CCR surface impoundments are in dispute. *See* Hrg. Transcript Aug 11, 2020, p. 101. The Agency is providing narrative response to the Board's request in Paragraph 10 of Attachment 1 and copies of the Violation Notices can be found in Attachment 4.

7. Since filing its original proposal, Illinois EPA has provided regulatory language revisions on the record for the Board's consideration. Due to the fast-track nature of this rulemaking and the limited time to respond to proposed regulatory language or suggestions made by the Board and other participants, Illinois EPA has provided these potential regulatory language revisions with varying levels of support for inclusion in the final rule. Illinois EPA believes some of these revisions are necessary and appropriate. Other revisions are not preferred by the Agency but have been provided in Agency responses should the Board deem the revisions necessary and appropriate. A complete copy of the Agency's proposed rule incorporating all of Illinois EPA's preferred regulatory language revisions will be included in Illinois EPA's final post-hearing

comments following the second hearing scheduled to begin September 29, 2020.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Petitioner,

BY: /s/ Christine Zeivel
Christine Zeivel

Dated: September 24, 2020

Christine Zeivel
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(217) 782-5544

THIS FILING IS SUBMITTED ELECTRONICALLY

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation state the following:

That I have served the attached **NOTICE OF FILING** and **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S FIRST POST HEARING COMMENTS** by e-mail upon Don Brown at the e-mail address of don.brown@illinois.gov, upon Renee Snow at the e-mail address of Renee.Snow@Illinois.Gov, upon Matt Dunn at the e-mail address of mdunn@atg.state.il.us, upon Stephen Sylvester at the e-mail address of ssylvester@atg.state.il.us, upon Andrew Armstrong at the e-mail address of aarmstrong@atg.state.il.us, upon Kathryn A. Pamenter at the e-mail address of KPamenter@atg.state.il.us, upon Virginia I. Yang at the e-mail address of virginia.yang@illinois.gov, upon Nick San Diego at the e-mail address of nick.sandiego@illinois.gov, upon Robert G. Mool at the e-mail address of bob.mool@illinois.gov, upon Vanessa Horton at the e-mail address of Vanessa.Horton@Illinois.gov, upon Paul Mauer at the e-mail address of Paul.Mauer@illinois.gov, upon Deborah Williams at the e-mail address of Deborah.Williams@cwlp.com, upon Kim Knowles at the e-mail address of Kknowles@prairierivers.org, upon Andrew Rehn at the e-mail address of Arehn@prairierivers.org, upon Faith Bugel at the e-mail address of fbugel@gmail.com, upon Jeffrey Hammons at the e-mail address of Jhammons@elpc.org, upon Keith Harley at the e-mail address of kharley@kentlaw.edu, upon Daryl Grable at the e-mail address of dgrable@clclaw.org, upon Michael Smallwood at the e-mail address of Msmallwood@ameren.com, upon Mark A. Bilut at the e-mail address of Mbilut@mwe.com, upon Abel Russ at the e-mail address of aruss@environmentalintegrity.org, upon Susan M. Franzetti at the e-mail address of Sf@nijmanfranzetti.com, upon Kristen Laughridge Gale at the e-mail address of kg@nijmanfranzetti.com, upon Vincent R. Angermeier at the e-mail address of va@nijmanfranzetti.com, upon Alec M. Davis at the e-mail address of adavis@ierg.org, upon Jennifer M. Martin at the e-mail address of Jmartin@heplerbroom.com, upon Kelly Thompson at the e-mail address of kthompson@ierg.org, upon Walter Stone at the e-mail address of Water.stone@nrgenergy.com, upon Cynthia Skrukrud at the e-mail address of Cynthia.Skrukrud@sierraclub.org, upon Jack Darin at the e-mail address of Jack.Darin@sierraclub.org, upon Christine Nannicelli at the e-mail address of christine.nannicelli@sierraclub.org, upon Stephen J. Bonebrake at the e-mail address of bonebrake@schiffhardin.com, upon Joshua R. More at the e-mail address of jmore@schiffhardin.com, upon Ryan C. Granholm at the e-mail address of rgranholm@schiffhardin.com, upon N. LaDonna Driver at the e-mail address of LaDonna.Driver@heplerbroom.com, upon Alisha Anker at the e-mail address of aanker@ppi.coop, upon Chris Newman at the e-mail address of newman.christopherm@epa.gov, upon Claire A. Manning at the e-mail address of cmanning@bhslaw.com, upon Anthony D. Schuering at the e-mail address of aschuering@bhslaw.com, upon Jennifer Cassel at the e-mail address of jcassel@earthjustice.org, upon Melissa Brown at the e-mail address of Melissa.Brown@heplerbroom.com, upon Thomas Cmar at the e-mail address of tcmar@earthjustice.org, and upon Kiana Courtney at the e-mail address of KCourtney@elpc.org.

That my e-mail address is Christine.Zeivel@illinois.gov

That the number of pages in the e-mail transmission is 97.

That the e-mail transmission took place before 4:30 p.m. on the date of September 24, 2020.

/s/ Christine Zeivel
September 24, 2020

Attachment 1

August 11, 2020

1. **Referring to Page 139 of Hearing Exhibit 2, Question 2: The Agency response states that “as currently written, Part 257 does not deem closure by removal complete until the CCR and any liner has been removed and decontamination of any area affected by release from the CCR surface impoundment has been completed pursuant to Part 257.100(b)(5).” Is the Agency citing to a draft rule that is not yet effective in Part 257? Hrg. Transcript August 11, 2020, p. 89-90 & 206-207.**

Agency Response: The correct citation is Part 257.102(c): Closure by removal of CCR, which states that “[a]n owner or operator may elect to close a CCR unit by removing and decontaminating all areas affected by releases from the CCR unit. CCR removal and decontamination of the CCR unit are complete when constituent concentrations throughout the CCR unit and any areas affected by releases from the CCR unit have been removed and groundwater monitoring concentrations to do not exceed the groundwater protection standard....”

2. **Referring to Page 139 of Hearing Exhibit 2, Question 3: Point to a specific reference in the USWAG decision that discusses closure by removal and requires complete removal of CCR. Hrg. Transcript August 11, 2020, p. 90.**

Agency Response: The USWAG decision did not address closure by removal. The Agency's response to Ameren's Question 3 was referring to the court's finding that USEPA improperly exempted inactive CCR surface impoundments at inactive facilities and that those surface impoundments should have been regulated by Part 257 from the outset.

3. **Referring to Page 139 of Hearing Exhibit 2, Question 4: What amendment to Part 257 did the Agency rely upon as its basis for Section 845.740(b)? Hrg. Transcript August 11, 2020, pp. 206 & 209.**

Agency Response: Section 845.740(b) requires groundwater monitoring to continue for three years *after the completion of closure by removal* or for three years after groundwater monitoring does not show an exceedance of the groundwater protection standard. 40 CFR 257.102(c) currently states that *closure by removal is not completed* until monitoring shows that groundwater monitoring concentrations do not exceed the GWPS. USEPA published a proposed amendment in 85 Fed. Reg., 12456 (Mar. 03, 2020) that separated completion of closure from the groundwater monitoring requirements, similar to the Agency's proposed 845.740(b).

4. **Would it be acceptable to the Agency to replace “significantly long period” with the meaning of the phrase provided in the Agency's Response to Board Question No. 9? Hrg. Transcript Aug. 11, 2020, p. 116.**

Agency Response: Yes. The Agency provides a proposed language revision in Paragraph 1 of Attachment 3.

5. **Will the Agency consider adding language to Section 845.210(d) that allows the Agency to accept previous assessments that have been signed off on by a professional geologist? Hrg. Transcript Aug. 11, 2020, pp. 149-151.**

Agency Response: The Agency does not believe such revision is necessary, but would not be opposed to specific language making certain reports approved by a Licensed Professional Geologist or Engineer acceptable for inclusion in permits issued pursuant to Part 845, subject to Agency approval, as is the Agency's intent under Section 845.210(d)(1) as proposed. If the Board believes such clarification is necessary, the Agency provides language for the Board's consideration in Paragraph 4 of Attachment 3.

6. **Referring to page 41 of Hearing Exhibit 3, Question 22: Can you identify the specific requirement under the landfill program authorizing the Bureau of Land Permit Section to require an applicant to submit a fully licensed copy of a groundwater computer model? Hrg. Transcript Aug. 11, 2020, p. 160.**

Agency Response: Section 813.111(d) states that "the requirements of this Section shall in no way require an applicant to utilize a model accepted by the Agency. If a model is utilized that has not been reviewed and accepted by the Agency then the applicant shall include in the permit application all of the documentation necessary to demonstrate compliance with 35 IAC 811.317(c)(1), (c)(2), and (c)(3)." The Agency position is that the only way to adequately document that a model is acceptable is to have a fully functional copy of the model — the need for supporting information requires an applicant for a solid waste landfill to supply a fully working model to the Agency when it submits a contaminant transport model as part of a Groundwater Impact Assessment.

7. **Would the Agency's ability to administer the permitting program be adversely affected if the Emergency Action Plan and Fugitive Dust Plans are made enforceable conditions of the permit? Hrg. Transcript Aug. 11, 2020, p. 193.**

Agency Response: Permitting is only one piece of 845's regulatory framework. The Bureau of Water permit issued under Part 845 is not intended to encompass the entirety of the program established by 845. The permitting process is one avenue to assure compliance with Part 845's requirements (such as requiring certifications of compliance with Part 845), but the regulations are enforceable on their own outside of the permit, as are the Act's other prohibitions on water, land and air pollution. As stated by Mr. LeCrone at the hearing, the Agency's role is to ensure that a plan is developed that meets Part 845. *See* Hrg. Transcript Aug. 11, 2020, p. 194.

8. **Does the Section 4(l) of the Act require IEPA to submit Part 845 for federal approval? Hrg. Transcript Aug. 11, 2020, p. 199.**

Agency Response: No, the Agency does not believe that Section 4(l) of the Act requires the Agency to seek USEPA's approval of Part 845. However, the Agency intends to seek federal approval of its coal ash permitting program, as per the WIIN Act.

