Emerson Joseph Addison III
17210 Maple Hill Drive
Northville, MI 48168
248-348-5401
emerson.addison@gmail.com

Ms. Eurika Durr, Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency
1201 Constitution Avenue, NW
WJC East Building, Room 3334
Washington, DC 20004

Via Electronic Mail Filing

RE: Filing of Petitioner Response to EPA Response to Petition No. UIC 18-06 – Permit No. MI-051-2D-0031

Dear Ms. Durr:

Enclosed, please find Proof of Service and Petitioner Response to EPA Response to Petition No. 18-06 regarding the above referenced matter.

Please do not hesitate to contact me with any questions and concerns you should have.

Sincerely,

Emerson Joseph Addison III
emerson.addison@gmail.com

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL APPEALS BOARD

IN THE MATTER OF: APPEAL NO UIC 18-06
PERMIT NO. MI-051-2D-0031

JORDAN DEVELOPMENT CO., LLC CLASS II WELL PERMIT

PERMIT NO. MI-051-2D-0031

PETITIONER RESPONSE BRIEF
TO
EPA RESPONSE BRIEF
TO PETITION NO. 18-06

CERTIFICATE OF SERVICE

27 March, 2019

I hereby certify that copies of the foregoing Permit Appeal for MI-051-2D-0031 in the matter of UIC Class II Permit MI-051-2D-0031, Grove #13-11 SWD, Appeal No. UIC 18-06, were served by Electronic Mail (email) the following persons, on the day of 27 March, 2019:

By electronic filing to:

* Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001

By electronic mail to:

* Kris P. Vezner
Associate Regional Counsel
U.S. EPA Region 5
Office of Regional Counsel
77 W. Jackson Blvd. (C-14J)
Chicago IL 60604
(312) 886-6827
Email: vezner.kris@epa.gov

By electronic mail to:

* Jordan Development Company, L.L.C.
1503 Garfield Road North
Traverse City, MI 49696
231-935-4220 Phone
231-935-4450 Fax
benb@jordanex.com

DATED: March 27, 2019

Sincerely,

Emerson Joseph Addison
17210 Maple Hill Drive

Northville, MI 48168
emerson.addison@gmail.com
248-348-5401

TABLE OF CONTENTS

TABLE OF AUTHORITIES

EAB CASES

OTHER

TABLE OF ATTACHMENTS

STATEMENT OF COMPLIANCE WITH WORD LIMITATION

This brief compiles with the 7,000-word limitation found at 40 C.F.R. § 124.19 (d)(3). See 40 C.F.R. § 124.19 (d)(1)(iv).

I. RESPONSE TO EPA INTRODUCTION, STATUTORY AND REGULATORY BACKGROUND, FACTUAL AND PROCEDURAL BACKGROUND, AND STANDARD OF REVIEW

The EPA response to the various Petitions for Review in the matter of Permit No. MI-051-2D-0031 Grove #13-11 SWD, issued to Jordan Development Co., LLC, is without merit and lacking on a number of aspects.

In particular, the EPA attempts to hide behind procedural formalities and questionable review practices. On most issues raised, the EPA attempts to dismiss all challenges to its decision to issue this permit on procedural grounds, or by stating they are without substantive merit. In doing so, the EPA overlooks a number of its own regulations governing the issuance of permits, Petitions for Review, and EAB review discretion.

Moreover, there are a number of areas in which EPA reasoning and regulations are clearly erroneous or contradictory, and contrary to what the EPA states in its response, the erroneous and contradictory policies were adequately demonstrated and raised during the comment period, as the material that the EPA claims to have been improperly introduced for the first time during the Petitions for Review was actually brought up in the more than 150 comments the EPA received on this matter, comments which were either submitted in writing or submitted publicly during the Public Hearing held in Gladwin on June 19, 2018.

A number of the materials and documents referenced in the various Petitions for Review reference issues which were already raised or referenced during the public comment period. In some cases, these issues were not reasonably ascertainable issues at the time, given that, by the EPA's own admission in its Environmental Justice protocol, this population has limited financial resources and many people lack the education to fully participate in these proceedings. This applies to the Petitioners as well, as they are not lawyers. Indeed, even the members of this community who have had the luxury of higher education, or at least of completing high school, lack background in EPA procedure and UIC regulations, and thus it falls to the EAB to use discretion in admitting material.

