

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

v.)

AMEREN ENERGY GENERATING)
COMPANY, INC., an Illinois corporation,)

Respondent.)

PCB No. 13-41
(Enforcement - Land)

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on February 20, 2013, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, COMPLAINANT'S RESPONSE AND MOTION FOR SUBSTITUTION, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

Raymond J. Callery
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: February 20, 2013

CERTIFICATE OF SERVICE

I hereby certify that I did on February 20, 2013, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING and COMPLAINANT'S RESPONSE AND MOTION FOR SUBSTITUTION upon the persons listed on the Service List.

A handwritten signature in black ink, appearing to read "Raymond J. Callery", written over a horizontal line.

Raymond J. Callery
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Renee Cipriano
David M. Loring
SCHIFF HARDIN LLP
233 S. Wacker Drive, Suite 6600
Chicago, IL 60606

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

-vs-

**AMEREN ENERGY GENERATING
COMPANY, INC., an Illinois corporation,**

Respondent.

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PCB No. 13-41

COMPLAINANT'S RESPONSE AND MOTION FOR SUBSTITUTION

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, hereby responds to the Motion to Dismiss for Failure to Identify Proper Legal Party filed by Respondent, AMEREN ENERGY GENERATING COMPANY, INC., as follows:


1. The AmerenEnergy Resources Generating Company is the operator of the Duck Creek Power Generating Station located at 17751 North Cilco Road, Canton, Fulton County, Illinois.
2. In the Complaint filed herein, Complainant inadvertently named the Ameren Energy Generating Company as the Respondent.
3. The AmerenEnergy Resources Generating Company and the Ameren Energy Generating Company are separate and distinct corporations.
4. Attached hereto as Exhibit "A" is a copy of the September 1, 2006 Violation Notice issued to "Ameren Energy Resources Generating Company."

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, requests that the Motion to Dismiss for Failure to Identify Proper Legal Party be dismissed and AmerenEnergy Resources Generating Company, an Illinois corporation, be substituted as the Respondent in this matter.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
RAYMOND J. CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/557-0586

Dated: February 20, 2013



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

RELEASABLE

309/693-5462

309/693-5324 (FAX)

SEP 18 2006

REVIEWER M

September 1, 2006

CERTIFIED MAIL 7003 3110 0006 0579 6387

RETURN RECEIPT REQUESTED

Ameren Energy Resources Generating Company
c/o James A. Tiskos, Registered Agent
607 E. Adams Street
Springfield, IL 62739

Refer to: **Violation Notice, L-2006-01312**
0578010002 -- Fulton County
AERG Duck Creek Power Generating Station
Compliance File

SEP 05 2006

Dear Mr. Tiskos:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/31(a)(1), and is based upon an inspection completed on August 8, 2006 by a representative of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of alleged violations of environmental statutes, regulations, or permits as set forth in Attachment A to this letter. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations cited, please be advised that resolution of the alleged violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in Attachment A and include for each an explanation of the activities that will be implemented and the time schedule for the completion of that activity. Also, if a pollution prevention activity will be implemented, indicate that intention in any written response. The written response will constitute a proposed Compliance Commitment Agreement ("CCA") pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.

The Illinois EPA encourages the use of pollution prevention methods to help achieve compliance with environmental requirements. By switching to non-hazardous raw materials, improving housekeeping practices, or changing production processes to generate less waste, your facility may be able to save money, increase efficiency, and possibly reduce regulatory requirements.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463

BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61

SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 627

MARION - 2309

Exhibit A

N - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
E - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
59 - (618) 993-7200

Violation Notice, L-2006-01312

0578010002 -- Fulton County

AERG Duck Creek Power Generating Station

Compliance File

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If a timely written response to this Violation Notice is not provided, it shall be considered to be a waiver of the opportunity to respond and to meet and the Illinois EPA may proceed with a referral to the prosecutorial authority.