August 12, 2020

9. **Would it be possible for the Agency to enter the Violation Notices into the Record, so the Board knows which facilities are disputing the definition of surface impoundments as they apply to their facility? If not, it would be helpful for the Agency to identify those facilities which are in dispute. Hrg. Transcript Aug. 11, 2020, p. 101.**

Agency Response: Illinois EPA issued Violation Notices on July 28, 2020 to the following facilities and associated surface impoundments. The Agency maintains that the disputes over the fees assessed by the Agency pursuant to Section 22.59 of the Act are outside the scope of the Part 845 rulemaking proceedings. Notwithstanding, the Agency is providing copies of the Violation Notices in Attachment 3 pursuant to the Board's request.

1. Dynege - Baldwin
 2. Dynege - Vermilion
 3. Dynege - Havana
 4. Dynege - Hennepin
 5. Electric Energy - Joppa
 6. IL Power - Coffeen
 7. IL Power - Duck Creek
 8. MWG – Joliet 29
 9. MWG - Waukegan
 10. MWG - Will County
 11. MWG - Powerton
 12. Ameren - Hutsonville
 13. Ameren - Meredosia
 14. SIPC - Marion
10. **845.430(b)(4) requires woody vegetation greater than a half inch must be removed from the slopes or pertinent surrounding areas of the CCR surface impoundment. What was the Agency's basis for choosing one-half inch diameter? Hrg. Transcript Aug. 12, 2020, p. 168-169.**

Agency Response: USEPA's March 15, 2018 proposed rule revision contained this structural integrity criteria in Section 257.73(a)(4)(ii)(D) for existing surface impoundments and Section 257.74(a)(4)(ii)(D) for new surface impoundments and any lateral expansions. See 83 Fed. Reg. 11584, 11612. These provisions have not been adopted by USEPA; however, the Agency believes such performance standards are protective and thus appropriately included as required slope maintenance and protection measures as design criteria in Subpart D of Part 845.

Reasons to prevent growth of trees and other significant vegetation from being established include preventing: 1) root growth that can damage the cover by shortening seepage pathways, 2) creation of voids from decayed roots, and 3) expansion of cracks and conveyance channels. Thus, the Agency believes that limiting growth to ½ inch diameter prevents root depth that can compromise the cover of the CCR surface impoundment.

August 13, 2020

- 11. Referring to page 22 of Hearing Exhibit 3, Question 60 and its subparts: Which 257 citation is the Agency relying upon for a 60-day turnaround for groundwater sample collection and associated interpretation and reporting? Hrg. Transcript Aug. 13, 2020, p. 61.**

Agency Response: 845.610(b)(3)(D) requires all groundwater data submitted to Agency, along with analysis of compliance with GWPS and any SSI over background, within 60 days after completion of sampling. As stated in Response to Question 60(a) posed by Midwest Generation, Part 845 requires, consistent with Part 257, that the assessment of corrective measures begin within 90 days of an exceedance of a GWPS. See 40 CFR 257.96(a). The Agency must review and approve an alternative source demonstration under 845.650(d)(4). Therefore, it is necessary for an owner or operator to resample, evaluate the data, and make any alternative source demonstration within 60 days to allow for the Agency's review and approval or denial of any such alternative source demonstration within 30 days before corrective action must be initiated.

- 12. Would the Agency be open to language specifying that site specific documentation needs to be submitted to support hydraulic conductivity? Hrg. Transcript Aug. 13, 2020, p. 79.**

Agency Response: While the Agency agrees that site specific values for hydraulic conductivity are preferred and should be able to be obtained and submitted, with documentation, for most geologic materials at a site, the Agency does not feel it should limit an owner or operator to only site specific data as some material data may be difficult or impossible to obtain. In such cases, data from appropriate published research may be submitted and used on a limited basis for specified geologic material, along with an explanation of why the use of the data is appropriate.

- 13. Does the Agency object to including a definition for compliance wells? Hrg. Transcript Aug. 13, 2020, p. 107.**

Agency Response: The Agency objects to inclusion of a definition of "compliance well" for the following reasons. When evaluating a single CCR surface impoundment the description as provided in the Agency's response to Board Question No. 54 is straight forward. However, if there were two CCR surface impoundments, one up gradient of the

other, the compliance wells (down gradient wells) for the most upgradient impoundment may also be the background wells (up gradient wells) for the most down gradient impoundment. This arrangement may be necessary to determine if either one or both CCR surface impoundments are leaking. Further, the concept of compliance wells is not new. For example, corrective actions initiated due to exceedances of the Part 620 groundwater standards have used the concept of up gradient and compliance wells since Part 620 was adopted in 1991. Defining the term “compliance well” may unnecessarily restrict the Agency’s ability to require compliance at a monitoring point unforeseen by the definition. Therefore, the Agency opposes the inclusion of a definition for “compliance well”.

14. **Will the notification of status designation (category) be included in the notice to the community for those that can't access the website? Hrg. Transcript Aug. 13, 2020, p. 198.**

Agency Response: Part 845 as proposed does not require the pre-application meeting notice to include a CCR surface impoundment’s category for purposes of closure prioritization under Section 845.700(g). Inclusion of the category designation could serve to confuse community members who do not have an intimate knowledge of Part 845 or what such a category designation means. The owner or operator will be providing necessary information at such a meeting, and the public may ask questions or make inquiries at that time concerning the category designation, so the Agency does not consider it necessary to include the category in a pre-application meeting notice.

August 25, 2020

15. **The Agency defines census block group using the standard definition used by the U.S. Census. Can you provide the definition of census block group? Hrg. Transcript August 25, 2020, p. 24.**

Agency Response: From census.gov:

Block Groups (BGs) are statistical divisions of census tracts, are generally defined to contain between 600 and 3,000 people, and are used to present data and control block numbering. A block group consists of clusters of blocks within the same census tract that have the same first digit of their four-digit census block number. For example, blocks 3001, 3002, 3003, . . . , 3999 in census tract 1210.02 belong to BG 3 in that census tract. Most BGs were delineated by local participants in the Census Bureau's Participant Statistical Areas Program. The Census Bureau delineated BGs only where a local or tribal government declined to participate, and a regional organization or State Data Center was not available to participate.

A BG usually covers a contiguous area. Each census tract contains at least one BG, and BGs are uniquely numbered within the census tract. Within the standard census geographic hierarchy, BGs never cross state, county, or census tract boundaries but may

cross the boundaries of any other geographic entity. Tribal census tracts and tribal BGs are separate and unique geographic areas defined within federally recognized American Indian reservations and can cross state and county boundaries (see "Tribal Census Tract" and "Tribal Block Group"). The tribal census tracts and tribal block groups may be completely different from the census tracts and block groups defined by state and county.

16. What is the statewide average of low-income and minority persons for 2019? Hrg. Transcript, Aug. 25, 2020, pp. 25 & 28.

Agency Response: The 2019 statewide averages for low-income and minority persons as utilized by the Illinois EPA in EJ Start follow:

Low-income number: 32.3784 (which is then doubled and rounded to the nearest tenth or 64.8)

Minority number: 37.3915 (which is then doubled and rounded to nearest tenth or 74.8)

17. How is the federal poverty level determined? Hrg. Transcript, Aug. 25, 2020, pp. 25-26.

Agency Response: Poverty (from US Census) From <https://www.census.gov/topics/income-poverty/poverty/guidance/poverty-measures.html> Following the Office of Management and Budget's (OMB) Statistical Policy Directive 14, the Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who is in poverty. If a family's total income is less than the family's threshold, then that family and every individual in it is considered in poverty. The official poverty thresholds do not vary geographically, but they are updated for inflation using Consumer Price Index (CPI-U). The official poverty definition uses money income before taxes and does not include capital gains or noncash benefits (such as public housing, Medicaid, and food stamps). The household poverty data is automatically adjusted for the poverty thresholds by family size/type prior to calculating the percentages. (family of 4 w/ 2 children versus family of six w/ 4 children)

18. What was the federal poverty level for 2019? Hrg. Transcript, Aug. 25, 2020, pp. 26-27.

Agency Response: Federal poverty information can be found at <https://www.census.gov/library/publications/2020/demo/p60-270.html> and <https://www.census.gov/quickfacts/fact/table/IL/IPE120219>, which indicates the percentage of Illinoisans living in poverty is 11.5%. When screening census block groups for low-income, the Illinois EPA uses the percent of a block group's population in households where the household income is less than or equal to twice the federal poverty level. As indicated above, the Census Bureau uses income thresholds that vary by family size and composition to determine who is in poverty.

- 19. How is the statewide average determined for the number of minority persons for purposes of comparing to the number in the Census Block Group? Hrg. Transcript, Aug. 25, 2020, p. 27.**

Agency Response: How low-income and minority is determined (from EJ Start – “Definitions and Sources”)

Minority (from US Census) The percentage of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino, that is, all people other than non-Hispanic white-alone individuals. The word “alone” in this case indicates that the person is of a single race, since multi race individuals are tabulated in another category. A non- Hispanic individual who is half white and half American Indian would be counted as a minority by this definition. Census definitions of race/ethnicity are available at <https://www.census.gov/topics/population/race/about.html>, and the questions asked about race are available at <https://www.census.gov/acs/www/about/why-we-ask-each-question/race/>.

- 20. Which of the 73 ponds meet the second prong of the definition of inactive closed surface impoundment (closed pursuant to Agency-approved plans) but do not meet the first prong (completed closure by October 19, 2015)? Which of these closures occurred prior to June 30, 2019? Hrg. Transcript Aug. 25, 2020, pp. 31-33.**

Agency Response: In addition to the CCR surface impoundments that meet the definition of an Inactive Closed CCR Surface Impoundment, based on data available at the time the Agency’s proposal was filed, the Agency has identified the following CCR surface impoundments as having completed closure with an Agency approved closure plan after October 19, 2015 but before June 30, 2019: Pond A at Hutsonville in November 2016, closed with a final cover and Bottom Ash Pond at Meredosia in January 2019, closed with a final cover.

- 21. Does the Agency have the authority to require air monitoring as it deems necessary to protect nearby communities and the public from fugitive dust? Hrg. Transcript Aug. 25, 2020, p. 59.**

Agency Response: Statutory prohibitions against air pollution apply to owners or operators of CCR surface impoundments, but the Act doesn’t authorize the Agency to mandate that sources conduct fence line air monitoring. There is no statutory or regulatory requirement, and the Illinois EPA is not inclined to push the boundaries of its authority in this rulemaking to insert such a requirement.

