

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|-------------------------------------|---|------------------------------|
| 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

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| 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, Midwest Generation, LLC’s Pre-Hearing Memorandum, a copy of which is hereby served upon you.

MIDWEST GENERATION, LLC

By: /s/ Jennifer T. Nijman

Dated: April 21, 2023

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing, Certificate of Service for Midwest Generation, LLC's Pre-Hearing Memorandum, a copy of which is hereby served upon you and filed on April 21, 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 April 21, 2023 to the parties listed on the foregoing Service List.

/s/ Jennifer T. Nijman

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| In the Matter of: |) | |
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| SIERRA CLUB, ENVIRONMENTAL LAW |) | |
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MIDWEST GENERATION, LLC’s PRE-HEARING MEMORANDUM

Respondent, Midwest Generation, LLC (“MWG”), by its undersigned counsel, submits its Pre-Hearing Memorandum and Statement of the Case.

STATEMENT OF THE CASE

I. INTRODUCTION

Since MWG first owned and operated its Stations, it has diligently complied with all applicable statutes and regulations related to its CCR surface impoundments and other areas at its stations. Because of MWG’s extensive corrective actions, its due diligence to comply, the absence of harm, and a significantly shifting regulatory landscape, the Board should impose little to no penalties nor any additional corrective actions at its Stations.

II. STATEMENT OF FACTS

a. The MWG Stations

This matter relates to four MWG Stations: the Joliet 29 Electric Generating Station located in Joliet, IL (“Joliet 29”), the Powerton Electric Generating Station, located in Pekin, IL (“Powerton”), the Waukegan Electric Generating Station, located in Waukegan, IL (“Waukegan”),

and the Will County Electric Generating Station, located in Romeoville, IL (“Will County”), together, the “Stations”.

Since this case was filed in 2012, the status of the Stations has changed. Three stations have ceased burning coal, and various ponds and impoundments at each of the Stations have been emptied. Additionally, since 2012, the Federal Coal Combustion Residual (“CCR”) Rule (40 C.F.R. Part 257) and the Illinois CCR Rule (35 Ill. Adm. Code Part 845) were codified and now regulate the CCR Surface Impoundments at the Stations (“CCR Rules”).¹ As MWG implements the Federal and Illinois CCR Rules, the CCR surface impoundments will be closed or retrofitted. Below is a summary of the history and current status of each Station:

- i. Joliet 29: The Joliet 29 station was built in 1964-1965. MWG began operating Joliet 29 in 1999 and converted it from coal to natural gas in 2016. It is located in an industrial area bordered by a former Caterpillar, Inc. manufacturing facility adjacent to the West, the Channahon Road to the North, beyond which are commercial and industrial facilities, and the Des Plaines River to the South. Historically, Joliet 29 operated three impoundments lined with a concrete-like material called poz-o-pac pursuant to NPDES permit No. IL0064254 (Ponds 1, 2 and 3). Ponds 1 and 2 were only used infrequently to contain ash because ash was conveyed directly off-site. MWG relined the Ponds 1 and 2 with a heavy geomembrane (HDPE) in 2008 and Pond 3 in 2013. Joliet 29 ceased burning coal in March 2016 and began generating electricity with natural gas shortly thereafter. Because all of the bottom ash in Pond 1 was removed in 2015, it is not a CCR surface impoundment under 415 ILCS 5/3.143. Pond 2 is a regulated CCR surface impoundment, and the ash was removed and hauled to a permitted landfill in 2019. MWG timely submitted an operating permit and construction permit for Pond 2 to Illinois EPA pursuant to the Illinois CCR Rule to reuse the existing liner and convert the pond for stormwater collection. A third pond (Pond 3) is not a CCR surface impoundment because it never received CCR.²
- ii. Powerton: The Powerton station began operations in the late 1920s and MWG began operating Powerton in 1999. Powerton is located in an industrial area bounded by a cabinetry manufacturer, a railroad, and agricultural land. It is bordered to the north

¹ A “CCR Surface Impoundment” is defined as “a natural topographic depression, man-made excavation, or diked area, which is designed to hold an accumulation of CCR and liquids, and the unit treats, stores, or disposes of CCR.” 415 ILCS 5/3.143, 40 C.F.R. §257.53. Certain ponds at issue in this matter are not CCR surface impoundments because they do not fall within the definition.

² MWG filed a Petition for Adjusted Standard with the Board to find that the Illinois CCR Rule does not apply to Ponds 1 and 3 because they are not CCR surface impoundments and allow MWG to reuse the HDPE liner in Pond 2 when it is closed by removal. *In the Matter of: Midwest Generation LLC's Petition for Adjusted Standard (Joliet 29 Station)*, PCB 21-01. The Board held a hearing on MWG's Petition on June 28 and 29, 2022 and its decision is pending.

by the Illinois River. Powerton historically operated three CCR surface impoundments constructed in 1978 and originally lined with poz-o-pac on the bottom and a geomembrane (Hypalon) on the sides. A fourth basin served as a process water pond, and is not a CCR surface impoundment.³ The basins are operated pursuant to NPDES Permit No. IL0002232 and all of the basins were relined with HDPE – two in 2010 and two in 2013. Powerton has an inactive CCR surface impoundment basin that was used before 1978. MWG timely submitted operating permit applications for all of the CCR surface impoundments to the Illinois EPA. MWG submitted construction permit applications to the Illinois EPA to retrofit one pond for continued use as a CCR surface impoundment pursuant to the CCR Rules and close a second pond. MWG will submit a construction permit application to retrofit the two remaining ponds in 2023.

iii. Waukegan: The Waukegan station was built in the 1920's and MWG began operating in 1999. The area has been dominated by industries since at least the 1930s, including an active Superfund Site to the North, the Griess-Pfleger Tannery and the U.S. Radiator Corp. to the West, and the North Shore Sanitary District to the South. The Griess-Pfleger Tannery Site has soil and groundwater contamination from its prior use and groundwater sampling results at the Griess-Pfleger Tannery Site shows arsenic, boron, chromium, lead and mercury migrating onto the MWG Waukegan station. Waukegan has two CCR surface impoundments, permitted by NPDES No. IL0002259, that were used interchangeably to temporarily store ash until the ash is removed for beneficial use. The ponds were constructed in 1977 with a Hypalon liner and MWG relined the ponds in 2003 and 2004 with HDPE. In June 2022, the Waukegan station ceased burning coal. MWG timely submitted operating and construction permit applications to close both of the ponds.

