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STATE OF ILLINOIS  
ENVIRONMENTAL PROTECTION AGENCY

IN RE:

NOTICE OF WATER DISCHARGE PERMIT PUBLIC HEARING NPDES  
PERMIT IL0004057

DYNERGY MIDWEST GENERATION, L.L.C. VERMILION POWER STATION

PUBLIC HEARING  
TUESDAY, AUGUST 6, 2013

## I N D E X

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## SPEAKERS:

PAGE

Dean Studer

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Amy Zimmer

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Robert Mosher

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Deborah Williams

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Brian Cox

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Traci Barkley

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Eileen Borgia

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STATE OF ILLINOIS

ENVIRONMENTAL PROTECTION AGENCY (IEPA)

IN RE:

NOTICE OF WATER DISCHARGE PERMIT PUBLIC HEARING NPDES

PERMIT IL0004057

DYNERGY MIDWEST GENERATION, L.L.C. VERMILION POWER STATION.

PUBLIC HEARING held on Tuesday, the 6<sup>th</sup> day of August,  
2013,

between the hours of 6:00 P.M. and 6:50 P.M. at the Hebron

United Methodist Church, 20664 Newtown Road,

Oakwood, Illinois 61858, before Carmella Traverso, a

Registered Certified Shorthand Reporter and a Notary Public

within and for the State Of Illinois.

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2

## APPEARANCES

3

HEARING OFFICER:

4

5

DEAN STUDER:

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Illinois Environmental Protection Agency

7

1021 Grand Avenue East

8

P.O.BOX 19276

9

Springfield, Illinois 62794-9276

10

217-558-8280

11

[dean.studer@illinois.gov](mailto:dean.studer@illinois.gov)

12

13

FOR THE IEPA:

14

AMY ZIMMER:

15

Environmental Protection Geologist

16

Division of Public Water Supplies

17

18

ROBERT G. MOSHER:

19

Manager, Water Quality Standards Section

20

Bureau of Water

21

22

DEBORAH J. WILLIAMS:

23

Assistant Counsel, Division of Legal Counsel

24

25

BRIAN COX, Environmental Engineer, Water Pollution Control

26

and Permit Writer

27

28

COURT REPORTER:

29

CARMELLA TRAVERSO:

30

Illinois CSR

31

15540 West Janas Drive

32

Homer Glen, Il. 60491

33

708-704-4773

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35

36

Hearing Began at 6:00 P.M.

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1

2 (Hearing began at 6:00 P.M.)

3 HEARING OFFICER STUDER: You can hear okay in the  
4 back, I presume? My name is Dean Studer, and I am the Hearing  
5 Officer for the Illinois Environmental Protection Agency on  
6 behalf of Director Lisa Bonnett. I welcome you to tonight's  
7 hearing.

8 My purpose tonight is to ensure that this proceeding  
9 runs efficiently and according to rules. At this time I need  
10 to point out an error that the Illinois EPA has discovered  
11 in the hearing notice for this proceeding.

12 The NPDES Permit Number given in the middle of  
13 Page 2 in the hearing notice is incorrect. The hearing notice  
14 incorrectly gives two different NPDES Permit Numbers.  
15 Obviously, one of these is not accurate. The correct NPDES  
16 Permit Number for this facility is IL0004057. Again, the  
17 correct NPDES Permit Number is IL0004057. When the hearing  
18 notice was prepared, the template used was from another  
19 facility, and some information contained in the template was  
20 erroneously left in the final hearing notice. The Illinois  
21 EPA regrets these errors and apologizes for any confusion or  
22 inconvenience that they may have caused. Correct hearing  
23 notices have been prepared and have been made available at  
24 this hearing. So, if you picked up a hearing notice here

1       tonight, it contains correct information in it. The correct  
2       hearing notice is also posted on the Illinois EPA webpage  
3       for this proceeding.

4               This is an informational hearing before the Illinois  
5       EPA in the matter of the renewal of a National Pollutant  
6       Discharge Elimination System referred to as NPDES Permit  
7       for Dynegy Midwest Generation Vermilion Power Station.  
8       The Illinois EPA has made a preliminary determination that  
9       this project meets the requirements for obtaining a permit  
10      and has prepared a draft reissued permit for review.

11              Authorities for the Illinois EPA to reissue this  
12      permit is contained in Section 39 of the Illinois  
13      Environmental Protection Act, 415 ILCS 5/39. In pertinent  
14      part, this section reads, "It shall be the duty of the  
15      Agency to issue such a permit upon proof by the Applicant  
16      that the facility, equipment, vehicle, vessel, or  
17      aircraft will not cause a violation of this Act or of  
18      regulations hereunder."

19              The decision by the Agency in this matter will be  
20      based upon the technical merits of the application as they  
21      relate to compliance with this statute and regulations  
22      promulgated under it. The Agency decision will not be based  
23      on how many people desire for the permit to be issued or on  
24      how many people desire for the permit not to be issued, but

1       rather on compliance with the law and regulations.  Issues  
2       tonight must relate to the NPDES permit in some way.

3               Brian Cox, a Permit Engineer in the Division of  
4       Water Pollution Control at the Agency will provide additional  
5       information on the permit reissuance in his opening remarks  
6       which will be made following my opening statement.

