

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
SIERRA CLUB, ENVIRONMENTAL)	
LAW AND POLICY CENTER,)	
PRAIRIE RIVERS NETWORK, and)	
CITIZENS AGAINST RUINING THE)	
ENVIRONMENT)	
)	PCB 2013-015
Complainants,)	(Enforcement – Water)
)	
v.)	
)	
MIDWEST GENERATION, LLC,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Don Brown, Clerk	Attached Service List
Illinois Pollution Control Board	
60 E. Van Buren St., Ste. 630	
Chicago, Illinois 60605	

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board Respondent, Midwest Generation, LLC’s Demonstrative Exhibits, a copy of which is herewith served upon you.

MIDWEST GENERATION, LLC

By: /s/ Jennifer T. Nijman

Dated: June 9, 2023

Jennifer T. Nijman
Kristen L. Gale
Andrew Nishioka
NIJMAN FRANZETTI LLP
10 South LaSalle Street, Suite 3400 (please note new suite no.)
Chicago, IL 60603
(312) 251-5271

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Oakland, CA 94612
Megan.wachspress@sierraclub.org

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing and Respondent, Midwest Generation, LLC's Demonstrative Exhibits were filed electronically on June 9, 2023 with the following:

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
60 E. Van Buren St., Ste. 630
Chicago, Illinois 60605

and that true copies of the pleading were emailed on June 9, 2023 to the parties listed on the foregoing Service List.

/s/ Jennifer T. Nijman

Midwest Generation Power Stations

Joliet #29

Powerton

Waukegan

Will County

ENERGY NEWS NETWORK

MIDWEST

Historic coal ash raises concerns at iconic Illinois coal plant site

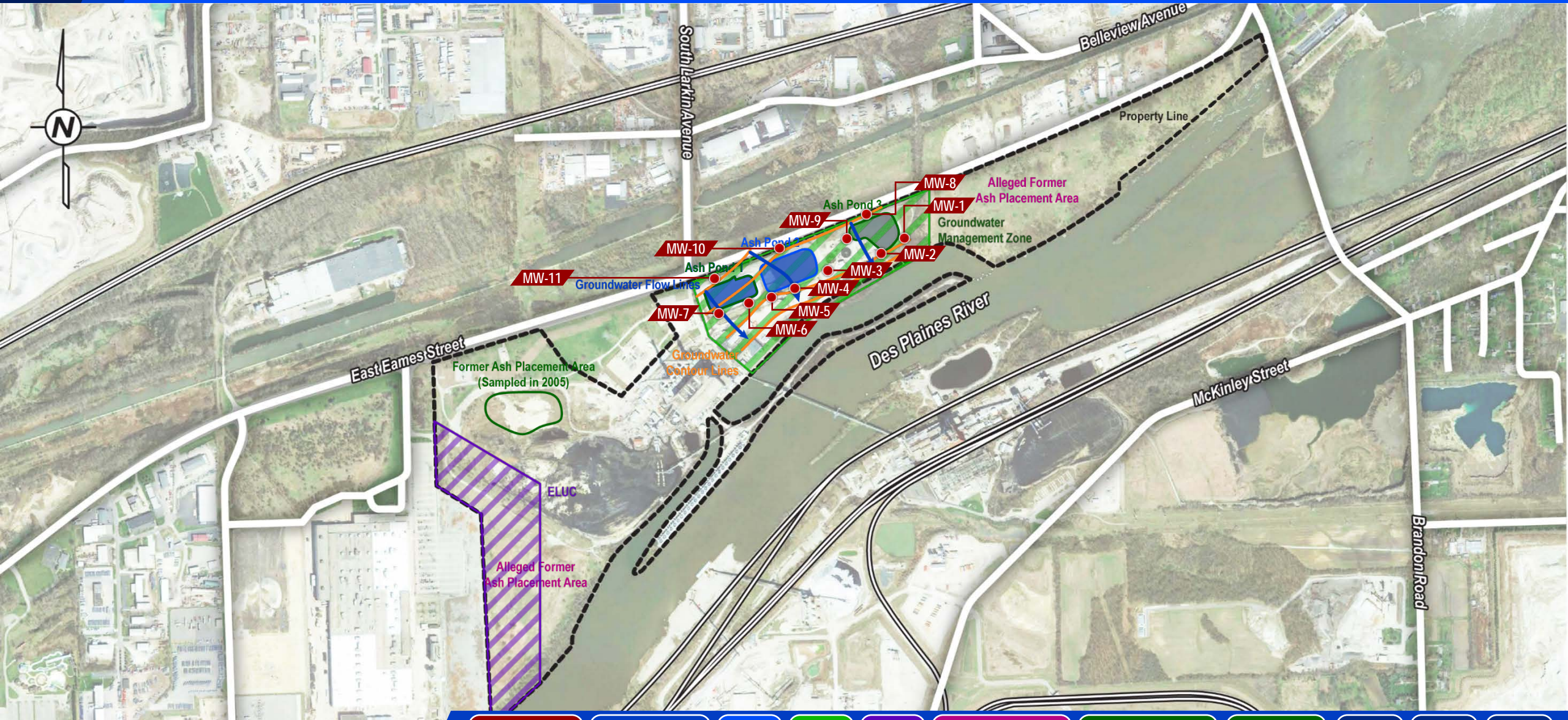
Bugel explained that most of the coal ash repositories at Midwest Generation's coal plants are lined, and unlike many other companies, Midwest Generation frequently emptied the ash and sold it for "beneficial reuse" as construction materials and other uses.

That means Midwest Generation's active coal ash ponds subject to the state and federal rules were probably less likely to be contaminating groundwater than at many other coal ash sites, she said.

Midwest Generation Power Stations

Joliet #29

Joliet #29 Generating Station – Joliet, Illinois



Joliet 29 Zoning

The screenshot displays the Will County GIS Data Viewer interface. The top navigation bar includes 'Home', 'Draw and Measure', and 'Query and Analysis'. A search bar is located in the top right corner. Below the navigation bar, there are icons for various drawing tools: Point, Freehand, Line, Polygon, Rectangle, Query, Filter, and Linked Maps. The main map area shows a geographic view with various zoning districts highlighted in different colors (red, blue, green, yellow). A specific area is highlighted in yellow, corresponding to the query results. The left sidebar shows the 'Query Results (11)' for the query 'I want to...'. The results list 11 items, all with 'Zoning: I-3*' and various parcel numbers. The bottom of the interface includes a scale bar (0 to 0.2 miles), a 'Street Map' button, and a 'Page 1 of 1' indicator.

Will County GIS | Data Viewer

Home Draw and Measure Query and Analysis

Point Freehand Line Polygon Rectangle Query Filter Linked Maps

Find Data

Query Results (11) **I want to...**

Query performed on layer "Zoning"

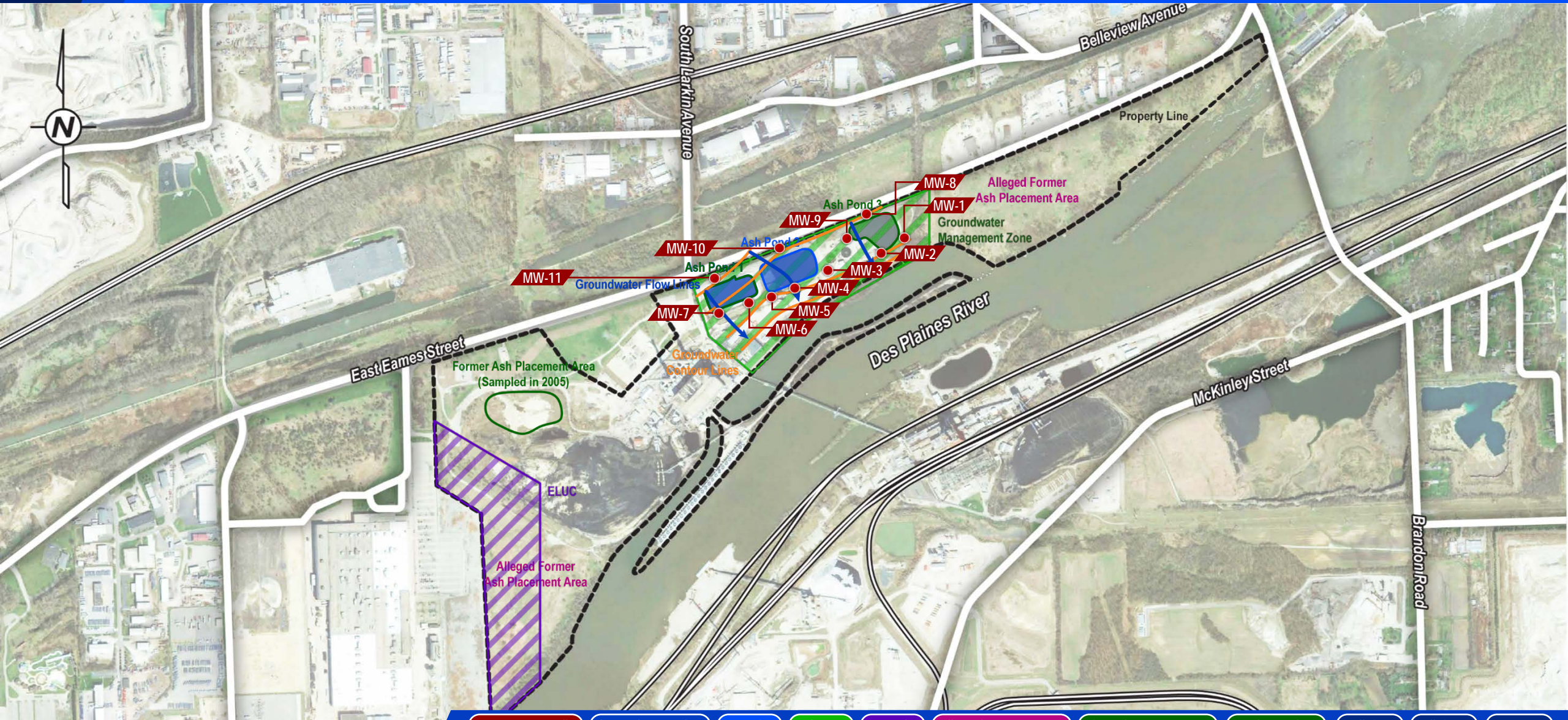
- ☆ Zoning: I-3* 3007302000020000
- ☆ Zoning: I-3 3007302000020000
- ☆ Zoning: I-3 30072021500020000
- ☆ Zoning: I-3 3007203000070000
- ☆ Zoning: I-3 3007202150010000
- ☆ Zoning: I-3 3007203000010000
- ☆ Zoning: I-3 3007194000110000
- ☆ Zoning: I-3 3007194000300000
- ☆ Zoning: I-3 3007194000320000
- ☆ Zoning: I-3* 3007193000260000
- ☆ Zoning: I-3 3007193000260000

Displaying 1 - 11 (Total: 11)

Page 1 of 1

Zoning Query Result... Query Street Map 0 0.1 0.2mi

Joliet #29 Generating Station – Joliet, Illinois



Joliet #29 – Impoundments

Station		Current Status
Joliet #29 1964-65 Facility Operation Converted to gas in 2016	Pond 1 – Not a CCR Surface Impoundment Before 2015, used intermittently	No ash as of 2015. Confirmed through sampling.
	Pond 2 – CCR Surface Impoundment Used intermittently	No ash as of 2019. Closed by Removal with Reuse of Liner (Construction Permit submitted)
	Pond 3 – Not a CCR Surface Impoundment Finishing pond.	No ash. Confirmed through sampling.