- 22. Referring to pages 55 and 56 of Hearing Exhibit 2/3, Question 83: Does the Havana South Ash Pond system, which has been closed-in-place, have any groundwater**

intersecting or contacting the ash, even intermittently? Hrg. Transcript Aug. 25, 2020, p. 97.

Agency Response: The Agency would characterize the Havana South Ash Pond as a former CCR surface impoundment because it was closed with an Agency approved cover, which groundwater modeling predicted would be effective, and groundwater monitoring demonstrated compliance with the applicable groundwater protection standards. The Agency reviewed the "Investigation of Site Closure Options at Illinois Power Company's Havana South Ash Impoundment", dated March 1994. The investigation states on page 2-1 that the ground surface elevation at the location was about 460 feet above mean sea level. Page 2-4 of the investigation states that the impoundment's original depth was 20 feet. Subtracting 20 feet from original ground elevation of 460 feet indicates the bottom elevation of the former surface impoundment is 440 feet above mean sea level. The Agency also spot-checked groundwater elevations reported for 15 years (1993-2008) of groundwater monitoring from monitoring wells surrounding the former impoundment. Though variable, groundwater elevation typically ranges from about 441 to 447 feet above mean sea level. This indicates that the bottom few feet of ash are almost constantly in contact with groundwater.

23. When do operating permit applications go into the operating record? What is the schedule and where is it in the rule? Hrg. Transcript Aug. 25, 2020, p. 126.

Agency Response: There is no "schedule" in the rule for placing required documentation in the operating record. The Agency expects such documentation to be placed in the operating record once generated as required by the rule. For example, once a permit application is completed, signed and submitted the Agency, copies of those applications must be placed in the operating record and then placed on the owner or operator's CCR website within thirty days of placement in its operating record.

24. Referring to page 123 of Hearing Exhibit 2, Question 5(b): For existing impoundments that are required to submit cost estimate and financial assurance within 60 days of the Rule's final promulgation, how will the impoundment provide those cost estimates when it's not required to provide a preliminary closure plan until September 30th of 2021, which is more than 60 days after these rules are supposed to be finalized? Hrg Transcript Aug. 25, 2020, p.139.

Agency Response: The Agency views the permitting process separate from financial assurance. While 845.230(d)(1) requires operating permit applications for existing, inactive or inactive closed CCR surface impoundments to be submitted to the Agency by September 30, 2021, the Agency presumes that the financial assurance would be prepared separately from the permit application prior to submittal. Providing financial assurance prior to the permit application being submitted, reviewed and/or issued is reasonable considering that is standard Agency practice in other regulated programs. Therefore, the Agency's position, in accordance with 845.950(c)(1), is that financial assurance for

closure and post-closure care will be required for existing CCR surface impoundments within 60-days of the effective date of this Part.

If the selected closure method in a preliminary closure plan submitted with a permit application increases the estimated closure or post-closure care costs, the owner or operator has to revise its cost estimate at least 60 days prior to submitting any closure plan to the Agency pursuant to 845.940(c). If not, the owner or operator will have to adjust its costs estimates at least annually thereafter pursuant to 945.940(a); specifically, at least 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with 845.950.

In light of the questioning received before and during hearing, the Agency recognizes a need for clarification in Section 945.930(a), which is provided in Paragraph 15 of Attachment 3.

Attachment 2

The Illinois EPA proposed the following revisions, or provided the following suggested language for Board consideration, in its Pre-Filed Answers.

1. *August 3, 2020 Answer to LVEJO Question 18(b), Pages 11-12.*

18. b) If the permit applicant concludes its regulated activity is located in an area with a significant proportion of non-English speaking residents pursuant to proposed Section 845.240(c), why isn't the permit applicant required to have translation services available at the Pre-Application Public Meeting?

Response: Based on this question, if the Board believes a revision is warranted, the Agency suggests that the Board add the following requirement to Section 845.240(c)

(c) When a proposed construction project or any related activity is located in an area with a significant proportion of non-English speaking residents, the notification must be circulated, or broadcast, in both English and the appropriate non-English language, and the owner or operator must provide translation services during the public meetings required by Section 845.240(a), if requested by non-English speakers.

2. *August 3, 2020 Answer to ELPC Question 23(a), Page 24.*

23. Regarding 35 Ill. Adm. Code 845.800(d):

a. Why is there not a requirement to put in the operating record any demonstration of a new owner or operator's ability to comply with all applicable financial requirements of proposed Subpart I, pursuant to proposed 35 Ill. Adm. Code 845.280(a)?

Response: The Agency does not believe the operating record is the appropriate location for that documentation. If the Board believes a revision is warranted the Agency suggests a new Section 845.230(a):

17) A certification that the owner or operator meets the financial assurance requirements of Subpart I, of this Part.

And a new Section 845.230(d)(2):

M) A certification that the owner or operator meets the financial assurance requirements of Subpart I, of this Part. (Agency Response)

3. *August 3, 2020 Answer to ELPC Question 21(a), Page 35.*

21. a. Do the proposed regulations require elevation of the water in unlined impoundments to be measured, and if so, how frequently? Please identify the relevant provision(s).

Response: Section 845.620(b)(18) provides a general requirement for that type of information. In consideration of this concern, if the Board believes a revision is needed, the Agency suggests the following:

Section 845.620(b)...

(18) measurement of water elevation within the CCR surface impoundment, each time the groundwater elevations are measured pursuant to Section 845.650(b)(2); and

~~18)~~ 19) Any other information required by the Agency.

4. *August 3, 2020 Answer to ELPC Question 21(c), Page 82 (response to original ELPC Question 22(c) posed to Darin LeCrone, but mis-numbered in Illinois EPA's Pre-Filed Answers).*

21. c. How does the Agency plan to make the public meeting a “meaningful” opportunity for public participation for non-English speaking populations? Please identify where that is specified in the proposed rules.

Response: As required by 22.59(g)(6) of the Act, provisions in the Agency's required outreach, 845.260, outline the requirements for meaningful public outreach. The Agency's outreach will comport with the Agency's EJ Public Participation Policy including guidance on the availability of translation.

Based on this question, if the Board believes a revision is warranted, the Agency suggests that the Board add the following requirement to Section 845.240(c):

“(c) When a proposed construction project or any related activity is located in an area with a significant proportion of non-English speaking residents, the notification must be circulated, or broadcast, in both English and the appropriate non-English language, and the owner or operator must provide translation services during the public meetings required by Section 845.240(a), if requested by non-English speakers.”

5. *August 3, 2020 Answers to ELPC Questions 22(b) & (c)(iii), Pages 82-84 (original ELPC Question 23(b) & (c)(iii) posed to Darin LeCrone, but mis-numbered in Illinois EPA's Pre-Filed Answers).*

22. b. If the proposed rules do not require that the notice in 845.240(b) be provided in advance of the pre-application meeting, why do they not require that?

Response: In light of the question, the Agency would not be opposed to revising Section 845.240(b) to state: “The owner or operator must prepare and circulate a notice explaining the proposed construction project and any related activities and the time and place of the public meeting. Such a notification must be mailed, delivered or posted at least 14 days prior to the public meeting. The owner or operator of the CCR surface impoundment must:”

c. Does the Agency intend for the owner or operator's CCR website address to be included in the pre-application public meeting notice?

iii. Given that the owner or operator's CCR website is where application materials must be posted fourteen days before the public meeting under Proposed Section 845.240(e), if the public notice does not include the owner or operator's CCR website, how does the Agency intend to ensure the public can find the relevant materials in advance of the meeting?

Response¹: Yes, the Agency did intend for the owner or operator to include their CCR website in the notification. The Agency would suggest modifying Section 845.240(b) to include: "4) All notifications of the pre-application meeting must include the address of the owner or operator's CCR webpage, so that the public may have available all related documentation prior to the meeting."

6. *August 3, 2020 Answer to ELPC Question 27, Page 87 (original ELPC Question 28 posed to Darin LeCrone, but mis-numbered in Illinois EPA's Pre-Filed Answers).*

27. Regarding proposed 35 Ill. Adm. Code 845.260(d):

a. Why do the rules not require the agency to hold a public hearing if the agency determines that there exists a significant degree of public interest, even though it is called for by the Statement of Reasons?

Response: The intent was to convey the same determination process as for NPDES permits. If the Board chooses to revise the language, the Agency would agree with substituting the same language used in the NPDES regulations at 35 Ill. Adm. Code 309.115(a)(1) which states: "The Agency shall hold a public hearing on the issuance or denial of the an NPDES Permit or group of permits whenever the Agency determines that there exists a significant degree of public interest in the proposed permit or group of permits (instances of doubt shall be resolved in favor of holding the hearing), to warrant the holding of such a hearing."

7. *August 3, 2020 Answer to ELPC Question 30, Page 88 (original ELPC Question 31 posed to Darin LeCrone, but mis-numbered in Illinois EPA's Pre-Filed Answers)*

30. Regarding proposed of 35 Ill. Adm. Code 845.260(f), why do the rules not require posting the agency's responsiveness summary on a publicly available website?

Response: In practice, the Agency intends to post the responsiveness summary and the Agency's final permit determination on the Agency's website. This is the current practice of the NPDES program. The Agency would not object to the revision of Section 845.270(c) to

¹ The Agency realizes that it suggested a similar but different language revision to Section 845.240(b) in Number 18 below (*August 3, 2020 Answer to Board Question 24*). The Agency prefers the revision offered in response to Board Question 24, which will be reflected in Illinois EPA's revised proposed rule to be provided in its final post-hearing comments.

require the posting of the Agency's final determination as well as the responsiveness summary if applicable, to the Agency's website. Should the Board deem a revision appropriate, the Agency would suggest the following language:

"The Agency shall provide a notice of the issuance or denial of the permit to the applicant, to any person who provides comments or an email address to the Agency during the public notice period or a public hearing, and to any person on the Agency' listserv for the facility. Such notice shall briefly indicate any significant changes which were made from terms and conditions set forth in the draft permit. The Agency shall post its final permit determination and if a public hearing was held, the responsiveness summary, to the Agency's website."

