

Ms. Eureka Durr, Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Mr. Robert B. LeBlanc
9300 Island Drive
Grosse Ile, MI 48138
(734) 675 - 0323

RE: Appeal No. UIC 07-02

Dear Clerk of the Board Ms. Eureka Durr:

Please find the enclosed original signed in blue ink and 5 additional copies as well as a certificate of service for each of the LeBlancs' Objections to Region 5's Response Dated 10/31/07.

Thank you for your attention to this very important matter and with every good wish, I remain...

Sincerely,


Robert B. LeBlanc

ENCLOSURE: 1-set original
5-sets copies

ENVIR. APPEALS BOARD

2007 NOV -6 AM 9:29

RECEIVED
U.S. E.P.A.

CERTIFICATE OF SERVICE

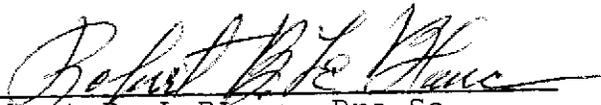
I hereby certify that I have sent a copy of the LeBlancs' Objections To Region 5's Response Dated 10/31/07 together with this Certificate of Service to the persons listed below on November 4, 2007 by enclosing the same in an envelope and pre-paid via the delivery service of Federal Express addressed to the following persons:

Ms. Eurika Durr, Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

and

Mr. Erik H. Olson,
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

The above statement is true and accurate.


Robert B. LeBlanc, Pro Se
On Behalf of Himself and
His Wife Joan S. LeBlanc
9300 Island Drive
Grosse Ile, Mi 48138
(734) 675 - 0323

BEFORE THE ENVIRONMENTAL APPEALS BOARD U.S. E.P.A.
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

RECEIVED
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IN RE:)
)
Core Energy, LLC)
(State Charlton #4-30))
Underground Injection Control (UIC))
Permit No. MI-137-5X25-0001)

ENVIR. APPEALS BOARD

Appeal No. UIC 07-02

THE LeBLANCS' OBJECTIONS TO REGION 5's RESPONSE DATED 10/31/07

The LeBlancs', by and through Robert B. LeBlanc, Pro Se, hereby make timely objections to the U.S. EPA's Region 5's response received by the LeBlancs' on November 3, 2007 by Certified Mail # 7001 0320 0005 8917 7758.

It appears that Region 5's Assistant Regional Counsel, Erik H. Olson, now deliberately misinterprets and misconstrues the facts (a.k.a. the "straw man fallacy"). The straw man fallacy is committed when a claim is misinterpreted and the attempt is made to refute the misinterpreted claim. Region 5's attorney, Mr. Olson, bases his arguments as presented as a refutation of the LeBlancs' original claims. This is a repugnant and a dangerous path that Mr. Olson is attempting to lead the Environment Appeals Board (the "Board") down. Hence, the LeBlancs' rebut the presumption that Mr. Olson is correct with the following facts presented in the form of objections as follows.

(1) That pursuant to 40 CFR § 124.19(a)(2) the LeBlancs' raised issues of liability and adverse possession as an important policy consideration which the Environmental Appeals Board should, unquestionably, review.

(2) That pursuant to Black's Law Dictionary, 6th Ed., p. 1157, the word "Policy" defines public policy in pertinent part as follows:

[t]hat principle of the law which holds that no subject can lawfully do that which has a tendency to be injurious to the public or against the public good....

Accordingly, the LeBlancs' duly and timely put the U.S. EPA on notice that it's flawed policy of permitting sub-surface trespasses by issuing "permits" without "proof of ownership" is contrary to public policy--affecting numerous adjacent private property land owners with surface, mineral, and formation rights being adversely affected by a continuation of said flawed policy.

(3) That on April 2, 2007, the United States Supreme Court ruled in Massachusetts v. E.P.A., 127 S.Ct. 1438, at 1460 (2007) that:

[c]arbon dioxide, methane, nitrous oxide, and hydrofluorocarbons are without a doubt "physical [and] chemical ... substance[s] which [are] emitted into ... the ambient air." The statute is unambiguous.
(Footnote omitted.)

The Court thus found CO2 to be an "air pollutant". Since the U.S EPA can duly and lawfully regulate carbon dioxide ("CO2") then if the EPA has the necessary authority to regulate CO2 in any and all applications the question remains as posed by the LeBlancs' as to why the U.S. EPA is neither enforcing the CFR's (40 CFR § 144.35(b)-(c) and 40 CFR § 144.51(g)) nor is it enforcing the U.S. Constitution, as Amended (especially Article VI, Clause 2)--yet the U.S. EPA is giving blank checks to injectors at the expense of the property rights of private land owners.

