

U.S. Environmental Protection Agency
Office of Resource Conservation and Recovery
Office of Land and Emergency Management

Virtual Public Hearing
U.S. EPA Public Hearing
For Proposed Rule Change:
No. EPA-HQ-OLEM-2019-0362

Proposal-- Proposed Rule to Establish a
Federal CCR Permit Program for Disposal of Coal
Combustion Residuals from Electric Utilities

Wednesday, April 15, 2020
9:00 a.m. through 6:00 p.m.

(Conducted via Webinar)

1 EPA PANEL 1, MORNING SESSION:

2 STACEY YONCE, Panel Chair; Chemical Engineer,
3 Energy Recovery and Waste Disposal Branch,
4 Office of Resource Conservation and Recovery

5 CRAIG DUFFICY

6 MICHELLE LONG

7 JESSE MILLER

8

9 EPA PANEL 2, AFTERNOON SESSION

10 RICHARD HUGGINS, Panel Chair; Chief,
11 Energy Recovery and Waste Disposal Branch,
12 Office of Resource Conservation and Recovery

13 STACEY YONCE

14 MICHELLE LONG

15 ANTHONY CARRELL

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1 P R O C E E D I N G S

2 M O R N I N G S E S S I O N

3

4 EMCEE: Good morning. Welcome to the EPA
5 public hearing. We are now ready to begin.

6 I'll turn it over to EPA to get us started.

7 MS. YONCE: Good morning, and thank you for
8 attending today's public hearing on the
9 Environmental Protection Agency's proposal to
10 establish a Federal permit
11 program for disposal of coal combustion
12 residuals, or CCR.

13 Before we begin, I would like to say that
14 we appreciate you taking the time to address the
15 proposed rule, and we look forward to receiving
16 your comments. This is a virtual public
17 hearing.

18 My name is Stacey Yonce. I am a chemical
19 engineer the Energy Recovery and Waste Disposal
20 Branch in EPA's Office of Resource Conservation
21 and Recovery. I will be chairing this session
22 of today's hearing. With me on the panel today

1 from EPA are Craig Dufficy, Michelle Long, and
2 Jesse Miller.

3 Before we begin the hearing, I would like
4 to provide some background information and
5 briefly describe the proposed rule on which we
6 are taking comments today.

7 CCR are generated from the combustion of
8 coal in coal-fired boilers to produce
9 electricity by electric utilities and
10 independent power producers. CCR include fly
11 ash, bottom ash, boiler slag, and flue gas
12 desulfurization materials. CCR can be disposed
13 of in on-site or off-site landfills or surface
14 impoundments or can be beneficially used.

15 On April 17, 2015, EPA published a final
16 rule establishing a comprehensive set of minimum
17 requirements for the disposal of CCR in
18 landfills and surface impoundments. The rule
19 created a self-implementing program which
20 regulates the location, design, operation, and
21 groundwater monitoring and corrective action for
22 CCR disposal, as well as the closure and

1 post-closure care of CCR units.

2 The final rule requires owners and
3 operators of CCR units to document compliance
4 with these requirements in the facility's
5 operating record. In addition, the facility
6 must notify the State of decisions and maintain
7 a publicly accessible website of compliance
8 information. This final CCR rule became
9 effective on October 19th, 2015, and owners or
10 operators of CCR units are required to be in
11 compliance with all applicable requirements.

12 In 2016, Congress passed and the President
13 signed the Water Infrastructure Improvements for
14 the Nation, or the WIIN Act. The WIIN
15 Act, among other things, requires EPA to
16 implement a Federal CCR permit program in Indian
17 Country and subject to the availability of
18 specific appropriations to carry out a program
19 in nonparticipating States.

20 The Fiscal Year 2019 and 2018 Omnibus
21 Appropriations Acts provided appropriations to
22 EPA to develop and implement a

1 Federal CCR permit program.

2 EPA is proposing to establish a new Federal
3 permit program to implement the regulations
4 governing the disposal of CCR established in
5 the 2015 final rule.

6 This proposal contains procedures and
7 requirements to issue Federal permits in Indian
8 Country and in nonparticipating States.

9 This includes the following.

10 Applications would be required with sufficient
11 information for EPA to determine applicability
12 of requirements in the CCR rule and write permit
13 terms to require compliance with them. Permit
14 applications would be due no earlier than 18
15 months after the effective date of the final
16 rule. Application deadlines will be tiered, and
17 the first tier would include facilities with a
18 high hazard surface impoundment.

19 Permits would be issued with no expiration
20 date. Permit holders would be required to apply
21 for modifications to keep the permit current
22 with changes to operations at the unit or

1 changes in the applicable requirements in the
2 CCR rule.

3 EPA could also initiate a permit
4 modification, if needed, to ensure the permit
5 continues to require compliance with all
6 applicable requirements in the CCR rule.

7 Procedural requirements applicable to other
8 EPA permitting programs would generally be
9 utilized in this program. Public notice would
10 be accomplished electronically rather than
11 newspaper.

12 Now I'll cover some logistics for the
13 comment portion of today's public hearing.

14 Today's hearing will work as follows.
15 Speakers, if you pre-registered to speak, you
16 should have received an email with a 30-minute
17 time slot during which you are scheduled to give
18 your 5 minutes of testimony. To guarantee that
19 slot, we have asked that you sign into the
20 webinar 10 minutes before that 30-minute time
21 slot. We will call speakers in groups. After
22 your name is called, EPA will ask you to state

1 your name and your affiliation, if any, and
2 proceed with your testimony. We may ask you to
3 spell your name for the court reporter, who is
4 on the line transcribing your comments for the
5 official record. The audio from the public
6 hearing will be recorded for the official
7 record.

8 In order to accommodate all speakers and
9 provide all speakers with the same speaking
10 opportunity, testimony is limited to 5 minutes,
11 even if there are no additional speakers
12 waiting. A countdown clock will be shown on the
13 screen so speakers know how much time they have
14 left. In addition, if you have a written
15 testimony prepared, please send it to the email
16 you received your confirmation email from,
17 EPAwebinar@indecon.com.

18 We are here today to hear your comments on
19 EPA's proposal. We will not respond to
20 questions; however, from time to time, members
21 of the panel may ask questions to clarify your
22 testimony. Any comments spoken in languages

1 other than English will be translated into
2 English in the written transcript.

3 If you have additional comments after
4 today, please follow the instructions in the
5 Federal Register notice for this proposal to
6 submit your comments by May 20th, 2020.

7 Everyone who has pre-registered will have
8 an opportunity to speak, and we will do our best
9 to accommodate speakers that have not
10 pre-registered. Today's hearing is scheduled to
11 close at 6:00 p.m., but we will keep the hearing
12 open later if necessary. If, however, time does
13 not allow you to orally present your comments,
14 please provide a written comment in lieu of oral
15 testimony. These written comments on the
16 proposal will be given the same weight as oral
17 testimony.

18 If you would like to testify but have not
19 yet registered to do so, please send a message
20 to staff by way the Questions box, and they will
21 do their best to fit you into the schedule.

22 We plan to take occasional breaks,

1 according to the agenda. We will shorten the
2 breaks if needed in order to allow as many
3 people as possible to provide their comments.

4 We ask for your patience as we proceed. We
5 may need to make some minor adjustments as the
6 day progresses, and if so, we will make the
7 appropriate announcements.

8 Thanks again for participating today.

9 Let's get started. We will now turn it over to
10 EPA's contractor Industrial Economics to discuss
11 the logistics for today's hearing.

12 EMCEE: Thank you.

13 Before we begin, we'd like to go over some
14 logistics for today's webinar. As a reminder,
15 all attendees are muted automatically. We will
16 unmute you when it is your turn to speak.

17 Also, if you have called in using a phone
18 and are planning to speak, you must enter your
19 individual audio PIN. If you are having trouble
20 with the PIN, a staff member will send you a
21 message via the webinar interface. Please make
22 sure that if you called in via phone, the radio

1 button is on "Phone Call" and not "Computer
2 Audio." Finally, please use the Questions box
3 in the upper right corner to request a speaking
4 slot.

5 Now we will begin our public comments. The
6 expected speaking order for the next half hour
7 will be Frank Holleman, followed by Marya
8 Bradley and Jennifer Cassel.

9 I will be introducing each speaker in turn,
10 but please wait for EPA to ask you to proceed
11 before starting your comment.

12 The first speaker will be Frank Holeman.

13 EPA, are you ready to proceed?

14 EPA PANEL MEMBER: Yes.

15 Please proceed, and state your name and
16 affiliation for the record.

17 MR. HOLLEMAN: Hello. My name is Frank
18 Holleman. I live in Greenville, South Carolina.
19 I am a senior attorney with the Southern
20 Environmental Law Center, and for almost 9
21 years, I've worked with community groups
22 throughout the Southeast who are concerned about

1 coal ash pollution and disposal in their local
2 areas.

3 The EPA's proposal for its own permitting
4 program for coal ash sites appears to be--is
5 written without recognition of the realities on
6 the ground, and these key factors, I think this
7 rule ignores.

8 First, the intent of the local public
9 interest in what happens at these sites. If the
10 senior leadership at the EPA had come to any of
11 our public hearings in North Carolina on each of
12 the 14 sites in the State, it would have seen
13 the intense level of public interest, knowledge,
14 and concern as to each site.

15 Second, this rule is written without
16 recognition, that each of the sites has many
17 different circumstances. For example, their
18 size range from less than a million tons through
19 tens of millions of tons. Some are in the
20 Piedmont overlooking rivers. Some are setting
21 in wetlands or in low-lying coastal areas. Some
22 are sitting on top of karst topography, and some

1 even have waterways flowing through them that
2 are dammed for the storage of the ash.

3 And the rule is written without recognizing
4 that there are constantly changing
5 circumstances. For example, in Alabama, we have
6 one sites that's allowed to be capped in place.
7 It has already been discovered to continue to
8 pollute groundwater. There are occasionally
9 failures of these sites. We have changing water
10 levels with climate change, and the utilities
11 constantly discover problems such as unknown
12 pipes and other issues they had not recognized
13 before.

14 As a result of all those factors, these are
15 the changes that need to be made. First of all,
16 unlike the EPA's proposal, there needs to be an
17 opportunity for enhanced public input. There
18 needs to be a public comment period and a
19 hearing for each and every site.

20 Second, there is no way to legitimate grant
21 a permit for life for these sites. The permits
22 need to come up for review and reexamination

1 because changes and problems and for additional
2 public input.

3 Third, there's no way you can use general
4 permits for these sites, as though they were
5 minor changes in circumstances. Each of these
6 sites require intense attention from engineers,
7 from the regulators, and from the public.

8 And, finally, you should not have so little
9 review by EPA itself. Each of these sites, as
10 we see in North Carolina, have even required
11 years of study and modeling to determine what
12 should be the appropriate way for them to be
13 finally closed.

14 In short, this EPA proposal isn't really a
15 serious attempt to manage and determine the
16 appropriate outcome for each of these sites but
17 simply a way for the agency to check a box and
18 put something behind it. Instead, this
19 permitting program needs to become a major
20 program of an ongoing program of the EPA that
21 provides for intense public input and
22 examination, it provides for intense scrutiny

1 and examination of each of these sites, and it
2 provides a periodic review of how coal ash is
3 stored and disposed of in communities across the
4 country.

5 Thank you.

6 EMCEE: Thank you for your comment.

7 The next speaker will be Marya Bradley,
8 followed by Jennifer Cassel and then Joyce
9 Blumenshine. The next speaker will be Marya
10 Bradley.

11 EPA, are you ready to proceed?

12 EPA PANEL MEMBER: Yes.

13 Please proceed, and state your name and
14 affiliation for the record.

15 MS. BRADLEY: Hello. My name is Marya
16 Bradley, and I'm calling from Milwaukee, which
17 is near the Oak Creek coal-fired power plant in
18 Wisconsin, and I am one of those citizens that
19 Mr. Holleman referred to. I live right on Lake
20 Michigan, and I am very, very concerned about
21 what is happening in terms of diminishing the
22 amount of public say in what is happening to our

1 communities in relation to the deadly effects of
2 coal ash.

3 The deleterious and deadly effects of coal
4 ash from coal-fired power plants are well
5 documented and widely known both in and outside
6 of this industry and those charged in regulating
7 the industry. The massive die-offs of fish, the
8 sterilization and deformation of fish and birds
9 and mammals, the long list of diseases and
10 deformations of--and fetal diseases that coal
11 ash and its constituents cause in human beings,
12 liver and lung disease, various forms of cancer
13 of numerous organs, hypertension, asthma, fetal
14 lung disease, developmental delays, hemoglobin
15 damage, vision impairment, neuropathy, and the
16 list is long of all the various constituents
17 contained and associated with coal ash that
18 cause these illnesses.

19 There can really be no defensible or
20 justifiable reason to permit an industry that is
21 actually failing to continue to pollute and
22 poison our air and waters, especially now when

1 we clearly face a planetary health and climate
2 crisis and are witness to massive extinction of
3 species.

4 The time has come for us to refuse these
5 permits and to make it illegal to continue to
6 destroy the fabric of life. There can be no
7 good long-term consequence in perpetuating the
8 fossil fuel industry's destruction of life for
9 profit.

10 I call on you to do your duty, to take it
11 up, and protect the problem, heed the public,
12 the people who are directly affected, and their
13 land, water, and air, and compel the industry to
14 defend what it's asking to do and actually to
15 have it shift to commit to creating a
16 sustainable form of energy that is compatible
17 with life and respectful of all life.

18 Thank you.

19 EMCEE: Thank you for your comment.

20 The next speaker will be Jennifer Cassel,
21 followed by Joyce Blumenshine. The next speaker
22 will be Jennifer Cassel.

1 EPA, are you ready to proceed?

2 EPA PANEL MEMBER: Yes.

3 Please proceed, and state your name and
4 affiliation for the record.

5 MS. CASSEL: Hi. Good morning. My name is
6 Jennifer Cassel. I am a staff attorney with
7 Earthjustice, based in Chicago, the heartland of
8 this country where we have so much coal ash
9 fouling our waters.

10 I have the privilege, honor, and burden of
11 reading today a joint statement from 75 groups
12 representing millions of members across the
13 country at this public hearing. This joint
14 statement will--because it involves so many
15 signatories, it's likely I won't complete the
16 list during my testimony, and therefore,
17 colleagues of mine testifying later today will
18 complete the list.

19 Here is the joint statement. Seventy-five
20 groups representing many millions of members
21 declare together our opposition to the Trump
22 administration's holding of this virtual public

1 hearing in the midst of the global COVID-19
2 pandemic when Americans nationwide are unable to
3 exercise their right to participate, although
4 all 75 organizations strongly oppose the coal
5 ash permitting proposal. Many of our members
6 are unable to speak with you today due to
7 obstacles presented by the COVID-19 pandemic.

8 Do you expect someone who has fallen ill or has
9 a sick family member to be on the phone today?

10 What about the health care workers, the parents
11 like myself who are busy trying to home-school
12 their children, and the millions of Americans
13 who are so worried that it's hard to think about
14 anything else?

15 During this global pandemic, a national
16 health emergency, the EPA's actions to weaken
17 health and environmental protections from coal
18 ash pollution are unconscionable. The EPA
19 should be working to make Americans safer, not
20 endanger them further by throwing protections
21 from toxic pollution out the window.

