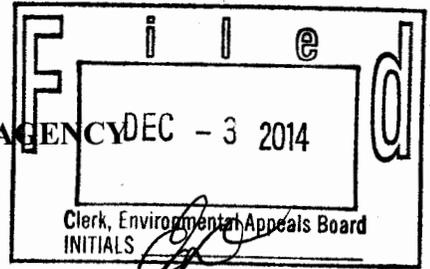


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
Windfall Oil & Gas, Inc.)
)
UIC Permit No. PAS2D020BCLE)
_____)

UIC Appeal Nos. 14-73 through 14-189

ORDER CONSOLIDATING PETITIONS FOR REVIEW

On October 31, 2014, the U.S. Environmental Protection Agency Region 3 (“Region”) issued an Underground Injection Control (“UIC”) permit, Number PAS2D020BCLE (“Permit”), to Windfall Oil & Gas, Inc. (“Windfall”). The Permit authorizes Windfall to construct a Class II-D injection well, the Zelman #1, and inject fluids produced in association with oil and gas production into the Huntersville Chert/Oriskany formation.¹

The Environmental Appeals Board (“Board”) received 117 petitions for review of the Permit.² In many instances the Board received separate petitions filed by persons who share the same address. In the interests of efficiency and economy, the Board will serve one copy of any order or decision per physical address provided.

¹ The Region first issued a final permit for this well on February 14, 2014, after holding a public hearing and receiving written comments during two public comment periods. Notice of Final Permit for Windfall Oil and Gas (Oct. 31, 2014), *available at* http://www.epa.gov/reg3wapd/public_notices.htm#windfall. The Environmental Appeals Board (“Board”) received sixty-one petitions for review of the February 2014 permit. At the request of the Region, the Board remanded the permit to the Region on June 10, 2014. *Id.* The Region further reviewed and evaluated oral testimony and written comments, and eventually issued this Permit to Windfall, which remains the same as the February 2014 permit except for a change that imposes additional requirements for well casing and cementing. *Id.*

² The Board’s publicly available electronic docket can be accessed at www.epa.gov/eab (click on “EAB Dockets,” then “Active Dockets”). The petitioners (and corresponding UIC appeal numbers) are listed in Appendix 1 attached to this order.

As described in more detail below, the Board received five petitions for review that are purportedly from two entities. The Board has previously addressed multiple filings of a petition for review by the same person or entity. *See, e.g., In re City of Palmdale*, PSD Appeal No. 11-07 (EAB Apr. 5, 2012) (Order Identifying Petition for Review and Denying Requests for Status Conference, Leave to File Reply, and Oral Argument) (“Palmdale Order”); *see also In re Windfall Oil & Gas, Inc.*, UIC Appeal Nos. 14-04 through 14-62, at 1-2 (Mar. 24, 2014) (Order Consolidating Petitions for Review). Despite different circumstances in these appeals compared to those in *City of Palmdale*, the premise that each person or entity may file a single petition for review applies here. *See Palmdale Order* at 4-5.

The Board received a petition for review from Wilson Fisher, Jr., which was submitted on behalf of Brady Township. However, the Board received a petition for review from the Brady Township supervisors on behalf of Brady Township, docketed as UIC appeal number 14-80, and submitted on Brady Township letterhead. Because Brady Township submitted a petition for review, the Board construes Mr. Fisher’s petition to be filed on his own behalf as an individual. Mr. Fisher’s petition is docketed as UIC appeal number 14-186.

Similarly, the Board received three petitions for review written on City of DuBois letterhead and signed by City of DuBois officials. The first petition the Board received was sent by Nancy Moore, and signed by Ms. Moore as the Chairperson of the City of DuBois Planning Commission. Subsequently the Board received two more petitions for review signed by Gary D. Gilbert, Mayor and President of the DuBois City Council, and Diane Bernardo, DuBois City Councilwoman. Upon closer inspection of the three petitions, the petition Mr. Gilbert submitted clearly indicates that he is acting on behalf of the DuBois City Council. Ms. Bernardo’s petition

refers only to herself. Ms. Moore's petition refers to "we," as well as herself, but does not make clear who she represents. In addition, both Ms. Bernardo and Ms. Moore included their respective home addresses and contact information, whereas the petition signed by Mr. Gilbert lists the address and contact information for the City of DuBois's offices. The Board construes both Ms. Moore's and Ms. Bernardo's petitions for review to be filed on their own respective behalf as individuals. Ms. Moore's appeal is docketed as UIC appeal number 14-176, and Ms. Bernardo's appeal is docketed as UIC appeal number 14-180. The Board construes the petition signed by Mr. Gilbert as the City of DuBois's petition for review, which is docketed as UIC appeal number 14-179.

Petitioners are reminded that each person or entity requesting review of a permit must serve the petition for review on the Regional Administrator and the permit applicant (if the applicant is not the petitioner). 40 C.F.R. § 124.19(i)(3). Once the Board receives the petition for review and assigns an appeal number, every document any party files with the Board must be served on all other parties.³ *Id.* Proof of service must be demonstrated by appending to each document filed with the Board a certificate of service specifying, "the names of persons served, the date and manner of service, as well as the electronic, mailing, or hand delivery address, or facsimile number, as appropriate." 40 C.F.R. § 124.19(i)(4).