Joliet #29 Timeline of Events

1964 – 1965

Joliet #29 Station constructed and begins operations

1978

Joliet #29 ponds 1, 2, and 3 constructed with Poz-O-Pac liner



1999

MWG begins operations at all Stations

2001

Maria Race begins work at MWG

2002 – 2005

MWG begins review of ash ponds at its Stations

- Locates historic drawings
- Conducts internal planning
- Retains consultants (NRT and KPRG)
- Site visits and reviews

Dec 21, 2005

NRT prepares evaluation and ranking of ash ponds with a timeframe to reline ponds

Oct 13, 2005

KPRG report of geotechnical analysis to assess soils around ponds

Summer 2005

MWG completes "pond characterizations"

Jul 25, 2005

MWG samples coal ash at Joliet #29; Finds coal ash qualifies as CCB

Joliet #29 Timeline of Events

Jan 2006

MWG begins process of relining ponds, including, engineering, scheduling, budgeting for capital for work

Oct 2006

MWG receives refined prioritizations and estimation of costs for relining ash ponds

Nov 2006

Second refinement to impoundment liner upgrade priority and liner system options and costs

Jun 21, 2007

MWG applies for construction permit to reline Ponds 1 and 2

Jul 20, 2007

IEPA grants MWG application for construction permit to reline Ponds 1 and 2

2008

MWG conducts RFP process for relining

May 2008

Joliet #29 Pond 2 relined with HDPE

Dec 2008

TVA coal ash spill

Oct 2008

Joliet #29 Pond 1 relined with HDPE

Apr - May 2009

IEPA asks Illinois coal fired power plants to install groundwater monitoring around ash ponds; MWG agrees

Jul 2009

MWG responds to IEPA request for groundwater monitoring, includes a preliminary hydrogeological assessment of the stations and a potable water survey and assessment; no risk to potable wells

2006

2007

2008

2009

Joliet #29 Timeline of Events

Jan 2010

USEPA announces intent to propose regulation of CCR as a hazardous waste

Jan 27, 2010

MWG asks NRT to hold work on liner permit applications because of new USEPA regulations

May 27, 2010

MWG grants Caterpillar ELUC on western side of Joliet #29

Jun 21, 2010

USEPA formally proposes regulations under RCRA related to CCR management

Aug 2010

MWG receives consultant proposals for hydrogeologic assessment

Sep 2010

MWG submits Hydrogeologic Assessment Plans to IEPA

Sep 24, 2010

IEPA approves MWG Hydrogeologic Assessment Plans

Dec 2010

MWG conducts first groundwater sampling at all stations

2010

Joliet #29 Timeline of Events

Feb 2011

MWG submits Hydrogeologic Assessment Reports to IEPA

Dec 7, 2012

MWG files for bankruptcy

Nov 2012

MWG begins process of completing all tasks in the four CCAs

Oct 24, 2012

IEPA accepts all four Compliance Commitment Agreements to resolve VNs

Oct 3, 2012

Sierra Club files this lawsuit

Jul 27, 2012 – Aug 2012

MWG submits VN responses to IEPA

Jun 2012

IEPA issues violation notices (VN) to MWG

MWG conducts quarterly groundwater sampling of all Stations

2011

2012

Joliet #29 Timeline of Events

Jan 11, 2013

MWG applies for construction permit to reline Pond 3

Feb 25, 2013

IEPA grants MWG permit to construct liner in Pond 3

Aug 8, 2013

IEPA approves Joliet #29 GMZ

Oct 3, 2013

Joliet #29 Ash Pond 3 relined with HDPE

Oct 2013

Maria Race certifies CCAs completed

Oct 2, 2015

Ash Pond 1 at Joliet #29 emptied of all coal ash

Jul 2015

MWG samples influent water; Pond 3 not an ash pond

Apr 17, 2015

Coal Combustion Residual Rule published in Federal Register

Dec 19, 2014

USEPA issues final Coal Combustion Residual Rule

2013

2014

2015

Joliet #29 Timeline of Events

Jan 2016

MWG conducts first Annual Inspection of ash ponds at Stations pursuant to Federal CCR rules

Mar 2016

Joliet #29 ceases burning coal

May 2016

Joliet #29 begins generating power with natural gas

Oct 2016

MWG completes various reports pursuant to Federal CCR rules

Apr 2017

MWG completes Emergency Action Plans for the Stations pursuant to Federal CCR rules

Jan 2019

SB09 proposing to regulate CCR surface impoundments in Illinois introduced in Illinois General Assembly

2019

Joliet #29 emptied Ash Pond 2

2016

2017

2018

2019

Joliet #29 Timeline of Events

Apr 2021

- Pond 2 Illinois CCR Rule Compliance
- Conducting groundwater monitoring
 - Conducting safety hazard assessments every five years
 - Conducting inspections
 - Posting information on publicly available website

Nov 1, 2021

- Operating Permit Application for Joliet 29
- Demonstration that Pond 2 meets location standards
 - Initial engineering analysis including: initial hazard potential classification assessment and structural stability assessment
 - Preliminary closure plan
 - History of construction
 - GW monitoring information including: hydrogeologic site characterization, GW sampling and analysis program including the statistical procedures to be used
 - Proposed groundwater monitoring program

Feb 1, 2022

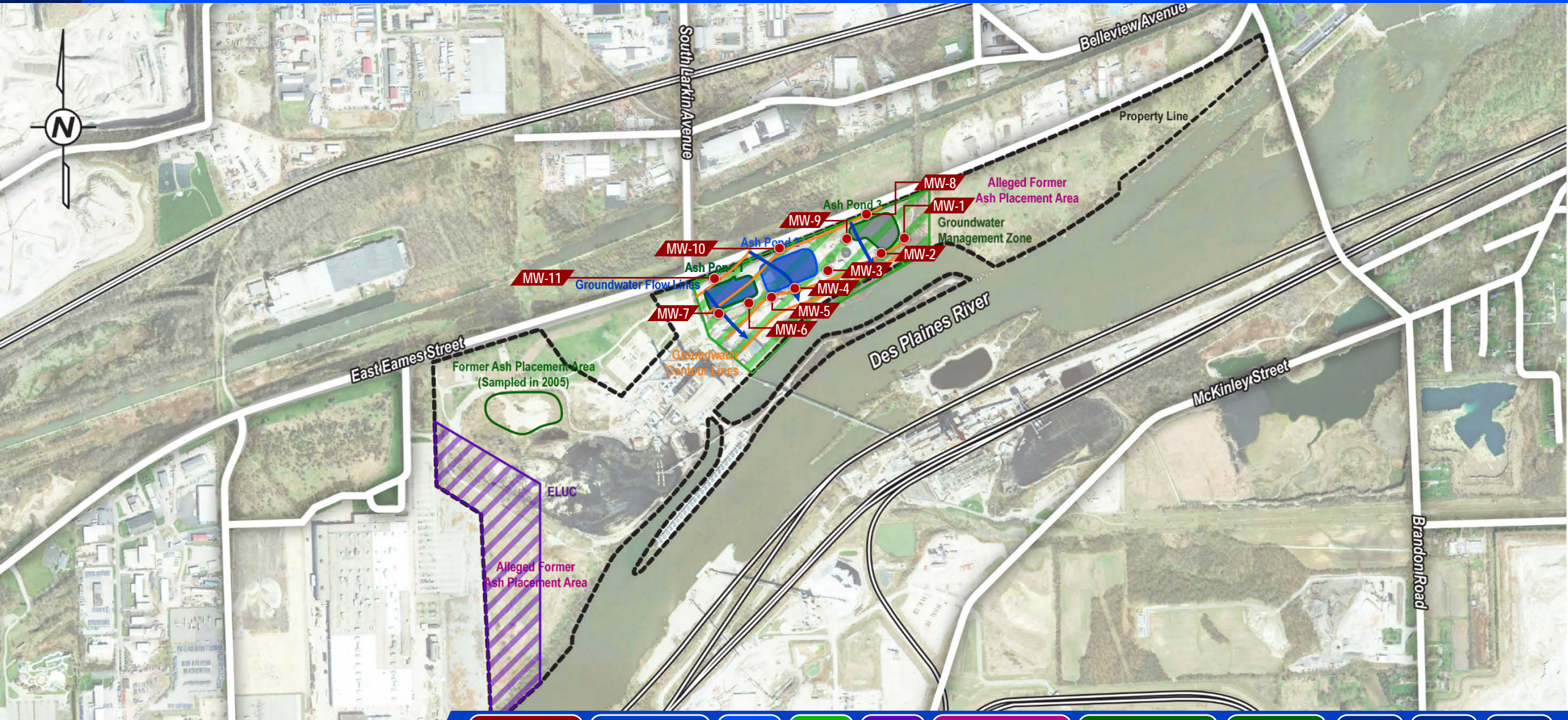
Construction Permit Application Submitted to reuse Pond 2 as low volume wastewater pond

2020

2021

2022

Joliet #29 Generating Station – Joliet, Illinois



USEPA Proposed Rule for CCRMUs

Proposed Changes – Legacy CCR Surface Impoundments and CCR Management Units

In May 2023, EPA proposed changes to the CCR regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments". The proposed requirements largely mirror those put into place through regulation in 2015 for inactive impoundments at active facilities. This notice is in response to the August 21, 2018, court decision that vacated and remanded the provision of the 2015 CCR rule that exempted inactive impoundments at inactive electric utilities.

In addition, through implementation of the 2015 CCR rule, EPA found areas at regulated CCR facilities where CCR was disposed of or managed on land outside of regulated units at CCR facilities, referred to as "CCR management units." So, EPA is also proposing to extend a subset of requirements in the CCR regulations to these CCR management units.

<https://www.epa.gov/coalash/coal-ash-rule#legacy>

USEPA Proposed Rule for CCRMUs

An official website of the United States Government. 

Regulations.gov
Your Voice in Federal Decision Making

SUPPORT

R RULEMAKING DOCKET

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy Surface Impoundments

Created by the **Environmental Protection Agency**

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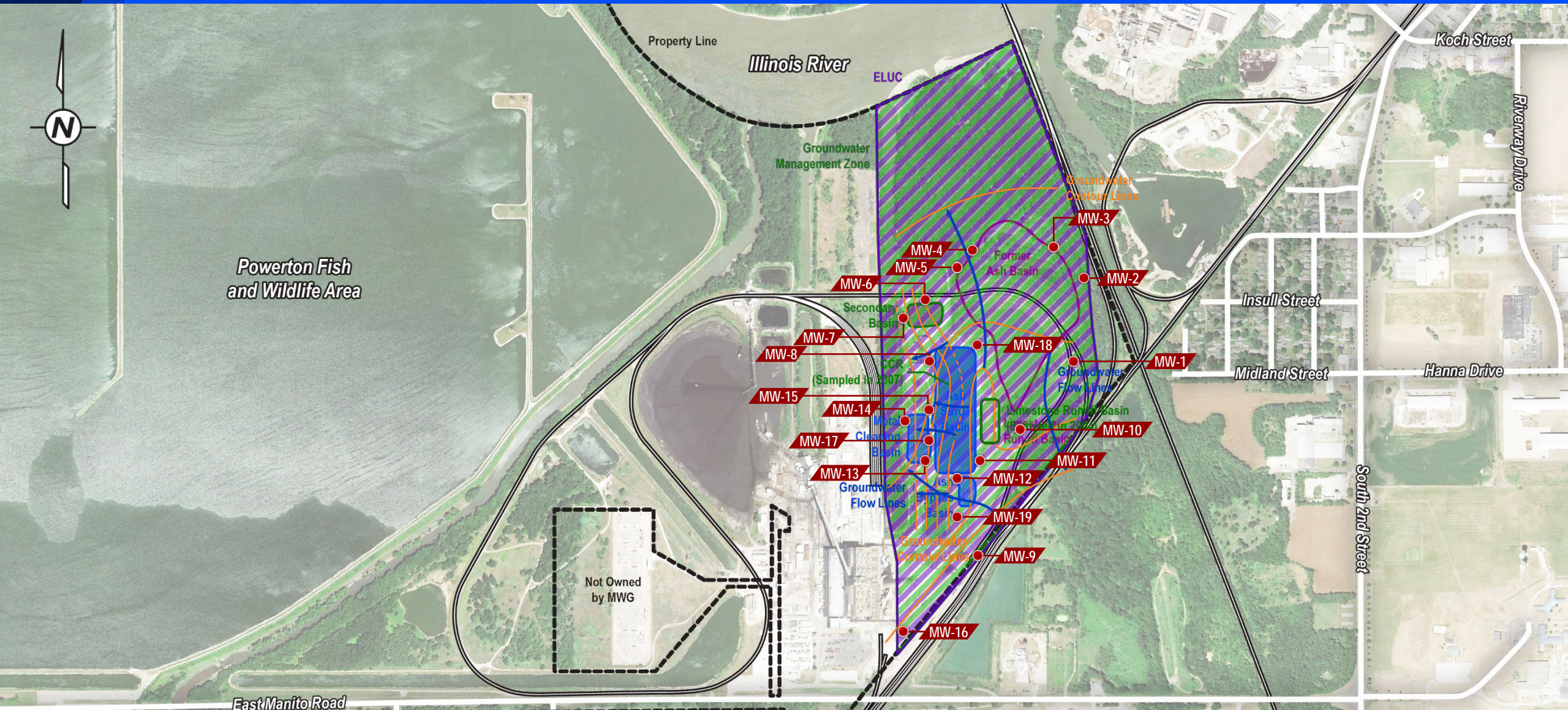
PR PROPOSED RULE
Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments
Agency Environmental Protection Agency | Posted May 17, 2023 | ID EPA-HQ-OLEM-2020-0107-0119

