

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) No. R20-19
) (Rulemaking-Land)
Standards for the Disposal)
of Coal Combustion)
Residuals in Surface)
Impoundments: Proposed New)
35 Ill. Adm. Code 845)

REPORT OF THE PROCEEDINGS held in the
above entitled cause before Hearing Officer
Vanessa Horton, called by the Illinois Pollution
Control Board, taken by Steven Brickey, CSR, RMR,
CRR for the State of Illinois, 100 West Randolph
Street, Chicago, Illinois, on the 1st day of
October, 2020, commencing at the hour of 5:33 p.m.

1 HEARING OFFICER HORTON: Okay. Good
2 evening, everyone. Welcome to this Illinois
3 Pollution Control Board hearing. My name is
4 Vanessa Horton, and I am a Hearing Officer for
5 this rulemaking proceeding entitled Rulemaking for
6 Proposed New 35 Ill. Adm. Code 845: Standards for
7 the Disposal of Coal Combustion Residuals in
8 Surface Impoundments. The Board docket number for
9 this rulemaking is R20-19.

10 Also present here from the Board
11 is Member Van Wie and also present from the
12 Board's staff is Daniel Pauley. He will be
13 answering any chat questions and he is our Board
14 staff attorney and as well as General Counsel
15 Marie Tipsord.

16 Welcome to the public comment
17 portion of the second set of hearings in this
18 matter. During the first set of hearings in
19 August, we welcomed oral public comment in person,
20 via Webex and via telephone. We do the same here
21 today. The way this will work is as follows.

22 For everyone who has submitted
23 their request to make a public comment, I have
24 broken those individuals up into 15-minute

1 segments. I will call on individuals to make a
2 comment. When I do so, please unmute yourself by
3 pressing the microphone button at the bottom of
4 your screen if you are participating via video or
5 by pressing Star 6 if you're calling in by phone.

6 If I call on someone and they
7 aren't on the line, I will circle back to them at
8 the end of the 15-minute segment. If there is
9 time remaining at the end of the public comment
10 section, I will call on individuals who have not
11 signed up for a time slot in advance.

12 Due to the number of people
13 making comments here today, please limit yourself
14 to a two-minute comment. I will have to cut you
15 off at the two-minute mark in order to let
16 everyone have a chance to speak here tonight. In
17 accordance with Board Rule 101.606, please be
18 advised that this public comment portion is being
19 recorded by the Board to assist the court reporter
20 in getting an accurate record.

21 The public comment portion is
22 also being live streamed via Facebook on the
23 Sierra Club's Facebook page. Participant Prairie
24 Rivers has requested a Spanish language

1 interpreter to be present for these comments and
2 that is Cristobal Azpilcueta.

3 Cristobal, could you please say
4 hello.

5 MR. AZPILCUETA: Hi, everybody. My
6 name is Cristobal Azpilcueta from Interpretet
7 Services.

8 HEARING OFFICER HORTON: Thank you
9 so much. I'm going to say two sentences and then
10 Cristobal will translate these two sentences. He
11 is here to translate oral public comment made in
12 Spanish to English so that it can be recorded by
13 our court reporter. Many thanks to you,
14 Cristobal.

15 So if you can also translate
16 this next sentence. If anybody would request
17 Cristobal's assistance tonight, please say so when
18 I call upon you.

19 (Whereupon, the interpreter
20 spoke in Spanish.)

21 HEARING OFFICER HORTON: Thank you
22 so much. Much appreciated. Please be also
23 advised that the Board gives equal weight to both
24 oral and written public comments. With all that

1 said, let's begin. First up today is Addrianna
2 Powell. Ms. Powell, are you on the line? I'll
3 circle back at the end of the 15-minute segment.

4 Next up is Alfredo Arceo.

5 Alfredo Arceo. If you're on the line, you can
6 unmute yourself by pressing the microphone button
7 at the bottom of the screen or by pressing Star 6
8 if you're on the telephone. I'll circle back.

9 Next is Barbara McKasson. Barbara McKasson. Next
10 is Blake Lenoir. Blake Lenoir. Next is Cathy
11 Colton.

12 MS. COLTON: Hello. Hi. Thank you
13 for allowing me to speak tonight. My name is
14 Cathy Colton. I live in Waukegan, a mile from the
15 NRG plant that sits on our beautiful Lake
16 Michigan. I'm a member of Clean Power Lake
17 County, an organization up there. I teach at our
18 local community college and last year this Board
19 found that the ponds in Waukegan were, indeed,
20 polluting our groundwater. I know too many of my
21 students and their families, friends of mine in
22 the community who suffer from asthma, other
23 respiratory ailments that way too many county
24 citizens suffer from.

1 Per studies, there is a much
2 larger percentage of citizens in Lake County
3 around this coal plant who suffer from asthma and
4 asthma-like symptoms. So I'm here to ask that
5 these rules be stringent to protect both the water
6 near my home and my community.

7 Three things in particular
8 that -- no cleanup of the coal ash ponds be
9 considered complete until the coal ash is no
10 longer exposed to water; two, that the coal ash
11 that has been put in landfill and dumps around the
12 plants also be included in these rules and; three,
13 that you please prioritize environmental justice
14 communities like Waukegan. Thank you.

15 HEARING OFFICER HORTON: Thank you
16 very much, Ms. Colton. Next, Celeste Flores. I
17 have both of them on my list and I will be calling
18 on them in a person or two. Ms. Flores, if I may
19 stop you for a minute.

20 Cristobal, if you could perhaps
21 translate after every two sentences just for our
22 court reporter.

23 MR. AZPILCUETA: Can you hear me?

24 HEARING OFFICER HORTON: Yes, we

1 can.

2 MR. AZPILCUETA: Okay. Ms. Flores,
3 my name is --

4 HEARING OFFICER HORTON: Cristobal,
5 could you translate from --

6 MS. FLORES: I work for --

7 MR. AZPILCUETA: I will.

8 MS. FLORES: This is Celeste Flores
9 and I work with the community of -- county Kane
10 and I'm working for this community. I'm working
11 on the agency to also just not work in the rules
12 just for the industry, but also for the community
13 with the purpose to hear, to listen to the
14 community that we don't have -- we have the
15 language barrier and we need the communication and
16 we are on this, too.