In addition to these facts, many of the documents referenced in the various Petitions for Review were EPA documents, EPA policies, and generally-available reference material which relates to this case, thus it is reasonable to expect the experts at the EPA to be already familiar with their own internal regulations, especially in regards to such issues as Environmental Justice (which was brought up a number of times during the comment period and references internal EPA documentation, and was also covered in the EPA permit documentation). Moreover, the EPA has been given the authority and has been entrusted with making this very important decision which will forever affect this community, thus making these various materials permissible to raise in a Petition for Review, especially given that this community is not composed of legal experts, but rather of lower-income people without benefit of a legal education or an EPA background, or the money to mount a proper challenge to this decision.

Finally, even if the EAB finds grounds for a review lacking, the EAB does have discretion in matters of review, and considering that over 150 people from this community were upset enough to submit comments in writing or at a public hearing, it is certainly arguable that further review is merited, if only to give the appearance of meaningful community participation, which seems to be what much of the EPA approval process is about.

II. RESPONSE TO ARGUMENTS

A) Response to EPA ARGUMENT 1:

"Petitioner's have not met their burden to demonstrate that their issues were raised during the public comment periods, or cited to where their issues and supporting documents appear in the administrative record, and therefore the Board should deny the Petitions on procedural grounds."

The EPA goes on to argue that "Petitioners simply cite as relevant 'public comments' Region 5's summary of groups of comments in the RTC." (page 9)

The permissibility of these public comments and materials referenced in them is regulated under 40 CFR § 124.13, which begins by stating:

"All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under 124.10."

This regulation continues by specifying that permissible materials can be incorporated by reference if they are already part of the administrative record (as Environmental Justice guidelines are, seeing as how they were consulted in issuing this permit) in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability (Environmental Justice guidelines fit this description as well, and were indeed raised during the comment period), or other generally available reference materials (this category also includes Environmental Justice guidelines – which were used by the EPA in issuance of the permit. This category also applies to any census data that relates to income, education, economic data, racial and health statistics – all of which were raised as issues during the comment period and during the public hearing on June 19, 2018).

I would first draw attention to the beginning section of 40 CFR § 124.13, which uses the language "reasonably ascertainable issues and submit all reasonably available arguments":

"All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under 124.10."

There are philosophical questions here, such as how, exactly, someone determines "reasonably ascertainable issues" and "reasonably available arguments supporting their position," especially if the person challenging the decision has zero environmental law experience, lacks a legal education (and, according the Environmental Justice screening of the Gladwin area, often a college or high school education, as well), and lacks the money to hire professional help (lower income status of this community was also noted in the Environmental Justice screening)? Certainly it is helpful to see all the

comments presented and to read the EPA response before all issues and supporting arguments can be made. Indeed, the philosophy of collaborative learning demands this interaction.

Obviously, all the comments submitted are a matter of "the administrative record in [this] proceeding." Additionally, these comments, all 150 of them, also qualify as "EPA documents of general applicability, or other generally available reference materials."

I would also like to point out that the complete transcript of the public hearing and copies of the written comments which were received regarding this case were NOT sent out to participants, nor were they posted on any web site, and, as of the writing of this response (3/25/19), have not been posted on the EAB site for this case. Apparently, the transcript of the public hearing was available only by request. Moreover, when I contacted Jane Rose Reporting, I was told it would cost $1.50 per page, which seems to be an affront to the an environmental justice policy that supposedly considered the low income levels in this community. Nor did the EPA mail or email a transcript of the public hearing or copies of written comments to the people who submitted comments at the public hearing or mailed written comments.

Rather, a summary response was sent out instead. This summary response was cited in my Petition for Review, and by the other Petitions for Review.

The EPA goes on to argue that these references "do not provide the document name and page number in the administrative record where any of Petitioners' specific arguments were raised, if in fact anyone did raise them during the public comment process."

First, clearly the EPA already has document names and page numbers, as they responded to them. Moreover, in many cases, it was the EPA response that was referenced. These references clearly listed the comment number from the EPA response to comments that was being referenced, which should be more than enough for the EPA to locate the relevant comments and remarks. In many cases, these comments were referenced to the best of the Petitioner's ability, and rather, it was the EPA that neglected to provide a full listing of the comments received for reference.