8. *August 3, 2020 Answer to CWLP Question 11, Page 131.*

11. Explain the difference between Sections 845.260(c)(3) and (c)(5) or why both Sections are necessary.

Response: Subsection (c)(3) only addresses comments received within the 30-day comment period. Subsection (c)(5) requires the Agency to consider all timely submitted comments, which could include comments received during an extension of time granted by the Agency in (c)(4). Since differentiation is not necessary and the Agency would treat all timely submitted comments the same in terms of retention and consideration, the Agency supports deletion of (c)(5) and revision of (c)(3) to say: "The Agency shall retain all timely submitted comments and consider them in the formulation of its final determination with respect to the permit application."

9. *August 3, 2020 Answer to CWLP Question 17, Page 133.*

17. For the publicly accessible internet site requirements in Section 845.810, you testify on page 7 that "[i]t was written to include all of the requirements of 40 CFR 257.107." Can a facility use the same webpage for both sets of information?

Response: The Agency intended the CCR website be dedicated to only the information required by 35 IAC 845 and should be clearly labeled as such. The Agency would propose the Board makes the following revision, "The owner or operator's website must be titled 'Illinois CCR Rule Compliance Data and Information'".

10. *August 3, 2020 Answer to Board Question 3, Page 150.*

3. Subsection 845.100(a) specifies that "CCR surface impoundments failing to satisfy any of the requirements are considered open dumps, which are prohibited." Please comment on whether it would be acceptable to the Agency if subsection (a) is revised as follows to reflect the statutory prohibition of open dumps:

a) This Part establishes criteria for the purpose of determining which CCR surface impoundments do not pose a reasonable probability of adverse effects on health or the environment. CCR surface impoundments failing to satisfy any of the

requirements of this Part are considered open dumps, which are prohibited under Section 21(a) of the Act.

Response: The proposed revision is acceptable to the Agency.

11. August 3, 2020 Answer to Board Question 6, Page 151.

6. Subsection 845.110(b) states, “Any CCR surface impoundment or lateral expansion of a CCR surface impoundment continues to be subject to the following requirements:” Please clarify whether CCR surface impoundments are already subject to the requirements of subsection (b). If so, under what authorities are they subject to these requirements. If not, comment on whether the proposed language should be revised as follows: “Any CCR surface impoundment or lateral expansion of a CCR surface impoundment is ~~continues to be~~ subject to the following requirements:”

Response: CCR surface impoundments are already subject to the requirements listed in Subsection 845.110(b) pursuant to the citations provided as well as 40 CFR 257.3-1, however, the Agency does not object to the Board’s proposed revision.

12. August 3, 2020 Answer to Board Question 8, Page 151.

8. Subsection 845.110(b)(1)(A) requires surface impoundments in floodplains to prevent wash out of solid waste. Please clarify whether CCR is considered as solid waste under the Environmental Protection Act. Comment on whether this requirement should refer to CCR instead of solid waste.

Response: CCR in a surface impoundment meets the definition of a solid waste. However, the revision suggested by the Board would clarify the intent of the subsection and is acceptable to the Agency.

13. August 3, 2020 Answer to Board Question 10, Pages 152-153.

10. In Subsection 845.110(b)(3), please explain why the term “waters of the United States” is used rather than the “waters of the State”.

Response: Section 845.110(b)(3) mirrors 40 CFR 257.3-3 in language and citation to federal statutes. Regarding 845.110(b)(1), the Agency’s proposal added equivalent or related state citations. In light of the Board’s question, and should the Board deem revision appropriate, the Agency would suggest the following:

3) Surface Water

A) A facility shall not cause a discharge of pollutants into waters of the United States that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under section 402 of the Clean Water Act, as amended, ~~Section 12(f) of the Act, or 35 Ill. Adm. Code Subtitle C.~~

* * *

E) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any facility into waters of the State from a point source or into a well shall be unlawful.

14. August 3, 2020 Answer to Board Question 12, Pages 153-154.

12. “Closed”. Please comment on whether this term should be revised to “Closed CCR surface impoundment”.

Response: The current definition of “closed” mirrors the definition of “closed” in 40 CFR 257.53 and the definition itself makes clear that closed is being applied to CCR surface impoundments. There are instances throughout Part 845 where “closed” is used without “CCR surface impoundment” following the term, the definition should apply and adding the phrase following “closed” would be redundant. For example, “when the CCR surface impoundment is closed” in 845.200(a)(5) and 845.750 and “the CCR surface impoundment will be closed” in 845.720(a)(1)(A). Adding the proposed Board language could unnecessarily exclude application of the definition in those instances. However, in light of the Board’s question, the Agency would not object to the following revision:

“Closed” for the purposes of this Part means placement of CCR in a CCR surface impoundment has ceased, and the owner or operator has completed closure of the CCR surface impoundment and has initiated post-closure care in accordance with Subpart G.

15. August 3, 2020 Answer to Board Question 16, Page 155.

16. Subsection 845.200(a)(1) specifies that “[n]o person must construct, install, or modify a CCR surface impoundment or related treatment or mitigation facilities, under corrective action measures under Subpart F, without a construction permit issued by the Agency under this Part.” Mr. LeCrone’s testimony that permits are required for the construction, installation, modification or operation of CCR surface impoundments. LeCrone PFT at 3. Please clarify the intent of including the phrase “under corrective action measures under Subpart F”. Does this provision apply to only facilities under corrective action measures?

Response: The Agency did not intend for this provision to only apply to corrective action measures. The intent was for the provision to be applicable to construction activities INCLUDING corrective action measures. The Agency would recommend revising the language as follows:

“...or related treatment or mitigation facilities, including corrective action measures under Subpart F,.... “

16. August 3, 2020 Answer to Board Question 21, Pages 156-157.

21. In Section 845.220(b)(1), would it be acceptable to the Agency if the proposed language is revised as follows to mirror Section 845.230(a):

1) Plans and specifications that demonstrate the proposed CCR surface impoundment will meet the location standards in the following sections ~~not be:~~

**~~A) placed less than five feet above the uppermost aquifer under Section 845.300~~
(Placement Above the Uppermost Aquifer);**

~~B) located in wetlands under Section 845.310~~ (Wetlands);

~~C) located in fault areas under Section 845.320~~ (Fault areas);

**~~D) located in a seismic impact zone under Section 845.330~~ (Seismic impact zones);
and**

~~E) located in an unstable area under Section 845.340~~ (Unstable areas).

Response: The Agency has no objection to the revisions as suggested by the Board.

17. August 3, 2020 Answer to Board Question 22, Page 157.

22. The proposed subsection Section 845.230(d)(2)(E) is numbered as (d)(2)(D) due to a typographical oversight. Therefore, subsections Section 845.230(d)(2)(D) thru (d)(2)(L) needs to be renumbered, as well as any cross references.

Response: The typographical errors in the numbering are noted. The only cross references the Agency has identified for 845.230(d)(2) are 845.230(d)(2)(C) in 845.530(b) and 845.230(d)(2)(A) in 845.540(b)(1)(A), neither of which are indicated in the affected subsections of 845.230(d)(2).

18. August 3, 2020 Answer to Board Question 24, Pages 157-158.

24. Subsection 845.240(b) requires the owner or operator to prepare and circulate a notice explaining the proposed construction project and any related activities and the time and place of the public meeting. Please comment on whether this section should specify that the public notification must include the owner or operator's contact information, including the owner or operator's publicly accessible internet site where all documentation relied upon in preparing the tentative construction permit application would be available.

Response: The Agency agrees that this section should require that the public notification include the owner or operator's contact information, including the owner or operator's publicly accessible internet site where applicable documentation would be available pursuant to Subsection 845.240(e).

If the Board proposed a revision to Section 845.240(b), the Agency would suggest the following:

- b) The owner or operator must prepare and circulate a notice explaining the proposed construction project and any related activities and the time and place of the public meeting. The owner or operator of the CCR surface impoundment must:
 - 1) mail or hand-deliver the notice to the Agency and all residents within a one-mile radius from the facility boundary;
 - 2) post the notice on all of the owner or operator's social media outlets; and
 - 3) post the notice in conspicuous locations throughout villages, towns, or cities within 10 miles of the facility, or use appropriate broadcast media (such as radio or television), and
 - 4) include in the notice the owner or operator's contact information, the internet address where the information in Section 845.240(e) will be posted and the date on which the information will be posted to the site.

19. August 3, 2020 Answer to Board Question 36, Page 162.

36. Please comment on whether it would be acceptable to the Agency if subsection 845.300(c) is modified as follows to require the submission of the qualified professional engineer's certification with the initial operating permit application:

- c) **The owner or operator of an existing CCR surface impoundment must complete the demonstration required by subsection (a) and submit the completed demonstration along with the qualified professional engineer's certification to the Agency in the facility's initial operating permit application.**

If so, comment on whether similar changes should be made to Sections 845.310(c) 845.320(c), 845.330(c) and 845.340(d).

Response: The Agency's intent through Section 845.230(a)(1)(B) is for the professional engineer's certification to be submitted as part of the demonstrations required in the initial operating permit. The Board's suggested language is acceptable to the Agency for purposes of providing clarity in Sections 845.300(c), 845.310(c), 845.320(c), 845.330(c) and 845.340(d).

20. August 3, 2020 Answer to Board Question 41, Page 163.

41. Section 845.450(a)(5)(B) requires the spillway capacity for Class 2 CCR surface impoundments to be based on the flow from a 1000-year flood. Please comment whether

the proposed rules should include a definition of the term 1000-year flood under Section 845.130. If so, propose a definition for that term.

Response: According to the USGS the 1000-year flood means that statically speaking, a flood of that magnitude (or greater) has a 1 in 1,000 chance of happening in any given year. This statistical value is based on observed data. This definition can be added to the proposed regulation. See https://www.usgs.gov/faqs/what-a-1000-year-flood?qt-news_science_products=0#qt-news_science_products

*Chrome web browser is required for using.

21. August 3, 2020 Answer to Board Question 45, Page 165.

45. Section 845.540(b)(3) requires the qualified engineer's annual inspection report to be "completed and submitted" with the annual consolidated report required by Section 845.550 by January 31 of each year. However, Section 845.550 does not require the annual consolidated report to be submitted to the Agency. Please clarify whether the annual inspection report or the annual consolidated report needs to be submitted to the Agency. If so, propose language changes to reflect the proposed intent.

Response: The annual inspection report is included in the annual consolidated report that must be put into the facility's operating record. Therefore, the annual consolidated report, which contains the annual inspection report and the annual groundwater monitoring and corrective action report are required to be available to the Agency and the public on the owner or operator's publicly available website. Given the Board's question, the Agency suggests replacing the word "submit" in Section 845.540(b)(3) with the phrase "...completed and included with the annual consolidated report...", to clarify the requirement.