17 And when the interpretation and
18 correct translation and the participation and all
19 the meetings and the documents on all these topics
20 and the proposed -- proposal is just one only rule
21 to continue the proposal, only one rule. And you
22 need to make sure there is more than just what is
23 in this proposal.

24 We live in a community in which

1 we don't speak English or they prefer to suppress
2 the language. I'm going to save some time to the
3 interpreter, Cristobal, and not say my whole
4 story, but the rules also need to include public
5 opinion. All this needs to be included, like
6 including all the revision and the technical, the
7 people that is working on this system for the
8 public in general. I don't want to happen like
9 Joliet. These companies come and they listen to
10 the people, but they don't really do effective any
11 change.

12 They come and they listen to all
13 the problems. They don't really have thought to
14 the leaders of the places and then they just come
15 with something and they don't really make a
16 change. I've been in those meetings in which just
17 the companies come and go without answering any --
18 any question. Each agency has the power to do a
19 change to really listen and not use the companies
20 to come and hear and really not do any change.
21 That's it.

22 HEARING OFFICER HORTON: Thank you
23 very much, Ms. Flores. Moving on to Collette
24 Wierzbinski. Collette Wierzbinski. Moving on to

1 Antioco Flores.

2 MR. FLORES: Hi. My name is Antioco
3 Flores and I'm here today because the majority of
4 my community can't be present. I'm a member of
5 the church Holy Trinity here in Chicago, Illinois
6 and a year ago I present myself before this
7 agency. Even though that English is the language
8 that is most used in this government, it is not
9 the only language that is being used nationally.

10 That's why in this agency the
11 one that is doing the change to the coal dust you
12 need to put more attention in these communities
13 that we don't speak English. And all these
14 documents need to say -- need to be more available
15 for people than just English. And then also how
16 the communities can be better educated in how to
17 fight or advocate for their own members and they
18 don't have -- they don't have really complete
19 information.

20 Many organizations are local.
21 I'm more informed than many people in my
22 community. Our community begs you to answer that
23 this rules say this. I sincerely ask that all of
24 the documents to be accessible and to fix all of

1 them for the documents that need to be available
2 for people to look at in many more versions than
3 just English and that would be it.

4 These documents need to be more
5 accessible for people in many different languages.
6 And all this needs to be revised -- reviewed by
7 technical person of the Agency to approve all of
8 the plans and programs and the companies -- energy
9 companies they need to make sure that all the
10 members of the community have the open opinion in
11 their companies. I'm asking the Agency to make
12 sure that all rules and all the documents have
13 accessibility to the people.

14 All the companies make sure that
15 the rules and policies need to be accessible for
16 all the community. This Agency of protection for
17 the environment in Illinois need to be -- to
18 have -- to make possible the impossible mission
19 and they need to get to the companies to share to
20 get all this information to the community. Thank
21 you.

22 HEARING OFFICER HORTON: Thank you.
23 Next is Yolanda Flores.

24 MS. FLORES: My name is -- my name

1 is Yolanda Flores.

2 HEARING OFFICER HORTON: Please
3 continue with your remarks.

4 MS. FLORES: Thank you for your
5 time. I am here because the majority of my
6 community can't be here. I am also a member of
7 the Santisima Trinidad Church in Waukegan,
8 Illinois. A year ago I was before the Agency
9 Protection Control of Illinois and I am here
10 because not all the rules that were proposed are
11 enough of what we're asking for here.

12 For example, we beg you to fix
13 those rules about -- to let -- the wet ashes need
14 to be removed. The rules need to make sure that
15 these ashes will not get wet or in the future.
16 This also needs to provide -- to dump these ashes
17 and put them away and not just include or get
18 these disposals, but also like the places or the
19 retainers they need to be properly given.

20 When you leave it outside, you
21 leave it on the side. You are fixing part of
22 problem only. What you're telling to my community
23 that you are -- you really don't care about us.
24 You don't care about us. With this, you have a

1 chance to make sure the companies, with NRG which
2 we have a lawsuit for them, and they start
3 contaminating which they did before and they have
4 historic places/sites of the dust ash, the ash in
5 which they are contaminating a lot and so I'm
6 making sure that these companies can really fix
7 the problem.

8 These dumps of these places
9 taking care of these ashes will not be covered by
10 the proposal that it was by the (audio cut out).
11 Now is the time to make sure that these dumps or
12 these places to disposal make sure they really are
13 fixed where they should be because they're getting
14 rich -- these companies are getting rich on us, on
15 my community by us by like on the health of my
16 community. I will be very excited and waiting for
17 this answer of wet ashes, the final answer of this
18 Agency and thank you so much for your time.

19 HEARING OFFICER HORTON: Thank you.
20 Moving next to Colleen O'Brien.

21 MS. O'BRIEN: Hi. My name is
22 Colleen O'Brien. Thank you for your time and
23 opportunity to speak this evening. I am here as a
24 volunteer with Sierra Club and a concerned

1 resident of the State of Illinois.

2 Coal ash is a threat to all of
3 us here tonight, to our health, to our homes and
4 to the natural resources vital to human life. It
5 is our duty to protect the communities of Illinois
6 and this planet, not only for ourselves, but for
7 those most vulnerable and future generations to
8 come.

9 To do so, we must ensure that
10 coal ash is properly disposed of. We close the
11 book on a harmful chapter of pollution without
12 leaving a legacy of further contamination behind.
13 To leave wet coal ash in place is to allow this
14 chapter of pollution to continue to dismiss the
15 need for clean water in communities across the
16 state and continue the cycle of environmental
17 injustice. Closure standards must ensure that wet
18 coal ash is removed and stored in a way that
19 prevents it from getting wet now or in the future.

