



Protect the Middle Fork

TALKING POINTS

Tell the National Park Service to Follow the Law

In 2011, Dynegy-Midwest Generation closed its coal-fired power plant along the Middle Fork of the Vermilion River in east-central Illinois. The Middle Fork is Illinois' only National Scenic River. Dynegy, recently submitted a permit application to the U.S. Army Corps of Engineers for approval to install over a third of a mile of rip rap along bank of the Middle Fork, immediately upstream from Kickapoo State Park. This massive project is the first step in Dynegy's plan to cover and permanently leave 3.3 million cubic yards of toxic coal in unlined, leaking pits along the river. River advocates believe that Dynegy should move their ash to an upland, properly lined facility. By doing so, only short-term, interim and targeted bank reinforcement would be necessary to protect the river from the coal ash.

Because the Middle Fork is a designated National Scenic River, Dynegy's proposal must receive approval from the National Park Service (NPS). The NPS, along with the the Illinois Department of Natural Resources (IDNR) as the state administrator, are bound by Sections 7(a) and 10(a) of the National Wild and Scenic Rivers Act to protect and enhance the river's free-flowing condition, water quality, and outstanding remarkable values (ORV) for which the river gained its designation. These values include scenic, recreational, ecological, geologic and historic resources.



The Middle Fork is protected by federal law because of its outstanding scenic, recreational, ecological, and historical characteristics. Photo by Pam Richart, Eco-Justice Collaborative

Eco-Justice Collaborative

919 West University Avenue • Champaign, IL 61821 • Ph: 773.556.3417
Email: ejc@ecojusticecollaborative.org • Web: ecojusticecollaborative.org



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The U.S. Army Corps of Engineers ability to issue a Section 404 Permit for Dynegy's riverbank stabilization project depends on whether or not the National Park Service certifies that the project complies with the Wild and Scenic Rivers Act of 1968. Eco-Justice Collaborative believes that it does not, and that the National Park Service should withhold its approval.

The Wild and Scenic Rivers Act of 1968

Section 7(a) of the Wild and Scenic Rivers Act states:

"... no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration."

Section 10(a) of the National Wild and Scenic Rivers Act states:

"Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values."

Why Dynegy's Proposal Can Not be Approved by the NPS

Eco-Justice Collaborative believes that Dynegy's river bank stabilization project would violate the provisions of the Wild and Scenic Rivers Act and that, for the following reasons, the NPS and IDNR can not approve the project as proposed:

- **It would artificially constrain the river's free flowing condition** - Section 16(b) of the Act defines "free-flowing" as "existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping or other modifications of the waterway." Dynegy's project would significantly modify the channel morphology along 2,000 feet of riverbank. Approximately 11,500 cubic yards of rip-rap and stone toe protection, and an additional 2,000 cubic yards of soil, would be deposited below the ordinary high water mark. Rip-rap would extend up to 35 feet into the river from the top of bank.

The expressed intent of the project is to limit the natural migration of the river channel and constrain flow in this section of the river. By any definition, armoring the channel of a natural stream limits its free-flowing character. This is also a pre-emptive and unnecessary action to permanently obstruct the floodplain with a coal ash landfill. Now is the time to commit to removing the coal ash and returning the floodplain to the river system.

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- **The project would degrade water quality in the river.** The proposal would require extensive excavation of soils and sediments within the bed and bank of the river. These materials are known to be contaminated with heavy metals that leached into the groundwater and have traveled laterally through the river bank. Construction would take place over a 9 to 12 month period, re-suspending contaminated soils in the river channel and creating the likelihood that a portion of them will be conveyed downstream.
- **The project also would degrade the scenic values for which the river is designated.** The Middle Fork is known for its scenic beauty, with majestic bluffs, and upland and lowland forest that line its channel. The 17.1-mile scenic corridor is natural and undeveloped, with the exception of the property owned by Dynegy. The proposed project would create a stone bank along a third of a mile of the river using 24-inch diameter white boulders. This, combined with the 485 feet of white rip-rap Dynegy installed in 2016 along an adjacent ash pit would bring an artificial and unnatural look to nearly one half mile of the river.
- **It would harm recreational use of the river.** The Middle Fork is the centerpiece of a major recreation area in east-central Illinois. Each year thousands of people come from across the state to take part in river-oriented activities such as kayaking, canoeing, tubing, wading, fishing, birding and hiking. The Middle Fork runs through Kickapoo State Recreation Area, just south of the Dynegy property.
- **The proposed project would require in-stream construction on over a 1/3 mile of the river.** Plans prepared by Dynegy will require heavy equipment operating from within the river bed, with the construction zone extending up to 70 feet into the channel. This would inhibit or prevent recreational use of the river for significant periods of time, particularly since construction would need to take place when water levels are low, which generally coincides with prime recreational months.
- **The prospect of large-scale construction and the dispersal of additional pollution into the river may dissuade future users from coming to the Middle Fork.** Kayakers and canoeists encountering a lengthy, unpleasant and perhaps intimidating experience of 2,000 feet of in-stream construction may choose never to return to the Middle Fork.
- **The Riverbank Stabilization Project Is Not Consistent with Section 10(a) of the Wild and Scenic Rivers Act.** In June of 2016, the NPS concluded that Dynegy's 485-foot long riverbank stabilization project was not fully **consistent with Section 10(a) of The Wild and Scenic Rivers Act** and recommended the following actions be taken (see page 10):

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1. Remove the coal ash pits.
2. Remove the rock protection installed for stabilization, when the ash pits are relocated to restore the riverbank to a more natural condition.
3. Remove the pump house, downstream of the New East Ash Pit, which no longer is functional.
4. Remove the coal plant stack.
5. Continue coordination between stakeholders and agencies regarding the long-term restoration potential at the Dynegy site and the need for a comprehensive approach to riverbank management

Dynegy's most recent plan to build another 2,000 feet of wall means there would be rock wall along the west bank of this National Scenic River that is nearly 1/2 mile long. The National Park Service cannot determine that this project, with its attendant impacts, is consistent with the Wild and Scenic Rivers Act.

We need you to give the NPS the support it needs to withhold its approval of this massive project. Go to www.ecojusticecollaborative.org to send a letter to the National Park Service and Illinois DNR. While you can send the form letter, it will have far greater impact if you use these [talking points](#) to personalize your letter.

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