[Comment](#) Comments Due Jul 17, 2023

Midwest Generation Power Stations

Powerton

Powerton Station – Pekin, Illinois

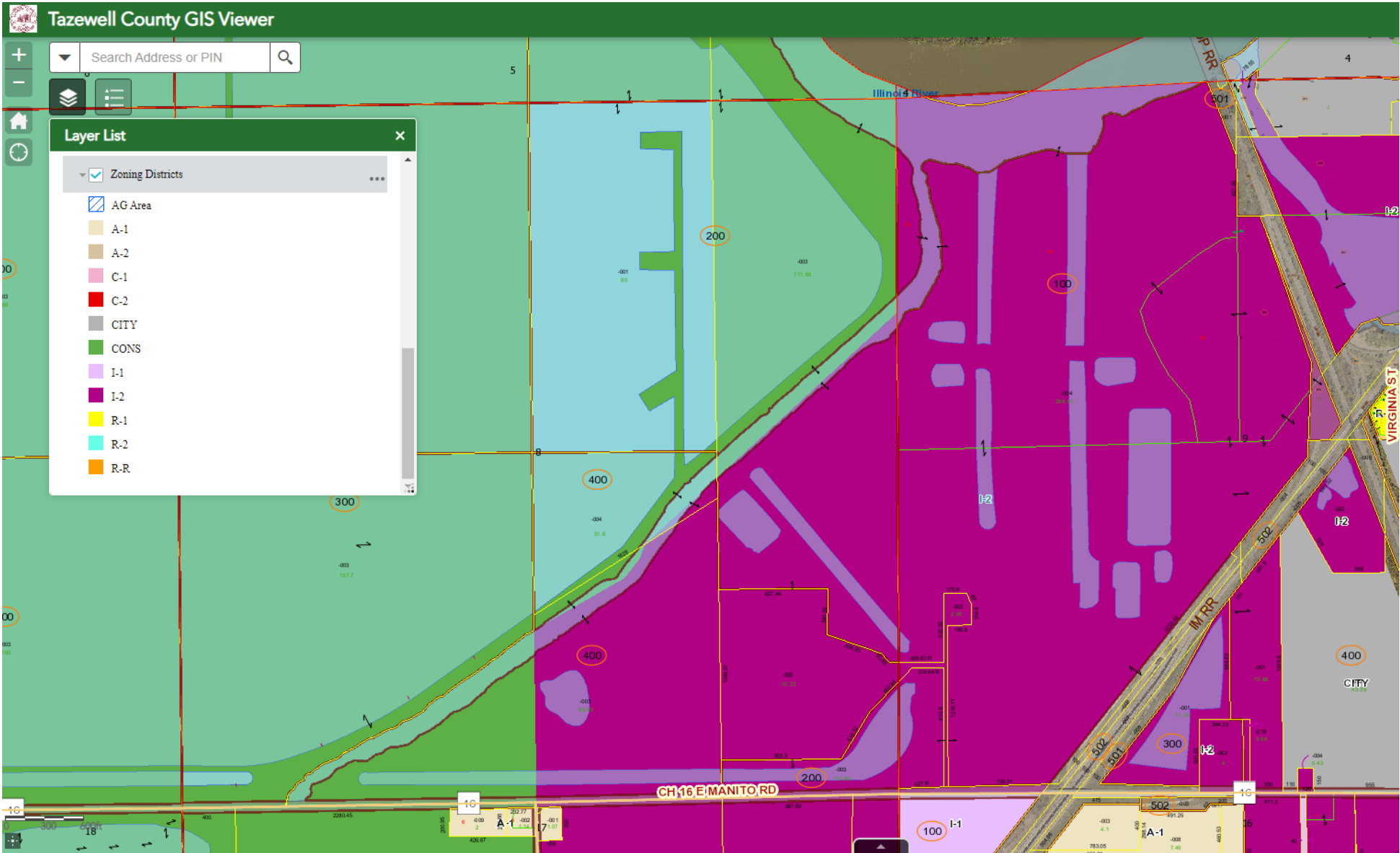


Powerton Fish and Wildlife Area

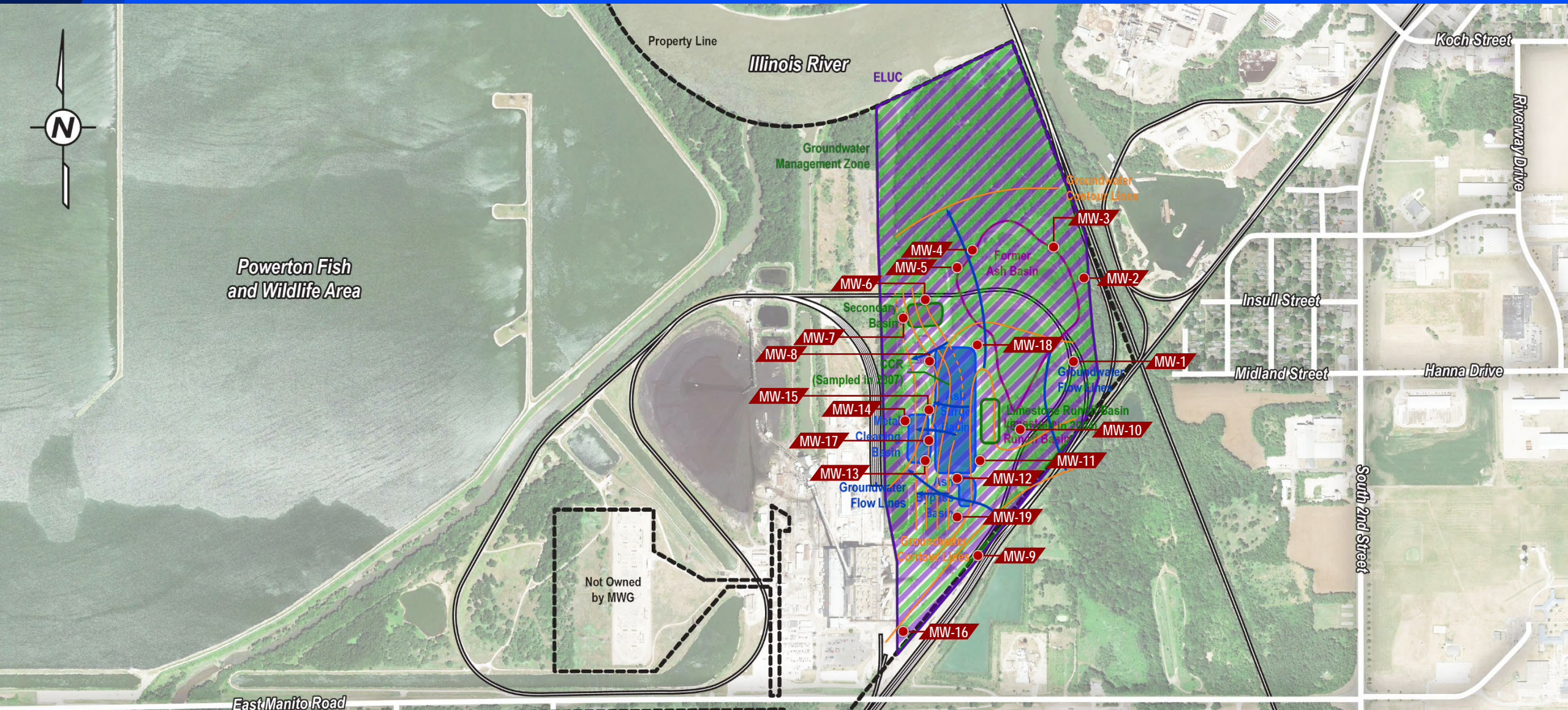
Not Owned by MWG

East Manito Road

Zoning Powerton Station



Powerton Station – Pekin, Illinois



Powerton – Active Ponds

Station	Ash Pond	Current Status
Powerton	Ash Surge Basin CCR Surface Impoundment	Construction Permit application to retrofit the pond to be submitted in 2023
	Ash Bypass Basin CCR Surface Impoundment	Construction Permit application to retrofit the pond submitted in 2022
	Metal Cleaning Basin CCR Surface Impoundment (IL only)	Construction Permit application to retrofit the pond to be submitted in 2023
	Service Water Basin Not a CCR Surface Impoundment	Used for LVW

Powerton Station – Pekin, Illinois

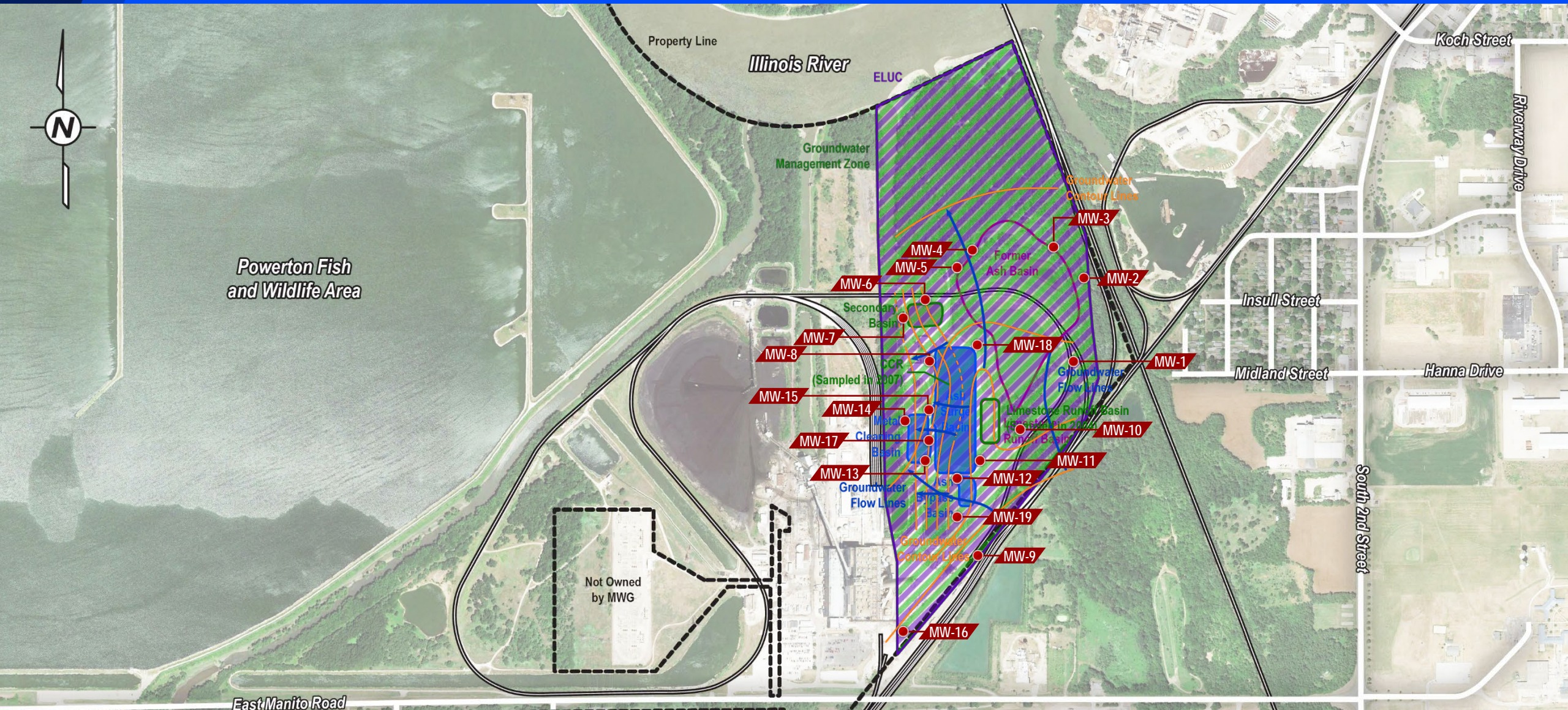


Exhibit 711 – Modified CCA



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397
BRUCE RAUNER, GOVERNOR LISA BONNETT, DIRECTOR

July 30, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jonathon Baylor
Vice President
NRG Energy, Inc.
211 Carnegie Center
Princeton, New Jersey 08540

Re: Compliance Commitment Agreement Modification
Violation Notice: W-2012-00057
Midwest Generation, LLC, Powerton Generating Station; ID Number: 6282

Dear Mr. Baylor:

Pursuant to the October 24, 2012 Compliance Commitment Agreement (CCA) W-2012-00057 issued to Midwest Generation, LLC by the Illinois Environmental Protection Agency ("Illinois EPA") to monitor for chloride in the East Yard Run-off Basin.

Section III(5)(i) of the CCA states that Midwest Generation, LLC shall monitor water from the East Yard Run-off Basin. Monitoring events have been completed. To date, Midwest Generation, LLC has completed monitoring events.

Review of the data from the East Yard Run-off Basin indicates elevated concentrations of chloride occur periodically in a seasonal pattern. This pattern and lack of elevated concentrations of other ash indicator constituents suggests the chloride may result from de-icing agents within the area tributary to the East Yard Run-off Basin. Therefore, Midwest Generation may cease monitoring water from the East Yard Run-off Basin.

The Illinois EPA also notes that Section III(5)(d) of the CCA requires Midwest Generation to monitor for the constituents of 35 Ill. Adm. Code 620.410(a) and (d), with the exception of radium 226 and radium 228. However, this citation of Title 35 currently requires Midwest Generation to monitor for Benzene, BETX and perchlorate due to modifications of Part 620. Therefore, Midwest Generation may change monitoring at wells MW-1 through MW-16 at the Powerton Station to be the constituents of 35 Ill. Adm. Code 620.410(a) and pH, with the exception of radium 226, radium 228 and perchlorate.

Review of the data from the East Yard Run-off Basin indicates elevated concentrations of chloride occur periodically in a seasonal pattern. This pattern and lack of elevated concentrations of other ash indicator constituents suggests the chloride may result from de-icing agents within the area tributary to the East Yard Run-off Basin. Therefore, Midwest Generation may cease monitoring water from the East Yard Run-off Basin.