Second, the implication that these arguments were not raised ("if in fact anyone did raise them...") is both insulting and dishonest. As stated previously, my Petition for Review clearly cited the comment summary for each argument I made. If they were in the EPA comment summary, and if the EPA responded to them, then clearly, they had been raised. The extent to which they were raised is now a matter of discretion. Indeed, my Petition for Review also listed the Comment Response number of each relevant comment response, and comments underlying them, that was cited. Once again, every single vocal comment and written comment became a matter of administrative record in this proceeding the moment it was delivered to the EPA.

The EPA also stated that, because "Petitioners likewise fail to state whether these documents appear in the administrative record, and if so, where... This leaves Region 5 and the Board to scour the record, to try to determine whether each of Petitioners' arguments was raised during the public comment period."

Once again, the EPA is playing fast and loose with the facts. "Petitioners likewise fail to state whether these documents appear in the administrative record..." This is simply not true. As previously

stated, the Petition for Review objections were derived from the official EPA Response to Comments. By definition, this is a matter of the "administrative record," and therefore, admissible. The EPA knows this. And indeed, the EPA had already apparently "scoured" the record, as is evidenced by the various responses it gave to the comments.

It seems grossly unfair (and a violation of Environmental Justice policy) to leave it to a bunch of poor, largely under-educated citizens with no background in environmental law or EPA policy to do all of the research and filing work themselves, which they do not even have the training or background to do, nor do they have the money as a community to hire professional help. This is especially unfair when the EPA has the training, background and arguably the moral obligation to do these things, or at least provide a great deal of assistance (isn't this the sort of thing that EPA Environmental Justice guidelines are meant to address?). Worse still, the professionals at the EPA are actually being paid to do this work. This should be considered the responsibility of the EPA – not of the people in Gladwin, who had this whole things thrust upon them by outsiders. People in Gladwin pay taxes, like everyone else. And some of this tax money goes to fund the EPA, which then approves a permit that the people clearly don't want approved, refuses to provide adequate help to the community (in violation of the spirit of the EPA Environmental Justice policy), and then cites a bunch of bureaucratic procedural violations to disqualify challenges and further distance this community from having any real impact on this decision.

And again, the fact that the Petition for Review objections came directly from the EPA Response to Comments is evidence that these arguments were raised during the public comment period, thus making these comments, and anything referenced within them, a matter of record for this case.

Thus, EPA Argument 1 to deny these Petitions for Review on procedural grounds should be denied.

B) Response to EPA Argument 2A:

"The Board should deny Petitioner Addison's Environmental Justice argument for failure to meet threshold procedural requirements and on the merits."

The EPA cites a failure on procedural grounds against my claims that the "Environmental Justice screening was erroneous" and that the "EPA failed to apply any meaningful Environmental Justice guidelines." (page 10)

The EPA claims that I failed to meet the threshold procedural requirement when I "did not raise this argument during the public comment periods for the Grove #13-11 draft permit and has not cited to where anyone else did so."

Once again, the EPA is ignoring its own guidelines regarding permit challenges.

First, the Environmental Justice guidelines I cite as erroneous clearly fall within 40 CFR § 124.13, which states that permissible materials include materials that "are already part of the administrative record in the same proceeding, or consist of State or Federal statutes or regulations, EPA documents of general applicability, or other generally available reference materials."

Clearly, EPA Environmental Justice guidelines qualify as "EPA documents of general applicability, or other generally available reference materials." Thus, it is fair game for a Petition for Review. Indeed, the Environmental Justice guidelines were supposedly used when considering this permit.

In addition to this, Environmental Justice was brought up in a number of the comments, including one submitted by the EPA in its own Response to Petitions.

Dr. Ronald Kruske specifically mentioned both the Safe Drinking Water Act and the 2010 environmental justice guidelines in his public comments (page 32 of the Public Hearing Transcript, included in the Excerpts the EPA submitted with its Response to Petitions). Additionally, on page 6 of attachment B-8, which is presented as Att. B-8 (Petitioner Ronald Kruske's written comments), Dr. Kruske again mentions environmental justice, stating that:

"Gladwin and Clare counties consistently rank as two of the most economically depressed counties in the state. Set forth in the 2010 EPA Environmental Justice Guidelines, waste sites cannot be forced into a community that opposes it but simply cannot afford to fight it." He goes on to cite the 150 people who submitted comments as evidence that the community overwhelming opposes this project. He is obviously correct.

