

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CTI DEVELOPMENT, LLC,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY,

Respondent.

PCB NO.

(VARIANCE-LAND)

**NOTICE OF FILING**

To: Mr. Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Suite 11-500  
Chicago, Illinois 60601  
**(VIA ELECTRONIC MAIL)**

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
**(VIA FIRST CLASS MAIL)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board an **ENTRY OF APPEARANCE OF JENNIFER M. MARTIN, ENTRY OF APPEARANCE OF WILLIAM J. CURTIS, AND PETITION FOR VARIANCE with exhibits**, copies of which are herewith served upon you.

Respectfully submitted,

CTI DEVELOPMENT, LLC  
Petitioner,

DATE: May 11, 2021

By: /s/ Jennifer M. Martin  
One of Its Attorneys

Jennifer M. Martin  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, IL 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)  
(217) 528-3674

William J. Curtis  
POL SINELLI PC  
100 S. Fourth Street  
St. Louis, MO 63102  
[wcurtis@polsinelli.com](mailto:wcurtis@polsinelli.com)  
(314) 622-6172

**CERTIFICATE OF SERVICE**

I, Jennifer M. Martin, the undersigned, hereby certify that I have served the attached ENTRY OF APPEARANCE OF JENNIFER M. MARTIN, ENTRY OF APPEARANCE OF WILLIAM J. CURTIS, and PETITION FOR VARIANCE with exhibits, on:

Mr. Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

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

/s/ Jennifer M. Martin

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CTI DEVELOPMENT, LLC,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

Respondent.

PCB NO.

(VARIANCE – LAND)

**ENTRY OF APPEARANCE OF JENNIFER M. MARTIN**

NOW COMES Jennifer M. Martin, of the law firm HEPLERBROOM, LLC, and hereby enters her appearance in this matter on behalf of Petitioner, CTI DEVELOPMENT, LLC.

Respectfully submitted,

DATE: May 11, 2021

By: /s/ Jennifer M. Martin

Jennifer M. Martin  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, IL 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)  
(217) 528-3674

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CTI DEVELOPMENT, LLC,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY,

Respondent.

PCB NO.

(VARIANCE – LAND)

**ENTRY OF APPEARANCE OF WILLIAM J. CURTIS**

NOW COMES William J. Curtis, of the law firm POLSINELLI PC, and hereby enters his appearance in this matter on behalf of Petitioner, CTI DEVELOPMENT, LLC.

Respectfully submitted,

DATE: May 11, 2021

By: /s/ William J. Curtis

William J. Curtis  
POLSINELLI PC  
100 S. Fourth Street  
St. Louis, MO 63102  
[wcurtis@polsinelli.com](mailto:wcurtis@polsinelli.com)  
(314) 622-6172

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CTI DEVELOPMENT, LLC,

Petitioner,

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ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

Respondent.

PCB NO.

(VARIANCE – LAND)

**PETITION FOR VARIANCE**

NOW COMES the Petitioner, CTI DEVELOPMENT, LLC. (“CTI”), by and through its undersigned counsel, and hereby respectfully requests that the Illinois Pollution Control Board (“Board”) grant CTI’s request for a variance from 35 Illinois Administrative Code 845.200. In support of its Petition for Variance, CTI states as follows:

- a) A statement describing the regulation, requirement, or order of the Board from which a variance is sought. If variance from a regulation is sought, the statement must include the Illinois Administrative Code citation to the regulation as well as the effective date of that regulation.

**35 ILL. ADM. CODE 845.200(a)(4), effective April 21, 2021, which provides, in pertinent part: “except as provided in Section 22.59(e) of the Act, no person must close a CCR surface impoundment without obtaining a construction permit for closure issued by the Agency under this Part.”**

- b) A complete and concise description of the nature of petitioner's activity that is the subject of the proposed variance, including:

**Dynegy Midwest Generation, LLC transferred ownership of its Wood River Power Station to CTI Development, LLC (“CTI”) on August 30, 2019. The West Ash Complex surface impoundment is part of the Wood River Power Station property. CTI met with Illinois EPA on October 15, 2019 to discuss the existing Closure and Post-Closure Plan (submitted by Dynegy before May 1, 2019) and the NPDES permit transfer. CTI submitted a letter to Illinois EPA on November 11, 2019 documenting the transfer. (Attachment 1)**

**On December 4, 2019 Illinois EPA acknowledged receipt of CTI's letter. Illinois EPA required CTI to obtain a construction permit pursuant to 35 Ill. Adm. Code, Part 309, prior to commencing the closure activities in the Closure Plan. (Attachment \*\*) The NPDES permit modification and necessary construction permits were submitted to Illinois EPA on November 20, 2019. Illinois EPA acknowledged the change in ownership and transfer of closure responsibility to CTI on December 4, 2019. The final permit modification approval was received by Illinois EPA on April 16, 2020 to allow for pond dewatering and initiation of closure. On May 5, 2021, the State of Illinois issued CTI NPDES Permit No. IL0000701. CTI could not start construction / remediation at the West Ash Impoundment until it received the NPDES permit.**

