

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:	)	
	)	
AMEREN ASH POND CLOSURE RULES	)	R09-21
(HUTSONVILLE POWER STATION)	)	(Rulemaking – Land)
PROPOSED: 35 ILL. ADM. CODE PART	)	
840.101 THROUGH 840.144	)	

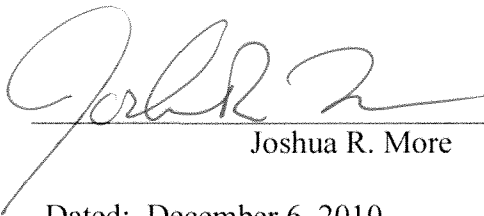
**NOTICE OF FILING**

To:

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

Persons included on the  
**ATTACHED SERVICE LIST**

PLEASE TAKE NOTICE that we have today filed the attached, **AMEREN'S FIRST NOTICE PUBLIC COMMENT**, with the Office of the Clerk of the Pollution Control Board.



Joshua R. More

Dated: December 6, 2010

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AMEREN'S FIRST NOTICE PUBLIC COMMENT

Ameren Energy Generating Company (“Ameren”) filed this proposal for site-specific rulemaking on May 19, 2009. With this proposal, Ameren requests that the Illinois Pollution Control Board (“Board”) adopt regulations for the closure of Ash Pond D, a surface impoundment formerly used to manage coal combustion waste at Ameren’s Hutsonville Power Station (“Station” or “Site”) located near Hutsonville, Crawford County, by adding a new Part to the Board’s solid waste regulations. The proposed new Part 840 contains regulations for the site-specific closures of coal combustion waste surface impoundments, and as proposed by Ameren, consists only of Subpart A, site-specific rules applicable to the closure of Ash Pond D. The proposed rule sets forth detailed remedial requirements for a groundwater monitoring system and groundwater monitoring plan, site-specific groundwater quality standards, cap, final cover, and surface water management requirements, as well as the framework for the closure and post-closure care plans.

Ameren stresses that the road to create a closure plan for Ash Pond D, to date, has been long and thanks the Board for a thorough analysis of and careful attention to this proposal. Throughout the rulemaking process, Ameren has sought to work with the Illinois Environmental Protection Agency (“Agency”) and respond to concerns raised by the Board and members of the public with the goal of proceeding towards the closure of

Ash Pond D and the resolution of associated impacts to groundwater in a manner that will protect human health and the environment.

The Agency has invested a significant amount of time and effort analyzing the site data and working with Ameren to craft a comprehensive and protective closure plan for Ash Pond D. The Agency filed proposed revisions to Ameren's proposal on August 18, 2009. Soon thereafter, Ameren and the Agency entered into discussions regarding the proposal to further clarify the scope and details of the proposed 35 Ill. Adm. Code 840, Subpart A. The result was a joint statement by Ameren and the Agency proposing additional revisions to the rule language. This joint statement was filed with the Board on September 22, 2009.

The Board held a hearing on the proposal in Robinson, Crawford County on September 29, 2009. Prairie Rivers Network ("PRN"), a public interest group, became involved in the proceeding shortly before the hearing. Both Ameren and the Agency answered PRN's pre-filed questions in written responses prior to the hearing, addressed questions posed by PRN at the hearing, and submitted additional information after the hearing. The Board, in response to PRN's post-hearing comments ("PC #3" and "PC #6"), asked Ameren to provide additional information pertaining to: (1) the impact of Ash Pond D on irrigation wells on adjacent property; and (2) the environmental impact of potential discharges of groundwater into the Wabash River.<sup>1</sup> Again, both Ameren and the Agency responded to each of the Board's requests for information to address any outstanding concerns with specificity and to ensure the record was as complete as

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<sup>1</sup> Ameren Ash Pond Closure Rules (Hutsonville Power Station) Proposed: 35 Ill. Adm. Code 840.101 through 840.144, R09-21 (Jan. 7, 2010).

possible with respect to each of the factors the Board must take into account when analyzing a proposal for site-specific rulemaking.

