

IN THE MATTER OF: )  
 ) No.  
ILLINOIS POLLUTION CONTROL )  
BOARD MEETING )

REPORT OF THE PROCEEDINGS held in the above entitled cause before Hearing Officer Gerry Keenan, called by the Illinois Pollution Control Board, taken by Steven Brickey, CSR, for the State of Illinois, 100 West Randolph Street, Chicago, Illinois, on the 15th day of October, 2015, commencing at the hour of 11:01 a.m.

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STATE OF ILLINOIS  
Pollution Control Board

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A P P E A R A N C E S

MR. GERRY KEENAN, Chairman  
MR. JERRY O'LEARY, Board Member  
MS. JENNIFER BURKE, Board Member  
MS. CARRIE ZALEWSKI, Board Member  
MS. DEANNA GLOSSER, Board Member (via video)  
MR. JOHN THERRIAULT, Clerk

1 MR. KEENAN: We'll start off by  
2 opening the opportunity for public comments at the  
3 meeting. At each Board meeting the Board sets  
4 aside time for members of the public to provide  
5 input on any case on the Board's agenda. We  
6 welcome any and all comments and in the interest  
7 of fairness we ask that each speaker limit their  
8 time to about three minutes.

9 All of our comments are recorded  
10 by the court reporter. So if you can just speak  
11 clearly and distinctly, that would be great and  
12 please start off by stating and spelling your  
13 name, your organizational affiliation and then you  
14 can make your statement.

15 MS. TREACY: Thank you. My name is  
16 Terri Treacy, that's T-E-R-R-I, T-R-E-A-C-Y. I'm  
17 with the Sierra Club Illinois Chapter and I'm here  
18 for R14-10.

19 On September 15, 2015, Sierra  
20 Club, Prairie Rivers Network, and the  
21 Environmental Law & Policy Center filed an amended  
22 proposal and motion to reopen case R14-10.

23 I'm here today on behalf of the  
24 above mentioned organizations and the citizens of

1 Illinois that they represent and the nearly 1,000  
2 individuals who submitted comments to respectfully  
3 request that the Board, one, deny IEPA's motion  
4 for an indefinite stay and, two, grant the  
5 Environmental Groups' motion to reopen the docket.

6           According to IEPA, there are at  
7 least 91 coal ash impoundments at 24 operating and  
8 closed power plants in Illinois that store wet  
9 coal combustion waste. At least 89 of these  
10 impoundments are diked surface structures that  
11 range in size from less than an acre to over 300  
12 acres. Some of the surface structures are lined  
13 with impermeable materials while others are not.

14           The chemical make-up of coal  
15 combustion waste depends on the type of coal used,  
16 as well as the combustion technology and pollution  
17 control technology used at the facility. CCW can  
18 contain; antimony, arsenic, barium, boron,  
19 beryllium, cadmium, chromium, chloride, iron,  
20 lead, mercury, manganese, nickel, selenium,  
21 silver, sulfate, and thallium. The presence of  
22 these contaminants threatens groundwater as these  
23 contaminants are soluble and mobile. When the CCW  
24 surface impoundments are not lined with

1 impermeable material, these contaminants may leach  
2 into the groundwater, affecting the potential use  
3 of the groundwater. While some of these  
4 contaminants affect safety of drinking water,  
5 others affect taste and odor, and other potential  
6 uses such as irrigation.

7           Illinois EPA opened this proceeding  
8 in 2013 to fill a regulatory gap in the Board's  
9 rules governing coal combustion waste surface  
10 impoundments noting that the Board's regulations  
11 did not provide a method for closure or corrective  
12 action at these facilities. Although new federal  
13 rules have been adopted, there are several  
14 important reasons to adopt state rules in this  
15 matter as soon as possible.

16           The Federal Coal Ash Rule does  
17 not address compliance with Illinois groundwater  
18 or surface water quality standards. This means  
19 that the unworkable ad hoc process that  
20 brought the Agency to this rulemaking in the first  
21 place will persist. In the interest of  
22 efficiency, the Board should adopt State Coal Ash  
23 Rules as soon as possible to help ensure that when  
24 an owner or operator undertakes corrective action

1 or closure of a coal ash impoundment, it does not  
2 risk duplicating either planning efforts or the  
3 remediation work itself in order to comply with  
4 state groundwater or surface water quality  
5 standards.

6 The federal rule does not apply to  
7 impoundments associated with generating stations  
8 that are no longer operating. Coal ash  
9 impoundments at such facilities, like those at  
10 Meredosia and Vermilion affect real Illinois  
11 communities, as well as the state's only  
12 national scenic river. These rules would  
13 establish a procedure for clean-up and closure at  
14 those facilities that do not now exist in the  
15 state or federal rules.

