

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
AMEREN ASH POND CLOSURE RULES)	R09-21
(HUTSONVILLE POWER STATION) :)	(Rulemaking – Land)
PROPOSED 35 ILL. ADM. CODE 840.101)	
THROUGH 840.144)	

NOTICE

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

Virginia Yang
General Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
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Matthew J. Dunn, Chief
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Environmental Bureau, North
69 West Washington St., Suite 1800
Chicago, Illinois 60602

Tim Fox, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 W. Randolph
Chicago, Illinois 60601

Attached Service List

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois Environmental Protection Agency's Post-Hearing Comments, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Mark Wight
Mark Wight
Assistant Counsel
Division of Legal Counsel

DATE: October 23, 2009

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P.O. Box 19276
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S POST-HEARING COMMENTS

The Illinois Environmental Protection Agency ("Agency") respectfully submits its post-hearing comments in the above-titled matter to the Illinois Pollution Control Board ("Board") pursuant to 35 Ill. Adm. Code 102.108(b) and the direction of the Hearing Officer in the order issued on October 9, 2009.

I. OVERVIEW

On May 19, 2009, the Ameren Energy Generating Company ("Ameren") filed its Petition with the Board seeking amendment of the Board's waste rules by adding a new Part 840 for the site-specific closure of certain surface impoundments for coal combustion waste ("CCW"). In particular, Ameren proposed 35 Ill. Adm. Code 840.Subpart A to govern the closure of the unlined ash impoundment designated as "Pond D" at Ameren's Hutsonville Power Station in Crawford County. Ameren's proposal included requirements for a final cover system for the impoundment, a groundwater monitoring system and program, and a groundwater collection trench to address off-site impacts. On August 18, 2009, the Agency filed proposed revisions to Ameren's proposal that expanded upon several of Ameren's proposed requirements, revised off-site groundwater corrective action objectives and compliance points, and added requirements and procedures for direct Agency oversight throughout the closure process.

Shortly after the filing of the Agency's proposed amendments, Ameren initiated contact to explore the resolution of outstanding differences. Following several discussions over a period of approximately four weeks, Ameren and the Agency were able to reach agreement on revisions to the Agency's proposed amendments to Ameren's original proposal. The jointly proposed revisions were filed with the Board on September 22, 2009. On September 29, 2009, the Board held a hearing on the matter in Robinson, Crawford County, Illinois attended by Ameren, the Agency and other interested parties including the Prairie Rivers Network. Approximately 100 pages of testimony were gathered, and eight exhibits were admitted to the record. During the course of questioning, the Agency was asked, along with Ameren, to address three drafting issues. The Agency's post-hearing comments consist of its responses to those requests.

II. AGENCY'S COMMENTS

1. On pages 106 and 107 of the transcript, Mr. Rao noted that the joint proposal overlooks the inclusion of the groundwater monitoring system maintenance plan required by Section 840.112(d) in the closure plan requirements of Section 840.130. The Agency agrees this correction is needed and proposes the following amendment to Section 840.130(f):

- f) Plans, specifications and drawings for ~~Description of~~ the groundwater monitoring system required by Section 840.112110 of this Subpart, including, but not limited to, a description of the maintenance plan required by Section 840.112(d).

2. On pages 107 and 108 of the transcript, Mr. Rao noted that Sections 840.120 and 840.122 consist of large paragraphs that could be read and referenced more easily if they were reorganized into subsections. Ameren and the Agency have consulted and agreed to propose the following reorganized sections in replacement of the same sections in the joint proposal currently before the

Board:

Section 840.120 Groundwater Collection Trench

- a) The owner or operator of Ash Pond D must design, install, and, consistent with any applicable wastewater discharge permit conditions, operate a groundwater collection trench along the south property boundary of the Hutsonville Power Station to prevent migration of groundwater impacted by Ash Pond D south of the property boundary.
- b) Plans for the groundwater collection trench including, but not limited to, a plan for operation and maintenance, must be approved by the Agency in the closure plan.
- c) The groundwater collection trench must be constructed according to a construction quality assurance program that meets the requirements of Section 840.146 of this Subpart.
- d) Once compliance with the groundwater quality standards as set forth in Section 840.116 has been achieved in accordance with Section 840.118(a), the owner or operator of Ash Pond D may discontinue operation of the groundwater collection trench.
 - 1) Upon discontinuing operation of the groundwater collection trench, the owner or operator must perform four quarterly sampling of the groundwater monitoring system wells as identified in the post-closure care plan, or modification thereof, to ensure compliance with the applicable groundwater quality standards set forth in Section 840.116.
 - 2) Results of the four quarterly sampling must be included in the post-closure report documentation. If compliance is not confirmed, operation of the groundwater collection trench and discharge system must be resumed.

Section 840.122 Groundwater Discharge System

- a) Groundwater collected in the groundwater collection trench must be directed to an outfall for which the Hutsonville Power Station has NPDES authorization or to another option as approved by the Agency in the closure plan or post-closure care plan.
- b) The groundwater discharge system must be constructed according to a construction quality assurance program that meets the requirements of Section 840.146 of this Subpart.

- c) Plans for the groundwater discharge system including, but not limited to, a plan for operation and maintenance, must be approved by the Agency in the closure plan.

III. CONCLUSION

Based on its evaluation of the information provided in Ameren's Technical Support Document and related discussions, the Agency believes the proposal provides a technical and legal framework for addressing the closure of the Hutsonville facility's Ash Pond D and associated groundwater contamination. The coal combustion waste will be capped by a final cover system consistent with landfill design and construction standards. Groundwater contamination will be mitigated using the collection trench to intercept and capture additional contamination migrating off-site to the south and to pull back contamination already off-site. These components will combine to effectively remediate the upper zone of the underlying aquifer and remove future contaminant recharge from the lower zone of the aquifer thereby restoring off-site groundwater for existing and future beneficial uses without negatively impacting surface water. The Agency urges the Board to adopt the proposal for First Notice.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Mark Wight
Mark Wight
Assistant Counsel

Date: October 23, 2009

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STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Illinois Environmental Protection Agency's Post-Hearing Comments upon the persons to whom they are directed, by procedures specified by the Illinois Pollution Control Board or by placing copies in envelopes addressed to:

John T. Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 W. Randolph
Chicago, Illinois 60601
(Electronic Filing)

Virginia Yang
General Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
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(First Class Mail)

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(Attached Service List – **First Class Mail**)

and sending or mailing them, as applicable, from Springfield, Illinois on October 23, 2009, and with sufficient postage affixed as indicated above.

Mark Wight
Brenda Boemer

SUBSCRIBED AND SWORN TO BEFORE ME

This 23rd day of October, 2009.

Dawn A. Hollis
Notary Public