20 Additionally, we must remedy the
21 damage already done. The rule makes clear that
22 corrective actions to address groundwater
23 pollution is not complete until ash is no longer
24 exposed to water and the source of the pollution

1 has been permanently removed.

2 Lastly, background wells used as
3 a standard for cleanup must be selected from areas
4 outside the impact zone to guarantee they are not
5 also contaminated by coal ash.

6 During this rulemaking, please
7 consider the health and well-being of all us here
8 tonight and those of us who are not here; future
9 generations, those most vulnerable, plants and
10 animals and the water beneath our feet that
11 fosters our very way of life. Thank you.

12 HEARING OFFICER HORTON: Thank you.
13 Mr. David Llewellyn.

14 MR. LLEWELLYN: Hello. My name is
15 David Llewellyn and I'm a long-time member of the
16 Sierra Club whose motto is to explore, enjoy and
17 protect the planet. I've been a practicing
18 engineer for more than 50 years and I look forward
19 to leaving this world as a better place for my
20 grandchildren and yours. Thanks for giving me the
21 opportunity to speak at this hearing. I grew up
22 with access to clean natural waters and we live
23 within 100 feet of a clean, relatively natural
24 storm retention pond.

1 Additionally, my wife even
2 (audio cut out) me to drop a fly line in our
3 (audio cut out). Vacation in or near natural
4 waters this is part of our DNA. Beyond the
5 intrinsic need to be near water, it's a vital need
6 that supports life. We can't take clean water for
7 granted.

8 Both energy is changing at an
9 accelerating pace, climate change is forcing the
10 weather into extreme swings. Those swings are
11 resulting in alternating dry and wet spells and
12 hot and cold spells. You swing between too much
13 water and too little water and between mud slides
14 and wildfires.

15 On the other hand, the energy
16 market is accelerating the process of closing
17 coal-fired power plants and replacing them with
18 renewables or gas-fired plants. We could be
19 approaching another environmentally-based perfect
20 storm. Just this week Vista announced that it
21 will be closing all its coal-fired plants in
22 Illinois in the near future. This trend of
23 retiring coal-fired plants may be our last good
24 opportunity to close them responsibly.

1 Closing it responsibly must
2 include dealing with the coal ash, which has been
3 a legacy of this technology. No one should be
4 permitted to walk away from this toxic mess and
5 leave it for future generations. Your rulemaking
6 needs to address the following critical remarks.
7 All coal ash waste must be included, not just ash
8 pond, but landfills, impoundments and standard ash
9 fields. No wet ash. Wet ash will leach into the
10 groundwater sooner or later. If background wells
11 are used, they must be totally uncontaminated.
12 Cap in place is not a reliable method unless there
13 is a permanent, durable liner that separates the
14 coal ash from the water table, regardless of
15 climatic and weather cycles or variations.

16 The cap must also be durable and
17 provisions must be made in its maintenance
18 forever. Erosion happens and will continue.
19 Don't permit storage of coal ash near waterways
20 that are subject to seasonal or severe water
21 induced high flow events. (Audio cut out). I'm
22 trying out this other device.

23 HEARING OFFICER HORTON: Mr. --

24 MR. LLEWELLYN: Worker protection.

1 HEARING OFFICER HORTON: Please
2 continue, Mr. Llewellyn.

3 MR. LLEWELLYN: Can you hear me? I
4 hope so.

5 HEARING OFFICER HORTON: Yes.

6 MR. LLEWELLYN: Worker and community
7 protection requires that PPE be provided.

8 HEARING OFFICER HORTON:
9 Mr. Llewellyn, I think we lost you. So --

10 MR. LLEWELLYN: Okay. I'm trying.
11 Can you hear me now?

12 HEARING OFFICER HORTON: Yes, we
13 can. You're at your two-minute mark. So if you
14 could just wrap up. We'll move on to the next
15 person since we have so many participants here
16 today.

17 MR. LLEWELLYN: Okay. Worker and
18 community protection is important, environmental
19 injustice is important and, last, no roll backs.
20 That's to prevent the federal government rollbacks
21 from affecting Illinois' rules. We can't count on
22 the federal government to do the right thing.
23 Again, thank you for the opportunity to take part
24 in this process. Thank you.

1 HEARING OFFICER HORTON: Thank you
2 very much. Moving on to Dianna Lord.

3 MS. LORD: Hello. Thank you for the
4 time to talk about this. I just wanted to give a
5 public comment because I wanted to be sure that
6 our waterway systems are free of toxic heavy
7 metals. The water is used for drinking. Peoria
8 and other towns in the Illinois River Basin use
9 this water for drinking. The water also feeds
10 into the Mississippi system, which then would
11 spread heavy toxic metals to our neighbors in the
12 southern states.

13 So the ash pits really need
14 really, really good regulation which I know is
15 really possible and it can be done and it should
16 be done and I just wanted to -- just wanted to say
17 that you guys can be -- hey, you can be heroic in
18 saving Illinois from toxic coal ash. That's it.

19 HEARING OFFICER HORTON: Thank you
20 very much. Next is Dolores Pino.

21 MS. PINO: Hello. Thank you. I'm a
22 long-time environmentalist and activist in
23 Illinois. I'm an attorney with training -- my
24 undergraduate degree was in science/biology and I

1 am training in environmental law and the
2 environmental statutes as well as work experience
3 controlling -- attempting to control toxic water
4 pollution by working on the Great Lakes Initiative
5 guidance in the 1990s that was to reduce the
6 amount of toxic chemicals entering the Great
7 Lakes, including Lake Michigan, and I fully
8 support all of the Sierra Club's comments and
9 submissions to the Pollution Control Board about
10 requesting stricter final rules from the Board.

11 This is a perfect opportunity to
12 take care of this -- this horrible problem of
13 continually leaching, you know, toxic chemicals
14 from these coal ash pits and I think I will submit
15 a written comment, too, because it's not much time
16 with two minutes, but I did want to talk about
17 Waukegan.

