

received
5/14/07



"Theresa M. Skrove"
<tskrove@reinhartlaw.com>
05/14/2007 04:54 PM

To Eureka Durr/DC/USEPA/US@EPA
cc "Donald P. Gallo" <dgallo@reinhartlaw.com>, "Pamela H.
Schaefer" <pschaefer@reinhartlaw.com>
bcc

Subject Emailing: appeal.pdf

<<appeal.pdf>>

Ms. Durr:

Please be advised that the attached Notice of Appeal and Appeal was sent via Federal Express to 607 14th Street N.W., Suite 500, Washington, DC 20005 per the instructions provided by Jo-Lynn Traub, Director Water Division of Region V in a letter dated April 12, 2007. It has just come to our attention that this is an incorrect address. When the Environmental Appeals Board was contacted, they directed me to a link on the website for electronic submission. However, the link is not working and I receive an error page.

Please accept this submission today. We will be having the Federal Express package delivered tomorrow.

Theresa Skrove
Secretary for Donald P. Gallo and Michelle Williams
Direct: 262-951-4567
Fax: 262-951-4690
tskrove@reinhartlaw.com

Your files are attached and ready to send with this message.

Any advice expressed in this writing as to tax matters was neither written nor intended by the sender or Reinhart Boerner Van Deuren s.c. to be used and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. If any such tax advice is made to any person or party other than to our client to whom the advice is directed and intended, then the advice expressed is being delivered to support the promotion or marketing (by a person other than Reinhart Boerner Van Deuren s.c.) of the transaction or matter discussed or referenced. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

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appeal.pdf

received
5/14/07
ed
via email

reinhardt.com



May 10, 2007

Donald P. Gallo
Direct Dial: 262-951-4555
dgallo@reinhardt.com

Pamela H. Schaefer
Direct Dial: 262-951-4598
pschaefer@reinhardt.com

SENT VIA COURIER

Ms. Jo Lynn Traub (W156J)
Director of Water Division
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Environmental Appeals Board
U.S. EPA
607 14th Street N.W., Suite 500
Washington, D.C. 20005

Dear Ms. Traub and Director of the U.S. EPA Environmental Appeals Board:

RE: Application to transfer UIC Permit
No. MI-163-1W-C007 and MI-163-1M-
2008, 28470 Citrion Drive, Romulus, MI
**Appeal of Denial of permit transfer
request**

We represent Environmental Geo-Technologies, LLC ("EGT") in the above matter. On February 28, 2007, the current permit holder of the above permits, Environmental Disposal Systems, Inc. ("EDS") filed an application to transfer the permits from EDS to EGT. Accompanying the application to transfer was a UIC Permit Transfer Agreement executed by EGT which was subsequently signed by EDS and submitted to the U.S. Environmental Protection Agency ("EPA") (See application dated February 28, 2007, Exhibit A). Also included was an irrevocable stand by letter of credit and other documentation required by the EPA. Subsequently, the EPA requested additional information which was supplied by the letter dated March 26, 2007 addressed to Ms. Dana Rzeznik, U.S. EPA Environmental Engineer (Exhibit B). Additional information was provided to Ms. Rzeznik on April 12, 2007 (copy attached as Exhibit C), including a revised UIC Permit Transfer Agreement signed by RDD Investment Corporation, EGT and EDS.

P.O. Box 2265, Waukesha, WI 53187-2265 • W233 N2080 Ridgeview Parkway, Waukesha, WI 53187
Telephone: 262-951-4500 • Facsimile: 262-951-4690 • Toll Free: 800-928-5529

Madison, WI • Telephone: 608-229-2200 • Toll Free: 800-728-6239
Milwaukee, WI • Telephone: 414-298-1000 • Toll Free: 800-553-6215

FILE COPY

Ms. Jo Lynn Traub (W156J)
Environmental Appeals Board
May 10, 2007
Page 2

EGT is the proposed transferee of the above permits. EGT has worked diligently with the EPA and counsel representing RDD Investment Corp. to comply with the EPA's request for additional information and particularly financial sureties required by the agency (See Exhibit C). EGT has addressed virtually all of the technical issues arising from EDS's pre-November 2006 operation. EDS and EGT have met the EPA's requirements for transference of the permits.

On April 12, 2007, Ms. Traub, Director of the EPA's Region 5 Water Division, issued a letter to EDS (Exhibit D) stating that the EPA would not process the transfer request due to the fact that EPA was now proposing to terminate the permits under 40 CFR § 144.40. Simultaneously, the EPA issued a notice of its intent to terminate the permits on April 12, 2007 (Exhibit E). According to Ms. Traub's letter of April 12, 2007, "because the proposed terminations would render your permit transfer request moot, the U.S. EPA will retain the information provided, but will not consider or process your request..." The EPA letter of April 12th does not state that it is a final action. It is in effect final because no further action will be taken on the transfer request, pending the outcome of the hearing on termination scheduled for May 23. Thus, the April 12th EPA letter functions as a final determination on the merits of the transfer request and is appealable.

