

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:)	
)	
COAL COMBUSTION WASTE)	
SURFACE IMPOUNDMENTS)	R14-10
AT POWER GENERATING)	(Rulemaking – Water)
FACILITIES: PROPOSED NEW)	
3S ILL. ADM. CODE 841)	

NOTICE OF FILING

To: John T. Therriault, Clerk
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, IL 60601

And Attached Service List

Please take notice that on October 20, 2014, I electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **Post-Hearing Comments of Prairie State Generating Company**, a copy of which is attached and herewith served upon you. A copy was also emailed to John T. Therriault, Clerk.

Respectfully submitted,

Prairie State Generating Company,

By 
Director of Environmental Services

Dated: October 20, 2014
James Andrew
Director of Environmental Services
Prairie State Generating Company
3872 County Hwy 12
Marissa, IL 62257
(618) 824-7655
Email: jandrew@psgc-llc.com

CERTIFICATE OF SERVICE

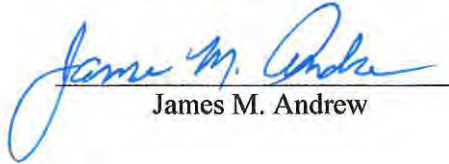
James Andrew, Director of Environmental Services for Prairie State Generating Company, herein certifies that he has served a copy of the foregoing NOTICE OF FILING and PRAIRIE STATE GENERATING COMPANY, LLC COMMENTS upon persons listed on the Service List by mailing, unless otherwise noted on the Service List, a true copy thereof in an envelope duly addressed bearing proper first class postage and deposited in the United States mail at Marissa, IL on October 21, 2014.

By:  _____

PROOF OF SERVICE
Service of Non-Attorney


I, the undersigned, on affirmation state that I have served on the date of October 21, 2014, the attached Notice of Filing providing Prairie State Generating Company Comments on Illinois Pollution Control Board Rule 14-10 Rulemaking, by mail, upon the following persons:

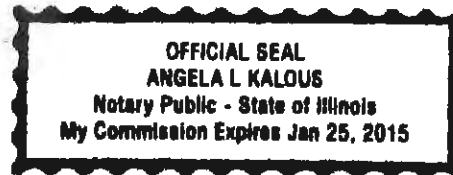
See attached Service List


James M. Andrew

Notary Seal

SUBSCRIBED AND SWORN TO BEFORE ME this 20th day of Oct., 2014.


Notary Public



Service List

<u>Party Name</u>	<u>Address</u>	<u>City/State/Zip</u>
<u>Office of the Attorney General</u> <ul style="list-style-type: none"> • Stephen Sylvester - Asst. Attny. General 	69 West Washington Street Suite 1800	Chicago IL 60602
<u>IEPA</u> <ul style="list-style-type: none"> • Joanne M. Olson - Assistant Counsel • James Jennings - Assistant Counsel 	1021 North Grand Avenue East P.O. Box 19276	Springfield IL 62794-9276
<u>Much Shelist PC</u> <ul style="list-style-type: none"> • David Rieser 	191 North Wacker Drive Suite 1800	Chicago IL 60606
<u>McDermott, Will & Emery</u> <ul style="list-style-type: none"> • Mark A. Bilut 	227 West Monroe Street	Chicago IL 60606-5096
<u>Schiff Hardin, LLP</u> <ul style="list-style-type: none"> • Amy Antonioli 	6600 Willis Tower 233 South Wacker Drive	Chicago IL 60606-6473
<u>Environmental Law and Policy Center</u> <ul style="list-style-type: none"> • Faith E. Bugel • Jessica Dexter • Jennifer L. Cassel • Andrew Armstrong • Josh Zaharoff 	35 E. Wacker Drive Suite 1600	Chicago IL 60601
<u>Sierra Club</u> <ul style="list-style-type: none"> • Jack Darin 	70 E. Lake Street, Suite 1500	Chicago IL 60601-7447
<u>Ameren Services</u> <ul style="list-style-type: none"> • * 	One Ameren Plaza PO Box 66149	St. Louis MO 63166
<u>Illinois Department of Natural Services</u> <ul style="list-style-type: none"> • *Office of General Counsel 	One Natural Resources Way	Springfield IL 62702-1271
<u>Southern Illinois Power Cooperative</u> <ul style="list-style-type: none"> • Jason McLaurin 	11543 Lake of Egypt Road	Marion IL 62959-8500