**The West Ash Impoundment contains coal ash. Dynegy submitted a closure plan to the Agency before May 1, 2019. Dynegy transferred the closure plan to CTI. CTI received approval from the Illinois EPA to close the West Ash Complex surface impoundment per an approved Closure and Post-Closure Plan on December 4, 2019. (Attachment \*\*\*) Shortly after Illinois EPA approved the transfer, the State of Illinois issued numerous emergency orders related to the outbreak of Coronavirus Disease 2019 in the State of Illinois. Although the Closure Plan was approved by Illinois EPA, CTI was not effectively able to initiate closure activities until April 2020 due to the delay in the issuance of the NPDES permit modification.**

**CTI is in the process of closing the West Ash impoundment but is unable to fully close the impoundment before the July 31, 2021 deadline contained Section 22.59(e) of the Act due to the delay in its NPDES permit and other significant delays due to the impact of COVID-19 on equipment, labor and supplies.**

- 1) The location of, and area affected by, the petitioner's activity;

**CTI Development, LLC  
Wood River Site  
#1 Chessen Lane  
Alton, IL 60436  
Madison County, IL**

**See also the attached NPDES Permit (–Attachment 3).**

- 2) The location of points of discharge, and, as applicable, the identification of the receiving waterway or land, or, if known, the location of the nearest air monitoring station maintained by the Agency;

**None known related to closure activity, but see the attached NPDES Permit (–Attachment 3).**

- 3) An identification, including docket number, of any prior variance issued to the petitioner and, if known, the petitioner's predecessors, concerning similar relief;

**None.**

- 4) An identification, including number, of the environmental permits held by petitioner for the activity which may be affected by grant of variance;

**None affected by the variance but see the attached NPDES Permit (–Attachment 3).**

- 5) The number of persons employed by the petitioner's facility at issue and the age of that facility;

**None; the facility is not operational. The facility is the former Dynegy Wood River Power Station. The West Ash Pond System at the Wood River Power Plant was commissioned in 1997.**

- 6) The nature and amount of the materials used in the process or activity for which the variance is sought and a full description of the particular process or activity in which the materials are used;

**The facility is not operational and therefore no processes are ongoing.**

- 7) A description of the relevant pollution control equipment already in use; and

**None.**

- 8) The nature and amount of emissions, discharges or releases of the constituent in question currently generated by the petitioner's activity;

**None.**

- c) Data describing the nature and extent of the present or anticipated failure to meet the regulation, requirement, or order of the Board from which variance is sought and facts that support petitioner's argument that compliance with the regulation, requirement, or order of the Board was not or cannot be achieved by any required compliance date;

**35 ILL. ADM. CODE 845.200(a)(4) provides, in pertinent part: “except as provided in Section 22.59(e) of the Act, no person must close a CCR surface impoundment without obtaining a construction permit for closure issued by the Agency under this Part.” Section 22.59(e) of the Act, however, states that “owners or operators of CCR surface impoundments who have submitted a closure plan to the Agency before May 1, 2019, and who have completed closure prior to 24 months after the effective date of this amendatory Act of the 101st General Assembly shall not be required to obtain a construction permit for the surface impoundment closure under CCR Section 415 ILCS 5/22.59(e).” The effective date of the statute was July 30, 2019. A closure plan was submitted but CTI is unable to complete the closure plan by July 30, 2021 for the above-state reasons.**

- d) A description of the efforts that would be necessary for the petitioner to achieve immediate compliance with the regulation, requirement, or Board order at issue. All possible compliance alternatives, with the corresponding costs for each alternative, must be set forth and discussed. The discussion of compliance alternatives must include the availability of alternate methods of compliance, the extent that the methods were studied, and the comparative factors leading to the selection of the control program proposed for compliance. The discussion of the costs of immediate compliance may include the overall capital costs and the annualized capital and operating costs;

**CTI would need to obtain a construction permit to complete the already-approved closure plan, which would require stopping work in progress and going through the application and permitting process. Requiring CTI to obtain a construction permit would significantly delay the implementation of the Illinois EPA-approved closure plan.**

- e) Facts that set forth the reasons the petitioner believes that immediate compliance with the regulation, requirement, or order of the Board would impose an arbitrary or unreasonable hardship;

**The closure plan has already been approved. CTI could not begin work until Illinois EPA issued the NPDES Permit, but it was not issued until May 5, 2021.**

- f) A detailed description of the compliance plan, including:
  - 1) A discussion of the proposed equipment or proposed method of control to be undertaken to achieve full compliance with the regulation, requirement, or order of the Board;
  - 2) A time schedule for the implementation of all phases of the control program from initiation of design to program completion; and
  - 3) The estimated costs involved for each phase and the total cost to achieve compliance;

