

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

**AMEREN ASH POND CLOSURE RULES
(HUTSONVILLE POWER STATION):
PROPOSED 35 ILL. ADM. CODE 840.101
THROUGH 840.144**

**R09-21
(Rulemaking – Land)**

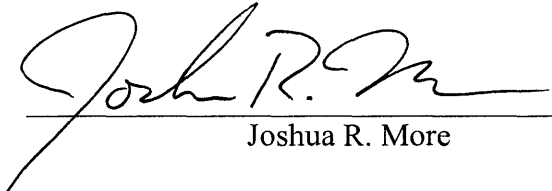
NOTICE OF FILING

To:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

Persons included on the
ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that we have today filed the attached, **RESPONSES TO
PREFILED QUESTIONS OF PRARIE RIVERS NETWORK**, with the Office of the Clerk
of the Pollution Control Board.



Joshua R. More

Dated: September 22, 2009

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**RESPONSES TO
PREFILED QUESTIONS OF PRAIRIE RIVERS NETWORK**

NOW COME Ameren Energy Generating Company (“Ameren”), by their respective attorneys, and in response to the questions filed by Prairie Rivers Network on September 1, 2009. Prairie River Network’s questions and Ameren’s responses are presented below.

Questions from Ameren’s Statement of Reasons:

Question 1: Why is the site-specific rule proposed as Subchapter j, Part 840 and Subpart A rather than as another subpart under Subchapter i: Solid Waste and Special Waste Hauling, as the dry ash management and disposal of coal combustion waste is (Part 816: Alternative Standards for Coal Combustion Power Generating Facilities Waste Landfills)?

Response: The placement of the proposed rule as a separate subpart within the Solid Waste Regulations is consistent with the direction provided through a march 5, 2009 Order issued by the Pollution Control Board (“Board”). (Attached hereto as Exhibit 1 is the Board’s March 5, 2009 Order).

Question 2: Since Ash Pond D is as close as 100 feet to the Wabash River, and the impoundment is unlined, have you determined how much loading of coal ash pollutants (sulfates, dissolved salts, boron, metals, etc) may be leaching into the river itself? Have these

background concentrations been considered when considering the addition of the water from the groundwater trench collection system to the Outfall serving Pond B under the NDPES permit?

Response: Yes. Loading calculations for various constituents have been calculated and are included in the Technical Support Document ("TSD") as appendices to the Risk Assessment (Chapter 7).

Question 3: P. 14. "The City of Hutsonville's public water supply wells draw groundwater from the deep alluvial aquifer approximately one mile south of Ash Pond D." Can you please describe what effort has been made to determine whether these wells are experiencing any impact from Ash Pond D's operation?

Response: Ameren installed temporary wells across the river in Indiana and along the river south of the plant (located between Pond D and the City of Hutsonville's water well intake point). Water quality sampling from these wells complied with Class I Groundwater Quality Standards as do samples from all the deep wells located on Ameren's property. Since sampling from all of the deep wells performed over the course of a decade reflects compliance with water quality standards and groundwater flows toward the Wabash River, there is no reason to believe that Hutsonville's drinking water wells are impacted from Pond D.

Questions from pre-filed testimony of Michael Bollinger

Question 4: P. 4. "Ameren believes that Pond D contains in total nearly a million cubic yards of ash with approximately one-third of this volume lying below the water table. Ameren anticipates that as part of final closure additional materials, including ash may be needed to establish a final slope and grade of this impoundment." Why is Ameren adding material to the Pond D site, instead of removing it for final placement in a lined and permitted

location?

Response: As part of closure, fill material will be needed to create the proper slope and grade of the impoundment. The plant property is fully utilized and consequently fill material is not available. Coal combustion material ("CCB") stacked and dewatering within Pond A is readily available and may be a cost-effective option. However, Ameren has not decided whether it will use additional coal combustion material for such purposes. If such material is used, it would be placed well above the water table, covered with a synthetic capping material, and isolated from precipitation or groundwater. The amount of CCB authorized for use in this manner is limited by slope and grade restrictions contained in the rule. When placed and used in this manner, the CCB would not have an adverse environmental impact. If CCB from Pond A is not used for Pond D cover or other beneficial use purposes, then it would most likely be left within Pond A, which is a lined facility, and not transported to a landfill.

