



McGILLIVRAY
WESTERBERG
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ATTORNEYS

December 11, 2013

Via Hand Delivery To:

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President and CEO
Ameren Corporation
1901 Chouteau Avenue
St. Louis, MO 63103

Mr. Warner L. Baxter
President and CEO
Ameren Missouri
1901 Chouteau Avenue
St. Louis, MO 63103

Via Certified U.S. Mail To:

Mr. Mark Nealon
Registered Agent
Ameren Corporation
500 E. Independence Dr.
Union, MO 63084

Plant Manager
Labadie Energy Center
226 Labadie Power Plant Road
Labadie, MO 63055

Plant Manager
Meramec Energy Center
8200 Fine Road
St. Louis, MO 63129

Plant Manager
Rush Island Energy Center
100 Big Hollow Road
Festus, MO 63028

Re: Notice of Intent to Sue Ameren Corporation for Violations of the Clean Air Act at the Labadie, Meramec, and Rush Island Energy Centers

To Those Addressed Above:

On behalf of the Sierra Club and its members, we write to give you notice that Sierra Club intends to file a civil action against Ameren Corporation for violations of the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, which have occurred and continue to occur at the Labadie, Meramec, and Rush Island Energy Centers (collectively, the "Facilities"). Each of the Facilities is a coal-fired electric generating station owned or operated by

Ameren Corporation, dba Ameren Missouri ("Ameren"). This notice is being provided pursuant to 42 U.S.C. § 7604(b) and 40 C.F.R. Part 54.

A. Factual Background

The Meramec Power Plant is located at 8200 Fine Road, St. Louis, St. Louis County, Missouri. The Meramec Plant has a rated capacity of 833 MW; it has four older vintage coal-fired boilers (manufactured between 1947-1958), each equipped with an ESP, low-NOx burners and overfire air. The Labadie Energy Center is located at 226 Labadie Power Plant Road, Labadie, Franklin County, Missouri. It has four tangentially fired coal boilers: Units 1 and 2, constructed in 1966, each have a rated capacity of 6183 mmBtu/hr; and Units 3 and 4, constructed in 1967, each with a rated capacity of 6107 mmBtu/hr. Each boiler emits pollution via a dedicated stack equipped with an ESP and has installed COMS. The Rush Island Energy Center is located at 100 Big Hollow Road, Festus, Jefferson County, Missouri. It has two tangentially fired coal boilers, both installed in 1971 and each with a rated capacity of 5922 mmBtu/hr. Each boiler emits pollution via a dedicated stack equipped with an ESP and a COMS.

Each of the coal-fired boilers identified above emits numerous air pollutants, including sulfur oxides (SOx), nitrogen oxides (NOx), carbon dioxide (CO2), carbon monoxide (CO), mercury, particulate matter, hydrogen chloride, and others. Individually and collectively these pollutants contribute to global warming, acid rain, regional haze, formation of ground level ozone or smog, fine particulates or soot, pollution of surface waters, and other effects harmful to human health and the environment. The violations described in this Notice Letter injure, and unless abated will continue to injure, the economic, aesthetic, health, and recreational interests of the Sierra Club and its members, several of whom live, travel, or recreate in the vicinity of, and downwind from, one or more of the Facilities.

B. Specific Clean Air Act Violations Alleged: Excess Opacity Emissions

Each of the three Facilities is subject to a limitation on the opacity of its emissions contained in the Missouri State Implementation Plan ("SIP") and the applicable operation permits issued to each of the Facilities pursuant to Title V of the Clean Air Act and 40

C.F.R. Part 70 ("Title V Permit"). The Missouri SIP contains a limit on opacity, which states in pertinent part as follows:

(3)(A). Maximum Visible Emissions Limitations. Unless specified otherwise in this rule, no owner or other person shall cause or permit to be discharged into the atmosphere from any source, not exempted under this rule, any visible emissions greater than the limitations in the following table:

