

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
)  
STANDARDS FOR THE DISPOSAL OF ) R 20-19  
COAL COMBUSTION RESIDUALS IN ) (Rulemaking – Land)  
SURFACE IMPOUNDMENTS: PROPOSED )  
NEW 35 ILL. ADM. CODE 845 )  
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**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **PREFILED QUESTIONS OF ELPC, PRAIRIE RIVERS NETWORK, AND SIERRA CLUB TO MARK ROKOFF**, copies of which are attached hereto and herewith served upon you.

Dated: September 10, 2020

Respectfully submitted,

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**PREFILED QUESTIONS OF ELPC, PRAIRIE RIVERS NETWORK, AND SIERRA CLUB TO MARK ROKOFF**

1. On page 10 of your prefiled testimony, you state: “A number of the approximately 500 written closure plans involve implementation of hybrid closures. . . . For the purposes of closure approach discussed in this testimony, these hybrid closures have been tagged as closure in place as the CCR material remains onsite and within the unit limits. In scenarios where closure involves removal of the majority of CCR material from within the surface impoundment limits (and placed in a landfill or beneficially used), but some amount of material remains onsite due to removal complications (e.g., material below an existing landfill, etc.), these units have been considered to be closed by removal.”
  - a. How many of the 259 closures tagged as closure in place are hybrid closures?
  - b. How many of the 236 closures tagged as closure by removal are hybrid closures?
  - c. What do you mean by “majority” when you state “scenarios where closure involves removal of the majority of CCR material from within the surface impoundment limits”? Do you mean more than 50% of the CCR material?
2. On page 10, you state: “The surface impoundment material volumes have been determined based on a ‘best available estimate’ approach. In general, data from the most recent annual inspection report (typically 2019) represents the best available data. In some cases, this is not available and data from the closure plan is used. Unit area data follows a similar approach. Where this data is not available in either the inspection or closure report, it has been estimated using Google Earth.”
  - a. Why would surface impoundment material volume data not be available in the annual inspection report or closure plan?
3. On page 10, you state: “Similar to the above items, a small number of closure plans do not specifically state the closure method—either closure in place or closure by removal.” You also state: “In some cases, we know from public disclosures that a

surface impoundment is required to close by removal based on agency or public disclosures even though the closure plan has not been updated to reflect this announcement.”

- a. If a closure method is specifically stated in a closure plan, can an owner or operator easily amend the closure plan to change the selected closure method?
4. On Page 11, you state: “closure in place is considered an ‘equally protective’ closure method when implemented properly and compliant with the Federal CCR Rule closure standards. In fact, as stated in the Federal CCR Rule Preamble (Preamble page 21412), both methods of closure (closure in place and closure by removal) ‘can be equally protective, provided they are conducted properly.’”
    - a. Is your opinion that closure in place and closure by removal are “equally protective” based solely on the Federal CCR Rule Preamble language cited in your above statement?
    - b. If not, please explain the basis of your opinion that closure in place and closure by removal are “equally protective.”
  5. On Page 15, you provide a bar chart displaying three groups of surface impoundments and the closure method selected based on size.
    - a. For the group you refer to as “less than 1 MCY [million cubic yards],” how many units are closing by removal?
    - b. For the group you refer to as “1 to 3 MCY,” how many units are closing by removal?
    - c. For the group you refer to as “over 3 MCY,” how many units are closing by removal?
  6. On page 15, in reference to units over 3 MCY that are planning to close by removal, you state “each of these are each affected by some significant external factor (i.e., regulatory directive, lawsuit settlement, beneficial use opportunity, etc.).”
    - a. Please list how many units are closing by removal due to regulatory directive and state how you obtained this information.
    - b. Please list how many units are closing by removal due to lawsuit settlement and state how you obtained this information.
    - c. Please list how many units are closing by removal due to beneficial use opportunity and state how you obtained this information.

- d. Please list how many units are closing by removal due to another “significant external factor” not listed in your statement and state how you obtained this information.
7. On page 17, when discussing the methods of closure for CCR surface impoundments that trigger closure for cause, you state: “Many [owners/operators] are confident that closure in place is an appropriate solution and the data from the CCR websites supports this.”
  - a. What is the basis for your opinion that “[m]any [owners/operators] are confident that closure in place is an appropriate solution”?
  - b. Please explain what you mean by “appropriate solution” in this statement.
  - c. Please identify any circumstances under which closure in place would not be an “appropriate solution.”
  - d. Please explain which data from the CCR websites “supports” owner/operator’s confidence that closure by removal is an “appropriate solution.”
8. On page 27, in reference to the defined criteria in Section 845.710(b), you state: “these are important factors that I often see utilized in weighing alternatives during the closure evaluation and decision-making process.” On page 28, you then state: “by defining the criteria, which omits key parameters necessary in the selection approach, and prescribing the method on which closure selection is made, the proposed Illinois Rule removes some of the flexibility and decision-making from owners/operators responsible for implementation and long-term performance.”
  - a. Is it your opinion that these “important factors” should be considered by owner/operators during the closure evaluation and decision-making process? Why or why not?
9. On page 28, you state: “Key elements such as the ability to satisfy regulatory timelines and cost are not explicitly listed as criteria [in Section 845.710(b)].”
  - a. What types of options or methods would be excluded if the ability to satisfy regulatory timelines and costs were listed as criteria in Section 845.710(b)?
10. On page 28, you state that Part 845 expands the definition of “Inactive CCR Surface Impoundments” by removing the reference to “liquids” as a component of the definition, and as a result, “a greater number of units will potentially be regulated under Part 845 as compared to the Federal CCR Rule.”

- a. Have you evaluated which, if any, units in Illinois contained CCR, but not liquids, on or after October 19, 2015? If so, please identify them and explain how you determined that.
11. On page 29, you state: “The Vistra Illinois Subsidiaries anticipate that the majority of their regulated impoundments will be categorized as Category 4 or 5.”
- a. What impoundments do the Vistra Illinois Subsidiaries anticipate will be categorized as Category 4?
  - b. What impoundments do the Vistra Illinois Subsidiaries anticipate will be categorized as Category 5?
  - c. What impoundments do the Vistra Illinois Subsidiaries anticipate will be categorized as a category other than 4 and 5?
12. On page 30, you state: “based upon experience, this process [full alternatives analysis with groundwater modelling, two public meetings, and preparation of construction permit application] typically takes 6 months to 2 years or longer depending upon the site complexity and, given the increased requirements as noted above. [*sic*] 9 months would not be sufficient for a more complex unit to complete this process.”
- a. In your experience, were the owners/operators that you are referring to in this statement operating under a timetable or deadline for completing this closure assessment process?
  - b. What does “sufficient” mean? Are you saying it would be impossible to conduct the “process [full alternatives analysis with groundwater modelling, two public meetings, and preparation of construction permit application] within 9 months?
  - c. If it is your opinion that 9 months is an impossible timeline, what is the basis for that opinion?
  - d. How do the “increased requirements as noted above” render 9 months not “sufficient”?

Dated: September 10, 2020

Respectfully Submitted,



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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=16858>, a true and correct copy of the **PREFILED QUESTIONS OF ELPC, PRAIRIE RIVERS NETWORK, AND SIERRA CLUB TO MARK ROKOFF**, before 5 p.m. Central Time on September 10, 2020. The number of pages in the email transmission is 12 pages.

Dated: September 10, 2020

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