22 The coal ash permitting proposal will

1 expose more Americans to hazardous pollution
2 from coal ash, including to carcinogens like
3 arsenic, hexavalent chromium, and radium;
4 neurotoxins like lithium and lead; and poisons
5 that kill fish and wildlife like selenium and
6 cadmium. We ask EPA to stop trying to gut the
7 proposed health protections in the coal ash rule
8 and instead strengthen the rule as ordered by
9 the Federal Court of Appeals.

10 The EPA has suspended enforcement of
11 environmental laws, no longer expecting
12 compliance with routine monitoring and reporting
13 of pollution, with no end date in site. Yet the
14 agency somehow expects communities to timely
15 submit comments and participate in these
16 hearings among the pandemic?

17 The Trump administration should press pause
18 on this dangerous plan, extend the comment
19 period, and give Americans a meaningful chance
20 to weigh in when the crisis is over.

21 And that has been signed by Cindy Lowry if
22 the Alabama Rivers Alliance; John Zippert of

1 Alabama State Association of Cooperatives; Amy
2 Adams on behalf of Appalachian Voices; Charles
3 Scribner on behalf of Black Warrior Riverkeeper;
4 José Manuel Díaz Pérez on behalf of Campamento
5 contra las cenizas de Peñuelas; John Laszlo on
6 behalf of Central Illinois Healthy Communities
7 Alliance; Kevin Jeselnik on behalf of
8 Chattahoochee Riverkeeper; Mary Ellen DeClue on
9 behalf of Citizens Against Longwall Mining;
10 Ellen Rendulich on behalf of Citizens Against
11 Ruining the Environment; Jennifer Peters for
12 Clean Water Action; Amanda Strawderman for Clean
13 Water for North Carolina; Victor Alvarado Guzmán
14 on behalf of Comité Diálogo Ambiental; Clark
15 Bullard on behalf of Committee on the Middle
16 Fork; Steven Dudley on behalf of Coosa
17 Riverkeeper; Lisa Evans, my colleague, on behalf
18 of Earthjustice; Lan Richart on behalf of
19 Eco-Justice Collaborative; Pastor Scott Onque on
20 behalf of Faith in Place and Faith in Place
21 Action Fund; Beth Porter on behalf of Green
22 America; Colleen Smith on behalf of Illinois

1 Environmental Council; Jeff Stant, Indiana
2 Forest Alliance; Kerri Johannsen, Iowa
3 Environmental Council; Mary Love, Kentuckians
4 for the Commonwealth; Patricia Schuba, Labadie
5 Environmental Organization; Nancy LaPlaca,
6 LaPlaca and Associates Lieutenant Colonel; Terry
7 Miller, Lone Tree Council; Toni Opt, Metro East
8 Green Alliance; Cheryl Nenn, Milwaukee
9 Riverkeeper; Casi Callaway, Mobile Baykeeper;
10 Anne Hedges, Montana Environmental Information
11 Center; Rebecca Hammer, National Resources
12 Defense Council; Susan Wind Richard on behalf of
13 New Jersey Sustainable Business Council.

14 And I will stop there and leave it to my
15 colleagues to finish. Thank you.

16 EMCEE: Thank you for your comment.

17 The next speaker will be Joyce Blumenshine,
18 followed by Karen Rangel. The next speaker will
19 be Joyce Blumenshine.

20 EPA, are you ready to proceed?

21 EPA PANEL MEMBER: Yes.

22 Please proceed, and state your name and

1 affiliation for the record.

2 MS. BLUMENSHINE: This is Joyce
3 Blumenshine. I am a concerned citizen in
4 Peoria, Illinois. I am commenting in opposition
5 to this EPA proposed hazardous and solid waste
6 management system, disposal of CCR residuals.

7 I don't see how this is in any way an
8 improvement, but it is a tragic dismantling of
9 basic protections for the public and for the
10 environment.

11 My father became ill and died of cancer
12 while I was in high school, and my mother
13 suffered for years and died with COPD.

14 I drive regularly on a highway by a local
15 area, coal-fired power plant with ash ponds that
16 are wind-blown dust across the highway into area
17 residences.

18 We are well aware that the groundwater is
19 contaminated at all of the coal-fired powerplant
20 ash ponds in my area, and I am very concerned
21 about the detrimental public health and
22 detrimental environmental impacts of this

1 proposal.

2 What EPA is doing is unjust. It will
3 result in generations of ongoing life, health,
4 safety, and natural resources harms. These
5 completely inadequate regulations will impact
6 Native Americans, minorities, Tribal lands,
7 territories, and States, and the EPA is
8 proceeding with this hearing and proposed
9 changes during this unprecedented time of
10 national COVID-19 pandemic crisis.

11 Current statistics report 26,000 deaths,
12 well over 600,000 documented cases of the virus
13 in the U.S., and those numbers are probably
14 barely the surface because there's inadequate
15 testing.

16 People are struggling to manage their
17 lives. EPA is again holding a virtual hearing.
18 This requires a computer or phone with internet
19 access. How is that fair when the changes being
20 proposed specifically impact citizens in remote
21 areas or perhaps areas without adequate internet
22 access?

1 Environmental justice locations, with high
2 levels of poverty and resources, such as
3 neighborhoods near where I live, lack the means
4 to participate in a virtual hearings. The
5 virtual hearings deny those impacted the chance
6 to be seen and heard in their own region. EPA
7 should be strengthening regulations to protect
8 public health, to protect natural resources, and
9 especially to protect water resources.

10 The current proposal weakens basic
11 regulatory protections, and this is not
12 acceptable. It is a particularly grievous
13 concern for regions with some of the most
14 extreme water shortages. EPA is putting water
15 resources and the health of regions at clear
16 risk of further harm and contamination. How can
17 this be a proper regulation with owners of CCR
18 locations given permits without an end date and
19 they have essentially no effective oversight?
20 How can this be a proper regulation in allowing
21 the EPA to let sites operate in noncompliance
22 with no restrictions on how long the

1 noncompliant situation can continue and what
2 appears to be no controls on what aspects can be
3 in noncompliance? It's like a carte blanche for
4 pollution. This is not environmental
5 protection.

6 The proposal fails provisions for adequate
7 public participation. EPA must include
8 provisions requiring local public hearings and
9 local posting of the permit application
10 materials where individuals without computer
11 access can review what is being proposed.
12 Locations impacted by poverty, remote areas, and
13 our nation's shameful legacy of abuse and
14 discrimination of the nation's first people's of
15 this land and minorities. It should mean that
16 extra protection, strong oversight, and
17 regulation and control of pollution must occur,
18 not this rollback of basic safeguards and
19 procedures.

20 People deserve the right to know about what
21 is going to happen that could affect their
22 lives, health, water resources, and future

1 generations. Public participation and coal ash
2 permits is essential, no matter where the
3 location. It is highly discriminatory and
4 unethical of EPA to be imposing blatantly weak
5 and inadequate regulations that impact Tribal
6 and minority areas. What is proposed will not
7 take into consideration known information about
8 the extent of water pollution from CCR location.
9 It basically gives approval of permits with
10 minimal or no review. That is not acceptable.

11 It is essential that permits take into
12 consideration of the specific geologic land use
13 and other conditions of each area, and this
14 proposal does not.

15 I urge this proposal to be put on hold
16 until the COVID pandemic is over and ensure that
17 multiple public hearings are held in appropriate
18 locations across the country.

19 EMCEE: Thank you for your comment

20 The next speaker will be Karen Rangel.

21 EPA, are you ready to proceed?

22 EPA PANEL MEMBER: Yes.

1 Please proceed, and state your name and
2 affiliation for the record.

3 [No audible response.]

4 EMCEE: Karen, I think you might be
5 self-muted.

6 [Pause.]

7 MS. RANGEL: Hello?

8 EMCEE: Okay. Karen, we're going to send
9 you some instructions. It looks like you called
10 in by phone and also have computer audio, and
11 that's why we're getting the feedback. If you
12 can go to the audio portion, there's a little
13 spot where you can select "Computer" or "Phone
14 Call." So just select one, and then this should
15 work.

16 When you're ready, please try stating your
17 name and affiliation for the record.

18 [Pause.]

19 EMCEE: Karen, try unmuting and then
20 stating your name.

21 MS. RANGEL: Hi. I'm sorry about that.
22 This is Karen Rangel from St. Louis County,

1 Missouri.

2 I just first wanted to state that I think
3 these rulings are kind of sneaky and
4 underhanded. The EPA is not doing its job in
5 taking care of and protecting the people of the
6 United States. It's very disappointing that I
7 had to find out about this. I missed all of the
8 hearings last week. We shouldn't be hiding
9 things from people like this.

10 Just a little background, in my family, I
11 have over 125 years of service for Ameren UE,
12 one of my local coal plants. Of my uncles and
13 grandfathers that were employed by there, all of
14 them died of cancers that are very possibly
15 attached to having worked at coal-fired plants.
16 Their deaths were not pleasant, and people like
17 that need to be taken care of.

18 Our waterways need to be protected, and by
19 not giving the public a chance to participate or
20 widely known, this just is not right. It's
21 sneaky and underhanded, and that is all I'd like
22 to say on the record today.

1 Thank you.

2 EMCEE: Thank you for your comment.

3 At this time, we have no one else scheduled
4 to speak during the current time slot.

5 If there is anyone who did not register to
6 speak today or is registered to speak later
7 today and would like to speak, please use the
8 Questions box to identify yourself, and we will
9 get you into the lineup shortly.

10 We'll now pause to see if anyone else would
11 like to make a statement.

12 [Pause.]

13 EMCEE: At this time, we have no one else
14 scheduled to speak during the current time slot.

15 If there is anyone who did not register to
16 speak today or registered to speak later today
17 but would like to speak, please use the
18 Questions box to identify yourself, and we will
19 get you into the lineup shortly.

20 We'll now pause to see if anyone else would
21 like to make a statement.

22 [Pause.]

1 EMCEE: We have no more speakers lined up
2 for the current time slot. So we will begin a
3 brief recess.

4 EPA, when would you like to reconvene?

5 EPA PANEL MEMBER: The hearing is now on
6 recess until ten o'clock a.m., Eastern Time.

7 [Recess taken from 9:42 a.m. to 10:00 a.m.]

8 EMCEE: This is IEC, EPA's contractor. It
9 is ten o'clock, Eastern, and we are now
10 rejoining EPA's public hearing about the
11 proposed Federal coal combustion residuals
12 permit program regulations.

13 At this time, we have no one else scheduled
14 to speak in this current time slot.

15 If there is anyone who did not register to
16 speak today but would like to speak, please use
17 the Questions box to identify yourself, and we
18 will get you into the lineup shortly.

19 We'll now pause to see if anyone else would
20 like to make a statement.

21 [Pause.]

22 EMCEE: We have no one else scheduled to

1 speak in this current time slot.

2 If there is anyone who did not register to
3 speak today or is registered to speak later in
4 the day but would like to speak now, please use
5 the Questions box to identify yourself, and we
6 will get you into the lineup shortly.

7 We'll now pause to see if anyone else would
8 like to make a statement.

9 [Pause.]

10 EMCEE: We have no one else scheduled to
11 speak during the current time slot.

12 If there is anyone who did not register to
13 speak today or anyone who is registered to speak
14 later today and would like to speak now, please
15 use the Questions box to identify yourself, and
16 we will get you into the lineup shortly.

17 We'll continue to pause to see if anyone
18 else would like to make a statement.

19 [Pause.]

20 EMCEE: We have no more speakers lined up
21 for the time being. So we will begin a brief
22 recess.

1 EPA, when would you like to reconvene?

2 EPA PANEL MEMBER: The hearing is now on
3 recess until 10:30 a.m., Eastern Time.

4 [Recess taken from 10:15 a.m. to 10:30
5 a.m.]

6 EMCEE: This is IEC, EPA's contractor. It
7 is now 10:30, Eastern, and we are rejoining
8 EPA's public hearing about the proposed Federal
9 coal combustion residuals program, residuals
10 permit program regulations.

11 At this time, we have no one else scheduled
12 to speak during this particular time slot.

13 If there is anyone who did not register to
14 speak today but would like to speak, please use
15 the Questions box to identify yourself, and we
16 will get you into the lineup shortly.

17 We'll now pause to see if anyone else would
18 like to make a statement.

19 [Pause.]

20 EMCEE: We have no one else scheduled to
21 speak during the current time slot.

22 If there is anyone who did not register to

1 speak today or is registered to speak later in
2 the day and would like to speak now, please use
3 the Questions box to identify yourself, and we
4 will get you into the lineup shortly.

5 We'll continue to pause to see if anyone
6 else would like to make a statement.

7 [Pause.]

8 EMCEE: We have no one else scheduled to
9 speak during the current time slot.

10 If there is anyone who did not register to
11 speak today or is registered to speak later
12 today and would like to speak now, please use
13 the Questions box to identify yourself, and we
14 will get you into the lineup shortly.

15 We will continue to pause to see if anyone
16 else would like to make a statement.

17 [Pause.]

18 EMCEE: We have no more speakers lined up
19 for the time being. So we will begin a brief
20 recess.

21 EPA, when would you like to reconvene?

22 EPA PANEL MEMBER: The hearing is now on

1 recess until eleven o'clock a.m., Eastern Time.

2 [Recess taken from 10:45 a.m. to 11:00
3 a.m.]

4 EMCEE: This is IEC, EPA's contractor. It
5 is now eleven o'clock, Eastern, and we are
6 rejoining EPA's public hearing about the
7 proposed Federal coal combustion residuals
8 permit program regulations.

9 The expected speaker order for the next
10 half hour will be Erica Frank, followed by
11 Catharine White, Harriett Jones, Jim Stewart,
12 and Christine Main.

13 The first speaker will be Erica Frank.

14 I will be introducing each speaker in turn,
15 but please wait for EPA to ask you to proceed
16 before starting your comment.

17 EPA, are you ready to proceed?

18 EPA PANEL MEMBER: Yes.

19 Please proceed, and state your name and
20 affiliation for the record.

21 DR. FRANK: Hi. Am I audible? Yes?

22 EMCEE: Yes, we can hear you. Please

1 proceed.

2 DR. FRANK: Super. My name is Dr. Erica
3 Frank, and I grew up in Pennsylvania and New
4 Jersey. And I've lived for my medical training
5 and practice in Georgia, Ohio, New York, and
6 California. I appreciate the opportunity to
7 speak today. I now live in Clear Lake,
8 Washington, and in British Columbia. I'm a
9 physician and master's in public health and a
10 fellow of the American College of Preventive
11 Medicine, and I'm here as a specialist and
12 representing Physicians for Social
13 Responsibility, which is the twice Nobel
14 Prize-winning organization that I was the
15 president of in 2008 and on the board of for a
16 decade.

17 I'm now the Canada Research Chair in
18 Preventive Medicine and Population Health at the
19 University of British Columbia, and I'm calling
20 in today to speak out in opposition to EPA's
21 proposal to weaken the 2015 coal ash rule
22 safeguards.

1 I do appreciate this opportunity to
2 comment, but I'll start with saying that I do
3 strongly oppose EPA's decision to proceed with
4 today's hearing during a global pandemic and
5 national health emergency. I've attended in
6 person, public--EPA public hearings in the past,
7 and this is a very important part of the
8 democratic process.

9 That being said, the meta point today is
10 that EPA should be working to make Americans
11 safer, not endanger us and our patients further
12 by throwing protections from toxic pollution out
13 the window. The Part B proposal or the coal ash
14 permitting proposal is going to expose more
15 Americans, if it happens, to hazardous pollution
16 from coal ash, part of the reason why I moved to
17 Canada from the United States in 2006 when EPA
18 did this before with the mercury ruling,
19 including providing exposures to carcinogens
20 like arsenic and hexavalent chromium and radium;
21 genetic toxins like lithium and lead; and to
22 poisons that kill fish and other wildlife like

1 selenium and cadmium.