Question 5: P. 5. "Existing regulations addressing waste, waste hauling and landfills do not sufficiently address the closure of surface impoundments such as Hutsonville wherein the ash material is intended to remain in place." This is an assumption on behalf of the applicant. What other options have been considered?

Response: Ameren has been trying to seek regulatory approval to close this ash pond for years and this rulemaking follows an earlier proceeding where relief was sought from certain landfill regulations. The Board ultimately ruled in that Petition for Adjusted Standard proceeding (AS 2009-01), that the proper procedural mechanism was for either a site specific or general rule and that a new subpart should be created. A copy of that Board order is attached as Exhibit 1. The Board also noted the inapplicability of landfill regulations during the time when

the pond was permitted and used as a water treatment device.

Question 6: P.5. "More importantly existing landfill regulations impose requirements that cannot be met given the fact that ash ponds that pre-date modern landfill requirements are designed and regulated during their active service as water treatment facilities in connection with the management of coal combustion waste associated with coal-fired plants." Please explain further how use during their active service prevents existing landfill regulations from being applied and met at the end of an ash impoundments active life.

Response: See Exhibit 1 and Ameren's Petition for Adjusted Standard, attached hereto as Exhibit 2. Those documents contain a summary of the issues and difficulties surrounding the closure of ash impoundments that pre-date landfill regulations and modern design requirements.

Question 7: P.8. "Water quality data from the deep alluvial aquifer consistently demonstrates compliance with Class I standards and we believe that the vertical migration of groundwater is restricted by a confining layer between the upper migration zone and deep alluvial aquifer. What leads you to this conclusion? If a confining layer were not preventing vertical movement of the water, can you estimate how long the contaminated water would take to travel to the groundwater well's sampling point?"

Response: Water quality at the site has been extensively studied over the last twenty-five years and sampling results consistently demonstrate that wells installed at various depths within the lower zone of the underlying aquifer are in compliance with Class I Groundwater Quality Standards or have nominal impacts and thus water conditions at depth are stable.

Question 8: P. 10. "It is unlikely that the removal of such a large volume of material is

technologically feasible. The saturated ash alone would require unconventional excavation techniques, such as dredging or mechanical sluicing and dewatering prior to transport to an off-site waste management facility." Why couldn't the dredged material be placed in a lined landfill on the Ameren property or on adjacent farmland (purchase land polluted by leachate) similar to the more recently placed coal ash waste?

Response: There is no available land at Hutsonville to construct a landfill and surrounding property is fully utilized for agricultural purposes. The cost of removal of such a large quantity of saturated and sodden ash is both exorbitant and technically infeasible at this site.

Question 9: P. 13. "Ameren also proposes to use, if necessary, coal combustion waste from Pond A as part of that final grading and slope." Please describe the material characterization and leachate testing that will be conducted to ensure that use of this material will not contribute additional pollutant loading to the site.

Response: CCB that would be used as part of closure is similar if not identical to the material already located in Ash Pond D. See response to Question 4 regarding placement which will mitigate additional pollutant loading.

Question 10: P. 16. "Under the proposal, no groundwater quality standards apply within Zones A and B." Please explain how this would affect the protection of existing uses and the application of the groundwater nondegradation standard.

Response: This concept has been abandoned in favor of an approach proposed by the Agency which applies Class I Groundwater Quality Standards in the upper zone of the underlying aquifer off-site, and nondegradation standards in the lower zone of the underlying

aquifer off-site. The applicable groundwater standards on-site are the measured constituents if they exceed Class I Groundwater Quality Standards.

Question from pre-filed proposed amendments from IEPA:

Question 11: Section 840.114 Groundwater Monitoring Program. (a) "The owner and operator of Ash Pond D must monitor 35 Ill. Adm. Code 620.410(a) and (d) except radium-226 and radium-228." Why are these two constituents excluded?

Response: This question appears to be directed to the Agency.