We request that you either 1) reconsider the decision in light of detailed submittals made by EGT and EDS which, we believe, cure any defects in the submitted information which supports the request to transfer. EDT is willing to continue to work with the EPA to resolve any outstanding issues. 2) Alternatively, we request that you refer the matter for an administrative review within the agency, to the extent such appeal is available. 3) Finally, we are submitting this matter to the Environmental Appeals Board on appeal under 40 CFR § 124.5(b). Denial of a request for modification of a permit, including transference, maybe informally appealed to the Environmental Appeals Board. We are requesting at this time that the EPA stay its proceedings to revoke or terminate the permits, and instead respond to the request to transfer the permits which is currently before it.

Yours very truly,



Donald P. Gallo



Pamela Schaefer

CLARK HILL
PLC
ATTORNEYS AT LAW

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www.clarkhill.com

Ronald A. King
Phone: (517) 318-3015
E-Mail: rking@clarkhill.com

COPY

February 28, 2007

VIA FEDERAL EXPRESS OVERNIGHT

Ms. Dana Rzeznik
Environmental Engineer
Underground Injection Control Branch
Region 5, U.S. EPA, WU-16J
77 W. Jackson Blvd.
Chicago, IL 60604

Re: *Application To Transfer Permit/ MI-163-1W-C007 & MI-163-1W-C008*

Dear Ms. Rzeznik:

In follow-up to our meeting on January 30, 2007 and our recent telephone conferences, I am submitting an original and a copy of the following documentation for purposes of requesting a transfer of the Underground Injection Control permits for the two (2) deep disposal wells located at 28470 Citrin Drive, Romulus, Michigan:

1. Application to Transfer Permit (EPA Form 7520-7) requesting transfer of permit from Environmental Disposal Systems, Inc. ("EDS") to Environmental Geo-Technologies, LLC ("EGT") for permit numbers MI-163-1W-C007 and MI-163-1W-C008;
2. UIC Permit Transfer Agreement executed by EGT. We are still awaiting an executed copy of this document by EDS. Based on my discussions with the attorney for EDS, I expect to receive this document shortly. In the alternative, I have attached the Acknowledgement and Assignment executed by EDS which appoints the attorneys or designee of the Police and Fire Retirement System of City of Detroit as attorney in fact for EDS for purposes of executing any documents necessary to effectuate the transfer of the UIC permits (see, paragraph 4.g.);
3. An Irrevocable Standby Letter of Credit (effective February 22, 2007) issued on behalf of RDD Investment Corp., the present operator of the facility, for purposes of meeting the financial responsibility requirement set for in 40 CFR 144.63 along with a February 8, 2007 cost estimate for plugging and abandonment prepared by Petrotek Engineering Corporation;

CLARK HILL PLC

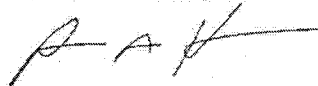
Ms. Dana Rzeznik
Environmental Engineer
Underground Injection Control Branch
Region 5, U.S. EPA, WU-16J
February 28, 2007
Page 2

4. A copy of an Irrevocable Standby Letter of Credit issued on behalf of EGT, effective immediately. The original will be forwarded upon receipt;
5. An updated Plugging and Abandonment Plan certified by Austin Marshall on behalf of EGT for both wells;
6. A copy of the resume and training qualifications for EGT's deep well operator, Donald A. Anderson, along with an expected work schedule for Mr. Anderson;
7. A general overview of Personnel Qualification for EGT, including resumes for each expected individual employee;
8. Documentation demonstrating the intended performance of an Ambient Reservoir Pressure Test by Baker Hughes;
9. Documentation certifying repairs to the automatic warning and shut-off system, plans for installation of a well leak detection system, plan for lining system for well head cellars and certification of facility by Stantec; and
10. Documentation regarding electronic record keeping for process data logging, steps for maintaining electronic records by EGT and an investigation regarding missing chart recordings.

If you have any questions related to this Application to Transfer Permit or the supporting documentation, please do not hesitate to contact me.

