

**IN THE APPELLATE COURT OF ILLINOIS  
FOR THE FOURTH DISTRICT**

MIDWEST GENERATION, LLC,	)	Petition for Review of
	)	Final Order of the
Petitioner	)	Illinois Pollution
	)	Control Board in its
v.	)	Docket No. R20-19
	)	
ILLINOIS POLLUTION CONTROL BOARD,	)	
	)	
Respondent.	)	

**PETITION FOR REVIEW**

Petitioner, Midwest Generation, LLC, hereby petitions the Illinois Appellate Court, Fourth District, for review of certain portions of the regulations promulgated by the Illinois Pollution Control Board (“Board”) in 35 Ill. Adm. Code 845 (“Part 845”) by means of a final order entered on April 15, 2021, with an effective date of April 21, 2021. Petitioner submits this petition in accordance with 415 ILCS 5/29 and 415 ILCS 5/41. Petitioner seeks review of portions of the order promulgating the following portions of Part 845: (1) the requirements for closure by removal in 35 Ill. Adm. Code 845.740; (2) the definition of “Inactive Surface Impoundment” in 35 Ill. Adm. Code 845.120; and (3) the requirement for monthly groundwater elevation monitoring in 35 Ill. Adm. Code 845.650.

DATED: May 25, 2021

Respectfully submitted,

/s/ Kristen L. Gale  
*Attorney for Petitioner*

Kristen L. Gale, ARDC #6283338  
Susan M. Franzetti, ARDC # 3125061  
Vince Angermeier, ARDC # 6305379  
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**IN THE APPELLATE COURT OF ILLINOIS  
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MIDWEST GENERATION, LLC,	)	Petition for Review of a
	)	Final Order of the
Petitioner	)	Illinois Pollution
	)	Control Board in its
v.	)	Docket No. R20-19
	)	
	)	
ILLINOIS POLLUTION CONTROL BOARD,	)	
	)	
Respondent.	)	

**NOTICE OF FILING OF PETITION FOR REVIEW**

TO: Illinois Pollution Control Board  
Clerk of the Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)  
[PCB.Clerks@illinois.gov](mailto:PCB.Clerks@illinois.gov)

Please take notice that on May 25, 2021 Midwest Generation, LLC electronically filed in the Appellate Court of Illinois, Fourth District, its Petition for Review of portions of the Illinois Pollution Control Board's Regulation 35 Ill. Adm. Code 845, promulgated by means of a final order entered on April 15, 2021 and effective on April 21, 2021, a copy of which is hereby served upon you.

/s/ Kristen L. Gale  
Kristen L. Gale  
*Attorney for Petitioner*

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Susan M. Franzetti, ARDC # 3125061  
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**PROOF OF SERVICE**

The undersigned certifies that on this 25th day of May, 2021, I served the enclosed Petition for Review and this Notice of Filing and Certificate of Service upon the Illinois Pollution Control Board at the email addresses and address listed in the Notice of Filing by depositing these materials, properly addressed and first class postage prepaid, before 5:00pm, in the U.S. Mail and via email.<sup>1</sup>

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.

/s/ Kristen L. Gale  
Kristen L. Gale  
*Attorney for Petitioner*

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<sup>1</sup> Section 102.100(b) of the Illinois Pollution Control Board Rules states that persons taking part in regulatory hearings are participants and not parties. 35 Ill. Adm. Code 102.100(b). In any case, Midwest Generation, LLC is also electronically providing the Petition for Review and Notice of Filing to the rulemaking participants identified in the Rulemaking Participants Service List.

<u><b>RULEMAKING PARTICIPANTS SERVICE LIST</b></u>	
<p>Don Brown, Assistant Clerk  <a href="mailto:Don.brown@illinois.gov">Don.brown@illinois.gov</a>                      Vanessa Horton, Hearing Officer  <a href="mailto:Vanessa.Horton@illinois.gov">Vanessa.Horton@illinois.gov</a>                      Illinois Pollution Control Board                      James R. Thompson Center                      Suite 11-500                      100 West Randolph                      Chicago, Illinois 60601</p>	<p>Stefanie N. Diers  <a href="mailto:Stefanie.diers@illinois.gov">Stefanie.diers@illinois.gov</a>                      Christine M. Zeivel  <a href="mailto:Christine.Zeivel@illinois.gov">Christine.Zeivel@illinois.gov</a>                      Clayton J. Ankney  <a href="mailto:Clayton.Ankney@illinois.gov">Clayton.Ankney@illinois.gov</a>                      Illinois Environmental Protection Agency                      1021 N. Grand Ave., East, P.O. Box 19276                      Springfield, Illinois 62794-9276</p>
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<p>Faith Bugel  <a href="mailto:fbugel@gmail.com">fbugel@gmail.com</a>                      1004 Mohawk                      Wilmette, IL 60091</p>	<p>Kiana Courtney  <a href="mailto:KCourtney@elpc.org">KCourtney@elpc.org</a>                      Environmental Law &amp; Policy Center                      35 E. Wacker Dr., Ste. 1600                      Chicago, IL 60601</p>