2 So we're asking EPA to stop trying to gut
3 the public health protections in the coal ash
4 rule and instead to strengthen the rule as
5 ordered by the Federal Court of Appeals.

6 Hazardous chemicals that are present in
7 coal are concentrated in the ash when coal is
8 burned, and this can cause cancer, heart
9 disease, reproductive failure and stroke, and
10 can inflict permanent brain damage on children.
11 It is impossible for me to think as an American
12 physician that we are purposefully considering
13 doing this to our population going forward.

14 When such toxic waste is dumped without
15 proper safeguards, as has occurred now for
16 decades throughout the United States, hazardous
17 chemicals are routinely released to air and
18 water, harming nearby communities and fouling
19 water resources.

20 Coal ash also, as I mentioned, harms
21 aquatic life and other wildlife and the
22 ecosystem. Selenium is a common coal ash

1 contaminant. It's deadly to fish at very low
2 levels, and it bioaccumulates in fish tissue.
3 This kind of extensive damage to aquatic life
4 from coal ash is well documented, including a
5 recent report by Earthjustice and the
6 Environmental Integrity Project, finding that 92
7 percent of the coal plants with coal ash ponds
8 report groundwater monitoring data in the Obama
9 EPA coal ash rule have found contaminated
10 groundwater, 92 percent of them with toxic
11 pollutants exceeding Federal health standards.

12 So to conclude, the 2015 coal ash rule is
13 currently the best protection we have for
14 thousands of American communities. Despite some
15 weaknesses in the current rule, coal plant
16 owners have already completed hundreds of
17 inspections, published critical groundwater
18 quality data, identified over a hundred sites
19 where cleanup of contaminated water must soon
20 begin, and disclosed the identity of already
21 leaking and dangerous coal ash plans that must
22 close.

1 The commonsense standards of the 2015 rule,
2 which received more than half a million
3 supporting comments from the public, are helping
4 to protect clean water and safeguard public
5 health.

6 The Trump administration's attempt to
7 weaken this rule is nothing more than a total
8 and dangerous giveaway to industry. It--[audio
9 break].

10 EMCEE: Erica, it sounds like we lost you.
11 We'll pause your time, and we'll see if we can
12 get you back.

13 [Pause.]

14 EMCEE: Erica Frank, it looks like you
15 might have dropped offline. If you are still on
16 the line, please say hello. Otherwise, we will
17 circle back to you and see if we can finish up
18 your comment.

19 [No audible response.]

20 EMCEE: Erica?

21 [No audible response.]

22 EMCEE: You might be self-muted, perhaps.

1 [Pause.]

2 EMCEE: Okay. Erica, we'll circle back to
3 you. We'll be in touch via the chat, and we
4 will find a way for you to conclude the very end
5 of your comment. I think you had about 45
6 seconds left when you dropped.

7 At this point, we will move on to our next
8 speaker. The speaker order is Catharine White
9 followed by Harriett Jones, Jim Stewart, and
10 Christine Main, although we might slide in Erica
11 Frank so she can finish hers. But the next
12 speaker will be Catharine White.

13 EPA, are you ready to proceed?

14 EPA PANEL MEMBER: Yes.

15 Please proceed, and state your name and
16 affiliation for the record.

17 MS. WHITE: My name is Catharine White, and
18 I am a member of Trinity Lutheran Church in
19 Evanston, Illinois, 350 Chicago, and Faith in
20 Place, Illinois's branch of Interfaith Power and
21 Light. I've also done work for the Union of
22 Concerned Scientists, Sierra Club, and the

1 Evanston Interreligious Sustainability Circle.

2 Thank you for the opportunity to make a
3 statement.

4 I'm going to address this issue from the
5 viewpoints of both science and ethics. Racism,
6 xenophobia, and classism kill people, especially
7 when they underlie policy.

8 As I understand them, the policies being
9 proposed in this hearing involve a Federal
10 permitting rule that in the long run will allow
11 companies to establish coal ash ponds and
12 landfills in Tribal lands, territories, and
13 States that don't have approval to implement
14 their own programs.

15 Shockingly, these permits would never
16 expire, permitting these companies in perpetuity
17 to violate the same safeguards that will
18 continue to protect the health and safety of
19 communities not included in the rollback.

20 Predictably, the communities not included are
21 white and middle class or wealthy, while those
22 affected by the rollback at Native American,

1 African American, poor, and immigrant.

2 It's not news that coal ash is toxic and
3 carcinogenic. It contains some of the
4 deadliest-known heavy metals. Arsenic, lead,
5 lithium, cobalt, radium, and hexavalent chromium
6 cause cancer, heart disease, infertility, and
7 stroke. They are particularly hard on children
8 and the elderly. They kill marine animals and
9 poison those that are eaten. They poison the
10 water and ground near the coal ash pools.

11 Giving companies permission to dump these
12 toxins anywhere is horrifying, but it's
13 particularly unethical to dispose of them in
14 communities without the power to fight sinful
15 policies.

16 It is our job as decent human beings to
17 protect the vulnerable among us, and it's the
18 job of the EPA to make sure that this dangerous
19 rollback doesn't happen. Please do your job.
20 Protect the environment, not the corporations.

21 [Technical interruption.]

22 EMCEE: Everyone, please make sure that

1 you're on mute if you're a panelist or you're
2 not doing the speaking. Thank you.

3 [Technical interruption.]

4 MS. WHITE: I don't know whether to speak
5 or not.

6 EMCEE: I know. Sorry for that. Hang on
7 just one second.

8 Stop her time, please.

9 [Pause.]

10 EMCEE: Okay. Catharine, why don't you go
11 ahead and proceed, and we'll add a couple--you
12 know, 20 more seconds on to your clock if it
13 looks like you're going to run out of time. Go
14 ahead and proceed.

15 MS. WHITE: It is our job as decent human
16 beings to protect the vulnerable among us, and
17 its' the job of the EPA to make sure that this
18 dangerous rollback doesn't happen. Please do
19 your job. Protect the environment, not the
20 corporations.

21 Thank you.

22 EMCEE: Thank you for your comment.

1 We'll now circle back to Erica Frank so she
2 can deliver the end of her statement before she
3 was dropped.

4 EPA, are you ready to proceed?

5 EPA PANEL MEMBER: Yes.

6 Please proceed, and state your name and
7 affiliation for the record.

8 DR. FRANK: Oh, there we go. Thank you
9 again. So Dr. Erica Frank, and I'm just
10 finishing my last seconds of comments here, my
11 conclusions.

12 So the 2015 coal ash rule, to circle back
13 around to that, is currently the best protection
14 that we have for thousands of American
15 communities, and despite some weaknesses in the
16 current rule, coal plant owners have already
17 completed hundreds of inspections, published
18 critical groundwater quality data, identified
19 over a hundred sites where cleanup of
20 contaminated groundwater must soon begin, and
21 disclosed the identity of leaking and dangerous
22 coal ash plants that already have been found

1 that must close.

2 These commonsense standards from the 2015
3 rule, which received more than half a million
4 supporting comments from the public, are helping
5 to protect clean water and safeguard public
6 health. This attempt to weaken this rule is an
7 inexcusable from a public health medical
8 perspective and dangerous giveaway to industry
9 at the cost of Americans' health and must be
10 rejected.

11 Thank you very much.

12 EMCEE: Thank you for your comment.

13 The next speaker will be Harriett Jones,
14 followed by Jim Stewart, and then Christine
15 Main. The next speaker will be Harriett Jones.

16 EPA, are you ready to proceed?

17 EPA PANEL MEMBER: Yes.

18 Please proceed, and state your name and
19 affiliation for the record.

20 MS. JONES: My name is Harriett Jones. I'm
21 a member of the Sierra Club and a longtime
22 resident of Florida. Can you hear me?

1 EMCEE: Yes, we can. Please proceed.

2 MS. JONES: Oh, thank you. I didn't see
3 any notification.

4 Yes. My main concern is, living here in
5 Florida, we depend desperately on the EPA to
6 help us with our water and our toxic problems
7 we're having in the State now. Our former
8 Governor Scott lowered the regulations on
9 pollutants in our water. We're having problems
10 with mercury here, and I was out in Glacier
11 National Park a couple of years ago, and we
12 couldn't eat the fish because of the mercury.

13 But, once again, my main emphasis is that
14 we cannot depend on our State governments to
15 protect us, and we have numerous coal ash piles
16 in this area. And we do not feel that we will
17 be protected by our State government, and we
18 feel that this is a betrayal to all the
19 citizens. And it is also reducing protection
20 for our most vulnerable population, and I noted
21 that a lot of regulations concerning children
22 were taken out previously.

1 Thank you. I'm finished.

2 EMCEE: Thank you for your comment.

3 The next speaker will be Jim Stewart,
4 followed by Christine Main and Celeste Flores.

5 The next speaker will be Jim Stewart.

6 EPA, are you ready to proceed?

7 EPA PANEL MEMBER: Yes.

8 Please proceed, and state your name and
9 affiliation for the record.

10 MR. STEWART: Hello. This is Jim Stewart.

11 Can you hear me?

12 EMCEE: Yes, we can. Please proceed.

13 MR. STEWART: I am a retired professor of
14 physics and also the co-chair of the Energy
15 Climate Committee for Sierra Club California.

16 I have studied this issue of climate change
17 for many decades, and I think that for the
18 record, you need to be clear that the climate is
19 going to, as it warms up, dump a whole lot more
20 rain. We've already seen that, the increase in
21 the flooding in the Midwest, and actually many
22 places in the United States has increased. And

1 we know and you know that as the increase in
2 rainfall and flooding happens, it affects these
3 coal ponds, and these coal ponds need not to
4 have a weakened permitting process. They need
5 to have a strengthened permitting process
6 because, as the previous speakers have said,
7 these coal ponds, ash ponds are full of all
8 kinds of carcinogens and neurotoxins and poisons
9 that kill fish and wildlife, and we need to
10 protect the people and the wildlife. And that's
11 EPA's job.

12 Ans so all of us call upon you to
13 strengthen these regulations. There should be
14 no way that any permit could be essentially for
15 life. The climate is changing too rapidly.
16 We've got to be able to have these permits be
17 very, very short time periods and evaluate them
18 as this increased rainfall and flooding affects
19 more and more of these ponds.

20 So, therefore, we all call upon you to
21 recognize the climate catastrophe that is
22 already damaging the U.S. economy and health

1 across the country and to make this process of
2 the coal ash permitting be rigorous,
3 time-shortened, and protect the people.

4 Thank you very much.

5 EMCEE: Thank you for your comment.

6 The next speaker will be Christine Main,
7 followed by Celeste Flores. Christine Main will
8 be the next speaker.

9 EPA, are you ready to proceed?

10 EPA PANEL MEMBER: Yes.

11 Please proceed, and state your name and
12 affiliation for the record.

13 [No audible response.]

14 EMCEE: Christine, please make sure you
15 have not muted yourself, and then continue to
16 speak.

17 [No audible response.]

18 EMCEE: Christine, if you're using a phone
19 line, your audio PIN should have been entered,
20 and then you can unmute. We have unmuted your
21 line.

22 [Pause.]

1 EMCEE: We'll move on to the next speaker,
2 and, Christine, we'll be in touch via chat to
3 work through the technical issues. And then
4 we'll try to get you back on after the next one.

5 We'll move on now to our next speaker,
6 Celeste Flores.

7 EPA, are you ready to proceed?

8 EPA PANEL MEMBER: Yes.

9 Please proceed, and state your name and
10 affiliation for the record.

11 MS. FLORES: Hi. Celeste Flores. I am
12 with Faith in Place and Clean Power Lake County.
13 Can you guys hear me?

14 EMCEE: We can, yes.

15 MS. FLOREST: I was born and raised in Lake
16 County, and I'm calling today on behalf 700,000
17 Lake County residents, the third most populous
18 county in Illinois, to speak out in opposition
19 of the EPA's Federal permit rule proposal.
20 While I appreciate this opportunity to comment,
21 I strongly oppose EPA's decision to proceed with
22 today's hearing during a global pandemic and

1 national health emergency. By refusing to delay
2 today's hearing, this agency knowingly and
3 willingly is turning its back on community and
4 its task to be protective. Rather, it's
5 allowing corporations to destroy the health of
6 those living and working near coal ash.

7 So often, the effects of exposure are not
8 immediately visible, and in an environmental
9 community like Waukegan, where we have
10 crippling, cumulative impact, this is something
11 that's disastrous. And it's been apparent for
12 decades.

13 NRG, a subsidiary of Midwest Generation,
14 owns and operates the Waukegan Generation
15 Station on the shores of Lake Michigan.
16 Originally build in 1923, the coal plant is one
17 of the oldest in the country and remains the
18 largest source of air and water pollution in
19 Lake County.

20 In addition to the two unlined ash ponds,
21 the property has large unlined coal ash
22 landfills immediately west of the ash ponds to

1 which the coal ash rule does not apply.

2 One of the wells that Midwest Generation
3 has designed to moderate is located just
4 footsteps from this ash landfill and most
5 certainly shows contamination from the landfill
6 through contamination from coal ash landfills
7 and possibly the coal ash ponds. The
8 groundwater at the Waukegan site is unsafe, with
9 dramatic elevated concentration of multiple coal
10 ash pollution, including arsenic, boron,
11 chromium, lithium, sulfate, and much more.

12 This community has been advocating for a
13 just transition for the coal plant, which
14 includes proper removable coal ash ponds, both
15 the active and the inactive landfills, and
16 removal with community input and safeguard for
17 those workers.

18 It's critical for the Federal permit rule
19 proposal. It does not give corporations a free
20 range on permits. The current proposal would
21 not only guarantee owners of these facilities
22 permits that never expire with little to on

1 oversight and minimal opportunity for public
2 participation, but also unlawfully lets the EPA
3 authorize coal ash dump owners to violate
4 safeguards.

5 We fought so hard for the Federal coal ash
6 rule. This agency should be working towards
7 making all of its rules stronger. This proposed
8 rule would only gut protections that were put in
9 place to safeguard community members from
10 exposure to carcinogens that do irreparable
11 damage, not only to our health, but also our
12 source of drinking water.

13 The proposal should not allow the EPA to
14 grant permits for life to coal ash dumps. The
15 proposal should not allow the EPA to issue
16 permits with little to no public participation.

17 The proposal should not allow the EPA to
18 grant one-size-fits-all permits for life that do
19 not account for highly favorable risk of coal
20 ash ponds and landfills.

21 The proposal should not allow the EPA to
22 automatically approve permits with little to no

1 review by the permitting agency.

2 The proposal unlawfully allows EPA to
3 authorize noncompliance with no restrictions on
4 how long noncompliance would be tolerated or
5 safeguards a permit that would continue to
6 violate.

7 The proposal fails to take into account
8 extensive recent industrial collective data by
9 revealing widespread and several water
10 pollutions from coal ash dumps.

11 Communities across the nation rely on the
12 protection of the EPA to stand with the
13 community and the well-being, not the polluting
14 industry. Our health must be considered when
15 this agency is considering any proposals that
16 weaken guidance and standards.

17 Thank you for your time.

18 EMCEE: Thank you for your comment.

19 We'll now circle back to Christine Main to
20 see if we can get your comment.

21 EPA, are you ready to proceed?

22 EPA PANEL MEMBER: Yes.

1 Please proceed, and state your name and
2 affiliation for the record.

3 [No audible response.]

