

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
BOARD CONSIDERATION OF	)	R 25-18
ENVIRONMENTAL JUSTICE IN BOARD	)	(Rulemaking – Procedural)
PROCEEDINGS	)	

NOTICE OF ELECTRONIC FILING

To: Attached Service List

PLEASE TAKE NOTICE that on October 31, 2025, I electronically filed with the Clerk of the Illinois Pollution Control Board (“Board”) the **COMMENTS OF EARTHJUSTICE, PRAIRIE RIVERS NETWORK, AND SIERRA CLUB**, copies of which are served on you along with this notice.

Dated: October 31, 2025

Respectfully Submitted,

/s/ Jennifer Cassel
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COMMENTS OF EARTHJUSTICE, PRAIRIE RIVERS NETWORK, & SIERRA CLUB

Pursuant to 35 Ill. Adm. Code 101.628(c) and 101.110(a), Earthjustice, Prairie Rivers Network, and Sierra Club (“Commenters”) hereby submit these comments in the above-referenced docket. Commenters concur with the Attorney General that “environmental justice is a crucial consideration in every environmental law decision and is vitally important for protecting the constitutional right to a healthful environment for all citizens of Illinois.”¹ Commenters are grateful to the Board for opening and pursuing this docket on this issue of fundamental concern. While Commenters were unable to provide detailed responses to the Board’s questions during the relatively brief timeframe set by the Board’s order, we offer the following thoughts and appreciate the Board’s consideration of them.

First, Commenters fully support and endorse the comments submitted by the Chicago Environmental Justice Network (“CEJN”) in this proceeding. CEJN provides critical background on the Board’s ample authority—indeed, its obligation—to incorporate environmental justice considerations into its rules, procedures, and overall implementation of the Environmental Protection Act (“the Act”). Further, CEJN offers pointed and useful recommendations for how the Board may and should do so. We ask that the Board carefully consider CEJN’s thoughtful analysis and recommendations and promptly adopt them.

Second, Commenters recommend that the Board consider how environmental justice concerns manifest, and may be addressed, outside of Chicago. For example, groundwater concerns are paramount in areas of Illinois that do not have access to Lake Michigan as a source of drinking water. Hundreds of thousands of residents in Central and Southern Illinois depend on groundwater supplies for drinking, domestic uses, crop irrigation, watering livestock, and more. Low-income communities and residents may lack access to capital necessary to ensure their groundwater supplies are sufficiently tested, treated, and otherwise clean and safe to drink. Particularly vulnerable residents include farmworkers, small farmers, communities with significant extractive industries such as coal mining and oil drilling, and towns heavily burdened by industrial wastes like coal combustion residuals and refinery wastes. Commenters ask that the Board offer further opportunities in this docket to consider whether Subtitles F and J of its rules adequately account for those and other environmental justice concerns.

¹ PCB R 25-18, PC #2, Comment Submitted By The Attorney General’s Office (Feb. 25, 2025) at 1.

With regard to coal combustion residuals and the Board's rules at Part 845 in particular, Commenters recommend that the Board consider a rule directing the Environmental Protection Agency ("Agency") to prioritize review and issuance of permits for CCR surface impoundments in areas of environmental justice concern, along with impoundments that pose the highest risk to health and the environment. Indeed, 415 ILCS 5/22.59(g)(9) directs the Board to, via rules, "specify a method to prioritize CCR surface impoundments required to close under RCRA if not otherwise specified by the [US EPA], so that the CCR surface impoundments with the highest risk to public health and the environment, and *areas of environmental justice concern are given first priority*" (emphasis added). The Board's CCR surface impoundment rules at Part 845 do prioritize the submission of permit *applications* for CCR surface impoundments in areas of environmental justice concern,² but do not direct the Agency to prioritize issuance of permits for those impoundments. It has been more than three and a half years since closure construction permit applications were submitted for CCR surface impoundments in areas of environmental justice concern,³ but **zero** closure construction permits have yet been issued by the Agency. This extended delay is harming environmental justice communities, where CCR impoundments continue to pollute groundwater and surface waters, pose potential risks of sudden, catastrophic CCR impoundment collapse, and create fugitive CCR dust pollution hazards. The Board should therefore seriously consider adopting rules to require the Agency to expedite issuance of closure construction permits for CCR impoundments in areas of environmental justice concern.

