



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

November 7, 2022

VIA ELECTRONIC FILING, EMAIL, AND REGULAR MAIL

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

Warren MacGillivray
Panoche Energy Center, LLC
43883 West Panoche Road
Firebaugh, CA 93622

Re: Notice of Stay of Contested Conditions for Underground Injection Control Permit No. R9UIC-CA1-FY17-2R, EAB Appeal No. SDWA 22-01

Dear Emilio Cortes and Warren MacGillivray,

On October 28, 2022, Panoche Energy Center, LLC (PEC) filed a Petition with the Environmental Appeals Board (EAB) requesting review of Underground Injection Control (UIC) Class I Permit No. R9UIC-CA1-FY17-2R (the Permit). The Petition seeks review of the monitoring requirements in Part II.E.2 of the Permit. PEC does not seek Board review of any other provisions of the Permit.

The U.S. Environmental Protection Agency, Region 9 (EPA) issued the final permit and transmitted the Notice of Final Permit Decision to PEC on September 30, 2022.¹ After a permit appeal is filed under 40 C.F.R. § 124.19, “contested conditions” are stayed pending final agency action pursuant to 40 C.F.R. § 124.16(a)(1). Uncontested conditions of the UIC permit shall become fully effective and enforceable 30 days after EPA notifies the EAB, the applicant, and all other interested parties of the uncontested and severable conditions of the final permit. *See* 40 C.F.R. § 124.16(a)(2)(i) and (ii).

EPA hereby provides notice that, in light of the applicant’s petition to the EAB, Part II.E.2 of the Permit is contested and therefore stayed pending final agency action. Additionally, recordkeeping and reporting requirements that are inseparable from Part II.E. 2 are also stayed, specifically Parts II.E.5.a.iv, II.E.5.a.v, and II.E.6.d. All other provisions of UIC Permit No. R9UIC-CA1-FY17-2R are effective 30 days from the date of this notice.

¹ On October 14, 2022, EPA re-issued the Notice of Final Permit Decision to PEC to fix a typographical error concerning the permit number.

If you have any questions regarding this notification, please contact Desean Garnett, Assistant Regional Counsel, at (415) 972-3905 or garnett.desean@epa.gov.

Sincerely,
**TOMAS
TORRES**
Tomás Torres
Director, Water Division

Digitally signed by TOMAS
TORRES
Date: 2022.11.07 10:10:47
-08'00'

cc: Ankur K. Tohan, K&L Gates LLP
J. Timothy Hobbs, K&L Gates LLP
Robert L. Hines, Farella Braun + Martell LLP
Linda Sobczynski, Farella Braun + Martell LLP
Robin Shropshire, Power Plant Management Services, LLC

Certificate of Service

I hereby certify that I caused a copy of the attached *NOTICE OF STAY* to be served via email and regular mail upon the persons listed below.

November 7, 2022

Respectfully submitted,

S/ Desean Garnett

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