iv. Will County: The Will County station was built in 1955 and MWG began operating Will County in 1999. The station is bounded to the East by the Chicago Sanitary & Ship Canal and to the west by the Des Plaines River. There are additional industrial properties surrounding the station including the Citgo Lemont Refinery to the northeast, Hanson Materials (f/k/a Material Service Corp.) to the south, and a ComEd switchyard to the west. The station formerly had four ash ponds, each lined with poz-o-pac. MWG ceased using two inactive ash ponds in 2010 and removed the water from the ponds. The two remaining CCR surface impoundments, permitted by NPDES No. IL0002208, were used to temporarily store coal ash until the ash was removed for beneficial use. Those two ponds were relined with HDPE in 2009 and 2013. In June 2022, the Will County station ceased burning coal. MWG timely submitted operating permit applications for all four ponds and will submit the construction permit applications to close the ponds in 2023.

³ See *In the Matter of: Midwest Generation LLC's Petition for an Adjusted Standard and Finding of Inapplicability for the Powerton Station*, PCB 21-02, Order, (February 17, 2022).

b. History of the Stations

Shortly after MWG began operating the four Stations in 1999, it implemented a detailed assessment of the CCR surface impoundments and other ponds. MWG's assessment was not required by any regulation or statute, but a reflection of MWG's diligence to ensure that its Stations were properly maintained. MWG's investigation confirmed that, unlike impoundments operated by other entities in Illinois, the impoundments at the Stations were not simply earthen ponds with no protection against the migration of constituents. Instead, the active ash ponds had one or even two types of liners – either poz-o-pac, a liner similar to concrete, or Hypalon, a synthetic geomembrane liner. MWG assessed the potential risks based only on the age of the respective liners and created a program and timeline for replacing the ash ponds liners, also outside any statutory or regulatory requirement. MWG diligently executed its program to replace the liners at the Stations through the early 2000's and by 2010, MWG had relined seven of its active ponds with HDPE liners, which was the remediation-industry recommendation. During the relining program, MWG found that the historic poz-o-pac liners were in much better condition than had been anticipated.

Following the U.S. Environmental Protection Agency's announcement that it would release regulations related to coal ash storage ponds, and combined with the information that the historic liners were largely intact, MWG paused its relining project to avoid duplicating its efforts once the final rules were issued.

During the same time period, in about 2010, the Illinois Environmental Protection Agency ("Illinois EPA") began a program of reviewing coal ash handling at all Illinois coal stations, including the four Stations. MWG voluntarily agreed to Illinois EPA's request that MWG perform hydrogeological assessments around the ash ponds at each of its Stations. The hydrogeological assessments included installing groundwater monitoring wells around the ash ponds at the MWG

Stations to sample the groundwater near and downgradient from the ash ponds. Based upon the results of the hydrogeological assessments, Illinois EPA issued Violation Notices (“VNs”) to MWG alleging violations of the groundwater quality standards caused by the ash ponds. MWG noted that new Federal regulations of CCR surface impoundments were imminent, and it would be prudent to wait for the outcome of the new regulations to avoid any construction that would be inconsistent with the final regulations. Despite the risk of regulatory inconsistency, to resolve the VNs, MWG entered into Compliance Commitment Agreements (“CCAs”) to reline the four remaining ash ponds with HDPE liners and establish groundwater management zones (“GMZs”) and/or environmental land use controls (“ELUCs”).

MWG’s prediction that its relining project could be inconsistent with the Federal regulation came true. Not two years after expending significant costs to reline the ponds per the CCAs, the new and costly liners were of no regulatory use. In 2015, U.S.EPA issued its final CCR rule, which specified that a CCR surface impoundment must have a double-liner. Following the implementation of the new requirements, MWG began working diligently to timely comply with the new rule. In 2021, the Board passed the Illinois CCR Rule (35 Ill. Adm. Code 845), which is based upon but not identical to the Federal CCR Rule, including introducing a permit program for the CCR surface impoundments. In addition to the Federal CCR Rule, MWG is working diligently to comply with the Illinois CCR Rule, including timely submitting operating and construction permits applications to the Illinois EPA for the impoundments.

Several of the Stations have areas that appear to contain historic ash, placed by the prior property operators. MWG sampled the ash in several of the historic areas at different stations to ensure it was not of concern, and MWG’s analysis showed that there is no evidence of groundwater contamination except for one area at the Waukegan Station. Moreover, the areas of historic ash could be regulated soon. In October 2020, USEPA published an advance notice of proposed

rulemaking for Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments to regulate historic areas of ash at power stations. EPA-HQ-OLEM-2020-0107, 85 FR 65015 (Oct. 14, 2020). The USEPA's agenda for the rule shows it plans to issue the final rule by June 2024. EPA-HQ-OLEM-2020-0107. The Board has also opened a subdocket in its Illinois CCR Rulemaking to investigate whether other areas of CCR require specific regulation. *In the Matter of: Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845 (Sub Docket A)*, PCB20-19(A), (Feb. 4, 2021). Upon passage of either proposal, MWG will similarly diligently follow the codified rules. Thus, any order to actively investigate and remediate historic areas in the face of regulatory action would be a waste of resources (and thus economically unreasonable) because MWG would have to redo whatever actions it may take, as it did in 2013.

c. Procedural Status

Complainants filed their complaint in 2012, and amended it in 2015. In 2017 and continuing to 2018, the Board held ten days of hearings regarding Complainants' claims of liability against MWG. On June 20, 2019, the Board entered an Interim Order finding that MWG violated Sections 12(a), 12(d), and 21(a) of the Illinois Environmental Protection Act ("Act"), and Sections 620.115, 620.301(a), and 620.405 of the Board's regulations based on MWG's groundwater sampling results regardless of when the groundwater impact may have occurred. *Sierra Club v. Midwest Generation, LLC*, PCB13-15 (June 20, 2019) ("Board 2019 Order"). On MWG's motion, the Board issued a revised Interim Order on February 6, 2020. The Board concluded that there were no exceedances of regulatory standards within the GMZs at three of the Stations (Joliet 29, Powerton, and Will County) while the GMZs were in place. The Board ordered additional hearings

to determine the need for appropriate relief or remedy, considering Sections 33(a) and 42(h) of the Act. 415 ILCS 5/33(c) and 42(h).