16 The state rule is also an important  
17 opportunity to include financial assurances, as  
18 recommended by the Illinois Attorney General's  
19 office, to ensure that the state isn't left to  
20 cover cleanup and closure costs.

21 The state rule establishes a  
22 process for agency oversight and public  
23 participation that is absent from the  
24 self-implementing federal rules. A regulatory gap

1 remains. The Environmental Groups' September 15,  
2 2015, proposal was an attempt to step in and make  
3 up for the Agency's lack of leadership regarding  
4 the rulemaking it initiated. IEPA represented to  
5 the Board that this state rule was necessary and  
6 appropriate despite the fact that a federal rule  
7 governing coal combustion waste was simultaneously  
8 under development.

9 Reopening the proceedings and  
10 directing this docket to proceed is consistent  
11 with the goal of restoring, protecting, and  
12 enhancing the quality of our environment and is  
13 the path that the Board should take here.

14 Thank you for allowing me to make  
15 these comments today. I appreciate it.

16 MR. KEENAN: Thank you very much.  
17 Would it be possible for you to leave a copy of  
18 your statement with -- with us so that we can make  
19 sure we get all the spellings, correct?

20 MS. TREACY: You bet.

21 MR. KEENAN: We'd also like to use  
22 the list of things for the Board spelling bee. So  
23 I want to see who can get beryllium right the  
24 first time.

1 MS. TREACY: And full disclosure  
2 that one paragraph with all that list actually  
3 comes from the IEPA's original docket to write  
4 rules for the closure of these plants.

5 MR. KEENAN: Great. Thanks.

6 MS. GLOSSER: So spelling is on  
7 them, right?

8 MS. TREACY: Spelling is on them.

9 MR. KEENAN: Okay. All right.  
10 Thanks very much for coming to make the statement.  
11 Thanks for providing us with a copy.

12 MS. TREACY: Thank you.

13 MR. KEENAN: And we'll be taking  
14 that matter up and Member O'Leary is going to give  
15 us a status report on that in just a couple of  
16 minutes. Is there anybody else who would like to  
17 make a statement or address the Board?

18 Seeing no one, we'll close the  
19 public comment section for the meeting today and  
20 then move on.

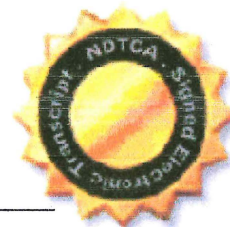
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1 STATE OF ILLINOIS )  
 2 ) SS.  
 3 COUNTY OF COOK )  
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5 I, Steven Brickey, Certified Shorthand  
 6 Reporter, do hereby certify that I reported in  
 7 shorthand the proceedings had at the trial  
 8 aforesaid, and that the foregoing is a true,  
 9 complete and correct transcript of the proceedings  
 10 of said trial as appears from my stenographic  
 11 notes so taken and transcribed under my personal  
 12 direction.

13 Witness my official signature in and for  
 14 Cook County, Illinois, on this 15<sup>th</sup> day of  
 15 OCTOBER, A.D., 2015.



*Steven Brickey*

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<p style="text-align: center;"><b>A</b></p> <p><b>A.D</b> 9:15  <b>a.m</b> 1:7  <b>absent</b> 6:23  <b>acre</b> 4:11  <b>acres</b> 4:12  <b>action</b> 5:12,24  <b>ad</b> 5:19  <b>address</b> 5:17 8:17  <b>adopt</b> 5:14,22  <b>adopted</b> 5:13  <b>affect</b> 5:4,5 6:10  <b>affiliation</b> 3:13  <b>aforesaid</b> 9:8  <b>agency</b> 5:20 6:22  <b>Agency's</b> 7:3  <b>agenda</b> 3:5  <b>allowing</b> 7:14  <b>amended</b> 3:21  <b>antimony</b> 4:18  <b>anybody</b> 8:16  <b>appears</b> 9:10  <b>apply</b> 6:6  <b>appreciate</b> 7:15  <b>appropriate</b> 7:6  <b>arsenic</b> 4:18  <b>ash</b> 4:7 5:16,22 6:1              6:8  <b>aside</b> 3:4  <b>associated</b> 6:7  <b>assurances</b> 6:17  <b>attempt</b> 7:2  <b>Attorney</b> 6:18</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>barium</b> 4:18  <b>bee</b> 7:22  <b>behalf</b> 3:23  <b>beryllium</b> 4:19 7:23  <b>bet</b> 7:20  <b>Board</b> 1:2,5 2:2,3,3              2:4 3:3,3 4:3 5:22              7:5,13,22 8:17  <b>Board's</b> 3:5  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