

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
STANDARDS FOR THE DISPOSAL OF)	
COAL COMBUSTION RESIDUALS)	R 20-19
IN SURFACE IMPOUNDMENTS:)	
PROPOSED NEW 35 ILL. ADM.)	(Rulemaking – Land)
CODE 845)	

NOTICE OF FILING

TO: Don Brown	Vanessa Horton
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500	100 W. Randolph Street
Chicago, Illinois 60601	Suite 11-500
(VIA ELECTRONIC MAIL)	Chicago, Illinois 60601
	(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **PRE-FILED QUESTIONS OF ILLINOIS EPA WITNESSES SUBMITTED BY THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP**, copies of which are herewith served upon you.

Respectfully submitted,

Dated: June 23, 2020

By: /s/ Jennifer M. Martin
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following:

That I have served the attached **PRE-FILED QUESTIONS OF ILLINOIS EPA**

WITNESSES SUBMITTED BY THE ILLINOIS ENVIRONMENTAL REGULATORY

GROUP via electronic mail upon:

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That my email address is Jennifer.martin@heplerbroom.com

That the number of pages in the email transmission is 7 pages.

That the email transmission took place before 5:00 p.m. on the date of June 23, 2020

/s/ Jennifer M. Martin

Jennifer M. Martin

Date: June 23, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
STANDARDS OF THE DISPOSAL)	
OF COAL COMBUSTION RESIDUAL)	R 2020-019
IN SURFACE IMPOUNDMENTS:)	
PROPOSED NEW 35 ILL. ADM.)	(Rulemaking – Water)
CODE 845)	

PRE-FILED QUESTIONS OF ILLINOIS EPA WITNESSES SUBMITTED BY THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP

NOW COMES the Illinois Environmental Regulatory Group (“IERG”), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the Illinois Pollution Control Board’s (“Board”) Hearing Officer Orders of April 24 and May 26, 2020, submits the following Pre-Filed Questions of Illinois Environmental Protection Agency (“Illinois EPA”) witnesses. Although questions are directed to a particular Illinois EPA witness whose testimony the question is based on, IERG does not object to the answers being presented by the most appropriate Illinois EPA witness for each question.

Questions for Lynn E. Dunaway

1. Are provisions not explicitly listed in proposed Section 845.170 applicable to inactive closed surface impoundments?
2. If not, would it be appropriate to insert clarifying language into Sections 845.250, 845.270, 845.290, and 845.780, as laid out below?
 - a. Add “if applicable” at the end of Section 845.250(b)(1) so that it would read as follows: “If the determination is to issue the permit, the Agency must notify the applicant in writing of the content of the tentative determination and draft permit and of its intent to circulate public notice of issuance in accordance with Section 845.260, if applicable.”

- b. Add “if applicable” to Section 845.250(b)(2) so that it would read as follows:
“If the determination is to deny the permit, the Agency must notify the applicant in writing of the tentative determination and of its intent to circulate public notice of denial, in accordance with Section 845.260, if applicable. . . .”
- c. Add “if applicable” to Section 845.270(a) so that it would read as follows:
“The Agency shall not make a final permit determination until the public participation process in Section 845.260, if applicable, has concluded.”
- d. Revise Section 845.290(b) so it would read as follows: “The CQA program must meet the following requirements or the requirements of plans approved by the Agency prior to the effective date of these rules, whichever is applicable.”
- e. Revise Section 845.780(b)(3) so it would read as follows: “Maintaining the groundwater monitoring system and monitoring the groundwater in accordance with the requirements of plans approved by the Agency prior to the effective date of these rules or Subpart F, whichever is applicable.”

Questions for Amy Zimmer

- 3. If a closed inactive surface impoundment has a post-closure plan approved by the Agency prior to the effective date of these rules, would it be appropriate to add clarifying language to Section 845.780, as laid out below?
 - a. Revise Section 845.780(d)(2) so it would read as follows: “Deadline to prepare the initial written post-closure plan. Unless the owner or operator of a CCR surface impoundment has a post-closure plan approved by the Agency, the owner or operator of a CCR surface impoundment must submit to the

Agency an initial written post-closure care plan consistent with the requirements specified in subsection (d)(1) of this Section with its initial operating permit application.”

- b. Revise Section 845.780(e) so it would read as follows: “Upon the completion of the post-closure care period, the owner or operator of the CCR surface impoundment must submit a request to the Agency to terminate post-closure care. The request must include a certification by a qualified professional engineer verifying that post-closure care has been completed in accordance with the post-closure care plan approved by the Agency prior to the effective date of these rules or in accordance with the post-closure care plan specified in subsection (d) of this Section and the requirements of this Section, whichever is applicable.”

IERG would like to thank the Board for the opportunity to submit these questions.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: June 23, 2020

By: /s/ Jennifer M. Martin
One of Its Attorneys

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