22. August 3, 2020 Answer to Board Question 49, Page 168.

49. Section 845.610(d) requires the owner or operator a CCR surface impoundment in the event of a release to immediately take all necessary measures to control all sources of the release so as to reduce or eliminate, to the maximum extent feasible, further releases of contaminants into the environment.

a. Please clarify whether the term "release" has the same meaning as the definition under Section 3.395 of the Act.

Response: No

b. If not, explain what constitutes "release" in the context of this subsection.

Response: In light of the Board's line of questioning, the Agency believes a definition applicable to Part 845 is appropriate. The Agency suggests the following:

"Release" means for Part 845, leaching of dissolved constituents at a concentration above the applicable GWPS as measured at a CCR surface impoundment's points of compliance or

physical movement of CCR, except subject to an Agency approved closure or corrective action, from inside the CCR surface impoundment to the outside the CCR surface impoundment.

23. August 3, 2020 Answer to Board Question 53, Page 170.

53. Please comment on whether it would be acceptable to the Agency if Section 845.640(c) is revised as follows:

c) The owner or operator must perform the following each time ground water is sampled:

- 1) **Measure Groundwater elevations ~~must be measured~~ in each well prior to purging, ~~each time groundwater is sampled.~~;**
- 2) **~~The owner or operator of the CCR surface impoundment~~ must determine the rate and direction of groundwater flow ~~each time groundwater is sampled.~~; and**
- 3) **Measure Ggroundwater elevations in wells which monitor the same CCR management area ~~must be measured~~ within a time period short enough to avoid temporal variations in groundwater flow which could preclude accurate determination of groundwater flow rate and direction.**

Response: The Boards revision is acceptable to the Agency.

24. August 3, 2020 Answer to Board Question 67, Pages 176-177.

67. Please clarify whether an owner or operator submitting the preliminary closure plan with the initial operating permit application per Section 845.720(a)(2) should also submit the qualified professional engineer's certification that the initial and any amendment of the preliminary written closure plan meets the requirements of Part 845. If so, revise Section 845.720(a)(2) to reflect the proposed intent.

Response: To clarify the Agency's intent for the professional engineer certifications of preliminary and amended closure plans to be submitted as part of the initial and renewal operating permit applications, and to maintain consistency with the proposed revision in Response to Question No. 69 below, the Agency proposes revising Section 845.710(a)(4) as follows:

“The owner or operator of the CCR surface impoundment must obtain and submit with its initial and renewal operating permit applications a written certification from a qualified professional engineer that the initial and any amendment of the preliminary written closure plan meets the requirements of this Part.”

25. August 3, 2020 Answer to Board Question No. 69, Page 177.

69. Please clarify whether an owner or operator submitting the written final closure plan as a part of a construction permit application under Section 845.720(b)(1) should also submit the qualified professional engineer's certification that the final closure plan meets the requirements of Part 845. If so, revise Section 845.720(a)(2) to reflect the proposed intent.

Response: To clarify the Agency's intent for the professional engineer's certification of the final written closure plan to be submitted as part of the construction permit application, and since subsection (a)(2) does not speak to the final closure plan or the construction application, the Agency proposes revising Section 845.710(b)(5) as follows:

“The owner or operator of the CCR surface impoundment must obtain and submit with its construction permit application for closure a written certification from a qualified professional engineer that the final written closure plan meets the requirements of this Part.”

26. August 3, 2020 Answer to Board Question 70, Page 178.

70. Please clarify whether written certification from a qualified professional engineer required under Section 845.750(c)(4) that the design of the final cover system meets the requirements of Section 845.750 must be submitted with the final closure plan as well as the construction permit. If so, comment on whether the proposed rules must be revised to reflect the proposed intent.

Response: To clarify the Agency's intent for the professional engineer's certification of the final cover system to be submitted as part of the construction permit application for closure, and to maintain consistency with the revisions proposed in Response to Question Nos. 67 and 69 above, the Agency proposes revising Section 845.750(c)(4) as follows:

“The owner or operator of the CCR surface impoundment must obtain and submit with its construction permit application for closure a written certification from a qualified professional engineer that the design of the final cover system meets the requirements of this Section.”

27. August 5, 2020 Answers to MWG Question 29, Page 13.

29. Section 845.270(e) refers to Section 845.210(e) for filing an appeal of the Agency's permit determination. Please see MWGen's question above regarding Section 845.210(e) and how it comports with Section 40 of the Act.

Response: In light of the questioning, the Agency acknowledges that there is an inconsistency between Section 845.270(e) and Section 40 of the Act. In light of the question, the Agency suggests the following revision to Section 845.270(e):

“All appeals must be filed with the Board within 35 days after the final action is served on the applicant.”

28. August 5, 2020 Answer to MWG Question 80, Page 30.

80. Section 845.700(h)(5) states that if the Agency’s denial is appealed, an owner/operator must submit a revised construction permit application within 90 days after a final decision by the Illinois Pollution Control Board (“Board”).

a) If the Board overturns the Agency’s denial of a construction permit application, why would an owner/operator be required to submit a new construction permit application?

Response: In light of the questioning, the Agency suggests the following revision to Section 845.700(h)(5):

“If the Agency’s denial is appealed and upheld, the owner or operator must submit a revised construction permit application for closure within 90 days after a final decision by the Illinois Pollution Control Board is rendered.”

29. August 5, 2020 Answer to Dynegy Question 39, Page 45.

39. Does turbidity in groundwater vary naturally over time?

Response: Yes. Given this line of questioning, if the Board believes a revision is appropriate, the Agency would support adding turbidity as a general groundwater chemistry constituent, similar to Calcium, required for groundwater monitoring.

Attachment 3

August 11, 2020

1. **Would it be acceptable to the Agency to replace “significantly long period” with the meaning of the phrase provided in the Agency’s Response to Board Question No. 9? Hrg. Transcript Aug. 11, 2020, p. 116.**

Agency Comment: Yes. Accordingly, the Agency provides the following revision:

845.110(b)(1)(B)(i) Base flood means a flood that has a 1 percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on average ~~over a significantly long period~~ within the time of recorded weather records.

2. **It would not affect the Agency’s ability to administer the permitting process if 845.210 specifically stated that previous assessments would still have to meet the requirements of Part 845. Hrg. Transcript, Aug. 11, 2020, p. 140.**

Agency Comment: After further consideration, the Agency objects to a general requirement of Part 845 applicability and compliance in Section 845.210 because each of these previous assessments will be evaluated on a site by site basis in the context of the particular permit application. As the proposed regulations are drafted, there are different general requirements dependent upon whether the CCR surface impoundment is new, has not completed closure or is in post closure care. The more specific requirements are in the respective Sections of Part 845. For instance, previously completed location restrictions assessments are required in Section 845.210(d)(2) to meet the requirements in 845.300 through 845.340. Similarly, the specific requirements for construction and operating permits are listed in Section 845.220 and 845.230. Since any new construction would require a construction permit under Section 845.220, all permits require the same elements. However, operating permits under Section 845.230 have varying requirements corresponding to whether a CCR surface impoundment is new, must close or is already in post-closure care.

If the previous work is insufficient in some way, the Agency will require supplemental work and submission of addenda if necessary to make it compliant with Part 845. The intent behind Section 845.210 is to allow previous work to be used for certain assessments and a general requirement of 845 compliance in this Section could unnecessarily restrict the usage of previous assessments and potentially conflict with the specific provisions already required.

3. **The Agency is not opposed to suggested language requiring certifications of compliance with Part 845 for previous assessments. Hrg. Transcript Aug. 11, 2020, p. 147.**

Agency Comment: After further consideration, the Agency objects to requiring a new certification on a previous assessment. The Agency intends to review previous assessments that were written prior to the proposed 35 IAC 845 regulations. The previous assessments may provide adequate information for CCR surface impoundments that have

completed closure and are in post-closure care. These assessments are usually signed and sealed by either a Professional Engineer or a Licensed Professional Geologist. If that same Professional Engineer or Geologist is no longer working on the project, it may not be possible to post-certify the work for 845 in that previously submitted assessment. If the Agency requires a new certification on previous assessments, most of that work, which could be substantial, would likely need to be re-performed. Some of this work could include entire hydrogeologic investigations which require, at minimum, investigative borings and interpretation. The Agency believes repeating this work is unnecessary and, at the very least, cause significant delays in review, approval, and permitting processes.

- 4. Will the Agency consider adding language to Section 845.210(d) that allows the Agency to accept previous assessments that have been signed off on by a professional geologist? Hrg. Transcript Aug. 11, 2020, p. 149-151.**

Agency Comment: The Agency does not believe such revision is necessary, but would not be opposed to specific language making certain reports approved by a Licensed Professional Geologist or Engineer acceptable for inclusion in permits issued pursuant to Part 845, subject to Agency approval, as is the Agency's intent under Section 845.210(d)(1) as proposed. If the Board believes such clarification is necessary, the Agency provides the following language for the Board's consideration:

845.210(d)(1): The Agency may approve the use of any hydrogeologic site investigation or characterization, groundwater monitoring well or system, or groundwater monitoring plan, bearing the seal and signature of an Illinois, Licensed Professional Geologist or Licensed Professional Engineer, completed prior to the effective date of these rules to satisfy the requirements of this Part.

- 5. The Agency is willing to consider another timeframe for the term of a construction permit if the other participants or Board put forth a proposal. Hrg. Transcript Aug. 11, 2020, p. 164.**

Agency Comment: After further consideration, the Agency objects to any proposal to extend the term length of a construction permit. The Agency believes that, in many cases, construction is not expected to exceed five years and, in the few instances where construction would extend beyond five years, it would not be overly burdensome for the permittee to be required to renew the permit.

August 12, 2020

- 6. The Agency would not oppose provisions requiring the owner or operator to consider feedback at the public meeting. It would not harm the Agency's ability to execute the program if demonstration of the consideration of public feedback is**

included in the documentation that public meetings were held in 845.800(b)(2). Hrg. Transcript Aug. 12, 2020, p. 10. The Board requests language to the effect that public comments should be allowed and responded to by the company following pre-application public meeting Hrg. Transcript Aug. 12, 2020, p. 34-35.

