

## Electronic Filing: Received, Clerk's Office 05/29/2020

**From:** [Horton, Vanessa](#)  
**To:** [Brown, Don](#)  
**Subject:** FW: [External] Clarification re May 26th Order in R2020-019 In the Matter of: Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845  
**Date:** Friday, May 29, 2020 1:03:24 PM

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Mr. Clerk,

Please docket this correspondence in R20-19 in COOL as "Hearing Officer Response to Procedural Question."

Thank you,

**Vanessa Horton**

Attorney Advisor  
Illinois Pollution Control Board  
James R. Thompson Center  
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**From:** Horton, Vanessa  
**Sent:** Friday, May 29, 2020 1:01 PM  
**To:** 'Jennifer Cassel' <jcassel@earthjustice.org>  
**Cc:** Diers, Stefanie <Stefanie.Diers@Illinois.gov>; Gradeless, Rex <Rex.Gradeless@illinois.gov>; Zeivel, Christine <Christine.Zeivel@illinois.gov>; Brown, Don <Don.Brown@illinois.gov>; mraiff@gibsondunn.com; mdunn@atg.state.il.us; aarmstrong@atg.state.il.us; ssylvester@atg.state.il.us; kpamenter@atg.state.il.us; EXT Anker, Alisha <aanker@ppi.coop>; msmallwood@ameren.com; cynthia.skrukrud@sierraclub.org; jack.darin@sierraclub.org; christine.nannicelli@sierraclub.org; jhammons@elpc.org; newman.christopherm@epa.gov; Yang, Virginia <Virginia.Yang@Illinois.gov>; San Diego, Nick <Nick.SanDiego@Illinois.gov>; Mool, Bob <Bob.Mool@Illinois.gov>; Mauer, Paul <Paul.Mauer@Illinois.gov>; Snow, Renee <Renee.Snow@illinois.gov>; mbilut@mwe.com; kknowles@prairierivers.org; arehn@prairierivers.org; aruss@environmentalintegrity.org; EXT Manning, Claire <cmanning@bhslaw.com>; aschuering@bhslaw.com; kcourtney@elpc.org; tcmar@earthjustice.org; kharley@kentlaw.edu; dgrable@clclaw.org; deborah.williams@cwlp.com; adavis@ierg.org; jmartin@heplerbroom.com; kthompson@ierg.org; sbonebrake@schiffhardin.com; jmore@schiffhardin.com; rgranholm@schiffhardin.com; water.stone@nrgenergy.com; sf@nijmanfranzetti.com; kg@nijmanfranzetti.com; va@nijmanfranzetti.com; melissa.brown@heplerbroom.com; jennifer.martin@heplerbroom.com; fbugel@gmail.com; mozaeta@earthjustice.org; mlegge@earthjustice.org  
**Subject:** RE: [External] Clarification re May 26th Order in R2020-019 In the Matter of: Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845

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Ms. Cassel,

Thank you very much for your inquiry. Yes, witnesses will be allowed to testify by video on WebEx. I would prefer that testimony be either in-person or via video on WebEx. If a witness is unable to appear in-person or by video on WebEx, please let me know and we may be able to accommodate testimony by telephone.

As for asking questions of witnesses, participants will be allowed to do so via WebEx video, telephone, and, of course, in person. The details of this process are something I would like to discuss at the prehearing conference.

The preference for in-person or WebEx video testimony of course does not apply to oral public comments, which are unsworn and not subject to cross-examination. As indicated in the May 26, 2020 hearing officer order, we will be giving a wide berth to accept as much public comment—oral and written—as possible. Again, I would like to discuss the mechanics of this in more detail during the prehearing conference.

As a reminder, participants are advised to contact me—by 5 p.m. on June 2, 2020—if they have a preference between the two potential prehearing conference dates – June 23, 2020 or June 24, 2020, both at 10 a.m.

Thank you,

**Vanessa Horton**

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**From:** Jennifer Cassel <[jcassel@earthjustice.org](mailto:jcassel@earthjustice.org)>

**Sent:** Friday, May 29, 2020 10:29 AM

**To:** Horton, Vanessa <[Vanessa.Horton@Illinois.gov](mailto:Vanessa.Horton@Illinois.gov)>

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**Subject:** [External] Clarification re May 26th Order in R2020-019 In the Matter of: Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845

Hearing Officer Horton,

Thank you for your May 26<sup>th</sup> order in R2020-019.

I write to seek clarification concerning remote participation. In addition to the public being able to provide public comment via the Webex remote platform or via phone, are testifying witnesses also permitted to testify remotely? At least one of the testifying witnesses that will be presented by several environmental organizations participating in this matter is not based in Illinois, and given the COVID-related uncertainties surrounding travel and gatherings that may continue into September, it would be very helpful to know whether testimony via Webex or phone is an option. It is my understanding that witnesses that will appear on behalf of other participants may also be based out of state and have similar questions.

For similar reasons, it would be very helpful to understand whether attorneys who are participating via Webex be permitted to ask questions of witnesses. Could you kindly also clarify if that is permissible?

Thank you in advance,  
Jenny Cassel

Attorney for Prairie Rivers Network

Jenny Cassel  
Staff Attorney, Coal Program  
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