III. RENEWED MOTION TO STAY

The Board should delay any decision on remedy in this matter under the principles of comity and to avoid multiplicity and vexation. MWG submitted construction permit applications for closure or retrofitting of each of its CCR surface impoundments to the Illinois EPA pursuant to the recently codified Illinois CCR Rule. 35 Ill. Adm. Code Part 845. There is no basis for the Board to order a remedial scheme that would likely conflict with the remedies and deadlines established in the permits to be issued by Illinois EPA. Similarly, the regulatory landscape over the historic areas of ash is shifting, making any order to investigate or remediate likely in conflict with other governmental agency regulations. As discussed above, both the U.S.EPA and the Board are considering regulations to regulate areas of historic ash. *see supra* §II.b. There is no risk of harm to the public health or the environment if a stay in the Board's decision on remedy is granted. These Stations, and the ponds, have been in place for about forty years. It is undisputed that there are no potable wells downgradient of the Stations, and undisputed expert testimony that there is no risk to the surface waters adjacent to the Stations. Because of the absence of harm, Complainants will not be prejudiced by a stay. In comparison, without a stay, MWG will be highly prejudiced by the likelihood of conflicting orders from the Illinois EPA and the Board. Accordingly, MWG renews its request that the Board stay these proceedings and delay and decision on remedy.⁴

⁴ MWG reasserts and incorporates by references its Motion for Stay and Memorandum in Support filed on January 21, 2022.

IV. APPLICABLE LAW FOR FINAL ORDER

a. No Finding of Open Dumping at Joliet 29 Can Be Made Because There is No Section 21(a) Claim as to Joliet 29

The Board's 2019 Interim Order mistakenly included a finding "that MWG violated Section 21(a) of the Act at all four Stations." 2019 Interim Order, at 92. This is not accurate as to Joliet 29. Complainants have never asserted any allegation of open dumping at Joliet 29. The Board recognized this fact, noting in its January 19, 2017 Order that "Citizen Groups do not allege open dumping at Joliet 29." (2017 Order, at 1 n.2). Without such a claim, the Board has no jurisdiction over the question *City of Pekin v. Pollution Control Bd.*, 47 Ill. App. 3d 187, 192 (3d Dist. 1977). The Board should make it clear in its final order that it did not make a finding of open dumping at the Joliet 29 Station.

b. Section 21(r) of the Act is the Applicable Section for Disposal of Coal Combustion Waste

Sections 21(r) and 21(d)(1) of the Act are specific to the storage or disposal of CCW, and MWG's conduct with regard to the historic fill areas was in compliance with those versions of the regulations applicable at the time. In its Interim Order, the Board specifically found that the coal ash in the historic fill areas at the Stations was "coal combustion waste" ("CCW") as defined in 415 ILCS 5/3.140. 2019 Board Interim Order, pp. 87-88. The CCW in the historic fill areas at the Stations was historically deposited by the former owner of the stations from its coal-fired power generation prior to MWG's control.⁵ Thus, the prior owner conducted "a waste-storage...or waste disposal operation for wastes generated by" its own activities, and "stored [or] disposed]" the CCW "within the site where such wastes are generated" at the Joliet 29, Powerton, Waukegan, and Will

⁵ Because Complainants have not alleged that MWG violated Section 21(a) of the Act at the Joliet 29 Station, the Board did not have the authority to find a violation of 21(a) of the Act at the Joliet 29 Station. However, in the alternative, Section 21(r) coupled with 21(d) of the Act also allowed any CCW generated by the Site to be deposited at the Joliet 29 Station.

County Stations, requiring no permit. 415 ILCS 5/21(d)(1) (2018). Because Sections 21(r) and 21(d)(1) of the Act allowed the storage or disposal of CCW within the MWG Stations without a permit, MWG is not in violation of Section 21(a) of the Act at its Stations.

c. The Former Ash Basin at Powerton Station is not a Source of Contamination and No Remedy is Required

The Former Ash Basin at the Powerton Station is an Inactive CCR surface impoundment. 35 Ill. Adm. Code 845.120. In its 2019 Interim Order, the Board found that groundwater downgradient of the Former Ash Basin showed no coal ash constituents, and concluded that there was no proof that it is a source of contamination at the Station. 2019 Interim Order, p. 41. Without evidence of a release of contaminants, there is no duty to investigate. 415 ILCS 5/*et seq.* (2021). Because the Board found that the groundwater downgradient of the Former Ash Basin showed no coal ash constituents and because there is no statutory duty to investigate in the absence of evidence of a release of contaminants, no remedy and/or penalty may be ordered or is required for the Former Ash Basin.

d. Because There is No Evidence of Groundwater Contamination at the Historic Area at the Will County Station and Joliet 29 Station, No Remedy is Required

There is no evidence that one area at the Will County Station and three areas at the Joliet 29 Station are sources of groundwater contamination and thus, no remedy is required. The 1998 ENSR Phase II Environmental Site Assessments conducted for the prior owner of Will County identified the Former Slag and Bottom Ash Placement Area (“Former Placement Area”) as an alleged area of historic ash.⁶ However, the 1998 Phase II groundwater results showed that concentrations of constituents in the groundwater sampled near the Former Placement Area were non-detect. (Ex. 18D, Table 6). Moreover, samples of historic ash from other locations at the Will

⁶ The Hearing Officer entered the 1998 ENSR Reports (Exhibits 17D, 18D, 19D, and 20D) over MWG’s objection. 10/23/2017 Tr., p. 112:4-5, 117:20-119:20, 124:10-13, 126:6-14. MWG does not waive its objections to the admission of the ENSR reports.

