

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

In re:	)	
	)	
Marquis Carbon Injection, LLC	)	
Marquis Biocarbon Project	)	UIC Appeal No. 26-01
Putnam County, Illinois	)	
	)	
Class VI UIC Permit No.	)	
IL-155-6A-0001	)	

PETITIONER’S RESPONSE TO EPA’S MOTION TO STRIKE

(Non-Opposition in Part, With Reservations)

Petitioner Eco-Justice Collaborative (“EJC”) submits this response to the Motion to Strike filed by U.S. EPA Region 5 on June 10, 2026, which seeks to strike from the docket in this appeal EJC’s letter and attached “Scope of Stay and Demand for Enforcement” that EJC transmitted to the Clerk for informational purposes on June 8, 2026 (the “Informational Submission”).

EJC agrees that the Board may not treat the Informational Submission as part of the merits briefing in this appeal. EJC responds briefly only to correct the Motion’s characterization of the submission as “unlawful” and sanctionable, and to preserve the limited, record-related purpose for which the document was provided.

1. The submission was informational, not a brief. EJC transmitted the document to the Clerk under a cover letter expressly stating that it was forwarded “for your information and files.” It did not request any action or ruling by the Board, and it did not purport to supplement EJC’s Petition or to serve as a reply. The enforcement actions it requests—a cease-construction order, corrective measures, and penalties—are directed solely to EPA Region 5. EJC agrees with EPA that the Board is not the forum for those enforcement requests.

2. No rule or order was violated, and sanctions are not warranted. EPA invokes 40 C.F.R. § 124.19(n), which authorizes procedural sanctions against a party that “without adequate justification, fails or refuses to comply with” the regulations or an order of the Board. No such failure occurred. 40 C.F.R. §124.19 does not prohibit the filing of notice of a pending related matter in a different forum. EJC did not describe the Informational Filing as a brief. The Board’s June 3, 2026 order set the schedule for merits briefing; it did not prohibit informational correspondence, and the Informational Submission is not a brief governed by that schedule. Because no regulation or order of the Board was violated, striking the document as a sanction under § 124.19(n) is unwarranted. To the extent the Board concludes the submission is not properly part of the appeal record, the appropriate course is simply to decline to consider it—not to characterize its filing as “unlawful.”

3. The submission concerns the Board's ability to grant effective relief. The stay provisions in 40 C.F.R. § 124.16 are intended to preserve the status quo pending EAB review under 40 C.F.R. § 124.19. A violation of § 124.16 has the potential to cause material changes from the status quo and thereby adversely impact Board discretion and prejudice an appellant's procedural rights before the Board. EJC provided the document to the Board, in part, because the facts it describes bear on the efficacy of the Board's review: if Marquis completes construction of the contested injection well during the pendency of this appeal, the relief EJC's Petition seeks—remand with instructions to remodel the Area of Review, restore monitoring, and reopen public comment—may be substantially frustrated. A tribunal may appropriately be made aware of circumstances that threaten to moot the relief before it. EJC disagrees with Region 5's apparent position that the Board should not have been informed at all about a potential violation of 40 C.F.R. § 124.16 that could limit Board discretion and prejudice EJC's appeal interests. EJC believes it would have been inappropriate to keep the Board completely in the dark about the existence of this parallel proceeding. EJC raised this matter only to preserve it, not to expand the issues or arguments presented in the Petition.

4. Requested disposition. EJC defers to the Board's discretion regarding whether to retain, disregard, or remove the Informational Submission from the appeal record. EJC anticipates that the Board is fully aware that it may not consider the informational filing to be on the merits of this appeal and will treat it accordingly. EJC respectfully requests only that any order not characterize the submission as "unlawful" or as sanctionable conduct, because no regulation or order of the Board was violated.

For these reasons, EJC respectfully submits that the Motion may be resolved without any finding of misconduct, and on the narrow ground that the Board declines to treat the Informational Submission as part of the appeal record.

Respectfully submitted,



Pamela J. Richart, Co-Director

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Dated: June 11, 2026

In re: *Marquis Carbon Injection, LLC*
UIC Appeal No. 26-01

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2026, I filed the foregoing Petitioner's Response to EPA's Motion to Strike with the Clerk of the Environmental Appeals Board through the Board's electronic filing system, and that I served a true and correct copy on the following by the method indicated:

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Dated: June 11, 2026