

ILLINOIS POLLUTION CONTROL BOARD
May 1, 2025

IN THE MATTER OF:)
)
PETITION OF AMEREN ENERGY MEDINA) AS 21-8
VALLEY COGEN, LLC (OLD MEREDOSIA)) (Adjusted Standard - Land)
FOR ADJUSTED STANDARDS FROM 35)
ILL. ADM. CODE PART 845)

ORDER OF THE BOARD (by M. Gibson):

Ameren Energy Medina Valley Cogen, LLC (Ameren) requests an adjusted standard from the coal combustion residuals (CCR) surface impoundments rules in Part 845 (35 Ill. Adm. Code 845) as they apply to its Old Ash Pond at its Meredosia Power Station in Morgan County (Old Meredosia). Specifically, Ameren requests a Board finding that the requirements of Part 845 are inapplicable to Old Meredosia. In the alternative, Ameren requests an adjusted standard from all subparts of Part 845, except Subpart I and 35 Ill. Adm. Code 845.760(h), for Old Meredosia.

On December 19, 2024, Ameren filed a motion to stay this proceeding for 180 days (Mot.). IEPA filed a response opposing the motion on January 17, 2025 (IEPA Resp.) and Ameren filed a reply on January 30, 2025 (Ameren Reply). For reasons discussed below, the Board grants the motion for stay.

MOTION FOR STAY

Ameren’s Motion for a Stay

Ameren is requesting a 180-day stay to conduct a treatability study to evaluate an in-situ resin barrier and an in-situ boron precipitation process as alternative closure methods for Old Meredosia Pond to avoid the destruction of the existing ecosystem during closure. Mot. at 1, 5. As an inactive CCR surface impoundment, the closure methods available for Old Meredosia under Part 845 would require “tree and vegetation removal and disruption”. *Id.* at 5. Old Meredosia Pond is located 15 feet above the surrounding groundwater and CCR in the pond is not in contact with groundwater during normal or flooding conditions. *Id.* at 2, 5. Additionally, while conducting the treatability study, Ameren intends to concurrently prepare an operating permit application for Old Meredosia Pond under Part 845. *Id.* at 6.

The Old Meredosia Pond exists in a “significant and established ecosystem” that is a probable home to multiple endangered or threatened species. Mot. at 3-5. This ecosystem is part of a sand prairie, which are rare in Illinois and home to an “uncommon plant community” of “higher floristic value”. *Id.* at 3. Additionally, a bald eagle nest is located in the vicinity of Old Meredosia, which puts it under the purview of the Bald and Golden Eagle Protection Act (50 CFR 22). *Id.* at 4. Under the Bald and Golden Eagle Protection Act, it is illegal to “take” bald or golden eagles, their parts, nests, or eggs without a permit from the Secretary of the Interior. *Id.*

Old Meredosia is also located within one of three areas in Illinois that are known or probable habitats for the imperiled Illinois chorus frog and is located within one mile of a known breeding pond. *Id.* Additionally, Old Meredosia Pond is potentially suitable habitat for the endangered Indiana bat, the threatened northern-long eared bat, and the threatened tricolored bat. *Id.* at 4-5.

Ameren states that the in-situ resin barrier is a proven boron treatment which Ameren previously used at its energy centers in Missouri. Mot. at 6. A comparison of influent and effluent concentrations of boron and other constituents demonstrates “significant reduction below the Part 845 groundwater standards”. Mot. Exh. 6. Additionally, USEPA identified the in-situ resin barrier as an effective treatment technology. Mot. At 6. While in-situ boron precipitation process is newer, there is evidence that it is an effective treatment for boron. *Id.*

Ameren claims that the 180-day stay is not an environmental risk because Old Meredosia Pond is located 15 feet above the groundwater, the CCR is not in contact with groundwater, and there are no potable wells downgradient of the surface impoundment. Mot. at 8. Additionally, groundwater from Old Meredosia Pond poses “no risk to the Illinois River” because constituent concentrations in the groundwater are “lower than the site-specific screen concentrations that were protective of surface water.” *Id.* at 8; Am. Pet. Ex. at 1047-1048.

