

Marianne Atkinson
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RE: Windfall Oil & Gas, Inc.
Permit # PAS2D020BCLE
PERMITTED FACILITY: Class II-D injection well, Zelman #1

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001

February 13, 2015

Dear Clerk Durr,

I am submitting this MOTION FOR LEAVE TO FILE A REPLY TO REGION III'S RESPONSE TO PETITIONS FOR REVIEW of UIC Permit # PAS2D020BCLE for Windfall Oil & Gas to construct and operate the Zelman #1 Class II Disposal Injection well.

This MOTION FOR LEAVE TO FILE A REPLY TO REGION III'S RESPONSE TO PETITIONS FOR REVIEW of UIC Permit # PAS2D020BCLE complies with word limitations. I did participate in the public hearing and the two public comment periods regarding this matter.

Sincerely,

Marianne Atkinson

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Federal Regulations:

40 CFR §124.19 (a)(4)(ii).....1, 2

End - Certificate of Service

PETITIONER MARIANNE ATKINSON'S MOTION FOR LEAVE TO FILE A REPLY TO REGION III'S RESPONSE TO PETITIONS FOR REVIEW

I am requesting relief from 40 CFR §124.19 (a)(4)(ii) because of the Regional Administrator's response (Administrative Record, 2015 EPA Response to Petitions for Review, #8 on page 45) to my petition for review (UIC Appeal No. 14-187). In my petition for review, I elaborated on my original comment (Administrative Record, G-3 2012 written comments C, page 52), by adding the need for the Region to regulate the specific corrosion inhibitor and biocide additives injected underground into the disposal well in combination with the waste fluids produced in association with oil and gas production operations.

The Draft and Final Permits clearly state the following in Part III B. 2.: "Injection Fluid. The permittee shall not inject any hazardous substances, as defined by 40 CFR 261, nor any other fluid, other than the fluids produced solely in association with oil and gas production operations." (Administrative Record, D draft permit, and BB 2014-Oct final permit)

Windfall, in their permit application, states that they intend to add additional fluids to treat the injected fluids. These additional fluids are FE Ox Clear and Alpha 2278W. Windfall says that one is an oxygen scavenging agent and the other is for corrosion control. Windfall will also add Alpha 3207, which is a corrosion inhibitor, after the waste fluids are filtered and before injecting. (Administrative Record, B-5, application 5, page 7, Attachment K)

My original comment said that since the Draft and Final Permits both state that Windfall is permitted to inject only "fluids produced solely in association with oil and gas production operations", adding the additional fluids would constitute a violation of the exact wording of the permit. (Administrative Record, G-3 2012 written comments C, page 52)

In the Response to Comments, the Region stated: "The additives are not added to the fluid for the purpose of disposal but rather to prevent corrosion in the injection well, and are often also used in production wells. The proper operation and maintenance of a Class II well can require use of such additives." (Administrative Record, cc 2014 Response to Comments, page 19)

Furthermore, in the Response to Petitions for Review, the Region adds the following permission to the injection well operator: "The best corrosion inhibitor for the Windfall operations may change if the composition of the injection fluid and downhole environment should change. The proper maintenance of the well may require changes in the corrosion inhibitors. Because of this, it is not appropriate to dictate the use of a particular corrosion inhibitor in the permit." (Administrative Record, EPA 2015 Response to Petitions for Review, page 46)

When considering whether this petitioner should be granted relief from 40 CFR §124.19 (a)(4)(ii), the EAB should note that after the public hearing, the Region, in its Response to Petitions for Review, changed and expanded its permissions to the injection well operator, according to the previous paragraph.

The Region has, by its responses to comments and petitions for review, made tacit admissions that the disposal injection well operator is given freedom to perform activities that could potentially endanger USDWs, with no written regulations involved which require permission of and notification to the Region.

During the comment period, I researched for and submitted 5 different comments. It is not reasonable for the EAB to expect an ordinary citizen to thoroughly understand all of the intricacies involved with the construction, operation, and regulation of a disposal injection well in the short amount of time allowed for public comment.

After the public comment period closed, I became aware of a study called “Final Injection Well Construction Practices and Technology” that was prepared for the U.S. EPA Office of Drinking Water. (Administrative Record, X techguide_uic_inj_well_constr_practices_1982, pages 157 - 162) It has lists of corrosion inhibitors and bactericides for use in injection wells.

Under Corrosion Inhibitors on page 157, the above study states, “Many of these organic and inorganic inhibitors are considered toxic substances, and therefore must be used with caution to prevent contamination of potential potable water sources.”

Under Bactericides on page 161, the above study states, “It should be noted that many bactericides exhibit varying amounts of toxicity to humans, and thus, injection of these substances into underground formations should be practiced in such a way to prevent contamination of potential sources of drinking water.”

On page 160 of the above study, there is a list of 24 possible corrosion inhibitors. On page 162 of the above study, there is a list of 10 possible bactericides.

I did not raise the issue of which corrosion inhibitors and bactericides would be added to the waste fluids during the comment period because of the limited amount of time available to research and learn about all of the possible additives that could be used to treat the waste fluids. Also, during the comment period, I was not aware of the study referred to above. There are a large variety of corrosion inhibitors and bactericides that are available, each with a different level of toxicity.