18 I did look at the report, the
19 report called -- I'm sorry. The name of the
20 report, but it was the data from the wells and the
21 chemicals that are in it and I just -- the little
22 bit of research that I did it's arsenic, boron,
23 lithium, the one that begins with an M and
24 chromium and all of those I just looked up, you

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1 know, the scientific -- the purity, the scientific
2 articles and all of them are problematic for
3 aquatic life and, of course, for drinking water
4 and Lake Michigan being -- you know, these toxic
5 chemicals entering Lake Michigan from Waukegan,
6 from the uncontrolled coal ash at the Waukegan
7 plant -- Lake Michigan is the drinking water
8 source for all of us, you know, for ten million
9 plus people and we must protect it and stop these
10 chemicals from going into Lake Michigan and can I
11 just -- arsenic is water soluble and it bio
12 accumulates in fish. So that's poisonous fish.
13 You know, all of our water should be swimmable,
14 drinkable, fishable and most of them are not.

15 So the arsenic is definitely a
16 problem in degraded land and soil. So that, of
17 course, includes all these coal ash areas. Boron
18 is bio cumulative in plants and algae and is
19 problematic because of that. Lithium is easily
20 taken up into fish and their physiology. That's
21 from a journal -- an article in the Journal of
22 Aquatic Toxicology from 2015.

23 Chromium can be transferred
24 through the food chain and negatively impacts

1 plant growth by their impairing essential
2 metabolic processes and that's a January 2020
3 article in the National Library of
4 Medicine/National Institutes of Health called
5 Chromium Bioaccumulation and Its Impact on Plants
6 and the other one was titled Lithium As An
7 Emerging Contaminant.

8 So, you know, all of those --
9 these are very serious water pollutants and land
10 soil pollutants and we should do everything we can
11 in not allowing these loopholes in the final rules
12 and not allowing water to be in contact with this
13 coal ash and we're just -- you know, these are all
14 basically Superfund sites, aren't they, and this
15 is the perfect opportunity to take care of it all,
16 you know, and if more money is needed about who
17 pays, it must be cleaned up so it's not poisoning
18 the people and plants and animals and, you know,
19 life on Earth surrounding these places and we have
20 to improve our waterways and not allow them to be
21 continually polluted. Thank you.

22 HEARING OFFICER HORTON: Thank you.

23 Next is Eileen Borgia.

24 MS. BORGIA: Good evening, everyone.

1 My name is Eileen Borgia. I live in Champaign,
2 Illinois. I'm a member and advocate with Prairie
3 Rivers Network, Faith in Place and Sierra Club. I
4 have testified on this issue for the past eight
5 years. Please, State of Illinois, come on with
6 this. Thank you for giving me the opportunity to
7 reiterate what has been said in the previous
8 hearings and by Cathy Colton this evening.

9 The time has come to get going
10 within the year 2020 and coal ash ponds really
11 need to be addressed now. Every day -- every
12 delay is a day too late. The fact that slurry
13 ponds have been sitting in pollution polluting for
14 so many years is a travesty shame on the relevant
15 agencies within Illinois who have let this go on.
16 They have, I know, because of the way the laws
17 were written, but it's about time that we take
18 action for the citizens of the State of Illinois.

19 These are the expectations I
20 have for immediate action. First, safely remove
21 the complete contents of all wet coal ash ponds,
22 provide all workers involved in the removal with
23 an effective high-quality protective clothing and
24 gear system. Monitor, for all pollutions, not

1 just one or another on different times during
2 every groundwater monitoring period. No coal ash
3 is to be left in open piles or used as filler
4 anywhere. This is a carcinogen.

5 No coal ash ponds are to be
6 closed that will follow the industry hope for the
7 dump and run and cover with vegetation model. As
8 firms are sold or transferred, financial assurance
9 must stay with the site.

10 Transparency and access to all
11 documents must be readily available for public
12 review and, as has been mentioned, in several
13 languages. Your responsibility is to the citizens
14 of Illinois, not to corporate polluters. Thank
15 you for giving me this opportunity. Goodnight.

16 HEARING OFFICER HORTON: Next is
17 Faith Spencer.

18 MS. SPENCER: Hello. My name is
19 Faith Spencer and I live in Chicago. I live near
20 Wrigley Field. I don't live near a coal ash pit
21 or a landfill and this, to me, is why I see this
22 coal ash rulemaking as such an important
23 opportunity for this Board to stand up for
24 environmental justice. Coal ash pits and

1 landfills affect communities all over the State of
2 Illinois, but they don't loom over Michigan
3 Avenue.

4 So this Board has the chance to
5 make sure that all communities are valued in
6 Illinois and to really practice environmental
7 justice. We need to strengthen these rules to
8 protect the rivers, lakes and groundwater
9 throughout our state. A couple of things I am
10 concerned about in particular is making sure that
11 coal ash is covered by this rulemaking no matter
12 where it is whether it's in a pit or scattered or
13 landfill or wherever it might be and making sure
14 that companies are not allowed to leave any coal
15 ash wet where it can continue to leach toxins into
16 groundwater and lakes and strengthening this
17 rulemaking I think has a special urgency given
18 increased flooding that we are experiencing as a
19 result of climate change and rising water levels.
20 So I think that gives it particular urgency to
21 strengthen these -- this rulemaking. Thank you
22 very much.

23 HEARING OFFICER HORTON: Thank you.

24 Next is Jason Warfel.

1 MR. WARFEL: Thanks. Madam Chair
2 and Board members, I'm grateful for the
3 opportunity to address the Board this evening. My
4 name is Jason Warfel. I'm vice chairman of the
5 Jasper County Board. I come before you tonight on
6 behalf of the Jasper County Board and citizens of
7 Jasper. The Newton Power Plant here in Jasper
8 County has been an important corporate citizen for
9 last 43 years.