Very truly yours,

CLARK HILL PLC



Ronald A. King

RAK:kmt
Enclosures

cc: RDD Investment Corp.
Environmental Geo-Technologies, LLC

CLARK HILL
PLC
ATTORNEYS AT LAW

212 East Grand River Avenue
Lansing, Michigan 48906
Tel. (517) 318-3100 ■ Fax (517) 318-3099
www.clarkhill.com

Ronald A. King
Phone: (517) 318-3015
E-Mail: rking@clarkhill.com

March 26, 2007

VIA FEDERAL EXPRESS OVERNIGHT

Ms. Dana Rzeznik
Environmental Engineer
Underground Injection Control Branch
Region V
U.S. Environmental Protection Agency, WU-16J
77 West Jackson Boulevard
Chicago, IL 60604

Re: *RDD Investment Corp./ 28470 Citrin Drive, Romulus, Michigan/ Financial Assurance*

Dear Ms. Rzeznik:

Pursuant to your letter of March 16, 2007 and subsequent discussions with Region V staff, please find enclosed the following revised documents related to financial assurance pursuant to 40 CFR 144.63 for the above-referenced facility:

1. Two executed duplicate originals of the Standby Trust Agreement between RDD Investment Corp. ("RDD") ("Grantor) and the Police and Fire Retirement System of the City of Detroit ("Trustee");
2. Cover letter (as required by 40 CFR 144.63(d)(4)) and two executed duplicate original Irrevocable Standby Letter of Credit effective November 7, 2006 for the account of RDD and Environmental Disposal Systems, Inc. ("EDS"), along with the February 8, 2007 Plugging and Abandonment Cost Update prepared by Petrotek Engineering Corporation; and
3. UIC Permit Transfer Agreement executed on behalf of RDD.

I expect to be receiving the Standby Trust Agreement, Irrevocable Standby Letter of Credit and UIC Permit Transfer Agreement executed by or on behalf of Environmental Geo-Technologies, LLC, by the close of business today. Please return the letters of credit provided with the February 28, 2007 submittal to me at your earliest convenience.

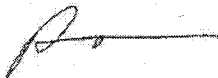
CLARK HILL PLC

Ms. Dana Rzezniak
Environmental Engineer
Underground Injection Control Branch
Region V
U.S. Environmental Protection Agency, WU-16J
March 26, 2007
Page 2

If you have any questions related to this matter, please do not hesitate to contact me.

Very truly yours,

CLARK HILL PLC



Ronald A. King

RAK:kmt
Enclosures

cc: Mr. Ronald Zajac [w/Enclosures]

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Phone: (517) 318-3015
E-Mail: rking@clarkhill.com

April 12, 2007

VIA FEDERAL EXPRESS OVERNIGHT

Ms. Dana Rzezniak
Environmental Engineer
Underground Injection Control Branch
Region V
U.S. Environmental Protection Agency, WU-16J
77 West Jackson Boulevard
Chicago, IL 60604

Re: *Environmental Geo-Technologies, LLC/ 28470 Citrin Drive, Romulus, Michigan
– Standby Trust Agreement/ Financial Assurance/ UIC Transfer Agreement*

Dear Ms. Rzezniak:

Pursuant to your letter of March 16, 2007, and subsequent discussions with Region V staff, please find enclosed the following revised documents related to the request for transfer of the UIC permits from Environmental Disposal Systems, Inc. ("EDS") to Environmental Geo-Technologies, LLC ("EGT"), for the above-referenced facility:

1. Two fully executed duplicates of the Standby Trust Agreement between EGT ("Grantor") and Comerica Bank ("Trustee") effective March 22, 2007;
2. Cover letter (as required by 40 CFR 144.63(d)(4)) and two executed duplicate original Irrevocable Standby Letters of Credit effective March 22, 2007, for the account of EGT, along with the February 8, 2007, Plugging and Abandonment Cost Update prepared by Petrotek Engineering Corporation;
3. Two original executed copies of UIC Permit Transfer Agreements executed on behalf of RDD Investment Corp., EGT and EDS. I previously sent the original execution page for RDD;
4. A copy of the Affidavit of Douglas Wicklund evidencing authority to execute various documents on behalf of EDS and related entities; and
5. A copy of the Authorization Resolution of Remus Joint Venture.

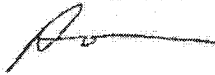
CLARK HILL LLC

Ms. Dana Rzeznik
Environmental Engineer
Underground Injection Control Branch
Region V
U.S. Environmental Protection Agency, WU-16J
April 12, 2007
Page 2

If you have any questions related to this matter, please do not hesitate to contact me.

Very truly yours,

CLARK HILL PLC



Ronald A. King

RAK:kmt
Enclosures

cc: Mr. Jim Papas [w/Enclosures]

5426962.1 14893/111688



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

W-15J

April 12, 2007

RDD Investment Corp.
c/o Ronald A. King
Clark Hill PLC
212 East Grand River Avenue
Lansing, MI 48906

Austin Marshall
Environmental Geo-Technologies, LLC
1216 Beaubien
Detroit, MI 48226

Re: Environmental Disposal Systems (EDS)
Romulus, Michigan

Dear Mr. King and Mr. Marshall,

You have requested transfer of the underground injection permits from EDS to EGT and have provided supplemental documentation in support of that request as suggested by U.S. EPA in a letter dated March 13, 2007.

