

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**

Complainants,

v.

MIDWEST GENERATION, LLC,

Respondent.

**PCB 2013-015
(Enforcement – Water)**

CERTIFICATION

James R. Kunkel, being first duly sworn on oath, deposes and states as follows:

The documents and information identified and cited in the “Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel” served on Midwest Generation, LLC on March 31, 2016 are, to the best of my recollection and after having conducted a good-faith review of my file for this matter to prepare the “Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel” (hereinafter “Review for Requested Citations”), the basis for the respective opinion identified on the page number listed under the “Citations from Deposition Exhibit 3: July 1, 2015 Expert Report on Ground-Water Contamination (‘the Contamination Report’) by James R. Kunkel, Ph.D., P.E.” in the “Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel” served on Midwest Generation, LLC on March 31, 2016.

The documents and information identified and cited in the “Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel” served on Midwest Generation, LLC on March 31, 2016 are, to the best of my recollection and after my Review for Requested Citations,



the basis for the respective opinion identified on the page number listed under the "Citations from Deposition Exhibit 5: December 8, 2015 Rebuttal Report to Expert Report of John Seymour, P.E. ("the Supplemental Rebuttal Report") by James R. Kunkel, Ph.D., P.E" in the "Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel" served on Midwest Generation, LLC on March 31, 2016.

The documents and information identified and cited in the "Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel" served on Midwest Generation, LLC on March 31, 2016 are, to the best of my recollection and after my Review for Requested Citations, the basis for my opinions made during the deposition, and found on p. 61, lines 3-12 and on p. 97, line 2, and listed under "Citations supporting assertions made during the March 17, 2016 Deposition of Mr. Kunkel" in the "Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel" served on Midwest Generation, LLC on March 31, 2016.

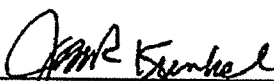
The documents and information identified and cited to in response to Midwest Generation's Third Request for Documents are, to the best of my recollection and after my Review for Requested Citations, the citations upon which I relied upon to support each of my opinions identified in the requests.

I do not recall with specificity any additional documents or information beyond those which I identified above after my Review for Requested Citations but the record in this case is voluminous and I reviewed thousands of pages of information.


Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

I have personal knowledge of the facts stated herein.

FURTHER AFFIANT SAYETH NOT.


James. R. Kunkel, Ph.D., P.E.

The signature above of James R. Kunkel, Ph.D., P.E., was subscribed and sworn to before me in the county of Jefferson, state of Colorado, this 18 day of October 2016, 2016.


Notary Public
My commission expires 5/16/2019

KIM PRINCE
NOTARY PUBLIC
STATE OF COLORADO
Notary ID 19984028833
My Commission Expires 05/16/2019

Requested Citations from the March 17, 2016 Deposition of Dr. James R. Kunkel

Citations from Deposition Exhibit 3: July 1, 2015 Expert Report on Ground-water Contamination (“the Contamination Report”) by James R. Kunkel, Ph.D., P.E.

1. Citations to the definition of “coal ash” on p. 4 of the Contamination Report:

Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposition of Coal Combustion Residuals from Electric Utilities, 75 Fed. Reg. 35130 (proposed June 21, 2010) (to be codified at 40 C.F.R. pt. 257 and 40 C.F.R. p. 261); and

Coal Ash Basics, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/coalash/coal-ash-basics#01> (last visited March 31, 2016).

2. Citation for the assertion “Plastic was placed directly on the side slope Poz-o-Pac and attached to the ash pond concrete discharge structures” on p. 9 of the Contamination Report: Bates MWG13-15 28034.
3. Citation to document containing Joliet boring logs on p. 10 of the Contamination Report: ENSR Consulting, *Phase II Environmental Site Assessment of the ComEd Joliet #29 Generating Station, 1800 Channahon Road, Joliet, Illinois* at Bates MWG13-15 23301–23597 (Dec. 1998).
4. Citation to document containing Powerton boring logs on p. 17 of the Contamination Report: ENSR Consulting, *Phase II Environmental Site Assessment of the ComEd Powerton Generating Station, Route 29 & Mantino Road, Pekin, Illinois* at Bates MWG13-15 3253-3348 (Dec. 1998).
5. Citation to document supporting the statement “MWG documents indicate that this liner damage was caused by the use of heavy equipment during dredging” on p. 21 of the Contamination Report: Bates MWG13-15 14271.
6. Citation to documents supporting the statement “prior to these relining events, the written record shows that the Waukegan ash ponds were lined in 2002 with Hypalon but apparently continued to leak, which resulted in the 2003 and 2005 relining of the ponds” on p. 22 of the Contamination Report: Bates MWG13-15 11961 and 44615-44617.
7. Citation to document supporting the statement “written documentation available from MWG on Will County ash pond reconstruction, retirement and maintenance in 2012 and 2013 indicates that the ash ponds leaked until at least 2013 and likely continue to leak due to poor liner construction and maintenance” on p. 30 of the Contamination Report: Bates MWG13-15 48612.

8. Citation to document supporting the statement “However, during a routine inspection of the pond after coal ash dredging in June 2012” on p. 30 of the Contamination Report: Bates MWG13-15 14177.
9. Citation to Waukegan ENSR Phase II Environmental Site Assessment: ENSR Consulting, *Phase II Environmental Site Assessment of the ComEd Waukegan Generating Station, 10 Greenwood Avenue, Waukegan, Illinois* at Bates MWG13-15 45779-46054 (Nov. 1998).

Citations from Deposition Exhibit 5: December 8, 2015 Rebuttal Report to Expert Report of John Seymour, P.E. (“the Supplemental Rebuttal Report”) by James R. Kunkel, Ph.D., P.E.

1. Citation to documents supporting the assertion “MWG has photographs and other documentation showing construction equipment on the pond liners covered only with the 1-ft sand ‘cushion’ layer” on p. 10 of the Rebuttal Report: Bates MWG13-15 31492-31493.
2. Citation to information regarding the Colstrip Montana Steam Electric Station referenced on p. 10 of the Rebuttal Report: Bates Comp. 053540.

Citations supporting assertions made during the March 17, 2016 Deposition of Mr. Kunkel

1. Citations to documents supporting the assertion that photographs depict the uneven surface of the Poz-o-Pac at Joliet 29: Bates MWG13-15 49484 and 49486.
2. Citations to photographs supporting the assertion that 18-wheelers were on the impoundments at the plants: Bates MWG13-15 55021, 55027, and 55031.