Area of State	Visible Emission Limitations	
	Existing Sources	New Sources
Kansas City Metropolitan Area	20%	20%
St. Louis Metropolitan Area	20%*	20%
Springfield-Greene County Area	40%	20%
Outstate Area	40%	20%

(B) Visible Emissions Limitations, Exceptions Allowed In One (1) Six (6)-Minute Period. The visible emissions limitations in the following table shall be allowed for a period not aggregating more than one (1) six (6)-minute period in any sixty (60) minutes:

Area of State	Visible Emission Limitations	
	Existing Sources	New Sources
Kansas City Metropolitan Area	60%**	60%**
St. Louis Metropolitan Area	40%	40%
Springfield-Greene County Area	60%**	60%**
Outstate Area	60%	60%

Mo. Admin. Code § 10 CSR 10-6.220. This regulation is an EPA-approved component of the Missouri SIP, *see* 40 C.F.R. § 52.1320(c), 65 Fed. Reg. 64,145 (Oct. 26, 2000); it is therefore federally enforceable, including by citizens under the Clean Air Act's citizen suit provision.

The Meramec Plant is located in St. Louis County; Labadie is located in Franklin County; and Rush Island is located in Jefferson County, and therefore each plant is located within the "St. Louis Metropolitan Area" for purposes of the opacity limits in the Missouri SIP. Mo. Admin. Code § 10 CSR 10-6.020(2)(S)47. Thus, in simpler terms, the Missouri SIP imposes a 20% limit on opacity, except for one 6-minute period in any 60 minutes of not more than 40% opacity, on each of the Facilities' boilers.

The current Title V Permits for each of the three plants contain opacity limitations that are worded slightly differently, but result in the same 20% opacity limitation, with an exception for up to 6 minutes per any 60-minute period of not more than 40% opacity:

1. The permittee shall not discharge into the ambient air from any single source of emission whatsoever any air contaminant with opacity greater than 20 percent.
2. A source with a 20 percent limit may emit air contaminants with an opacity over 20 percent, but not greater than 40 percent for an aggregate length of time not to exceed six (6) minutes in any 60 minutes.

(Permit No. OP2009-017, Condition PW003, page 8 (Meramec); Permit No. OP2011+020A, Condition (B-1 through B-4) – 002, p. 8 (Labadie); Permit No. OP2010-047, Condition (EU001 and EU002) – 002, p. 8 (Rush Island)). Table 1, below, provides a summary of the applicable opacity limits for each facility.

Table 1: Summary of Applicable Opacity Limits

Station	Opacity Limit(s)	Regulatory Basis for Limit
Labadie Energy Center	20% opacity, except for "an opacity over 20 percent, but not greater than 40 percent for an aggregate length of time not to exceed six (6) minutes in any 60 minutes."	<ul style="list-style-type: none"> • Mo. Admin. Code § 10 CSR 10-6.220(3)(A)-(B) • Permit No. OP2011+020A, Condition (B-1 through B-4) – 002, p. 8
Meramec Energy Center	20% opacity, except for "an opacity over 20 percent, but not greater than 40 percent for an aggregate length of time not to exceed six (6) minutes in any 60 minutes."	<ul style="list-style-type: none"> • Mo. Admin. Code § 10 CSR 10-6.220(3)(A)-(B); • Permit No. OP2009-017, Condition PW003, page 8
Rush Island Energy Center	20% opacity, except for "an opacity over 20 percent, but not greater than 40 percent for an aggregate length of time not to exceed six (6) minutes in any 60 minutes"	<ul style="list-style-type: none"> • Mo. Admin. Code § 10 CSR 10-6.220(3)(A)-(B); • Permit No. OP2010-047, Condition (EU001 and EU002) – 002, p. 8

Each of the applicable opacity limitations, regardless of whether they appear in the SIP or in a Title V Permit, is separately and independently enforceable by Sierra Club under the Clean Air Act's citizen suit provision. The identification of specific Title V Permits by permit number in Table 1, above, is non-exclusive; Sierra Club believes that

each Facility has held one or more predecessor Title V permits with substantially the same opacity limit, and Sierra Club intends to enforce opacity violations that pre-date the issuance of each Facility's current Title V Permit.

