Message

From: Matsumoto, Kimi [Matsumoto.Kimi@epa.gov]
Sent: 7/28/2020 2:23:20 PM
To: Darling, Corbin [Darling.Corbin@epa.gov]
Subject: FW: process summaries

Corbin,

Ex. 5 AC/DP

Thanks, Kimi

From: Robinson, Valois <Robinson.Valois@epa.gov>
Sent: Tuesday, July 14, 2020 1:14 PM
To: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>
Subject: RE: process summaries

Here is it.

1.1 The Public Review Process for UIC Permits

1.1.1 The 2017 Public Review Process

On March 6, 2017, the EPA Region 8 UIC Program published a public notice on the EPA Region 8 UIC website: https://www.epa.gov/uic/uic-epa-region-8 announcing the proposal of two UIC Area Permits to Powertech for injection activities related to uranium recovery and an accompanying aquifer exemption. One is a UIC Class III Area Permit for injection wells related to the In-situ Recovery (ISR) of uranium; the second is a UIC Class V Area Permit for deep injection wells that will be used to dispose of ISR process waste fluids into the Minnelusa Formation after treatment to meet radioactive waste and hazardous waste standards. The proposed aquifer exemption is associated with the Class III permit. The public comment period was originally scheduled to end on May 19, 2017. However, the EPA granted an extension to the public comment period through June 19, 2017. The EPA solicited comments on the two UIC Area Permits and the aquifer exemption record of decision (ROD). The EPA also issued a draft Environmental Justice Analysis, a draft document outlining the EPA National Historic Preservation Act (NHPA) section 106 consultation process, and a Cumulative Effects Analysis document. In addition to the public notice on the EPA Region 8 UIC Program website, the EPA published notice of the issuance of the draft UIC permits in the *Lakota Country Times,* the *Edgemont Herald Tribune,* the *Rapid City Journal,* and the *Custer County Chronicle*. A notice was also posted on http://www.indianz.com. All of these notices directed readers to the EPA Region 8 UIC Program website, which contained links to the Administrative Record for the proposed actions.

The EPA received comments from the public through testimony given during the public hearings listed below, email and written correspondence. The EPA held the following public hearings:

Thursday, April 27, 2017 from 4:00 to 8:30 p.m. (with a break from 6:00 to 6:30 p.m.)
Niobrara Lodge
803 US Highway 20
Valentine, Nebraska 69201
Monday-Tuesday, May 8-9, 2017, from 1:00 to 8:00 p.m. (with a break from 5:00 to 6:00 p.m.)
The Best Western Ramkota Hotel
2111 N. LaCrosse Street
Rapid City, South Dakota 57701
Wednesday, May 10, 2017, from 1:00 to 8:00 pm (with a break from 5:00 to 6:00 p.m.)
The Mueller Center
801 S 6th Street

Hot Springs, South Dakota 57747
Thursday, May 11, 2017, from 1:00 to 8:00 pm (with a break from 5:00 to 6:00 pm)
St. James Catholic Church
310 3rd Avenue
Edgemont, South Dakota 57735
The EPA reviewed the comments received during the public comment period and updated the Class III and Class V draft area permits and associated documents.

1.1.2 The 2019 Public Review Process

On August 26, 2019, the EPA Region 8 UIC Program published a public notice on the EPA Region 8 UIC website: https://www.epa.gov/uic/uic-epa-region-8 announcing the updated UIC draft Class III and V Area Permits to Powertech for injection activities related to uranium recovery and an accompanying aquifer exemption. In addition to the updated draft permits, the EPA has issued an updated draft Aquifer Exemption Record of Decision, an updated draft Environmental Justice Analysis and an updated NHPA process document for public review and comment.

The EPA also published notice of the issuance of the updated UIC draft Class III and V permits and associated documents in the *Lakota Country Times,* the Fall River County *Herald,* the *Rapid City Journal,* and the *Custer County Chronicle*. A notice was also posted on http://www.indianz.com. All of these notices direct readers to the EPA Region 8 UIC Program website, which contains links to the Administrative Record for these proposed actions.

The EPA has set up Docket EPA-R08-OW-2019-0512 on the Regulations.gov website to receive comments. For instructions on how to submit comments to the Regulations.gov website see *How to Use Regulations.gov* and *Frequently Asked Questions*.

The EPA will hold a public hearing on Saturday, October 5, 2019, from 9:00 am to 1:00 pm and from 2:00 to 6:00 pm at:
The Mueller Center
801 S 6th Street
Hot Springs, South Dakota 57747

At the public hearing, any person may submit oral or written statements and data concerning the updated draft permits and associated documents. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing are required for the public record. As stated under 40 CFR § 124.13, "[a]ll persons, including applicants, who believe any condition of a draft permit is inappropriate or that the EPA's tentative decision...to prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including the public hearings)." Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the Draft Area Permit Administrative Record, or consist of State or Federal statutes and regulations, are EPA documents of general applicability, or are other generally available reference materials. Commenters shall make supporting materials not included in the list above available to the EPA by presenting a printed copy at a public hearing, submitting the file to Docket EPA-R08-OW-2019-0512 on the Regulations.gov website or mailing the information to Valois Robinson at the mailing address on the first page of this Fact Sheet. A written transcript of the hearing shall be made available to the public as part of the Administrative Record for the Final Area Permit decision.

At the close of the public comment period, the EPA will review all comments received during both the 2017 and 2019 public comment periods and during all the public hearings and prepare a written statement addressing all the comments received that are relevant to the UIC Class III and V Draft Area Permits. The EPA will issue a final permit decision and notify the applicant and each person who has submitted comments or requested notice of the final permit decision. A final permit decision means a final decision to issue or deny the permit. The written statement addressing all relevant comments received will be included in the

notification of the final permit decision. The notice will also include reference to the procedures for appealing a decision on a UIC permit under 40 CFR § 124.19.

If the EPA receives comments on the UIC Class III and V Draft Area Permits from the public during the public review process, the Final Area Permit decisions will not be effective until 30 days after the final permit issue date as required by 40 CFR § 124.15. The purpose of this 30-day period is to allow time for those who submitted comments or participated in a public hearing to appeal the final permit decision as described under 40 CFR § 124.19, which is paraphrased below.

Within 30 days after the UIC final permit decisions have been issued, any person who filed comments on the draft permits or participated in a public hearing may petition the Environmental Appeals Board to review any condition of the permit decisions. Any person who failed to file comments or failed to participate in a public hearing on the draft permits may petition for administrative review only to the extent of the changes from the draft to the final permit decisions. The 30-day period within which a person may request review under this section begins with the service of notice of the EPA's final permit decisions unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

(1) A finding of fact or conclusion of law which is clearly erroneous, or

(2) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board will issue an order granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decisions become a final agency action.

Valois

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