

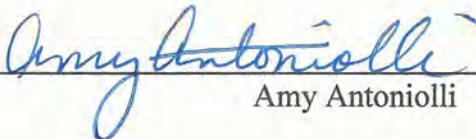
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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: ALL PARTIES ON THE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the **PRE-FILED QUESTIONS OF AMEREN MISSOURI AND AMERENENERGY MEDINA VALLEY COGEN, LLC ON THE ENVIRONMENTAL GROUPS' AMENDMENTS TO PROPOSED NEW 35 ILL. ADM. CODE PART 841**, copies of which are herewith served upon you.



Amy Antonioli

Dated: June 11, 2014

Amy Antonioli
SCHIFF HARDIN LLP
233 South Wacker Drive
Suite 6600
Chicago, Illinois 60606
312-258-5500

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PRE-FILED QUESTIONS OF AMEREN MISSOURI AND AMERENENERGY MEDINA VALLEY COGEN, LLC ON THE ENVIRONMENTAL GROUPS' AMENDMENTS TO PROPOSED NEW 35 ILL. ADM. CODE PART 841

On May 13, 2014, the Environmental Integrity Project, Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club (collectively, "Environmental Groups") filed amendments to proposed new 35 Ill. Adm. Code Part 841. Hearing was held in Chicago on May 14 and 15, 2014. On June 6, the Environmental Groups filed a post-hearing public comment ("PC 1879"). The questions below respond to both the Environmental Groups' proposed amendments and PC 1879.

I. Applicability (Section 841.805)

1. At hearing Mr. Armstrong stated that Subsection (c) was not intended to require facilities exempt under Subsection (b) to produce a new hydrogeologic site characterization, groundwater monitoring plan, or statistical analysis under the proposed Part 841. May 14, 2014, Tr. p. 196. The Environmental Groups' PC 1879 did not address this issue. Do you agree to delete the following language: "Justification for an exemption under subsection (b) of this Part also shall be included in any hydrogeologic site characterization for the exempted unit's power generating facility, the groundwater monitoring plan for any unit at the same power generating facility, and each statistical analysis for any unit at the same power generating facility."?

II. Definitions (Section 841.110)

2. Why do you delete the definition of "high priority resource groundwater"?

a. Do you think it was inappropriate for the Board to establish classes of groundwater in 35 Ill. Adm. Code Part 620 and to differentiate levels of protection based on those classes?

b. Do you think that water that meets the criteria for being drinkable in Part 620 deserves a higher level of protection than water that is, for instance, under a landfill?

3. Regarding your proposed amendment to the definition of "surface impoundment," do you think that a topographic depression, excavation or diked area that was not designed to hold coal combustion waste, but does in fact hold combustion waste, should be exempt from the proposed Part 841?

III. Compliance Period (Section 841.130)

4. In Subsection (b), do you think that the results of groundwater monitoring can provide relevant information to assist an owner or operator in preparing a closure plan and establishing background values? If so, how can an owner or operator that did not have a groundwater monitoring system in place use that information if the closure plan must be submitted and background values must be established before the groundwater information is obtained?

IV. Modification of Existing Permits (Section 841.150)

5. Do you agree that it would be inappropriate to require an owner or operator to submit a revised plan if it has appealed the denial to the Illinois Pollution Control Board?

6. Do you agree that it would be inappropriate to require an owner or operator to submit a revised plan if it agrees to comply with the National Pollutant Discharge Elimination System ("NPDES") permit currently in effect for the facility

V. Public Notice (Section 841.165)

7. Do you intend for the proposed changes to Section 841.165 to allow a public hearing on any alternative cause demonstration, corrective action plan, closure plan, or post-closure care plan or any modification to any of the preceding plans?

8. Do you agree that the five year deadline for complying with the proposed design criteria should be extended for units that seek to close within that deadline but are under time constraints due to requests for public hearing on any or all of the following: alternative cause demonstration, corrective action plan, closure plan, or post-closure care plan or any modification to any of the preceding plans?

VI. Inspection (Section 841.170)

9. Do you intend that weekly inspections are required even for units that are inactive and no longer receiving ash, but are not yet capped?

10. Is the purpose of the proposed Subsection (e) to assure dam safety? If so, what is the Board's authority to adopt this requirement?

VII. Statistical Analysis (Section 841.235)

11. Regarding the deletion of references to groundwater quality standards in Subsection (2)(B) and (3), do you think it was inappropriate for the Board to establish classes of groundwater in Part 620 and to differentiate levels of protection based on those classes? Do you think that water that meets the criteria for being drinkable in Part 620 deserves a higher level of protection than water that is, for instance, under a landfill?

VIII. Confirmation Sampling (Section 841.300)

12. In Subsection (b)(2) do you intend that an owner or operator should be required to initiate closure before the Agency has approved the closure plan?

IX. Alternative Cause Demonstration (Section 841.305)

13. Do you intend the modification in Subsection (c)(1) to prevent the owner or operator from implementing a corrective action plan and continuing to operate the surface impoundment?

X. Corrective Action Plan (Section 841.310)

14. If implementation of the corrective action plan will mitigate the exceedence of the groundwater standard, by what authority could the Board require "greater protection"?

15. Where is the term in Subsection (e)(5) "greater protection" defined? (see also proposed Section 841.410(a)(3))

16. Would the addition of an antidegradation demonstration process in Section 841.310 require an amendment to the NPDES permitting rules?

XI. Surface Impoundment Closure (Section 841.400)

17. Do you think closure by removal should be mandated under Subsection (b) in a circumstance where the site will be capped in accordance with Part 841, there is no potential for human ingestion of the groundwater as a drinking water, and the owner or operator has demonstrated that there is no measurable or observable impact to a surface water?

18. Do you think it would be appropriate to require removal of a unit under Subsection (b) in a circumstance where removal would threaten the structural integrity of an adjacent levee and thus threaten thousands of people and businesses with inundation of flood waters?

19. Is it your position that if an existing surface impoundment closes in place in accordance with the United States Environmental Protection Agency's proposed coal combustion residual rule (40 C.F.R. 257), it must nonetheless be removed unless the owner or operator can show that closure meets the requirements you have set forth in your proposed Section 841.400(b)?

Final Slope and Stabilization (Section 841.415)

20. Is it your intent in revising proposed Section 841.415(d) that coal combustion waste onsite cannot be re-graded?

21. Is it your position that re-grading should not be allowed even if it is necessary to achieve the final slope requirements in proposed Section 841.415(a)?

XII. Plan Review, Approval, and Modification (Section 841.500)

22. Is it your position that the Agency's approval of a plan is not a defense to an allegation that a plan approval must be obtained?

Respectfully submitted,



Ameren Missouri and AmerenEnergy Medina Valley Cogen, LLC

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 11th day of June, 2014, I have served the attached **PRE-FILED QUESTIONS OF AMEREN MISSOURI AND AMERENENERGY MEDINA VALLEY COGEN, LLC ON THE ENVIORNMENTAL GROUPS' AMENDMENTS TO PROPOSED NEW 35 ILL. ADM. CODE PART 841**, by first class mail, postage affixed, upon the persons in the attached service list.



Amy Antonioli

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