Electronic Filing: Received, Clerk's Office 05/26/2021

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<p>Chris Newman <a href="mailto:newman.christopherm@epa.gov">newman.christopherm@epa.gov</a> Jessica Schumacher <a href="mailto:Schumacher.Jessica@epa.gov">Schumacher.Jessica@epa.gov</a> USEPA – Region 5 77 West Jackson Blvd. Chicago, IL 60604-3590</p>	<p>Melissa Legge <a href="mailto:mlegge@earthjustice.org">mlegge@earthjustice.org</a> Earthjustice 48 Wall Street, 15th Fl. New York City, NY 10005</p>
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<p>Melissa S. Brown <a href="mailto:melissa.brown@heplerbroom.com">melissa.brown@heplerbroom.com</a> Jennifer M. Martin <a href="mailto:Jennifer.Martin@heplerbroom.com">Jennifer.Martin@heplerbroom.com</a> Heplerbroom, LLC 4340 Acer Grove Drive, Springfield, IL 62711</p>	

No: 4-21-0304

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**IN THE APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT**

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MIDWEST GENERATION, LLC, )  
)  
*Petitioner,* ) Petition for Review of a Final Order of  
) the Illinois Pollution Control Board in  
) its Docket No. R 20-019  
ILLINOIS POLLUTION CONTROL )  
BOARD, )  
)  
*Respondent.* )  
)

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**NOTICE OF FILING**

To: **Illinois Pollution Control Board**  
Don Brown, Clerk  
James R. Thompson Center, Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601  
PCB.Clerks@illinois.gov  
Don.brown@illinois.gov

**PLEASE TAKE NOTICE** that on May 25, 2021, Petitioner-Appellant, Midwest Generation, LLC, caused to be filed with the Appellate Court of Illinois, Fourth District, the Appearances of their attorneys of record.

Respectfully submitted,

Dated: May 25, 2021

By:     /s/ Kristen L. Gale    

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Susan M. Franzetti, ARDC # 3125061  
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Electronic Filing: Received, Clerk's Office 05/26/2021

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*Attorneys for Petitioners*



No: 4-21-0304

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**IN THE APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT**

---

MIDWEST GENERATION, LLC,	)	
	)	Appeal from the Illinois Pollution
<i>Petitioner,</i>	)	Control Board
	)	
	)	Petition for Review of a Final Order of
ILLINOIS POLLUTION CONTROL	)	the Illinois Pollution Control Board in
BOARD,	)	its Docket No. R 2020-019
	)	
<i>Respondent.</i>	)	
	)	

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**APPEARANCES**

The below-listed individuals, as counsel, enter their appearances as attorneys of record for  
Petitioner, Midwest Generation, LLC.

Dated: May 25, 2021

By:     /s/ Kristen L. Gale    

Kristen L. Gale, ARDC #6283338  
Susan M. Franzetti, ARDC # 3125061  
Vince Angermeier, ARDC # 6305379  
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kg@nijmanfranzetti.com  
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*Attorneys for Petitioners*

**CERTIFICATE OF FILING AND SERVICE**

The undersigned, an attorney, certifies that on May 25, 2021, the foregoing Notice of Filing and Appearances were filed with the Clerk of the Court for the Illinois Appellate Court, Fourth Judicial District, by using the File and Serve Illinois system.

The undersigned also certifies that on May 25, 2021, true and correct copies of the Notice of Filing, Appearances, and this Certificate of Service were served by email and U.S. mail on Respondent at the e-mail addresses and street address listed below.<sup>1</sup>

**Illinois Pollution Control Board**

Don Brown, Clerk  
James R. Thompson Center, Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601  
PCB.Clerks@illinois.gov  
Don.brown@illinois.gov

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.

*/s/ Kristen L. Gale*

---

Kristen L. Gale, ARDC #6283338  
Susan M. Franzetti, ARDC # 3125061  
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*Attorneys for Petitioners*

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<sup>1</sup> Section 102.100(b) of the Illinois Pollution Control Board Rules states that persons taking part in regulatory hearings are participants and not parties. 35 Ill. Adm. Code 102.100(b). As a courtesy, Midwest Generation, LLC is also electronically providing the Appearances and Notice of Filing to the rulemaking participants identified in the Rulemaking Participants Service List.

<b><u>RULEMAKING PARTICIPANTS SERVICE LIST</u></b>	
<p>Don Brown, Assistant Clerk  <a href="mailto:Don.brown@illinois.gov">Don.brown@illinois.gov</a>                      Vanessa Horton, Hearing Officer  <a href="mailto:Vanessa.Horton@illinois.gov">Vanessa.Horton@illinois.gov</a>                      Illinois Pollution Control                      Board James R. Thompson                      Center Suite 11-500                      100 West Randolph                      Chicago, Illinois 60601</p>	<p>Stefanie N. Diers  <a href="mailto:Stefanie.diers@illinois.gov">Stefanie.diers@illinois.gov</a>                      Christine M. Zeivel  <a href="mailto:Christine.Zeivel@illinois.gov">Christine.Zeivel@illinois.gov</a>                      Clayton J. Ankney  <a href="mailto:Clayton.Ankney@illinois.gov">Clayton.Ankney@illinois.gov</a>                      Illinois Environmental Protection Agency 1021                      N. Grand Ave., East, P.O. Box 19276                      Springfield, Illinois 62794-9276</p>
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