Written communications should be directed to:

Illinois EPA

Attention: Robert Wagner

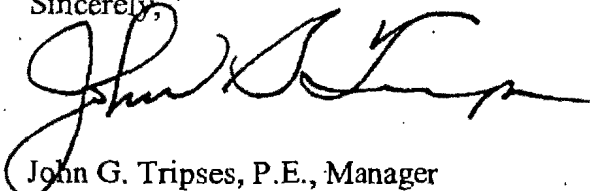
7620 N. University Street, Suite 201

Peoria, Illinois 61614

All communications must include reference to this **VIOLATION NOTICE NUMBER, L-2006-01312.**

Questions regarding this matter should be directed to **ROBERT WAGNER** at **309/693-5462.**

Sincerely,

A handwritten signature in black ink, appearing to read "John G. Tripses", is written over the word "Sincerely,".

John G. Tripses, P.E., Manager

Peoria Region Office

Field Operations Section

Bureau of Land

ENCLOSURE

Attachment A

Violation Notice, L-2006-01312

0578010002 -- Fulton County

AERG Duck Creek Power Generating Station

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Attachment A

1. Pursuant to Section 21(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(a)), no person shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **Evidence of open dumping of coal combustion waste was observed during the inspection.**

2. Pursuant to Section 21(d)(1) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(d)(1)), no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency or in violation of any conditions imposed by such permit.

A violation of Section 21(d)(1) is alleged for the following reason: **Coal combustion waste was disposed without a permit granted by the Illinois EPA.**

3. Pursuant to Section 21(d)(2) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(d)(2)), no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation in violation of any regulations or standards adopted by the Board under this Act.

A violation of Section 21(d)(2) is alleged for the following reason: **A coal combustion waste disposal operation was conducted in violation of regulations adopted by the Illinois Pollution Control Board.**

4. Pursuant to Section 21(e) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(e)), no person shall dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **Coal combustion waste was disposed at this site which does not meet the requirements of the Act and regulations thereunder.**

5. Pursuant to Section 21(p)(1) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(p)(1)), no person shall, in violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in litter.

The prohibitions specified in this subsection (p) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to open dumping.

Attachment A

Violation Notice, L-2006-01312

0578010002 -- Fulton County

AERG Duck Creek Power Generating Station

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A violation of Section 21(p)(1) is alleged for the following reason: **The open dumping of coal combustion waste was caused or allowed in a manner which resulted in litter.**

6. Pursuant to Section 21(r)(1) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(r)(1)), no person shall cause or allow the storage or disposal of coal combustion waste unless such waste is stored or disposed of at a site or facility for which a permit has been obtained or is not otherwise required under subsection (d) of this Section.

A violation of Section 21(r)(1) is alleged for the following reason: **Coal combustion waste was disposed of without a permit granted by the Illinois EPA.**

7. Pursuant to 35 Ill. Adm. Code 812.101(a), all persons, except those specifically exempted by Section 21(d) of the {Illinois} Environmental Protection Act, shall submit to the Agency an application for a permit to develop and operate a landfill.

A violation of 35 Ill. Adm. Code 812.101(a) is alleged for the following reason: **A coal combustion waste disposal site was operated without submitting to the Illinois EPA an application for a permit to develop and operate a landfill.**

Suggested Resolutions

1. **IMMEDIATELY, cease accepting coal combustion waste from offsite without a disposal permit.**
2. **BY NOVEMBER 1, 2006, remove all coal combustion waste from the "Beneficial Use Project" to an Illinois EPA permitted landfill or transfer station.**
3. **BY NOVEMBER 7, 2006, submit to the Illinois EPA copies of receipts that document the proper disposal of the coal combustion waste.**

The written response to this Violation Notice must include information in rebuttal, explanation, or justification of each alleged violation and must be submitted to the Illinois EPA by certified mail, within 45 days of receipt of this Violation Notice. The written response must also include a proposed Compliance Commitment Agreement that commits to specific remedial actions, includes specified times for achieving each commitment, and may include a statement that compliance has been achieved.