County station show that the ash material was not adversely impacting the groundwater. MWG Ex. 901, p. 9 and Ex. 903, pp. 48.

Similarly, the 1998 ENSR Phase II Environmental Site Assessments conducted for the prior owner of the Joliet 29 Station identified two areas that the Board identified as the “Northeast Area” and the “Southwest Area” at Joliet 29. There is no evidence that the Northeast Area and the Southwest Area are potential sources of contamination. Indeed, the Board found that the closest groundwater monitoring wells to both the Northeast Area and the Southwest Area are unlikely to show conclusive results of any contaminants from either area. 2019 Interim Order, p. 27.

Because the only evidence in the record is that the Will County Former Placement Area is not a source, and because there is no evidence that the Northeast Area and the Southwest Area are sources, no remedy and/or penalty may be ordered or is required for the three areas.

There is a third historic fill area at the Joliet 29 Station that has been investigated and requires no further action – the “Northwest Area”. MWG collected samples from the Northwest Area and determined that most of the material met the criteria for beneficial use and that concentrations of boron, manganese, and barium were below Class I groundwater quality standards. 2019 Interim Order, p. 28, and Hearing Ex. 293. One small area showed elevated concentrations of metals *and MWG removed the ash in that area*. See MWG Ex. 903, p. 47 (MWG’s Expert Report) (“Approximately 1,068 tons of fill material containing historical ash was excavated and disposed off-site at a landfill during the week of November 21, 2005. The excavation was backfilled using surficial materials near the excavation area. Following the excavation, the historic ash in the area met the CCB criteria under 415 ILCS 5/3.135.”) citing KPRG and Associates Inc. Coal Ash and Slag Removal - Joliet Station #29 Report, December 6, 2005. Because MWG conducted an investigation of the Northwest Area, removed the material the

area, and determined that the area met the criteria for beneficial reuse, the evidence demonstrates that the Northwest Area is not a source and no remedy and/or penalty may be ordered or is required.

e. Complainants may not be Granted Injunctive Relief

Complainants cannot get the injunctive relief they seek. As a creature of statute, the Board may only operate within the bounds of its powers set out by the statute by which it was created. *County of Knox ex rel. Masterson v. Highlands, L.L.C.*, 188 Ill.2d 546, 554, 723 N.E.2d 256, 262 (1999). Under Section 33(b) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/33(b), the Board is limited to ordering a party to cease and desist from violations of this Act, any rule or regulation adopted under this Act and/or the imposition civil penalties. 415 ILCS 5/33(b). But “[t]he Board lacks authority to issue injunctive relief.” *Sierra Club v. Midwest Generation, LLC*, PCB 13-15, slip op. at 15 (April 17, 2014), citing *Janson v. Illinois Pollution Control Bd.*, 69 Ill.App.3d 324, 328, 387 N.E.2d 404, 408 (3rd Dist., 1979) and *Pawlowski v. Johansen*, PCB00-157, slip op. p. 2 (May 4, 2000); see also *People of the State of Illinois v. NL Industries, et al*, 152 Ill.2d 82, 99, 604 N.E.2d 349, 356 (1992) (“The Board has no enforcement powers.”). Complainants’ requests for the Board to order MWG to modify its coal ash disposal practice and remediate the contaminated groundwater are demands for mandatory injunctive relief, which the Board does not have the authority to grant. Similarly, any order to cease and desist that includes mandatory action is the equivalent of a mandatory injunction that is not within the Board’s authority.

f. Analysis Under Section 33(c) of the Act Shows No Additional Corrective Actions Are Required

Section 33(c) of the Act requires the Board to consider five factors when making its orders. 415 ILCS 5/33(c). The purpose of Section 33(c) is to provide guidelines to determine whether emissions or releases were reasonable. *Wells Mfg. Co. v. Pollution Control Board*, 73 Ill.2d 226,

238 (1978) (ILSC upheld the reversal of the Board's finding of violation holding that the emissions were reasonable under the Section 33(c) factors).

The first factor in Section 33(c) is character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people. 415 ILCS 5/31(c)(i). Here, the degree of injury for the constituents in the groundwater at the four stations is low. The Board has already found that there are no potable wells near or downgradient of the ash ponds or ash areas at Joliet 29, Powerton, and Waukegan. 2019 Board Order, pp. 29, 43, 69. And Complainants' expert agreed at the first hearing that the Stations do not have the possibility to impact offsite drinking water. 10/27/18 Tr. p. 182:3-7. Moreover, there is no physical property of anyone being affected by the constituents in the groundwater at the Stations. The CCAs, the source control at the Stations, including the relining projects, and institutional controls (the ELUCs and GMZs) prevent any person from accessing the groundwater. MWG's expert submitted a risk analysis to demonstrate that the constituent levels in the groundwater are not a risk to potential receptors, including nearby surface waters. Ex. 901, p. 10 and Ex. 903, App. B. There is no evidence to the contrary. In addition, MWG has been diligently complying with the CCR Rules to properly close or retrofit the CCR surface impoundments. Groundwater data shows that the constituent concentrations are generally decreasing, demonstrating that MWG's corrective actions have and will be effective.

The second factor is the social and economic value of the pollution source. 415 ILCS 5/33(c)(ii). All four Stations have social and economic value. In the first hearing, it was not disputed that the Stations were critical for the times when there are peak needs for energy and the Stations are obligated, as part of the capacity market, to meet those needs. 1/29/18 Tr. p. 168:20-169:5. Since the first hearing, two of the Stations (Waukegan and Will County) have ceased burning coal and will be converted to battery storage facilities. These conversions will create

apprenticeship and training opportunities for current and new employees. The other two Stations, Powerton and Joliet 29, continue to generate electricity, with a similar number of employees at the first hearing. MWG will present an expert witness testimony to demonstrate the economic value of the MWG stations.

