



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 26 2019

REPLY TO THE ATTENTION OF

WP-16J

RE: Final Permit for Muskegon Development Company's Holcomb 1-22 well in Clare County, Michigan; U.S. Environmental Protection Agency Permit Number MI-035-2R-0034

Dear Commenter:

On February 10, 2017, the U.S. Environmental Protection Agency notified the public of the first opportunity to comment on draft permit number MI-035-2R-0034. The public comment period ended on March 15, 2017. During the comment period, EPA received requests for a public hearing. A second opportunity to comment and a public hearing were announced June 21, 2017. A public hearing was held on July 25, 2017. On July 27, 2017, EPA notified the public that the second comment period would be extended from July 28 to August 18, 2017. EPA received and reviewed numerous comments on the draft permit. EPA's original Response To Comments and final Permit No. MI-035-2R-0034 were issued on July 3, 2018. The final permit was appealed to the Environmental Appeals Board (EAB) on August 10, 2018. The EAB issued a decision on April 29, 2019, with an order remanding in part and denying review in part.

This action constitutes issuance of a UIC Class II permit. Unless this permit decision is appealed to the EAB as described below, the permit will become effective on NOV 17 2019. Provided there is no appeal, conversion to an injection well will be authorized to commence on the effective date and in accordance with permit conditions.

The enclosed "Revised Response to Comments on Draft Class II Permit in Clare County, Michigan, Issued to Muskegon Development Company (Permit No. MI-035-2R-0034), Holcomb 1-22 Well" summarizes the comments received and EPA's response to each comment, pursuant to the April 29, 2019 EAB order. The comments did not raise significant issues to modify EPA's determination that the permit application and draft permit met federal Underground Injection Control (UIC) requirements. Anyone dissatisfied with EPA's decision on remand must file a petition seeking EAB review in order to exhaust administrative remedies under 40 C.F.R. § 124.19(l). Any such appeal shall be limited to issues EPA addressed on remand. Any petition shall identify the contested permit condition or other specific challenge to the permit decision and clearly set forth, with legal and factual support, petitioner's contentions for why the permit decision should be reviewed, as well as a demonstration that any issue raised in the petition was raised previously during the public comment period (to the extent required), if the permit issuer has responded to an issue previously raised, and an explanation of why the permit issuer's response to comments was inadequate as required by 40 C.F.R. § 124.19(a)(4). If you wish to request an administrative review, documents in EAB proceedings may be filed by mail (either through the U.S. Postal Service ("USPS") or a non-USPS carrier), hand-delivery, or electronically. The EAB does not accept notices of appeal, petitions for review, or briefs submitted by facsimile. All submissions in proceedings before the EAB may be filed electronically, subject to any appropriate conditions and limitations imposed by the EAB. To view the Board's Standing Orders concerning electronic filing, click


on the "Standing Orders" link on the Board's website at www.epa.gov/eab. All documents that are sent through the USPS, except by USPS Express Mail, must be addressed to the EAB's mailing address, which is: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1200 Pennsylvania Avenue, NW, Mail Code 1103M, Washington, DC 20460-0001. Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-USPS carrier such as UPS or Federal Express must be delivered to: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1201 Constitution Avenue, NW, WJC East Building, Room 3332, Washington, D.C. 20004. A petition for review of any condition of a UIC permit decision must be filed with the EAB within 30 days after EPA serves notice of the issuance of the final permit decision. 40 C.F.R. § 124.19(a)(3). When EPA serves the notice by mail, service is deemed to be completed when the notice is placed in the mail, not when it is received. However, to compensate for the delay caused by mailing, the 30-day deadline for filing a petition is extended by three days if the final permit decision being appealed was served on the petitioner by mail. 40 C.F.R. § 124.20(d). Petitions are deemed filed when they are received by the Clerk of the Board at the address specified for the appropriate method of delivery. 40 C.F.R. § 124.19(a)(3) and 40 C.F.R. § 124.19(i). The request will be timely if received within the time period described above. For this request to be valid, it must conform to the requirements of 40 C.F.R. § 124.19. This request for review must be made prior to seeking judicial review of any permit decision. Additional information regarding petitions for review may be found in the Environmental Appeals Board Practice Manual (August 2013) and A Citizen's Guide to EPA's Environmental Appeals Board, both of which are available at:

[http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/General+Information/
Environmental+Appeals+Board+Guidance+Documents?OpenDocument](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/General+Information/Environmental+Appeals+Board+Guidance+Documents?OpenDocument)

The EAB may also decide on its own initiative to review any condition of any UIC final permit decision. The EAB must act within 30 days of the service date of notice of the Regional Administrator's action. Within a reasonable time following the filing of the petition for review, the EAB shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action when a final permit decision is issued by the EPA pursuant to 40 C.F.R. § 124.19(l).

Sincerely,



 Joan M. Tanaka
Acting Director, Water Division

Enclosures