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US Environmental Protection Agency  
Eurika Durr  
Clerk of the Environmental Appeals Board  
1341 G Street, NW, Sixth Floor  
Washington DC 20005

ENVIR. APPEALS BOARD

Dear Ms. Durr,

The following is Dr. John W. Richter's reply to Intervenor/Respondent Beeland Group's response to Petition 08-03.

Petition 08-03, as stated in the March 10, 2008 cover letter to the EAB, represents a collective petition comprising comments from a broad coalition of individuals, governmental agencies and NPOs who oppose the proposed injection well. These comments were compiled at a Community Forum held in Alba Michigan on March 8, 2008. They demonstrate the strong public opposition to the disposal well permit, the inadequacy of the permit process and the failure of EPA Region 5 to enforce its Administrative Consent Order of 2005. These same comments were raised and submitted by the coalition during the official comment period in June and July of 2007 and therefore meet the threshold requirements for appeal.

Dr. John W. Richter (who happens to be president of the NPO, Friends of the Jordan River Watershed Inc.) was the 26<sup>th</sup> speaker at the Public Hearing held in Alba MI on June 13th, 2007. Dr. Richter also serves as a representative, spokesperson and participant in the afore mentioned coalition. He therefore has legal standing in this petition as an individual and spokesperson for the coalition.

Heidi S. Lang (who happens to be the Soil Erosion Officer for Antrim Conservation District) submitted written comments during the official comment period. She also serves as a representative, spokesperson and participant in the previously mentioned coalition. She therefore also has legal standing in this petition.

In Petition 08-02, Dr. Richter represents Friends of the Jordan River Watershed Inc. (FOJ) as its president. FOJ submitted comments during the official comment period and therefore preserved the right and met the threshold to appeal. There is therefore no redundancy as Intervenor/Respondent claims.

The comments contained in the appeals package were collected at the March 8<sup>th</sup> Community Forum with the stated purpose to strongly demonstrate "Important Policy Considerations Which The Environmental Appeals Board Should In Its Discretion Review." A similar package and request was submitted by the coalition to Mr. William Bates of EPA Region 5 during the official comment period and therefore properly preserved for appeal. Collectively and individually, these statements cite numerous reasons supporting the EAB's review decision.

If EPA's Superfund Authority governs the cleanup process at Bay Harbor then they must operate under CERCLA. The proposed UIC well is part of a CERCLA Removal Action and not a separate or independent permitting activity. Refusing to consider the many public comments not covered by UIC Rules violates CERCLA standards. Permitting the disposal well, without considering the full range of consequences resulting from its operation, violates the CERCLA process. This contradiction requires an "exercise of discretion on an important policy consideration" by the EAB.

Removal Actions must be consistent with the Final Remedial Action at Bay Harbor. The Beeland Groups request for an UIC permit with a 10 – 20 year effective life suggests that underground injection of wastes is to become part of the Final Remedy. However, a Final Remediation Plan has not been adopted or approved or gone through the required review process. The UIC permit is therefore premature and should be revoked. This issue also constitutes an "important policy consideration" the EAB should review.

The approval of the UIC well is also inconsistent with the CERCLA process because the required Feasibility Study has not been followed. Two of the nine NCP Criteria were deliberately omitted from consideration. Additionally, a UIC well was not selected as an option in the already flawed Feasibility Study. Once again, these are "important policy considerations" that the EAB should review.

The public, through their comments and statements have raised these concerns repeatedly. A failed process that contradicts its own standards has summarily dismissed their concerns. The coalition of concerned citizens broadly summarized these issues in a cover letter accompanying the package of comments submitted during the official comment period and the appeal petition 08-03. However, the breadth and depth of their concerns can be found in the details of the packages submitted.

The cleanup process at Bay Harbor is flawed, inadequate and lacks proper oversight and procedure. The UIC well cannot be considered as a separate entity. If it is, then this faulty process does not properly protect USDW, public health, the environment or the rights of concerned citizens. How can the public have any confidence in the decision to permit this disposal well when so many safeguards and established, required standards and procedures have been omitted or ignored?

We, this coalition of concerned citizens of good standing, therefore respectfully submit, " There are important policy considerations which the EAB should in its discretion review" and in so doing, revoke this permit.

Sincerely,  
Dr. John W. Richter  
Spokesperson

Dr. John W. Richter  
KBS.

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

In Re:

UIC Appeal Nos. 08-01, 08-02, 08-03

Beeland Group, LLC

UIC Permit No. M1-009-11-0001

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of Petitioners John Richter's Reply to Intervenor/Respondent Beeland Group LLC's Response to Petition No. 08-03 were sent to the following persons in the manner indicated:

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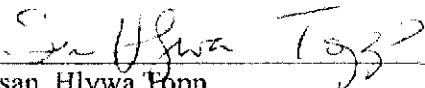
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Dated: April 28, 2008

  
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