



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

Via FAX to (202) 233-0121, and
Federal Express, overnight

September 18, 2008
U.S. Environmental Protection Agency
Erica Durr, Clerk of the Board,
Environmental Appeals Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

REPLY TO THE ATTENTION OF:

C-14J

RECEIVED
U.S. E.P.A.
2008 SEP 18 PM 3:47
ENVIR. APPEALS BOARD

Re: Beeland Group, LLC; Beeland Disposal Well # 1; Permit Number: MI-009-11-0001
Appeal Numbers: UIC 08-01, 08-02, and 08-03

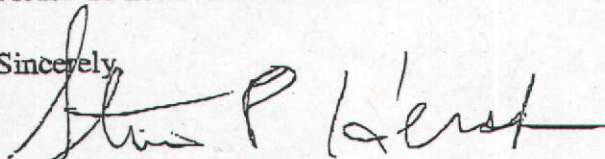
Dear Ms. Durr:

As requested yesterday on behalf of the Environmental Appeals Board, attached is one copy of six items from the administrative record regarding the appeal numbers UIC 08-01, 08-02, and 08-03, relating to the Beeland Group Disposal Well #1, permit number MI-009-11-0001, as follows:

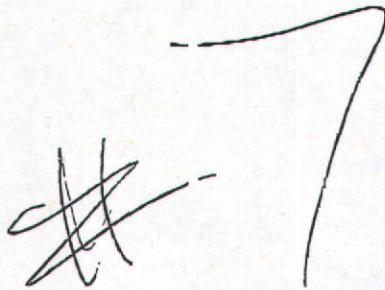
1. Electronic comment 7, e-mail transmittal from Jennifer McKay to William Bates, dated June 13, 2007, with attached letter from Jennifer McKay to William Bates, dated June 13, 2007.
2. Electronic comment 3, fax transmittal from Jennifer McKay to William Bates, dated June 13, 2007, with attached letter from Jennifer McKay to William Bates, dated June 13, 2007.
3. Index item 21, Section 2, file 3 of 5, letter from Patricia Patterson to William Bates, dated July 21, 2007.
4. Index item 27, Section 2, file 3 of 5, letter from Patricia Patterson to Ray Vugrinovich at the Michigan Department of Environmental Quality, dated July 27, 2007.
5. Index item 28, Section 2, file 3 of 5, letter from Peter J. Vellenga to William Bates, dated July 30, 2007.
6. Pages 54, 55, and 56 of the transcript for the June 13, 2007, public hearing regarding the Beeland Well proposed permit.

Please do not hesitate to contact me directly if you have any further questions, issues or requests.

Sincerely,


Stuart P. Hersh
Associate Regional Counsel

Attachments

A handwritten mark consisting of a scribbled-out symbol on the left and a long arrow pointing to the right.



"Jennifer McKay"
<jenniferm@watershedcouncil.org>

06/13/2007 01:32 PM

To

Subject: Beeland Injection Well Proposal

Hello Bill,

Attached are comments on behalf of Tip of the Mitt Watershed Council regarding the proposed Beeland injection well in Antrim County, Michigan.

Please feel free to contact me should you have any questions about the comments.

Thank you for all of your assistance on this matter.

Jennifer McKay, Policy Specialist
Tip of the Mitt Watershed Council
426 Bay Street
Petoskey, MI 49770
PH: 231-347-1181 ext. 114
FX: 231-347-5928
Email: jenniferm@watershedcouncil.org
www.watershedcouncil.org



TOMWC comments on Beeland Deep Injection Well.doc



June 13, 2007

EPA Region 5
UIC Branch, Attn: William Bates
77 W. Jackson Blvd (WU-16J)
Chicago, IL 60604-3590

Via facsimile and e-mail

RE: Beeland Group Non-Hazardous Disposal Well, Alba, Michigan

Dear Mr. Bates,

Tip of the Mitt Watershed Council, on behalf of its 2,200 plus members, would like to provide comments on the proposed permit application by Beeland Group, LLC to construct and operate a deep well in Antrim County for the disposal of non-hazardous waste.

As a means of introduction, Tip of the Mitt Watershed Council, founded in 1979, is a non-profit organization whose purpose is to protect, restore, and enhance water resources, including inland lakes, rivers, wetlands, groundwater, and the Great Lakes. We base all our programs on sound science and policy analysis, and have garnered respect for our work from local, state, and federal agencies, businesses, fellow environmental organizations and citizens.

