

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

In re:	)	
	)	
Marquis Carbon Injection, LLC	)	UIC Appeal No. 26-1
Marquis Biocarbon Project	)	
Putnam County, Illinois	)	
	)	
Class VI UIC Permit No.	)	
IL-155-6A-001	)	
	)	

**Motion to Strike Petitioner’s Unauthorized Filing Dated June 8, 2026, From EAB Docket
UIC 26-01**

On June 8, 2026, Eco-Justice Collaborative (“Petitioner”) unlawfully filed a Scope of Stay and Demand for Enforcement Letter (“Enforcement Letter”). Pursuant to 40 C.F.R. § 124.19(n), the U.S. Environmental Protection Agency respectfully requests that the Environmental Appeals Board (“Board”) strike the Enforcement Letter from the record as it was unlawfully filed and will harm the Agency in this and future Board proceedings.

40 C.F.R. § 124.19(n) authorizes the Board to take all measures necessary for the efficient, fair, and impartial adjudication of issues arising in an appeal, including, but not limited to, imposing procedural sanctions against a party who, without adequate justification, fails or refuses to comply with the regulations or an order of the Board. Such sanctions may include striking a party’s pleadings or other submissions from the record.

The Enforcement Letter is a substantive briefing masquerading as an informative letter. Beginning on Page 5 of the Enforcement Letter, Petitioner reiterates the eleven arguments raised in its Petition. This filing provides an unfair, on-the-record opportunity for Petitioner to clarify its arguments and emphasize its prayer for relief in the Petition. The Board has already provided Petitioner with the opportunity to file its reply. *See* EAB Order dated June 3, 2026. By filing this

Enforcement Letter, Petitioner is directly in violation of the Board's final briefing schedule to which all parties must adhere.

Allowing the Enforcement Letter to remain on the formal EAB docket may unduly bias the Board in its evaluation of the present permit appeal matter. The Enforcement Letter contains unverified facts and photographs alleging unlawful activities by Petitioner; however, the Board is not authorized to entertain a fact-finding evaluation of compliance with a stay. Whether Marquis is violating a stay is not pertinent to question raised by the Petition, which is only whether EPA issued a lawful, valid permit in compliance with the Safe Drinking Water Act (SDWA) and the Class VI Rule. *See* Petition p. 1 (seeking EAB review of the final Permit). The Enforcement Letter, having no purpose in the permit appeal process, can only be described as an attempt by Petitioner to bypass the procedural rules and unfairly bias the Board in its evaluation of the validity of the Permit by alleging unlawful activity by the permittee. Whether or not a permittee is in violation of the stay should not be allowed to impact the Board's review of EPA's exercise of lawful permitting procedures, just as it would not review subsequent potential violations of the permit itself (without EPA having first exhausted judicial remedies).

Further, the Enforcement Letter seeks action by EPA enforcement authorities, not the Board. The Board's review in this matter is unrelated to enforcement and expressly limited to a "petition for review of a permit decision." *See* 40 C.F.R. § 124.19(a). The provisions applying to stays of permits under appeal are separated from the permit appeal regulations and are instead found under 40 C.F.R. § 124.16. Violations of stays are potentially violations of SDWA. Such violations are subject to EPA's enforcement authorities (42 U.S.C. §§ 300h-2 and 300i) and the Agency's discretion to exercise those authorities. Conversely, EPA is unaware of, and Petitioner

did not cite to, any authority that would permit the Board to enforce or otherwise consider violations of a stay.

In addition to unfairly allowing Petitioner to clarify and emphasize its arguments, keeping this filing on the record and in the Board's docket would cause EPA harm in other matters. In future permit appeals, Petitioners may research this case file and identify this Enforcement Letter as a potentially valid advocacy mechanism, both in permit appeal cases and in influencing enforcement decisions at EPA. Future petitioners should not be encouraged to file unlawful documents that fail to meet the codified regulatory requirements for Board filings. Petitioner is free to otherwise publicize its letter and to contact EPA as it sees fit concerning its enforcement concerns but is not permitted to use the EAB filing system to advance its own agenda. Importantly, Petitioner sent the original letter to EPA on June 2, 2026, and EPA sent a response on the very next day. There is no valid purpose for this filing to remain on the Board's website.

For the reasons set forth in this Motion, EPA respectfully requests the Board strike the unauthorized Enforcement Letter from the 26-1 docket as authorized by 40 C.F.R. § 124.19(n).

Dated: June 10, 2026

Respectfully submitted,

/s/ Jamie Getz
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