The EPA also asserts that "Petitioner fails to meet his burden to demonstrate with specificity why EPA's addressing of Environmental Justice (EJ) as explained in the administrative record was clearly erroneous or otherwise warrants review."

Again, this is simply not the case. In my Petition for Review, I clearly state the obvious contradiction in EJ policy, as well as the erroneous nature of the policy:

"Indeed, in the decision of *Envotech, LP, 6 E.A.D. 260 (EAB 1996)*, it was ruled that the EPA had no authority to deny or condition a permit if the permittee was in full compliance with the statutory and regulatory requirements. The Board further defined this position: "the Agency must issue the permit, regardless of racial or socio-economic composition of the surrounding community and regardless of the economic effect of the facility on the surrounding community." *Id., at 280-281*."

So basically:

1. The EPA claims to consider Environmental Justice, specifically mentioning EJ Screen. It cited EJ Screen several times in this case.
2. EPA EJ policy states that these projects can't be forced on an unwilling community that lacks the resources to fight them. This is also a matter of record (as cited by Dr. Ronald Kruske) and a matter of EPA documentation (it is official policy).
3. In defense of the decision to grant the permit, the EPA cites an EAB ruling that states that EJ concerns cannot be used to deny a permit providing the paperwork is in order. Again, this is both part of the record for this case, and official EPA / EAB policy.

These documents are all part of this case and official EPA documents, and therefore they are admissible under 40 CFR § 124.13.

Finally, these policies clearly contradict one another, as it is both erroneous and contradictory to claim to consider Environmental Justice, and then argue that you are not allowed to use Environmental Justice as grounds for denial of a permit, while EJ guidelines supposedly exist to forbid this practice.

Thus, the erroneous nature of the EPA Environmental Justice guidelines needs to be addressed.

The EPA also attacks my assertion "that the Region should have considered various factors in its EJ screening" on grounds of wildlife impact, outdoor recreation and tourism, the need for residents to test their private drinking water wells, veteran status, education level, disabilities and lack of health insurance, minority population, retail sales per capita, income, effect on property values, and effect on agriculture. The EPA claims that "Petitioner Addison raised none of these issues in his comments on the Grove #13-11 draft permit" and that "Petitioner also does not cite to where in the administrative record anyone else made any of the arguments that he now poses, or explain why he is entitled to raise these arguments for the first time in his petition."

First, it doesn't matter who raised these issues, as according to 40 CFR § 124.13, one can reference any material that is "already part of the administrative record in the same proceeding, or consist of State or Federal statutes or regulations, EPA documents of general applicability, or other generally available reference materials."

As I got my statistics on veteran status, education, disabilities, minority status, sales per capita, and income from U.S. Census Bureau data (which I cited appropriately), and that Census data is an official government statistic and certainly qualifies as "generally available reference materials," these arguments are fair game. The comments on wildlife and well testing were addressed in the EPA response to comments, and also appear in a number of places in the official public record pertaining to this case, including the excerpts form the public hearing which the EPA submitted as part of its Response to Petitions (Mr. Roberson, on page 9, mentions that he served in the armed forces. Mr. Lackey, on page 12, discusses well water testing and even presents a sample from his own well. Ms. Kruske, on page 22, also discusses well water testing. Ms. Schiele, page 36, also mentions well water testing. Ms. Curtis, page 29, mentions lakes, rivers, skiing on the lakes, drinking water, and the environment, as well as outdoor recreation. Ms. Robinson, page 35, mentions water quality, animals, society, and everything else in the community as a whole.).

In addition to the statistics I have already cited, on page 51 of the full transcript of the Public Hearing from June 19, 2018, Veronica Hall discusses agriculture and wildlife, saying that "We are a farming community. We have fish and wildlife activities abundant here." This is part of the official record.

The EPA concedes that "scouring the record, Region 5 has determined that one or more commenters commented on local income and the well's potential effect on property values, which could arguably be construed to raise issues relating to EJ." (page 12)

The EPA also claims that EJScreen was used to to examine 11 environmental and seven demographic indicators, and that it noted potential Environmental Justice concerns with household income and population having less than a high school education. The EPA claims that "This

information was considered when choosing a location and time for the information session and hearing and when designing outreach materials."

Aside from the irony of noting that a significant percentage of the population has "less than a high school education" and then selecting the local high school as the site of the meeting, are we to understand that the only things the EJ screening was used for were selecting a venue and "designing outreach materials" (whatever that means)?