We appreciate the opportunity to offer comments to ensure activities within Northern Michigan are taken with careful consideration to protect the health of our ground and surface waters, and the citizens and visitors who rely on those water resources. Because safeguarding our waters is paramount to our mission, the Watershed Council has thoroughly reviewed the permit application for the proposed injection well. We are working to ensure that all activities comply with current regulatory standards and that any adverse impacts to surface and groundwater are prevented.

Preventing Malfunctions of the Injection Well

The fluids to be injected into the well stem from the Bay Harbor and East Park properties designated by the Environmental Protection Agency (EPA) as a Comprehensive Environmental Response, Compensation, and Liability (CERCLA) site. As

such, the contaminated water, or leachate, is considered a hazardous substance warranting, at the current time, a \$90 million dollar cleanup effort. According to the permit, the fluids to be injected are to be comprised of "recovered groundwater and surface waters, both treated and untreated." While cement kiln dust and associated media are considered exempt from the hazardous waste designation under the Resource Conservation and Recovery Act (RCRA), injection of UNTREATED collected leachate should not be permitted. The pH of untreated collected leachate exhibits the characteristic of corrosivity, and, therefore, without the exemption, would result in a hazardous waste designation pursuant to RCRA. The well is constructed to accept non-hazardous waste only and injection of untreated collected leachate could result in malfunctions potentially causing significant contamination of groundwater. Specifically, untreated or un-neutralized leachate typically has a pH above 10 which may result in the potential for scale and corrosion problems. To prevent such problems from occurring and to protect groundwater from possible contamination that could result, the EPA and Michigan Department of Environmental Quality (DEQ) should specifically prohibit injection of untreated leachate and require regular monitoring - more than just quarterly testing - to ensure that fluids have indeed been neutralized prior to injection.

Characteristics of Injected Fluids

CMS has been conducting remedial investigations for the impacted areas along Little Traverse Bay to determine the extent and characteristics of the cement kiln dust contamination. The remedial investigations are confirming that each seep pile possesses unique characteristics. This permit application is based on minimal samples that are characterized as a representation of fluids to be injected. However, given the differences found among the various chemical parameters between seep piles, there is no true representative sample of what will be injected into the well. Sufficient sampling prior to injection should be required to ensure that the concentrations of chemicals of concern for any and all fluids to be injected meet the criteria outlined for injection into a non-hazardous well. Additionally, the EPA and DEQ should require monitoring and reporting on a more frequent basis, at least initially, to ensure that the fluids to be injected meet the standards set forth in the permit.

Further justification for the need for additional monitoring and reporting of fluid to be injected is past experience with one of the current disposal methods at the Grand Traverse Waste Water Treatment plant. Initial representative samples provided to the treatment facility indicated concentration levels for specific parameters would meet acceptance criteria. However, the facility had to halt taking the leachate for disposal after sampling of collected leachate by the treatment plant confirmed sulfate was exceeding the acceptance criteria. The Grand Traverse Septage Plant is again accepting waste from the cleanup site - however, it is accepting collected leachate from East Park rather than from Bay Harbor Properties due to the varying sulfate levels associated with each seep. This past experience proves that additional monitoring and reporting should be required by the EPA and DEQ.

Financial Resources to Close, Plug, and Abandon the Well

According to a 2003 United States General Accounting Office (GAO) report, current financial assurance requirements may not ensure adequate resources are available to close a deep injection well. If adequate financial resources are not available, the public cost associated with the project outweighs any private interest as there will be a significant burden to the taxpayers of the community and potential contamination to underground drinking water sources. Unfortunately, the only test of whether financial assurances are adequate will occur when the well needs to be closed. At that time, if the finances are inadequate, drinking water is at risk of contamination and the public will likely bear the cost of closing the well. Given that uncertainties about the adequacy of financial assurance requirements have been raised by EPA officials, the EPA's Office of Inspector General, and the GAO, the EPA and DEQ should take necessary precautions by requiring additional financial assurance that will ensure all costs associated with closing the well and facility are adequately accounted for.

Recommendations to Minimize Potential Adverse Impacts

- **Prohibit injection of un-neutralized contaminated surface and groundwater from the Bay Harbor properties and East Park. Un-neutralized fluids may possess characteristics of hazardous waste that could result in malfunctions threatening ground and surface water.**
- **Require adequate initial testing and additional regular monitoring and reporting, more frequently than just on a quarterly basis, to ensure that fluids meet the acceptable criteria for injection.**
- **Require additional financial resources to close, plug, or abandon the injection well to ensure that the public and water resources are not at risk from a lack of funds.**

Conclusion

We urge the EPA and DEQ to give careful consideration to the comments provided and suggest modifying the proposal to minimize adverse impacts to obtain a solution that benefits not only the cleanup efforts at Bay Harbor properties and the citizens and visitors to Northern Michigan, but also the water resources themselves.

