

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 13-41
)	(Enforcement - Land)
AMEREN ENERGY RESOURCES,)	
GENERATING COMPANY, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on June 20, 2014, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, OBJECTION TO MOTION FOR SUBSTITUTION, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: s/ Raymond J. Callery
Raymond J. Callery
Assistant Attorney General
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500 South Second Street
Springfield, Illinois 62706
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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OBJECTION TO MOTION FOR SUBSTITUTION

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of Illinois, hereby objects to the Motion for Substitution filed by Respondent, Ameren Energy Resource Generating Company's ("AERG") and AmerenEnergy Medina Valley Cogen, L.L.C. ("Medina Valley"), and states as follows:

1. AERG and Medina Valley filed their Motion for Substitution on April 17, 2014 seeking to have Median Valley substituted as the Respondent in this matter.
2. According to the supporting Affidavit of Craig W. Stensland ("Stensland Affidavit"), Medina Valley is the proper Respondent in this matter as a result of the Assignment and Assumption Agreement dated November 26, 2013 ("Assumption Agreement") between AERG and Medina Valley.
3. AERG has admitted that it was the owner of the Duck Creek Power Generating Station ("Duck Creek") during the relevant time period. Answer at ¶ 5.
4. AERG has admitted that it used approximately 180,000 tons of coal ash material to construct the railroad embankment and haul road at Duck Creek. Answer at

¶ 7.

5. AERG has admitted that it submitted data in July 2004 showing the coal ash material exceeded Class I Groundwater Standards for antimony, boron and chromium.

Answer at ¶ 8.

6. AERG has admitted that it submitted data in November 2006 showing the coal ash material exceeded the Class I Groundwater Standards for antimony, boron and silver. Answer at ¶ 9.

7. AERG has admitted that it did not obtain a permit or a beneficial use determination from the Illinois EPA before using the coal ash material to construct the railroad embankment and haul road at Duck Creek. Answer at ¶ 16.

8. The Complaint alleges AERG violated Sections 21(a), (d)(2), (e) and (r) of the Act, 415 ILCS 5/21(a), (d)(2), (e) and (r) (2010), as a result of its actions.

9. Regardless of the Assumption Agreement between AERG and Medina Valley, AERG remains liable to Complainant for its violations of the Act.

10. Section 101.403 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.403, provides as follows:

- a) The Board, on its own motion or the motion of any party, may add a person as a party to any adjudicatory proceeding if:
 - 1) A complete determination of a controversy cannot be had without the presence of the person who is not already a party to the proceeding;
 - 2) The person who is not already a party to the proceeding has an interest that the Board's order may affect; or

- 3) It may be necessary for the Board to impose a condition on the person who is not already a party to the proceeding.
- b) The Board will not dismiss an adjudicatory proceeding for misjoinder of parties. The Board will not dismiss an adjudicatory proceeding for nonjoinder of persons who must be added to allow the Board to decide an action on the merits without first providing a reasonable opportunity to add the persons as parties. As justice may require, the Board may add new parties and dismiss misjoined parties at any stage of an adjudicatory proceeding.

11. Rather than being substituted for AERG as the respondent in this matter, Medina Valley should be joined as an additional party respondent pursuant to Section 101.403(a) of the Board's Procedural Rules.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, for the above and foregoing reasons, respectfully objects to the Motion for Substitution.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: s/Raymond J. Callery
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Environmental Bureau
Assistant Attorney General

500 South Second Street
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(217) 782-9031
Dated: June 20, 2014

CERTIFICATE OF SERVICE

I hereby certify that I did on June 20, 2014, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING and OBJECTION TO MOTION FOR SUBSTITUTION to the following:

Renee Cipriano
Francis X. Lyons
Deborah Bone
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Carol Webb
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1021 North Grand Avenue East
Springfield, IL 62794

s/Raymond J. Callery
Raymond J. Callery
Assistant Attorney General

This filing is submitted on recycled paper.