



**ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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| In re Marquis Carbon Injection, LLC | ) |                      |
|                                     | ) | UIC Appeal No. 26-01 |
|                                     | ) |                      |
| Permit No. IL-155-6A-0001           | ) |                      |
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**ORDER ON MOTION TO STRIKE**

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Issued July 17, 2026  
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***Order of the Board by Judge Roseman-Orr:***

Eco-Justice Collaborative, the Petitioner in the above-captioned matter, electronically filed a document with the Environmental Appeals Board entitled “Scope of Stay and Demand for Enforcement.” Letter from Pamela J. Richart, Co-Dir. Eco-Justice Collaborative, to Anne M. Vogel, Reg’l Adm’r, U.S. EPA Region 5 (June 2, 2026) (“Letter to the Region”). Petitioner’s electronic filing included a cover letter explaining that Petitioner was providing the Board with a copy of the Letter to U.S. EPA Region 5 “for [its] information and files.” Letter from Pamela J. Richart, Co-Dir. Eco-Justice Collaborative, to Clerk of the Env’t Appeals Board (June 8, 2026). The Region moved to strike the Letter to the Region from the record on appeal contending that the document “was unlawfully filed and will harm the Agency in this and future Board proceedings,” “is a substantive briefing masquerading as an informative letter;” and constitutes “an attempt by Petitioner to bypass the procedural rules and unfairly bias the Board in its

evaluation of the validity of the Permit.” Mot. to Strike Pet’r’s Unauthorized Filing Dated June 8, 2026, From EAB Docket UIC 26-01, at 1-2 (June 10, 2026). Petitioner responded to the motion to strike arguing, among other things, that the Letter to the Region was only “informational” and “concerns the Board’s ability to grant effective relief,” adding that Petitioner “defers to the Board’s discretion regarding whether to retain, disregard, or remove the [Letter to the Region] from the appeal record.” Pet’r’s Resp. to EPA’s Mot. to Strike at 1-2 (June 10, 2026).

When evaluating a challenged permit decision, “the Board examines the administrative record that serves as the basis for the permit decision.” *See In re Gen. Elec. Co.*, 18 E.A.D. 575, 608 (EAB 2022), *pet. for review denied sub nom. Housatonic River Initiative v. EPA*, 75 F.4th 248 (1st Cir. 2023); *In re Dominion Energy Brayton Point, L.L.C.*, 12 E.A.D. 490, 519 (EAB 2006) (describing the record for an agency decision). In narrow circumstances, the Board may consider extra-record material. *See Gen. Elec.*, 18 E.A.D. at 609 (identifying the narrow exceptions to the general rule that Board review should be based on the certified administrative record before the permit issuer).

The Letter to the Region alleges that the permit holder is infringing the stay of contested provisions contemplated under 40 C.F.R. §§ 124.16. and 124.19, identifies the permit conditions stayed, explains why a stay is necessary “to prevent irreparable harm” to underground sources of drinking water and “preserve Board review,” and requests immediate enforcement action by the Region. *See* Letter to the Region at 1-6. The Letter to the Region post-dates the Region’s permit decision in this matter and therefore was not before the Region at the time of its permitting decision. Petitioner does not argue that the letter qualifies for any of the exceptions to the

general rule of excluding extra-record material, and the Board finds none of the exceptions apply.

Accordingly, the Board **GRANTS** the Region's request to strike the Letter to the Region, and the Board will not consider the letter in its review of the challenged permit decision.

So ordered.

## **CERTIFICATE OF SERVICE**

I certify that copies of the foregoing *Order on Motion to Strike* in the matter of Marquis Carbon Injection, LLC, UIC Appeal No. 26-01, were sent to the following persons on July 17, 2026, in the manner indicated:

### **By E-mail:**

For Petitioner:

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Tommie Madison  
Clerk of the Board