Thank you again for the opportunity to comment. Please feel free contact me with questions or concerns regarding the comments provided.

Sincerely,



Jennifer McKay
Policy Specialist

cc: Bob Wager, DEQ



FAX COVER SHEET

TO: Bill Bates FAX: 312-886-4235
ORGANIZATION: EPA Region 5 WIC Branch
FROM: Jennifer McKay My Phone #: 231-347-1181, ext. 114
DATE SENT: 6/13/07 TIME SENT: _____

TOTAL NUMBER OF PAGES (INCLUDING THIS COVER SHEET) ⇒ 5

Remarks:

Please call me when you receive this fax, or email me: jenniferm @watershedcouncil.org



June 13, 2007

EPA Region 5
UIC Branch, Attn: William Bates
77 W. Jackson Blvd (WU-16J)
Chicago, IL 60604-3590

Via facsimile and e-mail

RE: Beeland Group Non-Hazardous Disposal Well, Alba, Michigan

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Recommendations to Minimize Potential Adverse Impacts

- **Prohibit injection of un-neutralized contaminated surface and groundwater from the Bay Harbor properties and East Park. Un-neutralized fluids may possess characteristics of hazardous waste that could result in malfunctions threatening ground and surface water.**
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Conclusion

We urge the EPA and DEQ to give careful consideration to the comments provided and suggest modifying the proposal to minimize adverse impacts to obtain a solution that benefits not only the cleanup efforts at Bay Harbor properties and the citizens and visitors to Northern Michigan, but also the water resources themselves.

06/13/2007 14:55

231-347-5928

Thank you again for the opportunity to comment. Please feel free contact me with questions or concerns regarding the comments provided.

Sincerely,



Jennifer McKay
Policy Specialist

cc: Bob Wager, DEQ

2386 Sumatran Way #50
Clearwater, FL 33763
July 21, 2007

William J. L. Bates, Mail Code: WU-16J
Environmental Scientist
US EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

RE: Beeland Injection Well Permit #MI-009-11-0001

Dear Dr. Bates:

My 27 year old niece, Tara McCraw, lives about 3 miles from the proposed Beeland injection-well site. She lives with her husband, Jim, and their two small children, a five-year-old daughter, Sara, and a four year old son, JT. They do not have much money at this stage of their lives.

They purchased their Alba/Elmira home in July 2006 at 7255 Alba Highway (in Section 20, T30N, R5W--Section 14 is the proposed siting of the Beeland well). They had looked at homes in Kalkasaa, closer to where Jim works, but did not buy there because they were concerned about the water quality. They thought the water would be better in Alba/Elmira. They are not "on the internet," and they did not know about the proposed injection well when they purchased their home, but had they known, they would not have purchased it.

I am familiar with the problem of environmental justice, where wastes tend to be disposed of among poor populations. I am concerned that the location of the Beeland well appears to be an example of that problem. The waste to be transported to and injected into the Beeland well originates from an area of more affluent population, Bay Harbor, about 30 miles away. Relocation of the waste to Tara's neighborhood will increase health risks to Tara's family and to her neighbors and their unborn children through increased air pollution, increased risk of trucking accidents, and increased risks of contamination of their water supply.

Tara's family gets all their water from a well on their property. Their drinking-water aquifer is not protected from ground spills by a low permeability cover. Whatever spills on the ground will eventually migrate into the aquifer. Spills onto the ground surface are likely from trucking accidents, truck leaks, and sloppy unloading of contaminated fluid from the trucks at the injection well site. Horizontal migration of contamination within the aquifer is not restricted by any significant low permeability deposits. Additional to those from the surface, potential contamination sources include the injection well itself and the network of other wells injecting into the same geological strata and penetrating through the aquifer.

It would seem to me safer to dispose of the contamination at its site of origin/generation, Bay Harbor, where the population is more affluent and less vulnerable to injury from contaminated water. Bay Harbor residents are better able to afford water filtration systems and bottled water to protect their children than are the people of Alba or Elmira. Moreover with local disposal, air pollution from the truck transport would be eliminated completely, removing an unnecessary source of atmospheric pollution, and trucking accident risks also would not be an issue.

