

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	AS 2021-001
Midwest Generation, LLC’s Petition for)	
an Adjusted Standard and Finding of)	
Inapplicability from 35 Ill. Adm.)	
Code 845 (Joliet 29 Station))	
)	

To: See attached service list.

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board an **ILLINOIS EPA’S RESPONSE TO BOARD FOLLOW-UP QUESTIONS** on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: February 2, 2023

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Stefanie N. Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

Respondent,

BY: /s/Stefanie N. Diers
Stefanie N. Diers

THIS FILING IS SUBMITTED ELECTRONICALLY

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ILLINOIS EPA'S RESPONSE TO BOARD FOLLOW-UP QUESTIONS

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, ("Illinois EPA" or "Agency") by and through its counsel, and submits the following responses to the Board Questions in the above captioned case:

1. **Response to Board Question #5:** No, the Agency does not have any concerns about creating a migration pathway. First, drilling and sampling can occur on an angle under the liner without breaching the liner. Second, if drilling and sampling occurred through the liner, there are sufficient patching and sealing methods to prevent migration during and after borehole abandonment. Sampling at another location or site is not a suitable alternative to determine the leaching characteristics of CCR at Pond 2.

2. **Response to Board Question #6(a) and (b):**

a. Poz-o-pac was a proprietary material from the 1950's to the 1970's, but is no longer used due to constructability issues that are also covered in the FHWA publication FHWA-RD-97-148. Currently, CCW used as CCB for roadway construction must only meet IDOT specifications for its structural characteristics. Section 3.135(a-5)(C) of the Act lists the uses that are subject to metals leachability testing using ASTM D3987-85 under Section 3.135(B), which does not include the roadway uses listed in Sections 3.135 (a)(3)(B), and 3.135(a)(4) or (5).

b. The concern arises from the authority granted to the Agency in the Illinois Environmental Protection Act ("Act") and by the Illinois Pollution Control Board ("Board") to regulate CCR at CCR surface impoundments, which does not exist relative to highway projects. Groundwater monitoring is not required by the Act or Board regulations, for highway projects to determine if the CCB is contaminating groundwater. However, groundwater monitoring is required at CCR surface impoundments. With respect to Pond 2, the up-gradient monitoring well MW-10 has not detected elevated concentrations of Cobalt, a metal associated with CCR, but monitoring well MW-4, immediately down gradient of Pond 2 has detected elevated concentrations of Cobalt. Therefore, it is very likely that Pond 2 is impacting groundwater quality.

Dated: February 2, 2023

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Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

BY: /s/Stefanie N. Diers
Stefanie N. Diers

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CERTIFICATE OF SERVICE

I, the undersigned, on affirmation certify the following:

That I have served the attached **NOTICE OF FILING** and **RESPONSES TO THE BOARD FOLLOW-UP QUESTIONS** by e-mail upon Kristen L. Gale at the e-mail address of kg@nijmanfranzetti.com, upon Susan Franzetti at the e-mail address of sf@nijmanfranzetti.com, Hearing Officer Brad Halloran at brad.halloran@illinois.gov and upon Don Brown at the e-mail address of Don.Brown@illinois.gov.

/s/ Stefanie N. Diers

February 2, 2023

SERVICE LIST

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ILLINOIS POLLUTION CONTROL BOARD

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ILLINOIS POLLUTION CONTROL BOARD

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