In addition to PRN's participation, to date the Board has received only one other written or oral public comment in this rulemaking. On July 6, 2010, the Board received a written public comment submitted jointly by Mr. Peter Illyn on behalf of Restoring Eden, and Mr. James Ennis, on behalf of the National Catholic Rural Life Conference ("PC #7"). The comment filed by Mr. Illyn and Mr. Ennis does not reference Ameren, the Hutsonville Station, or Ash Pond D, but rather refers to the United States Environmental Protection Agency's recent issuance of co-proposals for the regulation of coal combustion residuals and urges Governor Quinn to take a strong stance on the regulation of coal ash. The commenters' main concern is the impact of coal ash disposal sites on human health and the environment. While the comment does not take issue with any specific part of the proposed rulemaking, Ameren contends the commenters' concerns are adequately addressed. Ameren and the Agency assert that the rulemaking, as proposed at first notice, will result in an ultimate benefit to human health and the environment.

The Board adopted a first notice opinion and order, including non-substantive revisions to the joint proposal on October 7, 2010.<sup>2</sup> The Board's October 7, 2010 opinion and order adopted the joint proposal with only minor revisions. Within the opinion, the Board found that the joint proponents have: (1) adequately described the area affected by the proposal;<sup>3</sup> (2) adequately evaluated the potential impacts of Ash Pond D to off-site groundwater;<sup>4</sup> (3) demonstrated that the proposed site-specific rule is not inconsistent

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<sup>2</sup> Ameren Ash Pond Closure Rules (Hutsonville Power Station) Proposed: 35 Ill. Adm. Code 840.101 through 840.144, R09-21 (Oct. 7, 2010) ("October 7 Order").

<sup>3</sup> October 7 Order, pg. 47.

<sup>4</sup> Id. at 52.

with any federal law or regulation;<sup>5</sup> and (4) conducted an appropriate review of closure alternatives.<sup>6</sup> The Board further found that Ameren is not required to identify a groundwater management strategy or undertake an assessment of the environmental impacts of any potential strategies in this rulemaking.<sup>7</sup> Rather, this process would occur in the context of seeking a modification to the Station's NPDES permit should Ameren seek to discharge to waters of the state.<sup>8</sup> Ameren agrees with the Board's substantive findings on these issues. As noted above, the Board has incorporated the joint proposal language into the first notice opinion and order with only minor exceptions. Ameren again agrees with this action and does not object to any of the Board's changes.

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<sup>5</sup> Id. at 64.

<sup>6</sup> Id. at 70.

<sup>7</sup> Id. at 60-61.

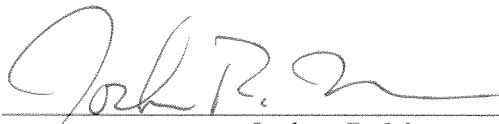
<sup>8</sup> Id.

Wherefore, Ameren respectfully requests that the Board proceed to second notice adoption of this proposal as expeditiously as possible.

Respectfully submitted,

AMEREN ENERGY GENERATING COMPANY

by:

  
\_\_\_\_\_  
Joshua R. More

Dated: December 6, 2010

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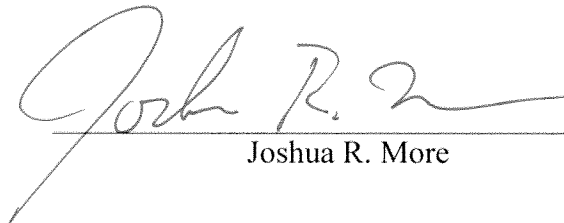
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**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 6<sup>th</sup> day of December, 2010, I have served electronically the attached, **AMEREN'S FIRST NOTICE PUBLIC COMMENT**, upon the following persons:

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

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

  
Joshua R. More

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**(R09-21)**

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