

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMEREN ASH POND CLOSURE RULES) R09-021
(HUTSONVILLE POWER STATION)) (Rulemaking— Land)
PROPOSED: 35 Ill. Adm. Code 840.101)
Through 840.144)

NOTICE OF FILING

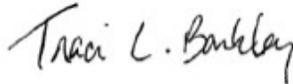
To: John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

Tim Fox, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

Persons included on the
ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have electronically filed today with the Office of the Clerk of the Pollution Control Board the attached **Additional Comments Regarding Proposed Regulations for the Closure of Ash Pond at Ameren Energy Generating Company's Hutsonville Power Station in R09-021**, a copy of which is herewith served upon you.

Respectfully Submitted,



Traci L. Barkley
Water Resources Scientist
Prairie Rivers Network
1902 Fox Drive, Suite G
Champaign, Illinois 61820
(217) 344-2371

Date: November 30th, 2009

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**PRAIRIE RIVERS NETWORK'S ADDITIONAL COMMENTS REGARDING
PROPOSED REGULATIONS FOR THE CLOSURE OF ASH POND AT AMEREN
ENERGY GENERATING COMPANY'S HUTSONVILLE POWER STATION**

Dear Illinois Pollution Control Board:

Prairie Rivers Network (PRN) hereby submits these additional comments in opposition to R2009-021: Ameren Energy Generating Company's (Ameren) Petition for proposed regulations for the closure of Ash Pond D at its Hutsonville Power Station in Crawford County, Illinois. These additional comments have specifically been submitted in order to 1) respond to Ameren's comments dated November 10, 2009 and 2) further clarify a statement included in our first letter submitted on October 30, 2009.

1) In a letter dated November 3, 2009, Ameren accused PRN of attempting to mislead the Illinois Pollution Control Board (Board) by discussing potential impacts of groundwater contamination on a nearby landowner. Ameren may wish to characterize the facts differently, but there exists no deception on our part. The information PRN provided in the October 30 comment letter remains factually true and we stand by our position: groundwater testing results have not been disclosed to the landowner nor has all of the available information been shared with the Board, specifically water quality and pumpage volume of the four irrigation wells utilized by adjacent property owners. Without analyzing this information the past, current and potential impacts of Ameren's groundwater contamination cannot be fully or adequately characterized.

2) Let us attempt to clarify the point made in the October 30, 2009 comment letter regarding "an end run around antidegradation requirements." Authorizing ash pond closure rules now without fully analyzing available alternatives may have the practical effect of precluding appropriate alternatives during a future NPDES permitting process. An antidegradation analysis will only be meaningful if conducted now, before costly capital investments have been made into the project.

Antidegradation regulations were enacted in December 2002 as 35 Ill. Admin. Code § 302.105 to "protect existing uses of all waters of the State of Illinois, maintain the quality of waters with quality that is better than water quality standards, and prevent unnecessary deterioration of waters of the State." In R2009-021, Ameren has proposed regulations for the

closure of Ash Pond D at their Hutsonville Power Station in Crawford County, Illinois. The adoption of these proposed regulations would include approval not only of the proposed design and use of a groundwater collection trench and pumping operation but also of Section 840.122 which states "Groundwater collected in the groundwater collection trench must be directed to an outfall for which the Hutsonville Power Station has NPDES authorization or to another option as approved by the Agency in the closure or post-closure plan."

Approval of the proposed language submitted as R2009-021 will necessarily lead to Ameren committing to one of these discharge options, but without the scrutiny of alternatives and impacts afforded by a proper antidegradation analysis. The proposal does not even identify the waters that could be receiving the contaminated groundwater, let alone analyze whether those waters are fit to receive increased pollution. Approval of the rule will result in the release of additional pollutants into the environment, but when the time comes for the antidegradation analysis of the proposed increase in pollution required for an NPDES permit by 35 Ill. Admin. Code § 302.105(c), the analysis of available alternatives will be biased (if not precluded entirely) by construction and capital investments made toward Ameren's choice of groundwater collection trench, pump station, and ultimately, outfall.

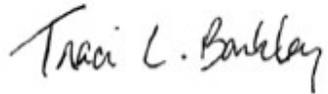
Until a complete assessment has been conducted to select an appropriate destination for the groundwater contaminated by Ameren's leaking ash pond, the proposed rule represents an incomplete plan for discharge and a piecemeal approach to permitting that undermines state antidegradation law and erodes water quality.

Finally, although the above discussion focuses on clarifying issues raised by Ameren in response to our comments, we wish to reiterate the following additional concerns we have regarding this proposed rule:

- Petitioner has failed to include a detailed assessment of the environmental impacts of the proposed change in that a thorough assessment of the final plans for the contaminated groundwater has not been conducted and poses an unnecessary risk to fish and wildlife populations.
- Petitioner has failed to identify as an alternative and screen for technical feasibility and economic reasonableness the treatment of the contaminated wastestream pumped and collected through the groundwater collection trench.
- Petitioner has submitted the proposed plan and draft regulations in advance of the forthcoming USEPA draft rule on CCW disposal in surface impoundments and landfills, which will address closure requirements among other issues. EPA is expected to publicly release the draft rule in mid-December. Considering that Ameren has worked for nearly ten years to develop the proposed regulation, it seems reasonable to request that both Ameren and IEPA wait a few mere weeks to ensure that they have the most well-informed and environmentally responsible solution to the problem at hand.

Once more, Prairie Rivers Network hereby urges the Illinois Pollution Control Board to deny Ameren's request as it has not met its burden under 35 Ill. Adm. Code 102.210(d), 35 Ill. Adm. Code 102.202(b) and 35 Ill. Adm. Code 302.105. Thank you for allowing us the opportunity to clarify our position.

Sincerely,

A handwritten signature in cursive script that reads "Traci L. Barkley".

Traci Barkley
Water Resources Scientist

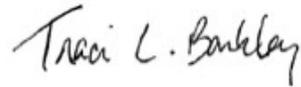
CERTIFICATE OF SERVICE

I, Traci Barkley, certify that I have served the attached **Additional Comments Regarding Proposed Regulations for the Closure of Ash Pond at Ameren Energy Generating Company's Hutsonville Power Station in R09-021** 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 filing on November 30th, 2009; and upon the attached service list by depositing said documents in the United States Mail, postage prepaid, in Chicago, Illinois on November 30th, 2009.

Respectfully Submitted,



Traci L. Barkley
Water Resources Scientist
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SERVICE LIST
November 30th, 2009

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