7               Other issues relevant to tonight's hearing include  
8       compliance with the requirements of the Clean Water Act and  
9       rules set forth in 35 Illinois Administrative Code,  
10      Subtitle C, potential impacts to receiving waters from the  
11      proposed discharge, and water quality in the receiving waters.  
12      Issues relevant to this proceeding have a direct bearing on  
13      the NPDES permit or some other aspect of water pollution  
14      control.  If the subject matter of your comment begins to drift  
15      away from NPDES issues, I will interrupt and ask that you move  
16      to your next relevant issue.  Let's try and keep to the  
17      issues tonight pertaining to the NPDES permit.

18              The Illinois EPA is holding this hearing for the  
19      purpose of accepting comments from the public on our draft  
20      permit.  This public hearing is being held under the provision  
21      of the Illinois EPA's procedures for permit and closure plan  
22      hearings which can be found in 35 Illinois Administrative  
23      Code, Part 166, Subpart A, and in accordance with the  
24      requirements of the Illinois Pollution Control Board NPDES

1 regulations of 35 ILL. Adm. Code 309.115 through 309.119.  
2 Copies of these regulations are available at the Illinois  
3 Pollution Control Board website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us), or,  
4 if you do not have easy access to the web, you may contact me  
5 and I will get a copy for you.

6 An informational hearing means exactly that. This is  
7 strictly an informational hearing. It is an opportunity for  
8 you to provide information to the Illinois EPA concerning the  
9 permit. This is not a contested case hearing.

10 I would like to explain how tonight's hearing is  
11 going to proceed. First, I will have the Illinois EPA panel  
12 introduce themselves and provide a sentence or two regarding  
13 their involvement in the permit review process. Then, Permit  
14 Engineer Brian Cox will speak regarding the draft permit.  
15 This will be followed by further instructions as to how  
16 statements and comments will be taken during this hearing and  
17 as to appropriate conduct during this hearing. Following  
18 these additional instructions, I will allow the public to  
19 speak.

20 If you have not signed a registration card at this  
21 point, please see Barb Lieberoff at the registration table,  
22 and she will provide you with one. You may indicate on the  
23 card that you would like to make oral comments tonight.  
24 Everyone completing a card legibly or providing their



1 business card to Ms. Lieberoff tonight or submitting  
2 written comments during the comment period will be  
3 notified when the Illinois EPA reaches a final decision  
4 in this matter. A responsiveness summary will be made  
5 available at that time.

6 In the responsiveness summary the Illinois EPA will  
7 respond to all relevant and significant issues that were  
8 raised at this hearing or submitted to me prior to the close  
9 of the comment period. The comment period in this matter will  
10 close on August 26, 2013. I will accept written comments as  
11 long as they are postmarked by August 26<sup>th</sup>.

12 Illinois EPA is committed to resolving outstanding  
13 issues and reaching a final decision in this matter in an  
14 expeditious manner. However, the actual decision date in this  
15 matter will depend upon a number of factors including the  
16 number of comments received, the substantive content of those  
17 comments, staffing considerations, as well as other factors.

18 During tonight's hearing and during the comment  
19 period, relevant comments, documents and data will be placed  
20 into the hearing record as exhibits. Please send all written  
21 documents, that includes comments or data, to my attention.

22 And that's Dean Studer, Hearing Officer, RE: Dynegy  
23 Vermilion NPDES, Illinois EPA, 1021 North Grand Avenue East,  
24 P.O.Box 19276, Springfield, Illinois 62794-9276. This address

1 is also listed on the public notice for the hearing, and those  
2 were also available at the registration table. Please  
3 reference Dynegy Vermilion NPDES or the NPDES Permit Number  
4 on your comments to help ensure that they become part of this  
5 hearing record.

6 Again, the NPDES Permit Number for this facility is  
7 I-L-0-0-0-4-0-5-7. In addition, e-mail comments will be  
8 accepted if sent to [epa.publichearingcom@illinois.gov](mailto:epa.publichearingcom@illinois.gov). Again,  
9 that information is also provided on the hearing notice. All  
10 e-mail comments should contain the words, "Dynegy Vermilion  
11 NPDES" or "IL0004057" in the subject line of the e-mail. That  
12 will help ensure that these are included in this hearing  
13 record. Please make sure that these words are spelled  
14 correctly as e-mails are electronically sorted and distributed  
15 and may not make it into the hearing record if the words in  
16 the subject line are misspelled. When your e-mail arrives,  
17 the system should send you an automated reply if the e-mail  
18 was received before the comment period ends and the e-mail has  
19 been properly sorted and distributed. Please note that the  
20 server can become quite busy in the minutes before the record  
21 closes, so you may want to take this into account when  
22 submitting your comments, as electronic comments received at  
23 or after the stroke of midnight as the date changes from  
24 August 26 to August 27 will not be considered timely

1 filed.

2 I will now ask the Illinois EPA panel to introduce  
3 themselves and provide a sentence or two regarding their role  
4 in the permit review process. Then Brian Cox, Permit  
5 Engineer, will provide a brief statement regarding the permit  
6 application and the draft reissued permit.

7 AMY ZIMMER: I am Amy Zimmer, and I work in the  
8 ground water section, and I look at ground water issues  
9 related to the site and to the Permit.

