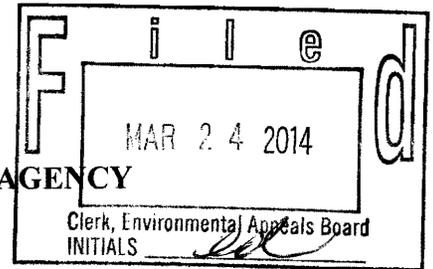


**ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**



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In re: ) )  
) )  
Windfall Oil & Gas, Inc. ) UIC Appeal Nos. 14-04 through 14-62  
) )  
) )  
UIC Permit No. PAS2D020BCLE ) )  
\_\_\_\_\_) )

**ORDER CONSOLIDATING PETITIONS FOR REVIEW**

On February 14, 2014, the U.S. Environmental Protection Agency Region 3 (“Region”) issued an Underground Injection Control (“UIC”) permit, Number PAS2D020BCLE (“Permit”), to Windfall Oil & Gas, Inc. (“Windfall”). The Permit authorizes Windfall to construct a Class II-D injection well, the Zelman #1, and inject fluids produced in association with oil and gas production into the Huntersville Chert/Oriskany formation.

The Environmental Appeals Board (“Board”) received sixty-one petitions<sup>1</sup> for review of the Permit.<sup>2</sup> Four petitioners filed more than one timely petition for review. The Board has

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<sup>1</sup> The Board explains below its decisions regarding four petitioners who filed more than one petition for review. As such, the electronic docket lists fifty-nine petitions for review.

<sup>2</sup> The Board’s publicly available electronic docket can be accessed at [www.epa.gov/eab](http://www.epa.gov/eab) (click on “EAB Dockets,” then “Active Dockets”).

The petitioners (and corresponding UIC appeal numbers) are: Marianne and Richard Atkinson (14-04); Sue Barr (14-05); James W. and Norma S. Mack (14-06); Helen Jenney (14-07); Barbara A. London (14-08); Cecil E. Gelnett (14-09); Joyce Greathouse (14-10); Ronald Greathouse (14-11); Vivian L. Marshall (14-12); Nora Jenney (14-13); Dennis and Terry Marsh (14-14); Ken and Bev Flanders (14-15); Francis E. Hand (14-16); Rosemary Frizzell (14-17); Ralph E. Hamby (14-18); John Parsons (14-19); Tom and Sue Nelen (14-20); Beth Gilga (14-21); Robert Marshall (14-22); Ethel Marshall (14-23); Lorraine Shaddock (14-24); Rev. James and Sherry Green (14-25); Terry and Carole Lawson (14-26); Loretta Slattery (14-27); Valerie J. Powers (14-28); Duane Marshall (14-29); Darlene Marshall (14-30); Sandy Township Board of Supervisors (14-31); Brady Township Supervisors (14-32); Jack Chewing (14-33); Nancy Moore (14-34); City of DuBois (14-35); Diane Bernardo (14-36); Travis P. Smith (14-37);

previously addressed multiple filings of a petition for review by the same person or entity. *See, e.g., In re City of Palmdale*, PSD Appeal No. 11-07 (EAB Apr. 5, 2012) (Order Identifying Petition for Review and Denying Requests for Status Conference, Leave to File Reply, and Oral Argument) (“Palmdale Order”). Although the circumstances in these appeals differ from those described in *City of Palmdale*, the premise that each petitioner may only file a single petition for review applies here. *See* Palmdale Order at 4-5. The Board addresses each instance of multiple petitions for review below.

The City of DuBois filed two identical petitions for review. One petition was filed electronically on March 13, 2014, and was signed by the mayor, four members of the city council, and the city manager. The Board received the second petition for review through the mail on March 14, 2014. The only difference between the two petitions was that the city manager did not sign the second, mailed petition. The Board will consider the City of DuBois’s petition for review to be the electronically filed petition received on March 13, 2014. The City of DuBois’s appeal is docketed as UIC Appeal Number 14-35.

Ms. Nancy Moore also filed two substantially similar petitions for review. The Board received one in the mail on March 12, 2014, and the second via electronic filing the next day. Ms. Moore’s petitions were written on City of DuBois letterhead, and each was signed by Ms. Moore as the Chairperson of the City of DuBois Planning Commission. Ms. Moore also

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Rep. Matt Gabler (14-38); Barb Emmer (14-39); Leslie Swope (14-40); John Barr (14-41); Judy Chewning (14-42); Monica A. Lockhart (14-43); Albert T. Marsh (14-44); Robert and Pauline Wells (14-45); Shirley Wells (14-46); Reta Rice (14-47); Jonell Reay (14-48); Joan Spaffora (14-49); Donna Gardner (14-50); Sharlene J. King (14-51); Harriet J. Moyer (14-52); Stephen W. Way (14-53); Clearfield County Commissioners (14-54); Ted and Rona Crytser (14-55); Randall R. Baird (14-56); David Keith (14-57); Travis P. Smith (14-58); John T. Hook (14-59); Laurie Wayne (14-60); Brady LaBorde (14-61); Duane Marshall (14-62).