Each of the Facilities included in this Notice Letter uses a continuous opacity monitoring system ("COMS") which measures and records the opacity at each emissions unit subject to an opacity limitation. The results of these measurements are reported on a quarterly basis by Ameren to the Missouri Department of Natural Resources ("MDNR") using Excess Visible Emissions Reports ("EERs") (typically comprised of a Continuous Emission Monitor Quarterly Report: Opacity, an Opacity Summary Report, an Opacity Excess Emissions Duration Report, and an Opacity Monitoring System Performance Report) that identify the date, time, duration, magnitude, and purported cause of each period of excess opacity emissions.

Enclosed with this Notice Letter are Ameren's quarterly opacity EERs for the period 2008 Q1 through 2013 Q1, and they are incorporated herein by reference. However, because Ameren maintains its COMS, maintains (and has sole access to) the data acquisition and handling system that is used to store the raw COMS data, and reviews the COMS data to prepare the content of its quarterly opacity EERs, Ameren is in the best position to determine precisely when the alleged opacity violations have occurred. The specific date, time, duration, and magnitude of each discrete 6-minute period of excess opacity emissions may therefore be identified by: (1) reviewing the enclosed opacity EERs (specifically, the report entitled "Opacity Excess Emissions Duration Report"), and (2) reviewing the raw COMS data maintained at each plant and searching for 6-minute increments during which the measured opacity exceeded the applicable opacity limit.

On its EERs, Ameren typically categorizes its excess opacity emissions by "reason code" or "causes of COMS excess emissions" (for example startup, shutdown, control equipment problems, process problems, soot-blowing, fuel problems, other known cause, unknown cause). Sierra Club disputes Ameren's attempt to classify its periods of excess opacity emissions as anything other than a violation of the applicable opacity limitations and the Clean Air Act, and intends to seek remedies for each period of excess opacity emissions regardless of Ameren's categorization of the purported cause of the excess emissions. This includes any period of excess opacity emissions for which Ameren may attempt to invoke an affirmative defense for periods of "malfunction, start-up, or

shutdown.” Mo. Admin. Code § 10 CSR 10-6.050. Sierra Club contends that the requisite MDNR determination required by Mo. Admin. Code § 10 CSR 10-6.220(3)(C) has not been made for any reported period of excess opacity emissions. *See also id.* § 10 CSR 10-6.050(E) (noting that “[c]ompliance with this rule does not automatically absolve the owner or operator of such facility of liability for the excess emissions reported.”). In any event, Ameren would bear the burden of proving that any such affirmative defense applies to each 6-minute opacity violation for which the defense is invoked.

Table 2, below, identifies the opacity violations that have occurred at each coal-fired unit at each of the Facilities during the period January 1, 2008 through March 31, 2013, as reported on Ameren’s quarterly opacity EERs for quarters 2008 Q1 through 2013 Q1.

**Table 2: Ameren Opacity Exceedences in Minutes
Sorted by Station, and Unit (2008 Q1 – 2013 Q1)**

Station/Unit	Total Minutes of Excess Opacity	Total Violations (6-Min Increments)
Labadie Unit #1	9222	1537
Labadie Unit #2	7788	1298
Labadie Unit #3	3666	611
Labadie Unit #4	4530	755
Meramec Unit #1	6570	1095
Meramec Unit #2	6936	1156
Meramec Unit #3	9042	1507
Meramec Unit #4	4434	739
Rush Island Unit #1	3744	624
Rush Island Unit #2	2262	377
Total	58,194	9,699

Each 6-minute period of excess opacity is a separate and distinct violation of the applicable opacity limitation contained in the Missouri SIP, the applicable Title V permit for the relevant facility, and the Clean Air Act. As identified above and in the attached unit-specific opacity EERs, Sierra Club alleges that Ameren committed at least 9,699 Clean Air Act violations during the period 2008 Q1 through 2013 Q1 at the Labadie, Meramec, and Rush Island Energy Centers by emitting air pollution with an opacity exceeding the applicable opacity limitation for those facilities.

