

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

In the Matter of:

**Jordan Development Co., LLC,
Traverse City, Michigan,
Grove #13-11 SWD,
Permit No. MI-051-2D-0031**

**Appeal Nos. UIC 18-06
UIC 18-07
UIC 18-08
UIC 18-09**

OPPOSED MOTION FOR EXTENSION OF TIME FOR RESPONSE

The U.S. Environmental Protection Agency Region 5 (“Region 5”) respectfully asks the Board to grant this motion for a 30-day extension of time commensurate with the EPA shutdown to respond to the four consolidated petitions in this matter, to March 13, 2019.

INTRODUCTION AND BACKGROUND

On September 15, 2017, Region 5 issued for public comment a draft permit for Jordan Development Company, LLC’s proposed Grove #13-11 Salt Water Disposal (SWD) Class II Underground Injection Control (UIC) well in Gladwin County, Michigan (“Grove #13-11 draft permit”). On October 23, 2018, Region 5 issued a final permit for the Grove #13-11 well, Permit No. MI-051-2D-0031 (“Grove #13-11 Permit”), as well as a response to comments that Region 5 received regarding the Grove #13-11 draft permit. Region 5 issued the Grove #13-11 Permit under the Safe Drinking Water Act, 42 U.S.C. §§ 300h-300h-8, and under the regulations at 40

C.F.R. Parts 124, 144-148. On October 26, 2018, Region 5 mailed the Grove #13-11 Permit and response to comments to all persons who had submitted comments to Region 5 regarding the Grove #13-11 draft permit.

Between November 21-28, 2018, four individuals filed petitions with the Environmental Appeals Board ("Board") appealing the Grove #13-11 Permit decision: UIC Appeal Nos. 18-06 (Emerson Addison), 18-07 (Ron Kruske), 18-08 (Amy Kruske) and 18-09 (Jennifer Springstead). In a December 13, 2018 order, the Board consolidated these four appeals into one matter and granted Region 5 an extension of time to respond to the consolidated petitions, until February 11, 2019.

EPA, including Region 5, was shut down for 30 days due to a lapse in appropriations. The shutdown began on December 29, 2018 and ended when EPA reopened on January 28, 2019. Region 5 employees including the lead Region 5 attorney assigned to this matter, and OGC employees including the lead OGC attorney assigned to this matter, were not allowed to work on this matter during this time.

Pursuant to 40 C.F.R. §124.19(f)(2), Region 5 sought to ascertain whether each party concurred with or objected to this motion. Specifically, Region 5 emailed all four parties on January 30, 2019. Petitioners Emerson Addison, Amy Kruske and Jennifer Springstead object to this motion. Petitioner Ron Kruske has not responded to Region 5's email.

ARGUMENT

- 1. The Board should grant Region 5 a 30-day extension of time commensurate with the EPA shutdown to respond to the consolidated petitions.**

The Board should grant Region 5 a 30-day extension of time to respond to the consolidated petitions of UIC Appeal Nos. 18-06, 18-07, 18-08 and 18-09, to March 13, 2019. This would allow Region 5 the same amount of response time that it had before its offices were shuttered for 30 days due to the government shutdown.

The shutdown meant that Region 5 could not work on the response or coordinate with OGC during this time. Moreover, the 30 days of shutdown meant that EPA employees including the lead Region 5 attorney assigned to this matter returned to work to face multiple matters of increased urgency or priority. This presents new issues of increased workload and competing time-sensitive demands, thus supporting this request for an extension commensurate with the duration of the shutdown.

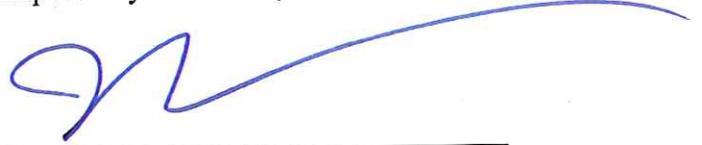
Petitioners have expressed no relevant reason for opposing this motion. Petitioner Amy Kruske stated no reason. Petitioner Springstead stated that Region 5 “failed to meet the allotted deadline.” She did not specify which deadline and Region 5 is unaware of having missed any deadline in this matter. Petitioner Addison objected generally to EPA’s ability to oversee UIC wells when it “can’t even bother to stay open.” Respecting Petitioners’ perspectives, they have articulated no relevant reason not to grant the proposed 30-day extension.

Region 5 and EPA headquarters have begun consultation on these appeals. EPA’s Office of General Counsel and Office of Water both agree with the proposed 30-day extension. Accordingly, Region 5 asks the Board to grant Region 5 a 30-day extension of time to file its response to the petitions in this matter, to March 13, 2019.

CONCLUSION

The Board should grant this motion for a 30-day extension of time to respond to the consolidated petitions, to March 13, 2019.

Respectfully submitted,



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Dated: February 1, 2019

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CERTIFICATE OF SERVICE

I hereby certify that the original of this **OPPOSED MOTION FOR EXTENSION OF TIME FOR RESPONSE** in the matter **JORDAN DEVELOPMENT COMPANY, LLC OF TRAVERSE CITY, MICHIGAN, GROVE #13-11 SWD, PERMIT NO. MI-051-2D-0031, GLADWIN COUNTY, MICHIGAN, UIC Appeal Nos. 18-06, 18-07, 18-08 and 18-09**, was filed electronically with the Board.

Further, I hereby certify that one copy of this **OPPOSED MOTION FOR EXTENSION OF TIME FOR RESPONSE** in the matter **JORDAN DEVELOPMENT COMPANY, LLC OF TRAVERSE CITY, MICHIGAN, GROVE #13-11 SWD, PERMIT NO. MI-051-2D-0031, GLADWIN COUNTY, MICHIGAN, UIC Appeal Nos. 18-06, 18-07, 18-08 and 18-09**, was sent to the Petitioners and Permittee, via certified mail, to the following addresses:

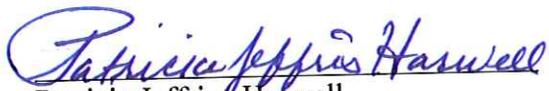
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Jordan Development Company, LLC
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Patricia Jeffries-Harwell

February 1, 2019
Date