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

In re:	
Beeland Group, LLC	UIC Appeal Nos. 08-01, 08-02, 08-03
UIC Permit No. M1-009-1I-0001	

ORDER CONSOLIDATING CASES, GRANTING MOTION TO INTERVENE, AND GRANTING EXTENSION OF TIME

The above-captioned petitions for review ("Petitions") concern the February 9, 2008 decision by the U.S. Environmental Protection Agency ("EPA" or "Agency"), Region 5 to issue Underground Injection Control ("UIC") permit number MI-009-1I-0001 ("Permit") to Beeland Group, LLC ("Beeland"). The Permit, effective March 12, 2008 through March 12, 2018, authorizes Beeland to construct and operate a Class I non-hazardous injection well in Antrim County, Michigan. The issuance of UIC permits is governed by 40 C.F.R. part 144 and the procedural rules set forth in 40 C.F.R. part 124.

The Petitions request that the Environmental Appeals Board ("Board") review certain Permit conditions. Allen and Trisha Freize (the "Freizes"), members of Friends of the Jordan, submitted a letter to the Board on March 6, 2008, which the Board has designated as a petition for review (UIC Appeal No. 08-01). On March 11, 2008, Star Township, Antrim County, and Friends of the Jordan River, filed additional petitions for review. Specifically, Star Township,

Antrim County, and Friends of the Jordan River (collectively, the "FJR Petitioners") jointly filed one petition for review (UIC Appeal No. 08-02), and Friends of the Jordan River Watershed, Inc., ("FJRW") submitted a separate filing (UIC Appeal No. 08-03).

Upon consideration, the Board has determined to administratively consolidate the processing and consideration of the Petitions. Administrative consolidation means that the Clerk of the Board will maintain for all appeals a single case file in which all documents filed in the cases will be lodged. Accordingly, any filing that applies to more than one case may be submitted to the Board as one filing, with the appropriate appeal numbers listed in the caption. Collectively, the appeals may be captioned as Beeland Group, LLC, UIC Appeal Nos. 08-01, 08-02, and 08-03.

By motion filed March 21, 2008, Beeland seeks leave to intervene as a party-respondent, or in the alternative, requests to respond to the Petitions. Beeland states that "as a permittee, it has a significant interest relating to the petition [,] * * *any final order may as a practical matter impair Beeland's ability to protect its interest in the [P]ermit[,] and * * * Beeland's interest is not adequately represented by existing parties." Permittee Beeland Group, LLC's Motion to Intervene, or in the Alternative, Request to Respond to Petitions to Review Nos. UIC 08-01, 08-02, and 08-03 ("Motion to Intervene") at 3. Beeland adds that "the interests of the EPA as regulators, and of Beeland, the permittee, are different." *Id.* The Motion to Intervene is unopposed by the FJR Petitioners. The Board's efforts to contact FJRW and the Freizes by telephone have been unsuccessful.

The Board generally allows "the permit applicant to respond to a petition filed by a third party petitioner if the permit applicant has filed a request to respond." EAB Practice Manual § III.D.1. Additionally, the Board previously has granted permittees' motions for intervention. *See, e.g., In re Gen'l Motors, Inc.*, 10 E.A.D. 360, 368-9 (EAB 2002); *In re Phelps Dodge Corp.*, 10 E.A.D. 460, 470 (EAB 2002) (same). Accordingly, the Board grants the Motion to Intervene.

Beeland also moves for an extension of time to file a response seeking summary disposition of the Petitions. Beeland requests that the Board grant this request and allow until April 11, 2008 for the filing of a response seeking summary disposition so that Beeland may "fully address the issues of jurisdiction, timeliness, standing, and preservation of issues for review." *See* Permittee Beeland Group, LLC's Motion for Extension of Time to Respond to Petitions for Review Nos. UIC 08-01, 08-02, and 08-03 ("Motion for Extension of Time") at 3. Beeland further requests "that if the Board determines that summary disposition is not appropriate, that it has 15 days to respond to the merits of the petition after the Board's Order." *Id.* Beeland does not provide a requested date for filing a response to the merits of the Petitions in the event it does not seek summary disposition. The Motion for Extension of Time is unopposed by the FJR Petitioners. The Board's efforts to contact FJRW and the Freizes by telephone have been unsuccessful.

The Board instructed the Region to file a response seeking summary disposition of the Petitions, if appropriate, no later than March 27, 2008. *See* Letter from Eurika Durr, U.S. EPA, Environmental Appeals Board, to Robert Kaplan, U.S. EPA, Region 5, Office of Regional

Counsel, at 1 (Mar. 12, 2008). The Region has not done so. However, failure to raise arguments in support of summary disposition at this time does not preclude the Region, or another party, from raising those issues later in its response to the merits of the Petition.

Based on the foregoing, the Board grants the Motion for Extension of Time and establishes the following briefing schedule in these appeals:

1) On or before April 11, 2008, Beeland shall file its response seeking summary disposition of the Petitions.

2) On or before April 21, 2008, the Freizes, FJR Petitioners, and FJRW may file replies to Beeland's response seeking summary disposition.

3) The schedule for the briefs responding to the merits of the Petitions will be established by subsequent Board order.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: March 27, 2008

By: Anna L. Wolgast
Anna L. Wolgast
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Consolidating Cases, Granting Motion to Intervene, and Granting Extension of Time in the matter of *Beeland Group, LLC*, UIC Appeal Nos. 08-01, 08-02, and 08-03, were sent to the following persons in the manner indicated:

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