At this time, however, U.S. EPA has decided to propose that the EDS permits be terminated under 40 C.F.R. §144.40. As you know, there are outstanding historical permit violations stemming from EDS's operation of the facility which are cause for termination under that provision.

Because the proposed terminations would render your permit transfer request moot, U.S. EPA will retain the information you provided, but will not consider or process your request at the present time. Pursuant to 40 C.F.R. §144.31, you may reapply in the event that U.S. EPA does ultimately terminate EDS's permits.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Traub".

Lynn Traub, Director
Water Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

April 12, 2007

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Environmental Disposal Systems, Inc.
 Douglas F. Wicklund, President
 199 West Brown Street, Suite 200
 Birmingham, Michigan 48009

OPTIONAL FORM 38 (7-00)

FAX TRANSMITTAL		* of pages 10
To <i>Lawrence Scott</i>	From <i>EPA</i>	
Dept./Agency <i>O'Reilly Romulus MI</i>	Phone #	
Fax # <i>586-726-1560</i>	Fax #	
NSN 7540-01-317-7368	5039-101	GENERAL SERVICES ADMINISTRATION

**RE: Notice of Intent to Terminate Permit # MI-163-1W-C007 and Permit # MI-163-1W-C008
 Environmental Disposal Systems, Inc., Romulus, Michigan**

Dear Mr. Wicklund:

In accordance with Federal Underground Injection Control Program permitting procedures the United States Environmental Protection Agency (U.S. EPA) is issuing its notice of intent to terminate Permit # MI-163-1W-C007 and Permit # MI-163-1W-C008. These permits were issued on September 6, 2005, under the Underground Injection Control program to Environmental Disposal Systems, Inc. (EDS) of Birmingham, Michigan to operate two Class I commercial injection wells located on Citrin Drive in Romulus, Wayne County, Michigan.

U.S. EPA's notice of intent to terminate is provided pursuant to 40 CFR §§ 144.40 and 124.5(d)(1). As provided in 40 CFR § 144.40(a) and in condition I.B.1 of the permits, U.S. EPA intends to terminate the permits due to EDS's noncompliance with numerous provisions of the permits. The specific permit violations are described in detail in the accompanying fact sheet and are supported by an administrative record.

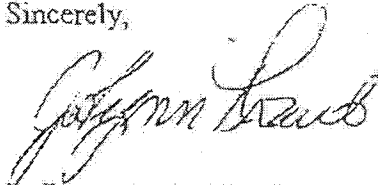
To preserve your right to appeal any final permit decisions that may be made in this matter under Title 40 of the Code of Federal Regulations (40 CFR §124.19), you must either participate in a public hearing or send in written comments on the notice of intent to terminate. Following such participation, the first appeal for review of any condition of the final permit decisions must be made to the Environmental Appeals Board of the U.S. EPA. Such a petition must include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including any public hearing). The petition should, when appropriate, show that each condition being appealed is based on either, (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy demonstration which the Environmental Appeals Board should, in its discretion, review. If you wish to request an administrative review, you must submit such a request by regular mail to the U.S. EPA Environmental Appeals Board.

(MC 1103B), Ariel Rios Building, N.W., Washington, D.C. 20460. Requests sent by express mail or hand delivered must be sent to the U.S. EPA Environmental Appeals Board, 607 14th Street, N.W., Suite 500, Washington, D.C. 20005.

The request must arrive at the Board's office within 30 days of the receipt of the notice of decisions. The request will be timely if received within this time period. For this request to be valid, it must conform to the requirements of 40 CFR §124.19.

According to Title 40 of the Code of Federal Regulations (40 CFR §124.10(b)), a public notice of the tentative decision to terminate the permits shall allow a public comment period. The public comment period will run from Monday, April 23, 2007, to Friday, June 22, 2007. A public meeting and public hearing are scheduled for Wednesday, May 23, 2007, beginning at 6:00 pm at the Crowne Plaza Detroit Hotel, 8000 Merriman Road, Romulus, Michigan. At the end of the public comment period you will be notified of U.S. EPA's final decision on the permits.