EXHIBIT
711

4303 N. Main St., Rockford, IL 61103 (815) 987-7740
395 S. State, Springfield, IL 62762 (217) 409-3131
2125 S. First St., Chicago, IL 60616 (312) 378-3800
2009 Mill St., Carleboro, IL 62234 (618) 344-3120

9811 Harrison St., Oak Park, IL 60462 (847) 374-4000
412 SW Washington St., Suite 5, Peoria, IL 61602 (309) 671-3022
2329 W. Main St., Suite 114, Morton, IL 62561 (618) 952-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601

PLEASE PRINT ON RECYCLED PAPER

MWG13-15_50093

Powerton Timeline of Events

Late 1920s

Powerton Station begins operations with Units 1-4

1973

Unit 6 at Powerton brought on line

1978

Powerton Ash Surge Basin and Metal Cleaning Basin constructed with Poz-O-Pac liner



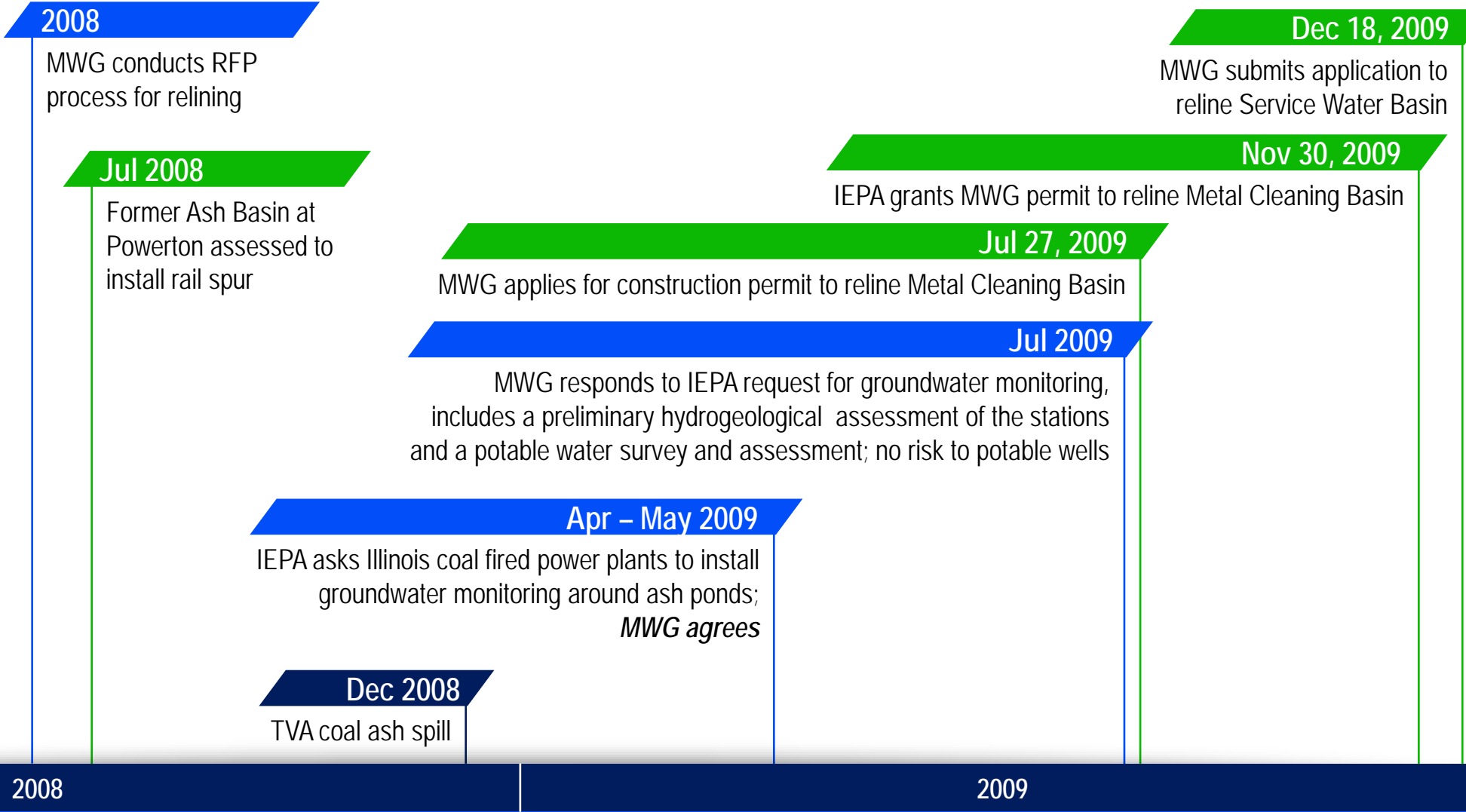
1971

Unit 5 at Powerton brought on line

Early 1970s

Powerton Units 1-4 are retired

Powerton Timeline of Events



2008

2009

Powerton Timeline of Events

Jan 2010

USEPA announces intent to propose regulation of CCR as a hazardous waste

Jan 27, 2010

MWG asks NRT to hold work on liner permit applications because of new USEPA regulations

Apr 2, 2010

IEPA grants construction permit to reline Secondary Basin

Jun 21, 2010

USEPA formally proposes regulations under RCRA related to CCR management

Jun 30, 2010

MWG applies for construction permit to reline Bypass Basin

Aug 2010

MWG receives consultant proposals for hydrogeologic assessment

Sep 2010

MWG submits Hydrogeologic Assessment Plans to IEPA

Sep 15, 2010

IEPA grants MWG construction permit to reline Bypass Basin

Sep 24, 2010

IEPA approves MWG Hydrogeologic Assessment Plans

Dec 2010

MWG conducts first groundwater sampling at all stations

Dec 2010

MWG relines Bypass Basin at Powerton with HDPE

2010

Powerton Timeline of Events

Feb 2011

MWG submits Hydrogeologic Assessment Reports to IEPA

Dec 7, 2012

MWG files for bankruptcy

Nov 2012

MWG begins process of completing all tasks in the four CCAs

Oct 24, 2012

IEPA accepts all four Compliance Commitment Agreements to resolve VNs

Oct 3, 2012

Sierra Club files this lawsuit

Jul 27, 2012 – Aug 2012

MWG submits VN responses to IEPA

Jun 2012

IEPA issues VNs to MWG

Mar 2011

MWG relines Metal Cleaning Basin at Powerton with HDPE

MWG conducts quarterly groundwater sampling of all Stations

2011

2012

Powerton Timeline of Events

Jan 7, 2013

MWG applies for construction permit to reline Ash Surge Basin

Feb 25, 2013

IEPA grants MWG permit to reline Ash Surge Basin

Jun 15, 2013

Powerton Service Water Basin relined with HDPE

Aug 26, 2013

IEPA approves Powerton ELUC

Oct 3, 2013

IEPA approves Powerton GMZ

Oct 10, 2013

Powerton Ash Surge Basin relined with HDPE

Oct 2013

Maria Race certifies CCAs completed

Dec 2015

MWG posts, pursuant to Federal CCR rules, notification of closure of Former Ash Basin at Powerton

Apr 17, 2015

Coal Combustion Residual Rule published in Federal Register

Dec 19, 2014

USEPA issues final Coal Combustion Residual Rule

2013

2014

2015

Powerton Timeline of Events

2016

- Compliance With USEPA CCR Rule
- Conduct the safety hazard assessment, analyzed the Pond for the location standards
 - Conduct groundwater monitoring
 - Conducting those inspections on the Ash Surge Basin, Ash Bypass Basin, and Former Ash Basin

Jan 2019

SB09 proposing to regulate CCR surface impoundments in Illinois introduced in Illinois General Assembly

Nov 1, 2021

Operating Permit applications submitted for Ash Surge Basin, Bypass Basin and Former Ash Basin

Apr 2021

- Illinois CCR Rule Compliance
- Conducting groundwater monitoring
 - Conducting safety hazard assessments every five years
 - Conducting inspections
 - Posting information on publicly available website

Powerton Timeline of Events

Mar 31, 2022

Operating Permit Application Submitted for Metal Cleaning Basin

- Initial engineering analysis including: initial hazard potential classification assessment and structural stability assessment
- Preliminary closure plan
- History of construction
- GW monitoring information including hydrogeologic site characterization, GW sampling and analysis program including statistical procedures to be used
- Proposed groundwater monitoring program

2022

Submitted Construction permit application for Bypass Basin and Former Ash Basin

- Retrofit the Bypass Basin
- Close the Former Ash Basin

2023

Submit Construction permit application for Ash Surge Basin and Metal Cleaning Basin