4 EMCEE: Christine, please make sure your
5 phone or computer is not self-muted. Try again.

6 [No audible response.]

7 EMCEE: Christine, please try again.

8 [No audible response.]

9 EMCEE: If you're calling in on Computer
10 Audio, it could be that the input/output is not
11 working correctly. It looks good from our end,
12 but we are unable to hear you.

13 [Pause.]

14 EMCEE: We could also try having you call
15 in from a phone. If you are on Computer Audio,
16 try the Phone or vice versa. Sometimes it works
17 better one way or the other.

18 [Pause.]

19 EMCEE: We are also sending you chat
20 message to try to work through the technical
21 issues. The chats are over on the right side.
22 You might see in the Menu Bar, there's an orange

1 circle with some dots. If you click on that,
2 you'll probably see a box with some chat
3 message. Go ahead and click that, and that's
4 how you can respond to our team.

5 [Pause.]

6 EMCEE: All right. We're going to continue
7 to work with Christine on the technical issues.

8 Right now, we don't have anyone else signed
9 up in this current slot, but if there is anyone
10 who would like to speak who did not register to
11 speak but would like to, please use the
12 Questions box to identify yourself, and we will
13 get you into the lineup shortly.

14 We'll just continue to pause to see if
15 anyone else would like to make a statement, and
16 we will work with Catharine on the technical
17 issues.

18 [Pause.]

19 EMCEE: We'll now continue our public
20 comments.

21 The next speaker will be Christine Main.

22 EPA, are you ready to proceed?

1 EPA PANEL MEMBER: Yes.

2 Please proceed, and state your name and
3 affiliation for the record.

4 [No audible response.]

5 EMCEE: Christine, please make sure that
6 your phone line is not on mute. We have unmuted
7 you.

8 [Pause.]

9 EMCEE: Please proceed.

10 [No audible response.]

11 EMCEE: Christine, it looks like we should
12 be able to hear you, but we are not able to. If
13 you are on your phone, please make sure that
14 it's not self-muted, and if you're on Computer
15 Audio, then it could be an issue with the
16 speakers.

17 We will continue to work with you over chat
18 and see if we can work this out. It does look
19 like you should be able to speak right now,
20 though.

21 [Pause.]

22 EMCEE: At this time, we have no other

1 speakers scheduled for this slot.

2 If there's anyone who did not register to
3 speak today but would like to speak or anyone
4 who registered for later in the day and would
5 like to speak, please use the Questions box to
6 identify yourself, and we will get you into the
7 lineup shortly.

8 We'll continue to pause to see if anyone
9 else would like to make a statement.

10 And, Christine Main, your PIN is #193#.
11 That could be part of the problem. Try putting
12 that in, #193#. That's your personal PIN.

13 [Pause.]

14 EMCEE: Christine Main, if you called in
15 using the phone, please enter #197#. That's
16 your personal PIN.

17 [Pause.]

18 EMCEE: If you look at the Audio tab, it
19 should also have that same number.

20 [Pause.]

21 EMCEE: We'll now continue with our public
22 comments.

1 The next speaker will be Christine Main.

2 EPA, are you ready to proceed?

3 [No audible response.]

4 EMCEE: EPA, are you ready to proceed?

5 EPA PANEL MEMBER: Yes.

6 Please proceed, and state your name and
7 affiliation for the record.

8 MS. MAIN: This is Christine Main. Am I
9 being heard?

10 EMCEE: Yes, you are. Please proceed.

11 MS. MAIN: All right. Thanks for your
12 patience. I regret my part in that difficulty.

13 My name is Christine Main. I'm speaking
14 today from Champaign, Illinois.

15 In my State, we have more coal ash pits and
16 landfills than any other State in the country.

17 This is a dubious distinction in that virtually
18 all of them are leaking into our States, rivers,

19 lakes, streams, and our groundwater, and a fair
20 number of them are located in low-income

21 communities and communities of color.

22 One might say it's a shameful distinction,

1 but then we know it's not really a distinction
2 at all because all across our great country,
3 coal ash pits and landfills are leaking at a
4 rate of about 90 percent, causing untold damage
5 to our great American lakes and rivers and
6 streams.

7 Thankfully, in my State of Illinois, we
8 have a forward-thinking governor who supports
9 coal ash pollution prevention, and we have a
10 general assembly that believes in mitigating the
11 effects of coal ash pollution instead of making
12 them worse.

13 In addition, our State EPA observes the
14 democratic process of securing public
15 participation in the enactment of laws and rules
16 that determine how coal ash is disposed of.
17 Regrettably, the same cannot be said of the
18 proposals we are discussing here today.

19 Anyone reviewing these highly regressive
20 proposals would have to think they were reading
21 a document written in the middle of the last
22 century before we became painfully aware that

1 our coal combustion residue causes cancer,
2 neurological disorders, and reproductive
3 problems, just to name a few of the many
4 destructive health effects.

5 As we all know, it poisons groundwater and
6 surface water, depriving us of the most
7 important ingredient for life, and it destroys
8 critical aquatic ecosystems.

9 An uninformed reader of these proposals
10 might be forgiven to thinking it was 1950, 20
11 years before the formation of the Federal EPA
12 created by Richard Nixon for the purpose of
13 protecting the environment. Mr. Nixon, whether
14 you liked him or not, he had some very wise
15 things to say.

16 In July of 1970, while he was contemplating
17 the Executive Order that would create the EPA,
18 he said the Congress, the administration, and
19 the public, all share a profound commitment to
20 the rescue of our natural environment and the
21 preservation of the earth as a place both
22 habitable by and hospitable to man.

1 In a different speech, he said restoring
2 nature to its natural state is a cause beyond
3 party and beyond factions. It has become a
4 common cause of all the people in this country.

5 Ronald Reagan also had some good things to
6 say: Preservation of our environment is not a
7 liberal or a conservative challenge. It's just
8 common sense.

9 This wise counsel conveys the wisdom that
10 caring for our earth should have nothing to do
11 with party politics because it's too critical to
12 be mired in the muck of political warfare or
13 traded away like a stack of casino chips by a
14 leader wanting to shore up his constituency.

15 And, finally, for wisdom and common sense,
16 we can look to the common crow who knows better
17 than to soil her own nest. She relieves herself
18 elsewhere in a safe place so she can rear her
19 hung in a clean nest.

20 What I'm trying to say is that we have to
21 be wiser and smarter than these proposals
22 suggest. It is incumbent on us to accept the

1 science and embrace the common sense that tells
2 us coal combustion residue cannot continue to be
3 poured into leaking pits and landfills in 37
4 States right next to our precious waterways,
5 right above our groundwater, right next to our
6 aquifers. It flies in the face of earlier
7 precedents set by this very group.

8 Furthermore, we simply cannot issue permits
9 for life or permits with no closer date or
10 closer plans. It's virtually unprecedented, and
11 it shames the agency in a way that history will
12 long remember.

13 In addition, a, quote/unquote,
14 "demonstration process" that yields such highly
15 complex data that no one understands it is just
16 another way to obfuscate what we know is
17 prolonged water pollution, plain and simple.

18 Lastly, robust public input is what our
19 country was founded on and has sustained our
20 democracy since its inception. Let's not
21 retreat from this principle.

22 In closing, I urge the EPA to abandon this

1 dangerous plan, to roll back critical
2 protections of the 2015 rule and instead act
3 swiftly to strengthen much needed safeguards.

4 Thank you for your time.

5 EMCEE: Thank you for your comment.

6 At this time, we have no one else scheduled
7 to speak during the current time slot.

8 If there is anyone who did not register to
9 speak today but would like to speak, please use
10 the Questions box to identify yourself, and we
11 will get you into the lineup shortly.

12 We'll now pause to see if anyone else would
13 like to make a statement.

14 [Pause.]

15 EMCEE: Our next speaker will be Henry
16 Fair.

17 EPA, are you ready to proceed?

18 EPA PANEL MEMBER: Yes.

19 Please proceed, and state your name and
20 affiliation for the record.

21 EPA PANEL MEMBER: Yes.

22 Please proceed, and state your name and

1 affiliation for the record.

2 MR. FAIR: Hi. My name is Henry Fair. I'm
3 an artist in New York.

4 EMCEE: Thank you, please proceed.

5 MR. FAIR: Coal ash contains many known
6 toxins and endocrine disrupters, and it is a
7 highly unregulated or lightly regulated waste
8 product and my understanding is the largest
9 waste stream in the United States. It has
10 caused numerous catastrophic accidents,
11 destroying homes and lives, polluting waterways,
12 and that's just the physical. It's also well
13 known to be contaminating groundwater at
14 numerous sites around the United States.

15 So, as a concerned citizen, I would
16 advocate a more highly regulated treatment of
17 this waste stream, and I think that to leave
18 this waste stream unregulated is a disservice to
19 the American people.

20 Thank you very much.

21 EMCEE: Thank you for your comment.

22 The next speaker will beg Dr. David Main.

1 EPA, are you ready to proceed?

2 EPA PANEL MEMBER: Yes.

3 Please proceed, and state your name and

4 affiliation for the record.

5 [No audible response.]

6 EMCEE: David, please proceed.

7 [No audible response.]

8 EMCEE: David, perhaps you are--hang on one
9 second. We're going to unmute the line. One
10 second.

11 Okay. Please proceed.

12 DR. MAIN: Yeah. This is Dr. David Main.
13 Can you hear me?

14 EMCEE: Yes, we can. Please proceed.

15 DR. MAIN: Yes. I'm Dr. David Main, M.D.,
16 Urbana, Illinois. I practice pulmonary,
17 occupational, and environmental medicine at
18 Carle Clinic in Urbana, Illinois. I'm also
19 affiliated with Physicians for Social
20 Responsibility as well as the Prairie Rivers
21 Network here in Illinois.

22 I ask the EPA to not make any weakening

1 changes in the 2015 coal ash rule. These would
2 allow use of unlined pits for coal ash disposal
3 and may lead to other changes that would allow
4 the coal ash residual to leave their
5 impoundments.

6 The arsenic, mercury, selenium, cadmium,
7 and other toxic materials in coal ash represent
8 public health hazards too important to ignore.
9 Any measure on EPA's part that would allow any
10 of these toxic materials to enter our
11 groundwater and surface waters or, indeed, any
12 natural systems should not be undertaken.

13 A Dynegy-owned coal ash pit near my own
14 hometown of Danville, Illinois, is known to leak
15 several of these toxic materials. There's
16 evidence of leakage from this site into the
17 middle fork of the Vermillion River in Illinois.
18 That's a national scenic river. This is just
19 not acceptable to my patients or to me as a
20 specialist in occupational and environmental
21 medicine.

22 So I ask EPA to not weaken the 2015 coal

1 ash standard. If there's any change to be made,
2 the changes should offer more protection from
3 these toxic pollutants, not less. In other
4 words, I'm asking the Environmental Protection
5 Agency to do its job to protect the environment.
6 Please do what's right.

7 Thank you.

8 EMCEE: Thank you for your comment.

9 At this time, we have no one else scheduled
10 to speak during this slot.

11 If there's anyone who did not register to
12 speak today but would like to, please use the
13 Questions box to identify yourself, and we will
14 get you into the lineup shortly.

15 We'll now pause to see if anyone else would
16 like to make a statement.

17 [Pause.]

18 EMCEE: At this time, we have no one else
19 scheduled to speak during the current time slot.

20 If there is anyone who did not register to
21 speak today but would like to speak, please use
22 the Questions box to identify yourself, and we

1 will get you into the lineup shortly.

2 We'll now pause to see if anyone else would
3 like to make a statement.

4 [Pause.]

5 EMCEE: At this time, we have no one else
6 scheduled to speak during the current time slot.

7 If there is anyone who did not register to
8 speak today but would like to speak, please use
9 the Questions box to identify yourself, and we
10 will get you into the lineup shortly.

11 We'll continue to pause to see if anyone
12 else would like to make a statement.

13 [Pause.]

14 EMCEE: We have no more speakers lined up
15 for the time being. So we will begin a brief
16 recess.

17 EPA, when would you like to reconvene?

18 EPA PANEL MEMBER: The hearing is now on
19 recess until 12:15 p.m., Eastern Time.

20 [Recess taken from 12:00 p.m. to 12:15
21 p.m.]

22 EMCEE: This is IEC, EPA's contractor. It

1 is now 12:15, Eastern, and we are rejoining
2 EPA's public hearing about the proposed Federal
3 coal combustion residuals permit program
4 regulations.

5 At this time, we have no one else scheduled
6 to speak during the current time slot.

7 If there is anyone who did not register to
8 speak today but would like to speak, please use
9 the Questions box to identify yourself, and we
10 will get you into the lineup shortly.

11 We'll now pause to see if anyone else would
12 like to make a statement.

13 [Pause.]

14 EMCEE: At this time, we have no one else
15 scheduled to speak during this slot.

16 If there is anyone who did not register to
17 speak today but would like to speak, please use
18 the Questions box to identify yourself, and we
19 will get you into the lineup shortly.

20 We'll continue to pause to see if anyone
21 else would like to make a statement.

22 [Pause.]

1 EMCEE: We will now continue our public
2 comments.

3 The next speaker will be Christine
4 Santillana.

5 EPA, are you ready to proceed?

6 EPA PANEL MEMBER: Yes.

7 Please proceed, and state your name and
8 affiliation for the record.

9 MS. SANTILLANA: Yes. Can you hear me?

10 EMCEE: Yes, we can.

11 MS. SANTILLANA: Thank you.

12 Good afternoon. My name is Christine
13 Santillana. I serve as associate legislative
14 counsel for Earthjustice.

15 I'm speaking today in opposition to the
16 EPA's coal ash Federal permit proposed program,
17 which among many other troubling factors would
18 grant lifetime permits for coal ash dumps, would
19 incorporate no permitting authority review, and
20 would allow for minimal to no public
21 participation whatsoever in the issuance of
22 permits.

1 Right now, we are facing a very real and
2 terrifying state of emergency that has left
3 millions of people unemployed. Thousands have
4 died in the U.S. alone, and I am in complete
5 disbelief that the EPA has given industry a
6 break on enforcement standards while impacted
7 communities and concerned individuals are
8 expected to participate in today's virtual
9 hearing, despite the myriad of issues we are all
10 facing during this crisis. This is clearly
11 reflected in the underwhelming turnout of
12 speakers today.

13 My colleague, Jennifer Cassel, spoke this
14 morning against the EPA's proposal in addition
15 to reading aloud the names of various
16 individuals on behalf of their organizations who
17 are invested in upholding the 2015 Federal coal
18 ash rule, who greatly oppose this agency's
19 Federal permit program proposal, but who could
20 not participate in today's hearing due to the
21 pandemic.