**Completion of the already-approved Closure Plan dated November 28, 2016 and later additions and revisions.**

- g) A description of the environmental impact of the petitioner's activity including:
  - 1) The nature and amount of emissions, discharges, or releases of the constituent in question if the requested variance is granted, compared to that which would result if immediate compliance is required;
  - 2) The qualitative and quantitative description of the impact of petitioner's activity on human health and the environment if the requested variance is

granted, compared to the impact of petitioner's activity if immediate compliance is required. Cross-media impacts, if any, must be discussed; and

- 3) A statement of the measures to be undertaken during the period of the variance to minimize the impact of the discharge of contaminants on human, plant, and animal life in the affected area, including the numerical interim discharge limitations that can be achieved during the period of the variance;

**The Closure Plan will result in substantial benefits to the environment.**

- h) Citation to supporting documents or legal authorities whenever they are used as a basis for the petition. Relevant portions of the documents and legal authorities other than Board decisions, reported state and federal court decisions, or state and federal regulations and statutes must be appended to the petition;

**35 ILL. ADM. CODE 845.200(a)(4) provides, in pertinent part: “except as provided in Section 22.59(e) of the Act, no person must close a CCR surface impoundment without obtaining a construction permit for closure issued by the Agency under this Part.” Section 22.59(e) of the Act, however, states that “owners or operators of CCR surface impoundments who have submitted a closure plan to the Agency before May 1, 2019, and who have completed closure prior to 24 months after the effective date of this amendatory Act of the 101st General Assembly shall not be required to obtain a construction permit for the surface impoundment closure under CCR Section 415 ILCS 5/22.59(e).” The effective date of the statute was July 30, 2019. A closure plan was submitted but CTI is unable to complete the closure plan by July 30, 2021.**

- i) If the requested variance involves an existing permit or a pending permit application, a copy of the material portion of the permit or permit application must be appended to the petition;

**Not applicable.**

- j) Any conditions petitioner suggests for the requested variance;

**Completion of the Closure Plan by July 31, 2022 and continued compliance with the Agency-approved Closure Plan.**

- k) A proposed beginning and ending date for the variance. If the petitioner requests that the term of the variance begin on any date other than the date on which the Board takes final action on the petition, a detailed explanation and justification for the alternative beginning date;

**The date the Board takes final action to July 30, 2022.**

- l) A discussion of consistency with federal law, including an analysis of applicable federal law and facts that may be necessary to show compliance with federal law as set forth in Section 104.208;

**The Closure Plan already complies with federal law.**

- m) An affidavit verifying any facts submitted in the petition; and

**Attached.**

- n) A statement requesting or denying that a hearing should be held in this matter.

**A hearing is requested.**

WHEREFORE, CTI requests a variance from the IPCB to allow for the continued closure of the West Pond surface impoundment to July 30, 2022 without obtaining a construction permit for the West Pond surface impoundment closure under CCR Section 415 ILCS 5/22.59(e).

Respectfully submitted,

CTI DEVELOPMENT, LLC  
Petitioner,

DATE: May 11, 2021

By: /s/ Jennifer M. Martin  
One of Its Attorneys

Jennifer M. Martin  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, IL 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)  
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William J. Curtis  
POL SINELLI PC  
100 S. Fourth Street  
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[wcurtis@polsinelli.com](mailto:wcurtis@polsinelli.com)  
(314) 622-6172

**INDEX OF ATTACHMENTS**

Petition for Variance	P 1-
Attachment 1 – 11/11/2019 CLP IEPA Letter	P
Attachment 2 – 12/4/2019 Transfer of Closure Plan West Ash Pond System	P
Attachment 3 – CTI NPDES Permit	P
Attachment 4 – Affidavit	P

November 11, 2019

Mr. Lynn E. Dunaway  
Environmental Protection Specialist  
Groundwater Section  
Bureau of Water  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, IL 62794-9276

**Re: Wood River Power Station Site  
Change of Ownership**

Dear Mr. Dunaway:

Per our meeting on Tuesday, October 15<sup>th</sup>, 2019, this letter serves as notification that the Wood River Power Station Site located in East Alton Illinois was purchased and transferred from Dynegy Midwest Generation, LLC to CTI Development, LLC on August 30<sup>th</sup>, 2019. CTI Development, LLC is a subsidiary of Commercial Liability Partners (CLP), LLC.

ATON, LLC, an affiliate of Commercial Liability Partners, LLC, will serve as the Environmental and Engineering Consultant to CTI Development, LLC and CLP for the duration of this project.

As a result of the sale, Dynegy Midwest Generation, LLC has transferred to CTI Development, LLC the NPDES Permit, IL0000701, issued on July 31, 2015, and the associated Permit Modification Applications submitted on June 3, 2016 and October 23, 2017. CTI Development, LLC acknowledges all future responsibilities and compliance with the terms and conditions of the NPDES Permit, IL0000701.