10 BOB MOSHER: I am Bob Mosher. I'm in the Water  
11 Quality Standards Unit, and I did the water quality based  
12 effluent limit analysis for the Permit.

13 DEBORAH WILLIAMS: I'm Debbie Williams from the  
14 Division of Legal Counsel.

15 BRIAN COX: I'm Brian Cox. I'm the Environmental  
16 Permit Engineer in the Division of Water Pollution Control  
17 Permit Section, and I drafted the Permit.

18 I will go ahead and give my opening statement now.  
19 My name is Brian Cox as Mr. Studer noted. I would like to  
20 briefly mention several modifications that have occurred at  
21 the facility which have resulted in changes to the NPDES  
22 Permit.

23 The first and most notable change is that the  
24 facility which was previously operated as a coal-fired power

1 plant was retired November 17, 2011. As a result, all  
2 contributory waste streams, except storm water runoff, have  
3 been eliminated, thereby resulting in the elimination of  
4 internal outfalls A01, A02, B01, B02, C01 and C02.  
5 Currently, discharges will only occur due to precipitation  
6 events which may cause overflows from the North Ash Pond,  
7 the Makeup Water Reservoir, and the East Ash Pond. The  
8 North and East Ash Ponds contain sludge which was previously  
9 generated from the treatment of the following waste streams:  
10 Fly ash with mercury sorbent residues and bottom ash transport  
11 water, ash hopper overflow, demineralizer regenerant wastes,  
12 water treatment clarifier sludge, water filter backwash waste,  
13 coal pile runoff, non-chemical metal cleaning wastes, boiler  
14 room and dust collector area floor drains, pyrites from coal  
15 crushing, chemical tank cleaning sludge and rinse waters,  
16 reverse osmosis reject, and cooling tower overflow. All  
17 discharges are tributary to the Middle Fork Vermilion River.

18 DEAN STRUDER: Thank you, Brian. While the issues  
19 raised tonight may indeed be heartfelt concerns to many of us  
20 here in attendance, applause is not appropriate during the  
21 course of this hearing. And on a similar note, booing,  
22 hissing, jeering are also not appropriate and will not be  
23 allowed during this hearing.

24 Secondly, statements made tonight are to relate to

1 the issues involving the reissuance of this permit.  
2 Specifically, statements and comments that are of a personal  
3 nature or reflect on the character or motive of a person or  
4 group of people are not appropriate at this hearing. If  
5 statements or comments begin to drift into an area that is not  
6 appropriate, I may interrupt the person speaking and ask that  
7 they proceed to their next relevant issue. As Hearing  
8 Officer, I do intend to treat everyone here tonight in a  
9 respectful and professional manner. I ask the public and  
10 members of the hearing panel to do the same. If the conduct  
11 of persons attending this hearing should become unruly, I am  
12 authorized to adjourn this hearing should the situation  
13 warrant. In such a case, the Illinois EPA would still  
14 accept written comments through the close of the  
15 comment period.

16 We are here primarily to listen to your environmental  
17 issues this evening. You may disagree with or object to  
18 some of the statements and comments made tonight, but this  
19 is a public hearing, and everyone has a right to express their  
20 comments on this matter.

21 Again, written comments are given the same  
22 consideration as oral comments received during this hearing  
23 and may be submitted to the Illinois EPA at any time within  
24 the comment period which ends on August 26, 2013. Although

1 we will continue to accept comments through that date,  
2 this is the only time that we will accept oral comments.  
3 Any person who wishes to make an oral comment may do so as  
4 long as the statements are relevant to the issues at hand and,  
5 of course, as time allows.

6           If you have lengthy comments, please consider giving  
7 only a summary of those comments during this hearing, and then  
8 you may submit comments in their entirety to me in writing  
9 before the close of the comment period, and I will ensure that  
10 they are included in the hearing record as an exhibit. Please  
11 keep your comments relevant to the issues at hand. If your  
12 comments fall outside the scope of this hearing, I will ask  
13 you to proceed to your next relevant issue. For the purpose  
14 of allowing everyone to have a chance to make comments and to  
15 ensure this hearing is conducted in a timely fashion, I will  
16 ask for a time limit of 12 minutes per speaker, initially.  
17 After everyone that has indicated on their registration card  
18 that they would like to speak has been given an opportunity to  
19 do so, I will allow those who initially did not desire to  
20 speak to do so. If time still permits, I may then allow those  
21 who initially ran out of time to speak again. Again, I want  
22 to remind everyone that written comments are given the same  
23 weight as oral comments that are made tonight.

24           I stress also that we want to avoid unnecessary

1 repetition. Once a point is made, it makes no difference  
2 whether that point is made once or whether it is made 99  
3 times. It will be considered, and it will be reflected only  
4 once in the responsiveness summary. The final decision of the  
5 Illinois EPA will not depend upon how many people support or  
6 oppose this project, but rather upon the application and its  
7 supporting documents indicating that the facility will comply  
8 with applicable laws and regulations.

9 We have a court reporter here tonight who is taking  
10 a record of these proceedings for the purpose of us putting  
11 together our administrative record. Therefore, for her  
12 benefit please keep the general background noise in the room  
13 to a minimum so that she can hear everything that is said.

