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

Mr. Robert B. LeBlanc  
9300 Island Drive  
Grosse Ile, MI 48138  
(734) 675-0529  
ENVIRONMENTAL APPEALS BOARD

Wednesday December 26, 2007

RE: Appeal No. UIC 07-02

Dear Clerk of the Board Ms. Eurika Durr:

Please find the enclosed original signed in blue ink and 5 additional copies as well as a certificate of service for each of the LeBlancs' Motion for Reconsideration of Signed 12-20-07 Order.

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

Sincerely,



Robert B. LeBlanc

ENCLOSURE: 1-set original

5-sets copies

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

2007 DEC 28 AM 10:30

ENVIR. APPEALS BOARD

In re: )  
Core Energy, LLC )  
Permit No. MI-137-5X25-0001 )

UIC Appeal No. 07-02  
Before: Hon. Reich, Stein and Wolgast (Judges)

THE LEBLANCS' MOTION FOR RECONSIDERATION  
OF SIGNED 12-20-07 ORDER

Now come the LeBlancs', by and through Robert B. LeBlanc, Pro Se, and move this Honorable Board pursuant to 40 CFR § 124.19(g) for reconsideration since this Board has made some demonstrable ~~errors~~<sup>1</sup> as follows.

BACKGROUND FACTS:

- 1) The presumption is that the U.S.EPA in Washington, D.C. together with the Region V EPA are each separately charged with full knowledge of the law including, but not limited to, U.S. Constitutional law, statutory law, and case law.
- 2) All relevant U.S.EPA personnel (EPA Actors) received timely written notice of the LeBlancs' entire situation by letter dated August 14, 2007.
- 3) The U.S.EPA's EAB (this Board) has upheld Region V's invalid argument that can be summed-up as follows: "That once the EPA issues a permit all liability shifts to the permit holder and thus absolving the EPA of any and all liability for any and all sub-surface trespasses (whether caused by CO2 EOR injection,

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<sup>1</sup>See In re Steel Dynamics, Inc., PSD Appeal Nos. 99-4 & 99-5, Order Denying IDEM's Motion for Reconsideration or Clarification and SDI's Motion for Reconsideration 5 (EAB July 13, 200)(quoting In re Knauf Fiber Glass, GmbH, PSD Appeal Nos. 99-8 to -72, Order on Motions for Reconsideration 3 (EAB Feb. 4, 2000)).

CO2 sequestration, and any and all other methods of injection employing the use of the known pollutants such as CO2, methane, nitrous oxide and the like)<sup>2</sup>. Therefore, the LeBlancs' duly and timely gave NOTICE to the EPA Actors that the proposed Class V well (piggy-backed on a planned injector well for EOR) would amount to the same type of sub-surface trespass and conversion of minerals that has already transpired previously (see footnote 2 below) and thus "an important policy consideration which the EPA EAB should review." 40 CFR § 124.19(a)(2).

#### REBUTTAL OF PRESUMPTION(S)

- 4) The rebuttable presumption that the relevant EPA Actors acted pursuant to law including, but not limited to U.S. Constitution, as Amended together with the Supremacy Clause (Article VI, Clause 2) is rebutted as follows.
- 5) The U.S.EPA EAB (the Board) is enabling, via 40 CFR §§ 144.35(b-c) and 144.51(g),<sup>3</sup> the permit holder (or permittee) to trespass on the sub-surface of the LeBlancs' land (and adjacent land owners) and/or to convert any and all of the minerals from underneath the LeBlancs' land (and other adjacent land owners) without any consent whatsoever of the LeBlancs' and to their detriment.
- 6) The U.S.EPA EAB (the Board) and the agency has abdicated ~~its~~ responsibility by not enforcing its (the EPA's) own regulations pursuant to 40 CFR § 146.2 titled "Law authorizing these regulations."

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<sup>2</sup> See the LeBlancs' 8-14-07 letter of Notice to Region V EPA and read pages 1-5. See also Region V's response dated August 23, 2007 at page 1 and at ¶ 3 to wit: "Issues relating to property ownership or lessee rights are legal issues between the permittee and property owners. The UIC program does not have authority to determine surface, mineral, or storage rights when issuing permit decisions."

<sup>3</sup> See the EPA's Region V response dated 10-31-07 at page 10 and at ¶ 1 citing and raising 40 CFR § 144.51(g) into Region V's argument--and thus becoming fair-game for the LeBlancs' use since Region V previously raised similarly worded statement in the 8-23-07 response cited in footnote 2 above.

7) Truth is that when EPA Actors issue a permit, the U.S.EPA remains solely liable for the actions of the permit holder (or permittee)--contrary to the linguistic gymnastics expoused by the Boardby its invalid Order dated 12-20-07.

8) Truth is that when a permit holder (or permittee) initiates a sub-surface trespass and/or converts minerals from underneath adjacent properties (like the LeBlancs') the U.S.EPA and its EPA Actors thus aid and abett said unlawful activity because it (the EPA) has unconstitutionally enabled the permit holder (or permittee) to do so--only because the Board denies that it has power (inter alia) to enforce its own regulations, namely: 40 CFR §§ 144.35 (b-c) and 144.51(g) and with 144.51(g) raised by Region V EPA on 10-31-07.