Many private water wells are near the proposed disposal injection well, including 17 private water sources within the Area of Review. The users of these water supplies deserve to know specifically what additives are being used to treat the waste fluids. If anyone believes that their drinking water supply has become contaminated from the disposal injection well, they need to know which contaminants to test their water for.

The Region fails to specify in the Permit what additives are permitted. I interpret the Region’s response to my petition to mean that the disposal injection well operator is not required to adhere strictly to the wording of the Permit requirements. If so, either the operator will be violating the Permit, or the regulations and the Permit are inadequate for the successful and safe operation of a Class II disposal injection well.

This Petitioner should be granted relief from 40 CFR §124.19 (a)(4)(ii) and the Permit should be denied until the EPA changes the regulations and the UIC Permit so that the EPA can legally control the additives to the waste fluids that the disposal injection well operator is permitted to use.

To attempt to ascertain whether other parties concur or would object to this motion, other parties were contacted via electronic mail on February 11, 2015, including Region 3/Nina Rivera and Windfall Oil & Gas. Nine petitioners responded, stating that they did not object to the motion. Region 3/Nina Rivera replied that she would object. Windfall Oil & Gas did not respond.

Date: February 13, 2015

Respectfully submitted by,

Marianne Atkinson

Certificate of Service

I, the undersigned, certify that the foregoing *MOTION FOR LEAVE TO FILE A REPLY TO REGION III'S RESPONSE TO PETITIONS FOR REVIEW* of UIC Permit No. PAS2D020BCLE was filed with the Environmental Appeals Board via Certified First Class Mail, return receipt requested and served on the following via Certified First Class U.S. Mail, return receipt requested and was also electronically filed by email with the EAB, US EPA Region III and Windfall Oil & Gas:

Permitting Authority

United States Environmental Protection Agency
Region III
Attention: Shawn M. Garvin, Regional Administrator
1650 Arch Street
Philadelphia, PA 19103-2029

Windfall Oil & Gas
377 Aviation Way
Reynoldsville, PA 15851

The foregoing *MOTION FOR LEAVE TO FILE A REPLY TO REGION III'S RESPONSE TO PETITIONS FOR REVIEW* of UIC Permit No. PAS2D020BCLE was electronically filed by email with the following:

A Torrell <mandyrwells@yahoo.com>; B Marsh <barbaramarsh.marsh@outlook.com>; B Peoples <peeps29@verizon.net>; Brady LaBorde <patbrady2@verizon.net>; Brady Township Supervisors <bradytwp@hotmail.com>; C Thompson <cabailor@yahoo.com>; City of DuBois <bobbie.shaffer@duboispa.gov>; Clearfield Co <cccomm@clearfieldco.org>; D & C Cryster <dancinj@comcast.net>; D & T Marsh <tdmarsh@windstream.net>; D Boring <d_boring@yahoo.com>; D Kovall <dmkovall@yahoo.org>; D Stolfer <deborahstolfer@gmail.com>; D Work <work309@comcast.net>; Diane Bernardo <honey0510@comcast.net>; E Zimmerman <ezimmerman@clearfield.org>; Harriet Moyer <hjmjm@windstream.net>; J Genevro <JohnBonnie@outlook.com>; J Greathouse <jmg_1197@hotmail.com>; J Kaufman <jlkaufman@drmc.org>; Jack and Judy Chewning <jlchewning@comcast.net>; Joan Spafford <jdspafford@comcast.net>; John Hook <johnhook411@msn.com>; K Armagost <kdfinalle@verizon.net>; K Bojalad <kerrilynn9172@yahoo.com>; L Martinez <lesha3@windstream.net>; Lesli Swope <leslieannbarr@yahoo.com>; Loretta Slattery <lorslat2@yahoo.com>; Lorraine Shaddock <medoado@verizon.net>; M Atkinson <marianne5@windstream.net>; M Schwabenbauer <mrschwab2@comcast.net>; Monica Lockhart <qchamp1969@hotmail.com>; Nora Jenney <thejenneys@windstream.net>; P Erickson <erickson1@windstream.net>; Pauline & Robert Wells <pewdubois@yahoo.com>; R & E Stewart <maliya54@hotmail.com>; R Reitz <rockietop@verizon.net>; Ralph Hamby <Rhambyrn@yahoo.com>; Randall Baird <fairway08@windstream.net>; Rep. M Gabler <mgabler@pahousegop.com>; Ronald Greathouse <rhg_9711@hotmail.com>; Rosemay Frizzell <rfrizzell@windstream.net>; S Zimmerman <szimmerman@clearfield.org>; Sandy Township Supervisors <info@sandytownship.org>; Stephen Way <steveway@verizon.net>; T Bodt <mittdob@hotmail.com>; Ted & Rona Cryster <ronated@comcast.net>; Terry & Carole Lawson (lawson_carole@yahoo.com); Tom & Sue Nelen <tsdbn@verizon.net>; Travis Smith <jsmith315@windstream.net>; Valerie Powers <brickie3@comcast.net>; W Fisher <wilsonf@hessfishereng.com>; W Lockwood <wlockwood@verizon.net>

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