22 The remaining names are as follows: Alex

1 Cunha, Northern Plains Resource Council; Jason
2 Flickner, Ohio River Waterkeeper; Vivian
3 Stockman, Ohio Valley Environmental Coalition;
4 Phillip Musegaas, Potomac Riverkeeper Network;
5 Shannon Anderson, Powder River Basin Resource
6 Council; Andrew Rehn, Prairie Rivers Network;
7 Kristin Camp, Protect the Middle Fork Citizen's
8 Advocacy Group; Barbara Jennings, Seventh
9 Generation Interfaith Investment; Kent Minault,
10 Sierra Club; Frank Holleman, Southern
11 Environmental Law Center; Pat Langley,
12 Springfield CLEAN; Lisa Rinaman, St. Johns
13 Riverkeeper; Axel Ringe, Tennessee Chapter
14 Sierra Club; Kathy Hawes, Tennessee Clean Water
15 Network; Justin Bloom, Suncoast Waterkeeper;
16 Lisa Hallowell, Environmental Integrity Project;
17 Kerwin Olson, Citizens Action Coalition of
18 Indiana; Indra Frank, Hoosier Environmental
19 Council; Roberto José Thomas Ramírez, IDEBAJO,
20 Vivian Stockman, Ohio Valley Environmental
21 Coalition; Madeleine Foote, League of
22 Conservation Voters;

1 Jason Flickner, Lower Ohio River Waterkeeper;
2 Christine Ellis, Winyah Rivers Alliance; Celeste
3 Flores, Clean Power Lake County; Ted Evgeniadis,
4 Lower Susquehanna Riverkeeper Association; Casi
5 Callaway, Mobile Baykeeper; Phyllis Richardson,
6 Georgia WAND Education Fund; Eliza Stokes,
7 MountainTrue; Lloyd Klinedinst representing
8 himself as an individual; Ellen Rendulich,
9 Citizens Against the Environment; Rachel
10 Ventura, Will County Board, District 9; Anne
11 Havemann, Chesapeake Climate Action Network;
12 Anne Hedges, Montana Environmental Information
13 Center; Aimee Erickson, Citizens Coal Council;
14 and Christine Main, Citizens for a Greener
15 Illinois.

16 Thank you.

17 EMCEE: Thank you for your comment.

18 At this time, we have no one else scheduled
19 to speak during this slot.

20 If there is anyone else who would like to
21 speak, please use the Questions box to identify
22 yourself, and we will get you into the lineup

1 shortly.

2 We'll now pause to see if anyone else would
3 like to make a statement.

4 [Pause.]

5 EMCEE: At this time, we have no one else
6 scheduled to speak during the current time slot.

7 If there is anyone who did not register to
8 speak today or is registered to speak later
9 today and would like to speak now, please use
10 the Questions box to identify yourself, and we
11 will get you into the lineup shortly.

12 We'll now pause to see if anyone else would
13 like to make a statement.

14 [Pause.]

15 EMCEE: At this time, we have no one else
16 scheduled to speak during the current time slot.

17 If there is anyone who did not register to
18 speak today but would like to speak, please use
19 the Questions box to identify yourself, and we
20 will get you into the lineup shortly.

21 We'll continue to pause to see if anyone
22 else would like to make a statement.

1 [Pause.]

2 EMCEE: At this time, we have no one else
3 scheduled to speak during the current time slot.

4 If there is anyone who did not register to
5 speak today but would like to speak, please use
6 the Questions box to identify yourself, and we
7 will get you into the lineup shortly.

8 We will continue to pause to see if anyone
9 else would like to make a statement.

10 [Pause.]

11 EMCEE: At this time, we have no one else
12 scheduled to speak during the current time slot.

13 If there is anyone who did not register to
14 speak today but would like to speak, please use
15 the Questions box to identify yourself, and we
16 will get you into the lineup shortly.

17 We'll now pause to see if anyone else would
18 like to make a statement.

19 [Pause.]

20 EMCEE: At this time, we have no one else
21 scheduled to speak during the current time slot.

22 If there is anyone who did not register to

1 speak today but would like to speak, please use
2 the Questions box to identify yourself, and we
3 will get you into the lineup shortly.

4 We'll continue to pause to see if anyone
5 else would like to make a statement.

6 [Pause.]

7 EMCEE: At this time, we have no one else
8 scheduled to speak during the current time slot.

9 If there is anyone who did not register to
10 speak today but would like to speak, please use
11 the Questions box to identify yourself, and we
12 will get you into the lineup shortly.

13 We'll continue to pause to see if anyone
14 else would like to make a statement.

15 [Pause.]

16 EMCEE: We are now at the end of our
17 morning session. EPA, are you ready to recess
18 until after the scheduled lunch break?

19 EPA PANEL MEMBER: Yes. The morning
20 session is concluded as of 12:59 p.m. We will
21 reconvene at two o'clock, p.m., Eastern Time.

22 [Recess taken from 12:59 p.m. to 2:00 p.m.]

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AFTERNOON SESSION

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EMCEE: Good afternoon, and welcome back to the EPA public hearing. We are now ready to begin.

Before I turn it over to EPA to get us started, we'll do a brief sound check. If any of the EPA speakers are on the line, test your audio, and I can confirm that I hear you and that we all hear you.

EPA PANEL MEMBER: Sound check.

EMCEE: Okay.

EPA PANEL MEMBER: Sound check.

EPA PANEL MEMBER: Sound check.

EPA PANEL MEMBER: Sound check.

EMCEE: Great. I just heard four voices.

EPA PANEL MEMBER: Sound check.

EMCEE: Great. That's Richard. All right. Excellent. I think we're now ready to begin. I'll turn it over to EPA to get us started.

MR. HUGGINS: Good afternoon, and thank you

1 for attending today's public hearing on the
2 Environmental Protection Agency's proposal to
3 establish a Federal permit program for disposal
4 of coal combustion residuals, or CCR.

5 Before we begin, I would like to say that
6 we appreciate you taking the time to address the
7 proposed rule, and we look forward to receiving
8 your comments. This is a virtual public
9 hearing.

10 My name is Richard Huggins. I am the chief
11 of the Energy Recovery and Waste Disposal Branch
12 in EPA's Office of Resource Conservation and
13 Recovery. I will be chairing this session of
14 today's hearing.

15 With me on the panel today from EPA are
16 Stacey Yonce, Michelle Long, and Anthony
17 Carrell.

18 Before we begin the hearing, I would like
19 to provide you some background information and
20 briefly describe the proposed rule on which we
21 are taking comments today.

22 CCR are generated from the combustion of

1 coal in coal-fired boilers to produce
2 electricity by electric utilities and
3 independent power producers. CCR include fly
4 ash, bottom ash, boiler slag, and flue gas
5 desulfurization materials. CCR can be disposed
6 of in on-site or off-site landfills or surface
7 impoundments or can be beneficially used.

8 On April 17, 2015, EPA published a final
9 rule establishing a comprehensive set of minimum
10 requirements for the disposal of CCR in
11 landfills and surface impoundments. The rule
12 created a self-implementing program which
13 regulates the location, design, operation, and
14 groundwater monitoring and corrective action for
15 CCR disposal as well as the closure and
16 post-closure care of CCR units.

17 The final rule requires owners and
18 operators of CCR units to document compliance
19 with these requirements in the facility's
20 operating record.

21 In addition, the facility must notify the
22 State of decisions and maintain a publicly

1 accessible website of compliance information.

2 This final CCR rule became effective on October
3 19th, 2015, and owners or operators of CCR units
4 are required to be in compliance with all
5 applicable requirements.

6 In 2016, Congress passed and the President
7 signed the Water Infrastructure Improvements for
8 the Nation, or WIIN Act. The WIIN Act, among
9 other things, requires EPA to implement a
10 Federal CCR permit program in Indian Country and
11 subject to the availability
12 of specific appropriations to carry out a
13 program in nonparticipating States. The Fiscal
14 Year 2018 and 2019 Omnibus Appropriations Acts
15 provided appropriations to EPA to develop and
16 implement a Federal CCR permit program.

17 EPA is proposing to establish a new Federal
18 permit program to implement the regulations
19 governing the disposal of CCR established in
20 the 2015 final rule. This proposal contains
21 procedures and requirements to issue Federal
22 permits in Indian Country and in

1 nonparticipating States.

2 This includes the following.

3 Applications would be required with sufficient
4 information for EPA to determine applicability
5 of requirements in the CCR rule and write permit
6 terms to require compliance with them. Permit
7 applications would be due no earlier than 18
8 months after the effective date of the final
9 rule. Application deadlines will be tiered, and
10 the first tier would include facilities with a
11 high hazard surface impoundment. Permits would
12 be issued with no expiration date. Permit
13 holders would be required to apply for
14 modifications to keep the permit current
15 with changes to operations at the unit or
16 changes in the applicable requirements in the
17 CCR rule. EPA could also initiate a permit
18 modification, if needed, to ensure the permit
19 continues to require compliance with all
20 applicable requirements in the CCR rule.
21 Procedural requirements applicable to other EPA
22 permitting programs would generally be utilized

1 in this program. Public notice would be
2 accomplished electronically rather than
3 newspaper.

4 Now I'll cover some logistics for the
5 comment portion of today's public hearing.

6 Today's hearing will work as follows.
7 Speakers, if you pre-registered to speak, you
8 should have received an email with a 30-minute
9 time slot during which you are scheduled to give
10 your 5 minutes of testimony. To guarantee that
11 slot, we have asked that you sign into the
12 webinar 10 minutes before that 30-minute time
13 slot. We will call speakers in groups. After
14 your name is called, EPA will ask you to state
15 your name and your affiliation, if any, and
16 proceed with your testimony. We may ask you to
17 spell your name for the court reporter, who is
18 on the line transcribing your comments for the
19 official record. The audio from the public
20 hearing will be recorded for the official
21 record.

22 In order to accommodate all speakers and

1 provide all speakers with the same speaking
2 opportunity, testimony is limited to 5 minutes,
3 even if there are no additional speakers
4 waiting. A countdown clock will be shown on the
5 screen so speakers know how much time they have
6 left. In addition, if you have a written
7 testimony, please send it to the email you
8 received your confirmation email from at
9 EPAwebinar@indecon.com.

10 We are here today to hear your comments on
11 EPA's proposal. We will not respond to
12 questions; however, from time to time, members
13 of the panel may ask questions to clarify your
14 testimony. Any comments spoken in languages
15 other than English will be translated into
16 English in the written transcript.

17 If you have additional comments after
18 today, please follow the instructions in the
19 Federal Register notice for this proposal to
20 submit your comments by May 20th, 2020.

21 Everyone who has pre-registered will have
22 an opportunity to speak, and we will do our best

1 to accommodate speakers that have not
2 pre-registered. Today's hearing is scheduled to
3 close at 6:00 p.m., but we will keep the hearing
4 open later if necessary. If, however, time does
5 not allow you to orally present your comments,
6 please provide a written comment in lieu of oral
7 testimony. These written comments on the
8 proposal will be given the same weight as oral
9 testimony.

10 If you would like to testify but have not
11 yet registered to do so, please send a message
12 to staff via the Questions box, and they will do
13 their best to fit you into the schedule.

14 We plan to take occasional breaks,
15 according to the agenda. We will shorten the
16 breaks, if needed, in order to allow as many
17 people as possible to provide their comments.

18 We ask for your patience as we proceed. We
19 may need to make some minor adjustments as the
20 day progresses, and if so, we will make the
21 appropriate announcements.

22 Thanks again for participating today.

1 Let's get started. We will now turn it over to
2 EPA's contractor Industrial Economics to discuss
3 some logistics for today's hearing.

4 EMCEE: Thank you.

5 Before we begin, we'd like to go over some
6 additional logistics for today's webinar. As a
7 reminder, all attendees are muted automatically.
8 We will unmute you when it is your turn to
9 speak.

10 Also, if you have called in using a phone
11 and are planning to speak, you must enter your
12 individual audio PIN. If you are having trouble
13 with the PIN, a staff member will send you a
14 message via the webinar interface. Please make
15 sure that if you called in via phone, the radio
16 button is on Phone Call and not Computer Audio.
17 Finally, please use the Questions box in the
18 upper right corner to request a speaking slot.

19 We will now begin our public comments. The
20 expected speaking order for the next half hour
21 will be Autumn Crowe, followed by Jonathan
22 Levenshus, Amanda Strawderman, Richard Phelps,

1 Charles Carpenter, and Tim Maloney.

2 I will be introducing each speaker in turn,
3 but please wait for EPA to ask you to proceed
4 before starting your comment.

5 The first speaker will be Autumn Crowe.

6 EPA, are you ready to proceed?

7 EPA PANEL MEMBER: Yes.

8 Please proceed, and state your name and
9 affiliation for the record.

10 MS. CROWE: Hi. Can you hear me?

11 EMCEE: Yes, Autumn. We can hear you.
12 Please proceed.

13 MS. CROWE: Okay, thanks.

14 My name is Autumn Crowe, A-u-t-u-m-n,
15 C-r-o-w-e. I'm the staff scientist for West
16 Virginia Rivers Coalition.

17 West Virginia Rivers is opposed to the coal
18 combustion residual permit program that would
19 put the health of West Virginia residents at
20 risk in a State that already has the third
21 highest cancer death rate in the nation. This
22 rule would have lasting effects on our health

1 and environment.

2 There are currently seven coal ash disposal
3 facilities in West Virginia: Mount Storm, Fort
4 Martin, Harrison Power Station, Mitchell Plant,
5 Pleasants Power Station and Mountaineer Plant,
6 and the John E. Amos Plant. These facilities
7 have a combined total of 169 million cubic yards
8 of coal ash waste.

9 According to their annual groundwater
10 monitoring and corrective action reports, all
11 seven facilities have found statistically
12 significant increases in groundwater
13 contaminants or previous impacts to surface
14 water. Five of the facilities have unlined coal
15 ash disposal ponds, and three of the facilities
16 have detected groundwater pollutants that are
17 above State and/or Federal standards, including
18 contaminants such as arsenic, barium, fluoride,
19 molybdenum, lithium, and radium 226 and 228 that
20 puts the public's health at risk.

21 This proposed rule would grant these
22 facilities a permit without an expiration date

1 allowing these facilities to continue to operate
2 indefinitely.

3 Additionally, issuing a permit without an
4 expiration date removes the public participation
5 from the reissuance process.

6 The existing facilities in West Virginia
7 are a threat to West Virginians' access to clean
8 drinking water. The Mitchell Plant in Marshall
9 County, which has already been found to harm
10 aquatic life, contains an unlined bottom ash
11 pond that is located within the drinking water
12 protection area for Sistersville Municipal
13 Water.

14 The Mountaineer Plant, which has an unlined
15 bottom ash pond that is contributed to elevated
16 levels of lithium in the groundwater is within
17 the New Haven Water Department wellhead
18 protection area.

19 Additionally, the Pleasants Power Plant in
20 Pleasants County contains an unlined coal ash
21 disposal impoundment that is contaminating the
22 groundwater with arsenic, barium, fluoride,

1 lithium, and radium 226 and 228, and it's
2 located within the drinking water protection
3 area for the city of Parkersburg.

4 These facilities have known contamination
5 issues that are posing unnecessary risks to
6 drinking water supplies.

7 EPA's proposed permit puts the public's
8 health and well-being in jeopardy, and it's
9 inexcusable to allow these facilities to
10 continue polluting water resources. It's the
11 agency's duty to protect the water and the
12 public's health from toxic coal ash.

13 Issuing a one-size-fits-all general permit
14 does not take into account threats to drinking
15 water sources. Individual permits should be
16 required for coal ash disposal that has the
17 potential to contaminate drinking water.
18 Permits should not be issued for facilities that
19 are knowingly contaminating drinking water.
20 Those facilities should be issued a
21 cease-and-desist and ordered to close and
22 remediate all groundwater contamination.

1 Additionally, West Virginia Rivers is
2 opposed to the permit shield provision that
3 shields facilities from citizens' suits, which
4 is often the only means of enforcement actions
5 when regulatory agencies fail to address citizen
6 concerns.

7 Also, as a side note, West Virginia Rivers
8 requests that EPA suspend all rulemaking actions
9 until the pandemic has ended. There are too
10 many impacted residents who are left out of the
11 rulemaking process because they do not have
12 access to high-speed internet in their homes.
13 These hearings should be conducted in-person
14 following the lifting of the statewide stay-home
15 orders that are currently in place for West
16 Virginia.

