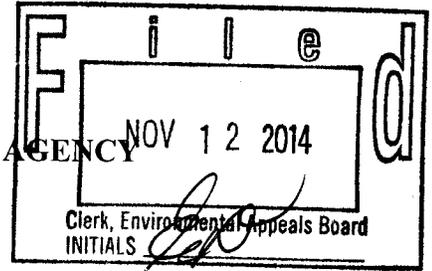


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
FutureGen Industrial Alliance, Inc.) UIC Appeal No(s): 14-68, 14-69, 14-70 &
) 14-71
Permit Nos.: IL-137-6A-001)
IL-137-6A-002)
IL-137-6A-003)
IL-137-6A-004)

ORDER GRANTING IN PART PETITIONERS' MOTION
FOR EXTENSION OF TIME TO FILE REPLY

Before the Environmental Appeals Board ("Board") are four administratively consolidated petitions for review that the Leinberger Family (Andrew H. Leinberger Family Trust and DJL Farm LLC) and William and Sharon Critchelow (collectively Petitioners) filed on October 1, 2014. The petitions challenge four separate Class VI Underground Injection Control ("UIC") permits that the U.S. Environmental Protection Agency ("EPA") Region 5 ("Region") issued to FutureGen Industrial Alliance, Inc ("FutureGen"), to construct and operate four sequestration wells for the purpose of injecting and storing carbon dioxide ("CO₂"), also known as "carbon sequestration." These permits are the first permits issued under the regulations authorizing carbon sequestration wells in the United States. Administrative Record No. 16 at 1.

On October 31, 2014, the Region and FutureGen each filed a consolidated response to the petitions. FutureGen also requested that the Board expedite this matter, primarily asserting concerns that delays associated with the administrative appeals part of the permitting process

may jeopardize financing for the project. *See* FutureGen's Motion for Expedited Review at 2-4 (Oct. 31, 2014) (Docket No. 9). On November 5, 2014, Petitioners requested an additional twenty-four days to file their reply brief, or until December 12, 2014.¹ *See* Petitioners' Motion for an Extension of Time to File Reply Briefs (Nov. 5, 2014) (Docket No. 11).

Having given due consideration to these motions, as well as the regulations governing appeals, the Board has concluded that allowing Petitioners an additional seventeen days to reply is reasonable and appropriately balances Petitioners' needs, the complexities of the matter and the intervening Thanksgiving holiday, with the interest in expeditious resolution. Additionally, given the overlapping arguments in each of the responses to the permit, the Board has determined that one consolidated reply would aid the Board in considering this matter as efficiently as possible.

Accordingly, the Board **GRANTS in part** Petitioners motion for extension. Petitioners may file one consolidated reply to the two responses to the petitions no later than **Friday, December 5, 2014**. Petitioners' reply must not exceed 10,000 words. *See* 40 C.F.R. § 124.19(d)(3) ("Unless otherwise ordered by the [Board] * * * [reply] briefs may not exceed 7,000 words."). Petitioners are reminded that no new issues or arguments may be raised in the reply. *See* 40 C.F.R. § 124.19(c)(2). Once fully briefed, the Board will proceed – as it does with

¹ By rule, Petitioners must file a reply within fifteen days after a response is filed, but also have an additional three days added to that time to account for mailing, which brings Petitioners' current reply deadline to November 18, 2014. *See* 40 C.F.R. §§ 124.19(c)(2), 124.20(d).

all matters before it – to decide the matter as expeditiously as possible while giving due consideration to the issues presented on appeal. The Board is making no decision regarding whether to hold oral argument at this time.

So ordered.

Dated: *November 12, 2014*

ENVIRONMENTAL APPEALS BOARD

By: *Leslye M. Fraser*

Leslye M. Fraser
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing Order Granting in Part Petitioners' Motion for Extension of Time to File Reply in *In re FutureGen Industrial Alliance, Inc.*, UIC Appeal Nos. 14-68 through 14-71, were sent to the following persons in the manner indicated:

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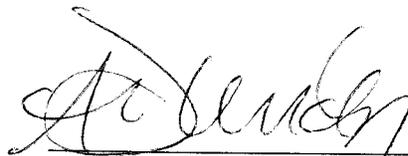
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Dated: NOV 12 2014



Annette Duncan
Secretary