<u>Exelon Law Department</u> <ul style="list-style-type: none">• *	10 South Dearborn, 49 th Floor	Chicago IL 60603
<u>Prairie Rivers Network</u> <ul style="list-style-type: none">• Traci Barkley	1902 Fox Drive Suite 6	Champaign IL 61820
<u>Nijman Franzetti LLP</u> <ul style="list-style-type: none">• Susan M. Franzetti	10 South LaSalle Street Suite 3600	Chicago IL 60603
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<u>Dynegy Midwest Generation, Inc.</u> <ul style="list-style-type: none">• Rick Diericx- Senior Director	1500 Eastport Plaza Dr.	Collinsville IL 62234-6135
<u>Ameren</u> <ul style="list-style-type: none">• Michael Smallwood-Consulting Engineer	1901 Chouteau Avenue	St. Louis MO 63103
<u>Environmental Integrity Project</u> <ul style="list-style-type: none">• Abel Russ	1000 Vermont Avenue NW Suite 1100	Washington DC 20005
<u>Midwest Generation</u> <ul style="list-style-type: none">• Christopher Foley- Senior Counsel	500 West Madison Street Suite 2640	Chicago IL 60661
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<u>Kincaid Generation LLC</u>	P.O. Box 260	Kincaid IL 62540
<u>Prairie Power, Inc.</u> <ul style="list-style-type: none">• *	P.O. Box 10	Peral IL 62361
<u>NRG Energy, Inc.</u> <ul style="list-style-type: none">• Elizabeth Quirk-Hendry- General Counsel East Region• Keith Schmidt- Director of Environment	211 Carnrgie Center	Princeton NJ 08540

<u>NRG Energy, Inc.</u> <ul style="list-style-type: none">• Walter Stone- Vice President	8301 Professional Place Suite 230	Landover MD 20785
<u>City Water Light and Power</u> <ul style="list-style-type: none">• Christine G. Zeman	800 East Monroe	Springfield IL 62757

PRAIRIE STATE

Generating Company

PRAIRIE STATE GENERATING COMPANY, LLC
3872 County Highway 12
Marissa, IL 62257

October 20, 2014

Mr. John Therriault
Clerk
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

And Attached Service List

In the Matter of:

**Post-Hearing Comments of Prairie State Generating Company, LLC in R2014-010
Coal Combustion Waste (CCW) Ash Ponds and Surface Impoundments at
Power Generating Facilities: Proposed New 35 Ill. Adm. Code Part 841**

Prairie State Generating Company (“PSGC”) appreciates the opportunity to provide the following comments related to the rulemaking proposals submitted by the Illinois Environmental Protection Agency (“IEPA”) 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”). Like other EGU’s in Illinois, PSGC has surface impoundments which have the potential to be impacted by these proposed rules and accordingly, is or will be directly impacted by this rulemaking process. As such, PSGC respectfully requests consideration of the following comments and requests for modification by the Illinois Pollution Control Board (“IPCB”) to modify the Proposed Rules in the manner set forth below.

BACKGROUND

PSGC is the operating company of the Prairie State Energy Campus (“Energy Campus”), a stand-alone, technologically-advanced energy facility located in Washington County, Illinois, approximately 60 miles southeast of St. Louis, Missouri. The Energy Campus is comprised of a 1600 megawatt (two nominal 800 MW units) coal-fired, supercritical steam electric generating facility and adjacent underground coal mine. Six public power entities, two rural electric cooperatives and Peabody Energy own the Energy Campus. Ninety-five percent of the Energy Campus’ member-owners are community-owned, non-profit utilities that are committed to

providing clean, reliable, and affordable base load electricity to 2.5 million families in hundreds of communities in the Midwest and Mid-Atlantic regions, across eight states (Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Virginia, and West Virginia). More than 4,000 trades men and women were employed during the construction of the PSEC and more than 600 industry experts from communities across southern Illinois and the St. Louis metro east are currently employed at the campus. The Energy Campus is making a significant impact on the economy, with an estimated impact on the Illinois region equal to more than \$785 million annually, while putting to work the vast coal resources of Illinois.

The Energy Campus' power plant design incorporates supercritical pulverized coal boiler technology and \$1 billion of emissions control equipment, consuming less coal to produce more energy, while achieving one of the best levels of pollution control in the country. The Energy Campus was built with both Best Available Control Technology ("BACT") and Maximum Achievable Control Technology ("MACT"). PSGC's units utilize low NOx burners and selective catalytic reduction ("SCR") to control emissions of nitrogen oxides ("NOx"), dry and wet electrostatic precipitators to control particulate matter ("PM") emissions, and wet flue gas desulfurization to control emissions of sulfur dioxide ("SO2").