The third factor under Section 33(c) is the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved. 415 ILCS 5/33(c)(iii). There is no dispute that the Stations are suitable for their locations and have priority of location. The Stations are in industrial areas, surrounded by other industries and commercial properties. Board 2019 Order, pp. 22, 35, 55-56, 64. Each of the Stations has been at their current location for at least 50 years and as much as 100 years. Joliet 29 and Will County are the “younger” Stations as each were built in 1964 and 1955, respectively. Board 2019 Order, pp. 22, 51. Powerton and Waukegan were both built in the 1920s and are also surrounded by industrial properties. *Id.*, pp. 35, 64. Waukegan is surrounded by properties with historic contamination from its prior industries, including superfund sites to the north, and the General Boiler and Griess-Pfleger Tannery sites to the west. Board 2019 Order, p. 64.

The fourth factor in Section 33(c) is the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source. This Board has found that compliance with the Illinois CCR Rule is technically practicable and economically reasonable. *In the Matter of: Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845, PCB20-19*, Illinois EPA Statement of Reasons, p. 34 (March 30, 2020) and Board Order adopting rule (Feb. 4, 2021). Thus, the compliance actions MWG is taking and will take at its CCR surface impoundments to comply with the Illinois CCR Rule, including the closure method ultimately approved by Illinois EPA, is technically practicable and economically reasonable. Illinois EPA has

not issued a draft or final operating or construction permits for any CCR surface impoundments in Illinois (including the MWG impoundments),⁷ and it would be technically impracticable for the Board issue an order that supersedes or conflicts with the Agency's technical expertise or the Illinois CCR Rule framework passed by the Board in Part 845.

As it relates to other areas at the Stations, the GMZs and institutional controls, which prevent any access to the groundwater, as well as the groundwater data, which demonstrates that overall the constituents in the groundwater at the Stations are attenuating, show that an additional remedy is neither technically practical nor economically reasonable. Further, as it relates to the historic areas at the Stations, any order to conduct an investigation or remediation before the pending federal and Illinois rulemakings are complete would be economically unreasonable and technically impracticable because it would likely require MWG to duplicate or reconstruct the response actions based upon the subsequent rules.

The fifth and final factor under Section 33(c) is any subsequent compliance. It was clear during the first hearing that MWG has conducted all the compliance requested by the Illinois EPA and resolved the violations pursuant to the CCAs. Since its purchase of the Stations, MWG has taken action to prevent impact to groundwater at its Stations by investigating, maintaining, and replacing the liners in the ash ponds long before any specific statutory or regulatory requirement. Before Illinois EPA requested that MWG conduct corrective actions at the Stations, MWG had begun a maintenance program to improve the ash ponds liners, even though MWG had no actual knowledge of any alleged discharge from the ash ponds. MWG voluntarily began analyzing the groundwater around its ash ponds, and voluntarily agreed to reline its remaining ash ponds with

⁷ Illinois EPA's Coal Combustion Residual Surface Impoundments website lists the CCR surface impoundment applications received for stations statewide. <https://epa.illinois.gov/topics/water-quality/watershed-management/ccr-surface-impoundments.html#pn>.

the industry-accepted material, HDPE, before required by any Federal or State regulations and knowing that the new liners may contravene the regulations. MWG continues to monitor the groundwater and submit the reports to the Illinois EPA pursuant to the CCAs in addition to the groundwater monitoring under the CCR Rules. Upon the passing of the CCR Rules, MWG has conducted all that is required under both sets of rules, including preparing extensive plans to either close or retrofit the CCR surface impoundments.

Based on the Section 33(c) factors, there is no basis to find that MWG take any further corrective actions beyond those proposed by MWG's experts.

g. Analysis under Section 42(h) of the Act Demonstrates that Little to No Penalty is Required

Because of MWG's due diligence to comply, its good faith efforts to self-disclose and work with the Illinois EPA, the lack of previously adjudicated violations, the successful completion of the CCAs, the absence of economic benefit, and the absence of risk of harm, a monetary penalty would not aid in enforcement of the Act. 415 ILCS 5/42(h); *Modine Mfg. Co. v. Pollution Control Bd.*, 193 Ill. App. 3d 643, 648, 140 Ill. Dec. 507, 510, 549 N.E.2d 1379, 1382 (1990) (the "primary purpose of civil penalties is to aid in enforcement of the Act."). Similarly, the penalty "must be commensurate with the seriousness of the infraction for which it is imposed." *People ex rel. Raoul v. Lincoln, Ltd.*, 2021 IL App (1st) 190317-U, ¶ 31 (1st Dist. 2021). Ultimately, a penalty must be "at least as great as the economic benefits, if any, accrued by the respondent as a result of the violation..." 415 ILCS 5/42(h). Here, MWG's expert will demonstrate that MWG received little to no economic benefit for the violations at its Stations in light of the extensive work MWG has conducted to date. *See also Lincoln, Ltd.*, 2021 IL App (1st) 190317-U, ¶ 34-36 (Court found the trial court's imposition of a penalty was arbitrary and capricious because it was not commensurate with the economic benefit allegedly received, not commensurate with the infractions at issue

because the waste was not hazardous, and the trial court did not accurately calculate the duration of the violations.)

FINAL ORDER OF WITNESSES

MWG will present Rich Gnat, Sharene Shealey, Weaver Consultants Group (together represented by Michael Maxwell and Douglas Dorgan), Brian Richard, and Gayle Koch, upon the completion of Complainants' case-in-chief. MWG also reserves the right to recall witnesses for the purpose of rebuttal.

FINAL EXHIBIT LISTS

MWG's final exhibit list pursuant to the February 23, 2023 Pre-Hearing Schedule is attached as Attachment A. MWG reserves the right to supplement this list with exhibits with those listed by Complainants or to be used for cross-examination or rebuttal, or demonstrative evidence used to present testimony. MWG reserves the right to discuss exhibits that were admitted in the first hearing. However, for the exhibits that were previously admitted over MWG's objections, MWG continues to object to their admission and does not waive its objections if those exhibits are used during the second hearing. In addition, MWG's final exhibit list includes the documents on the attached Attachment B, which is a list of proposed exhibits for which the Parties will not have objections when the documents are presented for admission at the hearing. MWG retains and does not waive any objections to Complainants' exhibits that are not on Attachment B.

