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C.A.R.D. Files Appeal of EPA Underground Injection Permit Issued to Powertech

On January 3, 2011, Coloradoans Against Resource Destruction (C.A.R.D.) filed a Petition for Review with the Environmental Protection Agency's Environmental Appeals Board in Washington, D.C. The petition appeals the December 3, 2010 decision by the EPA's Region 8 office to issue a final Class V Underground Injection Control permit to Powertech (USA) Inc.

The permit is required for the reinjection of water that would first be pumped out of the Upper Fox Hills Formation during a proposed aquifer pump test. The purpose of the pump test is to collect data on the hydrogeologic characteristics of the aquifer including the integrity of confining layers that isolate the Fox Hills aquifer from the overlying Laramie Formation, which serves as an underground source of drinking water. The data would be used to prepare permit applications for the proposed Centennial in-situ leach uranium mining project.

The integrity of the confining layers is critical because the groundwater in the Upper Fox Hills Formation contains concentrations of uranium, radium, antimony and iron that exceed federal water quality standards. The groundwater in the overlying Laramie Formation does not exceed these water quality standards.

The Appeal alleges that EPA was required to request from Powertech and review existing relevant information from previous pump tests performed by Powertech. The previous pump tests were conducted as recent as 2008 in the same geologic formation, one as close as 500 feet from the currently proposed injection well. This prior pump test data could show the extent of the confinement of the aquifers, including the effect of the thousands of historic (late 1970's) uranium exploration bore-holes drilled in the direct vicinity. As detailed in the appeal, some of these historic bore-holes have been documented as improperly sealed and abandoned, raising concerns of cross-contamination of the aquifers which could be exacerbated by the pump test and injection activities.

"While on the surface the permit appeared complete, a detailed review showed that critical information was lacking," observed Jay Davis, whose Mustang Hollow Ranch is located adjacent to the proposed Centennial project area, and a co-founder of C.A.R.D. "As we've said from the beginning, we want the EPA to apply a high standard to protect our groundwater, and that includes reviewing all relevant information."

Powertech filed its permit application with the EPA on April 30, 2009. Because the first draft permit, issued on June 15, 2009, contained errors, a second draft permit was issued on November 20, 2009. The public comment period for the second draft permit ran from November 20 through December 24, 2009.

After extensive public comments were submitted, EPA did not issue the final permit until December 3, 2010. The permit would have become effective as of January 3 if no appeal had been filed.

The Environmental Appeals Board, which is part of the EPA but is established to provide independent review of permitting and other decisions, will decide whether or not it will review C.A.R.D.'s appeal. In the meantime, the permit is stayed. The board has several options; it can deny review, it can send the permit back to Region 8 for modification, or it can overturn Region 8 and deny the permit. Board decisions are subject to judicial review in federal court.

"Powertech has failed to provide and EPA has failed to review necessary and available information regarding the condition of the confining layers in the aquifer and the condition of improperly abandoned historic drill holes in the immediate area" explains Jeff Parsons, senior attorney with the Western Mining Action Project who filed the appeal on behalf of C.A.R.D.

"It is critical that all relevant information be incorporated into any permit that will allow groundwater injection of fluids with levels of radioactive uranium and radium, along with antimony and iron, in excess of water quality standards" notes Parsons.

"Powertech and the EPA committed to adhering to the highest standard in protecting groundwater quality and this permit falls short" stated Ken Tarbett, nearest neighboring resident and owner of the closest domestic well due west of the proposed aquifer pump test site. "Not unlike Powertech's decision to sue over groundwater protections at the state level, it appears this company is unwilling or incapable of living up to their repeated promises to do everything necessary to protect local water supplies."

"Groundwater supplies in Northern Colorado and Weld County serve as the economic lifeblood of our region and are far too precious to risk" contends Tarbett, "My family and livestock depend on our well for clean water and we're depending on the Environmental Protection Agency and the Environmental Appeals Board to protect our water resources."

The appeal petition can be viewed and downloaded from the Environmental Appeals Board's Active Dockets page:

http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Active+Dockets?OpenView