- Retrofit Ash Surge Basin and Metal Cleaning Basin

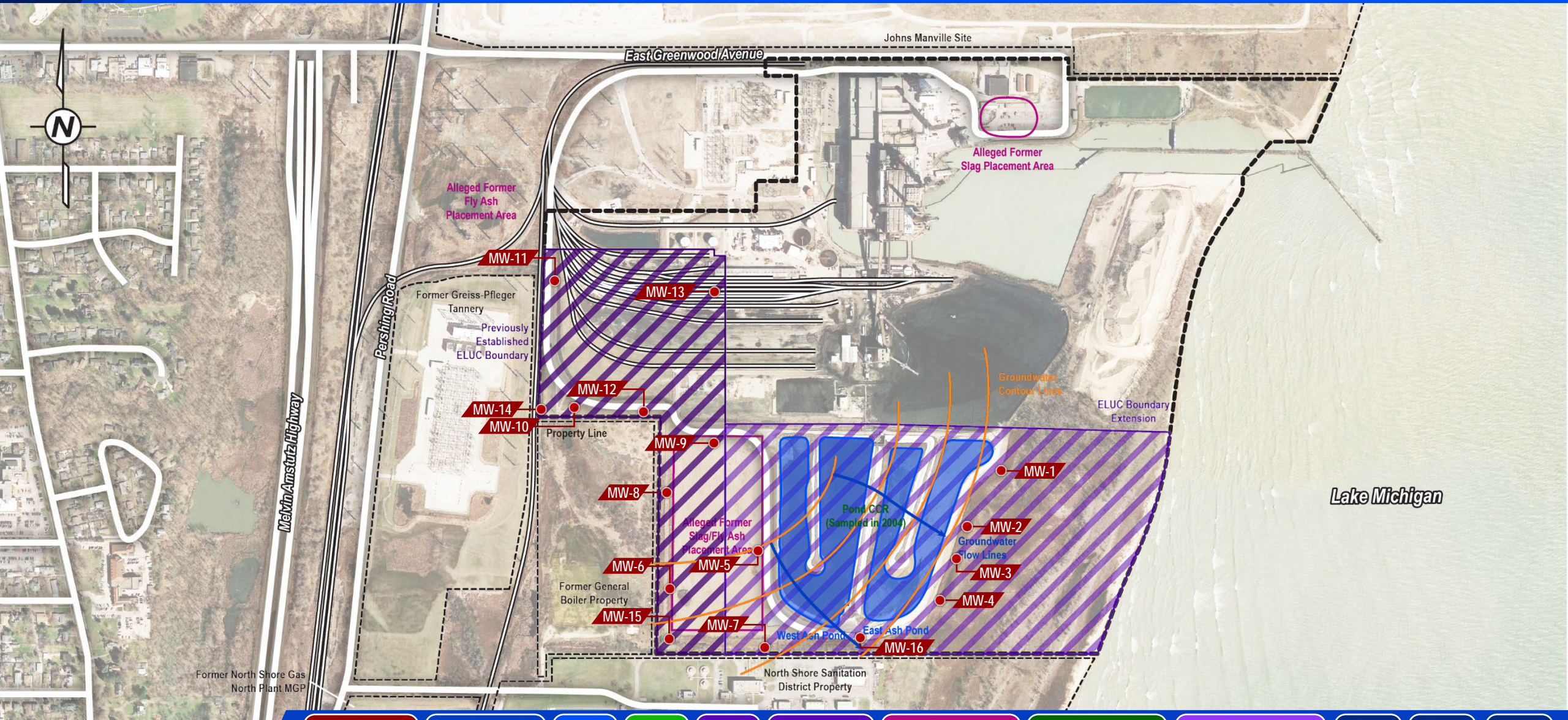
2022

2023

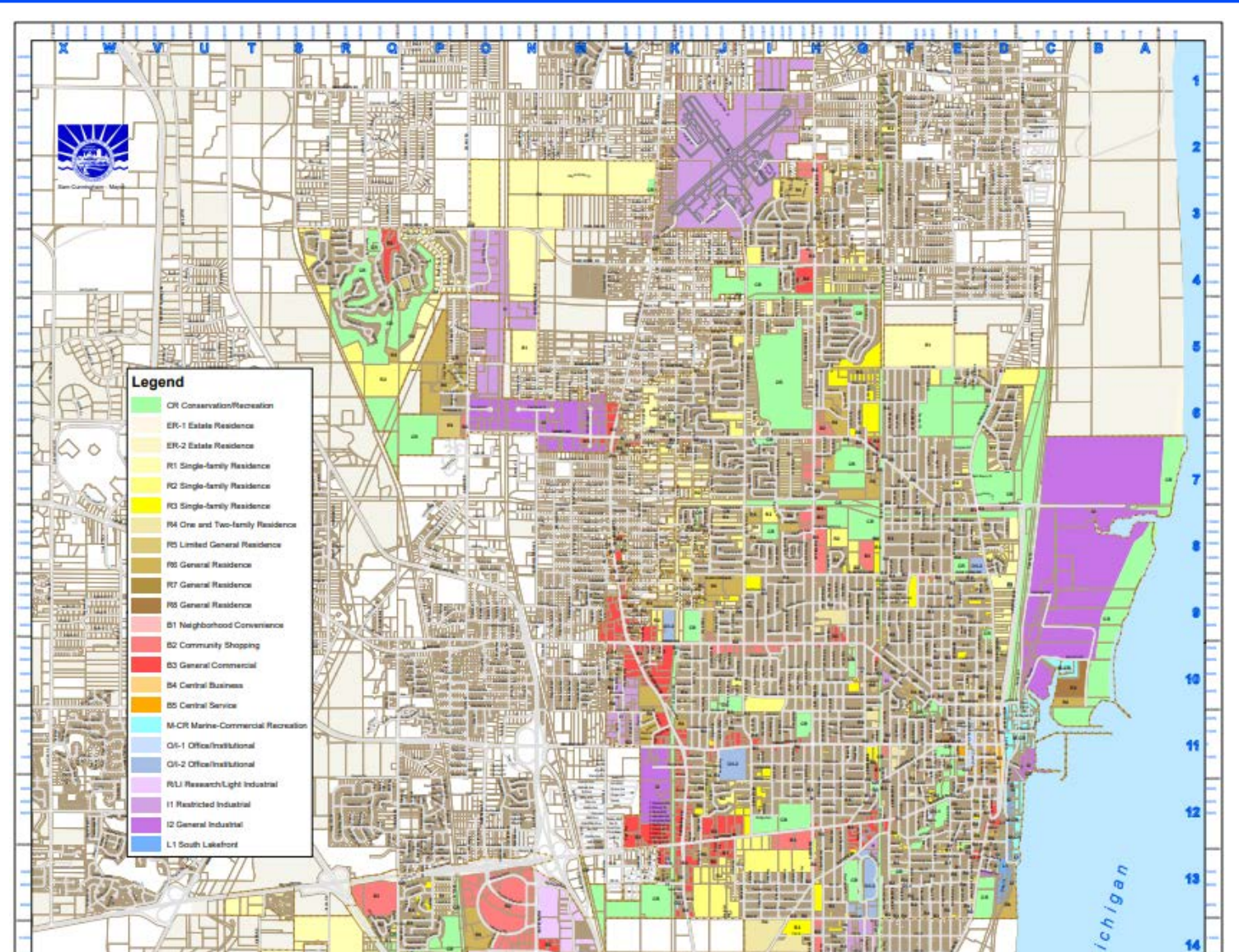
Midwest Generation Power Stations

Waukegan

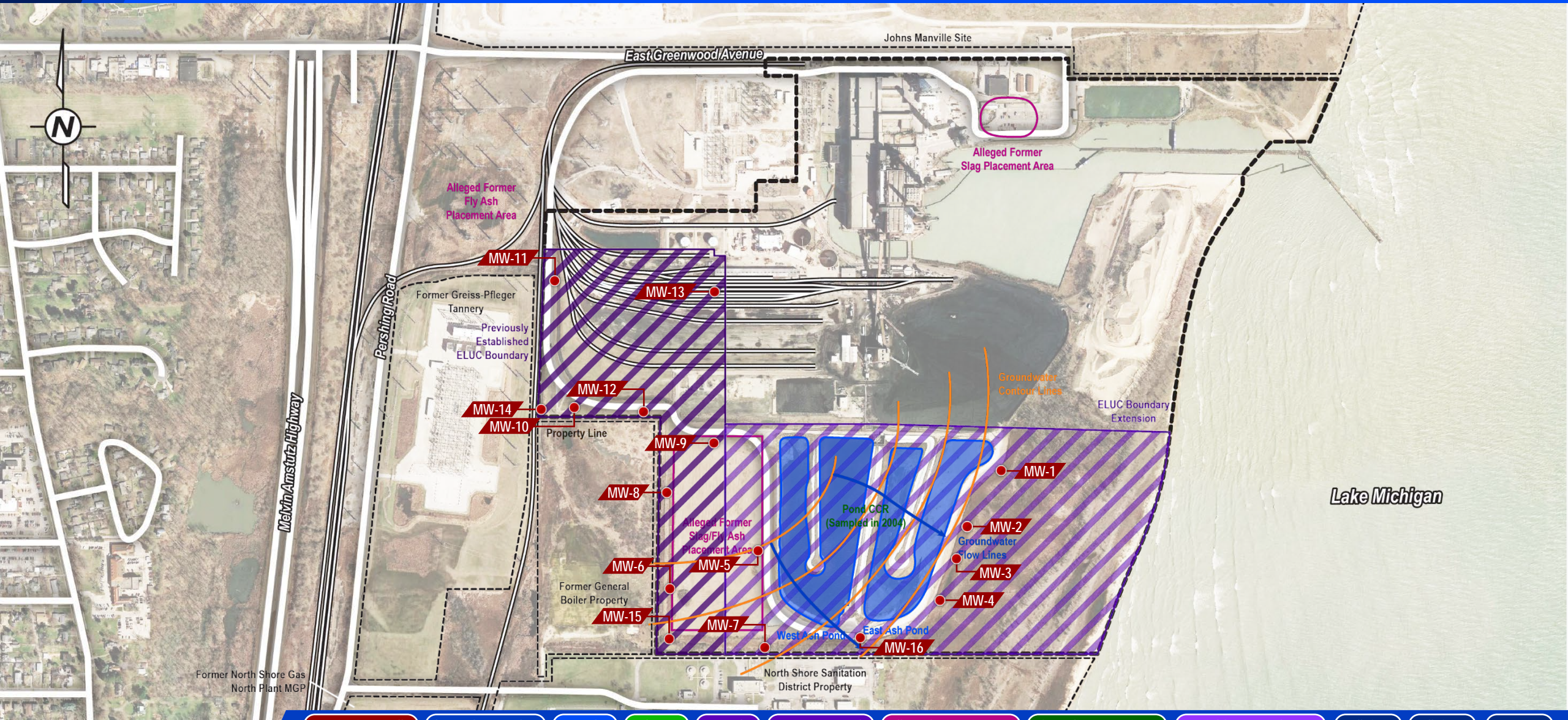
Waukegan Station – Waukegan, Illinois



Waukegan Station Zoning



Waukegan Station – Waukegan, Illinois



Waukegan – Impoundments

Station	Ash Pond	Current Status
Waukegan Electricity Generating Coal Units ceased operating in May 2022	East Ash Pond CCR Surface Impoundment	Construction Permit application to close the pond submitted in 2022
	West Ash Pond CCR Surface Impoundment	Construction Permit application to close the pond submitted in 2022

Waukegan Timeline of Events

1923

Waukegan Station first constructed and begins operations – Units 1 through 5 in service

1952

Unit 6 at Waukegan brought on line

1958

Unit 7 at Waukegan brought on line

1962

Unit 8 at Waukegan brought on line

Late 1970s

Units 1 through 5 at Waukegan are retired

1977

Waukegan East and West ponds constructed with Hypalon liner

1920s

1950s

1960s

1970s

1980s

Waukegan Timeline of Events

Late 1970s

Units 1 through 5 at Waukegan are retired

1977

Waukegan East and West ponds constructed with Hypalon liner

1992 – 2002

- Extensive investigation of former Greiss-Pfleger Tannery site, including U.S. Radiator Co. (a.k.a., General Boiler)
- Finds elevated levels of arsenic, chromium, magnesium, and lead

1970s

1980s

1990

1991

1992

1993

1994

1995

1996

1997

Waukegan Timeline of Events

1999

MWG begins operating all Stations

2001

Maria Race begins work at MWG

2002 – 2005

MWG begins review of ash ponds at its Stations

- Locates historic drawings
- Conducts internal planning
- Retains consultants (NRT and KPRG)
- Site visits and reviews

Jun 23, 2003

ELUC established on the western side of MWG's property due to environmental impacts from neighboring sites

Sep 2003

MWG relines Waukegan East Ash pond with HDPE liner

Nov 2004

MWG relines Waukegan West Ash Pond with HDPE liner

Jul 22, 2004

Sampling of Waukegan bottom ash. Sample results show ash qualifies for CCB

1998

1999

2000

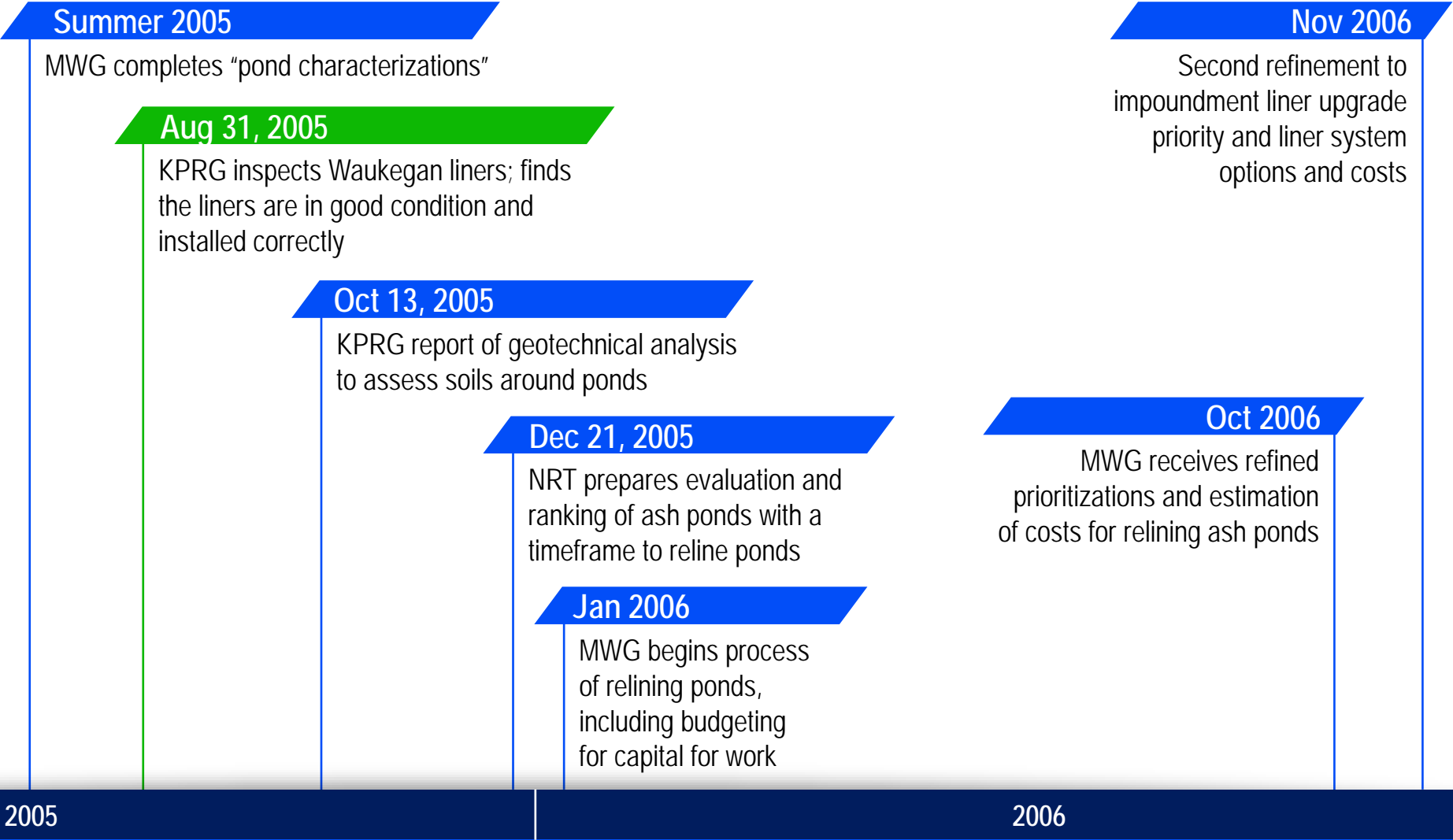
2001

2002

2003

2004

Waukegan Timeline of Events



2005

2006

Waukegan Timeline of Events

Jan 2010

USEPA announces intent to propose regulation of CCR as a hazardous waste

Jan 27, 2010

MWG asks NRT to hold work on liner permit applications because of new USEPA regulations

