

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

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In re:	)	
	)	
Muskegon Development Company	)	UIC Appeal No. 19-02
	)	
UIC Permit No. MI-035-2R-0034	)	
	)	

**ORDER TO SHOW CAUSE  
WHY PETITION SHOULD NOT BE DISMISSED  
FOR LACK OF JURISDICTION,  
AND REGARDING SERVICE VIA ELECTRONIC MAIL**

In July 2018, the U.S. Environmental Protection Agency Region 5 issued an Underground Injection Control Permit (“Permit”) to Muskegon Development Company (“Muskegon”). The Permit authorized Muskegon to convert an existing oil production well in Clare County, Michigan, the Holcomb 1-22 well, for injection of fresh water to enhance oil recovery from Muskegon’s other nearby production wells.

Mr. Emerson J. Addison III timely appealed the Region’s permit decision to the Environmental Appeals Board (“Board”). The Board remanded the Permit in part and denied review in part. *See generally In re Muskegon Dev. Co.*, 17 E.A.D. 740 (EAB 2019). The Board directed the Region to address two issues on remand. First, the Board held that the current state of the Region’s Response to Comments document (“RTC”), providing Agency responses to public comments on the draft version of the Permit, substantially impeded a determination as to whether the Region considered and meaningfully responded to certain comments and thereby exercised its considered judgement in issuing the Permit. *Id.* at 746-52. Second, the Board held that it was unable to determine whether the Region appropriately evaluated the environmental justice implications of the permitting action. *Id.* at 754-56.

The Board specified that “[a]nyone dissatisfied with the Region’s decision on remand must file a petition seeking Board review in order to exhaust administrative remedies under 40 C.F.R. § 124.19(l). Any such appeal shall be limited to issues the Region addresses on remand.” *Muskegon Dev.*, 17 E.A.D. at 762 n.11.

On October 25, 2019, Mr. Addison filed a document with the Board captioned “Petition for Review and Petitioner Response to EPA 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.” In the body of his filing, Mr. Addison alternatively refers to the document as “[t]his Petition for Review / Reply Brief.” Pet. at 8. Mr. Addison’s filing references what appears to be the RTC prepared for the July 2018 Permit, along with a “Revised RTC on draft.” *See, e.g., id.* at 9, 13, 15.

The Board adjudicates appeals from an Underground Injection Control final permit decision under 40 C.F.R. part 124. It is not apparent from Mr. Addison’s filing what decision he is appealing or the basis for the Board’s jurisdiction over his Petition for Review. Mr. Addison does not reference any of the part 124 regulatory provisions or any other authority to support the Board’s jurisdiction over his Petition for Review. He also does not attach the “Revised RTC on draft” document that he cites in his filing, nor does he reference or attach any new permit decision made by the Region after the Board’s remand.


Accordingly, the Board orders Mr. Addison to show cause why his petition should not be dismissed for lack of jurisdiction. Mr. Addison must file his response to this Order on or before **Wednesday, November 13, 2019**. EPA Region 5 may file a reply to Mr. Addison’s response, if it so chooses, on or before **Thursday, November 21, 2019**.

Further, pursuant to 40 C.F.R. § 124.19(i)(3)(iii), the Board may use e-mail (Clerk\_EAB@epa.gov) to serve orders and decisions in this matter at the addresses provided by the parties. Parties shall promptly file a notice in this matter informing the Board and the other parties if their e-mail addresses change.

So ordered.

**ENVIRONMENTAL APPEALS BOARD**

Dated: November 4, 2019

By:   
\_\_\_\_\_  
Aaron P. Avila  
Environmental Appeals Judge

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing **Order to Show Cause Why Petition Should Not Be Dismissed for Lack of Jurisdiction, and Regarding Service Via Electronic Mail** in the matter of *Muskegon Development Company*, UIC Appeal No. 19-02, were sent to the following persons in the manner indicated:

**By Electronic Mail:**


Emerson J. Addison III  
17210 Maple Hill Drive  
Northville, Michigan 48168  
[emerson.addison@gmail.com](mailto:emerson.addison@gmail.com)

Thomas P. Turner  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, Illinois 60604  
[turner.thomas@epa.gov](mailto:turner.thomas@epa.gov)

Muskegon Development Company  
c/o: Gina A. Bozzer, Esq.  
Joseph E. Quandt, Esq.  
Khun Rogers P.L.C.  
412 South Union Street  
Traverse City, Michigan 49684  
[gabozzer@krlawte.com](mailto:gabozzer@krlawte.com)  
[jequandt@krlawte.com](mailto:jequandt@krlawte.com)

Pooja Parikh  
Attorney Advisor  
U.S. Environmental Protection Agency, Water Law Office  
Office of General Counsel  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
[parikh.pooja@epa.gov](mailto:parikh.pooja@epa.gov)

Date: **Nov 04 2019**

  
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Eurika Durr  
Clerk of the Board