Underground Injection Control: U.S. EPA Environmental Appeals Board Petition for Review Filed Challenging Three Michigan Brine Injection Wells

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Flow Water Advocates ("FWA") filed a pleading before the United States Environmental Protection Agency ("EPA") Environmental Appeals Board styled:

PETITION FOR REVIEW OF UNDERGROUND INJECTION CONTROL PERMITS ISSUED AND MODIFIED BY REGION V FOR MICHIGAN POTASH OPERATING, LLC, OSCEOLA AND MECOSTA COUNTIES, MICHIGAN ("Petition").

The Petition challenges three Underground Injection Control ("UIC") Permits issued by EPA, Region V for underground brine injection of process water form a potash mine owned by Michigan Potash Operating, LLC ("MPO").

The injection wells would be located in Osceola and Mecosta Counties, Michigan.

The Petition describes a January 2015 application stated to be submitted by MPO for three underground injection wells, whose process is described as including:

…to drill and complete three (3) Class I, Type I injection wells for the purpose of putting non-hazardous salt water into the selected injection horizons.

The Petition requests the EPA Environmental Appeals Board review the following issues:

1. Whether Region V clearly erred by finding comments regarding the "Combined" Area of Review out of scope and by relying on flawed assumptions regarding the AOR outer PETITION FOR REVIEW 6 perimeter and the interaction of incompressible fluids. And, even if not clear error, whether the Board should review this issue because it has important policy implications for analyzing expanded injection at close proximity in fields previously used for other types of injection or exploration.

2. Whether Region V clearly erred by relying on dated information about the status of plugged and abandoned well-bores in the Dundee and Lucas formations and failing to perform its own research or conduct new testing to verify the physical integrity of existing borings and the sufficiency and suitability of aging plugs for preventing upward migration of injected brine. And, even if not clear error, whether the Board should review this issue because it has important policy implications for analyzing expanded injection in fields previously used for other types of injection or exploration.

A copy of the Petition can be downloaded here.