10 The operation of the plant has
11 always been a vital asset to our community and
12 this includes how the coal ash impounds at Newton
13 will be handled when the time arises to close them
14 out. As your (audio cut out) study proposed
15 stated rule, I ask you understand the necessity of
16 giving the Illinois EPA many choices on how to
17 close impoundments to protect the environment,
18 align with specifics of the site and address what
19 communities want, a final rule mandate of closure
20 by removal could expose Jasper County to
21 unnecessary truck traffic, safety risks tying up
22 the site for many years to come and running
23 counter to the interests of the citizens that I
24 serve.

1 Again, I thank you for your time
2 and your willingness to hear the concerns of
3 Jasper County and our residents and I wish you all
4 a very good evening.

5 HEARING OFFICER HORTON: Thank you.
6 Next is George Sullivan. George Sullivan. Next
7 is Holly -- I'm sorry. Mr. Sullivan.

8 MR. SULLIVAN: Yes, I was on mute.
9 I don't know how I got there. Sorry. Thanks for
10 having me this evening. I'm a Sierra Club
11 volunteer, as well as Illinois Audubon volunteer,
12 as well as Bird Conservation Network volunteer
13 speaking to the Board this evening and we have
14 been heavily involved in testing a number of the
15 ex-sites for coal ash that have been dumped, like,
16 in Lake Calumet and other areas and these sites
17 are absolutely horribly stained and you can see
18 the effects on all of the environment as well as
19 the surrounding toxic donut neighborhoods that
20 have been created.

21 I would like to see this handled
22 appropriately and these sites closed appropriately
23 so that we don't make the mistakes that were made
24 with Lake Calumet. Thank you very much.

1 HEARING OFFICER HORTON: Thank you.
2 Next is Holly Fingerle.

3 MS. FINGERLE: Good evening. Thank
4 you for holding this hearing. My name is Holly
5 Fingerle. I'm a Sierra Club volunteer, also an
6 indivisible activist in the south suburbs of
7 Chicago. I'm not an expert. I'm a concerned
8 resident. I'm a mom who is house shopping and
9 worried about the unknown extent of groundwater
10 contamination throughout our state. Permanent
11 protection against coal ash pollution must be the
12 standard for Illinois.

13 I urge you to put in place
14 standards for all ash dumps in the state whether
15 they're operating or abandoned. I urge you to
16 make rules for not just impoundments, but also for
17 the coal ash landfills, dump fills and reuse sites
18 that are contaminating groundwater.

19 It's imperative that you
20 prohibit dumping or bringing coal ash in places
21 where it remains in contact with groundwater. I
22 urge you to require dry handling in the disposal
23 of coal ash and a closure cap that leaves coal ash
24 in or exposed to rising groundwater is just not

1 acceptable. We know better.

2 So we need to do better and
3 protect our limited national -- natural resources
4 from hazardous carcinogens, toxins and pollutants.
5 It can be handled safely and responsibly without
6 damaging our groundwater and our scenic waterways.
7 We must hold Illinois businesses to these
8 standards and finally deal with the damage that
9 has been done and prevent future damage to our
10 state's water. Thank you.

11 HEARING OFFICER HORTON: Thank you.
12 Next is Jan Predmore.

13 MS. PREDMORE: It's me. Hi. Thank
14 you for holding this hearing and I am Jan
15 Predmore. I'm a retired computer nerd from the
16 university and a member of protect the Middle Fork
17 Citizens Action Group. I'm a lifelong resident of
18 Illinois 55 years in East Central Illinois and 43
19 years just 400 yards from the beautiful Middle
20 Fork River in Vermilion County.

21 Well, I've canoed this river
22 many, many, times and ten miles downstream from my
23 house is the closed coal powered generating plant.
24 It's on the west bank of this river and it's heap

1 of coal ashes is piled on the floodplain
2 restrained by its thinning and eroding wall, earth
3 and embankment. It's holding back 3.3 million
4 cubic yards of coal ash, which threatens
5 everything downstream, Danville, communities,
6 farmland, all the way down to the Wabash River.

7 So since I'm so far safely
8 upstream from this looming environmental disaster,
9 why do I care? Well, I care because this is my
10 home, I live here and I think everyone who has
11 been on this -- this session also cares about all
12 the dangerous repositories of toxic coal ash
13 throughout the State of Illinois.

14 So why wouldn't we want to solve
15 this problem, the problem of putting coal ash into
16 a safe and dry storage and to save our clean
17 water? Well, it's cost and it's really hard to
18 do. So we can apply the adage a stitch in time
19 saves nine. The money it matters, but the dollar
20 spent on getting coal ash into dry storage using
21 an organized process and thus keeping the water
22 safe that money will be much, much less than the
23 money spent in an effort to cleanup if a coal ash
24 and leak is allowed to happen. A stitch in time

1 saves money by working now to take coal ash and
2 put it into dry storage.

3 And it is hard, but I have
4 noticed that humans have done amazing, complicated
5 and difficult tasks. Huge construction projects
6 like bridges, dams, cities and space exploration,
7 weather prediction, on and on. Humans work
8 together to solve problems such as what to do with
9 wet coal ash, which is polluting our life-giving
10 water.

11 Well, the rules that we are
12 writing will allow positive solutions if many
13 smart people can be brought together to cooperate
14 in this effort. It is hard to talk and listen and
15 share information, but this must be done. Allow
16 the people to contribute, bring the designers, the
17 builders, the material handling of experts,
18 medical and environmental advisers together. So
19 many jobs to do.

20 This is an opportunity to put
21 people to work and to save our water. Let's do
22 this with enthusiasm and pride. Put the coal ash
23 into dry storage, bring the people together to
24 plan and execute this solution. Thank you.

1 HEARING OFFICER HORTON: Thank you.

2 Next is Kendall Busse.

3 MS. BUSSE: Yeah, Kendall Busse.

4 Hi. My name is Kendall Busse. I'm a resident of
5 Lake Zurich, Illinois and my children are with me
6 to give this public comment. I'm here because the
7 future is already watching us and we owe them
8 better. We are to be guided by the following
9 three principles. First, rulemaking must not
10 treat coal ash contamination as a localized
11 problem at isolated sites, but rather as a concern
12 for the future of all Illinois children. With
13 climate change looming, we need to ensure safe and
14 clean groundwater and waterways for Illinois's
15 future generation.

