

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

In re: Three (3) UIC Class VI injection wells
(Rose CCS No. 1 - No. 3), Jefferson County,
Texas

Class VI Well Permit ID Nos.
R6-TX-245-C6-0001,
R6-TX-245-C6-0002, and
R6-TX-245-C6-0003 issued to
ExxonMobil Low Carbon Solutions Onshore
Storage, LLC

Appeal No. _____

Docket No: EPA-R06-OW-2025-0421

OPPOSED MOTION FOR EXTENSION OF TIME

The Cheek Texas Community Association (“Community Association”) respectfully requests that the Environmental Appeals Board grant a sixty (60) day extension of time, until January 17, 2026, for the Community Association to file its Petition for Review of the grant of Class VI Well Permit ID Nos. R6-TX-245-C6-0001, R6-TX-245-C6-0002, and R6-TX-245-C6-0003 issued to ExxonMobil Low Carbon Solutions Onshore Storage, LLC and known collectively as the Rose Carbon Capture and Storage Project (“Permits”).

The Petition for Review will seek a remand of the proposed grant of the above three Permits to the Environmental Protection Agency’s Region Six (“Region 6”) staff because Region 6 failed to respond to comments and the Permits inappropriately authorize injection of carbon dioxide into a deep brackish aquifer and into formations that do not appropriately protect known underground sources of drinking water. Two weeks into the government shutdown, Region 6 emailed its October 16, 2025, notice of the Permits issuance. Attachment 1 (Emailed Notice Granting Permits). Based

upon the email service date, the current Petition for Review deadline is November 17, 2025. *See* 40 C.F.R. §§ 124.19(a)(3), 124.20(c) (due dates falling on a weekend are moved to next business day). A 60-day extension is permissible and within the Environmental Appeals Board’s (“EAB”) discretion because the Community Association has sought this extension sufficiently in advance of the due date and has communicated with the opposing party, although Region 6 is opposed. 40 C.F.R. § 124.19(g). Because the Community Association submitted comments on the draft Permits prior to issuance, it may properly submit a Petition for Review. 40 C.F.R. § 124.19(a)(2). Thus, this request for an extension is timely and as shown below, should be granted for good cause. *Id.* at 124.19(a)(3).

Good Cause Exists for 60-day Extension Request

Community Association asserts that this motion for extension of time is in the best interest of the parties to allow adequate review and response to substantive issues. This is particularly true here since the current docket lacks any response to comments and the Permits were allegedly issued during the government shutdown. *See generally* Docket No: EPA-R06-OW-2025-0421. Previously, “[a]s a matter of public policy, [the EAB was] unwilling to construe adverse effects resulting from government shutdowns, against a private party doing business with a federal agency.” *In the Matter of: TIFA Limited*, No. I.F. & R.-11-547-C, 1999 WL 549374, at *13 (EPA (July 7, 1999)). Without any response to comments, it may be difficult for the Community Association to adequately prepare its Petition for Review with respect to, at least, the substantive, technical comments previously submitted.

Moreover, the Community Association sought a meeting with Region 6 staff prior to the issuance of these Permits to discuss additional technical concerns brought out and shared with Region 6 staff from a related state-permitting action before the State of Texas’s Railroad

Commission (the eventual Class VI permit issuing authority for the State of Texas). Given the government shutdown, it is not surprising that Counsel for the Community Association did not hear back from Region 6 staff to discuss the additional comments. Despite this missed opportunity, the comments appear in this docket and now administrative record. *See generally* Docket No: EPA-R06-OW-2025-0421 (Late comments submitted by Earthjustice on August 29, 2025 and October 1, 2025 and posted on October 30, 2025). Again, while the comments appear in the docket—meaning that they were considered by staff prior to the issuance of the Permits—Region 6 staff did not respond to the comments (nor to the request to discuss them) thus making it difficult to understand Region 6’s rationale for approving the Permits when the Community Association asserts substantive flaws.

The Community Association seeks an additional 60 days to file its Petition for Review in good faith and without negative impact to the underlying Applicant. Specifically, there is likely no impact here since these Permits do not provide for injection of any fluid or gas at this time. The Community Association seeks this extension in order to better prepare its Petition for Review and allow time for the Region 6 staff to prepare the record outside the government shutdown and, likely, to eventually respond to comments. As noted above, Region 6 opposes this motion but did not explain why. Attachment 2 (Email Response).

This short delay of an additional 60 days will also ensure that all parties have additional time to prepare outside the busy end of year season. This is likely even more important now because once the government reopens, it can reasonably be assumed that a backlog of actions will need attention. *See e.g. In re: Essroc Cement Corp.*, No. 13-03, 2013 WL 5793395 at *1, (EPA Oct. 23, 2013) (granting motion for extension in part due to government shutdown and changing

workloads for EPA staff). By providing this additional time, the Petition for Review, response, and ultimate reply will be better prepared for the EAB's decision making process.

Communications with Opposing Party

Counsel for the Community Association called EPA Region 6 office of regional counsel on October 29, 2025, to seek Region 6's position on this motion. A voicemail was left and was not returned. Counsel for the Community Association also sent an email on October 29, 2025 seeking EPA's position on this motion. On November 4, 2025, Ms. Renea Ryland responded stating that EPA would not agree to the Motion. Attachment 2 (Email Response).

Because the EAB "may act on a motion for a procedural order at any time without awaiting a response," Community Association asks that this opposed motion be granted as soon as possible in order to assure the parties of next steps. *See* 40 C.F.R. § 124.19(f)(6).

Dated: November 5, 2025

Respectfully submitted,

EARTHJUSTICE

By: 

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Certificate of Service

I certify that the original Opposed Motion for Extension of Time was filed electronically with the Board through its online docketing system. In addition, by my signature below, I certify that this opposed motion has been provided to the following parties through email if available as well as to the following addresses by U.S. Postal Mail with a courtesy copy to the Clerk of Board at Clerk_EAB@epa.gov.

By US Mail:

Region 6 Administrator
Mr. Scott Mason
Environmental Protection Agency
1201 Elm Street, Suite 500
Dallas, TX 75270

And by email to: Ms. Renea Ryland: Ryland.renea@epa.gov; Mr. Ian Ussery: ussery.ian@epa.gov; Mr. James Murdock: Murdock.james@epa.gov; Mr. Troy Hill: hill.troy@epa.gov; Mr. Scott Ellinger: Ellinger.scott@epa.gov; Ms. Heather Hullum: Hullum.heather@epa.gov

By US Mail to Applicant:

ExxonMobil Low Carbon Solutions Onshore Storage LLC
22777 Springwoods Village Parkway
Spring, TX 77389

Respectfully,

EARTHJUSTICE

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