



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

Sent via email only

Addressees: 81 Organizations (Listed Below)

Re: EPA Region 9 Review and Consideration of Class VI Carbon Storage Permits

Dear Interested Organizations,

Thank you for your June 29, 2022 letter regarding EPA's review and consideration of Class VI Underground Injection Control (UIC) permit applications for geologic sequestration of carbon dioxide. Your letter raises many important environmental and climate justice issues and includes several procedural requests for our consideration.

First, I want to reiterate that EPA's approach in reviewing proposed geologic carbon sequestration projects is to ensure greater transparency, provide meaningful and inclusive opportunities for public engagement, and include rigorous and justice-oriented protections for the surrounding communities. Below is a response to the specific considerations and recommendations you put forth in your letter for EPA's consideration:

1. *Region 9 should make all Class VI applications publicly available on a website that is easy to search.*

EPA agrees that the public should have ready access to all Class VI UIC permit applications and is working diligently to stand up an EPA web-based portal to house all Class VI UIC permit applications¹. EPA expects to launch this web-based portal on our headquarters website (<https://www.epa.gov/uic/class-vi-wells-permitted-epa>) within the next two months.

2. *Region 9 should provide at least a 90-day public comment period on all draft Class VI UIC permits and schedule two public hearings with appropriate translation services.*

Given the complexity of Class VI UIC permits and the anticipated level of public interest, Region 9 will expand the public comment period beyond the regulatory minimum of 30 days to at least 90 days, and may extend the timeframe further, on a case-by-case basis.² In addition, EPA plans to schedule one or more public hearings for all proposed Class VI permits, with appropriate translation services where appropriate. We also expect to engage

¹ Some applications may contain Confidential Business Information (CBI), which is content that EPA is restricted from releasing publicly.

² EPA regulations require the agency to provide public notice and take comments on all draft UIC permitting decisions and provide an opportunity for a public hearing if there is a significant level of public interest (40 CFR §§ 124.10, 124.11 and 124.12). The public comment period is required to be a minimum of 30 days, however, the 30-day period can be expanded by EPA as appropriate.

with potentially affected communities prior to any formal public comment process to share information about the proposed project(s) and to hear directly from community members. EPA welcomes your additional suggestions to ensure that our public engagement process is robust and appropriately tailored to the needs of individual communities.

3. *Region 9 must expand its review to incorporate NEPA, EJ, and cumulative impacts.*

The Class VI UIC regulations³ provide for the protection of drinking water sources and public health through provisions that require a thorough geologic evaluation of the area of review (AoR); modeling verification; well construction; emergency and remedial response; operating and monitoring parameters; financial responsibility for all phases of the project; and post injection site care and closure.

In addition, EPA utilizes the Environmental Justice Screening tool ([EJ Screen](#)) in its review of all Class VI UIC permit applications. EJ Screen utilizes population demographic information and environmental data to assess the overall burden in a given geographic area. EJ Screen results help identify potential environmental justice concerns and whether additional data or analysis may be necessary to better understand potential community burden from a proposed Class VI project.

EPA is concerned about any potential risks from Class VI projects that extend beyond impacts to drinking water sources. As such, EPA will be reviewing proposed Class VI projects through a holistic approach and will conduct additional analyses, on a case-by-case basis, to consider cumulative impacts into our permitting decisions, as authorized by the Safe Drinking Water Act and UIC regulations. EPA will also coordinate its review of Class VI permit applications with federal, state, and local agencies involved in regulating other components of the proposed projects (e.g., air and water permitting, CEQA review, pipeline siting and approval) to identify potential increases to environmental burdens on already overburdened communities and develop a coordinated approach to mitigate those burdens.

4. *Region 9 should reject applications that are missing critical information.*

EPA's UIC regulations specify the information applicants must submit in a Class VI permit application (see 40 CFR § 146.82). The initial step in EPA's review process is to determine whether the information required by these regulations is provided in the permit application (this is known as 'administrative completeness' of an application). EPA does not begin its technical review of the application until an administrative completeness determination is made. However, even after a determination of administrative completeness, EPA maintains discretion to request a broad range of additional information from the applicant throughout the permit application review process (i.e., during EPA's technical review, permit development, and public notice and comment phases) before making a final decision to issue or deny a Class VI UIC construction permit.⁴

³ Permitting actions under the SDWA UIC program are exempt from the procedural requirements of NEPA. 40 CFR § 124.9(b)(6) provides that "all RCRA, UIC and PSD permits are not subject to the environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321."