14 Illinois EPA will post the transcript of this hearing  
15 on our webpage in the same general place where the hearing  
16 notice, draft permit, and other documents in this matter  
17 have been posted. It is my desire to have this posted in  
18 about a week to two weeks following the close of this hearing.  
19 However, the actual posting date will depend upon a number of  
20 factors, including when I get the transcript back from the  
21 court reporter.

22 When it is your turn to speak, I will call your name.  
23 Please come forward, and if you would stand right here, and if  
24 you would face the court reporter, and that way everyone in

1 the room should be able to hear you. Please come forward and  
2 state your name, and for the record with any governmental  
3 body, organization, or association that you are representing.  
4 If you are not representing a governmental body or an  
5 organization or an association, you may simply indicate that  
6 you are a concerned citizen or a member of the public. For  
7 the benefit of the court reporter, I ask that you spell your  
8 last name. If there are alternate spellings of your first  
9 name, you may also spell your first name. Once you spell your  
10 name, I will start timing. The time limit is 12 minutes.

11 I ask that while you are speaking, that you direct  
12 your attention to the hearing panel and to the court reporter  
13 to ensure that an accurate record of your comments can be  
14 made. Prolonged dialogue with members of the hearing panel or  
15 with others here in attendance is not permitted. Comments  
16 directed to members of the audience are also not permitted.

17 Again, I remind everyone that the focus of this  
18 hearing is the environmental issues associated with the  
19 NPDES Permit.

20 Are there any questions regarding the procedures that  
21 will be used for conducting this hearing?

22 (There was no response)

23 Okay, let the record indicate that no one raised  
24 their hand. The first person that has indicated on the



1 registration card the desire to speak is Traci Barkley.

2 TRACI BARKLEY: Good evening. My name is Traci  
3 Barkley - T-R-A-C-I, Barkley - B-A-R-K-L-E-Y. I would like to  
4 begin tonight by thanking the Panel from the Illinois EPA for  
5 hosting this public hearing. I am sure you aware the Middle  
6 Fork of the Vermilion River is a very special place, and  
7 there are folks who are concerned about the quality of this  
8 river remaining and the impact that this power plant has had  
9 to date on the river itself.

10 I am a Water Resource Scientist with the Prairie  
11 Rivers Network. We are the Illinois affiliate of the National  
12 Wildlife Federation, and we work to protect rivers and  
13 streams for people, fish, and wildlife throughout Illinois.  
14 Several of our members live and recreate in the Vermilion  
15 River watershed and continue to be at risk due to pollutants  
16 discharging and leaching from onsite ash pits associated with  
17 the Vermilion Power Plant.

18 Specifically, the following interests of our members and  
19 additional stakeholders may be adversely affected, including:

- 20 1) The use of the Middle Fork Vermilion River for  
21 recreational fishing.  
22 2) For recreational paddling and swimming.  
23 3) For wildlife that's enjoyed for hunting and aesthetic  
24 purposes.

1 4) The impact of contaminated groundwater and surface waters  
2 may have on property values.

3 5) The use of ground waters for watering of the gardens and/or  
4 pets.

5 6) The use of groundwater for potable drinking water supplies.

6 Members of the Prairie Rivers Network are also  
7 Illinois state taxpayers, who have an interest in seeing that  
8 the Agency protects the quality and quantity of the State's  
9 water, wildlife, and other natural resources.

10 I just want to note, there are additional  
11 stakeholders with concerns for upholding the quality of the  
12 Middle Fork Vermilion River, including the National Park  
13 Service, since the Middle Fork has designated us the National  
14 Aesthetics and Scenic River, Illinois Department of Natural  
15 Resources, as they have holdings with the Kickapoo State Park  
16 which borders the Vermilion Power Station on the east and the  
17 south, as well as well as the Middle Fork State Fish and  
18 Wildlife Area which borders the northern boundary. Kickapoo  
19 State Park outfitters and users including paddlers, anglers,  
20 campers, hikers. Middle Fork State Fish and Wildlife Area  
21 users, including paddlers, anglers, campers, hikers, horse  
22 trailing groups, as well as hunters and anglers that use  
23 adjacent lands and water for food and sport, and then those  
24 folks who live in this area that rely on the ground water for

1 drinking water source.

2 I will submit in my written comments all of the  
3 different ways that we find the river to be special, including  
4 the State and Federal Threatened and Endangered Species of  
5 which there are 24 in this river system. There are some  
6 organisms that are found nowhere else, including salamander.  
7 This river has extensive mussel populations, some of which are  
8 also Federally endangered or State endangered.

9 And the river system is also widely used by wildlife  
10 enthusiasts on trail, by boat, and along shoreline for  
11 wildlife viewing, photography, hunting, angling, hiking, and  
12 paddling. In fact, Kickapoo is only second to Starved Rock  
13 State Park in terms of usage.

14 Kickapoo Landing alone puts approximately 9,000 to  
15 10,000 people on the Middle Fork River in canoes, kayaks and  
16 tubes each year. So, this is a very special spot for people  
17 in this area and for folks who travel from Indiana, Illinois,  
18 and throughout the State to use this river.

19 So it only makes sense that our organization has some  
20 concerns about this Power Plant's operations, discharges,  
21 and lasting impact on the Middle Fork of the Vermilion  
22 River.