COMMENTS

General:

On May 10, 2010, the U.S. Environmental Protection Agency (USEPA) published its proposed coal combustion residuals (CCR) rule, with two primary options, one under Subtitle C and the other under Subtitle D of the Resource Conservation and Recovery Act (RCRA), and an alternative Subtitle D "prime" option. The federal draft CCR rule has proposed design and operating criteria, groundwater monitoring, corrective action and closure and post-closure care for facilities which store CCR. PSGC facilities will be affected by this rule if it is finalized. If the proposed CCR rule is finalized as a Subpart D requirement then through delegation the rules will become administered and enforceable by the state of Illinois. Since parts of this rulemaking overlap with the USEPA's CCR proposed rule and the USEPA CCR rule is expected to be finalized before the end of 2014, there is a potential for confusion if the two rules conflict or are inconsistent in any way. PSGC is a small, mostly non-profit entity who must ensure that funds are spent in an efficient, fiduciarily responsible manner. To move forward with this Proposed Rule when the publication of the final CCR is expected in just a few weeks seems to create uncertainty and a potential unnecessary waste of limited resources for all parties involved. PSGC requests the IPCB's consideration for the necessity of this Proposed Rule with the forthcoming issuance of federal CCR regulations.

§841.105: Applicability

PSGC has concerns with language that the IEPA has modified in §841.105(a) which adds the term "*units*" and deletes the term "*surface impoundments*". Since this rulemaking process

applies to water pollution it is imperative that units which are considered landfills are not included in this rulemaking process. Landfills have their own regulations for hydrogeologic site characterization, groundwater monitoring, corrective action, and closure under the Waste Disposal Subtitle G, Chapter I, Subchapter i, Title 35 Illinois Administrative Code, Environmental Regulations for the State of Illinois. Landfills should not be subjected to two different sets of regulations which may not have the same regulatory requirements. PSGC objects to this modification of terms throughout the proposed rule without so listing each individual citation.

PSGC also believes it is critical to maintain the §841.105(b)(2) exemption for facilities operated pursuant to procedural requirements for a landfill exempt from permits under 35 IAC 815 which has been requested to be removed by the Environmental Groups. Since landfills are not specifically excluded in the proposed definition of surface impoundment (although the IEPA proposed to include language specifically excluding landfills in their July 17, 2014 filing), PSGC is concerned because landfills do contain leachate, that leachate could be interpreted as “free liquids” under the current definition which states:

“surface impoundment means a natural topographic depression, man-made excavation, or diked area where earthen materials provide structural support for the containment of liquid wastes or wastes containing free liquids.” [emphasis added]

The §815 requirements for operating a permit exempt landfill are specific, strict, and require a permit exempt landfill to meet the appropriate requirements found in §810, 811 and 812, the same requirements that are required for solid, inert, and putrescible and chemical waste landfills. Without this exemption included, PSGC is concerned that permit exempt landfills could be required to meet the requirements of both the Waste Disposal (Subpart G) and the Water Pollution (Subpart C) regulations.

PSGC believes it is critical to ensure that the exemption (currently listed under §841.105(b)(5)) for any surface impoundment unit used only to collect stormwater runoff which does not contain leachate (as currently defined by the Proposed Rule which specifically states that leachate does not include stormwater runoff that may come into contact with fugitive ash) is maintained. PSGC believes that this exemption should also include “de minimus” quantities of coal combustion waste (“CCW”) since it is possible that during harsh storm events “de minimus” quantities of CCW can be washed into stormwater ponds even though the stormwater surface impoundment is not intended to store CCW.

PSGC believes the additional language proposed by the Illinois Environmental Protection Agency in their July 17, 2014 filing, under §841.105(b)(4) which states, “*that does not contain more than one cubic yard of CCW*” is not necessary and only serves to confuse this exemption

which is intended to exempt stormwater collection basins whose primary purpose is not storage of CCW.

PSGC supports maintaining records demonstrating how the exemption in §841.105(b) applies but does not support the addition of language requested by the Environmental Groups in §841.105(c) which states “*Justification for an exemption under subsections (b)(2), (3), and/or (4) of this Section 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*”. PSGC believes this statement is unnecessary if documentation is required and could be interpreted to allude to the fact that a hydrogeologic site characterization and groundwater monitoring plan is required to be conducted under this rule prior to being considered an exempted unit.