Also, as result of the sale, Dynegy Midwest Generation, LLC has transferred to CTI Development, LLC the "*Closure and Post-Closure Care Plan for the Wood River West Ash Complex, Parts I and II*" (Plan) dated November 28, 2016, Addenda to the Plan dated April 28, 2017 and the Revision to the Addenda dated May 18, 2017. The Illinois Environmental Protection Agency (Agency) has reviewed the three documents and approved the Plan per a letter sent to Dynegy Midwest Generation, LLC on May 25, 2017. CTI Development, LLC acknowledges all future responsibilities and compliance with the terms and conditions of the Plan.

Please contact me at [rfroh@commercialliabilitypartners.com](mailto:rfroh@commercialliabilitypartners.com), (314-227-8313) or [twubker@commercialliabilitypartners.com](mailto:twubker@commercialliabilitypartners.com) (314-707-1587) should you have any questions regarding this transfer notification and ownership agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Froh". The signature is written in a cursive style with a large initial "R" and "F".

Ronald Froh  
President & CEO  
CTI Development, LLC



## 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

December 4, 2019

Mr. Ronald Froh  
President & CEO  
CTI Development, LLC  
2275 Cassens Drive, Suite 118  
Fenton, Missouri 63026

Dear Mr. Froh;

The Illinois Environmental Protection Agency (“Agency”) is in receipt of a letter from CTI Development, LLC (CTI), a subsidiary of Commercial Liability Partners, LLC, confirming the purchase and transfer of the Dynegy Midwest Generation, LLC, Wood River Station to CTI as of August 30, 2019.

The Closure and Post-Closure Care Plan for the Wood River West Ash Complex, Parts I and II (Plan) dated November 28, 2016, Addenda to the Plan dated April 28, 2017, and the Revision to the Addenda dated May 18, 2017, were submitted by Dynegy, and approved by the Agency on May 25, 2017. A construction permit, pursuant to 35 Ill. Adm. Code, Part 309 is required prior to commencing closure of the West Ash Complex.

All of the CCR surface impoundments at the Wood River Station are subject to the requirements of Section 22.59 of the Illinois Environmental Protection Act (415 ILCS 55/1 et seq) (“Act”). Subsection 22.59(e) is applicable to the Agency-approved closure of the West Ash Complex. Please note that subsection 22.59(e) is not applicable to the East Ash Complex, because no closure plan was submitted before May 1, 2019. Therefore, CTI may close the West Ash Complex utilizing the approved closure plan, subject to the requirements and limitations of Section 22.59 of the Act.

Thank you for your attention to these matters. If you have any questions or concerns, please contact Lynn Dunaway of my staff or me at the letterhead address or 217/782-1020.

Sincerely,

A handwritten signature in blue ink that reads "William E. Buscher".

William E. Buscher, P.G.  
Supervisor, Hydrogeology and Compliance Unit  
Groundwater Section  
Division of Public Water Supplies  
Bureau of Water

CC: Lynn Dunaway  
Darin LeCrone  
Records

**ATTACHMENT 2**



## 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

217/782-0610

May 5, 2021

CTI Development, LLC  
2275 Cassens Drive, Suite 118  
Fenton, Missouri 63026

Re: CTI Development LLC  
Wood River Power Station  
NPDES Permit No. IL0000701  
BOW ID# W1190200004  
Final Permit

Gentlemen:

Attached is the final NPDES Permit for your discharge. The Permit as issued covers discharge limitations, monitoring, and reporting requirements. Failure to meet any portion of the Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge.

In response to your comment letter dated April 2, 2021, the Agency responds as the following:

1. Remove Basement Bilge Water from Outfall 002's list of discharge sources due to on-going demolition of the former power plant at the site.
2. The mercury limit has been corrected in the Public Notice Fact Sheet for the record.

Pursuant to the Final NPDES Electronic Reporting Rule, all permittees must report DMRs electronically unless a waiver has been granted by the Agency. The Agency utilizes NetDMR, a web based application, which allows the submittal of electronic Discharge Monitoring Reports instead of paper Discharge Monitoring Reports (DMRs). More information regarding NetDMR can be found on the Agency website, <https://www2.illinois.gov/epa/topics/water-quality/surface-water/netdmr/Pages/quick-answer-guide.aspx>. If your facility has received a waiver from the NetDMR program, a supply of preprinted paper DMR Forms will be sent to your facility. Additional information and instructions will accompany the preprinted DMRs. Please see the attachment regarding the electronic reporting rule.

The attached Permit is effective as of the date indicated on the first page of the Permit. Until the effective date of any re-issued Permit, the limitations and conditions of the previously-issued Permit remain in full effect. You have the right to appeal any condition of the Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

Should you have questions concerning the Permit, please contact Shu-Mei Tsai at 217/782-0610.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. LeCrone".