According the EPA EJ guidelines cited by Dr. Ronald Kruske, EJ guidelines state that projects can't be forced on populations that lack the ability to mount a legal challenge and clearly don't want the project. Again, the EPA EJ Screening (and the U.S. Census Bureau statistics which I cited – Census statistics being official government data and easily and generally available reference material) showed that the population is poor (which this one did), lacks the financial ability to mount a legal challenge (which it did – EJ Guide 2010 states that "waste sites cannot be forced into a community that opposes it but simply cannot afford to fight it"), and that the response demonstrates the community is against the project (again, the response from the community was clearly against this project).

Therefore, this section of the EPA argument to dismiss the Petitions for Review is without merit and should be dismissed.

C) Response to Argument 2B:

"The Board should deny Petitioner Addison's seismicity, rock-fracturing, and rock-dissolving arguments for failure to meet threshold procedural requirements and on the merits."

The EAB should deny the EPA argument that my claims must fail on procedural grounds. To begin, my argument about injection volume and injection pressure increasing the risk of rock fracturing are based on government data. My estimates for tensile strength of sedimentary rock and its likely fracture point comes directly from an EPA guidance document, which I cited in my Petition for Review.

"EPA Region #5 even recognizes that 'In general, tensile strength for sedimentary rocks is on the order of hundreds of psi.'" (U.S. EPA Region #5, 2018).

My assertion that "high-rates of fluid injection are associated with the increase in U.S. mid-continent seismicity" came directly from a widely-cited study by M. Weingarten et. al. Moreover, because this fact has been verified numerous times and is now widely understood, it falls under 40 CFR § 124.13 as a "generally available reference material." High injection volumes as a risk factor for seismicity has also been acknowledged by the EPA.

The proximity of the injection site to a structural lineament is established in EPA documentation related to this case. Because the nature of the brine is largely unknown, it is impossible to determine what corrosive solvents might be contained.

Again, the EPA attempts to dismiss my arguments by citing a procedural failure to raise these issues. But this claim is a violation of EPA guidelines, as these issues were raised by numerous commenters during the comment period and at the meeting.

For example, Ellis Boal, on page 49 – 50 of the full transcript of the Public Hearing held in Gladwin on June 19, 2018, specifically discussed earthquakes and seismicity. He also mentioned an EPA report from 2013 and an EPA workshop from 2014, "Minimizing and Managing Potential Impacts of Injection-Induced Seismicity from Class II Disposal Wells: Practical Approaches." This report is an EPA document that was mentioned during the comment period, and is therefore part of the case record for the Jordan Permit No. MI-051-2D-0031.

Mr. Boal also discusses that neither Jordan – the operator – nor the EPA had proven, as of the date of the Public Hearing, that there were no faults in the area.

Because these issues were raised during the public comment period, at the meeting, and discussed in official EPA documentation (documentation that was also specifically cited by Ellis Boal at the Public Hearing), I am allowed to raise these issues, as per 40 CFR § 124.13:

"Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes or regulations, EPA documents of general applicability, or other generally available reference materials."

D) Response to EPA Argument 2B i:

"Region 5 adequately and appropriately considered injection volume in finding that permit conditions would prevent seismicity and rock-fracturing risks."

The EPA explains its reasoning by noting that:

"If pore space (openings in the rock) within the injection zone begins to get overfilled, the pore pressure (pressure within the openings) would increase and more pressure would be needed to inject additional fluid. This this is more accurate indicator of filling pore spaces than estimating pore volume based on a small sample of rock. Injection pressure is limited in the permit to avoid over-pressuring the rock, to eliminate the possibility of fracturing the rock." (page 15)

The problem here is one with logic. The EPA has set the injection pressure limit at many times the level at which sedimentary rock is known to fracture (the limit is 973; whereas rock fractures in the hundreds of psi). Moreover, should the rock fracture under these high pressures, it would create new openings in the pore spaces, thus allowing more fluid to be injected while simultaneously weakening and destabilizing the rock further. This, coupled with the unlimited injection volume, is a recipe for disaster. I believe the EPA should address this argument.

Given that the pressure limit is many times in excess of known rock-fracturing pressures, and that should a fracture occur, it would allow for greater volumes of fluid to be injected without triggering a corresponding increase in injection pressure, the EPA's logic is clearly erroneous. Thus, the EPA argument should be dismissed.