23 Our organization has been -- and actually, some of our  
24 board members have been watching this site for the last 40

1 years. Over the years in studying this site, we have learned  
2 that Dynegy's ash ponds were - there's three of them that were  
3 built in the flood plain of the Middle Fork of the Vermilion  
4 River. The ash ponds currently contain nearly 3 million cubic  
5 yards of coal ash, slurry, and coal waste material.  
6 The River has worn away at the riverside wall of 2 of 3 of  
7 these ash ponds, and engineered controls have repeatedly  
8 failed resulting in direct seepage of the coal ash  
9 constituents into the river. And I would like to submit some  
10 pictures, which I submitted before, but I will submit again  
11 to keep in the record of this hearing.

12 (Whereupon, Traci Barkley submitted pictures  
13 to Dean Studer)

14 I have 3 that show the walls of 2 of the ash ponds eroding,  
15 one of which shows the orange leachate from the coal ash  
16 ponds directly leaching into the river. Another one that  
17 shows that some plastic that was used to line part of the pond  
18 is ripped and has been eaten away by the river. And the third  
19 just shows the sluffing of the walls of the impounding walls.

20 We just asked for a researcher associated with the  
21 University to do an analysis looking at how much the course of  
22 the river has changed over time. He overlaid a map from  
23 1940 with one from 2012, and showed that half of the width of  
24 the river - The river has actually moved towards the ash ponds

1 over half of the width of this river. So, I wanted to submit  
2 this also.

3 (Whereupon, Traci Barkley submitted pictures  
4 to Dean Studer)

5 It shows an aerial photo from today with the course of the  
6 river as it was in 1940, and it shows that it has moved  
7 considerably into 2 out of 3 of those ash ponds.

8 DEAN STUDER: I will enter each one of these into the  
9 record as an exhibit, and those will be Exhibit 5, Exhibit 6,  
10 Exhibit 7, and Exhibit 8.

11 TRACI BARKLEY: We have also observed that the river  
12 has both a Spring and a Fall flood pulse which rises the  
13 river's water into the bottoms of the 2 unlined coal ash  
14 ponds. Groundwater adjacent to and underlying those coal ash  
15 ponds is connected to the river.

16 Coal ash pollutants have currently contaminated  
17 groundwater as noted by both Dynegy and the Illinois EPA  
18 exceeding standards for boron, sulfate, iron, manganese,  
19 and total dissolved solids.

20 And there's concern that underground mine subsidence  
21 may be destabilizing some of the ash pond walls as 2 of these  
22 ash ponds, actually, were built over existing old mine voids.

23 So, we have reported many things to the Agency over  
24 the years, including:

1 Decades of evidence of leaching from the North and the Old  
2 East Ash Ponds to the Middle Fork of the Vermilion River.  
3 Evidence of the gabion decay throughout the 30 year life,  
4 including total failure, at one point in less than 20 years.  
5 Evidence of massive dust clouds while canoeing in the Spring  
6 of 2012.  
7 And extensive comments regarding the need to remove the  
8 coal ash from the floodplain.

9           So, we are pleased to note that the Illinois EPA has  
10 issued a violation notice to Dynegy for violations of  
11 groundwater quality standards at several groundwater  
12 monitoring wells for excessive levels of boron, sulfates,  
13 manganese, total dissolved solids, iron, and for pH being  
14 out of range. So, we are glad that that action has been taken  
15 and is moving forward. We are also pleased to be working with  
16 your Agency and Department of Natural Resources towards  
17 an appropriate closure plan for these ash ponds in order  
18 to protect the Middle Fork of the Vermilion River for  
19 future generations, and we are very encouraged by what the  
20 Agency has done to date.

21           In looking at the plans at what Dynegy has put  
22 together and working with us to investigate stability of the  
23 ash ponds, and remaining open towards potential alternatives  
24 for closure --

1           DEAN STUDER: Traci, could you speak up a little bit  
2 more, I think they are having trouble hearing you in the back.

3           TRACI BARKLEY: Yes. But we do have some concerns  
4 regarding the permit that we are here to discuss tonight, and  
5 we currently object to its issuance as currently written.

6           So, our first objection is that the permit does not  
7 cover all the releases of pollutants from the Vermilion Power  
8 Station to Waters of the State. As I mentioned, the Power  
9 Station has 3 ash pits, all of which are in the floodplain,  
10 two are still open and covered under this permit.

11           But, it's our understanding that the third ash  
12 impoundment has been closed and reclaimed and is no longer  
13 included under this NPDES Permit. This closed ash impoundment  
14 is unlined and located in an area where natural seeps are  
15 common. We understand that seeps were noted in the late  
16 1970s, but rather than address them in a long-term way, the  
17 ash impoundment dams were simply raised and moved closer to  
18 the river bank and gabions were installed in 1981 to protect  
19 the toe of the dam.

20           For years before and after the gabions were  
21 installed, banks were saturated and stained orange by the  
22 leachate oozing from the unlined ash dump, which you can see  
23 in one of those photos.

24           Within 20 years, the leachate had dissolved the wire

1 cages, allowing gabions to begin collapsing into the river and  
2 allowing the contents to sweep downstream. That shredded  
3 geotextile fabric, which is in another one of those photos,  
4 which was once intended to prevent leaching, now hangs from  
5 many places along the banks where the gabions used to be.