Agency Response: As requested by the Board, the Agency provides the following language to be added as new Section 845.240(g):

“Fourteen (14) days following the public meetings required pursuant to Section 845.240, the owner or operator shall distribute a general summary of the issues raised by the public, as well as a response to those issues or comments raised the public. If these comments resulted in a revision, change in a decision, or other such considerations or determination, a summary of these revisions, changes, and considerations shall be included in the summary. Such a summary shall be distributed to any attendee who requests a copy at the public meeting.”

The August 12, 2020 transcript quotes Ms. Courtney as referencing Section 845.800(b)(2), but the provision requiring documentation of the public meeting in the construction permit application is 845.220(a)(9). Should the Board deem such revision appropriate, the Agency provides the following language revision to Section 845.220(a)(9).

“Certification that the owner or operator of the CCR surface impoundment completed the public notification and public meetings required pursuant to Section 845.240, a summary of the issues raised by the public, a summary of any revisions, decisions, or other considerations made in response to those issues, and a list of interested persons in attendance who would like to be added to the Agency’s listserv for the facility.

- 7. The Agency is not opposed to clarification that pre-application public meetings are about the project not the application, but thinks the language is already clear. Hrg. Transcript Aug. 12, 2020, p. 15.**

Agency Comment: Section 845.240(a) requires an owner or operator to hold two public meetings to “discuss the proposed construction” at least 30 days prior to submission of a construction permit application. Since Section 845.240(e) requires posting of all documents relied upon to make the tentative application on the owner or operator’s publicly available website, the Agency believes it is clear that 845.240(a) provides for public input on the proposed construction project. Such pre-submittal public input is designed to inform the final content of the permit application. Finally, Section 845.240(f) requires the owner or operator to outline the decision-making process at the public meeting including, as applicable the corrective action alternatives and the closure alternatives considered. The Agency believes Section 845.240 makes it clear that owners and operators are required to discuss with the public the planned construction project in a

pre-permit application context. Therefore, the Agency does not believe any suggested revisions to Section 845.240 are warranted, as its purpose is clear as proposed.

8. **The Agency is not opposed to a provision in Section 845.260 requiring translation of the notice where there is a significant portion of non-English speakers. Hrg. Transcript Aug. 12, 2020, p. 68.**

Agency Comment: If the Board deems inclusion of such a provision appropriate, the Agency proposes the additions of new subsections (b)(2)(G) and (e)(2)(I) with the following language:

“A translation of the public notice into the appropriate language or languages will be made if the Agency determines that a project is located within one mile of a significant population of non-English speaking residents.”

9. **The Agency would not object to an amendment that requires fugitive dust plan to be in the operating record and available on the website so that it is available for review during the permitting process? Hrg. Transcript August 12, 2020, p. 186-87.**

Agency Comment: As proposed, the Fugitive Dust Control Plan is required to be submitted with new construction applications and placed in the operating record and on the owner or operator’s website for existing CCR surface impoundments. To ensure that the Fugitive Dust Control Plan is available when a permit application is filed, the Agency proposes the following revision to Section 845.500(b)(6) for Board consideration:

“The owner or operator must place the initial and any amendments to the fugitive dust control plan in the facility’s operating record as required by Section 845.800(d)(7). The most recent fugitive dust control plan must be placed in the facility’s operating record and available on the owner or operator’s CCR website prior to filing a permit application pursuant to this Part.”

10. **The Agency would not object to replacing the phrase “citizen complaint” to “member of the public.” Hrg. Transcript Aug. 12, 2020, p. 193.**

Agency Comment: If the Board finds it appropriate to replace the phrase citizen complaint to member of the public, the Agency suggests the following revisions for consideration:

845.500(b)(2): “The CCR fugitive dust control plan must include procedures to log ~~citizen~~ complaints from members of the public received by the owner or operator involving CCR fugitive dust events at the facility.”

845.500(c): Annual CCR fugitive dust control report. The owner or operator of a CCR surface impoundment must prepare an annual CCR fugitive dust control report that includes a description of the actions taken by the owner or operator to control CCR fugitive dust, a record of all ~~citizen~~ complaints from members of the public , and a summary of any corrective measures taken. The annual CCR fugitive dust control report must be submitted as a part of the annual consolidated report required by Section 845.550.

- 11. In Illinois EPA's Pre-Filed Answers to Board Question 44, the Agency provided a potential revision to Section 845.540(a)(1)(A) intending to provide clarification of the Agency's intent regarding weekly inspections. Hrg. Exhibit 2, p. 164. During the August hearing, CWLP raised concerns about the application of the language provided in Illinois EPA's response. Hrg. Transcript Aug. 12, 2020, p. 214-216.**

Agency Comment: Illinois EPA provided the following response and revision to Section 845.540(a)(1)(E) in its Pre-Filed Answers:

Response: Section 845.540(a)(1)(A) requires that the inspection be completed at least every seven days regardless of any rain event to be consistent with Part 257. To be more protective, the Agency intended to require owners and operators to conduct an additional inspection after the specified major rain event. Given the Board's question, a revision clarifying this intent may be needed. If the Board believes such a revision is appropriate, the Agency suggests the following:

845.540(a)(1)(E): If the 25-year, 24-hour storm occurs more than 48 hours before the scheduled weekly inspection, an additional inspection within 24 hours of the end of the storm event must be conducted in addition to the scheduled seven-day inspection.

To address the Board's initial question and the concerns raised at hearing, the Agency proposes the following new Section 845.540(a)(1)(E), in place of its previous response:

845.450(a)(1)(E): If a 25-year, 24-hour storm is identified more than 48 hours before the next scheduled weekly inspection, an additional inspection shall be conducted within 24 hours of the end of the identified storm event, prior to the scheduled seven-day inspection.

August 13, 2020

- 12. The Agency would not object to requiring permittees to submit the annual consolidation report directly to the Agency, in addition to putting on website. Hrg. Transcript Aug. 13, 2020, p. 7-8.**

Agency Comment: If the Board deems a revision appropriate, the Agency suggests the following revision to Section 845.550(b):

“The owner or operator of the CCR surface impoundment must submit the annual consolidated report to the Agency in addition to placing ~~place~~ the annual consolidated report in the facility’s operating record as required by Section 845.800(d)(14).

13. The Agency agreed to review Dynegy proposed language clarifying applicability of 620 during 845. Hrg. Transcript Aug. 13, 2020, pp. 32-33.

Agency Comment: The Agency believes the Part 845.600, as supported by the record provided, clearly lays out the relationship between Part 845 and Part 620. For constituents with a GWPS in Part 845.600(a)(1), the provisions of Part 845 are applicable through the end of post-closure care as required by Subpart G. For any constituent without a GWPS pursuant to Part 845.600(a)(1), Part 620 applies. Per Section 845.600(c), an alternative groundwater standard pursuant to Section 620.450(a)(4) is not available for any constituent with a GWPS pursuant to Section 845.600(a) or (b) until the end of post-closure care. The Agency believes the Part 845 as proposed is clear regarding these circumstances and strongly recommends that the Board not accept suggested changes to the Part 845.600.

14. During the August hearing, after several Agency exchanges with participants regarding the Agency’s proposed definition of “release” in response to Board Question 49, Dynegy suggested an amendment to Section 845.660(a)(1) to distinguish in the rule, as does the Agency’s proposed definition of release, that a release may be of dissolved constituents or of CCR material. Hrg. Exhibit 2, p. 168; Hrg. Transcript Aug. 13, 2020, p. 51-60, 62-68.

Agency Comment: If the Board deems a revision appropriate, the Agency suggests the following revision to Section 845.660(a)(1):

“The assessment of corrective measures must be initiated within 90 days of finding that any constituent listed in Section 845.600 has been detected in exceedance of the groundwater protection standards in Section 845.600, or immediately upon detection of a release of CCR from a CCR surface impoundment.”

August 25, 2020

15. ELPC posed a series of questions before and during the first hearing regarding submission and verification of cost estimates. The Agency indicated in answers that cost estimates would be submitted to the Agency for review and approval. See Hrg. Exhibit 2, p. 123, Hrg. Transcript Aug. 25, 2020, p.139.

Agency Comment: Further review of Part 845 as proposed reveals that, while cost estimates must be revised and increased under the rule, clarification is needed to reflect the Agency’s intent regarding submission of cost estimates. To ensure that owners and

Electronic Filing: Received, Clerk's Office 09/24/2020 P.C. # 49
Attachment 3 – Illinois EPA Comments on Certain Discussions and Revisions Proposed at
Hearing

operators know that cost estimates must be submitted to the Agency for approval, the Agency provides the following revision to Section 845.930(a):

“The owner or operator shall prepare and submit to the Agency, for approval, written cost estimates for:

- 1) The total costs for closure and post-closure care;
- 2) Preliminary corrective action costs; and
- 3) The total costs of the ~~correction~~ corrective action plan for remediation of any releases from a CCR surface impoundment.”