⁴ 40 CFR § 146.82(a)(21) requires applicants to submit "Any other information requested by the Director." This provides EPA broad authority to request any information the Agency needs to fully evaluate Class VI projects and ensure environmental and public health protection.

Some of the missing information cited in your letter is not specifically required to be submitted as part of a Class VI UIC permit application (e.g., details regarding surface transportation of carbon dioxide). However, as noted, EPA has authority to request any information about proposed Class VI projects, and the Agency will exercise this authority as necessary to ensure a thorough environmental assessment is conducted before making any permitting decisions.

Lastly, in some instances, permit applicants may claim that certain information required by EPA's UIC regulations is Confidential Business Information (CBI). If the CBI claim is substantiated, then the information would be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552(b)(4) and 40 C.F.R. § 2.105(a)(4). The procedures for 'substantiation' of a CBI claim are set forth at 40 C.F.R. §§ 2.204 and 2.205, which require that EPA provides a notice to a company providing the opportunity for the company to submit comments supporting the CBI claim. If the company fails to submit timely comments, its CBI claim would be waived. After the substantiation comments are submitted by the company, EPA then makes a final determination of whether the information is entitled to CBI treatment or not. Whether through an initial CBI claim or a final CBI determination, EPA is prohibited from releasing CBI information pursuant to 40 C.F.R. § 2.211. Nonetheless, EPA encourages applicants to publicly release as much detail about their projects as possible to facilitate community awareness and transparency.

Thank you again for your important input and recommendations. If you have any questions, please feel free to contact me at guzman.martha@epa.gov or David Albright, our Groundwater Protection Section manager, at albright.david@epa.gov.

Sincerely,

Martha Guzman
Regional Administrator

Addressees:

1. 350 Bay Area
2. 350 Conejo / San Fernando Valley
3. 350 Contra Costa
4. 350 Humboldt
5. 350 Santa Barbara
6. Acterra: Action for a Healthy Planet
7. Active San Gabriel Valley
8. Alliance of Nurses for Healthy Environments
9. Asian Pacific Environmental Network
10. Azul
11. Bay Area - System Change not Climate Change
12. Biodiversity First!

13. Biofuelwatch
14. CA Youth Vs Big Oil
15. California Environmental Justice Alliance
16. California Environmental Justice Coalition (CEJC)
17. California Interfaith Power & Light
18. California Nurses for Environmental Health and Justice
19. Center for Biological Diversity
20. Center for Environmental Health
21. Center on Race, Poverty & the Environment
22. Central California Asthma Collaborative
23. Central California Environmental Justice Network
24. Central Valley Air Quality Coalition
25. Central Valley Partnership
26. Clean Water Action
27. Climate Hawks Vote
28. Climate Health Now
29. Climate Reality San Diego Youth Environmental Action Pod
30. Climate Witness Project CA
31. Comite Civico Del Valle
32. Comite Pro Uno
33. Communities for a Better Environment
34. Courage California
35. Direct Action Everywhere
36. Elders Climate Action
37. Elders Climate Action, NorCal and SoCal Chapters
38. Environment California
39. Extinction Rebellion SF Bay
40. Families for Clean Air
41. Food & Water Watch
42. Food Empowerment Project
43. Fossil Free California
44. Fresnans against Fracking
45. Good Neighbor Steering Committee of Benicia
46. Greenaction for Health and Environmental Justice
47. Greenpeace USA
48. Idle No More SF Bay
49. Interfaith Climate Action Network of Contra Costa County
50. Leadership Counsel for Justice and Accountability
51. Let's Green CA!
52. Long Beach 350
53. Mi Familia Vota
54. Mothers Out Front California
55. Oil and Gas Action Network
56. Oil Change International
57. People Organizing to Demand Environmental & Economic Rights (PODER)
58. Physicians for Social Responsibility- Los Angeles
59. Planning and Conservation League

60. Presentation Sisters, San Francisco, CA
61. Redeemer Community Partnership
62. Richmond Progressive Alliance
63. San Francisco Bay Physicians for Social Responsibility
64. San Francisco Baykeeper
65. SanDiego350
66. Santa Barbara Standing Rock Coalition
67. Santa Cruz Climate Action Network
68. Santa Cruz for Bernie
69. Skyline Church UCC
70. SLO Climate Coalition
71. SoCal 350 Climate Action
72. Stop OAK Expansion
73. Sunflower Alliance
74. Sunrise Bay Area
75. The Climate Center
76. Tishman Environment and Design Center
77. Tri-Valley CAREs, Livermore
78. Valley Improvement Projects
79. West Berkeley Alliance for Clean Air and Safe Jobs
80. Youth Vs Apocalypse
81. Youth4Climate