6 Our concern is that this seepage has been happening  
7 for a long time, it continues to happen. It's reported to the  
8 Agency, though it's not mentioned in the permit. It's not  
9 a permitted outfall, which I understand, but it is a place  
10 where pollutants from the coal ash pit are leaching  
11 into the river, are discharging into the river whether it's  
12 permitted or not.

13 So, our concern is that it is an unpermitted  
14 discharge. And we assert that it is an illegal discharge to  
15 Waters of the State and must be included as part of this  
16 NPDES Permit.

17 Our second objection is that the Permit does not  
18 limit coal ash pollutants that currently threaten uses of the  
19 river. Coal ash contains many toxins including arsenic,  
20 mercury, cadmium, chromium, selenium, aluminum, antimony,  
21 barium, beryllium, boron, copper, lead, manganese, molybdenum,  
22 nickel, vanadium, and zinc.

23 These contaminants have been shown to cause birth  
24 defects, cancer, and neurological damage in humans and similar



1 damage to wildlife.

2 As I noted earlier, the Middle Fork of the Vermilion  
3 River is heavily fished and hunted. We feel it's imperative  
4 that mercury and other some of these other heavy metals and  
5 contaminants be monitored and limited. Yet, the permits  
6 proposed by the Agency only require that flow, pH,  
7 suspended solids, iron, and boron be monitored and limited  
8 prior to release to the Illinois River.

9 Our third objection is that these onsite, unlined ash  
10 ponds may be contributing pollutants to the Middle Fork  
11 through connection with groundwater. With every rain event,  
12 precipitation and runoff drains into these ash ponds and  
13 flushes the coal ash constituents towards the river. And  
14 as I noted previously, the Middle Fork is used heavily by  
15 wildlife, residents, and users of the Kickapoo State Park  
16 and the Middle Fork fish and wildlife area.

17 We do understand that there's a closure plan that's  
18 in the works by Dynegy, though I expect that the planning  
19 and implementation of the final plan may still be years  
20 in the making. So, one of the things we would like for the  
21 Agency and for Dynegy to explore is redirecting drainage from  
22 that site away from the ash ponds. The old one is not covered  
23 by the Permit, the old East Ash Pond, the North Ash Pond, and  
24 the new East Ash Pond that are currently not covered under the

1 Permit, and redirecting that flow maybe towards the Makeup  
2 Water Reservoir, so you avoid additional flushing of those  
3 coal ash pollutants altogether. And that could be a potential  
4 solution to avoid further contamination of the underlying  
5 groundwater as well.

6           And there's a whole list on the permit of all the  
7 different waste streams that have gone into those ash ponds,  
8 but the one that really adds up for us is the mercury sorbent  
9 residue. I'm not sure how much that equipment was used in the  
10 plant, but that was an air pollution control that was to take  
11 mercury out of what was going into the air, concentrate it,  
12 and now it's going into the ash ponds. So now it's  
13 concentrated mercury and probably some other metals as well.  
14 Of course, if you can avoid having that go into the Middle  
15 Fork of the Vermilion River we would like to see that  
16 done.

17           It doesn't seem like it would be that much to ask  
18 Dynegy to redirect some of their drainage away from the ash  
19 Ponds. I think if this were looked at in terms of the  
20 economics, there's no power even being generated at the  
21 station right now. So to justify pollution because of power  
22 generation, that justification isn't there. And it seems  
23 like if there's an opportunity to avoid it, it should be  
24 avoided.

1           And then finally, our fourth objection is because  
2 we don't feel like enough data has come together to look at  
3 what the existing impact from the power plant operation as to  
4 the discharge from those ponds has been and will continue to  
5 be on the river. And we asked two years ago that a facility  
6 related stream survey be done and a fish tissue analysis be  
7 done to determine the potential and existing impact from these  
8 discharges.

9           And a request was made to the Illinois EPA formally  
10 and informally and we also talked to the Department of Natural  
11 Resources. We asked that in this 2012 Intensive Basin  
12 Survey to collect fish tissues and do an analysis of what  
13 might be in the fish tissue. And I understand that that was  
14 not done in 2012, and probably won't be done if ever. The  
15 next time will be 2015, and that's a few years out.

16           So, it seems like this is an opportunity to collect  
17 additional data and information as to what happens at this  
18 site.

19           And I do have some questions that I can wait and give  
20 other folks a chance to make comments.

21           DEAN STUDER: Eileen Borgia.

22           EILEEN BORGIA: I am Eileen Borgia - B-O-R-G-I-A. I  
23 am not a scientist, and I am very new to environmental issues.  
24 My comments are going to be simple.

1                   First, the report by Traci Barkley should convince  
2                   you that the importance of this river is powerful. I think  
3                   that I have an essay by a gentleman who reminds us that two-  
4                   thirds of one percent of the planet's fresh water is in fresh  
5                   water rivers. That's what concerns me. We just don't have  
6                   enough of it. And the more of these chemicals that go into  
7                   this water, the worse we are going to be.

8                   I would just hope that the Environmental Protection  
9                   Agency would protect our river by denying such permits and  
10                   require that the industry do their responsible thing and  
11                   remove their awful pollutants. And I don't need to remind you  
12                   that super fund expenses that have gone on have gone  
13                   throughout this country and in my home area of New York are  
14                   awful wastes of money. Let's not continue to pollute rivers  
15                   when we have such few good sources of water. Thank you.