17 Thank you.

18 EMCEE: Thank you for your comment.

19 The next speaker will be Jonathan
20 Levenshus, followed by Amanda Strawderman and
21 Richard Phelps.

22 EPA, are you ready to proceed?

1 [No audible response.]

2 EMCEE: We had a bit of an audio
3 abnormality there. So I'm just going to do a
4 brief sound check.

5 All right. Our next speaker will be
6 Jonathan Levenshus.

7 EPA, are you ready to proceed?

8 EPA PANEL MEMBER: Yes.

9 Please proceed, and state your name and
10 affiliation for the record.

11 MR. LEVENSHUS: Hello. My name is Jonathan
12 Levenshus, and I am from Indianapolis, Indiana.
13 I'm an employee of the Sierra Club Beyond Coal
14 Campaign, and I'm joining today's virtual
15 hearing to oppose the EPA's Federal permitting
16 rule proposal.

17 This proposal would not only grant owners
18 of dirty coal ash dumps permits that never
19 expire with little to no oversight and minimal
20 opportunity for public participation, but this
21 proposal also unlawfully lets the EPA-authorized
22 coal ash dump owners to violate safeguards the

1 public fought so hard for in the 2015 Federal
2 coal ash rule.

3 I want to highlight several specific
4 problems with this proposal. First, the
5 proposed Federal rule would grant permits for
6 life to all coal ash dumps, new or old, lined or
7 unlined. Never-expiring permits are nearly
8 unheard of for Federal permitting programs.
9 Water permit as well as permits for hazardous
10 waste and municipal solid waste landfills each
11 expire and much be reviewed and renewed. EPA
12 regulations do not contemplate permits for life.

13 Second, the proposed Federal rule would
14 result in permits for new coal ash landfills
15 being issued by the EPA with no opportunity for
16 public participation. For general permits
17 covering a yet-to-be-determined group of coal
18 ash ponds and lagoons, the EPA would deprive the
19 public of the opportunity to comment on whether
20 individual coal ash facilities meet the
21 requirements for that permit.

22 This is less opportunity for the public to

1 weigh in than permits for household trash dumps,
2 where EPA requires public input into permitting
3 decisions.

4 With the subset of coal ash permits for
5 which EPA would allow public input, EPA proposes
6 weaker public process than for waste permits,
7 including no requirements to publish notice in
8 local newspapers or on broadcast media.

9 Granting disposal permits with no or
10 minimal opportunity for public participation
11 violates a key statutory requirement of the
12 Resource Conservation and Recovery Act.

13 Third, the proposed Federal permitting rule
14 would grant one-size-fits-all permits for life
15 that do not account for the highly variable
16 risks of coal ash ponds and landfills. Coal ash
17 ponds and landfills pose unique risks that
18 cannot be adequately addressed absent
19 site-specific analyses, tailoring permit
20 conditions to that facility.

21 For example, coal ash ponds and landfills
22 located near densely populated areas may require

1 additional protections, including setbacks from
2 residential neighbors, air monitors, and truck
3 washing areas to ensure communities are not
4 harmed by ash dust or other toxic coal ash
5 releases.

6 Finally, the proposed Federal permit rule
7 would unlawfully allow the EPA to authorize
8 noncompliance without restrictions for how long
9 noncompliance would be tolerated for which
10 safeguards a permittee could continue to
11 violate. This provision in the proposal would
12 allow EPA to try to permit operators to violate
13 the CCR rule and immunize them from liability
14 for failing to comply with protections like
15 conducting regular inspections of the ash dumps,
16 testing for water pollution, controlling
17 fugitive dust or halting for further pollution.

18 The 2015 coal ash rule has some weaknesses,
19 but the rule was working. Sites were identified
20 where cleanups of contaminated water had to
21 begin. It requires utilities to disclose the
22 identity of leaking and dangerous coal ash ponds

1 that have to close. The commonsense safeguards
2 of the 2015 rule, which received more than a
3 half million supporting comments from the
4 public, are helping to protect clean water and
5 safeguard public health.

6 I therefore urge the EPA to abandon all of
7 their dangerous plans to roll back critical
8 protections of the 2015 rule. Instead of
9 proposing a weak Federal permitting program, the
10 EPA should be swiftly acting to work with States
11 and utilities to strengthen much needed
12 safeguards in our communities from toxic coal
13 ash pollution.

14 Thank you for the opportunity to share my
15 views with you today. Thank you.

16 EMCEE: Thank you for your comment.

17 Our next speaker will be Amanda
18 Strawderman, followed by Richard Phelps and
19 Charles Carpenter.

20 EPA, are you ready to proceed?

21 EPA PANEL MEMBER: Yes.

22 Please proceed, and state your name and

1 affiliation for the record.

2 [No audible response.]

3 EMCEE: Amanda, I think you might be
4 self-muted. Do you mind checking your audio
5 line?

6 MS. STRAWDERMAN: Hi. Can you hear me?

7 EMCEE: Yes, we can. Please proceed.

8 MS. STRAWDERMAN: Yes. My name is Amanda
9 Strawderman, S-t-r-a-w-d-e-r-m-a-n. I am with
10 Clean Water for North Carolina.

11 Right now, Americans are dealing with the
12 day-to-day realities of the global pandemic.
13 This is not the time to be burdened by worries
14 about increase pollution that could further
15 threaten human health and the environment.

16 While the EPA is easing pollution controls
17 on industry, Americans are expected to show up
18 for virtual public hearings to speak out, a
19 process that is ineffective, ill-timed, and
20 excludes many.

21 Virtual hearings are unfair and absence of
22 opportunities for face-to-face meetings because

1 they take away the ability for people to come
2 together and hear each other's concerns.
3 Whereas, an in-person meeting would last 2 to 3
4 hours, these virtual hearings drag on all day
5 long, sometimes multiple days, meaning that a
6 person would have to be on their phone or
7 computer 8 to 16 hours to hear all the comments.
8 Only those with internet access at home could
9 feasibly participate, leaving out many rural
10 citizens who can't access public internet
11 resources at this time.

12 The low turnout for this hearing doesn't
13 mean that people don't care about this issue,
14 but rather it is an indication of the poor
15 process and timing of these proceedings.

16 Few people can find the time or energy to
17 attend a hearing during the COVID-19 health
18 crisis, and many are busy at home schooling
19 their children or caring for sick loved ones.

20 Clean Water for North Carolina is opposed
21 to the Federal permitting rule. This rule would
22 allow the EPA to issue permits for life, for

1 coal ash landfills, with less public
2 participation in household dumps. These permits
3 would apply to all coal ash dumps, regardless of
4 whether they are lined or unlined. Ninety-two
5 percent of all reporting coal ash sites are
6 known to be contaminating groundwater.

7 One-size-fits-all permits for life do not
8 account for site-specific hazards or community
9 considerations. These permits would be issued
10 with little to no public participation and with
11 little or no review by the permitting agency.

12 We find the weakening of protections from
13 the 2015 rule to counter EPA's mission to
14 protect the public and the environment. We feel
15 the EPA should suspend all rulemaking action
16 until all States have rescinded their
17 stay-at-home orders and can have meaningful
18 participation and public hearings.

19 Thank you.

20 EMCEE: Thank you for your comment.

21 The next speaker will be Richard Phelps,
22 followed by Charles Carpenter and Tim Maloney.

1 EPA, are you ready to proceed?

2 EPA PANEL MEMBER: Yes.

3 Please proceed, and state your name and
4 affiliation for the record.

5 MR. PHELPS: Yes. I am Richard Phelps,
6 P-h-e-l-p-s. I'm a resident of Middle
7 Tennessee, and I'm speaking today on behalf of
8 Appalachian Voices located in Charlottesville,
9 Virginia, and Boone, North Carolina.

10 I'm a retired environmental analytical
11 chemist and consultant. I have extensive
12 experience with analysis of coal and CCR and
13 also the disposal of CCR from powerhouses which
14 burned about 10 million pounds of Southwest
15 Virginia high-sulfur and low-sulfur coal daily.

16 Thank you for the opportunity to comment
17 regarding this proposal, better known as Part B.

18 These revisions will unfortunately revise
19 the improved 2015 ash disposal rules. Coal ash
20 is clearly toxic. It was incorrectly judged
21 nontoxic by EPA largely because of the use of an
22 inappropriate test method known as the Toxicity

1 Characteristic Leaching Procedure, or TCLP.

2 This procedure cannot and does not properly
3 enable the analysis of the toxic chemicals and
4 metals absorbed on the CCR.

5 Of course, there was also great political
6 pressure which drove EPA to this erroneous and
7 destructive action. This must not be made worse
8 by this proposal.

9 This toxic material must be stabilized or
10 reused in secondary processes. Continuing to
11 apply CCR in unlined impoundments was recognized
12 as dangerous by the 2015 rules. These rules
13 must not be weakened, as currently proposed.

14 Specifically, Part B has inappropriate and
15 dangerous provisions, which obviously favor
16 current industrial and power generation disposal
17 practices over public and environmental
18 protection.

19 Many coal ash disposal ponds are unlined
20 and partially leak. These were to be closed.
21 The proposed rule allow these ponds to be left
22 open and in use indefinitely; thus, creating

1 ongoing potential for groundwater pollution and
2 also other pollutions.

3 Dam breaches can occur as occurred at the
4 Harriman TVA ponds. These ponds were found to
5 have up to 92 percent leakage of toxics by EPA.
6 These would include the heavy metals and many
7 other toxic materials.

8 Industry has also sought to create a
9 lengthy delay by adding or inserting technical
10 requirements, which are unsubstantiated by
11 actual measurements or assessments. This has
12 the effect of extending their operational period
13 and removes public protection.

14 The 2015 rule prevents further CCR dumping
15 into the higher-risk ponds. This must not be
16 allowed. Conversely, the proposed rule will
17 allow continued use of these dangerous ponds.

18 This would allow industry to use these
19 ponds for up to 15 years and does not limit the
20 quantities of ash, which may be dumped.

21 The 2015 coal ash rule has been reasonably
22 effective and should not be potentially

1 weakened.

2 Also, abandoning CCR ponds are now just the
3 discussion of mine lands in coal-rich States and
4 will create ongoing hazards.

5 In conclusion, I would like to have these
6 comments included in the record and ask EPA to
7 rescind this ill-considered and very dangerous
8 proposal.

9 Thank you.

10 EMCEE: Thank you for your comment.

11 The next speaker will be Charles Carpenter,
12 followed by Tim Maloney and Lisa Hallowell.

13 EPA, are you ready to proceed?

14 EPA PANEL MEMBER: Yes.

15 Please proceed, and state your name and
16 affiliation for the record.

17 MR. CARPENTER: Hi. My name is Charles
18 Carpenter, C-a-r-p-e-n-t-e-r. I'm a volunteer
19 with the Michigan Chapter of the Sierra Club.

20 I oppose the proposed coal ash permitting
21 proposal. I believe it is fundamentally
22 dishonest to call it a permitting process.

1 There are four reasons for this belief.

2 One, it grants the so-called permits for life.

3 They can never be reviewed, despite inevitable
4 geographic, seismic, and hydrology changes, not
5 to mention changes in management and control.

6 This is unprecedented in the Federal
7 permitting process, whether for air, water,
8 hazardous waste, or as previous commentators
9 have pointed out, even trash.

10 Secondly, there's no public review for the
11 permitting process. I would argue that this
12 violates the Resource Conservation Recovery Act.

13 Third, it applies basically a
14 one-size-fits-all permitting process that
15 largely ignores variation and pit design in the
16 neighboring community.

17 Fourth and finally, it allows for permits
18 to be approved in absentia. If EPA does not act
19 within 45 days, the permit is considered
20 approved. Quite frankly, the EPA is now
21 renowned for its inability to act.

22 As weak as the permitting process is,

1 enforcement is clearly anticipated to be weaker.
2 The proposal would allow the EPA to authorize
3 noncompliance of these weak and overly
4 generalized permits. This would in turn
5 immunize operators from legal liability for
6 failing to comply with protections like regular
7 inspections, testing for water pollution, or
8 controlling fugitive dust.

9 As your scientists know, particulate air
10 matter has now been identified as a risk factor
11 for death from COVID-19. So in addition to all
12 the weaknesses in the permitting process itself,
13 this action by EPA exacerbates the public health
14 crisis that has been declared a national
15 emergency by the President of the United States
16 and most reasonable governors.

17 Thank you.

18 EMCEE: Thank you for your comment.

19 The next speaker will be Tim Maloney,
20 followed by Lisa Hallowell and Bob Jorgensen.

21 EPA, are you ready to proceed?

22 EPA PANEL MEMBER: Yes.

1 Please proceed, and state your name and
2 affiliation for the record.

3 MR. MALONEY: Good afternoon. This is Tim
4 Maloney. I am the senior policy director for
5 the Hoosier Environmental Council in Indiana.

6 The council is opposed to the Federal
7 permitting rule for CCR as proposed by EPA, and
8 let me start with a quick recap of what the
9 situation is in Indiana with coal ash and the
10 environmental problems of our 17 power plant
11 sites that are home to over 80 closed or open
12 coal ash surface impoundments.

13 Fourteen of those sites have documented
14 exceedances of groundwater quality standards,
15 and at seven of them, the ash in surface
16 impoundments is actually sitting in the
17 underlying groundwater. So we know that the
18 disposal of coal ash in surface impoundments is
19 simply not an acceptable disposal practice. So
20 any program, permitting program that allows coal
21 ash impoundments to continue to remain open with
22 perhaps a shield from noncompliance enforcement

1 is just not acceptable.

2 Among the elements of the rule that other
3 elements that we oppose is the granting of
4 permits with no expiration dates. That's
5 contrary to standard environmental permitting
6 programs really in every environmental media.

7 We are opposed to rule language that
8 established both general permits for coal ash
9 disposal facilities and permit by rule
10 provisions for coal ash facilities. It really
11 marks a return to the self-implementing aspects
12 of the original coal ash rule.

13 We are greatly concerned about the weak
14 provisions for review and public participation
15 for CCR permits and again concerned about the
16 opportunity for permits to authorize
17 noncompliance with the CCR standards for an
18 indeterminate amount of time.

19 Any permitting program for coal ash
20 disposal facilities should be at least as
21 stringent as that for municipal solid waste
22 landfills, including requirements for individual

1 permits and robust public participation.

2 I would also comment on what the other
3 commenters have said about the great concern
4 about proceeding with these virtual hearings
5 during the pandemic and would endorse the
6 recommendation for suspending rulemaking during
7 this time period and have a return at the
8 appropriate time to more robust public
9 participation process that includes in-person
10 public hearings on the proposed rule.

11 Finally, I would say that if this
12 permitting rule goes into effect, it actually
13 would be weaker than what we already have in
14 Indiana, where our State agency regulates coal
15 ash landfills and requires individual permits
16 for these coal ash landfills under the State's
17 restricted waste site permitting program. So
18 this would be a significant step backwards.

19 For all those reasons, we are opposed to
20 the proposed rule. Thank you.

21 EMCEE: Thank you for your comment.

22 The next speaker will be Lisa Hallowell,

1 followed by Bob Jorgensen and Faith Bugel.