Sincerely,



Jo-Lynn Traub, Director
Water Division

Enclosure

cc: Steven Chester, Michigan Department of Environmental Quality
Michael Chezik, U.S. Department of the Interior
Michigan State Historic Preservation Office
Advisory Council on Historic Preservation
Lawrence Scott, Esq., O'Reilly Rancilio PC, 12900 Hall Road, Suite 350, Sterling Heights, MI 48313-1151 (by Certified Mail)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

UNDERGROUND INJECTION CONTROL (UIC) PROGRAM
 PERMITS #MI-163-1W-C007 and #MI-163-1W-C008
 FACT SHEET

Environmental Disposal Systems, Inc.,
 Class I Commercial Hazardous Wells #1-12 and #2-12 in Wayne County, Michigan

Introduction

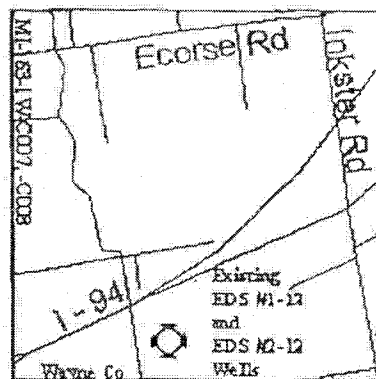
The United States Environmental Protection Agency (U.S. EPA) has tentatively decided to terminate the permits issued to Environmental Disposal Systems, Inc., (EDS) of Birmingham, Michigan to operate two Class I commercial injection wells located on Citrin Drive in Romulus, Wayne County, Michigan for the disposal of hazardous liquid waste. U.S. EPA's notice of intent to terminate is provided pursuant to 40 C.F.R. §§ 144.40 and 124.5(d)(1).

Facility Background and Operation

Under permits issued by U.S. EPA on September 6, 2005, EDS has used these Class I commercial hazardous waste injection wells for the disposal of hazardous waste waters from a variety of sources. These waste waters have included dilute acids, spent solvents, and landfill leachates, as well as a variety of non-hazardous wastes. The construction of the wells was completed in March of 2002 and meets the regulatory criteria of 40 Code of Federal Regulations (CFR) § 146.12. On March 16, 2004, U.S. EPA granted EDS an exemption from the Resource Conservation and Recovery Act (RCRA) land disposal restrictions for injection of hazardous wastes. On [date] U.S. EPA provided written authorization for EDS to inject waste into the wells, based in part on a determination that EDS has obtained all necessary federal and state permits to operate the wells. The permits extended for a ten (10) year period, unless terminated.

On October 23, 2006, while witnessing a mechanical integrity test, a Michigan Department of Environmental Quality (MDEQ) inspector noticed a leak in the surface piping of one of the wells. On October 25, 2006, MDEQ required the facility to shut down due to the leak. U.S. EPA conducted an inspection on November 2 and 3, 2006, and identified numerous violations of the conditions of the permits. U.S. EPA conducted a second inspection on December 14-15, 2006.

On November 7, 2006, without notice to U.S. EPA, EDS signed agreements transferring ownership of the facility. As of that date, EDS abandoned all interest in, and operations at, the wells.



- 2 -

Intent to Terminate a Permit:

In accordance with the provisions of the Safe Drinking Water Act, as amended (42 U.S.C. § 300f et seq., commonly known as the SDWA) and its implementing regulations, the U.S. EPA proposes to terminate EDS's permits for the injection wells. As provided in 40 C.F.R. § 44.40(a) and in condition I.B.1 of the permits, U.S. EPA intends to terminate the permits due to EDS's noncompliance with numerous provisions of the permits. The violations include noncompliance with the following conditions (which appear in both permits):

- 1) I.E.7. Duty to Provide Information - The permittee shall furnish to the Director, within a time specified, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request within a time specified, copies of records required to be kept by this permit.

U.S. EPA issued a written request for information to EDS on January 12, 2007, in order to determine, among other things, whether cause exists for modifying, revoking and reissuing, or terminating the permits, or to determine compliance with the permits. EDS's response was due by March 4, 2007, but EDS has not responded. EDS's lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory responsibilities.

- 2) I.E.8. Inspection and Entry - The permittee shall allow the Director or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

I.E.9. Records

- (a) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation and copies of all reports required by this permit for a period of at least five years from the date of the sample, measurement or report.

At the time of the U.S. EPA inspection on November 2-3, 2006, a U.S. EPA inspector asked to review calibration and continuous monitoring records for the wells. EDS did not provide the requested records to the U.S. EPA inspector. EDS's lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory responsibilities.

- 3 -

3) I.E.9. Records

- (a) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation and copies of all reports required by this permit for a period of at least five years from the date of the sample, measurement or report.

During the U.S. EPA inspection on December 14-15, 2006, U.S. EPA inspectors were provided with some continuous monitoring records for Well #1-12 and Well #2-12. Several weeks of continuous monitoring records were not provided to the U.S. EPA inspectors and were not retained by EDS. This lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory responsibilities.