16                   DEAN STUDER: Thank you. Is there anyone who has  
17                   not yet spoken who would like to make comments on the  
18                   record this evening?

19   (There was no response)

20                   Let the record indicate that no one raised their hand when  
21                   I asked this question. I believe you had some questions that  
22                   you had wanted to ask here.

23                   TRACI BARKLEY: I had some questions. I didn't bring  
24                   all of them tonight, but I will submit them as part of my

1 final written comments. But I do have a petition for folks  
2 to sign if they have concerns about the coal ash remaining in  
3 the flood plain. We are asking that it be removed from the  
4 flood plain.

5 I know it's not for the NPDES Permit -

6 DEAN STUDER: For the record I do need to indicate  
7 that this is not a petition that Illinois EPA is taking a  
8 position on one way or another. And it really is best if the  
9 petition not be signed in the hearing room itself.

10 TRACI BARKLEY: Okay. I wanted to know, I mentioned  
11 that we submitted documentation about the leachate coming  
12 from 2 of the ash ponds into the river, and I wondered what  
13 has been done by the Illinois EPA to address that seepage into  
14 the river? Have there been inspections of that? Has anything  
15 been noted? Has that been part of a violation notice?

16 BRIAN COX: The violation notice addressed the ground  
17 water issues. Amy can touch more on that. And then also one  
18 of the other things, there's also been a notice of intent to  
19 pursue legal action meeting, and that occurred on February 7,  
20 2013. And that is, essentially, the extent of it.

21 It has also been investigated by Holly Hirschert of  
22 our Champaign Field Office, and I believe Bill Ettinger is the  
23 one who had also collected samples of that. I believe that's  
24 the extent as to what's been done to investigate it.

1           TRACI BARKLEY: I know a couple of years ago, I was  
2           in touch with Holly, and she was going out, but her comment  
3           back to me was that Illinois EPA does not regulate seepage.

4           So, I would like to know how does the Agency handle a  
5           direct link of pollution to a river that is not permitted  
6           by the State, is not allowed by the State, but it is clearly  
7           happening.

8           DEBORAH WILLIAMS: As you talked about earlier,  
9           and as Brian just said, we are obviously handling ground water  
10          pollution through the enforcement process. What we would  
11          want to see, in a situation you describe, is to have as  
12          many facts before us as possible, and we will review the  
13          factual information that comes in and provide an  
14          interpretation in the responsiveness summary about how we  
15          will handle the facts presented before us.

16          TRACI BARKLEY: I don't want to take this too far,  
17          but the violation notice is for ground water quality in wells  
18          and that seems like it is one level of non-compliance, but  
19          this is like the ash pond in content, in direct contact with  
20          the river and that leakage. I know the ground water is moving  
21          through that, but I just wondered how that situation right  
22          there can be addressed by the Agency?

23          DEBORAH WILLIAMS: I think the Agency will have to  
24          look into it, as I said, and explain in our responsiveness

1 summary.

2 AMY ZIMMER: I would just like to add, part of the  
3 enforcement process involving the ground water issues, solving  
4 the ground water issues will solve the seepage issue.  
5 It doesn't make natural seeps go away, but solving ground  
6 water contamination makes the ground water contamination  
7 portion go away. So, that's all part of the enforcement  
8 process.

9 TRACI BARKLEY: I guess I just wanted to make sure  
10 that it is not all a ground water issue, because when the  
11 river rises it is in contact with that ash pond, and it looks  
12 to me that it is as much a surface water issue as a ground  
13 water issue, because of that link between the pond, the  
14 failing walls, and the receiving waters. That's why the NPDES  
15 Permit - I just want to get it on the record that because  
16 this is about the surface waters and discharge of pollution  
17 from the site to a river, that seems like it may not be able  
18 to fully address where the ground water is being - Well, I  
19 will leave it there.

20 Two, I wondered why there aren't additional  
21 limitations on the outfalls where discharges exist from the  
22 North and East Ash Ponds where they enter the river at  
23 001 and 003?

24 BRIAN COX: You had mentioned in your statement that the

1       only thing is that we are limited on are low pH, TSS, boron  
2       and iron. And while that is correct they are the only ones  
3       that are currently limited, we do have monitoring for all of  
4       the metals that you had mentioned. It's just found within  
5       Special Condition 14 of the Permit, and that does require the  
6       monitoring of:

7       Antimony

8       Arsenic

9       Barium

10      Beryllium

11      Cadmium

12      Hexavalent Chromium

13      Total Chromium

14      Copper

15      Cyanide weak acid dissociable

16      Cyanide total

17      Fluoride

18      Dissolved Iron

19      Lead

20      Manganese

21      Mercury

22      Nickel

23      Phenols

24      Selenium



1 Silver

2 Thallium

3 Zinc

4 We have semi-annual monitoring of each of those  
5 metals for both of those outfalls, Outfall 001 and  
6 Outfall 003.