9) Truth is that the U.S.EPA is liable because it enables the origination of all sub-surface trespass(es) and or conversion(s) of minerals by the very act of issuing a permit.

10) Truth is that the Board has chosen to side-step and selectively enforce its own regulation when duly requested to enforce said regulations and whereby said EPA Board's practice is discriminatory and unconstitutional at the very least.

11) Truth is that the Board is performing an ultra vires and/or unconstitutional act of enabling a permit holder (or permittee) to trespass sub-surfacely and/or to convert minerals belonging to the LeBlancs' (and other adjacent land owners).

12) Since the Board refuses to enforce its own regulations (cited in paragraph 5 above and adopted by reference herein), the Board has wrongly and incorrectly decided this case by the employment of selective invidious discrimination material to the LeBlancs' substantial rights as property owners and as American citizens protected by U.S.Const., Art. VI, § 2, inter alia.

CONCLUSION

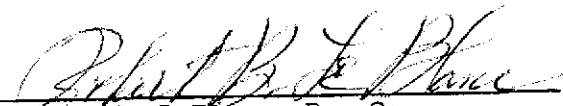
13) Since the LeBlancs' have duly demonstrated the Board's errors of not wanting to face the facts that its permitting process remains unconstitutional because said process invalidly sanctions or allows sub-surface trespass(es) and/or conversion of minerals with known pollutants like CO2--contrary to U.S.Const., Art. VI, § 2, and, ultimately affecting the public's "health" and "welfare",<sup>4</sup> thus review is clearly appropriate.

WHEREFORE, the LeBlancs' respectfully request that this Honorable Board grant their Motion for Reconsideration together with such further relief, both general and special, at law and in equity, which the LeBlancs' are justly entitled to receive as this Board deems appropriate pursuant to U.S.Const., Art. VI, § 2.

DATED: December 26, 2007

Respectfully submitted,

By:

  
Robert B. LeBlanc, Pro Se  
On Behalf of Himself and  
His Wife Joan S. LeBlanc  
9300 Island Drive  
Grosse Ile, MI 48138

"Legal Argument"

NOW Come the LeBlancs', by and through Robert B. LeBlanc, Pro Se, and respectfully submit as follows.

The first argument is that the LeBlancs' duly and timely raised request of EPA Actors to enforce certain EPA regulations

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<sup>4</sup>See Massachusetts v. EPA, 127 S.Ct. 1438, at 1462 (2007).

namely: 40 CFR § 144.35(b-c) and Region V raised 40 CFR § 144.51 (g) which the Board refuses to enforce in light of 40 CFR § 146.2--Law authorizing these regulations.--reads:

The Safe Drinking Water Act, 42 U.S.C. 300f et seq. authorizes these regulations and all other UIC program regulations referenced in 40 CFR part 144.

Since 40 CFR § 146.2 is unambiguous, hence, no valid reason has been given as to why the said regulations are not being enforced. Next, 40 CFR § 1.3--Purpose and functions.--reads:

The U.S. Environmental Protection Agency permits coordinated and effective governmental action to assure the protection on the environment by abating and controlling pollution on a systematic basis.

Reorganization Plan 3 of 1970 transferred to EPA a variety of research, monitoring, standard setting, and enforcement activities related to pollution abatement and control to provide for the treatment of the environment as a single interrelated system.... (Underlined emphasis added.)

Finally, the last point to be made as "authority" is to wit:

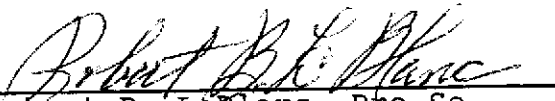
Though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the constitution.  
Yick Wo v. Hopkins, 118 U.S. 356, at 373-74 (1886).

Even though the EPA's purpose and function is to protect the environment from pollution--nothing in it's mandate says that it (the EPA or its Actors) can grant free passes to polluters (a.k.a. permits) to use known pollutants to be used to trespass and/or convert minerals from private owners property or land. If the LeBlancs' want their garbage disposed of, then they must pay--and so must disposal companies pay--nobody gets a free ride.

In conclusion, the Board is wrongfully attempting to apply and administer its regulations with an evil eye towards the LeBlancs' and with an unequal hand to the polluters and thereby discriminating illegally against the LeBlancs' and other adjacent property (land) owners. Thus, the Board ought to rethink its palpable mistake and correct it forthwith by rescinding all related so-called "permits" to inject CO2 for EOR and/or CO2 sequestration complained about by the LeBlancs' repeatedly. Next, the Board should Grant review of the LeBlancs' appeal and then decide how it will correct its discriminatory errors which are invidious and selective.

Dated: December 26, 2007

Respectfully submitted,

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

CERTIFICATE OF SERVICE

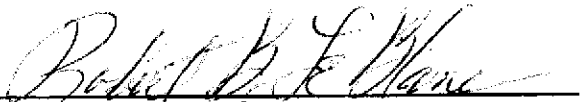
I hereby certify that I have sent a copy of the LeBlancs' Motion For Reconsideration of the Signed 12-20-07 Order together with this Certificate of Service to the persons listed below on Wednesday December 26, 2007 by enclosing the same in an envelope with first class postage fully prepaid thereon via the U.S. Mail (Board's by Express Mail and Att'y Olsen's via regular tracking delivery service as follows to:

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

and

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

The above statement is true and accurate.

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