Respectfully submitted,
MIDWEST GENERATION, LLC.

By /s/ Jennifer T. Nijman
One of Its Attorneys

Jennifer T. Nijman
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Kristen L. Gale
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Chicago, IL 60603
312-251-5255

ATTACHMENT A

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. |) | |

ATTACHMENT A TO PRE-HEARING MEMORANDUM

MIDWEST GENERATION, LLC'S FINAL EXHIBIT LIST

Pursuant to the Hearing Officer Order, Respondent, Midwest Generation, LLP (“MWG”), submits its final list of exhibits for the second hearing. MWG’s exhibits also include the exhibits identified in the Parties List of Agreed Exhibits in Attachment B. All exhibits are subject to objection unless agreed to, and neither party waives any objection it may have to an exhibit that is not on the agreed list.

| | DOCUMENT NO. | DESCRIPTION | Date | Witness |
|----|---------------------|--|---|----------------|
| 1. | Comp. 69568-69642 | Quarles’s Notes on April 22, 2021 Report | Not Dated | Quarles |
| 2. | Comp. 67474 - 67499 | Quarles’ Notes | Various Dates (2019-2021) | Quarles |
| 3. | Comp. 70262-70299 | Quarles’ Notes | Various Dates (Nov. 4, 2019-Sep. 24, 2021) | Quarles |
| 4. | Comp. 70300-70314 | Quarles’ Notes | Various Dates (May 26, 2021 - July 9, 2021) | Quarles |
| 5. | Comp. 41681-41715 | Email from J. Kunkel to F. Bugel and A. Russ attaching Meeting Minutes of meeting between J. Kunkel and F. Bugel | Aug. 20, 2014 | Weaver* |
| 6. | Comp. 41735-41744 | Email from J. Kunkel to A. Russ regarding letter report | July 22, 2014 | Weaver* |

| | DOCUMENT NO. | DESCRIPTION | Date | Witness |
|-----|--------------------------|--|-------------------------------|---|
| 7. | MWG13-15_81413-82193 | Expert Report on Relief and Remedy, <i>Sierra Club et al. v. Midwest Generation, LLC</i> , Weaver Consultants Group. MWG reserves the right to discuss all documents, information, and references cited and relied upon in the report. | April 22, 2021 | Weaver |
| 8. | MWG13-15_82194-82251 | Expert Report <i>In the Matter of Sierra Club, Environmental Law and Policy Center, et al v. Midwest Generation, LLC</i> , PCB 13-15, Prepared by Gayle Schlea Koch, Axlor Consulting LLC. MWG reserves the right to discuss all documents, information, and references cited and relied upon in the report. | April 22, 2021 | Koch |
| 9. | MWG13-15_82252-82261 | Economic Impacts of Midwest Generation Stations in Illinois, Prepared by Brian Richard, Ph.D. MWG reserves the right to discuss all documents, information, and references cited and relied upon in the report. | April 22, 2021 | Richard |
| 10. | MWG13-15-83856- 83861 | MWG Employee Information | April 13, 2021 | Shealey Comp.'s Objection: Relevance |
| 11. | MWG13-15_107800 - 108202 | Ex. 369 and 378 of <i>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</i> , PCB R08-09, Pre-filed Testimony of Dr. G. Allen Burton, Sediment Chemistry Study, Upper Illinois Waterway, Dresden and Lower Brandon Pools, Prepared by EA Engineering, Science, and Technology, Fig. 2 of Appen. C. | Sept. 8, 2008 | Weaver Comp.'s Objection: Foundation and Relevance |
| 12. | MWG13-15_112253- 112324 | CEC Invoices for CCR Work | 2017- 2021 (various dates) | Shealey Comp.'s Objection: Relevance |

| | DOCUMENT NO. | DESCRIPTION | Date | Witness |
|-----|-------------------------|--|----------------------------|---|
| 13. | MWG13-15_112325- 112468 | KPRG Invoices for CCR Work | 2021 (various dates) | Shealey Comp.'s Objection: Relevance |
| 14. | MWG13-15_112469- 112735 | Sargent & Lundy Invoices for CCR Work | 2019 -2021 (various dates) | Shealey Comp.'s Objection: Relevance |
| 15. | MWG13-15_124120-124129 | Illinois EPA Bureau of Water Presentation. "Waukegan Power Station: Part 845 – CCR Surface Impoundments" by Darin LeCrone* | No Date | Shealey |
| 16. | MWG13-15_124541- 124546 | Illinois River Levels at Kingston Mines and Peoria Lock and Dam | No Date | Gnat Comp.'s Objection: Foundation and Relevance |
| 17. | | Lyderon, Kari, "Historic coal ash raises concerns at iconic Illinois coal plant site" | Dec. 21, 2021 | Shealey |

MWG reserves the right to supplement its exhibits with those listed by Complainants or to be used for cross-examination or rebuttal, or demonstrative evidence used to present testimony. As a courtesy MWG has also noted with an asterisk (*) certain exhibits that may be discussed, but are not currently expected to be submitted for admission. MWG reserves the right to move to admit the documents during the Hearing. MWG also reserves the right to discuss the exhibits that have been admitted as part of the first hearing and listed in the Hearing Officer's April 25, 2018 Order. However, for the exhibits that were previously admitted over MWG's objections, MWG continues to object to their admission and does not waive its objections if those exhibits are used during the second hearing.

Respectfully submitted,
MIDWEST GENERATION, LLC.