2 EPA, are you ready to proceed?

3 EPA PANEL MEMBER: Yes.

4 Please proceed, and state your name and
5 affiliation for the record.

6 MS. HALLOWELL: Hello. Can you hear me?

7 My name is Lisa Hallowell, and I am a senior
8 attorney with the Environmental Integrity
9 Project. I'm offering--

10 EMCEE: Yes, Lisa, we can hear you. Please
11 proceed. Sorry for interrupting.

12 MS. HALLOWELL: Thank you. Thanks for
13 confirming.

14 I am offering my comments today on the CCR
15 Federal permitting rule, proposed rule, to
16 convey two main points.

17 First, I would like to express my shock and
18 outrage that the administration has not offered
19 meaningful public participation options on the
20 CCR Federal permitting rule proposal, especially
21 in light of the global pandemic that is putting
22 the majority of this country under extraordinary

1 circumstances and especially considering the
2 fact that this rule could be applied to nearly
3 all CCR-covered units, with the exception of
4 those in the two States whose programs have been
5 approved, potentially.

6 I have participated in previous in-person
7 public hearings EPA has held, including on the
8 underlying 2015 CCR disposal rule on which
9 nearly half a million individuals provided
10 public comment, and it is clear the public is
11 disadvantaged by EPA not offering the
12 opportunity for an in-person dialogue in the
13 form of an in-person public hearing.

14 This disadvantage is exacerbated by the
15 fact that EPA has not even offered a second
16 virtual public hearing or given any additional
17 time for the public to prepare for this one
18 virtual public hearing in the midst of a
19 pandemic.

20 And the problem is even further compounded
21 by the recent avalanche of EPA's attempts to
22 weaken the 2015 coal ash rule. Affected

1 communities have had a hard time keeping track
2 of all of the proposed rollbacks, let along
3 having had the time amidst the current public
4 health crisis and the upheaval to daily life
5 that that has caused to meaningfully participate
6 in this one virtual hearing offered for this
7 Federal permitting rule, a rule that will affect
8 the majority of coal ash disposal sites.

9 Second, the proposed CCR Federal permitting
10 rule is replete with deficiencies that will
11 jeopardize health and the environment. It
12 simply cannot ensure there will be no reasonable
13 probability of adverse effects to be held
14 through the environment, which is required by
15 RCRA.

16 It also fails to fulfill the WIIN Act's
17 requirement that a Federal permitting rule must
18 require that each CCR unit will achieve
19 compliance with applicable criteria established
20 by the Administrator under Part 257. The
21 deficiencies with EPA's proposed Federal CCR
22 permitting rule include that the proposal would

1 grant permits for life to all coal ash dumps,
2 new or old, lined or unlined. Such never
3 expiring permits are nearly unheard of among
4 Federal permitting programs at EPA and would
5 preclude or delay the incorporation of updated
6 standards, new information, or public input into
7 a permit at the costly and potentially
8 irreparable expense of health and the
9 enforcement.

10 In addition, the proposal would allow for
11 issuance of permits with little to no public
12 participation. The proposal would also grant a
13 one-size-fits-all general permit that does not
14 account for the highly variable risks of coal
15 ash ponds and landfills, almost all of which
16 have been shown to be leaking toxic pollutants,
17 according to my organization the Environmental
18 Integrity Project's March 4th, 2019, report
19 entitled "Coal's Poisonous Legacy."

20 The proposal would also automatically
21 approve permits with little or no review by the
22 permitting agency and would unlawfully allow EPA

1 to authorize noncompliance, which together
2 almost entirely defeat the purpose of having a
3 permitting authority to begin with.

4 The proposal also appears to entirely fail
5 to take into account extensive recent industry
6 data revealing widespread and severe water
7 pollution from coal ash disposal units.

8 EIP and our partners compiled and organized
9 this data, which revealed that 91 percent of
10 U.S. coal-fired power plants with monitoring
11 data are contaminating groundwater with unsafe
12 levels of toxic pollutants.

13 The CCR Federal permitting rule proposed by
14 EPA is simply another unjustifiable attempt to
15 weaken the safeguards of the 2015 Federal rule.
16 There is alarming evidence of potential harm to
17 public health and the environment from these
18 sites, and the D.C. Circuit has mandated that
19 EPA take steps to reduce the danger from these
20 sites.

21 The data industry itself has released
22 further demonstrations conclusively that EPA

1 must increase, not decrease Federal safeguards

2 applied to CCR disposal units.

3 RCRA requires EPA standards to ensure no
4 reasonable probability of adverse effects to the
5 health and environment. This proposed rule
6 clearly fails to meet this required standard.

7 EPA must offer meaningful in-person public
8 hearings on this proposal with more time for the
9 public to consider and comment and must
10 dramatically improve the proposal in order to
11 comply with the applicable Federal statutes and
12 ensure the protection of health and the
13 environment.

14 Thank you.

15 EMCEE: Thank you for your comment.

16 The next speaker will be Bob Jorgensen,
17 followed by Faith Bugel.

18 EPA, are you ready to proceed?

19 EPA PANEL MEMBER: Yes.

20 Please proceed, and state your name and
21 affiliation for the record.

22 MR. JORGENSEN: I'm Bob Jorgensen. I'm with

1 the East Peoria Green Team and quite a few other
2 environmental groups in the area.

3 Can you hear me?

4 EMCEE: Yes, Bob. We can hear you. If you
5 don't mind, maybe speak a little closer to your
6 microphone.

7 MR. JORGENSEN: Thank you.

8 EMCEE: Bob, do you mind starting your
9 comments again?

10 [No audible response.]

11 EMCEE: Bob, are you able to hear us?

12 MR. JORGENSEN: Yes. There is a little
13 cross-coverage.

14 EMCEE: Yes. Bob, we think you might have
15 called in--if you are on--are you using Computer
16 Audio or Phone Audio?

17 MR. JORGENSEN: I'm trying to use Phone
18 Audio.

19 EMCEE: Okay. We're still getting some
20 feedback. Do you mind switching to your
21 Computer Audio, if you have that as an option?

22 [No audible response.]

1 EMCEE: Are you able to hear us?

2 [No audible response.]

3 EMCEE: But, are you able to hear us?

4 MR. JORGENSEN: I'm here.

5 EMCEE: Okay. You sound better now. How
6 about you try starting from the beginning?

7 MR. JORGENSEN: Okay. Thank you.

8 This online hearing is not really, in my
9 view, a public hearing. There's little or no
10 press coverage. It's discriminatory to people
11 that have poor computer skills, like I do,
12 obviously, also those who don't have access to
13 computers.

14 I live in East Peoria, Illinois. The city
15 is right on the Illinois River. There have been
16 numerous coal plants that have closed in the
17 area recently. Some have old liners to hold the
18 coal ash in the retention ponds. Some have no
19 liners at all. They're all right by the
20 Illinois River, and of course, being by the
21 river, they're prone to flooding and runoff.

22 Close to East Peoria, there is an old coal

1 ash plant that's on the Vermillion River, which
2 is a scenic byway, and as you paddle down the
3 river, you can look over and see the pollutants
4 being rinsed right into the Vermillion River and
5 then into the Illinois River. Naturally, cities
6 downstream get drinking water from the river.
7 Since there are no liners or old, poorly
8 constructed liners, the pollutants can go into
9 the groundwater that the City of East Peoria
10 pumps drinking water from.

11 I have not stated the facts very well, but
12 you really already know the facts. The speakers
13 before me have given you a long list of medical
14 and environmental facts. So really this call,
15 this hearing has just given me the chance to beg
16 for the health and lives of my family and my
17 friends, and I think the whole thing is
18 outrageous. And, naturally, I oppose what
19 you're doing.

20 Thank you for your time.

21 EMCEE: Thank you for your comment.

22 The next speaker will be Faith Bugel.

1 EPA, are you ready to proceed?

2 EPA PANEL MEMBER: Yes.

3 Please proceed, and state your name and
4 affiliation for the record.

5 MS. BUGEL: Hi. My name is Faith Bugel,
6 and I am representing the Sierra Club.

7 I am concerned about the number of
8 rollbacks proposed to the 2015 Federal CCR rule.
9 That rule--that was a long rulemaking, totally
10 informed the public participation that developed
11 an important rule for the protection of public
12 health and the environment, and I'm very
13 concerned with all the rollbacks that this
14 administration has proposed to that rule and all
15 the ways that this administration is weakening
16 the 2015 Federal rule.

17 Basically, this administration is writing a
18 blank check to industry to dump coal in units
19 that are already leaking or leaching, whether
20 they are landfills or ponds, units that are
21 already contaminating the groundwater, polluting
22 surface waters, and posing a threat to public

1 health and the environment.

2 Giving a free rein to industry is being
3 done at the expense of public health and the
4 environment, and it's not balanced. As quoted
5 by other speakers, there are already studies out
6 there by Environmental Integrity Project and
7 other organizations that show the damage being
8 done by existing impoundments and existing coal
9 ash landfills. These rollbacks that are
10 proposed are not addressing the damage being
11 done, and they're just proposing to make the
12 protections weaker and allow more damage to be
13 caused.

14 I have personally visited multiple coal ash
15 units. One that comes to mind is the Lincoln
16 Stone Quarry, which is owned by Midwest
17 Generation, which is owned by NRG. They're used
18 for ash disposal from the Joliet 9 and 29
19 plants. That unit is a quarry, and at the
20 bottom of it, it's deep enough that it is in
21 contact with groundwater. So any coal ash put
22 in that unit is in contact with groundwater. It

1 is documented by groundwater monitoring that
2 that unit is already leaking and leaching to the
3 groundwater, contaminants from coal ash, and
4 that they have to have a continual pump at that
5 unit to stop the plume from expanding farther
6 than it is now.

7 It is adjacent to a low-income minority
8 community, where hundreds of homes get their
9 drinking water from wells that are immediately
10 next to that site.

11 It's just showing that the impact from coal
12 ash dumps, coal ash landfills, and coal ash
13 ponds tend to hit low-income and minority
14 communities disproportionately, and that's just
15 wrong. That environmental justice impact needs
16 to be considered. We should not burden unduly
17 burdened, certain segments of our citizens with
18 more pollution.

19 There are water fowl that live on land at
20 that site. You can see the water fowl on the
21 ponds, and the pond is groundwater that has coal
22 ash sitting in it. So right there at that unit,

1 you can see the risk to the environment, not
2 just public health, but the environment and
3 flora and fauna.

4 In addition, that day that I visited that
5 unit, that unit sits immediately adjacent to the
6 Des Plaines River, and there were sustenance
7 fishers, people fishing for food in the Des
8 Plaines River that is immediately adjacent to
9 that site. The hydrology shows that the
10 groundwater is connected to the surface waters.
11 So any contamination going into the groundwater
12 there poses a risk to the Des Plaines River,
13 which poses a risk to the health of people who
14 sustenance fish on the Des Plaines River.

15 So those are my general concerns. I am
16 concerned specifically that this proposal today
17 grants permits for life, permits that never
18 expire, and that's unheard of in Federal
19 permitting programs. It's issuing permits with
20 little to no public participation. These are
21 one-size-fits-all permits that don't account for
22 the variability of different ponds and

1 landfills, and they are automatically approved
2 with little or no review by the permitting
3 agency, with little consideration of the unique
4 situation, the unique permit and the unique
5 site. And these unlawfully allow EPA to
6 authorize noncompliance with no restrictions on
7 how long noncompliance can be tolerated. There
8 should never be a blanket authorization of
9 noncompliance. That's just not how our laws are
10 supposed to work.

11 And they also fail to take into account
12 expensive recent industry-collected data that
13 reveal the widespread and severe groundwater
14 pollution and surface water pollution from coal
15 ash.

16 Thank you for the opportunity to offer
17 comment today.

18 EMCEE: Thank you for your comment.

19 At this time, we have no one else scheduled
20 to speak during the current time slot.

21 If there is anyone who did not register to
22 speak today but would like to speak, please use

1 the Questions box to identify yourself, and we
2 will get you into the lineup shortly.

3 We'll now pause to see if anyone else would
4 like to make a comment.

5 [Pause.]

6 EMCEE: At this time, we have no one else
7 scheduled to speak during the current time slot.

8 If there is anyone who did not register to
9 speak today but would like to speak, please use
10 the Questions box to identify yourself, and we
11 will get you into the lineup shortly.

12 We'll now pause to see if anyone else would
13 like to make a statement.

14 [Pause.]

15 EMCEE: We have no more speakers lined up
16 for the time being. So we will begin a brief
17 recess.

18 EPA, when would you like to reconvene?

19 EPA PANEL MEMBER: The hearing is now on
20 recess until 3:15 p.m., Eastern Time.

21 [Recess taken from 3:00 p.m. to 3:15 p.m.]

22 EMCEE: It is 3:15 p.m., and we are now

1 rejoining EPA's public hearing for a proposed
2 rule change to the disposal of coal combustion
3 residuals.

4 The expected speaking order for the next
5 half hour will be Ginnie Judd. I will be
6 introducing each speaker in turn, but please
7 wait for EPA to ask you to proceed before
8 starting your comment.

9 EPA, are you ready to proceed?

10 EPA PANEL MEMBER: Yes.

11 Please proceed, and state your name and
12 affiliation for the record.

13 MS. JUDD: Good afternoon. My name is
14 Ginnie Judd. I am the operations and finance
15 director for Faith in Place in Illinois, a
16 nonprofit, which works with people of all faiths
17 to be leaders and caring for the earth and which
18 provides resources to educate, connect, and
19 advocate for healthier communities.

20 I'm calling today on behalf of all of us
21 living and working in Illinois, as well as those
22 in every corner of our nation, to speak out in

1 opposition to EPA's Federal permitting rule
2 proposal.

3 While I appreciate this opportunity to
4 comment, I strongly oppose EPA's decision to
5 proceed with today's hearing during a global
6 pandemic and national health emergency. By
7 refusing to delay today's hearings, this agency
8 is knowingly and willingly turning its back on
9 the communities it has been tasked to protect.
10 Rather, it allows corporations to destroy the
11 health of those living and working near coal
12 ash.

13 So often the effects of exposure are not
14 immediately visible but are cumulative, with the
15 crippling effects of exposure becoming apparent
16 decades later.

17 In my own family, I have immediate family
18 with asthma, others with COPD. I have friends
19 who also suffer from asthma or COPD. The health
20 of human beings should take priority over the
21 profits of corporations.

22 Instead of this ill-conceived proposal, we

1 should all be--and many of us are--advocating
2 for a just transition plan including proper
3 removal of the coal ash ponds as well as from
4 old unregulated coal ash landfills. We should
5 be working toward removal with community input
6 and safeguards put in place for workers.

7 It is critical that the Federal permitting
8 rule proposal does not give polluting
9 corporations free rein on the permit program.
10 The current proposal would not only grant owners
11 of these facilities, permits that never expire,
12 with little to no oversight and minimal
13 opportunity for public participation, but also
14 unlawfully let EPA authorize coal ash dump
15 owners to violate safeguards we fought to hard
16 for in the Federal coal ash rule.

17 This agency should be working towards
18 making all rules stronger. This proposed rule
19 would gut critical protections that were put in
20 place to safeguard community members from
21 exposure to carcinogens that do irreparable
22 damage not only to our health but also our

1 source of drinking water. The proposal should
2 not allow EPA to grant permits for life to all
3 coal ash dumps, new or old, lined or unlined.
4 Never expiring permits are nearly unheard of for
5 Federal permitting programs.

6 The proposal should not allow EPA to issue
7 permits with little to no public participation.
8 The proposal should not allow EPA to grant
9 one-size-fits-all permits for life that do not
10 account for the highly variable risk of coal ash
11 ponds and landfills.

