

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

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In re Wabash Carbon Services, LLC

Permit Nos. IN-165-6A-0001 (Vermillion) and IN-167-6A-0001 (Vigo) UIC Appeal No. 24-01

ORDER GRANTING EXTENSION OF TIME

On February 22, 2024, Andrew Lenderman, Ben Lenderman, Floyd Lenderman, and Jessie Lenderman filed a petition for review of two Class VI underground injection control ("UIC") permits issued by U.S. Environmental Protection Agency Region 5 ("Region") to Wabash Carbon Services, LLC. The Region filed a motion seeking an extension of time to file its response brief, a certified index of the administrative record, and relevant portions of the administrative record. *See* Motion for Extension of Time 1 (Mar. 14, 2024) ("Motion"). The Region's response is currently due on March 26, 2024. *See* 40 C.F.R. §§ 124.19(b)(2), .20(d). The Region requests an extension of time until April 25, 2024. Motion at 1.

In support of the Motion, the Region states that the petition for review "raises legal and technical claims that warrant consultation with multiple divisions in the Agency * * * at the highest management and political levels." *Id.* The Region also states that the National Environmental Policy Act claims in the petition for review are "similar to claims raised in" *In re Powertech (USA) Inc.*, UIC Appeal No. 20-01 (filed Dec. 24, 2020), which is currently pending before the Board. *Id.* To address the petition for review and "ensure the Board has the full benefit of the Agency's position on this issue under different permit appeals," the Region

represents that it "plans to coordinate with multiple attorneys in several specialized disciplines within the Region and across the Agency." *Id.* at 1-2. Additionally, the Region represents that the administrative records for the permits are "voluminous and contain personally identifiable information that the Region plans to redact and handle securely." *Id.* According to the Region, the Petitioners and Permittee do not object to or oppose the Motion. *Id.* at 2.

The Board **GRANTS** the Motion. *See* 40 C.F.R. § 124.19(f)(6), (n). The Region shall file its response to the petition for review on or before **Thursday**, **April 25, 2024**. The Region must file a certified index of the administrative record and the relevant portions of the administrative record on or before the same date. *See id.* § 124.19(b)(2). The same deadline applies to the Permittee should it choose to file a response to the petition for review. *Id.* § 124.19(b)(3). Additionally, if they choose to participate, States or Tribal authorities where the permitted facility is located must file a notice of appearance and a response to the petition with the Board on or before **Thursday**, **April 25, 2024**. *See id.* § 124.19(b)(4).

Pursuant to 40 C.F.R. § 124.19(i)(3)(iii), the Board may use email (Clerk_EAB@epa.gov) to serve orders and decisions in this matter to the addresses provided by the parties. Additionally, the Board has authorized all parties in permit appeals to use email to fulfill their service obligations under 40 C.F.R. § 124.19(i)(3)(ii). *See* Env't Appeals Bd., U.S. EPA, *Revised Order Authorizing Electronic Service of Documents in Permit and Enforcement Appeals* (Sept. 21, 2020). The parties shall promptly notify the Board and the other parties of any change to their email address. The parties should continue to use the Board's electronic filing system for filing all documents in this appeal. So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: March 18, 2024

By: _____ _____ Aaron P. Avila Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Granting Extension of Time* in the matter of Wabash Carbon Services, LLC, UIC Appeal No. 24-01, were sent to the following persons in the manner indicated:

By Email:

For Petitioners:

M. Shane Harvey Chad Sullivan JACKSON KELLY PLLC Post Office Box 553 Charleston, WV 25322 Tel.: (304) 340-1000 Fax: (304) 340-1130 sharvey@jacksonkelly.com cjsullivan@jacksonkelly.com

For EPA:

Amanda Urban, Associate Regional Counsel Andre Daugavietis, Associate Regional Counsel Office of Regional Counsel EPA Region 5 77 West Jackson Blvd. C-14J Chicago, IL 60605 Tel.: (312)353-4331 Tel.: (312) 886-6663 urban.amanda@epa.gov daugavietis.andre@epa.gov

For Wabash Carbon Services, LLC:

Kerry L. McGrath Hunton Andrews Kurth LLP 2200 Pennsylvania Ave. NW Washington, DC 20037 Tel.: (202) 955-1519 kmcgrath@HuntonAK.com

Samuel L. Brown Hunton Andrews Kurth LLP 50 California St., Suite 1700 San Francisco, CA 94111 Tel.: (415) 975-3714 slbrown@HuntonAK.com

Dated: Mar 18, 2024

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Emilio Cortes Clerk of the Board