Gevo, Inc. (“Gevo”) hereby submits its Response to the Board’s April 20, 2020 Order.

BACKGROUND

On April 7, 2020, Gevo filed with the Board a Petition for Declaratory Order (“Petition”) pursuant to Iowa Code Section 17A.9 and Chapter 4 of the Board’s Rules. Gevo’s Petition requests that the Board determine that three pipelines forming part of a renewable natural gas project being developed in northwest Iowa by Gevo (the “Gevo Project”) do not require pipeline permits pursuant to Board Rule 10.1(2). On April 20, 2020, the Board issued its Order Providing Notice of Petition for Declaratory Order, Setting Intervention Deadline, and Extending Date for Issuance of Declaratory Order (“April 20 Order”). In the April 20 Order, the Board requested that Gevo provide certain additional information regarding the Gevo Project by April 27, 2020. Gevo provides the requested information below.

RESPONSE TO BOARD’S APRIL 20 ORDER

In the April 20 Order, the Board posed certain specific questions regarding the Gevo Project and also requested that Gevo address any relevant factors from Board Rule 10.14 not already addressed by Gevo’s Petition. Gevo’s Responses to each specific question and discussion of the factors in Board Rule 10.14 are provided below.
1. *Will Gevo, Inc. construct, own, operate, and maintain the three proposed pipelines?* (Ordering Clause 3(a)).

Yes, Gevo will construct, own, operate and maintain the three proposed pipelines. This includes the Digester to RNG Facility Lines, the Injection Line, and the Service Lines, which run from a delivery point to be constructed by NNG to the digesters.

2. *Is Gevo, Inc. contracting with a competitive natural gas provider or marketer to obtain the natural gas that will be distributed to the three farm digesters that has a certificate from the Utilities Board?* (Ordering Clause 3(b)).

Northern Natural Gas (“NNG”) will provide the natural gas used to feed the digesters. Gevo anticipated purchasing the gas through Kinect Energy Group. Gevo will take title to the natural gas at the delivery point to be constructed by NNG and will transport the natural gas to the digesters by pipelines owned, constructed, operated and maintained by Gevo.

3. *Are the three farm digesters not considered large volume customers?* (Ordering Clause 3(c)).

The three farm digesters are not large volume customers. The digesters will be owned and operated by wholly owned subsidiaries of Gevo, Inc. Thus, Gevo is shipping the natural gas to itself for its own use; it is not shipping the gas to a customer. Under Iowa law, the term “customer” requires sale of gas to the public. See, e.g., Iowa Code § 476.1(3) (providing for jurisdiction over those selling gas “to the public”); Iowa Code § 476.86(2) (requiring sales to a “retail end user” for applicability of competitive natural gas provider certification). Because Gevo is shipping the gas to itself for its own use, it is not shipping to a customer.

4. *Will the Injection Line be located entirely on Gevo, Inc. property?* (Ordering Clause 3(g)).

The Injection Line will be located entirely on property owned or leased by either Gevo or NNG. Each Gevo and NNG will own or lease a portion of the property where the Injection Line is located. Gevo intends to lease its portion of the property for a term of 20 years; the parties have agreed to lease terms in principle and are presently in the process of documenting that lease.
5. *Provide the anticipated construction start date for this project.* (Ordering Clause 3(f)).

Gevo anticipates commencing construction of the project in August 2020.

6. *Provide the information required by 199 IAC 4.1(2)(e) and (f).* (Ordering Clause 3(e)).

Pursuant to Board Rule 4.1(2)(e), Gevo states that it is not currently a party to another proceeding involving the questions at issue and the questions have not to Gevo’s knowledge been decided by, are pending determination by, or are under investigation by any governmental entity. Pursuant to Board Rule 4.1(2)(f), Gevo states that it is not aware of particular parties known to be affected by or interested in the questions presented in the petition, other than those parties the Board has already indicated will be notified.

7. *Provide additional information, not already provided, considered necessary to address the factors listed in 199 IAC 10.14* (Ordering Clause 3(d)).

New Board Rule 10.14 provides a list of nine factors for the Board to consider in determining whether a pipeline is a “transmission line,” as follows:

1. The definitions of a transmission line in ASME B31.8 and 49 CFR 192.3.
3. The location of a distribution center.
4. Interconnection with an interstate pipeline.
5. Location of distribution regulator stations downstream of a proposed distribution center.
6. Whether a proposed distribution center has more than one source of supply and the type of pipeline that provides the supply.
7. Transfer of ownership of gas.
8. Reduction in pressure of pipeline at a meter.

Gevo’s Petition in this matter includes a lengthy discussion regarding factor 1 – the transmission line definitions in ASME B31.8 and 49 CFR 192.3 and the relationship of the pipelines involved in the Gevo Project to those definitions. Gevo’s Petition provides information regarding factor 4 – the Gevo Project interconnects with NNG’s interstate natural gas line at the
RNG/Injection Facility through the Injection Line.

Regarding factor 2, while Gevo is not aware of PHMSA interpretations specifically addressing RNG projects, Gevo provides a discussion of a relevant PHMSA interpretation (as well as a Board Order summarizing prior PHMSA interpretations) below in its discussion of the “distribution center” factors.

Factors 3, 5, 6, and 9 relate to distribution centers. The Gevo Project itself does not incorporate a distribution center – it consists of pipelines that deliver biogas from the source of production (gathering lines), a pipeline that injects the RNG into an existing transmission line; and pipelines that take natural gas for heating the digester boilers from a delivery point to be constructed by NNG (the “NNG Delivery Point”) via service lines owned and operated by Gevo.

Regarding Factors 7 and 8, the NNG Delivery Point will incorporate a pressure regulator that regulates pressure to not more than 50 psig, and is the point where Gevo will take title to the natural gas, which will be shipped to Gevo’s wholly owned subsidiaries via the Service Lines owned and operated by Gevo.

To the extent the Board would view the NNG Delivery Point to be a “distribution center,” this further demonstrates that the Service Lines from that point to the digesters are not “transmission lines.” The Board has previously held that, “A transmission line terminates at a distribution center.” See In Re: Manning Municipal Utilities, P-0822, 0837 “Order Denying Request to Reclassify Pipelines” at 3 (IUB Jan. 8, 2019). Similarly, in PHMSA Interpretation Response No. PI-78-0110 (1978), PHMSA noted that “a ‘distribution center’ occurs at a ‘point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption.’” Accordingly, even if the Board were to view the NNG Delivery Point as a “distribution center” the lines running from it to Gevo’s digesters are not “transmission lines.”
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 27th day of April, 2020, he had the foregoing document electronically filed with the Iowa Utilities Board using the EFS system which will send notification of such filing (electronically) to the appropriate persons.

/s/ Brant M. Leonard
Brant M. Leonard

ATTORNEYS FOR GEVO, INC.