E) Response to EPA Argument 2B ii:

"Region 5 adequately and appropriately considered injection pressure in finding that permit conditions would prevent seismicity and rock-fracturing risks."

Again, EPA guidance documents cited above establish that rock fractures in the hundreds of psi, whereas the limit here is 973. Moreover, should the rock fracture, it would change the pressure limit.

Because this is from official EPA guidance documentation, it is allowable. And because the EPA is using a potential injection pressure increase as the sole limit to injection volume, it puts injection pressure on the table, as, by EPA reasoning, they are intimately linked. Clearly, it's impossible to separate one from the other. Additionally, I have already established that Ellis Boal discussed seismicity at the Public Hearing and mentioned other official EPA documentation.

F) Response to EPA Argument 2B iii:

"Region 5 adequately and appropriately considered structural lineaments and faults in finding that permit conditions would prevent seismicity risks."

As I have already established, there were public comments about seismicity. Moreover, EPA acknowledges that there is a structural lineament within 5 miles of the proposed site. Although the EPA argues that it is not a known fault, it cannot prove it is not a fault. Nor can it prove that high injection volumes at high pressure will not affect it, regardless of whether or not it is a fault.

G) Response to EPA Argument 2B iv:

"Region 5 adequately and appropriately considered injectate corrosivity in finding that permit conditions would prevent seismicity and rock-dissolving risks."

This is simply not true. Nor is the assertion that "Region 5 appears to have received no public comment" that the unknown composition of the brine puts first responders at risk or that the possibility of corrosive substances may dissolve rock.

There were lots of public comments about possible accidents and the ability of the community to handle them. There were also comments about the unknown composition of the brine. The brine composition is unknown and could therefore have anything in it. Lots of people mentioned radioactivity. People mentioned cancer risks. There were simply too many questions about brine composition to recount them all, but a few include:

Mr. Roberson, on pages 9 – 12 of the public hearing excerpts, argued that "you (the EPA) call it brine. I guess you call it brine because potentially radioactive waste with heavy metal toxic waste rings better to our ears." Ms. Kruske, on page 22, argued "We don't even know what's in the brine." Dr. Townsend, on page 24, discussed cleanup should the pipeline rupture. If there is a rupture, someone will have to respond to it first. Since both the unknown composition of the brine and the cleanup have been mentioned, first responders is fair game. Ms. Robinson, on page 35 – 36, noted that they "are still trying to find out what exactly is in the brine."

Additionally, in my public comment, I specifically stated "Ability of local first responders and emergency workers to respond to and address any possible emergencies and accidents that may occur." A number of local and city officials also raised this point in their letters.

The EPA argues that this wording is not specific enough regarding the issue of unknown composition complicating the first response. Is the EPA implying that it doesn't complicate the response? Has the EPA discussed this with any firefighters or police officers? First responders like to know what they are dealing with whenever possible. Should there be an emergency situation with this well, the composition of the brine would be unknown, so they wouldn't know what they are dealing with or what equipment to bring. They might not even have proper equipment (poor community).

The EPA also argues that I fail to explain how possibly corrosive injectate would in fact increase the risk of seismic events. Simple logic would suggest that corrosive substances weaken rock. Logic also suggests that weakened rock is more likely to fracture. Indeed, one of the reasons for adding corrosive solvents to fracking fluid is to weaken the rock so it is easier to break apart. And fractured rock is more likely to experience "seismic events." Mr. Spock and Commander Data would both understand the logic involved here. I hope the EPA does, as well.

The EPA argues that my argument is essentially a challenge to UIC regulations that allow brine injection, and that "[a] permit appeal is not the appropriate forum in which to challenge either the validity of Agency regulations or the policy judgments that underlie them." EPA then cites *In re City of Port St. Joe and Fla. Coast Paper Co., 7 E.A.D. 275, 287* (EAB 1997), and two other cases. (page 23)

If, in the course of a review, errors in logic appear (such as the failure to acknowledge that corrosive substances, which weaken rock, making fracturing more likely, could increase the probability of seismic events), it is an appropriate time to challenge them. The point has been made, but it appears that the EPA simply doesn't want to deal with it. Perhaps the EPA would rather wait until something happens, and then attempt to wash its hands.