In addition, if the Board adopts rules pertaining to carbon sequestration permits required by Public Act 103-0651, Commenters urge it to include provisions addressing environmental justice concerns and provide just a couple of examples as a starting point. For example, the Board could⁴ and should require carbon sequestration permit applicants to list and describe other industries posing risks to groundwater and surface waters in the areas where carbon sequestration wells are proposed, including but not limited to all underground injection wells, oil or gas wells or infrastructure, coal mines, coal waste impoundments, CCR surface impoundments, and chemical manufacturers or processing plants. The Board should adopt rules authorizing denial of carbon sequestration permits not only when applicants do not satisfy application standards or otherwise satisfy the Act, but also when cumulative risks to water near the site of the proposed carbon sequestration well pose a significant burden on communities.

Language access is also an important consideration for carbon sequestration permits as well as other permitting processes. The Board should adopt rules clarifying how permit applicants are to identify, and determine the primary languages of, "potentially impacted populations" for purposes of developing an external communications plan in those populations' primary languages to be included in its emergency response plan, as required by 415 ILCS 5/59.6(7)(C). Similarly, the Board should direct the Agency to determine potentially impacted populations, and those populations' primary languages, for purpose of public notices, public

² 35 I.A.C. §§ 845.700(g)(1)(C), (g)(6), (h)(1).

³ *Id.* at § 845.700(h)(1).

⁴ 415 ILCS 5/59.6 provides that the application materials set out in the statute are the "minimum" of what an application must contain; the Board may require additional materials as necessary to ensure compliance with the Act pursuant to its rulemaking power. *See id.* at 5/5(b).

hearings, and documents for public review pursuant to 415 ILCS 5/59.8. In doing so, the Board should, at a minimum, follow the Agency's Language Access Plan⁵ or direct the Agency to satisfy that plan in these contexts.

Finally, Commenters recognize that embedding environmental justice into the Board's rules, procedures, and overall implementation of the Act is a significant undertaking that may not be practicable in a single docket. For some types of analyses and actions under the Act, such as those addressed in the Informal Resolution Agreement discussed by CEJN, many concerned parties have thought long and hard about how best to incorporate and act on environmental justice considerations. Orders or rules pertaining to the IRA, linguistic considerations, and other well-developed mechanisms to address environmental justice can and should be issued promptly, allowing them to take effect. Meanwhile, the Board should open subdockets to continue evaluating and developing aspects of its rules that deserve and need further consideration, without delaying the adoption and implementation of those that are well developed. We encourage the Board to take prompt action where possible, and where not, to open subdockets to allow in-depth exploration of changes to incorporate environmental justice concerns.

Dated: October 31, 2025

Respectfully Submitted,

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⁵ Available at <https://epa.illinois.gov/about-us/accessibility/language-access/language-access-plan.html> (last visited Oct. 30, 2025).

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CERTIFICATE OF SERVICE

The undersigned, Jennifer Cassel, an attorney, certifies that I have served by email the Clerk and by email the individuals with email addresses named on the Service List provided on the Board's website, available at <https://pcb.illinois.gov/Cases/GetCaseDetailsById?caseId=17537>, a true and correct copy of the **COMMENTS OF EARTHJUSTICE, PRAIRIE RIVERS NETWORK, AND SIERRA CLUB** before 5 p.m. Central Time on October 31, 2025. The number of pages in the email transmission is 8 pages.

Dated: October 31, 2025

Respectfully Submitted,

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