By /s/ Jennifer T. Nijman
One of its Attorneys

Jennifer T. Nijman
Susan M. Franzetti
Kristen L. Gale
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Chicago, IL 60603
312-251-5255

ATTACHMENT B

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. |) | |

**ATTACHMENT B TO MIDWEST GENERATION, LLC’S
PRE-HEARING MEMORANDUM**

LIST OF AGREED EXHIBITS

The parties stipulate that there is no objection to a party’s request for the admission of the following exhibits to the extent discussed at the hearing with the respective witness.

| | PARTY | DOC. NO. | DESCRIPTION | Date | Witness | Stipulation |
|----|--------------|----------------------------|--|---------------------|----------------|--------------------|
| 1. | MWG | MWG13-15_ 24960- 25127 | KPRG 2005 Coal Ash and Slag Removal – Joliet 29 Station | Dec. 6, 2005 | Gnat | Admit |
| 2. | MWG | MWG13-15_ 48711 – 48843 | Powerton First Quarter 2015 Quarterly Report | April 24, 2015 | Gnat | Admit |
| 3. | Comp. | MWG_13-15 63811 - 63873 | CCA Quarterly Groundwater Monitoring Results – Third Quarter 2019 Joliet #29 | October 7, 2019 | Gnat | Admit |
| 4. | Comp. | 64906-65221 | CCR COMPLIANCE ANNUAL GROUNDWATER MONITORING and CORRECTIVE ACTION REPORT – 2018 ASH BY- PASS BASIN AND ASH SURGE BASIN | January 31, 2019 | Gnat | Admit |

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| | PARTY | DOC. NO. | DESCRIPTION | Date | Witness | Stipulation |
|-----|--------------|----------------------------|---|---------------------|----------------|--------------------|
| 5. | Comp. | MWG_13-15 65456 - 65856 | CCR COMPLIANCE ANNUAL GROUNDWATER MONITORING and CORRECTIVE ACTION REPORT – 2019 ASH BY- PASS BASIN AND ASH SURGE BASIN, January 31, 2020 | January 31, 2020 | Gnat | Admit |
| 6. | Comp. | MWG_13-15 66096 - 66203 | CCA Quarterly Groundwater Monitoring Results – Third Quarter 2019 Powerton | October 7, 2019 | Gnat | Admit |
| 7. | Comp. | MWG_13-15 67097 - 67289 | CCR COMPLIANCE ANNUAL GROUNDWATER MONITORING and CORRECTIVE ACTION REPORT, Waukegan – 2018 | January 31, 2019 | Gnat | Admit |
| 8. | Comp. | MWG_13-15 68260 - 68923 | CCA Quarterly Groundwater Monitoring Results – Third Quarter 2019 Waukegan | October 7, 2019 | Gnat | Admit |
| 9. | Comp. | MWG_13-15 69436 - 69609 | CCR COMPLIANCE ANNUAL GROUNDWATER MONITORING and CORRECTIVE ACTION REPORT – 2018, Will County | January 31, 2019 | Gnat | Admit |
| 10. | Comp. | MWG_13-15 69946 - 70017 | CCA Quarterly Groundwater Monitoring Results – Third Quarter 2019 Will County | October 7, 2019 | Gnat | Admit |
| 11. | Comp. | MWG13-15_ 70527 – 70601 | Alternative Source Demonstration for Former Ash Basin | March 9, 2020 | Gnat | Admit |
| 12. | Comp. | MWG_13-15 72568 - 72667 | CCR COMPLIANCE ANNUAL GROUNDWATER MONITORING and CORRECTIVE ACTION REPORT – 2019 Waukegan | January 31, 2020 | Gnat | Admit |
| 13. | MWG | MWG13-15_ 79315 | Joliet 29 NE area KPRG Inspection, 2018 | Nov. 5, 2018 | Gnat | Admit |
| 14. | MWG | MWG13-15_ 79316 | Joliet 29 NE area KPRG Inspection, 2019 | Nov. 4, 2019 | Gnat | Admit |

Electronic Filing: Received, Clerk's Office 04/21/2023

| | PARTY | DOC. NO. | DESCRIPTION | Date | Witness | Stipulation |
|-----|--------------|---------------------------|---|---------------------------|----------------|--------------------|
| 15. | MWG | MWG13-15_79317 | Joliet 29 NE area KPRG Inspection, 2020 | Nov. 6, 2020 | Gnat | Admit |
| 16. | MWG | MWG 13-15_79341-79356 | Joliet 29 Boring Logs | Nov. 12, 2020 | Gnat | Admit |
| 17. | MWG | MWG 13-15_79341-79442 | Joliet 29 Soil Samples and Map of boring locations | April 8, 2020 | Gnat | Admit |
| 18. | Comp. | MWG_13-15 79493-79771 | Waukegan Field investigation | November 23, 2020 | Gnat | Admit |
| 19. | MWG | MWG13-15_81195-81293 | Eurofins Analytical Report, Waukegan Generating Station, Laboratory Job ID: 180-116605-1 | March 12, 2021 | Gnat | Admit |
| 20. | MWG | MWG13-15_108284 – 108393 | KPRG 2021 Photos of J29 NE Area | 2021 (not dated) | Gnat | Admit |
| 21. | MWG | MWG13-15_108394 | J29 NE area KPRG Inspection, 2021 | Nov. 1, 2021 | Gnat | Admit |
| 22. | Comp. | MWG_13-15 108447 - 108482 | Joliet 29 Alternative Source Demonstration Joliet | October 11, 2021 | Gnat | Admit |
| 23. | MWG | MWG13-15_112736 – 113393 | Waukegan ELUC Wells GW data | 2017-2020 (various dates) | Gnat | Admit |
| 24. | MWG | MWG13-15_113394- 113952 | Waukegan MW-8 and MW-9 results | 2017-2020 (various dates) | Gnat | Admit |
| 25. | Comp. | MWG_13-15 113953 -114056 | Federal CCR Compliance Annual Groundwater Monitoring and Corrective Action Report - 2021, Joliet #29 Generating Station | January 31, 2022 | Gnat | Admit |
| 26. | Comp. | MWG13-15 115224-115272 | Data Summary Posting, Joliet #29 Generating Station | 2021-2022 (various dates) | Gnat | Admit |
| 27. | Comp. | MWG13-15 115601-115662 | Data Summary Posting, Waukegan Generating Station | 2021-2022 (various dates) | Gnat | Admit |
| 28. | Comp. | MWG_13-15 115942-116018 | CCR Groundwater Monitoring Report, Powerton Generating Station Monitoring Results - Ash By-Pass Basin & Ash Surge Basin - Second Quarter 2022 | July 26, 2022 | Gnat | Admit |

