



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

In re Penneco Environmental Solutions, LLC
UIC Permit No. PAS2D702BALL
UIC Appeal No. 23-01

ORDER DENYING MOTION FOR CONSOLIDATION

On October 26, 2023, Protect PT and Three Rivers Waterkeeper filed a petition with the Environmental Appeals Board ("Board") seeking review of a final Underground Injection Control ("UIC") Class II-D permit decision issued by the U.S. Environmental Protection Agency, Region 3 ("Region") to Penneco Environmental Solutions, LLC ("Penneco"). Protect PT and Three Rivers Waterkeeper Petition for Review (Oct. 26, 2023). Subsequently, Penneco filed a motion to dismiss the petition on timeliness grounds. See Penneco's Motion to Dismiss the Petition for Review (Nov. 6, 2023). The Board denied the motion to dismiss, finding that the Region did not provide proper notice of the final permit decision consistent with the requirements of 40 C.F.R. § 124.15(a) and, as such, the thirty-day time period for filing an appeal of the final permit decision was never triggered. In re Penneco Environmental Solutions, LLC, 19 E.A.D. 13, 20 (EAB 2024). The Board ordered the Region to provide notice of the issuance of the final permit decision in accordance with the requirements of section 124.15(a) and stated that any additional appeal may then be filed pursuant to the requirements of 40 C.F.R. § 124.19. Id. As to Protect PT and Three Rivers Waterkeeper's petition, the order stated that the

Board would adjudicate that petition on the merits. *Id.* As required by the Board’s order, the Region provided notice of the final permit decision on March 7, 2024.

On April 8, 2024, Dr. Patricia B. Carr and Mr. Matthew Kelso filed a petition for review of the Class-II D permit that is the subject of the above-captioned appeal. Dr. Patricia B. Carr and Mr. Matthew Kelso Petition for Review (Apr. 8, 2024). The Region then filed a Motion for Consolidation of Appeals requesting that the Board consolidate the two petitions because “[b]oth [p]etitions raise substantially the same issues” and that consolidation would “preserv[e] scarce administrative decision-making resources and promot[e] efficiency.” Region’s Motion for Consolidation 1 (Apr. 10, 2024).

The Region’s motion states that it plans to file separate response briefs to the two petitions. The Board denies the Region’s motion for consolidation at this time and will maintain a separate docket for the two separately filed petitions.


The briefing schedule for the Protect PT and Three Rivers Waterkeeper petition for review (UIC Appeal No. 23-01) will proceed as set forth in the Board’s February 28, 2024 Order Denying Motion to Dismiss. *Penneco*, 19 E.A.D. at 22. The briefing schedule for the Dr. Patricia B. Carr and Mr. Matthew Kelso petition for review (UIC Appeal No. 24-02) will proceed under the timelines set forth in 40 C.F.R. § 124.19(b), (c).

The Board DENIES the Region’s motion for consolidation.

So ordered.

Dated: April 12, 2024

ENVIRONMENTAL APPEALS BOARD

By: 

Aaron Avila
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Denying Motion for Consolidation* in the matter of Penneco Environmental Solutions, LLC, UIC Appeal No. 23-01, were sent to the following persons in the manner indicated:

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Dated: Apr 12, 2024



Emilio Cortes
Clerk of the Board