Attachment 4



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3377
RETURN RECEIPT REQUESTED

Dynegy Midwest Generation, LLC
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

**Re: Violation Notice: DYNEGY MIDWEST GENERATION, LLC –
BALDWIN ENERGY CENTER
Facility Id.: 6292
Violation Notice No.: W-2020-00041**

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6292: DYNEGY MIDWEST GENERATION, LLC – BALDWIN ENERGY CENTER
VN W-2020-00041

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

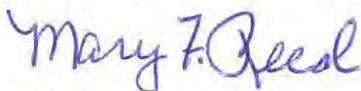
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00041.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1578510001

PAGE NO. 1 OF 2

ATTACHMENT A

**DYNEGY MIDWEST GENERATION, LLC - BALDWIN ENERGY CENTER, ID NO 6292
VIOLATION NOTICE NO. W-2020-00041:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

DYNEGY MIDWEST GENERATION, LLC - BALDWIN ENERGY CENTER, ID NO 6292
VIOLATION NOTICE NO. W-2020-00041:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Baldwin Energy Center, East Fly Ash Pond (IEPA ID # W1578510001-02) that was due January 31, 2020. The Agency has determined that East Fly Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Baldwin Energy Center, West Fly Ash Pond (IEPA ID # W1578510001-03) that was due January 31, 2020. The Agency has determined that West Fly Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3360
RETURN RECEIPT REQUESTED

Dynegy Midwest Generation, LLC
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

**Re: Violation Notice: DYNEGY MIDWEST GENERATION, LLC –
VERMILION STATION
Facility Id.: 6293
Violation Notice No.: W-2020-00043**

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6293: DYNEGY MIDWEST GENERATION, LLC – VERMILION STATION
VN W-2020-00043

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

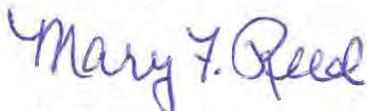
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00043.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W183800002

PAGE NO. 1 OF 2

ATTACHMENT A

**DYNEGY MIDWEST GENERATION, LLC - VERMILION STATION, ID NO 6293 VIOLATION
NOTICE NO. W-2020-00043:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:
 - \$50,000 for each closed CCR surface impoundment; and
 - \$75,000 for each CCR surface impoundment that have not completed closure.
- (2) Annual fees to the Agency, beginning on July 1, 2020, of:
 - \$25,000 for each CCR surface impoundment that has not completed closure; and
 - \$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

DYNEGY MIDWEST GENERATION, LLC - VERMILION STATION, ID NO 6293
VIOLATION NOTICE NO. W-2020-00043:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Vermilion Station, Old East Ash Pond (IEPA ID # W1838000002-03) that was due January 31, 2020. The Agency has determined that Old East Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3384
RETURN RECEIPT REQUESTED

Dynegy Midwest Generation, LLC
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

**Re: Violation Notice: DYNEGY MIDWEST GENERATION, LLC –
HAVANA STATION
Facility Id.: 6377
Violation Notice No.: W-2020-00036**

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
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412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6377: DYNEGY MIDWEST GENERATION, LLC – HAVANA STATION
VN W-2020-00036

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

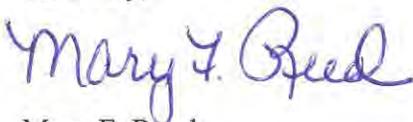
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00036.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1250200004

PAGE NO. 1 OF 2

ATTACHMENT A

**DYNEGY MIDWEST GENERATION, LLC - HAVANA STATION, ID NO 6377
VIOLATION NOTICE NO. W-2020-00036:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

DYNEGY MIDWEST GENERATION, LLC - HAVANA STATION, ID NO 6377
VIOLATION NOTICE NO. W-2020-00036:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Havana Station, East Ash Pond Cell 2 (IEPA ID # W1250200004-02) that was due January 31, 2020. The Agency has determined that East Ash Pond Cell 2 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Havana Station, East Ash Pond Cell 3 (IEPA ID # W1250200004-03) that was due January 31, 2020. The Agency has determined that East Ash Pond Cell 3 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3391
RETURN RECEIPT REQUESTED

Dynegy Midwest Generation, LLC
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

**Re: Violation Notice: DYNEGY MIDWEST GENERATION, LLC –
HENNEPIN STATION
Facility Id.: 6378
Violation Notice No.: W-2020-00040**

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

Page 2 of 2

ID NO 6378: DYNEGY MIDWEST GENERATION, LLC – HENNEPIN STATION
VN W-2020-00040

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

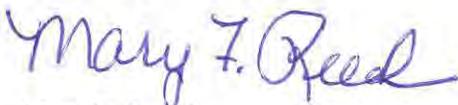
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00040.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1550100002

PAGE NO. 1 OF 2

ATTACHMENT A

**DYNEGY MIDWEST GENERATION, LLC - HENNEPIN STATION, ID NO 6378
VIOLATION NOTICE NO. W-2020-00040:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

DYNEGY MIDWEST GENERATION, LLC - HENNEPIN STATION, ID NO 6378
VIOLATION NOTICE NO. W-2020-00040:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Hennepin Station, West Pond 3 (IEPA ID # W1550100002-02) that was due January 31, 2020. The Agency has determined that West Pond 3 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Hennepin Station, West Secondary Ash Pond (IEPA ID # W1550100002-03) that was due January 31, 2020. The Agency has determined that West Secondary Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3407
RETURN RECEIPT REQUESTED

Electric Energy Inc.
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

Re: Violation Notice: ELECTRIC ENERGY INC. – JOPPA STATION
Facility Id.: 6295
Violation Notice No.: W-2020-00037

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6295: ELECTRIC ENERGY INC. – JOPPA STATION
VN W-2020-00037

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

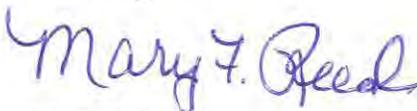
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00037.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1270100004

PAGE NO. 1 OF 2

ATTACHMENT A

**ELECTRIC ENERGY INC - JOPPA STATION, ID NO 6295
VIOLATION NOTICE NO. W-2020-00037:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

ELECTRIC ENERGY INC - JOPPA STATION, ID NO 6295
VIOLATION NOTICE NO. W-2020-00037:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Joppa Station, West Pond 1 (IEPA ID # W1270100004-01) that was due January 31, 2020. The Agency has determined that West Pond 1 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3414
RETURN RECEIPT REQUESTED

Illinois Power Generating Company
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

**Re: Violation Notice: ILLINOIS POWER GENERATING COMPANY –
COFFEEN STATION
Facility Id.: 6287
Violation Notice No.: W-2020-00038**

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6287: ILLINOIS POWER GENERATING COMPANY – COFFEEN STATION
VN W-2020-00038

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

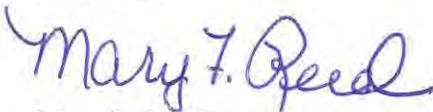
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00038.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1350150004

PAGE NO. 1 OF 2

ATTACHMENT A

**ILLINOIS POWER GENERATING COMPANY - COFFEEN STATION, ID NO 6287
VIOLATION NOTICE NO. W-2020-00038:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

ILLINOIS POWER GENERATING COMPANY - COFFEEN STATION, ID NO 6287

VIOLATION NOTICE NO. W-2020-00038:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Coffeen Station, GMF Recycle Pond (IEPA ID # W1350150004-04) that was due January 31, 2020. The Agency has determined that GMF Recycle Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



Illinois Environmental Protection Agency # 49
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3421
RETURN RECEIPT REQUESTED

Illinois Power Resource Generating, LLC.
c/o Phil Morris
1500 Eastport Plaza Drive
Collinsville, IL 62234

**Re: Violation Notice: ILLINOIS POWER RESOURCE GENERATING, LLC –
DUCK CREEK STATION
Facility Id.: 6376
Violation Notice No.: W-2020-00034**

Dear Mr. Morris:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6376: ILLINOIS POWER RESOURCE GENERATING, LLC –
DUCK CREEK STATION
VN W-2020-00034

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

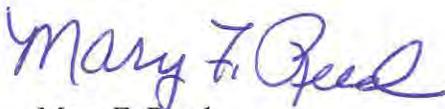
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00034.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W0578010001

PAGE NO. 1 OF 2

ATTACHMENT A

**ILLINOIS POWER RESOURCE GENERATING, LLC - DUCK CREEK STATION, ID NO 6376
VIOLATION NOTICE NO. W-2020-00034:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

ILLINOIS POWER RESOURCE GENERATING, LLC - DUCK CREEK STATION, ID NO 6376
VIOLATION NOTICE NO. W-2020-00034:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Duck Creek Station, GMF Recycle Pond (IEPA ID # W0578010001-05) that was due January 31, 2020. The Agency has determined that GMF Recycle Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3438
RETURN RECEIPT REQUESTED

Will County Generating Station
c/o Sharene Shealey
529 East 135th Street
Romeoville, IL 60446

Re: Violation Notice: MIDWEST GENERATION, LLC – JOLIET 29 STATION
Facility Id.: 6284
Violation Notice No.: W-2020-00044

Dear Ms. Shealey:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6284: MIDWEST GENERATION, LLC – JOLIET 29 STATION
VN W-2020-00044

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

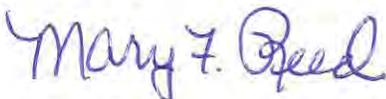
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00044.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1970450047

PAGE NO. 1 OF 2

ATTACHMENT A

**MIDWEST GENERATION, LLC - JOLIET 29 STATION, ID NO 6284
VIOLATION NOTICE NO. W-2020-00044:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

MIDWEST GENERATION, LLC - JOLIET 29 STATION, ID NO 6284
VIOLATION NOTICE NO. W-2020-00044:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Joliet 29 Station, Pond 1 (IEPA ID # W1970450047-01) that was due January 31, 2020. The Agency has determined that Pond 1 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Joliet 29 Station, Pond 3 (IEPA ID # W1970450047-03) that was due January 31, 2020. The Agency has determined that Pond 3 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3445
RETURN RECEIPT REQUESTED

Will County Generating Station
c/o Sharene Shealey
529 East 135th Street
Romeoville, IL 60446

Re: Violation Notice: MIDWEST GENERATION, LLC – WAUKEGAN STATION
Facility Id.: 6281
Violation Notice No.: W-2020-00035

Dear Ms. Shealey:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6281: MIDWEST GENERATION, LLC – WAUKEGAN STATION
VN W-2020-00035

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

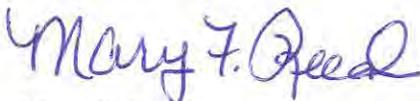
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00035.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W0971900021

PAGE NO. 1 OF 2

ATTACHMENT A

**MIDWEST GENERATION, LLC - WAUKEGAN STATION, ID NO 6281
VIOLATION NOTICE NO. W-2020-00035:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

**MIDWEST GENERATION, LLC - WAUKEGAN STATION, ID NO 6281
VIOLATION NOTICE NO. W-2020-00035:**

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Waukegan Station, Old Pond (IEPA ID # W0971900021-03) that was due January 31, 2020. The Agency has determined that Old Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3452
RETURN RECEIPT REQUESTED

Will County Generating Station
c/o Sharene Shealey
529 East 135th Street
Romeoville, IL 60446

**Re: Violation Notice: MIDWEST GENERATION, LLC – WILL COUNTY STATION
Facility Id.: 6283
Violation Notice No.: W-2020-00045**

Dear Ms. Shealey:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6283: MIDWEST GENERATION, LLC – WILL COUNTY STATION

VN W-2020-00045

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

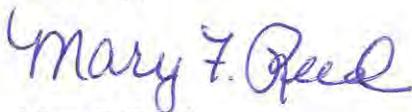
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00045.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1978100011