16 The fact that coal ash dumps and
17 fills are located both on Lake Michigan, a direct
18 source of water for hundreds of communities in
19 Illinois, including my own, and along all the
20 state's major waterways rulemaking affects all of
21 us. This Board must focus on environmental
22 justice for communities at immediate risk, but it
23 also needs to treat this as a risk to the future
24 of all Illinois children.

1 Second principle, all rulemaking
2 should hold the coal industry fully accountable
3 for all past, present and future impacts. Our
4 children and future generations should not be
5 asked to pay for the environmental health and
6 financial costs of this industry. This also means
7 industry cannot be the gatekeepers of their own
8 activities. Rulemaking should demand
9 accountability in the here and now without
10 deferring to the future.

11 This brings me to the third
12 principle. Rulemaking must encompass all
13 contamination factors and leave nothing to the
14 future. This means rules must address coal ash
15 fills so they do not remain ticking time bombs.
16 Rules for cleanup and closure must provide
17 permanent protection from pollution below legal
18 limits and complete solutions where coal ash has
19 no exposure to water.

20 We have a caretaking
21 responsibility for Illinois future generations,
22 one we cannot do properly without data, without
23 adequate monitoring and the rules need to provide
24 the public with this information and with adequate

1 opportunity for input so we can best do for our
2 waters in the future. Thank you so much.

3 HEARING OFFICER HORTON: Thank you.
4 Next is Laura Font.

5 MS. FONT: Hello. My name is Laura
6 Font of Oak Park, Illinois. I am a retired
7 elementary school teacher from Lombard and the
8 2013 recipient of the History Teacher of the Year
9 award. I'm a strong advocate of community
10 involvement and a Sierra Club member. I speak
11 today as an ordinary citizen because of my overall
12 concern for the future of my children and my
13 grandchildren.

14 I felt compelled at this point
15 to speak up and comment on the statewide problem
16 of coal ash. In no way am I a technical person as
17 you know. What I do know, however, in my efforts
18 to stay updated with current events is that in
19 Illinois removal of coal ash to safe disposals by
20 keeping it dry is of utmost importance.

21 The public needs direct access
22 to information. The rules should include coal ash
23 landfills and dumps in addition to impoundments to
24 name just a few. Pollution regulations are

1 important to me. Illinois should have stronger
2 requirement and regulations than the federal
3 government. This state should be a leader in the
4 work to protect our environment and its citizens.
5 Strong controls are essential to ensure a cleaner
6 future for everyone's grandchildren. Thank you
7 for letting me speak.

8 HEARING OFFICER HORTON: Thank you.
9 Next is Leonel Vazquez. Leonel Vasquez. Next is
10 Melinda Svastisalee. Melinda Svastisalee. Next
11 is Christina Janice. Christina Janice.

12 Again, if you're participating
13 via video, you can press the microphone button at
14 the bottom of your screen. That will unmute
15 yourself. If you're on the phone, you can press
16 Star 6 to unmute yourself.

17 Next is Marina Panos. Marina
18 Panos. Next is Mark Lindzy.

19 MR. LINDZY: Hello. Can you hear me
20 okay?

21 HEARING OFFICER HORTON: Yes, please
22 proceed.

23 MR. LINDZY: Thanks. My name is
24 Mark Lindzy. I'm a resident of Chicago in the

1 Logan Square neighborhood. I'm also currently
2 unemployed due to COVID, but I'm a Sierra Club
3 member. Many residents -- obviously not in this
4 neighborhood, but many residents around Chicago
5 and the rest of Illinois do live near some of
6 these coal power plants and ash fills and they're
7 being exposed to life-threatening toxins.

8 So we need environmental rules
9 to protect all of our residents and our waterways.
10 So these rules must ensure coal ash, wherever it
11 is stored, does not get wet either now or in the
12 future. Illinois EPA's rules should explicitly
13 state that coal ash cannot be closed in place if
14 ash is or will remain wet. Proposed rules also
15 need to make all public documents available for
16 review in an easily accessible place and with
17 sufficient time to review.

18 The final rules should include
19 additional requirements for both Illinois EPA and
20 industry to meaningfully engage our non-English
21 speaking populations. As proposed right now,
22 there is only one isolated requirement for
23 translating anything in the rule. I want Illinois
24 to lead the U.S. in environmental policy as a

1 20-plus year resident of the state and to also be
2 an example to other states and to our federal
3 government. Thank you for letting me speak.

4 HEARING OFFICER HORTON: Thank you.
5 Next is Mary Ellen DeClue.

6 MS. DECLUE: Hello. My name is Mary
7 Ellen DeClue and I live in an area surrounded by
8 coal-fired power plants and coal mines. I would
9 like to share some observations on how coal-fired
10 utility and coal mining operators mislead and
11 manipulate the public and officials in Illinois.

12 Denial of coal's toxicity is an
13 integral part of the business plans for the coal
14 industry. Coal entrepreneurs do not acknowledge
15 the toxicity of coal in any form whether it's coal
16 dust, coal ash, slurry, tar or emissions. As a
17 member of the Pollution Control Board, you are
18 forewarned that the goal of protecting the health
19 of communities from coal ash damage will greatly
20 be challenged by coal stakeholders. For decades,
21 they have been allowed to set policies that were a
22 benefit to them often with harmful consequences to
23 the health and well-being of local communities.

24 The most toxic chemicals in

1 coal, both organic and inorganic, are not
2 monitored in community air and water and are not
3 widely known. Inhaling particulate matter is very
4 dangerous, very detrimental to health, but
5 especially particles that contain polycyclic
6 aromatic hydrocarbons known as PAH's. These
7 chemicals are classified as carcinogenic and
8 extremely toxic. The reality that coal mining
9 communities are exposed to coal dust with no
10 enforcement of the Clean Air Act is shameful.