- 4) I.I.1. Financial Responsibility - The permittee shall maintain financial responsibility and resources to comply with closure and post-closure requirements of this permit, in a manner consistent with 40 C.F.R. §§ 144.52 (a)(7), 144.60 through 144.70, and 146.73. A copy of the approved financial assurance mechanism for closure costs is in Part III(B) of this permit. The permittee shall update this mechanism to include post-closure costs before injection commences.

- (b) Pursuant to 40 C.F.R. §§ 144.62(b) and 146.73, the permittee must adjust the cost estimate of closure and post-closure for inflation within 30 calendar days after each anniversary of the first estimate. The permittee shall follow the method described in 40 C.F.R. §144.62(b) or other method approved by the Director.

EDS provided the first cost estimate for closure on May 5, 2004, and the first cost estimate for post closure on January 21, 2003. The adjusted cost estimates were due on June 4, 2005, and February 20, 2004, respectively. EDS did not adjust either cost estimate. EDS's failure to adjust the cost estimates for closure and post-closure for inflation compromises the assurance that funds will be available for the proper plugging, abandonment, and post-closure care of the wells.

- 5) II.B.4. Warning and Shut-off System - The permittee shall install an automatic warning and automatic shut-off system prior to the commencement of injection....

A trained operator must be on site at all times during operation of the well.

On October 22-23, 2006, EDS injected overnight with no trained deep well operator on site. This conduct circumvents the safety precautions that are required by the permits.

- 4 -

- 6) II.B.4. Warning and Shut-off System - The permittee shall install an automatic warning and automatic shut-off system prior to the commencement of injection....

The permittee must test the warning system and shut-off system prior to receiving authorization to inject, and at least once every twelfth month after the last approved demonstration. These tests must involve subjecting the system to simulated failure conditions and must be witnessed by the Director or his or her representative.

U.S. EPA inspectors observed a successful demonstration of the automatic warning and shut-off system on June 30, 2004. The next demonstration was on June 8, 2006. EDS did not test the system within 12 months of the June 30, 2004 demonstration. This conduct circumvents the safety precautions that are required by the permits.

- 7) II.C.4. Ambient Monitoring - At least every twelfth month, the permittee shall, pursuant to 40 C.F.R. §146.68(e), monitor the pressure buildup in the injection interval, including, at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve. The permittee shall submit plans for this testing at least 30 days before the testing is planned, and is prohibited from performing the testing unless the Director has given written approval.

The first 12-month period after the issuance of the permits ended on September 5, 2006. EDS did not conduct an ambient reservoir pressure test, nor submit testing procedures to U.S. EPA for approval, within 12 months of the issuance of the permits. EDS's failure to test for reservoir pressure prevents U.S. EPA from anticipating the initiation or propagation of fractures in the confining formations that, if present, may act as conduits for waste to migrate to and contaminate an underground source of drinking water.

8) II.D. REPORTING REQUIREMENTS (and III.A and III.E)

The permittee shall submit all required reports to the Director at the following address no later than the end of the month following the reporting period. Monitoring reports under Part II(D)(1), (2), and (3) are not required until the initial authorization to inject has been granted or otherwise required by the Director.

United States Environmental Protection Agency
Region 5, WU-16J
77 West Jackson Blvd.
Chicago, Illinois 60604-3590
ATTN: UIC Branch, DI Section

- 5 -

2. Quarterly Reports - The permittee shall report the following at least every quarter. Quarterly reporting periods shall begin on the first day of January, April, July, and October of each year:
 - (a) Results of the injection fluid analyses specified in Parts III(A) and (E) of this permit, if applicable. In reporting fluid analyses, the permittee shall identify the waste components of the waste stream by their common name, chemical name, structure and concentration, or as approved by the Director. Laboratory reports shall be submitted with the first monthly monitoring report following the close of the quarterly reporting period;
 - (b) The results of the continuous corrosion monitoring as stipulated in Part II(C)(5) of this permit;
 - (c) Any quarterly analyses of ground water monitoring wells at this facility; and
 - (d) Any other monitoring required on a quarterly basis.

3. Annual Reports - The permittee shall report the following at least every twelfth month from the effective date of this permit:
 - (a) Results of the injection fluid analyses specified in Part III(A) and (E) of this permit, and the approved Waste Analysis Plan as recorded in the permit file for this permit. In reporting fluid analyses, the permittee shall identify the waste components of the waste stream by their common name, chemical name, structure and concentration, or as approved by the Director. This report must include statements showing that the permittee has met the requirements of Part I(E)(10), Part II(B)(2), and Part II(C)(3) of this permit.
 - (b) Results of pressure fall-off testing required by 40 C.F.R. §146.68(e) and of other annual requirements of the Groundwater Monitoring Plan which is a part of the permit file for this permit.

