

AGREED MOTION TO JOIN MEDINA VALLEY

Ameren Corporation on December 2, 2013, “completed a transaction resulting in the divestiture of its generation business including the Duck Creek Energy Center.” Mot. at 2. Following that transaction, “AERG and Medina Valley entered into an Assignment and Assumption Agreement, pursuant to which AERG assigned and Median Valley assumed any liabilities arising from the Complaint filed in this matter” (*Id.*) and “the authority to resolve the matter at issue” (Stip. at 4). Pursuant to this agreement, “Medina Valley is legally responsible for the violations alleged in the complaint herein.” Mot. at 2.

On August 7, 2014, the Board denied AERG’s motion to substitute Medina Valley as a respondent. The order noted that no motion to join Medina Valley had been filed and that the Board need not address the issue. People v. Ameren Energy Resources Generating Co., Inc., PCB 13-41, slip op. at 5 (Aug. 7, 2014). The parties now jointly move that the Board join Medina Valley as respondent. Mot. at 3, citing 735 ILCS 5/2-405 (2014); 35 Ill. Adm. Code 101.403(a) (Joinder of Parties).

The Board grants the parties’ joint motion to join Medina Valley as a respondent. In doing so, the Board notes that Medina Valley requests that the Board accept and adopt the stipulation and proposed settlement of this matter. Stip. at 16; *see* 35 Ill. Adm. Code 101.500(d). The Board has amended the caption to reflect joinder of Medina Valley and directs the Clerk to do so in future opinions and orders.

STIPULATION AND PROPOSED SETTLEMENT

On July 15, 2016, the People and ERG and Medina Valley filed a stipulation and proposed settlement. This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a).

Under the proposed stipulation, the respondents do not affirmatively admit the alleged violations and agree to pay a civil penalty of \$60,000. Stip. at 8. In addition, “to minimize groundwater migration through the coal combustion material fill area,” respondents agree to construct a low permeability barrier wall to a depth of 50-60 feet between the road and the rail line at the site. Stip. at 10 (design and construction parameters). Construction of the barrier wall must be completed within 24 months of the Board’s acceptance of the stipulation and proposed settlement. *Id.* at 11. Respondents then must perform and report the results of monitoring of groundwater elevation. *Id.* at 11-12. If the groundwater elevation exceeds 597 feet mean sea level at any point, respondents must submit an assessment report and proposed action to the Agency within 90 days. *Id.* at 13 (required elements of report). Respondents then must perform work required under the assessment reports and action plans according to any schedule approved by the Agency. *Id.* at 14. In addition, respondents must cease and desist from future violations that were the subject of the complaint. *Id.*

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2014); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 21, 2016, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive, flowing style.

John T. Therriault, Clerk
Illinois Pollution Control Board