included her home address and contact information on each petition. Because the mayor and city council of the City of DuBois separately submitted multiple petitions for review on behalf of the City of DuBois, the Board construes Ms. Moore's petitions to be filed on her own behalf as an individual. Ms. Moore's petitions are identical except for the correction of a clerical error on the top of page two and one additional newspaper article appended to her later-filed, second petition for review. The Board construes Ms. Moore's second petition as an amended petition for review, and considers the amended petition her petition for review. The appeal is docketed as UIC Appeal Number 14-34.

Mr. Duane Marshall and Mr. Travis P. Smith each filed two petitions for review. Mr. Marshall filed his petitions through the mail, whereas Mr. Smith filed his petitions electronically. Mr. Marshall filed his first petition, a two-page letter, on March 12, 2014 (UIC Appeal No. 14-29) (Docket No. 26), and his second petition, a 10-page letter, on March 14, 2014 (UIC Appeal No. 14-62) (Docket No. 59). Mr. Smith electronically filed his first petition, a two-page letter with his comments on the proposed permit attached, on March 11, 2014 (UIC Appeal No. 14-58) (Docket No. 55), and his second petition, an eight-page letter, on March 13, 2014 (UIC Appeal No. 14-37) (Docket No. 34).

Mr. Marshall and Mr. Smith each filed two petitions for review that differ considerably in length and scope. Mr. Smith does not refer to his previously filed two-page letter in his second, longer letter, although both letters state that they comply with the Board's word limitations. Mr. Marshall's second letter explains that it is "additional information to add to my first letter," and that "[b]oth letters combined will not exceed the petition for review word limitation." Duane Marshall Petition for Review at 1 (Mar. 14, 2014) (Docket No. 59).

It is the petitioner's responsibility to file a single petition for review that meets the Board's threshold procedural requirements. *See In re City of Palmdale*, PSD Appeal No. 11-07, at 8 (EAB Mar. 1, 2012) (Order to Show Cause As To Why Petition Should Not Be Dismissed) ("It is not incumbent upon the Board to review multiple versions of a petition for review to ascertain whether, in the aggregate, threshold requirements are met."). The Board orders Mr. Marshall and Mr. Smith to each clearly identify by docket number in a written submission to the Board which of their two respective filings they wish to designate as the petition for review in this matter. Mr. Marshall's and Mr. Smith's responses to this order must be received by the Board no later than **Friday, April 4, 2014**.

On Friday, March 21, the Board received a notice filed by Darlene Marshall stating that two petitioners, John Hook and Laurie Wayne, had not received notice of the final UIC permit from the Region despite having filed comments on the draft permit. Letter from Darlene Marshall (Mar. 21, 2014) (Docket No. 60). The Board previously received Mr. Hook's and Ms. Wayne's timely filed petitions for review and assigned them each an appeal number. *See* note 2 above.

In many instances the Board received separate petitions filed by persons who share the same address. In the interests of efficiency and economy, the Board will serve one copy of any order or decision per physical address provided.

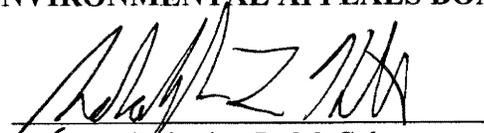
For administrative convenience and in the interest of efficiency, the Board hereby consolidates the petitions for review of the Permit. The Region should submit a single,

consolidated response, and must do so no later than **Friday, April 18, 2014.**<sup>3</sup>

So ordered.

Date: March 24, 2014

**ENVIRONMENTAL APPEALS BOARD**

  
for Catherine R. McCabe  
Environmental Appeals Judge

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<sup>3</sup> If the permittee chooses to respond to the petitions for review pursuant to 40 C.F.R. § 124.19(b)(3), the permittee is required to file a response by the same deadline as the permit issuer. The permittee should also submit a single, consolidated response to the petitions for review.

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Consolidating Petitions for Review in the matter of Windfall Oil & Gas, Inc., UIC Appeal Nos. 14-04 through 14-62, were sent to the following persons in the manner indicated:

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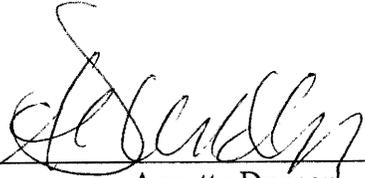
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Dated: MAR 24 2014

By:   
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Secretary