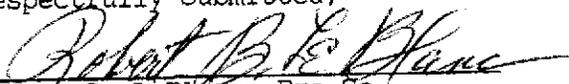
(4) That the LeBlancs' sincerely expected to have a hearing as was duly and timely requested in their letter dated 8/14/07 to Region 5 and the LeBlancs' fairly included "liability" and "adverse possession" issues as is evidenced on page 2 of said letter with employment of words--among other things--and including, but not limited to (see attached copy of letter incorporated by reference).

WHEREFORE, the LeBlancs' have presented a very important policy consideration which the Environmental Appeals Board should, unquestionably, review.

Dated: November 4, 2007

Respectfully Submitted,

By:


Robert B. LeBlanc, Pro Se

On Behalf of Himself & His Wife Joan S.
9300 Island Drive, Grosse Ile, MI 48138
(734) 675 - 0323

United States Environmental
Protection Agency
DI Section (Attn: Lisa Perenchio)
77 West Jackson Boulevard, (WU-16J)
Chicago, Illinois 60604-3590

Robert B. LeBlanc
On Behalf of Himself &
His Wife Joan S. LeBlanc
9300 Island Drive
Grosse Ile, MI 48138
(734) 675 - 0323

Tuesday August 14th, 2007

Re: Written comments, Objections, and Request for Public Hearing
as to PUBLIC NOTICE Dated: July 23, 2007 for proposed
underground injection for MI-137-5X25-0001 for the Charlton
4-30 well in Otsego County, Michigan.

Dear Lisa:

I am taking time from my busy schedule to write to you as
to the USEPA as to the issue of storage of CO2 in certain forma-
tions underground which I sincerely believe is premature for
several of the following valid reasons.

First, I think that we can agree to the following quote by
a well known economist by the name of Adam Smith, namely:

The first and chief design of every system of
government is to maintain justice; to prevent
the members of a society from encroaching on one
another's property, or seizing what is not their
own.¹

Secondly, in the case titled Strain v. Cities Services Gas Co.,
83 P.2d 124, at 126 and 127 reads:

It is settled law that private property is not
to be taken for private use. (Citation omitted.)
...This would disrupt the whole theory of (natural
methane) gas ownership, production and distribution
which now prevails.

Yet in the case of Kelo v. New London (2004) adjudicated by the
United States Supreme Court, private property was taken for
private use. Fortunately, however, in Michigan the Michigan
Supreme Court recently decided that the case of "Poletown"
was reversed and that in Michigan once again, private property
is not to be taken for private use. According to your PUBLIC

¹ See Adam Smith, Lectures on Jurisprudence (Indianapolis,
Liberty Press, 1762, 1978), p. 5.

NOTICE Dated July 23rd, 2007 (See attached notice adopted by reference herein) "Core Energy, LLC will own and operate one proposed well....". Next, the treatise entitled "Regulating Carbon Dioxide Capture and Storage" by M.A.de Figueiredo, et al and published in April of 2007 by MIT CEEPR, demonstrates, among other things, safety and storage issues including, but not limited to subsurface trespass issues because of so-called "plume migration" mentioned on page 6 of said treatise. On page 7 of said treatise it says:

In March 2007, the EPA announced that it recommended using an experimental well category ("Class V") for permitting pilot CCS projects (U.S.Environmental Protection Agency, 2007). The Class V status relieves the operator from complying with the minimum requirements of the class into which the injection well would ordinarily fall.

Thus, it should be evident 40 CFR § 144.35 Effect of a permit remains a very, very important regulation because it is well settled that

Federal regulations have no less pre-emptive effect than federal statutes.

Fid. Fed. Sav. & Loan Ass'n v. de la Cuesta, 458 U.S. 141, at 153 (1982).

That agency rules with the force of law are "Laws of the United States" for the purposes of the Supremacy Clause, United States Constitution Article VI, Clause 2. Again, see City of New York v. FCC, 486 U.S. 57, at 63 (1988) ("The phrase 'Laws of the United States' encompasses both federal statutes themselves and federal regulations that are properly adopted in accordance with statutory authorization.").

Accordingly, "The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege" and, "The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations." 40 CFR § 144.35(b)-(c). (Underlined emphasis added.)