Darin E. LeCrone, P.E.  
Manager, Industrial Unit, Permit Section  
Division of Water Pollution Control

DEL:SMT:20081201.smt

Attachments: Final Permit

cc: Records Unit  
Compliance Assurance Section  
Collinsville FOS  
Fiscal Services  
SWIMRPC  
Missouri Department of Natural Resources

2125 S. First Street, Champaign, IL 61820 (217) 278-5800  
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120  
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000  
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200  
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022  
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

NPDES Permit No. IL0000701

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue East

Post Office Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Renewed (NPDES) Permit

Expiration Date: May 31, 2026

Issue Date: May 5, 2021  
Effective Date: June 1, 2021

Name and Address of Permittee:

CTI Development, LLC  
2275 Cassens Drive, Suite 118  
Fenton, Missouri 63026

Facility Name and Address:

CTI Development, LLC  
Wood River Site  
#1 Chessen Lane  
Alton, Illinois 60436  
(Madison County)

Discharge Number and Name:

002 West Ash Pond

005 East Ash Pond

Receiving Waters:

Wood River Creek

Wood River Creek

In compliance with the provisions of the Illinois Environmental Protection Act, Title 35 of Ill. Adm. Code, Subtitle C and/or Subtitle D, Chapter 1, and the Clean Water Act (CWA), the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.



Darin E. LeCrone, P.E.  
Manager, Industrial Unit, Permit Section  
Division of Water Pollution Control

DEL:SMT:20081201.smt

NPDES Permit No. IL0000701

Effluent Limitations and Monitoring

From the effective date of this permit until the expiration date, the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfall 002: West Ash Pond (Intermittent Discharge)

PARAMETER	LOAD LIMITS lbs/day DAF (DMF)		CONCENTRATION LIMITS mg/L		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		
This discharge consists of: Old Coal Pile storage Runoff Legacy Wastewater from Unwatering and Dewatering of East and West Ash Ponds			Approximate Flow: Intermittent Intermittent			
Flow (MGD)	See Special Condition 1				1/Week when Discharging	Measured or Calculated
pH	See Special Condition 2		6.5 to 9.0 s.u.		1/Week when Discharging	Grab
Total Suspended Solids			30	50	1/Week when Discharging	Grab
Oil and Grease			15.0	20.0	2/Month when Discharging	Grab
Boron				15	2/Month when Discharging	Grab
Arsenic			Monitor Only		2/Month when Discharging	Grab
Selenium			Monitor Only		2/Month when Discharging	Grab
Mercury*			Monitor Only		1/Month when Discharging	Grab

\* Mercury shall be monitored in accordance with USEPA Method 1631E and the digestion procedure described in Section 11.1.1.2 of 1631E. Compliance with the 12 ng/L (nanograms per liter) annual average concentration limit shall be determined on a rolling 12 month basis. The permittee shall report the monthly sample result each month. Beginning 12 months from the effective date, the permittee shall report each month, the rolling 12 month annual average based on the preceding 12 months sample results.

NPDES Permit No. IL0000701

Effluent Limitations and Monitoring

From the effective date of this permit until the expiration date, the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfall 005: East Ash Pond (Intermittent Discharge)

PARAMETER	LOAD LIMITS lbs/day DAF (DMF)		CONCENTRATION LIMITS mg/L		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		
This discharge consists of:			Approximate Flow:			
Area Runoff Legacy Wastewater from Unwatering and Dewatering of East and West Ash Ponds			Intermittent Intermittent			
Flow (MGD)	See Special Condition 1				1/Week when Discharging	Measured or Calculated
pH	See Special Condition 2		6.5 to 9.0 s.u.		1/Week when Discharging	Grab
Total Suspended Solids			30	50	1/Week when Discharging	Grab
Oil and Grease			15.0	20.0	2/Month when Discharging	Grab
Boron				15	2/Month when Discharging	Grab
Arsenic			Monitor Only		2/Month when Discharging	Grab
Selenium			Monitor Only		2/Month when Discharging	Grab
Mercury*			12 ng/L annual average		1/Month when Discharging	Grab

\*Mercury shall be monitored in accordance with USEPA Method 1631E and the digestion procedure described in Section 11.1.1.2 of 1631E. Compliance with the 12 ng/L (nanograms per liter) annual average concentration limit shall be determined on a rolling 12 month basis. The permittee shall report the monthly sample result each month. Beginning 12 months from the effective date, the permittee shall report each month, the rolling 12 month annual average based on the preceding 12 months sample results.

NPDES Permit No. IL0000043

Special Conditions

SPECIAL CONDITION 1. Flow shall be measured or calculated in units of Million Gallons per Day (MGD) and reported as a monthly average and a daily maximum on the Discharge Monitoring Report. The monthly average shall consist of the summation of the daily flows divided by the number of days the facility discharged during that month.

