

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

**AMEREN ASH POND CLOSURE RULES
(HUTSONVILLE POWER STATION)
PROPOSED: 35 ILL. ADM. CODE PART
840.101 AND 840.144**

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**R09-21
(Rulemaking – Land)**

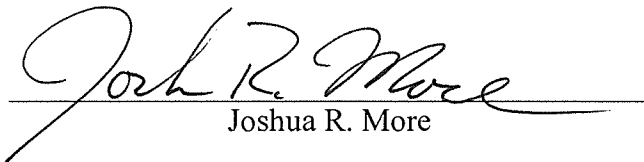
NOTICE OF FILING

To:

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

ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that we have today electronically filed with the Office of the Clerk of the Pollution Control Board **AMEREN'S MOTION TO ADOPT JOINT PROPOSAL FOR FIRST NOTICE**, copies of which are herewith served upon you.


Joshua R. More

Dated: July 28, 2010

Kathleen C. Bassi
Joshua R. More
Amy Antonioli
SCHIFF HARDIN, LLP
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:

**PROPOSED RULES ESTABLISHING
35 ILL. ADM. CODE SUBCHAPTER j,
PART 840, AND SUBPART A,
SITE-SPECIFIC RULES PROVIDING
FOR THE CLOSURE OF ASH POND
D AT THE HUTSONVILLE POWER
STATION.**

**R09-21
(Rulemaking – Land)**

MOTION TO ADOPT JOINT PROPOSAL FOR FIRST NOTICE

NOW COMES Proponent, AMEREN ENERGY GENERATING COMPANY, by and through its attorneys, SCHIFF HARDIN LLP, and respectfully moves the Illinois Pollution Control Board (“Board”) to set this matter for First Notice as soon as possible. In support of its motion, Ameren states as follows:

1. For more than a decade, Ameren has engaged in discussions with the Illinois Environmental Protection Agency (“Agency”) regarding the standards under which Ash Pond D at the Hutsonville Power Station should be closed.

2. After consultation with the Agency on March 5, 2009, Ameren proposed an adjusted standard to the landfill regulations to provide for closure of Ash Pond D. *Petition of Ameren Energy Generating Company for Adjusted Standards from 35 Ill. Adm. Code 811, 814, and 815 (Hutsonville Power Station)*, AS 09-1 (Mar. 5, 2009). The Board, however, determined that a site-specific rulemaking and not an adjusted standard proceeding is the more appropriate Board mechanism under which Ameren should close Ash Pond D. The Board also recommended that Ameren seek to amend Subtitle G if it chose to proceed with a site-specific

rulemaking. *Ameren Hutsonville AS*, AS 09-1, slip op. at 11 (Mar. 5, 2009). Accordingly, on May 19, 2009, Ameren filed a proposal for site-specific rule.

3. On August 18, 2009, the Agency filed proposed revisions to Ameren's proposal, along with pre-filed testimony of several Agency staff from the Bureaus of Water and Land in support of its proposed revisions. The Agency's revisions endorsed the closure approach proposed by Ameren but revised the rule to conform to the Agency's procedural and reporting requirements and preferred mechanism for defining applicable groundwater quality standards both on and off-site. Following the filing of the Agency's proposed amendments, Ameren initiated contact with the Agency to address the differences between Ameren's initial proposal and the Agency's proposed revisions. As a result, the parties reached a resolution on the mechanics for closing Ash Pond D, and the joint proposal currently before the Board, submitted on September 22, 2009, reflects language supported by both Ameren and the Agency.

4. Board Hearing Officer, Mr. Timothy Fox, held a hearing on the rulemaking proposal on September 29, 2009 in Robinson, Crawford County and opened a 21 day period for public comments. The Board received post-hearing comments from the Agency, Ameren, and Prairie Rivers Network during the public hearing period.

5. On January 7, 2010, the Board addressed the issues raised in the public comments and directed Ameren to submit additional information.

6. Ameren timely addressed the request for additional information on February 22 and 26, 2010. Ameren believe that all technical and factual issues have been resolved and that there are no outstanding disputed issues to be resolved by the Board.

7. The Board committed to "reaching a prompt decision in this matter as soon as the record is complete ..." Order (June 18, 2009). The record has been complete since March 9,

2010 when the Agency submitted additional information in response to the Board's January 7, 2010 Order. While Ameren is mindful of the Board's heavy docket and resource constraints, the closure of Ash Pond D cannot occur until such time as the Board adopts the regulatory approach presented by Ameren and the Agency. The road has been long to achieve regulatory certainty, Ameren only respectfully asks the Board to do what it can to move this matter one step closer to finality.

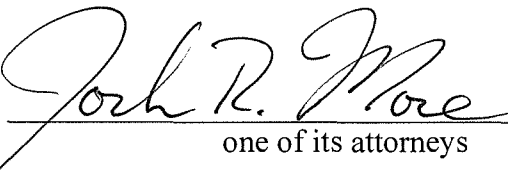
8. The undersigned, counsel for Ameren, contacted the Agency and the Agency does not object to this motion.

WHEREFORE, for the reasons set forth above, Ameren respectfully requests that the Board accept this proposed rulemaking and adopt it for first-notice publication in the Illinois Register as soon as possible so the parties may move toward second notice and final adoption as expeditiously as practicable.

Respectfully submitted,

AMEREN ENERGY GENERATING
COMPANY

by:


one of its attorneys

Dated: July 28, 2010

Renee Cipriano
Kathleen C. Bassi
Joshua R. More
SCHIFF HARDIN LLP
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500
fax: 312-258-5600

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 28th day of July, 2010, I have served electronically the attached **AMEREN'S MOTION TO ADOPT JOINT PROPOSAL FOR FIRST NOTICE** upon the following persons:

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

Mark Wight, Assistant Counsel
Kyle Nash Davis, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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

and by first class mail, postage affixed, to the persons on the **ATTACHED SERVICE LIST**.


Joshua R. More

Kathleen C. Bassi
Joshua R. More
Amy Antonioli
SCHIFF HARDIN, LLP
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500

<u>SERVICE LIST</u> (R09-21)	
Matthew J. Dunn, Chief Office of the Attorney General Environmental Bureau, North 69 West Washington Street, Suite 1800 Chicago, Illinois 60602	Virginia Yang General Counsel Illinois Dept. of Natural Resources One Natural Resources Way Springfield, Illinois 62702-1271
Tracy Barkley Prairie Rivers Network 1902 Fox Drive, Suite G Champaign, IL 61820	