I believe that up to this point the above-listed facts and "law" are true and genuine and that you can also agree to the same. If this be true then only two remaining issues remain to

discussed and brought to light.

The first involves Case No. 2:06-cv-13588-DT before United States District Court Judge Gerald E. Rosen in the Eastern District of Michigan, Southern Division whereby the LeBlanc's have named the State of Michigan as the Defendant and Core Energy, LLC is a State Actor and whereby the EOR CO2 injector well (described as the Charlton "C" 2-30 began injecting on 8-13-05. The LeBlanc's mentioned 40 CFR § 144.35(b)-(c) in said Complaint as to subsurface trespass of CO2 under their Tract B Land, inter alia. Thus, unresolved ownership issues remain and still need to be addressed in said federal court as to said subsurface trespass because of CO2's tendency to migrate, inter alia, below adjacent land owners who continue to own their mineral and surface rights that are being ignored by said State and the EPA.

The second involves the case titled Arco Oil and Gas v. E.P.A., 14 F.3d 1431 (10th Cir. 1993) whereby at page 1436 says:

Instead, we [the 10th Cir. Court] conclude that neither the language of the SDWA, nor the relevant legislative history reveals a clear congressional intent to treat carbon dioxide as "natural gas" within the meaning of the Act [SDWA].

Further,

[W]e find the agency's interpretation of "natural gas" as excluding carbon dioxide to be permissible and consistent with the purpose and policy of the SDWA.

What is strange is the meaning of "natural gas". Under 15 U.S.C. § 717 it is implied that natural gas is methane gas being transported and sold to the public. Then under 15 U.S.C. § 717a(5) "Natural gas " means either natural gas unmixed, or any mixture of natural and artificial gas. Again implying methane gas and additives to skunk it or otherwise. Here the meaning can be deduced. Yet the Arco Court, Id. at 1434 found:

Apart from simply employing the term "natural gas", the SDWA does not elaborate on the term's intended meaning or scope.

And so it appears that in some instances the EPA can equivocate to have the word "natural gas" to both include carbon dioxide

and to exclude carbon dioxide. The fact is that if no legislative authority exists to enable the EPA to equivocate as demonstrated above then both its Class II and its Class V well programs are clearly devoid of the necessary legal sanction or validation since either CO2 can be regulated or it can not be regulated--that is the question.

In conclusion, the LeBlanc's respectfully Object and timely and duly request for a public hearing on the following issues:

- (A) The federal government's (whether through FERC, the EPA or through the NGA (Natural Gas Act) or the like or otherwise) role in protecting adjacent landowners property rights including, but not limited to mineral rights from disappearing altogether ?

- (B) Does the federal government intend to condemn private property including lands, oil and gas leases and the like under its own sovereign power yet the property taken for private use by private companies controlled by those who do not respect private property rights ? In other words, does the federal government expect to condone a redistribution of private property for the oil and gas industry who can then own all the then nationalized oil and gas and storage space throughout the United States like the case of Kelo v. New London cited above ? (City condemned private property so that Pfizer Pharmaceutical Co. could build a company owned social setting including hotel and shopping areas, etc. all at the expense of those unfortunate private property owners who were not using their property to the best use as could another private person like the city sought after.)

(C) Will the federal government soon intervene and protect the private property rights of those adjacent land owners who will rightfully charge rent to anyone attempting to store anything either on or subsurface with their property and protect all mineral right owners who have had their minerals stolen from under their property contrary to 40 CFR § 144.35(b)-(c) or will the federal government and the EPA continue to grant licenses to those who continue to curry favor with the United States Government solely to enforce a theory advocating elimination of private property and the ownership thereof² contrary to the United States Constitution, as Amended and especially Article 4 § 4 of said Constitution ?

(D) Can the LeBlanc's and other American's be assured that their property rights will be respected with respect to storage since none of the LeBlanc's property rights have been respected (so far) as to the current CO2 injection in the "C" 2-30 well) and that the so-called "sequestration" will not wind-up and result with the same trampling and disregard of said federal rights and interests ?

Thank you for your understanding, in advance, please confirm receipt and set hearing date, and with every good wish, I remain...

Sincerely,

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Robert B. LeBlanc
On behalf of Himself &
His Wife Joan S. LeBlanc

² See definition of communism in any dictionary.



JUL 29 2007

PUBLIC NOTICE

The United States Environmental Protection Agency, Region 5 office, plans to issue an injection well permit. This is your chance to send written comments on this proposed Class V injection well permit.

