

June 15, 2023

Richard Huggins
Branch Chief, Energy Recovery and Waste Disposal, U.S. EPA
One Potomac Yard
2777 S. Crystal Drive
Arlington, Virginia 22202-3553

Submitted via e-mail.

RE: Waukegan Generating Station, Midwest Generation LLC
CCR Part A Demonstration, Request for Additional Information

Chief Huggins,

The purpose of this correspondence is to request a new cessation-of-waste deadline for the East Ash Pond at Midwest Generation LLC's (MWG) Waukegan Generating Station ("Waukegan" or "the Station"). As detailed in our Demonstration for a Site-Specific Alternative Deadline to Initiate Closure ("Demonstration") that was submitted to U.S. EPA on behalf of the Station on November 30, 2020, and the subsequent progress report submitted to U.S. EPA on March 1, 2022, MWG originally expected to cease sending non-coal combustion residual (CCR) wastestreams to Waukegan's East Ash Pond by June 16, 2023, at which point MWG expected to have a new stormwater retention basin operational.

However, realized delays in receiving a construction permit to close the Station's West Ash Pond and repurpose it as a stormwater retention basin require the Station to continue sending non-CCR wastestreams to the East Ash Pond beyond June 16, 2023. Because there is no existing regulatory procedure for requesting an extension on a demonstration submitted pursuant to 40 CFR 257.103(f)(1) on which U.S. EPA has yet to issue a final determination, MWG is requesting an extension via this letter.

Per MWG's November 2020 Demonstration and March 2022 progress report, MWG is planning to close the West Ash Pond and repurpose the entire area as a stormwater retention basin. This decision was based on the relatively short construction schedule required to convert the West Ash Pond into a stormwater retention basin given the minimal material remaining in the pond and the existing infrastructure in-place to send non-CCR wastestreams to the pond. On January 28, 2022, MWG submitted a closure construction permit application to the Illinois EPA which included details of MWG's plan to close the West Ash Pond and re-use its existing liner and infrastructure for the new stormwater retention basin. However, MWG has yet to receive a construction permit from the Illinois EPA to close the West Ash Pond, and MWG cannot close or modify Waukegan's West Ash Pond until the Illinois EPA issues the subject permit¹.

Given the absence of a construction permit to convert the West Ash Pond into a stormwater retention basin, and based on the anticipated schedule required to receive a permit and complete construction, MWG is requesting U.S. EPA allow Waukegan to continue operating the East Ash Pond until October 15, 2024. In accordance with 40 CFR 257.103(f)(1)(v), the Station will cease operating the East Ash Pond if the required stormwater retention basin is constructed sooner.

Pursuant to 40 CFR 257.103(f)(1)(vi), the East Ash Pond must cease receiving all wastestreams no later than October 15, 2023 unless it qualifies as an "eligible unlined CCR surface impoundment," in which case the maximum operating deadline extension is October 15, 2024. Therefore, MWG is providing the following demonstration that the East Ash Pond meets the definition of an "eligible unlined CCR surface impoundment."

¹ Per the Illinois Environmental Protection Act, "No person shall...close any CCR surface impoundment without a permit granted by the [Illinois EPA]." 415 ILCS 5/22.59(b)(2).

Per 40 CFR 257.53, an “eligible unlined CCR surface impoundment” is a CCR surface impoundment that meets all of the following conditions (a) through (c).

(a) The owner or operator has documented that the CCR unit is in compliance with the location restrictions specified under 40 CFR 257.60 through 257.64.

As documented in the location restrictions assessment completed by Geosyntec Consultants in October 2018, the East Ash Pond is in compliance with the location restrictions specified under 40 CFR 257.60 through 257.64.

(b) The owner or operator has documented that the CCR unit is in compliance with the periodic safety factor assessment requirements under 40 CFR 257.73(e) and (f).

As documented in the initial assessment completed in October 2016 by Geosyntec Consultants and the subsequent periodic assessment completed in October 2021 by Sargent & Lundy, the East Ash Pond is in compliance with the periodic safety factor assessment requirements under 40 CFR 257.73(e) and (f).

(c) No constituent listed in Appendix IV to 40 CFR Part 257 has been detected at a statistically significant level exceeding a groundwater protection standard defined under 40 CFR 257.95(h).

As documented in the annual groundwater monitoring and corrective action reports prepared by KPRG & Associates, Inc. since January 2018 in accordance with 40 CFR 257.90(e), no constituent listed in Appendix IV to 40 CFR Part 257 has been detected in the East Ash Pond’s groundwater monitoring well network at a statistically significant level exceeding a groundwater protection standard defined under 40 CFR 257.95(h) that is attributable to the East Ash Pond.

Based on the preceding demonstration, the East Ash Pond meets all three criteria required to qualify as an eligible unlined CCR surface impoundment. Thus, pursuant to 40 CFR 257.103(f)(1)(vi), the East Ash Pond can continue operating beyond October 15, 2023.

We look forward to working with the U.S. EPA as we continue developing alternative disposal capacity for the East Ash Pond. Please contact me at (302)-540-0327 or david.bacher@nrgenergy.com to address any questions regarding this submittal.

Sincerely,



David Bacher
Senior Regional Manager
Environmental Business, NRG Energy, Inc.

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