EDS was late in submitting a quarterly report for the quarter ending March 31, 2006 and did not submit a quarterly report for the quarter ending September 30, 2006. In addition, EDS did not submit an annual report for the period of September 6, 2005, through September 5, 2006, which was due October 6, 2006. EDS's lack of cooperation severely handicaps U.S. EPA's ability to carry out its regulatory functions.

- 6 -

Public Comments

Copies of the notice of intent to terminate and administrative record for this permit action are available for public review between 9 a.m. and 4 p.m. at the address listed below. It is recommended that you telephone the permit writer, Dana Rzeznik, at (312) 353-6492 before visiting the Region 5 office:

U.S. Environmental Protection Agency (WU-16J)
UIC Branch (Attn: Dana Rzeznik)
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

The public comment period for the notice of intent to terminate permits runs from April 23, 2007 to June 8, 2007. A public meeting and a hearing have been scheduled for May 23, 2007 at the Crowne Plaza Hotel 8000 Merriman Road, Romulus, Michigan. The informational meeting will take place from 6 pm until 7 pm. and will be followed by the public hearing from 7 pm. until 9 pm. You may make your comments during the public hearing or directly to Ms. Rzeznik during the comment period.

Part C of the SDWA specifically mandates regulation of the underground injection of fluids through wells to assure that the quality of the underground sources of drinking water is protected. Section 1422 of the SDWA requires the U.S. EPA to administer underground injection control (UIC) programs in the states which do not have approved UIC programs. Michigan has not acquired primacy over the UIC program for Class I injection wells, therefore U.S. EPA is administering the permit program pursuant to 40 CFR §147.1151.

In accordance with 40 CFR §124.19, any person who files comment on the notice of intent to terminate permits or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the final decision on termination of the permits.

Such a petition must include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including the public hearing) to the extent required by these regulations. The petition should, when appropriate, show that each condition being appealed is based upon either, (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy consideration which the Board should, in its discretion review.

EDS Permit Termination Decision Administrative Record

1. UIC permit MI-163-1W-C007
2. UIC permit MI-163-1W-C008
3. UIC permit MI-163-1W-0006
4. Letter from Jo Lynn Traub to Douglas Wicklund Re. Conditional Authorization to Inject dated Oct. 18, 2004
5. Letter from Jo Lynn Traub to Douglas Wicklund Re. Confirmation of Authorization to Inject dated Sept. 8, 2005
6. Federal Register Notice granting EDS exemption from land ban restrictions dated March 16, 2004
7. Second Amendment to Standby Trust Agreement for Additional Wells
8. Surety Bond Rider
9. Post closure plan and cost submitted by EDS to U.S. EPA, dated Jan. 21, 2003
10. E-mail note from Dana Rzeznik to Paul McConnell of EDS, dated May 4, 2004 itemizing EDS's financial assurance available
11. EDS inspection report prepared by Charles Brown, dated June 8, 2006
12. Quarterly report submitted by EDS to U.S. EPA, dated Aug. 01, 2006
13. Letter from MDEQ to Douglas Wicklund describing deficiencies at the facility, dated Oct. 20, 2006
14. Statement from Charles Brown re leaks at well #2-12 on Oct. 23, 2006
15. EDS monitoring report for October 23, 2006
16. Letter from MDEQ to Douglas Wicklund regarding well leak, dated Oct. 25, 2006
17. Letter from MDEQ to Douglas Wicklund regarding well leak, dated Oct. 27, 2006
18. Letter from MDEQ to Douglas Wicklund containing Letter of Warning, dated Nov. 2, 2006
19. E-mail letter from Ronda Blayer of MDEQ to Dana Rzeznik re compliance issues at the Romulus facility, dated Nov. 9, 2006
20. U.S. EPA inspection report dated Nov. 15, 2006
21. Notice of Noncompliance from U.S. EPA to Douglas Wicklund of EDS dated Nov. 20, 2006
22. Request for Information from U.S. EPA to Douglas Wicklund of EDS dated Nov. 20, 2006
23. Letter from Paul Wonsack of RDD informing U.S. EPA and MDEQ about computer malfunction, dated Nov. 28, 2006
24. Letter from MDEQ to Douglas Wicklund containing Notice of Noncompliance, dated Nov. 28, 2006
25. Fax letter from RDD to Leslie Paterson, dated Dec. 7, 2006 in response to Notice of Noncompliance
26. Letter from Ronald King to Ronda Blayer of the MDEQ and Leslie Patterson submitting various documents, dated Dec. 14, 2006
27. U.S. EPA inspection report dated Jan 8, 2007
28. Letter from Ronald King to Ronda Blayer of MDEQ providing status report, dated Jan. 8, 2007
29. Fax from Neil Silver to Steve Chester of the MDEQ, dated Jan. 9, 2007 containing correspondence and copies EDS's assignments of property and