The EPA also seems to imply that because one representative analysis of some of the injectate was presented before the public meeting, and ruled to be safe and in compliance, it means that over the life of this injection well and the potentially unlimited amount of injectate, the injectate will always be safe. This is not the case. What if the composition changes. Or the source of injectate changes. Or the purpose of the well changes. One sample presented long before injection operations even begin does not prove all injections will be safe during the lifetime of this well (and how long is that, exactly?).

H) Response to EPA Argument 2C:

"The Board should deny Petitioner Addison's more general complaints for failure to meet threshold procedural requirements and on the merits."

EPA argues that my arguments concerning inadequate oversight and underreporting of well failures, the "questionable track record" or Jordan Development, and the high debt levels of the oil industry in general were not raised by me during the comment period.

However, other participants did raise these issues, making them fair game. In addition to that, the high debt in the oil and gas field is a matter of "generally available reference materials."

I) Response to EPA Argument 2C i:

"Petitioner Addison's argument regarding EPA program oversight is not properly before the Board and is irrelevant to Region 5's issuance of the Permit."

First a General Account Office document is within bounds, given that it is easily available reference material and official government documentation. Moreover, numerous commenters raised the issue of oversight in the public comments.

Dr. Townsend, on page 23 – 24 of the public hearing excerpts, argues that the EPA doesn't oversee pipelines, but that the State of Michigan does. This is a matter of oversight. Mr. Rackord, on page 30 of the public comments, argues that the EPA has a lack of regulations, which puts groundwater at risk. This argument relates to oversight. Mr. Glod, on pages 6 – 7 of the public hearing, discusses the lack of oversight and the unwillingness of EPA to take responsibility for this decision. Mr Jackman, on page 8 of the public hearing transcript, mentions the possibility of Scott Pruit weakening oversight regulations further. Ms. Keith, page 19 of the public hearing transcript, discusses self-monitoring and the total reliance on Jordan, rather than the EPA, for reporting. Mr. Rackord, on page 33, discusses the EPA lack of regulations. Ms. Schiele, on page 38 states that the EPA does not bear responsibility and that it will instead fall on the "helpless and wonderfully undependable Michigan DEQ." Mr. Kordus, on page 43, argues that we cannot rely on our agencies and that the EPA powers are very limited.

Therefore, this argument should be considered by the EAB.

J) Response to EPA Argument 2C iii:

"Petitioner Addison's argument regarding permittee's financial solvency is not properly before the Board and is outside the scope of UIC permitting authority."

There were a number of comments concerning finances and Jordan Development, particularly remarks about inability of bonding to cover potential problems and the LLC status of Jordan Development as an obstacle to getting compensation in case of an accident.

Ms. Keither, page 19 – 20, discusses the inadequacy of the $28,000 bond to cover potential problems. Dr. Townsend, on pages 23 – 24 of the public hearing excerpts, demands to see a bond to cover the cost of public cleanup, should a spill occur. Mr. Servetter, on page 39, takes issue with Jordan's status as an LLC and wonders who will cover the costs if something happens. Mr. Servetter is also a firefighter (first responder).

The fact that the EPA has made no attempt to guarantee the financial solvency of Jordan Development, which would be important should a leak or accident occur, when coupled with EPA Environmental Justice policy regarding poor communities suggests this is a matter or erroneous policy. The EPA, in its EJ guidelines, acknowledges that finances are an important issue for poor communities, but then makes no attempt to guarantee proper financial compensation for poor communities should a problem arise. Therefore, my challenge regarding Jordan Development Co., LLC finances should be allowed.

III. CONCLUDING REMARKS

The EPA has failed to dismiss my arguments, therefore, my entire Petition for Review should be allowed, as should the other Petitions for Review, as my refutations of the EPA Response to Petitions also apply to the other petitions. Indeed, the fact that the EPA relied so heavily on procedural arguments in its attempt to deny further review of this permit should be taken as evidence that there are serious flaws in the EPA's issuance of this permit. It is also abundantly clear that the community does not want this project. Given EPA Environmental Justice guidelines which dictate that these projects can't be forced on poor communities that lack the financial ability to mount a proper challenge to them, this permit should be revoked.

Finally, I would like to mention that, although I didn't bring it up in my Petition for Review or during this response, there were a number of community members who requested a vote on this project. Perhaps the EAB should recommend that the community vote on this project. Or would that be too democratic?

Sincerely,

Emerson Joseph Addison III
17210 Maple Hill Drive
Northville, MI 48168
248-348-5401
emerson.addison@gmail.com