



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

June 29, 2023

Warren MacGillivray
Panoche Energy Center, LLC
43883 West Panoche Road
Firebaugh, CA 93622

**Re: Notice of Stay of UIC Permit Condition Pending Judicial Review
UIC Permit No. R9UIC-CA1-FY17-2R**

Dear Warren MacGillivray,

On June 23, 2023, Panoche Energy Center, LLC (“PEC”) filed a Petition with the U.S. Court of Appeals for the Ninth Circuit requesting review of Underground Injection Control (“UIC”) Class I Permit No. R9UIC-CA1-FY17-2R (the “Permit”). The Petition seeks judicial review of the ambient monitoring requirements in Part II.E.2 of the Permit. Concurrent with the Petition, PEC also filed a Motion for a Stay of Part II.E.2, including inseverable record-keeping and reporting requirements, pending judicial review.

In a letter dated June 13, 2023, PEC also directly requested from EPA an administrative stay of Part II.E.2 and related conditions during the pendency of the review of its Petition by the Court. In response to PEC’s request, and pursuant to 5 U.S.C. § 705 and 40 C.F.R. § 124.15(b), EPA hereby stays Parts II.E.2, II.E.2.5.a.iv, II.E.5.a.v., and II.E.6.d of the Permit pending judicial review.¹ These Permit conditions will become effective upon the day of issuance of any decision on the Petition by the Ninth Circuit upholding those conditions, or upon the effective date of any other resolution of the Petition that does not vacate or otherwise invalidate the conditions, such as a withdrawal of the Petition. All other provisions of the Permit, including the uncontested conditions, remain fully in effect and enforceable.²

Should you have any questions regarding this notification, please contact Desean Garnett in the Office of Regional Counsel at (415) 972-3046 or garnett.desean@epa.gov.

Sincerely,

/s/
Tomás Torres Director,
Water Division

cc: Ankur Tohan, K&L Gates LLP
J. Timothy Hobbs, K&L Gates LLP
Shelby R. Stoner, K&L Gates LLP
Robin Shropshire, Power Plant Management Services, LLP

¹ On June 21, 2023, EPA issued a temporary stay of Parts II.E.2, II.E.2.5.a.iv, II.E.5.a.v., and II.E.6.d of the Permit to PEC. This stay pending judicial review supersedes and replaces the temporary stay.

² See Permit Issuer Notice of Stay, dated Nov. 7, 2022 (EAB Dkt. #2) (citing 40 C.F.R. § 124.16(a)(2)(i) and (ii)).