11 Unfortunately, coal ash exposure
12 to the lungs of workers and neighbors are treated
13 in the same careless manner as coal dust. Coal
14 ash has been produced for decades, but just until
15 very recently there were no regulations on how to
16 properly dispose and store coal ash. This is a
17 huge problem that exists now. It is public record
18 that coal operators have spent millions on
19 propaganda that deny climate change and helps to
20 prevent a transition to renewable energy sources.

21 The money spent was on excellent
22 investment for them with favorable legislation,
23 subsidies, deregulation and minimal responsibility
24 to communities. My belief is that the CCR

1 rulemaking is a challenge mainly because there is
2 a conflict because coal's business plan and the
3 community's health goals. I heard familiar
4 comments about coal ash cleanup like what are
5 reasonable and viable solutions to CCR
6 contamination. I fear the same old inadequate
7 excuses used by coal mining will be applied to
8 coal ash cleanup.

9 Coal mining operators are only
10 responsible for coal mining damage to the extent
11 that the mitigation is economically and
12 technologically feasible as determined by the coal
13 operator.

14 This loophole is not only bad
15 for the community's health, but also brings many
16 questions on how to step up financial
17 assurances -- I'm sorry -- how to setup financial
18 assurances that protect the economy of coal
19 communities. Their health and safety are already
20 compromised by existing regulations.

21 The Pollution Control Board must
22 be up to the demanding change of placing community
23 health and safety foremost in their future
24 decisions and rulemaking. I thank you for your

1 enduring work and efforts to maintain healthy
2 communities.

3 HEARING OFFICER HORTON: Thank you
4 very much. Next is Nancy Heil.

5 MS. HEIL: Good evening. My name is
6 Nancy Heil and I am a retired pediatrician and
7 connected to Faith in Place. My concern is for
8 innocent children who could be harmed by
9 inadequately stored coal ash. If leakage occurs
10 from storage dumps or landfills, both groundwater
11 and nearby rivers and lakes will be contaminated
12 by dangerous heavy metals like arsenic, mercury
13 and lead, radioactive material and a dangerous
14 class of hydrocarbons.

15 For growing infants in the womb
16 and young children, it will increase their risk
17 for problems with language, motor abilities and
18 social skills. They may suffer damage to their
19 brain, be at higher risk for cancer and have
20 change in their genetic material, the DNA, putting
21 a future generation also at risk. It is
22 imperative that coal ash is securely stored so
23 that it cannot reach our water supply. Thank you.

24 HEARING OFFICER HORTON: Thank you.

1 Next is Sandra Janowski. Sandra -- Ms. Janowski.
2 I see you're on the line. Are you Ms. Janowski?
3 I'm afraid we're not able to hear you. If it's
4 okay, I'm just going to circle back to you in a
5 couple of people and we'll try to correct the
6 audio problem. V. Evan. V. Evan. Leon Ricca.
7 Leon Ricca. Whitney Richardson.

8 MS. RICHARDSON: Hi. Can you hear
9 me?

10 HEARING OFFICER HORTON: Yes.
11 Please proceed.

12 MS. RICHARDSON: Hi. My name is
13 Whitney and I'm a resident of both Chicago and
14 Vernon Hills and I'm a member of Clean Power Lake
15 County and I appreciate the opportunity to speak
16 today.

17 The first time I learned about
18 coal-related impacts on Illinois residents was
19 several years ago as a youth leader at a community
20 garden in Chicago's Pilsen neighborhood. Youth on
21 team, their friends, family and neighbors have
22 been struggling against the coal power plant
23 nearby due to significant health issues linked to
24 pollution by the plant. In Lake County, I live a

1 short drive from Waukegan where residents like
2 many on this call have been subjected to high
3 levels of pollution. My father-in-law taught
4 elementary school music in Waukegan for over 15
5 years and it is with my neighbors and these
6 students in mind that I speak today in favor of
7 strengthening protections in the Coal Ash
8 Pollution Prevention Act.

9 Under the proposed rule, I
10 support the measure for groundwater monitoring
11 which requires industry's postclosure care to
12 continue until groundwater quality meets
13 protection standards. However, the proposed rule
14 must go much further. The rule must prioritize
15 centering resident and worker communities exposed
16 to coal ash pollution and must prevent further
17 contamination.

18 To help accomplish this, the
19 rule must improve language access for non-English
20 speakers and ensure meaningful public and Agency
21 oversight, which includes guaranteeing document
22 accessibility and prioritizing public input.

23 The rule must also improve
24 environmental justice community classification to

1 better identify environmental justice communities.
2 In this way, the rule can begin to account for
3 cumulative impacts of multiple pollution sources.
4 Plans must also contain health and safety measures
5 to limit worker and resident exposure to ash. The
6 list goes on, but in the interest of time, I
7 highlight the above as a summary.

8 Now is the time to put forward
9 the best protections possible to protect all
10 Illinoisans, make right on all harms done against
11 those who have already been exposed and prevent
12 further harm. Thank you for your time.

13 HEARING OFFICER HORTON: Thank you.
14 Next is Mary Burnitz. Ms. Burnitz. I see you're
15 unmuted, but we cannot hear you. Ms. Burnitz,
16 this is Vanessa. You are on video and appear to
17 be unmuted from our end, but I'm afraid that we're
18 not able to hear your audio.

19 UNIDENTIFIED SPEAKER: Turn the
20 volume up.

21 HEARING OFFICER HORTON: I apologize
22 for this difficulty. Mr. Pauley, Daniel Pauley,
23 our staff attorney, will chat you in the chat and
24 hopefully you can come up with a solution. Okay.

1 I will talk to you in just a little bit. Thank
2 you.

3 Next is Nancy Long. Nancy Long.
4 Next is Charlotte Drugan. Charlotte Drugan. Next
5 is a Rashida Walker. Rashida Walker. I'll circle
6 back to Sandra Janowski. Yes, I see you.

