

# CLARK HILL

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June 18, 2009

## VIA HAND DELIVERY

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

**Re: *In re: Environmental Disposal Systems, Inc.  
Underground Injection Control Permits MI-163-1W-C007 and MI-163-1W-C008***

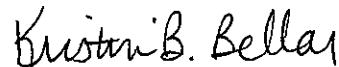
Dear Clerk:

Enclosed for filing, please find an original Joint Status Report and an original Proof of Service in the above-referenced matter.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,

CLARK HILL PLC



Kristin B. Bellar

KBB:rlw  
Enclosures

cc: Client  
Thomas Krueger, EPA  
Mindy G. Nigoff, EPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**ENVIRONMENTAL APPEALS BOARD**

In re: Environmental Disposal Systems, Inc.

UIC Appeal No. 07-03

Underground Injection Control Permits  
MI-163-1W-C007 and MI-163-1W-C008

**JOINT STATUS REPORT**

The Police and Fire Retirement System of the City of Detroit, RDD Investment Corp. and RDD Operations, LLC (collectively "Petitioners"), and the U.S. Environmental Protection Agency, Region 5 ("EPA"), by their undersigned attorneys, respectfully submit this Joint Status Report to the Environmental Appeal Board ("EAB").

On July 18, 2008, the EAB denied Petitioners' November 21, 2007 Petition for Review of the EPA's October 22, 2007 Notice of Decision to Terminate Underground Injection Control Permits MI-163-1W-C007 and MI-163-1W-C008 (the "UIC Permits") issued for an underground injection control facility located in Romulus, Michigan (the "Facility"). The Petitioner submitted a Motion for Reconsideration and Motion for Stay of the EAB's Order Denying Review on July 31, 2008. On August 18, 2008, the EPA filed a response to Petitioners' Motions, stating that it did not oppose either staying the effective date of the EAB's July 18, 2008 decision or suspending the UIC Permit termination proceedings for a six-month period to permit review of the application for new underground injection control permits filed by Environmental Geo-Technologies, LLC ("EGT") on December 7, 2007. On August 20, 2008, Petitioners submitted a Notice of Concurrence with the proposed six-month stay of the instant proceedings. On August 25, 2008, the EAB denied Petitioners' Motion for Reconsideration, but granted a six-month stay of the termination of the UIC Permits, and requested that the parties submit a report regarding

the status of the permit application review and discussing whether a continuation of the stay is appropriate by February 18, 2009.

On February 17, 2009, the parties filed a Joint Status Report, stating that the EPA was continuing its review of EGT's permit application, and that a decision on the permit application was pending. On February 19, 2009, the EAB issued an Order Granting Stay, extending the stay of the effective date of the EAB's Order Denying Review through June 19, 2009. The EAB's Order Granting Stay required the parties to submit a "report regarding the status of the permit application" which "shall include a discussion of whether it is appropriate to continue the stay" on or before June 19, 2009. (EAB Order Granting Stay, p.2).

EPA's decision on EGT's permit application has been unavoidably delayed. EPA, however, expects to issue a decision on the permit application in the very near future. Petitioners and the EPA agree that an additional extension of the stay is appropriate to allow the EPA to complete its review of the permit application and issue a decision that may affect these proceedings.<sup>1</sup> The parties agree that an extension of the stay will preserve the EAB's and the parties' resources and promote efficiency in resolving the instant proceedings. The parties will keep the EAB apprised of any action affecting the instant proceedings.

Therefore, Petitioners respectfully request that the stay of the EAB's Order Denying Review be extended for an additional four-month period from June 19, 2009 through October 19, 2009.<sup>2</sup> EPA does not oppose this request.

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<sup>1</sup> In the event that the EPA issues a draft permit for EGT's underground injection control permits, an additional extension of the stay may be necessary to comply with public participation and other requirements prior to issuance of a final decision.

<sup>2</sup> "For the purposes of judicial review, a final agency action occurs only after the Environmental Appeals Board issues notice to the parties that review has been denied. The Board's *EDS Decision* shall not constitute such notice while the effective date of the decision remains stayed." (EAB August 25, 2008 Order, pp. 8-9, fn. 4) (internal citation and quotation omitted).

Respectfully submitted,

CLARK HILL PLC

By: Kristin B. Bellar  
Joseph E. Turner (P44135)  
Ronald A. King (P45008)  
Kristin B. Bellar (P69619)  
212 East Grand River Avenue  
Lansing, Michigan 48906  
Attorneys for the Petitioners

Date: June 17, 2009

ENVIRONMENTAL PROTECTION AGENCY,  
REGION 5

By: Thomas Krueger w/ permission Kristin Bellar  
Thomas J. Krueger  
Associate Regional Counsel  
US EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, Illinois 60604-3590

Date: June 17, 2009

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**ENVIRONMENTAL APPEALS BOARD**

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In re: Environmental Disposal Systems, Inc.

UIC Appeal No. 07-03

Underground Injection Control Permits  
MI-163-1W-C007 and MI-163-1W-C008

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**PROOF OF SERVICE**

STATE OF MICHIGAN     }  
  } ss  
COUNTY OF INGHAM     }

I, Kristin B. Bellar, being duly sworn, depose and say that on June 18, 2009, I served the original *Joint Status Report*, along with this *Proof of Service* upon:

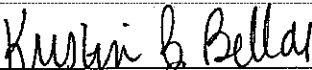
U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, N.W., Suite 600  
Washington, D.C. 20005

via hand delivery, and electronically filed same with the Environmental Appeals Board at [www.epa.gov/eab](http://www.epa.gov/eab).

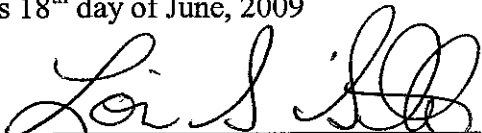
Service of same was also accomplished by placing same in a United States mail depository, enclosed in envelopes bearing postage fully prepaid and addressed properly upon:

Thomas J. Krueger, Associate Regional Counsel  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

Mindy G. Nigoff  
Office of General Counsel  
United States Environmental Protection Agency  
1200 Pennsylvania Ave, N.W.  
Washington, D.C. 60604-3590

  
\_\_\_\_\_  
Kristin B. Bellar

Subscribed and sworn to me  
this 18<sup>th</sup> day of June, 2009

  
\_\_\_\_\_  
Lori S. Smith, Notary Public  
Eaton County, State of Michigan.  
Acting in Ingham County, Michigan.  
My Commission Expires: 08/26/2013.