12 The proposal should not allow for the EPA
13 to automatically approve permits with little or
14 no review by the permitting agency.

15 The proposal unlawfully allows the EPA to
16 authorize noncompliance with no restrictions on
17 how long noncompliance would be tolerated or
18 which safeguards a permittee could continue to
19 violate.

20 The proposal fails to take into account
21 extensive recent industry-collected data
22 revealing widespread and severe water pollution

1 from coal ash dumps.

2 Communities across the nation rely on the
3 protection of the EPA. Stand with the community
4 and our well-being, not with polluting industry.
5 Our health must be considered when this agency
6 is considering any proposal that weakens
7 guidelines and standards.

8 Thank you for your time.

9 EMCEE: Thank you for your comment.

10 At this time, we have no one else scheduled
11 to speak during the current time slot.

12 If there is anyone who did not register to
13 speak today but would like to speak, please use
14 the Questions box to identify yourself, and we
15 will get you into the lineup shortly.

16 We'll now pause to see if anyone else would
17 like to make a statement.

18 [Pause.]

19 EMCEE: At this time, we have no one else
20 scheduled to speak during the current time slot.

21 If there is anyone who did not register to
22 speak today but would like to speak, please use

1 the Questions box to identify yourself, and we
2 will get you into the lineup shortly.

3 We'll now pause to see if anyone else would
4 like to make a statement.

5 [Pause.]

6 EMCEE: We have no more speakers lined up
7 for the time being. So we will begin a brief
8 recess.

9 EPA, when would you like to reconvene?

10 EPA PANEL MEMBER: The hearing is now on
11 recess until 3:45 p.m., Eastern time.

12 [Recess taken from 3:30 p.m. to 3:45 p.m.]

13 EMCEE: This is IEC, EPA's contractor. It
14 is 3:45 p.m., and we are now rejoining EPA's
15 public hearing for a proposed rule change to the
16 disposal of coal combustion residuals.

17 At this time, we have no one else scheduled
18 to speak.

19 If there is anyone who did not register to
20 speak today but would like to speak, please use
21 the Questions box to identify yourself, and we
22 will get you into the lineup shortly.

1 We will now pause to see if anyone else
2 would like to make a statement.

3 [Pause.]

4 EMCEE: At this time, we have no one else
5 scheduled to speak during the current time slot.

6 If there is anyone who did not register to
7 speak today but would like to speak, please use
8 the Questions box to identify yourself, and we
9 will get you into the lineup shortly.

10 We'll now pause to see if anyone else would
11 like to make a statement.

12 [Pause.]

13 EMCEE: At this time, we have no one else
14 scheduled to speak during the current time slot.

15 If there is anyone who did not register to
16 speak today but would like to speak, please use
17 the Questions box to identify yourself, and we
18 will get you into the lineup shortly.

19 We have several speakers scheduled to speak
20 beginning at 4:00 p.m.

21 We'll now pause to see if anyone would like
22 to make a statement.

1 [Pause.]

2 EMCEE: Our next speaker will be Alessia
3 Eramo.

4 EPA, are you ready to proceed?

5 EPA PANEL MEMBER: Yes.

6 Please proceed, and state your name and
7 affiliation for the record.

8 MS. ERAMO: Hello?

9 EMCEE: Yes, Alessia, we can hear you.

10 MS. ERAMO: Okay, good. Sorry.

11 My name is Alessio Eramo. I'm from
12 Clifton, New Jersey. I don't have an
13 affiliation. I'm just a concerned citizen, and
14 I'm on the environmental commission of my city,
15 and I have a Ph.D. in environmental engineering.
16 So my background has given me advanced knowledge
17 of the link between human health and
18 environmental pollution.

19 I'm calling today to speak out in
20 opposition to EPA's permitting proposal for coal
21 ash ponds and landfills.

22 Firstly, I strongly oppose EPA's decision

1 to proceed with today's hearing, given the
2 national health emergency we are now facing.
3 The comment period for these changes should have
4 been extended, and today's hearing should have
5 been delayed. By refusing to do this, EPA and
6 the Trump administration is failing to take
7 seriously the impact this proposal will have on
8 millions of Americans and communities impacted
9 by coal ash pollution.

10 The need to do this virtually in these
11 times also means the public will have less of an
12 opportunity to comment. I ask the EPA to pause
13 this process and extend the comment period until
14 after we return to our normal lives post the
15 COVID-19 pandemic.

16 The duty of the EPA is to protect people
17 and the environment and work towards a safe
18 water, clean air, and healthy environment. This
19 proposal endangers the health of Americans by
20 weakening the Federal oversight over coal ash
21 polluters whose activities are responsible for
22 the release of carcinogens, neurotoxins,

1 poisons, and other chemicals into air,
2 groundwater, and surface water.

3 The EPA's mandate is to protect people.
4 However, this proposal makes it much more
5 difficult for the EPA to do that by allowing
6 permits for life for coal ash dumps and
7 streamlining the permitting process to the point
8 that true risks cannot be assessed.

9 Furthermore, the proposal would allow
10 permits to be automatically approved with little
11 or no review. How does this ensure protection
12 for people or the environment?

13 In addition, the proposal would allow
14 little to no public participation in the
15 permitting process from the people that EPA is
16 supposed to serve. This proposal fails to take
17 into account and effectively respond to
18 extensive industry-collected data revealing the
19 extent of severe water pollution from coal ash
20 dumps.

21 This proposal assists polluters at the
22 expense of people and the environment's health.

1 It is contrary to the EPA's mission and
2 responsibility.

3 EPA should not ignore the damage done to
4 people's health when polluters are allowed to
5 dump hazardous waste into their communities.

6 The EPA needs to look at the science and data to
7 enforce regulations that protect people, not
8 weaken the regulations.

9 I ask the EPA to withdraw this proposal
10 immediately.

11 Thank you.

12 EMCEE: Thank you for your comment.

13 At this time, we have no one else scheduled
14 to speak during the current time slot.

15 If there is anyone who did not register to
16 speak today but would like to speak, please use
17 the Questions box to identify yourself, and we
18 will get you into the lineup shortly.

19 We'll now pause to see if anyone else would
20 like to make a statement.

21 [Pause.]

22 EMCEE: We have no more speakers lined up

1 for the time being. So we will begin a brief
2 recess.

3 EPA, when would you like to reconvene?

4 EPA PANEL MEMBER: The hearing is now in
5 recess until 4:30 p.m., Eastern Time.

6 [Recess taken from 4:15 p.m. to 4:30 p.m.]

7 EMCEE: This is IEC, EPA's contractor. It
8 is 4:30 p.m., and we are now rejoining EPA's
9 public hearing for a proposed rule change to the
10 disposal of coal combustion residuals.

11 The expected speaking order for the next
12 half hour will be Virginia Richard. We have no
13 further speakers scheduled.

14 EPA, are you ready to proceed?

15 EPA PANEL MEMBER: Yes.

16 EMCEE: Okay, Virginia. Please proceed,
17 and state your name and affiliation for the
18 record.

19 MS. RICHARD: Hi. My name is Virginia
20 Richard. I am commenting as a private citizen,
21 and are you ready for my comment?

22 EMCEE: We are. Please proceed.

1 MS. RICHARD: It is absolutely
2 unconscionable that the Environmental Protection
3 Agency would hold this virtual hearing at this
4 time. We are in the middle of a global pandemic
5 and a national health emergency when the
6 attention of many people is rightful turned to
7 preserving their lives and the lives of their
8 loved ones.

9 Many essential workers are needed to keep
10 our country running and cannot afford to take
11 off to formulate comments, much less testify.
12 Those who are not working and are not in
13 immediate fear for their lives from COVID-19
14 often lack proper internet access to
15 participate. Poor, elderly and/or rural
16 Americans often struggle with internet access.
17 In many cases, people who would otherwise
18 participate are also limited by their level of
19 computer literacy.

20 These factors could potentially be overcome
21 with the help of a library and librarians.
22 However, in the middle of a pandemic, libraries

1 across the country are closed. When they're not
2 closed, if someone happens to have access to the
3 library and transportation, EPA is asking that
4 person to risk their very lives and the lives of
5 everyone they come in contact with to venture
6 out into these public places.

7 What a shame. The very agency that is
8 supposed to protect people and allow us to
9 participate in the rulemaking is doing its best
10 to exclude the American public.

11 Whatever happened to for the people and by
12 the people? Let me remind you of the EPA's
13 mission as posted on its website. The mission
14 of EPA is to protect human health and the
15 environment. EPA works to ensure that Americans
16 have clean air, land, and water. National
17 efforts to reduce environmental risks are based
18 on the available scientific information.
19 Federal laws protecting human health and the
20 environment are administered and enforced
21 effectively and as Congress intended.
22 Environmental stewardship is integral to U.S.

1 policies concerning natural sciences, human
2 health, economic growth, energy, transportation,
3 agriculture, industry, and international trade,
4 and these factors are similarly considered in
5 establishing environmental policy.

6 All parts of society, communities,
7 individuals, businesses, and State and local and
8 Tribal governments have access to accurate
9 information sufficient to effectively
10 participate in managing human health and
11 environmental risks. Contaminated lands and
12 toxic sites are cleaned up by potentially
13 responsible parties and revitalized and
14 chemicals in the marketplace are reviewed for
15 safety.

16 EPA, having a hearing at this time is a
17 blatant attack on our rights to participate as
18 American citizens in protecting our own lives,
19 our land, and our livelihood.

20 In addition, this particular proposal
21 allows some unlined coal ash ponds to operate
22 indefinitely, despite a 2018 Federal court order

1 requiring closure of all unlined coal ash ponds
2 due to the high risk of groundwater
3 contamination posed by such toxic ponds. The
4 Part B proposal would allow operators of unlined
5 ponds to develop alternate liner demonstrations
6 that will allow them to avoid closure.

7 Even though such pits have no actual liner,
8 an operator would be able to make a
9 demonstration that the pit should be considered
10 lined and therefore not be required to close.
11 This is absolute insanity.

12 Having a hypothetical or demonstrated liner
13 versus a real liner is the difference between
14 life and death for Americans.

15 EPA's proposed demonstration process would
16 also allow unlined ponds to remain open for an
17 unlimited time while EPA or State regulators
18 evaluate complex information submitted by
19 industry, including highly technical models and
20 other data purporting to show hydrological
21 impact.

22 Neither EPA nor State regulators, however,

1 have the necessary expertise to evaluate these
2 complex demonstrations, nor is there an
3 opportunity for meaningful public review. So,
4 basically, you have now allowed coal companies
5 and power plants to poison the American people
6 while hiding under a pile of paperwork.

7 I could continue on, but the letter and the
8 comments that I'm submitting will reference
9 further issues that I have with these rollbacks.

10 Shame on you, EPA. Shame on you for not
11 protecting the American people or at least
12 carrying out this process in a way that we can
13 participate.

14 Thank you.

15 EMCEE: Thank you for your comment.

16 At this time, we have no one else scheduled
17 to speak during the current time slot.

18 If there is anyone who did not register to
19 speak today but would like to speak, please use
20 the Questions box to identify yourself, and we
21 will get you into the lineup shortly.

22 We'll now pause to see if anyone else would

1 like to make a statement.

2 [Pause.]

3 EMCEE: We have no more speakers lined up
4 for the time being. So we will begin a brief
5 recess.

6 EPA, when would you like to reconvene?

7 EPA PANEL MEMBER: The hearing is now on
8 recess until five o'clock p.m., Eastern Time.

9 [Recess taken from 4:45 p.m. to 5:00 p.m.]

10 EMCEE: This is IEC, EPA's contractor. It
11 is five o'clock p.m., and we are now rejoining
12 EPA's public hearing for a new proposed Federal
13 permit program for the disposal of coal
14 combustion residuals.

15 At this time, we have no one else scheduled
16 to speak during the current time slot.

17 If there is anyone who did not register to
18 speak today but would like to speak, please use
19 the Questions box to identify yourself, and we
20 will get you into the lineup shortly.

21 We'll now pause to see if anyone else would
22 like to make a statement.

1 [Pause.]

2 EMCEE: At this time, we have no one else
3 scheduled to speak during the current time slot.

4 If there is anyone who did not register to
5 speak today but would like to speak, please use
6 the Questions box to identify yourself, and we
7 will get you into the lineup shortly.

8 We'll now pause to see if anyone else would
9 like to make a statement.

10 [Pause.]

11 EMCEE: At this time, we have no one else
12 scheduled to speak during the current time slot.

13 If there is anyone who did not register to
14 speak today but would like to speak, please use
15 the Questions box to identify yourself, and we
16 will get you into the lineup shortly.

17 We have no more speakers lined up for the
18 time being. So we will begin a brief recess.

19 EPA, when would you like to reconvene?

20 [Pause.]

21 EPA PANEL MEMBER: The hearing is now in
22 recess until 5:30 p.m., Eastern Time.

1 [Recess taken from 5:15 p.m. to 5:30 p.m.]

2 EMCEE: This is IEC, EPA's contractor. It
3 is 5:30 p.m., and we are now rejoining EPA's
4 public hearing for a new proposed Federal permit
5 program for the disposal of coal combustion
6 residuals.

7 At this time, we have no one else scheduled
8 to speak.

9 If there is anyone who did not register to
10 speak today but would like to speak, please use
11 the Questions box to identify yourself, and we
12 will get you into the lineup shortly.

13 We will now pause to see if anyone else
14 would like to make a statement.

15 [Pause.]

16 EMCEE: At this time, we have no one else
17 scheduled to speak during the current time slot.

18 If there is anyone who did not register to
19 speak today but would like to speak, please use
20 the Questions box to identify yourself, and we
21 will get you into the lineup shortly.

22 We'll now pause to see if anyone else would

1 like to make a statement.

2 [Pause.]

3 EMCEE: At this time, we have no one else
4 scheduled to speak during the current time slot.

5 If there is anyone who did not register to
6 speak today but would like to speak, please use
7 the Questions box to identify yourself, and we
8 will get you into the lineup shortly.

9 We'll now pause to see if anyone else would
10 like to make a statement.

11 [Pause.]

12 EMCEE: At this time, we have no one else
13 scheduled to speak during the current time slot.

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15 speak today but would like to speak, please use
16 the Questions box to identify yourself, and we
17 will get you into the lineup shortly.

18 We'll now pause to see if anyone else would
19 like to make a statement.

20 [Pause.]

21 EMCEE: At this time, we have no one else
22 scheduled to speak during the current time slot.

1 If there is anyone who did not register to
2 speak today but would like to speak, please use
3 the Questions box to identify yourself, and we
4 will get you into the lineup shortly.

5 We'll now pause to see if anyone else would
6 like to make a statement.

7 [Pause.]

8 EMCEE: At this time, we have no one else
9 scheduled to speak during the current time slot.

10 If there is anyone who did not register to
11 speak today but would like to speak, please use
12 the Questions box to identify yourself, and we
13 will get you into the lineup shortly.

14 We'll now pause to see if anyone else would
15 like to make a statement.

16 This hearing will conclude at 6:00 p.m.

17 [Pause.]

18 EMCEE: We are now at the end of our
19 afternoon session. EPA, are you ready to recess
20 until after the scheduled dinner break--I'm
21 sorry. That is incorrect. This public hearing
22 is now concluded. EPA, are you ready to

1 adjourn?

2 EPA PANEL MEMBER: Yes.

3 Thank you to everyone who attended and
4 spoke during today's virtual public hearing.

5 The hearing is concluded as of six o'clock p.m.

6 [Whereupon, at 6:00 p.m., the virtual
7 public hearing concluded.]

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