7 TRACI BARKLEY: So, has a recent analysis been  
8 done so that limits weren't needed?

9 ROBERT MOSHER: Yes, that's correct.

10 TRACI BARKLEY: Now that Dynegy is closed, do they  
11 have staff that can conduct that semi-annual sampling?

12 BRIAN COX: If it's in the Permits, they will have to  
13 have some sort of staff available to do that.

14 TRACI BARKLEY: What does semi-annual mean?

15 BRIAN COX: Semi-annual means once every six months,  
16 and we don't specify within the permit specifically when those  
17 samples have to be collected. It's just once within the  
18 first six-month period, and then the results of it has to be  
19 submitted in June, and the results of the other samplings  
20 have to be submitted in December.

21 TRACI BARKLEY: So, it seems like they are going to  
22 have to have a precipitation event to create a discharge  
23 for that sampling to be done.

24 BRIAN COX: That's correct. The NPDES Permit

1       only covers what's actually being discharged through  
2       those outfalls. And currently, there's no other waste streams  
3       being produced. So, the only discharge will be due to a  
4       precipitation event, and therefore, to collect any sampling  
5       that's what would need be done.

6                TRACI BARKLEY: I guess I just have concerns about  
7       whether Dynegy has staff on site and whether they will be  
8       able to take samples.

9                BRIAN COX: They do have automatic samplers.

10              TRACI BARKLEY: If high concentrations of any of  
11       those effluents are found, what will be done?

12              BRIAN COX: We would conduct a reasonable, potential  
13       analysis of the results that are received. And if those show  
14       that there is a reasonable potential to exceed our water  
15       quality standards, then we would consider placing limits on  
16       the Permit to address that.

17              TRACI BARKLEY: Has the Agency discussed with Dynegy  
18       the potential to reduce discharges from their site, like  
19       redirecting drainage to makeup water reservoir or just  
20       eliminating discharges entirely?

21              BRIAN COX: We haven't specifically had a meeting,  
22       at least that I have been present at, to address that.  
23       However, we can take that into consideration.

24              DEAN STUDER: Potentially, that could be part of the

1 enforcement case as well. So, Brian wouldn't necessarily  
2 be involved with those particular meetings at this level. And  
3 I am not going to go into what is discussed in the enforcement  
4 case in the Permit hearing.

5 TRACI BARKLEY: The map seems to indicate that there  
6 are two small streams that drain towards the North Ash Pond  
7 and the old East Ash Pond, and I just wondered where that  
8 water goes, those two drainage courses. And I wondered if  
9 those are directed around those ash ponds.

10 BRIAN COX: I would need to see a map to even know  
11 which streams you are talking about, because I honestly don't  
12 know which ones you are referring to.

13 TRACI BARKLEY: Maybe after the hearing, and I have  
14 maps that we could talk about. But there are two drainages  
15 that come off of the western wooded part of the property, and  
16 it looks like the old ash ponds are right where those streams  
17 would have cut through. So, I guess my concern is that that  
18 drainage is still cutting through those ash ponds and possibly  
19 picking up pollutants and carrying it towards the river.  
20 Or, it could be that Dynegy has redirected that and ditched  
21 it, somehow.

22 BRIAN COX: I will have to take a look at that, and  
23 we will address it later.

24 TRACI BARKLEY: I also wondered about dust issues at

1 the site. We have heard from people boating on the river and  
2 from a few residents' concerns about when conditions are dry,  
3 that sometimes there will be clouds of dust which is coming  
4 probably from that old reclaimed old East Ash Pond. I  
5 wondered if Illinois has done any inspections to look at  
6 vegetation or how you handle concerns about dust.

7 I know this is a water issue, but it does seem like  
8 if that's being kicked up and is dropping on the ground, that  
9 also could be running into the river.

10 BRIAN COX: We will have to look into that as well.  
11 That's the first complaint I have heard about the dust issue.  
12 And I can say that we were just at the site prior to this  
13 hearing, and it is well vegetated.

14 TRACI BARKLEY: How long will this Permit need to be  
15 in place now that Dynegy is closed?

16 BRIAN COX: As long as there is a discharge of  
17 pollutants in waters of the State, then NPDES Permits -

18 TRACI BARKLEY: Is there a chance this site could be  
19 taken over by another operation, and if so, what would  
20 that look like permit and discharge-wise?

21 BRIAN COX: Currently, there is no plan to have  
22 another facility begin operation. However, we would have  
23 no way of knowing until something like that occurs.

24 TRACI BARKLEY: So, is Dynegy required to clean up

1 this site prior to selling it to somebody else?

2 DEBORAH WILLIAMS: I think that goes beyond what we  
3 can answer. I mean, the question you are asking about what  
4 would be in the Permit if it was sold may be difficult to  
5 answer. We don't know the premise of what they would be doing  
6 with the site. If they were going to start it up as a power  
7 plant or put a Walmart there, so that would determine what  
8 kind of permitting they would need.

9 TRACI BARKLEY: Okay, that's all I have. Thank you.

10 DEAN STUDER: Is there anyone who has any additional  
11 comments they would like to make on the record while the  
12 record is open this evening?

13 (There was no response)

14 Okay, I remind everyone that we will be accepting  
15 written comments until the 26<sup>th</sup> of August on this Permit.  
16 And the hearing notice contains the appropriate protocol for  
17 submitting comments, and that we will be accepting those  
18 through August 26<sup>th</sup>.

19 This hearing is adjourned.

20 (Whereupon the Hearing ended at 6:50 P.M.)

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CARMELLA C. TRAVERSO, C.S.R.