Jun 21, 2010

USEPA formally proposes regulations under RCRA related to CCR management

Aug 2010

MWG receives consultant proposals for hydrogeologic assessment

Sep 2010

MWG submits Hydrogeologic Assessment Plans to IEPA

Sep 24, 2010

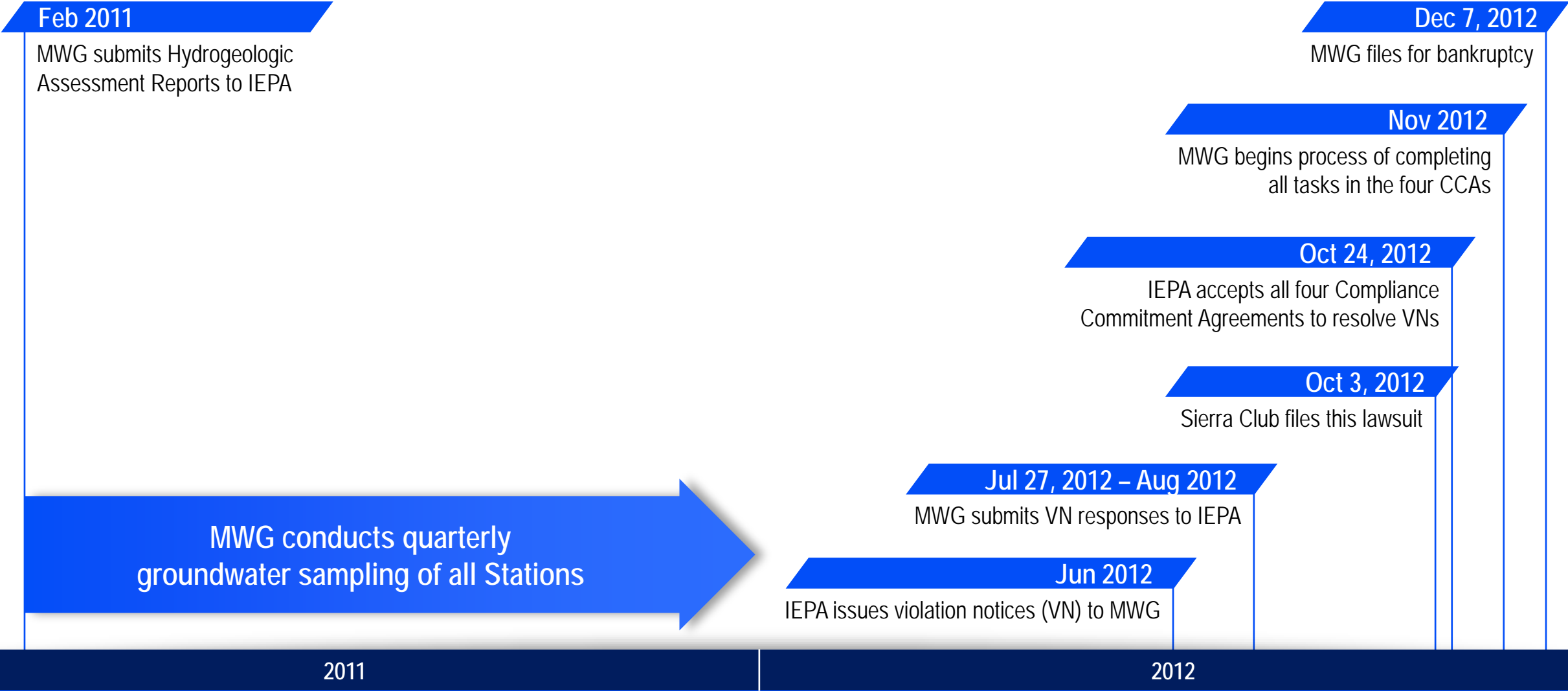
IEPA approves MWG Hydrogeologic Assessment Plans

Oct. 2010

MWG conducts groundwater sampling at all stations

2010

Waukegan Timeline of Events



MWG conducts quarterly groundwater sampling of all Stations

2011

2012

Waukegan Timeline of Events

Jul 21, 2013

IEPA testifies at Waukegan NPDES Permit hearing: "Currently, we don't believe the active ash ponds are the source of contamination"

Aug 26, 2013

IEPA approves Waukegan ELUC

Oct 2013

Maria Race certifies CCAs completed

Dec 19, 2014

USEPA issues final Coal Combustion Residual Rule

Jan 6, 2015

Lynn Dunaway e-mails Jamie Rabins and Bill Buscher, IEPA re Waukegan, stating "...the active ponds...are not the likely source of contaminants in groundwater."

Apr 17, 2015

Coal Combustion Residual Rule published in Federal Register

2013

2014

2015

Illinois EPA Statements on Waukegan Ponds

PUBLIC HEARING FOR MIDWEST GENERATION
WAUKEGAN GENERATING STATION NPDES PERMIT

July 31st, 2013

6:30 a.m.

MR. DUNAWAY: Currently, we don't believe the active ash ponds are the source of contamination. There appears to be some other source, other than the active ash ponds.



MWG13-15_29936

Illinois EPA Statements on Waukegan Ponds

Rabins, Jaime

From: Dunaway, Lynn
Sent: Tuesday, January 06, 2015 12:07 PM
To: Rabins, Jaime
Cc: Buscher, Bill
Subject: RE: Coal Ash

The Agency was working on regulations that would be applicable to coal ash impoundments when the hearing was held. Since that time, as I'm sure you're aware, the feds did finalize their coal combustion residuals rules that they had been working on for a long time. I'm not sure where that leaves the rule that we were working on. Technically the answer to the first question is that IEPA was developing rules regulating coal ash ponds. The rules that regulate coal ash pollution are the same that apply to every other type of pollution in the State. The Act and (with regard to groundwater) Part 620. Those regulations and rules aren't changing. Under 620 the only way IEPA can "change" the standard is with a GMZ, which would have to include an approved remediation. The CCA that IEPA approved for Waukegan, didn't include a corrective action (hence no GMZ), because the additional monitoring that was required by the CCA indicated that the active ponds (for which the VN was issued) are not the likely source of contaminants in groundwater. IEPA would have to issue a new VN for some unspecified source in order to take further action. So the answer to the second question is no Midwest Gen has not approached the IEPA to change standards.

From: Dunaway, Lynn
Sent: Tuesday, January 06, 2015 12:07 PM
To: Rabins, Jaime
Cc: Buscher, Bill
Subject: RE: Coal Ash

The Agency was working on regulations that would be applicable to coal ash impoundments when the hearing was held. Since that time, as I'm sure you're aware, the feds did finalize their coal combustion residuals rules that they had been working on for a long time. I'm not sure where that leaves the rule that we were working on. Technically the answer to the first question is that IEPA was developing rules regulating coal ash ponds. The rules that regulate coal ash pollution are the same that apply to every other type of pollution in the State. The Act and (with regard to groundwater) Part 620. Those regulations and rules aren't changing. Under 620 the only way IEPA can "change" the standard is with a GMZ, which would have to include an approved remediation. The CCA that IEPA approved for Waukegan, didn't include a corrective action (hence no GMZ), because the additional monitoring that was required by the CCA indicated that the active ponds (for which the VN was issued) are not the likely source of contaminants in groundwater. IEPA would have to issue a new VN for some unspecified source in order to take further action. So the answer to the second question is no Midwest Gen has not approached the IEPA to change standards.

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Illinois EPA Statements on Waukegan Ponds

Electronic Filing: Received, Clerk's Office 10/18/2021



BUREAU OF WATER WAUKEGAN POWER STATION: PART 845 - CCR SURFACE IMPOUNDMENTS

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

Illinois EPA Statements on Waukegan Ponds

Electronic Filing: Received, Clerk's Office 10/18/2021

WAUKEGAN POWER STATION – GROUNDWATER STANDARDS

- In 2012, IEPA issued a violation notice (VN) to NRG Waukegan for exceedances of Class I groundwater standards. Continued groundwater monitoring indicated a source other than East or West Ponds.
- Additional groundwater monitoring conducted indicates exceedances of Groundwater Protection Standards.
- IEPA will evaluate the adequacy of the facility's groundwater monitoring system and data during the review of the application for the Initial Operating Permit.
- Exceedances of groundwater protection standards under Part 845 requires an Alternative Source Demonstration or corrective action.

Waukegan Power Station

Waukegan Timeline of Events

Jan 2016

MWG conducts first Annual Inspection of ash ponds at stations pursuant to Federal CCR rules

Oct 2016

MWG completes various reports pursuant to Federal CCR rules

Apr 2017

MWG completes Emergency Action Plans for the stations pursuant to Federal CCR rules

Jan 2019

SB09 proposing to regulate CCR surface impoundments in Illinois introduced in Illinois General Assembly

2016

2017

2018

2019

Waukegan Timeline of Events

Apr 2021

Illinois CCR Rule Compliance

- Conducting groundwater monitoring
- Conducting safety hazard assessments every five years
- Conducting inspections
- Posting information on publicly available website

Nov 1, 2021

Operating Permit Application Submitted

- Initial engineering analysis including: initial hazard potential classification assessment and structural stability assessment
- Preliminary closure plan
- History of construction
- GW monitoring information including: hydrogeologic site characterization, GW sampling and analysis program including the statistical procedures to be used
- Proposed groundwater monitoring program

