

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**By EAB's e-Filing System**

Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1201 Constitution Avenue, NW  
U.S. EPA East Building, Room 3332  
Washington, DC 20004

**By Email**

Darlene Marshall  
1070 Highland Street Extension  
DuBois, PA 15801  
Email: [mrdewy@yahoo.com](mailto:mrdewy@yahoo.com)

**By Email**

Michael G. Hoover  
President  
Windfall Oil & Gas, Inc.  
305 Chan Road  
Falls Creek, PA 15840  
Email: [mhoov16@verizon.net](mailto:mhoov16@verizon.net)

RE: Notification of Stayed Permit Conditions  
Windfall Oil & Gas Inc.  
SDWA UIC Permit No. PAS2D020BCLE  
EAB Appeal No. UIC 21-01

Dear Ms. Durr, Ms. Marshall, and Mr. Hoover:

This is an appeal of the final UIC permit issued December 13, 2020, for the Windfall Oil & Gas, Inc. (Permittee or Windfall) Class II disposal injection well in Brady Township, Clearfield County, PA (a/k/a Zelman #1 well). Region 3 of the United States Environmental Protection Agency (Region 3 or EPA) hereby notifies the Environmental Appeals Board (EAB), the Permittee, and Petitioner Darlene Marshall (Petitioner) that because the Petition for Review seeks denial of the above-referenced permit, and thereby contests all operative permit conditions, the December 13, 2021 permit is stayed pursuant to 40 C.F.R. § 124.16(a). Instead, pursuant to 40 C.F.R. § 124.16(c), Windfall is required to continue to comply with the conditions of the initial, existing permit with the effective date of July 30, 2015.

The initial permit, with a five-year term, was the subject of extensive administrative proceedings, including two rounds of public comment, a voluntary EAB remand, 118 petitions for review, and a 47-page order and opinion, issued on June 15, 2015, in which the EAB denied the consolidated petitions for review. *In re Windfall Oil & Gas, Inc.*, 20 E.A.D. 769 (EAB 2015).

The Region issued the current December 13, 2020, permit, with a ten-year term, following a September 17, 2020 public hearing and a public comment period that resulted in 14 written and oral comments. The petitioner in this EAB appeal seeks the denial of the permit, see Petition for Review at 1 (“This petition for review will provide sufficient evidence that the permit be denied for this proposed location.”; “This EAB appeal request is to ‘deny this permit’....”). Because the Petitioner seeks a “denial” of the new permit, thereby contesting all operative conditions of the current permit, this permit is stayed pursuant to 40 C.F.R. § 124.16(a)(1) (“If a request for review of a ... UIC ... permit under §124.19 of this part is filed, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action.”)

As noted, Windfall has an existing permit, i.e., the initial permit with a July 30, 2015 effective date. Pursuant to 40 C.F.R. § 124.16(c),<sup>1</sup> Windfall is required to comply with the conditions of the July 30, 2015, permit during this proceeding.

This notification is also being provided to the Pennsylvania Department of Environmental Protection, which has a regulatory interest in the permitted well.

Sincerely,

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Diana Esher  
Acting Regional Administrator  
EPA Region 3

cc: **By Email**  
Brian Babb  
Subsurface Permits Environmental Program Manager  
Oil and Gas – Pennsylvania Department of Environmental Protection  
Northwest District Office  
230 Chestnut Street  
Meadville, PA 16335  
Email: bbabb@pa.gov

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<sup>1</sup> (c) Any facility or activity holding an existing permit must:

- (1) Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under §124.5; and
- (2) To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed.