

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
 )  
COAL COMBUSTION WASTE (CCW) ) R14-10  
ASH PONDS AND SURFACE ) (Rulemaking – Water)  
IMPOUNDMENTS AT )  
POWER GENERATING FACILITIES: )  
PROPOSED NEW 35 ILL.ADM. )  
CODE 841 )

**NOTICE OF FILING**

TO: Mr. John T. Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
**(VIA ELECTRONIC MAIL)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **POST-HEARING COMMENTS OF PRAIRIE POWER, INC.** copies of which are herewith served upon you.

Respectfully submitted,

PRAIRIE POWER INC.,

Dated: October 20, 2014

By: /s/ Jennifer M. Martin  
Jennifer M. Martin

N. LaDonna Driver  
Jennifer M. Martin  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900

**CERTIFICATE OF SERVICE**

I, Jennifer M. Martin, the undersigned, hereby certify that I have served the  
attached **POST-HEARING COMMENTS OF PRAIRIE POWER, INC.**, upon:

Mr. John T. Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

via electronic mail on October 20, 2014; and upon:

Stephen Sylvester, Esq.  
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by depositing said documents in the United States Mail, postage prepaid, in Springfield,  
Illinois, on October 20, 2014.

/s/ Jennifer M. Martin  
Jennifer M. Martin

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IMPOUNDMENTS AT	)	
POWER GENERATING FACILITIES:	)	
PROPOSED NEW 35 ILL.ADM.	)	
CODE 841	)	

**ENTRY OF APPEARANCE OF N. LADONNA DRIVER**

NOW COMES N. LaDonna Driver, of the law firm of HODGE DWYER & DRIVER, and hereby enters her appearance on behalf of PRAIRIE POWER, INC., in the above-referenced matter.

Respectfully submitted,

By: /s/ N. LaDonna Driver  
N. LaDonna Driver

Dated: October 20, 2014

N. LaDonna Driver  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
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**ENTRY OF APPEARANCE OF JENNIFER M. MARTIN**

NOW COMES Jennifer M. Martin, of the law firm of HODGE DWYER & DRIVER, and hereby enters her appearance on behalf of PRAIRIE POWER, INC., in the above-referenced matter.

Respectfully submitted,

By: /s/ Jennifer M. Martin  
Jennifer M. Martin

Dated: October 20, 2014

Jennifer M. Martin  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
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**POST-HEARING COMMENTS OF PRAIRIE POWER, INC.**

NOW COMES Prairie Power, Inc. ("PPI"), by its attorneys, HODGE DWYER & DRIVER, and pursuant to the Hearing Officer Order entered on July 25, 2014, timely files the following Post-Hearing Comments related to the rulemaking proposals submitted by the Illinois Environmental Protection Agency ("Illinois EPA") and the Environmental Integrity Project, Environmental Law and Policy Center, Prairie Rivers Network and Sierra Club (collectively "the Environmental Groups") in the above-referenced matter ("the Proposed Rules").

**I. BACKGROUND**

PPI's Pearl Power Station ("Pearl Station") was a 22 megawatt coal-fired generating facility. PPI serves ten (10) distribution cooperatives that serve the rural areas of 29 Illinois counties. PPI operated one ash impoundment at the Pearl Station which ceased accepting coal ash prior to May 1, 2012. By letter dated June 8, 2012, PPI notified Illinois EPA that the coal burning steam unit at the Pearl Station was officially decommissioned.

At the direction of Illinois EPA, PPI performed a hydrogeological site investigation at the Pearl Station ash impoundment in 2012 and early 2013. In 2013 and



2014, PPI closed the ash impoundment under the supervision of Illinois EPA and pursuant to an approved closure plan and approved groundwater management zone ("GMZ"). PPI's closure plan was drafted to meet the requirements of the Site-Specific Rule adopted for the Hutsonville Power Station. *In the Matter of: Ameren Ashpond Closure Rules (Hutsonville Power Station): Proposed 35 Ill. Adm. Code 840.101 through 840.152* (January 20, 2011); 35 Ill. Admin. Code Part 840 ("Hutsonville Site-Specific Rule").

At Illinois EPA's request, and with an eye toward satisfying what would be required by the developing rules here, PPI took all necessary actions to complete the closure of the Pearl Station ash impoundment in accordance with the Hutsonville Site-Specific Rule. PPI closed the Pearl Station ash impoundment with a cover system that consisted of a 40 mil HDPE geomembrane and a three foot compacted earth layer, and the cover system was designed and constructed in such a manner which satisfies the requirements of §§ 841.415 and 841.420 of the Illinois EPA's Proposed Rule.

Groundwater monitoring and post-closure care, in accordance with the established GMZ and Post-Closure Care Plan, is ongoing at the Pearl Station. The work performed by PPI at the Pearl Station ash impoundment involved an enormous expenditure of time and resources, including coordination with Illinois EPA to ensure their approval of the Closure Plan.

## **II. COMMENT**

Under Illinois EPA's Proposed Rule, PPI would be required to comply with all requirements of the Proposed Part 841 Rules unless the Illinois EPA determined, in its sole discretion, that the closure of the Pearl Station surface impoundment "satisfied the

requirements of this Part.” Proposed 35 Ill. Admin. Code § 841.145. There are no regulatory criteria in the Proposed Rules to guide the Illinois EPA’s exercise of discretion under proposed § 841.145 – no standards, no timeframes, and no procedure for an owner/operator to be notified of the Illinois EPA’s determination as to whether the closure has “satisfied the requirements of this Part.” Moreover, the Proposed Rules do not require Illinois EPA to make or memorialize such a finding.

PPI understands that Illinois EPA is proposing revisions to 35 Ill. Adm. Code § 841.145 and other regulations within the Proposed Rules that would provide PPI with the opportunity to demonstrate that it has met the requirements in the Proposed Rules for closure, as set forth in proposed §§ 841.415 and 841.420, and a post-closure care plan, as set forth in proposed § 841.135, and have the closure deemed complete and the post-closure plan approved. PPI appreciates the Illinois EPA’s efforts to provide more regulatory certainty under the Proposed Rules for sites like the Pearl Station, which have already completed closure in a manner consistent with the Hutsonville Site-Specific Rule and the Proposed Rules and received approval from Illinois EPA for their closure plan. As currently drafted, and notwithstanding PPI’s good faith efforts to complete closure of the Pearl Station ash impoundment in a manner which met all potentially applicable regulatory requirements, § 841.145 of the Proposed Rules provides PPI with no assurance that its closure of the Pearl Station ash impoundment will be approved by Illinois EPA. PPI generally supports the approach that will be proposed by Illinois EPA, and looks forward to participating with Illinois EPA and other parties in review and comment regarding the Illinois EPA’s proposed revisions to ensure that PPI’s significant work to

close the Pearl Station ash impoundment is recognized and subject to approval under the Proposed Rules.

**III. CONCLUSION**

WHEREFORE, for the foregoing reasons, Prairie Power, Inc., respectfully requests that the Board consider amendments to the Proposed Rules in its first notice opinion and order that would provide PPI with a reasonable option for obtaining relief from the requirements of the Proposed Rules at the Pearl Station ash impoundment, which has been closed in accordance with the requirements of the Hutsonville Site-Specific Rule and §§ 841.415 and 841.420 of the Proposed Rules.

Respectfully submitted,

PRAIRIE POWER INC.,

Dated: October 20, 2014

By: /s/ Jennifer M. Martin  
Jennifer M. Martin

N. LaDonna Driver  
Jennifer M. Martin  
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