SPECIAL CONDITION 2. The pH shall be in the range 6.5 to 9.0 from Outfalls 002, and 005. The monthly minimum and monthly maximum values shall be reported on the DMR form.

SPECIAL CONDITION 3. Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

SPECIAL CONDITION 4. The Permittee shall record monitoring results on Discharge Monitoring Report (DMR) electronic forms using one such form for each outfall each month.

In the event that an outfall does not discharge during a monthly reporting period, the DMR Form shall be submitted with no discharge indicated.

The Permittee is required to submit electronic DMRs (NetDMRs) instead of mailing paper DMRs to the IEPA unless a waiver has been granted by the Agency. More information, including registration information for the NetDMR program, can be obtained on the IEPA website, <https://www2.illinois.gov/epa/topics-water-quality/surface-water/netdmr/Pages/quick-answer-guide.aspx>.

The completed Discharge Monitoring Report forms shall be submitted to IEPA no later than the 25th day of the following month, unless otherwise specified by the permitting authority.

Permittees that have been granted a waiver shall mail Discharge Monitoring Reports with an original signature to the IEPA at the following address:

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
Attention: Compliance Assurance Section, Mail Code # 19  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

SPECIAL CONDITION 5. In the event that the permittee must request a change in the use of water treatment additives, the permittee must request a change in this permit in accordance with Standard Conditions - - Attachment H.

SPECIAL CONDITION 6. If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

SPECIAL CONDITION 7. The use or operation of this facility shall be by or under the supervision of a Certified Class K operator.

SPECIAL CONDITION 8. There shall be no discharge of polychlorinated biphenyl compounds.

SPECIAL CONDITION 9. The Agency has determined that the effluent limitations for outfalls 002 and 005 constitute BAT/BCT for storm water which is treated in the existing treatment facilities for purposes of this permit reissuance, and no pollution prevention plan will be required for such storm water. In addition to the chemical specific monitoring required elsewhere in this permit, the permittee shall conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity, and determine whether any facility modifications have occurred which result in previously-treated storm water discharges no longer receiving treatment. If any such discharges are identified the permittee shall request a modification of this permit within 30 days after the inspection. Records of the annual inspection shall be retained by the permittee for the term of this permit and be made available to the Agency on request.

SPECIAL CONDITION 10. The Permittee shall monitor the effluent from outfalls 002 and 005 for the following parameters on an annual basis. This Permit may be modified with public notice to establish effluent limitations if appropriate, based on information obtained through sampling. The sample shall be a 24-hour effluent composite except as otherwise specifically provided below and the results shall be submitted to the address in special condition 6 in June and December. The parameters to be sampled and the minimum reporting limits to be attained are as follows:

<u>STORET CODE</u>	<u>PARAMETER</u>	<u>Minimum reporting limit</u>
01002	Arsenic	0.05 mg/L

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01007	Barium	0.5 mg/L
01027	Cadmium	0.001 mg/L
00940	Chloride (outfalls 002 and 005)	1.0 mg/L
01032	Chromium (hexavalent) (grab)	0.01 mg/L
01034	Chromium (total)	0.05 mg/L
01042	Copper	0.005 mg/L
00718	Cyanide (grab) (available*** or amendable to chlorination)	5.0 ug/L
00720	Cyanide (grab not to exceed 24 hours) (total)	5.0 ug/L
00951	Fluoride	0.1 mg/L
01045	Iron (total)	0.5 mg/L
01046	Iron (Dissolved)	0.5 mg/L
01051	Lead	0.05 mg/L
01055	Manganese	0.5 mg/L
71900	Mercury (grab)**	1.0 ng/L*
00630	Nitrate/Nitrite (outfalls 002 and 005)	1.0 mg/L
01067	Nickel	0.005 mg/L
00556	Oil (hexane soluble or equivalent) (Grab Sample only)	5.0 mg/L
32730	Phenols (grab)	0.005 mg/L
01147	Selenium	0.005 mg/L
01077	Silver (total)	0.003 mg/L
01092	Zinc	0.025 mg/L

Unless otherwise indicated, concentrations refer to the total amount of the constituent present in all phases, whether solid, suspended or dissolved, elemental or combined, including all oxidation states.

The mercury sampling requirements of this special condition do not apply to outfalls 002 and 005, unless the monitoring requirements on pages 2 and 5 have been suspended in accordance with special condition 11. In that case outfalls 002 and 005 may be grab sampled, and mercury shall be monitored as specified in this condition.

\*1.0 ng/L = 1 part per trillion.

\*\*Utilize USEPA Method 1631E and the digestion procedure described in Section 11.1.1.2 of 1631E.

\*\*\*USEPA Method OIA-1677.

SPECIAL CONDITION 11. After the East and West Ash Ponds are closed and capped the permittee may request to suspend the Class K operator requirement (special condition 7) and the effluent limits and monitoring requirements on pages 2 and 3. The Agency will review the request upon receipt and provide a written response of our decision.