7 MR. PAULEY: Excuse me, Vanessa.
8 This is Daniel Pauley also with the Board. I
9 am -- both Sandra Janowski and Mary are off mute
10 on our end. So they're having issues with their
11 mics. I'm going to give them the phone number to
12 call in and they may be able to provide their
13 comment by calling in through the number. I'll
14 send it to you in the chat. If you can find the
15 chat on the bottom right of your screen, it should
16 be in the bottom right.

17 HEARING OFFICER HORTON: That sounds
18 fine. If we can pause for a moment as those are
19 the last two participants today. While we wait
20 for the phone number, Daniel is going to put that
21 in the chat or say it out loud, we appreciate
22 everyone's participation here tonight and I'd just
23 like to remind everyone that the Board gives equal
24 weight to both oral and written comments. The

1 deadline for submitting written comments is
2 October 3rd and that can be done by e-mail or
3 sending them through snail mail to the Board and
4 all the information is available on the Board's
5 website.

6 So Daniel has said the phone
7 number. If you want to call in on a regular
8 phone, it's (312) 535-8110.

9 MR. PAULEY: This is Daniel Pauley.
10 There's a number beginning with 847 that's on the
11 line now I'm going the leave unmuted. See if
12 you -- go ahead.

13 MS. JANOWSKI: Yes, can you hear me?

14 HEARING OFFICER HORTON: Yes.

15 MS. JANOWSKI: You can?

16 HEARING OFFICER HORTON: Yes.

17 MS. JANOWSKI: I'll be darn. Okay.

18 Thank you. I'm getting distracted with the
19 computer in front of me. So I was astonished to
20 read that the groundwater of 22 of the 24 coal ash
21 sites tested in Illinois have unsafe
22 concentrations of toxic coal ash pollutants. Yes,
23 coal ash contains toxic metals. You know that. I
24 know you do. My first thought was Flint,

1 Michigan.

2 I am a Sierra Club follower and
3 I ask not only to clean up the contamination, but
4 also stop further contamination. Specifically,
5 I'm concerned about the rules that put the
6 priority on the communities that are poor, where
7 sensitive or vulnerable populations live.

8 Specifically, I ask that some of
9 these most toxic communities be identified. I
10 read that information from the U.S. EPA
11 Environmental Justice Screen and the Clean Power
12 Plan has identified these communities. The
13 positive result of having a rule identifying these
14 impacted communities is that we can begin to
15 account for the cumulative impacts of multiple
16 pollution sources on these vulnerable populations.

17 We know today that the study of
18 COVID affects the health and well-being is greater
19 in areas where black and brown people live. We
20 should not leave out the most impacted communities
21 and let's make certain there is a rule to engage
22 non-English speaking populations. And, if
23 requested, let's provide interpreters to be
24 present at meetings, at hearings and that all

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1 permit materials are transplanted. Right now,
2 there is only one requirement to translating
3 anything.

4 Sincerely, I ask you for the
5 opportunity to present my concerns to the Board.
6 I read that by March 30th, 2021, Illinois
7 Pollution Control Board must, by law, finalize
8 coal ash rules. I look forward to reading your
9 final report.

10 HEARING OFFICER HORTON: Thank you
11 and just to make -- just to make absolutely sure
12 that was Ms. Janowski?

13 MS. JANOWSKI: Yes.

14 HEARING OFFICER HORTON: Wonderful.

15 MS. JANOWSKI: Janowski, yes. Thank
16 you.

17 HEARING OFFICER HORTON: Thank you
18 very much. Ms. Burnitz.

19 MS. BURNITZ: I'm here.

20 HEARING OFFICER HORTON: It worked.

21 MS. BURNITZ: Yay, finally. Are you
22 there?

23 HEARING OFFICER HORTON: Yes, you
24 might have two audios on right now and that's what

1 is causing --

2 MR. PAULEY: Yes, Ms. Burnitz, you
3 might want to step away from the computer. I have
4 your computer muted, but --

5 MS. BURNITZ: That's perfectly fine.
6 Okay. I have stepped away from my computer. I
7 live at 14116 High Road in Lockport. My husband
8 and I built this beautiful home to raise our five
9 children and unbeknownst to us we were living in
10 the plume of Midwest Generation's disgusting
11 behavior. I'm ashamed. We all deserve clean
12 water and clean air. The Illinois Pollution
13 Control Board has taken its very long sweet time
14 to do the right thing. So this coal ash issue is
15 like putting a bandage on an amputated leg. Would
16 anyone want to bathe their children in toxic water
17 or offer them toxic water or grow a garden so they
18 could sicken their families?

19 I am an environmentalist,
20 founder, continual director of Citizens Against
21 Ruining the Environment since 1995 when my
22 youngest daughter was two. This is about time
23 that the Illinois EPA, the Illinois Pollution
24 Control Board and every other entity that has

1 anything to do with this atrocity do the right
2 thing. I'm an angry mother who is tired of seeing
3 the -- it's shameful. It's shameful with greed to
4 think what they can continually do to people of
5 the State of Illinois.

6 I can't take my kids swimming in
7 the lake. I certainly don't want to eat the fish
8 out of there. I don't want to take them kayaking
9 for fear they would fall out of the kayak and then
10 fall into some toxic waste that is greed. It is
11 pure greed. So thanks for listening to me and I
12 will send in some written comments as well, if
13 need be. Thank you so much.

14 HEARING OFFICER HORTON: Thank you,
15 Ms. Burnitz. We are appreciative that you were
16 able to get on. Thank you for your comments and
17 to echo Ms. Burnitz there at the end we at the
18 Board do give equal weight to oral and public
19 comments. So the deadline to submit written
20 comments is October 30th, 2020, and the
21 information on how to submit them is on the
22 Board's website.

23 On behalf of Chair Barbara Flynn
24 Currie and all the members of the Illinois

1 Pollution Control Board, I thank everyone who
2 participated here tonight to provide the Board
3 with public comments in this matter. Thank you
4 very much and goodnight.

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