

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION LLC,)	
Joliet 9/Lincoln Stone Quarry)	
Petitioners,)	
)	
v.)	PCB 26-
)	(CCR – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

NOTICE

Don Brown, Clerk
Illinois Pollution Control Board
60 East Van Buren St., Suite 630
Chicago, IL 60605
don.brown@illinois.gov

Kristen L. Gale, Esq.
Nijman Franzetti, LLP
10 South LaSalle Street
Suite 3400
Chicago, IL 60603
kg@nijmanfranzetti.com

PLEASE TAKE NOTICE that I have today caused to be filed a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A. Jarvis
Deputy Chief Counsel – Land Enforcement
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
melanie.jarvis@illinois.gov
Dated: March 25, 2026

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION LLC,)	
Joliet 9/Lincoln Stone Quarry)	
Petitioners,)	
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v.)	PCB 26-
)	(CCR – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

**REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to November 11, 2026, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On or about March 9, 2026, the Illinois EPA issued a final decision to the Petitioner.
2. On March 20, 2026, the Petitioner made a request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five-day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about March 16, 2026.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five-day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



Melanie A Jarvis
Deputy Chief Counsel – Land Enforcement
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
866/273-5488 (TDD)
melanie.jarvis@illinois.gov
Dated: March 25, 2026

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 25, 2026, I served true and correct copies of a **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

Electronic Service

Don Brown, Clerk
Illinois Pollution Control Board
60 East Van Buren St., Suite 630
Chicago, IL 60605
don.brown@illinois.gov

Kristen L. Gale, Esq.
Nijman Franzetti, LLP
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Chicago, IL 60603
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Kristen Laughridge Gale
kg@nijmanfranzetti.com
312.262.5524

March 20, 2026

VIA EMAIL Sara.Samson@Illinois.gov and CERTIFIED MAIL

Sara Samson
Illinois Environmental Protection Agency
Division of Legal Counsel
2520 West Iles Avenue
P.O. Box 19276
Springfield, IL 62794-9276

Re: 1978090001 – Will County
Lincoln Stone Quarry (Midwest Generation LLC Joliet 9 Generating Station)
Log No. 2021-48
CCR 845 Permit File – 03W
Permit Denial

Dear Ms. Samson:

This letter is submitted on behalf of Midwest Generation LLC (“MWG”) to request a 90-day extension to appeal the final decision issued by the Illinois Environmental Protection Agency (“IEPA”) on March 9, 2026 (the “final decision”).

Section 40 of the Illinois Environmental Protection Act states that the applicant may appeal the final decision, “within 35 days after the date on which the Agency served its decision on the applicant,” but the thirty-five (35) day period may be extended for ninety (90) days with written notice from the applicant and IEPA. 415 ILCS 5/40. MWG received notice of the IEPA’s decision via IEPA’s listserv with a copy of the decision (copy attached), but has not been served with the Agency’s decision via the certified mail indicated on the first page. In any case, this letter is timely because it is submitted on or before the date of service of the Agency’s decision. MWG requests a 90-day extension of the 35-day period to file a petition for appeal 125 days after MWG has been served the final decision. If you have any questions, please feel free to contact me.

Very truly yours,



Kristen L. Gale
Counsel for Midwest Generation LLC

CC: Sharene Shealey, Midwest Generation LLC, via email
Melanie Jarvis, Illinois Environmental Protection Agency, via email



Illinois Environmental Protection Agency

2520 West Iles Avenue • P.O. Box 19276 • Springfield, Illinois • 62794-9276 • 217-782-3397

JB Pritzker, Governor

James Jennings, Acting Director

217/524-3301

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

MAR 09 2026

9589 0710 5270 2887 2251 39

OWNER

Lincoln Stone Quarry, Inc.
Attn: Frederick Kaplan
125 South Wacker Drive, Suite 2900
Chicago, IL 60606-4439

OPERATOR

Midwest Generation, LLC
Attn: DeAndre Cooley
1800 Channahon Road
Joliet, IL 60436-8539

FACILITY LOCATION

1601 Patterson Road
Joliet, IL 60436-9332

Re: 1978090001 -- Will County
Lincoln Stone Quarry (Midwest Generation LLC Joliet 9 Generating Station)
Log No. 2021-482
CCR 845 Permit File – 03W
Permit Denial

Dear Mr. Kaplan and Mr. Cooley,

The Illinois Environmental Protection Agency (Illinois EPA) Bureau of Land has completed its review of the comments and questions submitted on the draft initial operating permit for Lincoln Stone Quarry (also referred to as Midwest Generation LLC Joliet 9 Generating Station), a Coal Combustion Residual Surface Impoundment (CCRSI). Draft Operating Permit No. 2021-CO-100028 for Lincoln Stone Quarry was issued by Illinois EPA's Bureau of Water on June 26, 2024. The public hearing to accept comments on the draft initial operating permit was held on July 31, 2024. The responsiveness summary prepared in accordance with 35 Illinois Administrative Code (IAC) 845.260(f) to address questions and comments received on the draft initial operating permit is available at <https://epa.illinois.gov/public-notice/ccr-public-notice.html>.

The referenced initial operating permit application is dated October 29, 2021, and November 4, 2021, and was received by the Illinois EPA on November 3, 2021, and November 8, 2021, respectively. This application, assigned Log No. of 2021-482 by the Illinois EPA's Bureau of Land, was prepared by KPRG and Associates, Inc. on behalf of Midwest Generation, LLC.

Since the issuance of the draft initial operating permit on June 26, 2024, the responsibility of reviewing facilities regulated under Section 22.59 of the Illinois Environmental Protection Act (Act) and 35 IAC Part 845 has been transferred from Illinois EPA's Bureau of Water to Bureau of Land.