Feb 1, 2022

Construction Permit Application Submitted

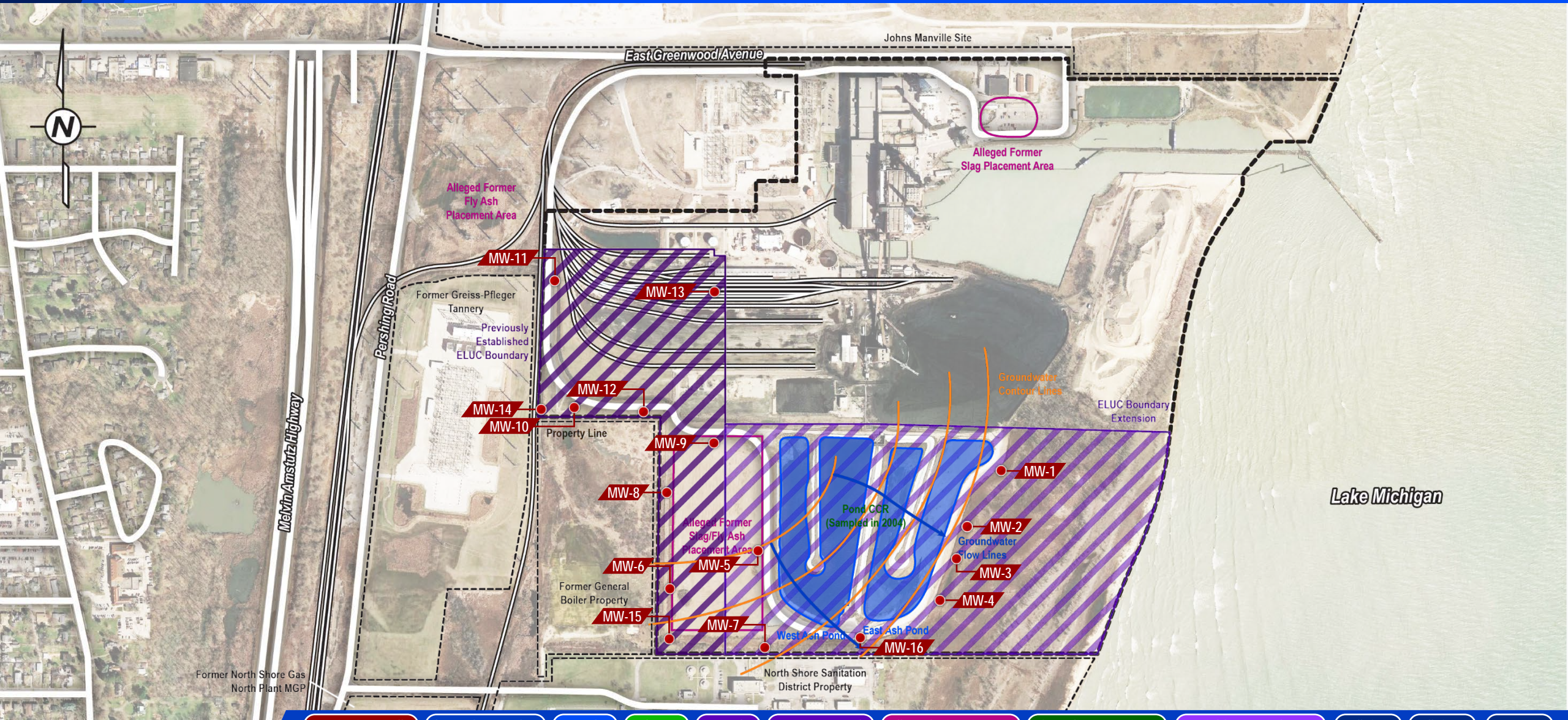
- East Pond
- West Pond

2020

2021

2022

Waukegan Station – Waukegan, Illinois



USEPA Proposed Rule for CCRMUs



SUPPORTING & RELATED MATERIAL

Potential CCR Management Unit Universe

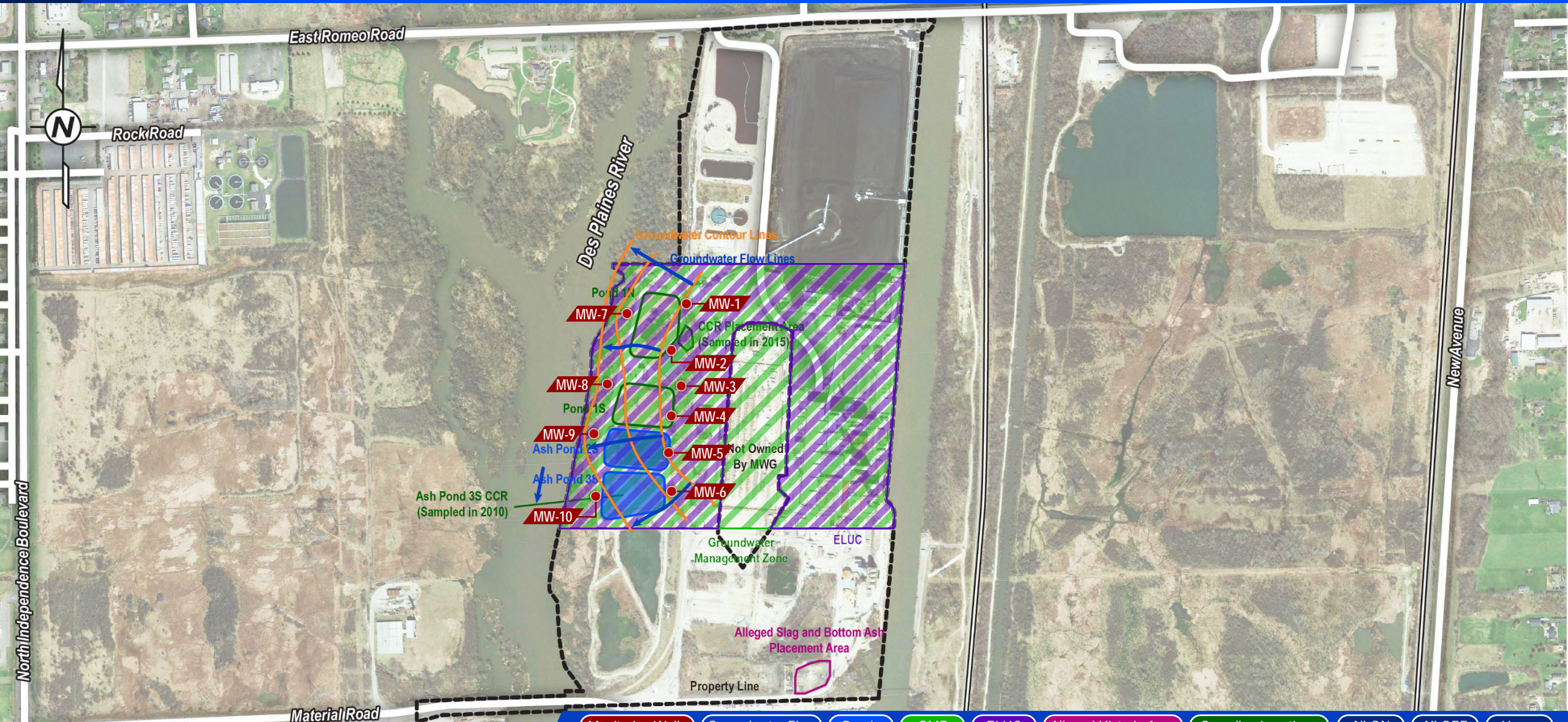
Agency Environmental Protection Agency | Posted May 17, 2023 | ID EPA-HQ-OLEM-2020-0107-0155

	Region	State	Plant Name	CCR Weblink	Unit Name	Unit Type	Closed
1							
18	5	IL	Baldwin Energy Complex	https://www.luminant.com	Secondary Pond	Other Solid Waste Management Area	Unknown
19	5	IL	Baldwin Energy Complex	https://www.luminant.com	Tertiary Pond	Other Solid Waste Management Area	Unknown
20	5	IL	Hennepin Power Station	https://www.luminant.com	Ash Pond No. 4	Closed CCR Surface Impoundment	Yes
21	5	IL	Joppa	https://www.luminant.com	West Pond 1	Closed CCR Surface Impoundment	Unknown
22	5	IL	Lincoln Generating Facility	http://www.nrg.com/legal	West Filled Area	Closed CCR Surface Impoundment	Yes
23	5	IL	Newton	https://www.luminant.com	Secondary Ash Pond	Closed CCR Surface Impoundment	Yes
24	5	IL	Newton	https://www.luminant.com	Landfill 1	Inactive CCR Landfill	Yes
25	5	IL	Waukegan	https://www.nrg.com/legal	Old Pond	Closed CCR Surface Impoundment	Unknown
26	5	IL	Waukegan	https://www.nrg.com/legal	Historic Fill	Other Solid Waste Management Area	Unknown
27	5	IL	Will County	https://www.nrg.com/legal	Pond 1 North	Closed CCR Surface Impoundment	Unknown
28	5	IL	Will County	https://www.nrg.com/legal	Pond 1 South	Closed CCR Surface Impoundment	Unknown
29	5	IL	Wood River	https://ccrwoodriver.com/	Secondary East Polishing Pond	Other Solid Waste Management Area	Unknown

Midwest Generation Power Stations

Will County

Will County Station – Romeoville, Illinois



Will County Zoning

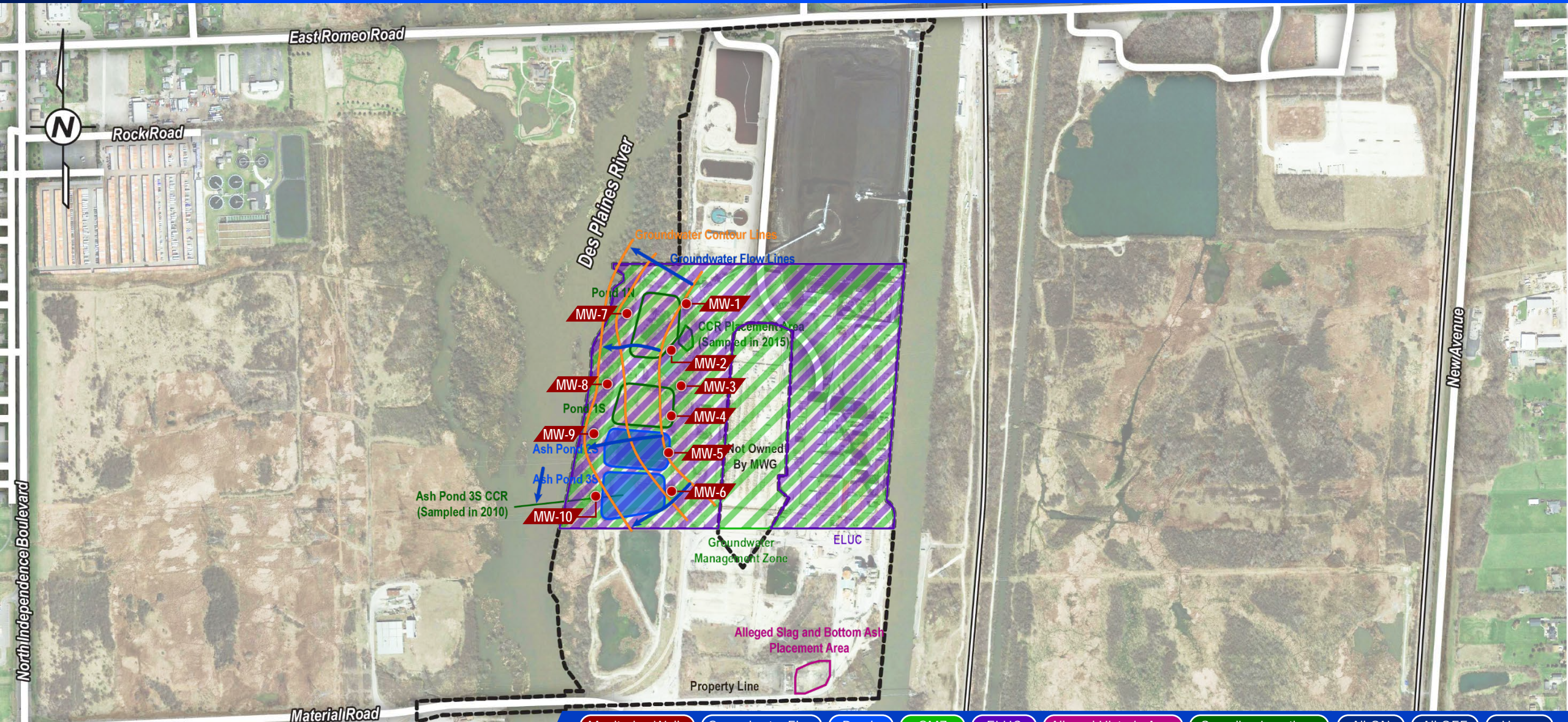
The screenshot displays the Will County GIS Data Viewer interface. The main map area shows a parcel highlighted in yellow, situated near a water body and a road labeled 'N INDEPENDENCE BLVD'. The map is overlaid with various zoning colors, including red-hatched areas and blue areas. A search bar at the top right contains the text 'I want to...'. On the left side, there is a 'Query Results' panel with the following information:

Query performed on layer "Zonin"

- ★ Zoning: I-3
1104021000300020
- ★ Zoning: I-3
1104023000070000

At the bottom of the map, there is a scale bar showing 0, 0.1, and 0.2 miles, and a 'Street Map' button. An inset map on the right side shows the location of the main map area within the larger context of Cook County, with major roads like I-355 and I-171 visible.

Will County Station – Romeoville, Illinois



Will County – Impoundments

Station	Ash Pond	Closure Plan
Will County Electricity Generating Units ceased operating in June 2022	Pond 1N and Pond 1S Inactive IL CCR Surface Impoundments	Construction Permit application to close the pond to be submitted in 2023
	Pond 2S CCR Surface Impoundment	Construction Permit application to close the pond to be submitted in 2023
	Pond 3S CCR Surface Impoundment	Construction Permit application to close the pond to be submitted in 2023

Will County Timeline of Events

1955

Will County begins operations with Units 1 and 2

1957

Unit 3 at Will County starts up

1963

Unit 4 at Will County brought on line

1977

Will County ponds 1N, 1S, 2S, and 3S constructed with Poz-O-Pac liner



1999

MWG begins operating all Stations

1950s

1960s

1970s

1980s

1990s

Will County Timeline of Events

2001

Maria Race begins work at MWG

2002 – 2005

MWG begins review of ash ponds at its Stations

- Locates historic drawings
- Conducts internal planning
- Retains consultants (NRT and KPRG)
- Site visits and reviews

Summer 2005

MWG completes "pond characterizations"

Oct 13, 2005

KPRG report of geotechnical analysis to assess soils around ponds

Dec 21, 2005

NRT prepares evaluation and ranking of ash ponds to MWG with a timeframe to reline ponds

Jan 2006

MWG begins process of relining ponds, including budgeting for capital for work

Nov 2006

Second refinement to impoundment liner upgrade priority and liner system options and costs

Oct 2006

MWG receives refined prioritizations and estimation of costs for relining ash ponds

Will County Timeline of Events

Jul 22, 2008

MWG applies for construction permit to reline Ponds 2S and 3S

Sep 2009

Will County Pond 3S relined with HDPE

Jul 2009

MWG responds to IEPA request for groundwater monitoring, includes a preliminary hydrogeological assessment of the stations and a potable water survey and assessment; no risk to potable wells

Sep 25, 2008

IEPA grants MWG permit to reline Ponds 2S and 3S

Apr – May 2009

IEPA asks Illinois coal fired power plants to install groundwater monitoring around ash ponds; *MWG agrees*

2008

MWG conducts RFP process for relining

Dec 2008

TVA coal ash spill

2007

2008

2009

Will County Timeline of Events

Jan 2010

USEPA intent to propose regulation of CCR as a hazardous waste

Jan 27, 2010

MWG asks NRT to hold work on liner permit applications because of new USEPA regulations

Aug 2010

MWG receives consultant proposals for hydrogeologic assessment

Sep 2010

MWG voluntarily submits Hydrogeologic Assessment Plans to IEPA

Sep 24, 2010

IEPA approves MWG Hydrogeologic Assessment Plans

Dec 2010

MWG conducts first groundwater sampling at all stations

Dec 2010

- Will County Units 1-2 deactivated
- MWG samples Will County Pond 3S bottom ash; samples show not leaching

Jun 21, 2010

USEPA formally proposes regulations under RCRA related to CCR management

2010

Will County Timeline of Events

Feb 2011

MWG submits Hydrogeologic Assessment Reports to IEPA

Dec 7, 2012

MWG files for bankruptcy

Nov 2012

MWG begins process of completing all tasks in the four CCAs

Oct 24, 2012

IEPA accepts all four Compliance Commitment Agreements to resolve VNs

Oct 3, 2012

Sierra Club files this lawsuit

Jul 27, 2012 – Aug 2012

MWG submits VN responses to IEPA

Jun 2012

IEPA issues violation notices (VN) to MWG

MWG conducts quarterly groundwater sampling of all Stations

2011

2012

Will County Timeline of Events

Feb 25, 2013

IEPA grants MWG permit to reline Pond 2S

Jul 2, 2013

IEPA approves Will County GMZ

Sep 10, 2013

Will County Ash Pond 2 relined with HDPE

Sep 26, 2013

IEPA approves Will County ELUC

Oct 2013

Maria Race certifies CCAs completed

Apr 17, 2015

Coal Combustion Residual Rule published in Federal Register

Apr 15, 2015

Will County Unit 3 deactivated

Dec 19, 2014

USEPA issues final Coal Combustion Residual Rule

Jun-Aug, 2015

Will County sampling of ash area: Sample results show ash qualifies for CCB

2013

2014

2015

Will County Timeline of Events

Jan 2019

SB09 proposing to regulate CCR surface impoundments in Illinois introduced in Illinois General Assembly

Apr 2021

Illinois CCR Rule Compliance

- Conducting groundwater monitoring
- Conducting safety hazard assessments every five years
- Conducting inspections
- Posting information on publicly available website

