

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

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| In the Matter of: |) | |
| Jordan Development Co., LLC, |) | Appeal Nos. UIC 18-06 |
| Traverse City, Michigan, |) | UIC 18-07 |
| Grove #13-11 SWD, |) | UIC 18-08 |
| Permit No. MI-051-2D-0031 |) | UIC 18-09 |

OPPOSED MOTION FOR EXTENSION OF WORD COUNT LIMIT

The U.S. Environmental Protection Agency Region 5 (“Region 5”) respectfully asks the Board to grant this motion for a 3,000-word extension to the length limit for its response brief in this matter, to 17,000 words.

INTRODUCTION AND BACKGROUND

On September 15, 2017, Region 5 issued for public comment a draft permit for Jordan Development Company, LLC’s proposed Grove #13-11 Salt Water Disposal (SWD) Class II Underground Injection Control (UIC) well in Gladwin County, Michigan (“Grove #13-11 draft permit”). On October 23, 2018, Region 5 issued a final permit for the Grove #13-11 well, Permit No. MI-051-2D-0031 (“Grove #13-11 Permit”), as well as a response to comments that Region 5 received regarding the Grove #13-11 draft permit. Region 5 issued the Grove #13-11 Permit under the Safe Drinking Water Act, 42 U.S.C. §§ 300h-300h-8, and under the regulations at 40

C.F.R. Parts 124, 144-148. On October 26, 2018, Region 5 mailed the Grove #13-11 Permit and response to comments to all persons who had submitted comments to Region 5 regarding the Grove #13-11 draft permit.

Between November 21-28, 2018, four individuals filed petitions with the Environmental Appeals Board (“Board”) appealing the Grove #13-11 Permit decision: UIC Appeal Nos. 18-06 (Emerson Addison), 18-07 (Ron Kruske), 18-08 (Amy Kruske) and 18-09 (Jennifer Springstead). In a December 13, 2018 order, the Board consolidated these four appeals into one matter and granted Region 5 an extension of time to respond to the consolidated petitions, until February 11, 2019. In a February 5, 2019 order, the Board granted Region 5 a further extension of time to respond to the consolidated petitions due to the government shutdown, until March 13, 2019.

Pursuant to 40 C.F.R. § 124.19(f)(2), Region 5 sought to ascertain whether each party concurred with or objected to this motion. Specifically, Region 5 emailed all four parties on February 25, 2019. All Petitioners object to this motion.

ARGUMENT

1. The Board should grant Region 5 a 3,000-word extension to respond to the four consolidated petitions.

The Board should grant Region 5 a 3,000-word extension of its word count to respond to the four consolidated petitions of UIC Appeal Nos. 18-06, 18-07, 18-08 and 18-09 in one response brief. 40 C.F.R. § 124.19(d)(3) allows Region 5 a 14,000-word limit for any response brief. In this matter, Region 5 must however respond to four petitions in one brief. Two petitions (those of Ronald Kruske and Jennifer Springstead) present identical sets of arguments, so in practice Region 5 must respond to three sets of arguments in one response brief. Region 5

sought to consolidate the petitions in the interest of efficiency, though this compressed Region 5's word count for a response from 56,000 words (if EPA responded to the four petitions separately) to 14,000 words (for a consolidated response to all four petitions).

Region 5 did not move for a word-count extension before now because it did not wish to ask for a speculative extension that it might not need, or that might turn out to be inadequate. Region 5 moves for this extension at this time because it now has a complete draft response, currently undergoing internal EPA review. Accordingly Region 5 now knows the range of the brief's word count with adequate certainty to assess its word-count needs. Region 5 has worked to write its brief economically, while still appropriately addressing all the petitions. Region 5 is only asking for the additional word count it actually will need, including a reasonable allowance for additional changes due to internal review.

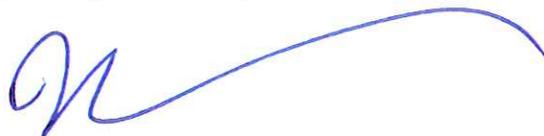
Petitioners have expressed no relevant reason for opposing this motion. Petitioner Springstead stated no reason. Petitioner Addison cited his belief that EPA officials "must learn the art of brevity." Region 5 submits that, in light of the consolidation of petition responses, this is not an appropriate basis to deny the word count extension. Petitioners Ron and Amy Kruske stated that a mandatory reduction in word count is a natural consequence of Region 5's motion to consolidate the four petitions. Region 5 reiterates that properly addressing three sets of arguments in one brief has nonetheless required a small increase in word count.

EPA's Office of General Counsel and Office of Water both agree with the proposed 3,000-word extension.

CONCLUSION

The Board should grant this motion for a 3,000-word extension to the length limit for Region 5's response brief in this consolidated matter, to 17,000 words.

Respectfully submitted,



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Dated: March 1, 2019

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CERTIFICATE OF SERVICE

I hereby certify that the original of this **OPPOSED MOTION FOR EXTENSION OF WORD COUNT LIMIT** in the matter **JORDAN DEVELOPMENT COMPANY, LLC OF TRAVERSE CITY, MICHIGAN, GROVE #13-11 SWD, PERMIT NO. MI-051-2D-0031, GLADWIN COUNTY, MICHIGAN, UIC Appeal Nos. 18-06, 18-07, 18-08 and 18-09**, was filed by facsimile with the Board, with the original to be submitted to the Board by electronic filing, mail or hand-delivery within one business day.

Further, I hereby certify that one copy of this **OPPOSED MOTION FOR EXTENSION OF WORD COUNT LIMIT** in the matter **JORDAN DEVELOPMENT COMPANY, LLC OF TRAVERSE CITY, MICHIGAN, GROVE #13-11 SWD, PERMIT NO. MI-051-2D-0031, GLADWIN COUNTY, MICHIGAN, UIC Appeal Nos. 18-06, 18-07, 18-08 and 18-09**, was sent to the Petitioners and Permittee, via email pursuant to Board order, to the following addresses:

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Kris P. Vezner

March 1, 2019
Date