The Safe Drinking Water Act requires us to regulate underground injection of fluids through wells to protect the quality of underground sources of drinking water. This is done in part by issuing permits to owners/operators of underground injection wells. The regulations governing underground injection wells are at Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 144 and 146. The procedure for the permit process is at 40 C.F.R. Section 124.5. More information about our program is on the Internet at <http://www.epa.gov/r5water/uic/uic.htm>.

Core Energy, LLC will own and operate one proposed well for a limited test of CO₂ injection into the Bois Blanc Formation and Bass Island Dolomite at depths between 3190 and 3515 feet below the surface. Core Energy is working with the Midwest Regional Carbon Sequestration Partnership (MRCSP) to complete a research project aimed at measuring the behavior of CO₂ injected into these formations. This project is a pilot-scale demonstration of carbon sequestration, a technology being developed as one approach for mitigating climate change. Information on the research can be obtained at the MRCSP website: www.mrcsp.org.

FACTS

Permit number: U.S. EPA Draft Permit # MI-137-5X25-0001

Well name: State-Charlton #4-30 Well

Operator: Core Energy, LLC of Traverse City, Michigan

Location: Otsego County, NE ¼, SW ¼, T31N, R1W, Section 30

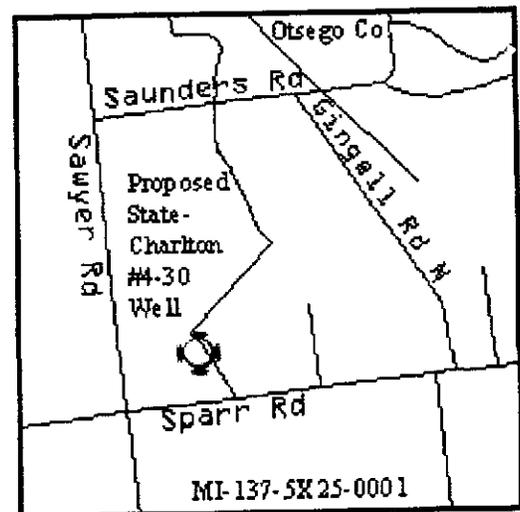
Permit Writer: Leslie Patterson at (312) 886-4904, or patterson.leslie@epa.gov via the internet

A public informational meeting has been scheduled for July 18, 2007, at the Johannesburg-Lewiston School. Two sessions will be offered, 2:00 to 3:45 p.m. and 7:00 to 8:45 p.m. Representatives from Core Energy, LLC, the Midwest Regional Carbon Sequestration Partnership, and U.S. EPA will provide information and answer questions about the proposed injection well, the experimental carbon sequestration project in Michigan, and the technology of carbon sequestration.

You may review the draft permit at: Otsego County Library, 700 South Otsego, Gaylord, Michigan, Monday-Tuesday and Wednesday 9 a.m. to 8 p.m., Thursday-Friday 9 a.m. to 5 p.m., Saturday 9 a.m. to 1 p.m. and Sunday 1 p.m. to 5 p.m. The draft permit is also on the Internet at <http://www.epa.gov/r5water/uic/uic.htm>.

Send your written comments to the Permit Writer at the Internet address listed above, or to this address.

U.S. Environmental Protection Agency
DI Section (Attn: Lisa Perenchio)
77 West Jackson Boulevard, (WU-16J)
Chicago, Illinois 60604-3590



We must receive your comments within 30 days after the date at the top of this notice. However, be aware that the USEPA does not have the authority to change the surface location of the injection well. Any issues regarding surface facilities, such as the location of the proposed injection well should be addressed to the Michigan Department of Environmental Quality. Michigan Department of Environmental Quality can be contacted at the following address: P.O. Box 30256, Lansing, Michigan, 48909-7756 and phone number (517) 241-1515. During the public comment period, you may request a public hearing in writing. You must state the issues you propose to raise at the hearing. If we receive many comments on this draft permit decision, we will hold a hearing, and publish a notice of the hearing at least 30 days before the hearing. If there is a hearing, you may make your comments then. We will consider all comments received and then issue a final permit decision.

You may view the administrative record, including all data submitted by Core Energy, LLC, at the Region 5 office. If you wish to visit the Region 5 office, please call the Permit Writer first. The office is at the address listed above, and is open between the hours of 9 a.m. and 4 p.m.