The Illinois EPA's Bureau of Land has considered public comments and determined that additional information is needed to address certain concerns raised by the public on the draft initial operating permit. The applicant has not provided adequate proof that the CCRSI will be operated so as not to cause a violation of the Act or Board rules. As a result, the initial operating permit application is denied. This determination is made pursuant to 35 IAC 845.200(b)(1) and 35 IAC 845.270(b).

Pursuant to 35 IAC 845.270(d), in case of denial of a permit application, the Illinois EPA must inform the applicant of the reasons for denial. The following concerns raised by the public during the comment period for draft Operating Permit No. 2021-CO-100028 were not adequately addressed in the initial operating permit application.

1. The draft initial operating permit states Midwest Generation, LLC submitted financial assurance in accordance with 35 IAC Part 845 Subpart I. Public comments raised concerns about the lack of details in the Closure Plan about meeting the requirements of 35 IAC Part 845 and adequacy of funding set aside to ensure proper closure of the CCRSI. Pursuant to 35 IAC 845.230(d)(2)(N), the initial operating permit application for existing CCRSI must contain a certification that the owner or operator of the CCRSI meets the financial assurance requirements of 35 IAC Part 845 Subpart I. Midwest Generation, LLC attempted to comply with the requirements of 35 IAC 845.230(d)(2)(N) by including copies of the financial assurance certification and performance bond with a face value of \$26,417,781.96. However, the Illinois EPA was not able to verify compliance with 35 IAC Part 845 Subpart I as Midwest Generation, LLC has not provided a detailed written estimate of closure and post-closure costs as required by 35 IAC 845.930(b)(1). Additionally, it has not been demonstrated that pursuant to 35 IAC 845.930(b)(2) the cost estimates are equal to the cost of final closure and post-closure care at the point in the facility's active life when the extent and manner of its operation would make closure and post-closure care the most expensive.
2. The preliminary Closure Plan provided in the initial operating permit application proposes closure by leaving coal combustion residuals (CCR) in place covered with a final cover system. Because the CCRSI has not demonstrated compliance with the location restriction in 35 IAC 845.300 (placement above the uppermost aquifer), public comments raised concerns regarding whether the proposed closure approach can meet the performance standards of 35 IAC 845.750. Pursuant to 35 IAC 845.230(d)(2)(J) and 35 IAC 845.720(a)(1)(C), where closure in place is proposed, the initial operating permit applications for existing CCRSI must include a preliminary Closure Plan that includes discussion demonstrating how the final cover system will achieve the performance

standards of 35 IAC 845.750. The current initial operating permit application does not provide sufficient information to make this demonstration.

3. Pursuant to 35 IAC 845.230(d)(2)(i)(ii), initial operating permit applications for an existing CCRSI must submit design and construction plans for a groundwater monitoring system in accordance with 35 IAC 845.630. Public comments raised concerns regarding the adequacy of the proposed groundwater monitoring system. Specific concerns were raised regarding designation of wells impacted by the facility as background wells and inadequacy of the proposed downgradient monitoring system to detect groundwater contamination. The Illinois EPA shares these concerns for the following reasons:
 - a. Well T03S is proposed as a background well. This well location may encounter variable groundwater flow conditions and the initial operating permit application does not adequately demonstrate that well T03S represents background groundwater quality.
 - b. The initial operating permit application does not include all existing wells that have had exceedances in the proposed groundwater monitoring system.
 - c. The proposed groundwater monitoring system does not demonstrate that background groundwater quality has been established for each of the three zones of the uppermost aquifer.

Notwithstanding the denial of this initial operating permit application, Lincoln Stone Quarry remains subject to all applicable requirements of 35 IAC Part 845. An updated initial operating permit application addressing the deficiencies included in this letter must be submitted to the Illinois EPA and be postmarked no later than 90 days from the date of this letter. Information required for an initial operating permit application for an existing CCRSI is specified in 35 IAC 845.230(d).

The updated initial operating permit application must be mailed to the following address:

Illinois Environmental Protection Agency
Bureau of Land - #33
Permit Section
2520 West Iles Avenue
Post Office Box 19276
Springfield, Illinois 62794-9276

The applicant may appeal this final decision to the Illinois Pollution Control Board pursuant to Section 40 of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the applicant and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

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For information regarding the request for an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
2520 West Iles Avenue
P.O. Box 19276
Springfield, IL 62794-9276
217/782-5544

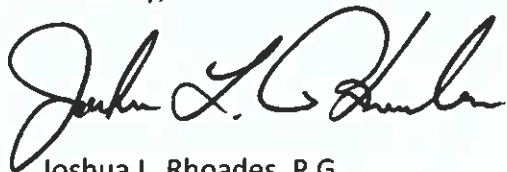
For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board
60 East Van Buren Street, Suite 630
Chicago, IL 60605-1241
312/814-3620

Work required by this permit, this application, or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This permit does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

Any questions concerning this matter, should be directed to Imran Syed by email at Imran.syed@illinois.gov or by phone at 217/782-7813.

Sincerely,



Joshua L. Rhoades, P.G.
Permit Section Manager
Bureau of Land

JLR:RCR:JJR:IMS:1978090001-845CCR-OP-2021482-Denial.docx

cc: Dave Hartke, Will County Land Use Department
Joshua Davenport, P.E., KPRG and Associates, Inc.
Jill Buckley, NRG Energy, Inc.
DeAndre Cooley, NRG Energy, Inc.
Fredrick Kaplan, Kaplan, Meltzer & Stelle, LLC
Matthew Marketti, Brandon Road CCDD, LLC