Further, you are hereby put on notice that Sierra Club intends to enforce for any other opacity violation you may have committed but failed to report on your opacity EERs. For example, Ameren failed to submit opacity EERs for the Rush Island Station for the Fourth Quarter of 2010. Such failures to report are a separate and distinct violation of your permits and the Missouri SIP. *See, e.g.*, Permit No. OP2010-047, Condition (EU0001 and EU0002)-002, p. 9 (Rush Island reporting requirements); Mich. Admin. Code § 10 CSR 10-6.220(4)(A) (containing the requirement to report excess emissions). Sierra Club also intends to sue for each such failure to report excess opacity emissions, including but not limited to 2010 Q4 at the Rush Island Station.

C. Party Giving Notice and Relief to be Sought

The party giving notice is the Sierra Club. Sierra Club has a national office located at 85 Second Street, 2nd Floor, San Francisco, CA 94105, and also has Missouri Chapter offices located at 7164 Manchester Ave., Maplewood, MO 63143. However, Sierra Club requests that all communications be addressed to its attorneys:

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The citizen suit provision of the Clean Air Act allows Sierra Club to commence suit in a United States district court against you for violations of an emission standard or limitation. 42 U.S.C. § 7604(a). An emission standard or limitation is defined as any requirement under 42 U.S.C. § 7411 or § 7412, any condition or requirement applicable under a state implementation plan approved by the U.S. EPA, any Title V permit, or any requirement to obtain a permit as a condition of operations. 42 U.S.C. § 7604(f).

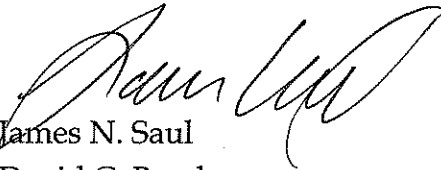
This letter serves as your notice that Sierra Club intends to file a suit to enforce the Clean Air Act for the violations described herein and any other violations for which this

letter provides sufficient notice. Sierra Club will ask the district court to impose appropriate injunctive relief, civil penalties, a beneficial environmental project in the areas impacted by air pollution emissions from Ameren's facilities, as authorized by 42 U.S.C. § 7604(g)(2), and Sierra Club's costs of litigation and attorneys' fees.

More recent compliance records, including Ameren's opacity EERs, have yet to be made publicly available, but Sierra Club believes it is likely to uncover additional violations at each facility during the 60-day notice period and during the course of litigation. Sierra Club also alleges that each of Ameren's Clean Air Act violations described herein are ongoing and likely to continue in the future until such time as a court grants Sierra Club its requested relief. As with your past violations identified herein, your future Clean Air Act violations will be measured and recorded by your COMS, and reported with specificity to MDNR and/or St. Louis County on your quarterly opacity EERs or PM monitoring reports, and thus will be readily apparent to you before they are reported to MDNR or available to Sierra Club. Therefore, Sierra Club intends to sue Ameren for any additional violations at the Facilities identified herein that have occurred or may occur after the date of this notice letter.

If you believe any of the facts described above are in error or have any information indicating that you have not violated the Clean Air Act we urge you to contact the undersigned counsel immediately. Sierra Club is interested in obtaining early and prompt resolution of these allegations, and is willing to discuss them during the 60-day notice period. However, if those discussions do not occur or if the matter is not resolved to Sierra Club's satisfaction before the end of the notice period, Sierra Club will file suit on or about the 60th day following the date of this letter.

McGillivray Westerberg & Bender LLC
Counsel for Sierra Club



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