For administrative convenience and in the interest of efficiency, the Board hereby consolidates the petitions for review of the Permit. The Board is cognizant that the large number of petitions for review may require extra time for the Region to prepare its response. In addition,

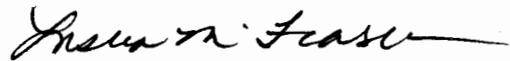
³ Service must be by first class mail, or any reliable commercial delivery service. 40 C.F.R. § 124.19(i)(3). Upon agreement by the parties, service may be made by facsimile or electronic means. *Id.*

given that the Region must respond to numerous detailed arguments raised in the unusually large number of petitions requesting review of the Permit, the Board recognizes the Region has a compelling need to exceed the word or page limit set forth in 40 C.F.R. § 124.19(d)(3). The Region should submit a single, consolidated response as well as the certified index to the administrative record and relevant portions of the administrative record no later than **Friday, January 23, 2015.**⁴ The Region's consolidated response shall be no more than ninety (90) pages long, exclusive of tables of contents and authority. Should the Region believe this limit is insufficient, it must submit a motion containing a specific proposal with justification for a word or page limitation to the Board no later than Friday, December 19, 2014.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Date: *Dec. 3, 2014*



Leslye M. Fraser
Environmental Appeals Judge

⁴ If the permittee chooses to respond to the petitions for review pursuant to 40 C.F.R. § 124.19(b)(3), the permittee is required to file a single, consolidated response to the petitions for review by January 23, 2015. The permittee shall adhere to the same page limit that applies to the Region.

Appendix 1

Each petitioner in the matter of Windfall Oil & Gas, Inc., is listed below along with the corresponding UIC appeal number:

Travis P. Smith (14-73); Daniel J. and Cindy J. Crytser (14-74); Ted and Rona Crytser (14-75); Norma Gregorio (14-76); Bernard Pifer (14-77); Ruth A. Reitz (14-78); Rodney Pifer, Jr. (14-79); Brady Township Supervisors (14-80); Sandy Township Supervisors (14-81); Valerie J. Powers (14-82); Randell T. Powers (14-83); Kim Norris (14-84); Kathy Champion (14-85); Leslie Swope (14-86); Barb Emmer (14-87); Laurie Wayne (14-88); Ralph E. Hamby (14-89); Robert Green (14-90); Rev. James and Sherry Green (14-91); Ethel Marshall (14-92); Robert Marshall (14-93); Vivian Marshall (14-94); Beth Gilga (14-95); Dawn Smith (14-96); Robert and Pauline Wells (14-97); Del and Joan Spafford (14-98); Timothy H. Turner (14-99); Susan G. Turner (14-100); James W. Mack (14-101); Terrence and Susan Nasoni (14-102); Nora Jenney (14-103); Helen Jenney (14-104); Rob and Edye Stewart (14-105); Cecil E. Gelnett (14-106); Terry and Carole Lawson (14-107); Loretta Slattery (14-108); Darryl Beatty (14-109); Judy Chewing (14-110); Francis E. Hand (14-111); Rosemary Frizzell (14-112); John Hook (14-113); Albert Marsh (14-114); Barbara A. Marsh (14-115); Shirley Wells (14-116); Harry Peoples (14-117); Brenda Peoples (14-118); Donna J. Gardner (14-119); John Parsons (14-120); Kenneth R. Flanders (14-121); Sean Zimmerman (14-122); Emily Zimmerman (14-123); Monica Lockhart (14-124); David M. Kovall (14-125); Tom Nelen (14-126); Sue Nelen (14-127); Lorraine Shadduck (14-128); Sharlene King (14-129); Harriet J. Moyer (14-130); Dennis R. and Terry L. Marsh (14-131); Donald W. Krach (14-132); Delores Krach (14-133); Tim Bodt (14-134); Grace Bergin (14-135); Justin Kaufman (14-136); Deborah Stolfer (14-137); Tia Carpenter (14-138); Kari Armagost (14-139); Michael and Lacey Stockdale (14-140); Craig Carpin (14-141); Rhonda Charles (14-142); Kenneth Doverspike (14-143); Courtney Thompson (14-144); John M. Glabicki (14-145); Mechele Foust (14-146); Nicole Ludwig (14-147); Lynn Love (14-148); Joyce Braun (14-149); James Sykes (14-150); Patty Thomas (14-151); Dennis J. Charles (14-152); Julie and Matt Craig (14-153); Michelene Schwabenbauer (14-154); R.G. Ziegler (14-155); Wanda Lockwood (14-156); Donna Work (14-157); William Voris (14-158); Steven Cory Clark (14-159); Jennifer Hicks (14-160); Amanda Torrell (14-161); John Genevro (14-162); Bonnie Genevro (14-163); Donna J. Boring (14-164); Gale Wells (14-165); Kerri Bojalad (14-166); Ronald Greathouse (14-167); Joyce Greathouse (14-168); Peter L. Erickson (14-169); Dawn Erickson (14-170); Jonell Reay (14-171); Margaret Cyphert (14-172); Brady and Patricia LaBorde (14-173); Darlene Marshall (14-174); Duane Marshall (14-175); Nancy Moore (14-176); Stephen W. Way (14-177); Randall R. Baird (14-178); City of DuBois (14-179); Diane Bernardo (14-180); John M. Barr (14-181); Tabatha Smith (14-182); John E. Phillips (14-183); Doug and Debbie Heberling (14-184); Lesha Martinez (14-185); Wilson Fisher, Jr. (14-186); Marianne Atkinson (14-187); Richard Atkinson (14-188); and Matt Gabler (14-189).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Consolidating Petitions for Review** in the matter of Windfall Oil & Gas, Inc., UIC Appeal Nos. 14-73 through 14-177, were sent to the following persons in the manner indicated.

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Dated: DEC 3 2014

By: 
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Secretary