SPECIAL CONDITION 12. The effluent, alone or in combination with other sources, shall not cause a violation of any applicable water quality standard outlined in 35 Ill. Adm. Code 302.

## Attachment H

## Standard Conditions

## Definitions

**Act** means the Illinois Environmental Protection Act, 415 ILCS 5 as Amended.

**Agency** means the Illinois Environmental Protection Agency.

**Board** means the Illinois Pollution Control Board.

**Clean Water Act** (formerly referred to as the Federal Water Pollution Control Act) means Pub. L 92-500, as amended. 33 U.S.C. 1251 et seq.

**NPDES** (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

**USEPA** means the United States Environmental Protection Agency.

**Daily Discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

**Maximum Daily Discharge Limitation** (daily maximum) means the highest allowable daily discharge.

**Average Monthly Discharge Limitation** (30 day average) means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**Average Weekly Discharge Limitation** (7 day average) means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best Management Practices** (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Aliquot** means a sample of specified volume used to make up a total composite sample.

**Grab Sample** means an individual sample of at least 100 milliliters collected at a randomly-selected time over a period not exceeding 15 minutes.

**24-Hour Composite Sample** means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

**8-Hour Composite Sample** means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

**Flow Proportional Composite Sample** means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

- (1) **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirements.
- (2) **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.
- (3) **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (4) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (5) **Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.
- (6) **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause by the Agency pursuant to 40 CFR 122.62 and 40 CFR 122.63. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- (7) **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.
- (8) **Duty to provide information.** The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also furnish to the Agency upon request, copies of records required to be kept by this permit.
- (9) **Inspection and entry.** The permittee shall allow an authorized representative of the Agency or USEPA (including an authorized contractor acting as a representative of the Agency or USEPA), upon the presentation of credentials and other documents as may be required by law, to:
  - (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records

- must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - (d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substances or parameters at any location.
- (10) **Monitoring and records.**
- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. Records related to the permittee's sewage sludge use and disposal activities shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503). This period may be extended by request of the Agency or USEPA at any time.
  - (c) Records of monitoring information shall include:
    - (1) The date, exact place, and time of sampling or measurements;
    - (2) The individual(s) who performed the sampling or measurements;
    - (3) The date(s) analyses were performed;
    - (4) The individual(s) who performed the analyses;
    - (5) The analytical techniques or methods used; and
    - (6) The results of such analyses.
  - (d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of measurements.
- (11) **Signatory requirement.** All applications, reports or information submitted to the Agency shall be signed and certified.
- (a) **Application.** All permit applications shall be signed as follows:
    - (1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;
    - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
  - (b) **Reports.** All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (1) The authorization is made in writing by a person described in paragraph (a); and
    - (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
    - (3) The written authorization is submitted to the Agency.
  - (c) **Changes of Authorization.** If an authorization under (b)
- is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (d) **Certification.** Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:
 

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- (12) **Reporting requirements.**
- (a) **Planned changes.** The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required when:
    - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source pursuant to 40 CFR 122.29 (b); or
    - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements pursuant to 40 CFR 122.42 (a)(1).
    - (3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
  - (b) **Anticipated noncompliance.** The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
  - (c) **Transfers.** This permit is not transferable to any person except after notice to the Agency.
  - (d) **Compliance schedules.** Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
  - (e) **Monitoring reports.** Monitoring results shall be reported at the intervals specified elsewhere in this permit.
    - (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
    - (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
    - (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.

(f) **Twenty-four hour reporting.** The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24-hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and time; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The following shall be included as information which must be reported within 24-hours:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit.
- (2) Any upset which exceeds any effluent limitation in the permit.
- (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit or any pollutant which may endanger health or the environment.

The Agency may waive the written report on a case-by-case basis if the oral report has been received within 24-hours.

(g) **Other noncompliance.** The permittee shall report all instances of noncompliance not reported under paragraphs (12) (d), (e), or (f), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12) (f).

(h) **Other information.** Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Agency, it shall promptly submit such facts or information.

(13) **Bypass.**

(a) Definitions.

- (1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (13)(c) and (13)(d).

(c) Notice.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (12)(f) (24-hour notice).

(d) Prohibition of bypass.

- (1) Bypass is prohibited, and the Agency may take enforcement action against a permittee for bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The permittee submitted notices as required under paragraph (13)(c).

(2) The Agency may approve an anticipated bypass, after considering its adverse effects, if the Agency determines that it will meet the three conditions listed above in paragraph (13)(d)(1).