Question 12: Per Section 3.135 (a) (9) (B), "CCB shall not exceed Class I Groundwater Standards for metals when tested utilizing test method ASTM D3987-85. The sample or samples tested shall be representative of the CCB being considered for use." Why isn't this requirement referenced under Section 840.124?

Response: This question appears to be directed to the Agency.

Question 13: Why doesn't the additional use of coal combustion byproduct require an independent approval pursuant to Section 3.135 of the Act, according to IEPA's suggested edits to Section 840.124?

Response: While this question appears to be directed to the Agency, Ameren responds as follows. The proposed rule contains sufficient limitations on the quantity and placement of CCB that can be used in this manner and therefore no additional authorization is necessary to ensure protection of human health and the environment. In addition, the movement of such material is consistent with prior authorizations from the Agency.

Questions from pre-filed testimony of Stephen Nightingale, IEPA:

Question 14: We appreciate your request on behalf of the Agency for a moratorium on

additional site-specific rules for closure of coal combustion waste surface impoundments. Can you tell us why, given the fact that new federal rules regarding the management of coal combustion wastes are likely forthcoming, the Agency is not requesting that Ameren's Hutsonville Pond D activities also be placed on hold?

Response: While this question appears to be directed to the Agency, Ameren responds as follows. Ameren believes that such a moratorium is both inappropriate and is an action that can only be considered and undertaken by the Illinois General Assembly. Specifically, the right to seek a site-specific rule is set forth in the Illinois Environmental Protection Act and as such, a moratorium can only be imposed through legislative action and not through a Board order. . Ameren, therefore, opposes such request and opposes the granting of any such moratorium. Furthermore, the closure of ash ponds under a regulatory program, such as the proposed site-specific rule, is protective of human health and the environment, and is both economically reasonable and technically feasible for Ameren to implement. Lastly, we believe it is important to note that in Mr. Nightingale's testimony, and presumably in support of the Agency's request for a moratorium, Mr. Nightingale identifies a number of Ameren impoundments (25) that he suggests may be the subject of site-specific rulemaking. In reality and in the near short-term, only a handful of Ameren facilities have impoundments that have or will be taken out of service and would be subject to site-specific closure similar to Ash Pond D.

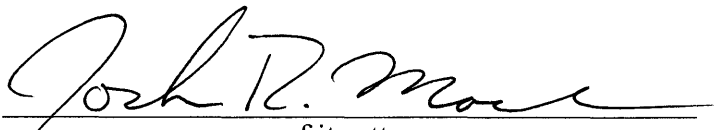
Question 15: If USEPA re-determines coal combustion waste to be "hazardous" in nature per RCRA, would Subchapter C, Part 724 regulations governing standards for hazardous waste treatment, storage and disposal facilities be sufficient to govern the closure of Ameren's Hutsonville Pond D?

Response: While this question appears to be directed to the Agency, Ameren responds as follows. Until USEPA proposes and enacts rules governing coal combustion waste, we do not know how such material will be characterized or whether such characterization and rules will be applicable to ash ponds similar to Ash Pond D. The promulgation and enactment of implementing rules could take years. The Company believes that final closure of impoundments when they are no longer permitted as water treatment devices is both prudent and environmentally responsible.

Respectfully submitted,

AMEREN ENERGY GENERATING COMPANY

by:


one of its attorneys

Dated: September 22, 2009

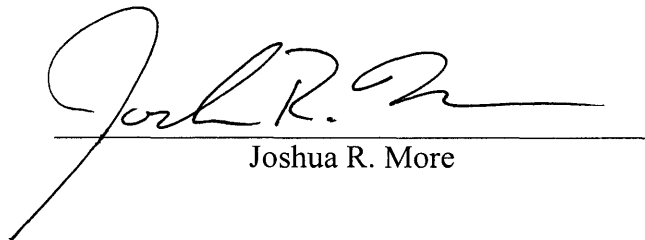
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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 22nd day of September, 2009, I have served electronically the attached, **RESPONSES TO PREFILED QUESTIONS OF PRARIE RIVERS NETWORK**, upon the following persons:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
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Chicago, Illinois 60601

and by first class mail, postage affixed upon persons included on the **ATTACHED SERVICE LIST**.



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