IEPA’s Response

IEPA recommends the Board deny Ameren’s request for a 180 day stay to conduct a treatability study for the Old Meredosia Pond. IEPA Resp. at 3. IEPA recommends a denial because the treatability study does not meet the requirements for closure, monitoring, and post-closure under 35 Ill. Adm. Code 845 and 40 CFR 257. *Id.* at 4-5. IEPA also asserts that the additional time would delay compliance efforts because the groundwater monitoring program at Old Meredosia Pond is deficient. *Id.* at 7. IEPA notes that monitoring wells MW13 and MW14 do not consistently collect groundwater samples because they are constructed improperly. *Id.*; Attach. A. Additionally, IEPA claims that the quarterly monitoring program is inadequate and there have been consistent exceedances of boron and selenium at MW8. IEPA Resp. at 7.

Ameren’s Reply

Ameren states that IEPA’s claims are not sufficient to justify a denial of the 180-day stay. Ameren Resp. at 1. Ameren argues that alleged deficiencies in the groundwater monitoring are immaterial and the treatability study’s purpose is to evaluate an alternative method of addressing boron, which is the reason for requesting an adjusted standard. *Id.*

Ameren argues that the alleged deficiencies in the groundwater monitoring program are irrelevant because Ameren, as a part of the operating permit application, will establish and implement a groundwater program that is consistent with Part 845. Ameren Resp. at 2. Moreover, Ameren asserts that the Agency presented an “incomplete description” of the groundwater monitoring data. *Id.* Ameren maintains that boron concentrations were decreasing, and concentrations of boron and selenium were below Part 845 standards at MW2 (a well downgradient of MW8). *Id.* Additionally, IEPA’s claim that MW13 and MW14 are improperly constructed are “baseless” because the groundwater monitoring results presented by IEPA only

show that the monitoring wells were dry in 2023. *Id.* at 3; IEPA Resp. Attach A. Ameren asserts that a dry well does not demonstrate improper construction and these wells have been successfully sampled. Ameren Resp. at 3.

Ameren maintains that the treatability study's purpose is to determine the viability of an alternative closure method for Old Meredosia Pond instead of closure under Part 845. Ameren Resp. at 3. Ameren argues that IEPA's argument fails because it overlooks the purpose of an adjusted standard. *Id.*

Board Discussion and Finding

The Board's rules regarding a motion to stay are found at 35 Ill. Adm. Code 101.514(a) and are as follows:

- a) Motions to stay a proceeding must be directed to the Board and must be accompanied by sufficient information detailing why a stay is needed, and in decision deadline proceedings, by a waiver of any decision deadline. A status report detailing the progress of the proceeding must be included in the motion

The decision to grant or deny a motion for stay is "vested in the sound discretion of the Board." *See People v. State Oil Co.*, PCB 97-103, slip op. at 2 (May 15, 2003). When exercising its discretion to determine whether to grant a stay, the Board may consider the following factors: 1) comity; 2) prevention of multiplicity, vexation, and harassment; 3) likelihood of obtaining complete relief in the foreign jurisdiction; and 4) the *res judicata* effect of a foreign judgment in the local forum, *i.e.*, in the Board proceeding. *Sierra Club, et. al v. Midwest Generation, LLC*, PCB 13-15, slip op. at 11 (April 17, 2014). Additionally, the Board must consider any ongoing environmental harm should the stay be granted.

The Board finds that the treatability study would provide more useful information for the review of Ameren's requested adjusted standard. Additionally, it does not appear that there would be an increased risk of groundwater contamination due to the stay because Old Meredosia is 15 feet above the groundwater, CCR is not in contact with groundwater, and there are no downgradient potable wells. *See Am. Pet. Ex 2. Attach. B at 5-6; Ex. 3 at 6.* Further, during the stay, Ameren reports that it intends to develop an operating permit application that will include a groundwater monitoring program consistent with Part 845. Thus, IEPA's concerns with the groundwater monitoring program can be addressed through its review of the permit application. Therefore, the Board grants Ameren's motion for a 180-day stay and stays the case until October 28, 2025.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 1, 2025, by a vote of 5-0.

Don A. Brown

Don A. Brown, Clerk
Illinois Pollution Control Board