permits

30. Request for Information from U.S. EPA to Douglas Wicklund, dated Jan.12, 2007
31. Letter from Ronald King to Leslie Patterson transmitting documents transferring EDS property to RDD, dated Jan 22, 2007
32. Letter from Rep. Dingell to Mary Gade re EDS facility, dated Jan. 23, 2007
33. NOV from MDEQ to EDS, dated Jan. 26, 2007
34. Letter from RDD to Leslie Patterson re response to NOV, dated Jan. 30, 2007
35. Letter from Mary Gade to Rep. Dingell re status of EDS facility, dated Feb. 8, 2007
36. E-mail note from Leslie Patterson to Ronald King re compliance issues dated Feb. 15, 2007
37. Memorandum from Jo Lynn Traub to Mary Gade re options for EDS facility, dated Feb. 15, 2007
38. Notice of Intent to File letter sent to EDS by U.S. EPA on Feb. 22, 2007 and returned
39. Notice of Intent to File letter sent to EDS by U.S. EPA on Feb. 22, 2007, accepted, green card present
40. Letter from Neil Silver to U.S. EPA re permit revocation, dated March 8, 2007
41. Letter from Robert Ficano to Rebecca Harvey re permit revocation, dated March 16, 2007
42. Penalty Complaint against EDS filed on March 22, 2007
43. Letter from George Bruchmann of MDEQ to Ronald King regarding the status of violations at the Romulus facility dated March 27, 2007
44. Letter from Neil Silver to U.S. EPA requesting to participate in proceeding, dated March 28, 2007
45. Note to file from Leslie Patterson and Dana Rzeznik describing records not in the U.S. EPA's possession, dated April 10, 2007
46. Calendar entry for Robert Kaplan showing conference call with EDS representatives on April 10, 2007
47. E-mail note from Leslie Patterson to Erik Olson documenting April 10, 2007, conference call with EDS representatives, dated April 11, 2007
48. Fact sheet



United States
Environmental Protection
Agency, Region 5
Water Division

77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Mail Code WU-16J

Underground Injection Control Branch

PUBLIC NOTICE

United States Environmental Protection Agency (U.S. EPA), Region 5, intends to terminate the permits issued to Environmental Disposal Systems, Inc. (EDS) to operate two Class I commercial injection wells located at 28470 Citrin Drive, Romulus, Michigan. U.S. EPA'S notice of intent to terminate is provided pursuant to 40 C.F.R. Sections 144.40 and 124.5(d)(1).

As provided in 40 C.F.R. Section 144.40(a) and in condition LB.1 of the permits U.S. EPA intends to terminate the permits due to EDS's non-compliance with numerous provisions of the permits. These violations are described in the Fact Sheet that is a part of the administrative record for this decision.

You may see the draft decision to terminate the permits and the Fact Sheet for these wells at: Romulus Public Library, 11121 Wayne Road, Mon.-Thurs. 10 am-8 pm, Sat noon - 5 pm; Taylor Community Library, 12303 Pardee Road, Mon.-Thurs. 10 am-8 pm, Fri.-Sat. 10 am-5 pm; Eshleman Library, Henry Ford Community College, 5101 Evergreen Road, Dearborn, Mon.-Thurs. 7:30 am-9:30 pm.

Send your written comments on this proposed decision to terminate the permits to:

U.S. Environmental Protection Agency, Region 5
Underground Injection Control Branch (Attn: Dana Rzeznik)
77 W. Jackson Blvd. (WU-16J)
Chicago, IL 60604-3590

The public comment period for the notice of intent to terminate permits runs from April 23, 2007 to June 8, 2007. A public meeting and a hearing have been scheduled for May 23, 2007 at the Crowne Plaza Hotel, 8000 Merriman Road, Romulus, Michigan. The informational meeting will take place from 6 pm until 7 pm and will be followed by the public hearing from 7 pm until 9 pm. You may make your comments during the public hearing or directly to Ms. Rzeznik during the comment period. The hearing will be open to all interested parties. In order to ensure that all who attend have the opportunity to comment, each commentator should register at the door and expect to have three minutes to comment. We will consider all comments received, in writing or at the hearing, and then issue a final decision.

You may view the administrative record, including all documents supporting this decision, at the Region 5 office. If you wish to visit the Region 5 office or need additional information, please call Ms. Rzeznik at (312) 886-6492. The office is at the address listed above, and is open between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.