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| | PARTY | DOC. NO. | DESCRIPTION | Date | Witness | Stipulation |
|-----|--------------|---------------------------------|---|--------------------|----------------|--------------------|
| 29. | Comp. | MWG_13-15 116082- 116117 | CCR Detection Groundwater Monitoring Report, Waukegan Generating Station, Fed. 1 st Semi annual 2022 | July 27, 2022 | Gnat | Admit |
| 30. | Comp. | MWG13-15 116118 - 116145 | CCR Detection Groundwater Monitoring Report, Joliet 29 Generating Station Fed. 1 st Semi annual 2022 | July 26, 2022 | Gnat | Admit |
| 31. | Comp. | MWG13-15 116146- 116240 | Assessment Monitoring Will County Station | July 27, 2022 | Gnat | Admit |
| 32. | Comp. | MWG13-15_ 116241 - 116331 | Alternate source demonstration, Will County | March 28, 2022 | Gnat | Admit |
| 33. | Comp. | MWG13-15_ 118134- 118235 | CCA Annual report, Joliet 29 | January 20, 2022 | Gnat | Admit |
| 34. | Comp. | MWG13-15_ 118236- 118378 | CCA Annual report, Powerton | January 14, 2022 | Gnat | Admit |
| 35. | Comp. | MWG13-15_ 118379-118488 | CCA Annual report, Will County | January 20, 2022 | Gnat | Admit |
| 36. | Comp. | MWG13-15_ 118489- 118627 | CCA Annual report, Waukegan, Jan. 2022 | January 20, 2022 | Gnat | Admit |
| 37. | Comp. | MWG_13-15_ 119367-120525 | AS 2021-001, Midwest Generation LLC's Petition for Adjusted Standard and Finding of Inapplicability for the Joliet 29 Station | May 11, 2021 | Shealey | Admit |
| 38. | Comp. | MWG13-15_ 120526-120614 | AS 2021-001, Recommendation of the IEPA, Joliet 29 Station | September 22, 2021 | Shealey | Admit |
| 39. | Comp. | MWG13-15_ 120615-122671 | AS 2021-001, Recommendation of the IEPA Joliet 29 Station | February 4, 2022 | Shealey | Admit |
| 40. | MWG | MWG13-15_ 122672- 123235 | MWG's Response in Support of its Joliet 29 Petition for Adjusted Standard, PCB AS21-01 | March 24, 2022 | Shealey | Admit |
| 41. | Comp. | MWG13-15_ 123236 -124087 | AS 2021-003, Midwest Generation LLC's Petition for an Adjusted Standard and Finding of Inapplicability for the Waukegan Station | May 11, 2021 | Shealey | Admit |

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| | PARTY | DOC. NO. | DESCRIPTION | Date | Witness | Stipulation |
|-----|--------------|-------------------------|--|--------------------|----------------|--------------------|
| 42. | Comp. | MWG13-15_124088 -124116 | AS 2021-003; Midwest Generation, LLC's Amended Petition for an Adjusted Standard and a Finding of Inapplicability for Waukegan Station | September 17, 2021 | Shealey | Admit |
| 43. | Comp. | MWG13-15_124132-124139 | AS 2021-002, Midwest Generation, LLC's Amended Petition for an Adjusted Standard and a Finding of Inapplicability for Powerton Station | November 11, 2021 | Shealey | Admit |
| 44. | MWG | MWG13-15_124376- 124383 | IPCB Order on MWG's Petition for Adjusted Standard for Powerton, PCB AS21-2 | Feb. 17, 2022 | Shealey | Admit |
| 45. | MWG | MWG13-15_124452 | Joliet 29 NE area KPRG Inspection, 2022 | Nov. 3, 2022 | Gnat | Admit |
| 46. | MWG | MWG13-15_124453- 124455 | Joliet 29 Boring Logs | April 2, 2020 | Gnat | Admit |
| 47. | MWG | MWG13-15_124456- 124479 | Joliet 29 Soil Sample Results | April 8, 2020 | Gnat | Admit |
| 48. | MWG | MWG13-15_124480- 124540 | Joliet 29 Soil Sample Results | Nov. 27, 2020 | Gnat | Admit |
| 49. | Comp. | MWG_13-15 64321-64555 | CCR Compliance Annual Groundwater Monitoring and Corrective Action Report – 2018 Former Ash Basin, Powerton Generating Station | January 31, 2019 | Gnat | Admit |
| 50. | Comp. | MWG_13-15 70018-70091 | CCR Compliance Annual Groundwater Monitoring and Corrective Action Report – 2019, Will County | 1/31/2019 [sic] | Gnat | Admit |
| 51. | Comp. | MWG_13-15 76486-76562 | Quarterly Groundwater Monitoring Report, Will County Generating Station, Letter to Ms. Andrea Rhodes from Kristina Cameron, Station Director | July 13, 2020 | Gnat | Admit |
| 52. | Comp. | MWG_13-15 76563-76742 | Quarterly Groundwater Monitoring Report, Powerton Generating Station, Letter to Ms. Andrea Rhodes from Dale Green, Station Manager | July 13, 2020 | Gnat | Admit |

| | PARTY | DOC. NO. | DESCRIPTION | Date | Witness | Stipulation |
|-----|--------------|--------------------------|--|---------------------|----------------|--------------------|
| 53. | Comp. | MWG_13-15 79775-79903 | Annual and Quarterly Groundwater Monitoring Report, Joliet #29 Generating Station - Fourth Quarter 2020 | January 21, 2021 | Gnat | Admit |
| 54. | Comp. | MWG_13-15 79904-80049 | Annual and Quarterly Groundwater Monitoring Report, Powerton Generating Station - Fourth Quarter 2020 | January 15, 2021 | Gnat | Admit |
| 55. | Comp. | MWG_13-15 80050-80156 | Annual and Quarterly Groundwater Monitoring Report, Will County Generating Station - Fourth Quarter 2020 | January 21, 2021 | Gnat | Admit |
| 56. | Comp. | MWG_13-15 80157-80354 | Annual and Quarterly Groundwater Monitoring Report, Waukegan Generating Station - Fourth Quarter 2020 | January 21, 2021 | Gnat | Admit |