In addition, the exemptions under this part should also include impoundments which contain and treat primarily low-volume wastewaters (defined by 40 CFR 423.11), raw water reservoirs, and other water treatment ponds which all may receive “de minimus” quantities of CCW.

§841.110: Definitions

The definition of compliance point should allow for locations other than the unit boundary or a groundwater management zone boundary simply because it may not be physically possible to place wells at the point specified (i.e. 25 feet from the outer edge of the unit as currently proposed). As such the IEPA should have the flexibility to determine that another point is just as protective and have the ability to establish that point as a “compliance point”.

PSGC supports the IEPA addition of language to the definition of surface impoundment proposed in their July 17, 2014 filing which includes specifically excluding landfills, as defined in 35 IAC 810.103. The Environmental Groups addition in this same definition does not include 35 IAC 815 permit exempt landfills which are clearly regulated just as strictly as landfills under §810-814.

PSGC also urges the Board to reject the Environmental Groups proposed definition of “surface impoundment.” On June 9, 2014, the Environmental Groups submitted proposed revisions that included a definition of “surface impoundment” that excluded any area that is “not a landfill, as defined in 35 Ill. Adm. Code 810.103 permitted under Illinois Solid Waste Disposal rules at 35 Ill. Adm. Code, Parts 813 or 814.” This language would remove only permitted landfills from proposed Part 841, allowing the proposal to potentially apply to landfills exempt from permitting under Section 21(d) of the Illinois Environmental Protection Act. When questioned at the June 18, 2014 hearing, the Environmental Groups stated they would address this issue in post-hearing comments, but did not address the issue in post-hearing comments filed on August 19, 2014. PSGC urges the Board to reject this language and clarify that any permitted landfill is exempt from proposed Part 841.

§841.125: Groundwater Quality Standards

PSGC agrees with the IEPA's addition of item b in their July 17, 2014 filing which provides for implementation of institutional controls to minimize any threat to the public health or the environment.

§841.130: Compliance Period

In their July 17, 2014, the IEPA has proposed adding "*within one year of the effective date of this Part*" for units which were in operation on or before the effective date of this Part. The submission of a groundwater monitoring plan requires a hydrogeologic site characterization, establishing background values and developing a groundwater monitoring system before the actual plan can even be developed. PSGC suggests that this is too short of a time period for existing facilities in the state of Illinois to complete the required activities and asks the IPCB consider a more reasonable time frame to complete the required work.

§841.215: Chemical Constituents and Other Data To Be Monitored

The Proposed Rules require monitoring for all chemical constituents in 35 IAC 620.14(a) and (e) except radium-226 and radium 228. §620.14(a) includes a comprehensive list of inorganic chemical constituents many of which are unlikely to be found in levels above the groundwater standards in CCW. This list should be reduced either to those parameters which are likely to be found in CCW with expansion to the complete list only if an exceedance of the monitored parameters is determined. In the alternative, a shorter list of chemicals likely to be found in CCW can be monitored semi-annually with the expanded list monitored once every two years.

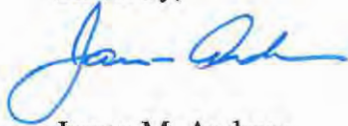
Subpart F: Financial Assurance (as proposed in the Environmental Group's July 21, 2014 Filing)

In the Proposed Rule, the IEPA did not include a financial assurance requirement; however, in the Environmental Group's July 21, 2014 filing Subpart F, Financial Assurance has been proposed. This section requires financial assurance for closure and post-closure care of facilities even for new units which are nowhere near ready to close even though no evidence has been presented to date to indicate that any owner or operator of an ash disposal facility in Illinois has failed to close a facility as directed by the IEPA or has required state funds to close. Without evidence indicating necessity of this section, PSGC respectfully requests the IPCB to consider whether appropriate evidence which supports such a mandate is present and to defer to the IEPA's knowledge and expertise regarding such a requirement.

CONCLUSION

PSGC is concerned with the IEPA's and the Environmental Group's provisions of this Proposed Rule as discussed in the previous sections. PSGC requests that the IPCB first consider the necessity of this rule in light of the federal CCR rule which is expected to be finalized and published within the next few weeks. In the alternative, PSGC asks the IPCB to give due consideration to the issues that PSGC has presented in these comments.

Sincerely,



James M. Andrew
Director of Environmental Services