Nov 1, 2021

Operating Permit application submitted for 2S and 3S

Mar 31, 2022

Operating Permit application submitted for Ponds 1N and 1S

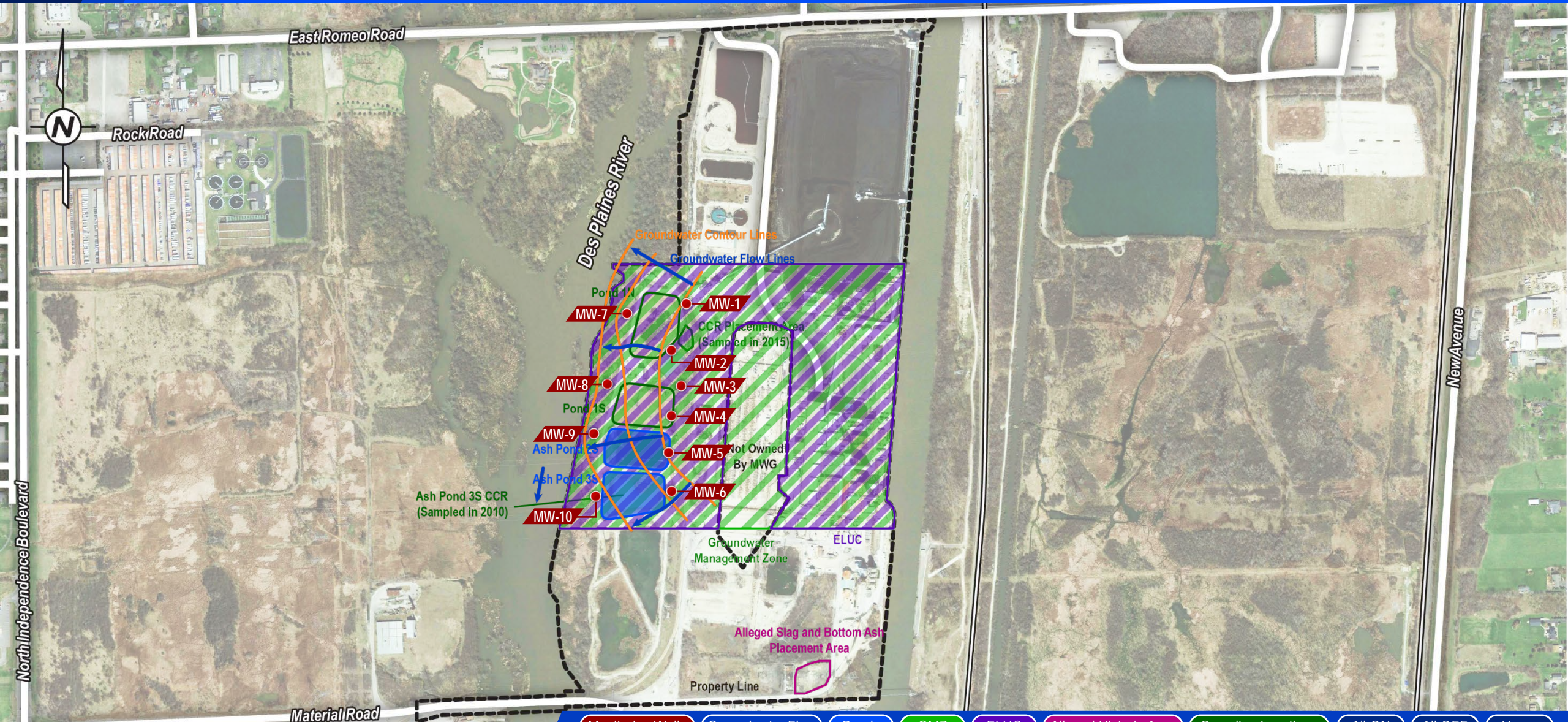
- Initial engineering analysis including: initial hazard potential classification assessment and structural stability assessment
- Preliminary closure plan
- History of construction
- GW monitoring information including: hydrogeologic site characterization, GW sampling and analysis program including the statistical procedures to be used
- Proposed groundwater monitoring program

2023

Construction Permit Applications for Will County Pond to be Submitted

- Ponds 2S and 3S
- Ponds 1N and 1S

Will County Station – Romeoville, Illinois



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
) AS 2021-003
Petition of Midwest Generation, LLC)
for Adjusted Standards from) (Adjusted Standard)
35 Ill. Admin. Code, Part 845)
(Waukegan Station))

NOTICE OF ELECTRONIC FILING

To: Attached Service List

PLEASE TAKE NOTICE that on October 18, 2021, I electronically filed with the Clerk of the Illinois Pollution Control Board ("Board") the **ENVIRONMENTAL ORGANIZATIONS' RENEWED REQUEST FOR PUBLIC HEARING**, copies of which are served on you along with this notice.

Dated: October 18, 2021

Respectfully Submitted,



Jennifer Cassel (IL Bar No. 6296047)
Earthjustice
311 S. Wacker Dr., Suite 1400
Chicago, IL 60606
(312) 500-2198 (phone)
jcassel@earthjustice.org

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
) AS 2021-003
Petition of Midwest Generation, LLC)
for Adjusted Standards from) (Adjusted Standard)
35 Ill. Admin. Code, Part 845)
(Waukegan Station))

ENVIRONMENTAL ORGANIZATIONS' RENEWED REQUEST FOR PUBLIC HEARING

Pursuant to 35 Ill. Adm. Code 104.420(a), Clean Power Lake County, Earthjustice, Environmental Law and Policy Center, Prairie Rivers Network, and Sierra Club (collectively, "Environmental Organizations) renew our request for a public hearing in the above-referenced matter. In support of that request, the Environmental Organizations incorporate as if fully set out herein their previously-submitted request for hearing, filed on June 7, 2021, in this matter, and ask that a hearing be held on Midwest Generation, LLC's Amended Petition for an Adjusted Standard And A Finding of Inapplicability For Waukegan Station, filed on September 17, 2021, for the reasons expressed in our June 7, 2021 request for hearing.

In addition, because the COVID pandemic continues to pose a danger for Illinois residents¹ and the need to travel to either Chicago or Springfield could, for some staff or members of our organizations, limit their ability to participate in the hearing (whether due to the inability to travel or limits on travel associated with COVID risks), we request that the hearing be held in a hybrid manner similar to the public hearings held in R2020-19. If a full hybrid hearing is not possible, we request that the portion of the hearing dedicated to oral public comment be conducted in a hybrid manner.

Finally, we request that the Board act to ensure that the delay of the recommendations required for this adjusted standard petition to move forward is kept to a minimum. We understand that, notwithstanding the Board's extension of Illinois EPA's recommendation deadline for this Adjusted Standard petition to Nov. 22, 2021, Illinois EPA has informed Waukegan leaders that it does not plan to submit until **January 31, 2022** its recommendation on Midwest Generation's request to exclude the leaking Old Pond from Part 845. See attached presentation by Illinois EPA. The Coal Ash Pollution Prevention Act requires prioritization of the closure of CCR surface impoundments in areas of environmental justice concern, such as Waukegan. Consistent with that mandate, this adjusted standard proceeding should be concluded as soon as possible to ensure prompt, safe closure of leaking coal ash impoundments at the site.

Thank you for your consideration of this request.

¹ All but three counties in Illinois are currently classified by the Illinois Department of Public Health as "high transmission" counties, with the remaining three classified as "substantial transmission." See <https://www.dph.illinois.gov/covid19> (viewed October 7, 2021).

Respectfully Submitted,

Dulce Ortiz
Clean Power Lake County

Jennifer Cassel
Mychal Ozaeta
Earthjustice

Kiana Courtney
Environmental Law & Policy Center

Andrew Rehn
Prairie Rivers Network

Faith Bugel
On behalf of Sierra Club



BUREAU OF WATER WAUKEGAN POWER STATION: PART 845 - CCR SURFACE IMPOUNDMENTS

Darin LeCrone, P.E.

Manager, Permit Section

Division of Water Pollution Control

CCR STATUTE AND REGULATIONS

- On July 30, 2019, Governor Pritzker signed Public Act 101-171 which directed the Illinois Pollution Control Board (IPCB) to adopt rules for a coal combustion residuals (CCR) surface impoundment permitting program. This amendment to the Act requires additional protections and closure requirements for CCR Surface Impoundments (also known as coal ash ponds) at electric utilities and independent power producers.
- Final Rule – 35 Ill. Adm. Code 845 - adopted by the Board in April 2021.
- There are 23 site locations - the Illinois EPA recognizes 72 CCR surface impoundments at power generating facilities, based on best available information.

CCR PERMITTING TIMELINE

- The rule requires all facilities to submit **initial operating permit** applications to the Illinois EPA by **October 31, 2021**.
- **Closure construction permit** applications in EJ areas are due **February 2022**.

WAUKEGAN POWER STATION – COAL ASH PONDS

- IEPA recognizes 3 CCR Surface Impoundments subject to Part 845: East Pond, West Pond & Old Pond.
- NRG acknowledges East Pond & West Pond are subject to 40 CFR Part 257 and Ill. Adm. Code Part 845.
- NRG disputes that Old Pond is subject to Part 845.

WAUKEGAN POWER STATION – GROUNDWATER STANDARDS

- In 2012, IEPA issued a violation notice (VN) to NRG Waukegan for exceedances of Class I groundwater standards. Continued groundwater monitoring indicated a source other than East or West Ponds.
- Additional groundwater monitoring conducted indicates exceedances of Groundwater Protection Standards.
- IEPA will evaluate the adequacy of the facility's groundwater monitoring system and data during the review of the application for the Initial Operating Permit.
- Exceedances of groundwater protection standards under Part 845 requires an Alternative Source Demonstration or corrective action.

PERMITTING - PUBLIC PARTICIPATION

- **Initial Operating Permit:** Requires a 45-day public notice period with opportunity to submit written comments and request a public hearing.
- **Construction Permit:** Requires a 45-day public notice period with opportunity to submit written comments and request a public hearing. Facility will be required to hold 2 public meetings to outline their chosen closure method and discuss closure alternatives. The meetings must be held at least 30 days prior to submittal of a construction permit application.
- At least 30 days prior to the public meetings, the applicant must post on their publicly available website, all documentation relied upon in making their tentative application.
- If located in an area with significant non-English speaking residents, the notifications must be made in both English and the appropriate non-English language, and translation services must be provided at the meetings.
- Within 14 days after the public meetings, the applicant must distribute a general summary of the issues raised by the public, as well as a response to those issues.

WAUKEGAN POWER STATION – AGENCY DECISION

- The Agency will provide notice of its final permitting decision, along with responses to comments received during the public notice, and public hearing (if applicable).
- Notice of the final decision will be made to the applicant, to any person who provides comments or an email address to the Agency during the public notice or hearing process, and to any person on the Agency's listserv for the facility.
- Such a notice will briefly describe any significant changes or revisions made to the permit.

WAUKEGAN POWER STATION – NRG ADJUSTED STANDARD REQUESTS

- NRG filed an adjusted standard (AS) petition with Illinois Pollution Control Board on 5/11/21
- Petition was filed timely resulting in an automatic stay of Part 845 provisions for which relief sought
- NRG seeks inapplicability of Part 845 relative to Old Pond
- Initial petition sought reuse of existing HDPE liner in East Pond for low volume waste streams unrelated to coal ash

WAUKEGAN POWER STATION – NRG ADJUSTED STANDARD REQUESTS CONT.

- NRG filed an amended adjusted standard petition with the Board on 9/17/21
- The amended petition still seeks inapplicability of Part 845 relative to Old Pond
- Amended petition seeks reuse of existing HDPE liner in West Pond for low volume waste streams (not ash related)
- Amended petition states that East Pond will be closed in place

WAUKEGAN POWER STATION – NRG ADJUSTED STANDARD REQUESTS CONT.

- The Agency intends to file Adjusted Standard recommendation with the Board for the Old Pond applicability petition by 1/31/22
- The Agency intends to file the Adjusted Standard recommendation with the Board for the West Pond liner petition as a separate recommendation
- The Adjusted Standard petitions will not affect the due date of the initial operating permit application.
- Depending on the Board's final decisions on the adjusted standard petition, the date of closure construction permit applications may be changed
- Station closure scheduled for June 2022

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
) AS 2021-003
Petition of Midwest Generation, LLC)
for Adjusted Standards from) (Adjusted Standard)
35 Ill. Admin. Code, Part 845)
(Waukegan Station))

CERTIFICATE OF SERVICE

The undersigned, Jennifer Cassel, an attorney, certifies that I have served by email the Clerk and by email the individuals with email addresses named on the Service List provided on the Board's website, available at <https://pcb.illinois.gov/Cases/GetCaseDetailsById?caseId=17032>, a true and correct copy of the **ENVIRONMENTAL ORGANIZATIONS' RENEWED REQUEST FOR PUBLIC HEARING**, before 5 p.m. Central Time on October 18, 2021. The number of pages in the email transmission is 15 pages.

Dated: October 18, 2021

Respectfully Submitted,

/s/ Jennifer Cassel

Jennifer Cassel (IL Bar No. 6296047)
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