PAGE NO. 1 OF 2

ATTACHMENT A

**MIDWEST GENERATION, LLC - WILL COUNTY STATION, ID NO 6283
VIOLATION NOTICE NO. W-2020-00045:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

MIDWEST GENERATION, LLC - WILL COUNTY STATION, ID NO 6283
VIOLATION NOTICE NO. W-2020-00045:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Will County Station, Pond 1 North (IEPA ID # W1978100011-01) that was due January 31, 2020. The Agency has determined that Pond 1 North is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Will County Station, Pond 1 South (IEPA ID # W1978100011-04) that was due January 31, 2020. The Agency has determined that Pond 1 South is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 4251
RETURN RECEIPT REQUESTED

Powerton Generating Station
c/o Joe Kotas
13082 East Manito Road
Pekin, IL 61554-8587

**Re: Violation Notice: POWERTON GENERATING STATION -
POWERTON STATION
Facility Id.: 6282
Violation Notice No.: W-2020-00042**

Dear Mr. Kotas:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6282: POWERTON GENERATING STATION – POWERTON STATION
VN W-2020-00042

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

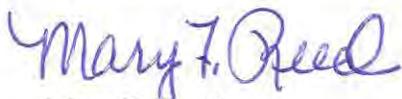
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00042.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1798010008

PAGE NO. 1 OF 2

ATTACHMENT A

**POWERTON GENERATING STATION - POWERTON STATION, ID NO 6282
VIOLATION NOTICE NO. W-2020-00042:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

POWERTON GENERATING STATION - POWERTON STATION, ID NO 6282
VIOLATION NOTICE NO. W-2020-00042:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Powerton Station, Secondary Ash Basin (IEPA ID # W1798010008-02) that was due January 31, 2020. The Agency has determined that Secondary Ash Basin is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 3469
RETURN RECEIPT REQUESTED

Ameren Energy Generating Company
c/o Meghan Kohlbusch
MC602, P. O. Box 66149
St. Louis, MO 63166-6149

**Re: Violation Notice: AMEREN ENERGY GENERATING COMPANY –
HUTSONVILLE STATION
Facility Id.: 6375
Violation Notice No.: W-2020-00032**

Dear Ms. Kohlbusch:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601.

Page 2 of 2

ID NO 6375: AMEREN ENERGY GENERATING COMPANY – HUTSONVILLE STATION
VN W-2020-00032

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

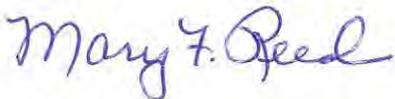
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00032.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

cc: Meghan Kohlbusch
Craig Giesmann

BOW ID: W0330100003

PAGE NO. 1 OF 2

ATTACHMENT A

**AMEREN ENERGY GENERATING COMPANY - HUTSONVILLE STATION, ID NO 6375
VIOLATION NOTICE NO. W-2020-00032:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:
 - \$50,000 for each closed CCR surface impoundment; and
 - \$75,000 for each CCR surface impoundment that have not completed closure.
- (2) Annual fees to the Agency, beginning on July 1, 2020, of:
 - \$25,000 for each CCR surface impoundment that has not completed closure; and
 - \$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

AMEREN ENERGY GENERATING COMPANY - HUTSONVILLE STATION, ID NO 6375
VIOLATION NOTICE NO. W-2020-00032:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for Hutsonville Station, Pond B (IEPA ID # W0330100003-02) that was due January 31, 2020. The Agency has determined that Pond B is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Hutsonville Station, Pond C (IEPA ID # W0330100003-03) that was due January 31, 2020. The Agency has determined that Pond C is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Hutsonville Station, Bottom Ash Pond (IEPA ID # W0330100003-05) that was due January 31, 2020. The Agency has determined that Bottom Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 4237
RETURN RECEIPT REQUESTED

Ameren Energy Generating Company
c/o Meghan Kohlbusch
MC602, P. O. Box 66149
St. Louis, MO 63166-6149

**Re: Violation Notice: AMEREN ENERGY GENERATING COMPANY –
MEREDOSIA STATION
Facility Id.: 6288
Violation Notice No.: W-2020-00039**

Dear Ms. Kohlbusch:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

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412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

Page 2 of 2

ID NO 6288: AMEREN ENERGY GENERATING COMPANY – MEREDOSIA STATION
VN W-2020-00039

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

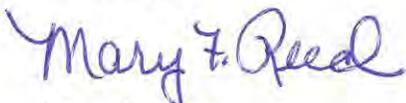
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00039.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

cc: Craig Giesmann
Meghan Kohlbusch

BOW ID: W1370300005

PAGE NO. 1 OF 2

ATTACHMENT A

**AMEREN ENERGY GENERATING COMPANY - MEREDOSIA STATION, ID NO 6288
VIOLATION NOTICE NO. W-2020-00039:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

(j) The owner or operator of a CCR surface impoundment shall pay the following fees:

- (1) An initial fee to the Agency within 6 months after the effective date of this amendatory Act of the 101st General Assembly of:

\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

\$25,000 for each CCR surface impoundment that has not completed closure; and

\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

To achieve compliance payment in full is expected immediately.

PAGE NO. 2 OF 2

ATTACHMENT A

AMEREN ENERGY GENERATING COMPANY - MEREDOSIA STATION, ID NO 6288
VIOLATION NOTICE NO. W-2020-00039:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$50,000 initial fee for Meredosia Station, Bottom Ash Pond (IEPA ID # W1370300005-01) that was due January 31, 2020. The Agency has determined that Bottom Ash Pond is a CCR surface impoundment that has completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for Meredosia Station, Old Ash Pond (IEPA ID # W1370300005-03) that was due January 31, 2020. The Agency has determined that Old Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).



217/785-0561

July 28, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 4244
RETURN RECEIPT REQUESTED

Southern Illinois Power Cooperative
c/o Wendell Watson
11543 Lake of Egypt Road
Marion, IL 62959

**Re: Violation Notice: SOUTHERN ILLINOIS POWER COOPERATIVE –
MARION POWER PLANT
Facility Id.: 6364
Violation Notice No.: W-2020-00046**

Dear Mr. Watson:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency (“Illinois EPA”).

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in Attachment A to this notice. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not the facility wishes to enter into a Compliance Commitment Agreement (“CCA”) pursuant to Section 31(a) of the Act. If the facility wishes to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

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ID NO 6364: SOUTHERN ILLINOIS POWER COOPERATIVE – MARION POWER PLANT
VN W-2020-00046

The Illinois EPA will review the proposed terms for a CCA provided by the facility and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, the facility must respond in writing by either agreeing to and signing the proposed CCA or by notifying the Illinois EPA that the facility rejects the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

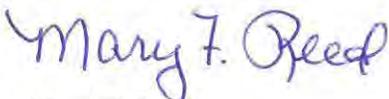
Written communications should be directed to:

Illinois EPA – Division of Public Water Supplies
Attn: Andrea Rhodes, CAS #19
P.O. BOX 19276
Springfield, IL 62794-9276

All communications must include reference to this Violation Notice number, W-2020-00046.

Questions regarding this Violation Notice should be directed to Andrea Rhodes at 217/785-0561.

Sincerely,



Mary F. Reed
Manager, Compliance Assurance Section
Division of Public Water Supplies
Bureau of Water

Attachments

BOW ID: W1998600002

PAGE NO. 1 OF 3

ATTACHMENT A

**SOUTHERN ILLINOIS POWER COOPERATIVE - MARION POWER PLANT, ID NO 6364
VIOLATION NOTICE NO. W-2020-00046:**

Questions regarding the violations identified in this attachment should be referred to Andrea Rhodes at (217) 785-0561.

A review of information available to the Illinois EPA indicates the following violations of statutes, regulations, or permits. Included with each type of violation is an explanation of the activities that the Illinois EPA believes may resolve the violation including an estimated time period for resolution.

Coal Combustion Residuals Surface Impoundment Fees

The Illinois Environmental Protection Act ("Act") Section 22.59 (j) establishes a fee system for Coal Combustion Residuals ("CCR") surface impoundments. CCR surface impoundments must pay an initial fee of seventy-five thousand dollars for CCR surface impoundments that have not completed closure and fifty thousand dollars for CCR surface impoundments that have completed closure and are in post-closure care.

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\$50,000 for each closed CCR surface impoundment; and

\$75,000 for each CCR surface impoundment that have not completed closure.

- (2) Annual fees to the Agency, beginning on July 1, 2020, of:

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\$15,000 for each CCR surface impoundment that has completed closure, but has not completed post-closure care.

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PAGE NO. 2 OF 3

ATTACHMENT A

SOUTHERN ILLINOIS POWER COOPERATIVE - MARION POWER PLANT, ID NO 6364
 VIOLATION NOTICE NO. W-2020-00046:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond 1 (IEPA ID # W1998600002-01) that was due January 31, 2020. The Agency has determined that Pond 1 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond 2 (IEPA ID # W1998600002-02) that was due January 31, 2020. The Agency has determined that Pond 2 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond 4 (IEPA ID # W1998600002-03) that was due January 31, 2020. The Agency has determined that Pond 4 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond A-1 (IEPA ID # W1998600002-04) that was due January 31, 2020. The Agency has determined that Pond A-1 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond B-3 (IEPA ID # W1998600002-05) that was due January 31, 2020. The Agency has determined that Pond B-3 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).

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ATTACHMENT A

SOUTHERN ILLINOIS POWER COOPERATIVE - MARION POWER PLANT, ID NO 6364
VIOLATION NOTICE NO. W-2020-00046:

<u>Violation Date</u>	<u>Violation Description</u>
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond South Fly Ash Pond (IEPA ID # W1998600002-06) that was due January 31, 2020. The Agency has determined that Pond South Fly Ash Pond is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond 3 (IEPA ID # W1998600002-07) that was due January 31, 2020. The Agency has determined that Pond 3 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).
02/01/2020	Failure to submit a \$75,000 initial fee for SIPC, Pond 6 (IEPA ID # W1998600002-09) that was due January 31, 2020. The Agency has determined that Pond 6 is a CCR surface impoundment that has not completed closure, and therefore, is subject to an initial fee.
Rule/Reg	Section 22.59(j)(1) of the Act 415 ILCS 22.59(j)(1).