(14) **Upset.**

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (14)(c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated; and
- (3) The permittee submitted notice of the upset as required in paragraph (12)(f)(2) (24-hour notice).
- (4) The permittee complied with any remedial measures required under paragraph (4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(15) **Transfer of permits.** Permits may be transferred by modification or automatic transfer as described below:

(a) Transfers by modification. Except as provided in paragraph (b), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued pursuant to 40 CFR 122.62 (b) (2), or a minor modification made pursuant to 40 CFR 122.63 (d), to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

- (b) Automatic transfers. As an alternative to transfers under paragraph (a), any NPDES permit may be automatically transferred to a new permittee if:
- (1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
  - (2) The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage and liability between the existing and new permittees; and
  - (3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.
- (16) All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:
- (a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
    - (1) One hundred micrograms per liter (100 ug/l);
    - (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6 dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
    - (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application; or
    - (4) The level established by the Agency in this permit.
  - (b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.
- (17) All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:
- (a) Any new introduction of pollutants into that POTW from an indirect discharge which would be subject to Sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
  - (b) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (c) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (18) If the permit is issued to a publicly owned or publicly regulated treatment works, the permittee shall require any industrial user of such treatment works to comply with federal requirements concerning:
- (a) User charges pursuant to Section 204 (b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35;
  - (b) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act; and
  - (c) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act.
- (19) If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reissued to conform to that effluent standard or limitation.
- (20) Any authorization to construct issued to the permittee pursuant to 35 Ill. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit.
- (21) The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit.
- (22) The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both. Additional penalties for violating these sections of the Clean Water Act are identified in 40 CFR 122.41 (a)(2) and (3).
- (23) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
- (24) The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (25) Collected screening, slurries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.
- (26) In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern.
- (27) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board or any court with jurisdiction.
- (28) The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CTI DEVELOPMENT, LLC,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

Respondent.

PCB NO.

(VARIANCE – LAND)

**AFFIDAVIT OF ELISABETH BENNETT**

My name is Elisabeth Bennett. I am an adult citizen of the State of Missouri over twenty-one years of age. I am of sound mind, have personal knowledge of the matters set forth in this affidavit, and am competent to give this affidavit.

1. I am the in-house environmental attorney for CTI Development LLC.
2. Dynegy Midwest Generation, LLC transferred ownership of its Wood River Station to CTI Development on August 30, 2019.
3. The West Ash Complex surface impoundment is part of the Wood River Station property.
4. CTI met with Illinois EPA on October 15, 2019 to discuss the existing Closure and Post-Closure Plan (submitted by Dynegy before May 1, 2019) and the NPDES permit transfer.
5. CTI submitted a letter to Illinois EPA on November 11, 2019 documenting the transfer.

6. On December 4, 2019 Illinois IEPA acknowledged receipt of CTI's letter. IEPA required CTI to obtain a construction permit pursuant to 35 Ill. Adm. Code, Part 309, prior to commencing the closure activities in the Closure Plan.
7. The NPDES permit modification and necessary construction permits were submitted to Illinois EPA on November 20, 2019. Illinois EPA acknowledged the change in ownership and closure responsibility to CTI on December 4, 2019.
8. The final permit modification approvals was received by Illinois EPA on April 16, 2020 to allow for pond dewatering and initiation of closure.
9. On February 23, 2021, The State of Illinois issued CTI NPDES Permit No. IL0000701.
10. CTI could not start construction / remediation at the West Ash Impoundment until it received the NPDES permit.
11. Dynergy submitted a closure plan to the Agency before May 1, 2019.
12. Dyenergy transferred it the closure plan to CTI. CTI received approval from the Illinois EPA to close the West Ash Complex surface impoundment per an approved Closure and Post-Closure Plan on December 4, 2019.
13. Although the Closure Plan was approved by Illinois EPA, CTI was not effectively able to initiate closure activities until April 2020 due to the delay in the issuance of the NPDES permit modification.
14. CTI is in the process of closing the West Ash impoundment but is unable to fully close the impoundment before the July 31, 2021 deadline contained Section 22.59(e) of the Act due to the delay in its NPDES permit and other delays due to the impact of COVID-19 on equipment, labor and supplies.

15. The Wood River Station property is no longer in operation and has no employees.  
CLP is currently remediating the property and is not seeking a variance due to an industrial process, pollution control equipment, or current emissions.
16. CLP is currently remediating the The Wood River Station property pursuant to a Closure and Post-Closure plan approved by the Illinois EPA on May 25, 2017.
17. CLP is addressing the West Pond surface impoundments pursuant to the May 25, 2017 plan.
18. Complying with the requirements of CCR Section 415 ILCS 5/22.59(e) would require CLP to stop the work outlined in the May 25, 2017 plan in order to comply with CCR Section 415 ILCS 5/22.59(e).

*Elisabeth Bennett*

Elisabeth Bennett

Dated: May 11, 2021

County of

State of Missouri

Before me, the undersigned Notary Public in and for the State \_\_\_\_\_ appeared Elisabeth Bennett, who is known to me, and who being by me duly sworn, did state that the forgoing Affidavit is true and correct based on his personal knowledge and the records of CTI Development LLC.

\_\_\_\_\_

Notary Public

My commission expires on: \_\_\_\_\_