Trucks transporting the contamination from Bay Harbor to the proposed injection well site will be driving down Alba Highway right past my niece's home. It is my understanding they will be transporting as much as 100,000 gallons per day of contaminated water. My niece's yard is not fenced, and she cannot afford to install a fence. And there is a school bus stop on Alba Highway right in front of her home. This increase in truck traffic will increase the risk of a child's or schoolbus' being struck by a truck or even a truck's sliding on winter ice into Tara's house. And I assume that the trucks transporting the contamination will be releasing diesel exhaust, a known carcinogen and multiple system toxin, into the air Tara and her family breathes.

If the waste water to be injected is truly "non-hazardous," why is it not dumped into Lake Michigan? But if the waste water is too "hazardous" for that, let the owner of the pollution source, CMS, pay the extra money to make it suitable for dumping directly into Lake Michigan. Or let CMS drill an injection well at the pollution site. Why should the people of Tara's neighborhood be forced against their wills, without any compensation, to bear the increased risk of harm to save CMS money? And even perfect justice could not assign a dollar value equivalent to any harm Tara's children might suffer from CMS's Beeland injection well. Hence there is no acceptable compensation.

Dr. Bates, you have been quoted as having said at the June 14th public meeting on the proposed well that in Antrim County there are over 200 injection wells, all approximately 2,000 feet deep. And the EPA website on the Beeland injection well dated May 2007 states, "About 200 wells are currently permitted in Antrim County to inject into this same geologic layer." The EPA website (<http://www.epa.gov/safewater/uic/classi.html>) reports that in the entire USA there are 366 Class 1 non-hazardous and 163 Class 1 hazardous injection wells. Does Antrim County now contain more than a third of the USA's Class 1 injection wells? The people of Antrim County need to know why the density of injection wells in their county is so high. Is Antrim County serving as a dumping ground for contaminants being trucked in from other more affluent areas across the USA for injection well disposal under Antrim's drinking-water aquifer?

In view of the extraordinarily high density of injection wells penetrating their drinking water aquifer, what epidemiology studies of the Antrim County population have been done or are now being funded for health effects on the Antrim people, including birth defects?

Why are contaminate injection wells not placed in areas where the population is not dependent on home well water for drinking? Why not locate injection wells in neighborhoods where the drinking water is processed, monitored, and piped into the

homes, rather than where people are dependent on individual wells, not legally protected by the requirements of drinking-water monitoring?

Although they would have attended and have many unanswered questions (as stated in this letter), Tara and Jim were not notified of or aware in advance of the meeting at the Alba School Gym that took place on June 14th concerning the injection well. They learned of the meeting from the TV news after the meeting was over. Their neighbors also were not notified. The few neighbors who attended happened to hear of the meeting by word of mouth. It appears that many interested families in the neighborhood of the injection-well site were not informed of the date and time of the meeting.

Sara attended kindergarten at the Alba School until May 29th. In addition to the token "public" notice in the newspaper that apparently few people would see, why were not notices of the meeting sent home with the children attending the Alba School? That would have been an effective way to notify those most likely to be interested--those with children who are the most vulnerable to pollution damage.

How can Sara and JT be protected from drinking contaminated water in the event of a known contamination incident? Can we assume Tara's family will be informed of the incident by a notification process no more effective than that used to notify them of the June 14th meeting?

Moreover, the EPA website with item, "EPA, MDEQ to hold public meeting and hearing on proposed disposal well," with release date of 6/05/2007, gives incorrect notice of the meeting as June 13th. The meeting actually took place on June 14th.

There should be another public meeting of which the entire population is properly and actually notified. That meeting should be scheduled for a time/date when working people can attend. The meeting place should contain adequate seating for a very large audience as at the June 14th meeting many people (who had already worked for eight hours that Thursday) were not provided seats and had to stand for the entire three hour meeting.

Since approximately 200 injection wells are already injecting into the same strata as the proposed well and since numerous gas wells also penetrate the drinking-water aquifer, the proposed well will increase the risk of injection fluid's entering that aquifer via failure in any of those other wells. Additional injection into the same strata will increase fluid pressure, chances of fracture and chances of upward migration through new fractures, through existing wells, and through existing fracture zones. Moreover, physically this complex system constitutes a nonlinear dynamical system, where small changes in boundary conditions can cause chaotic results. Adding just one more injection well could significantly alter the stability of the system, leading to contamination of the drinking-water aquifer.

What numerical modeling of fluid flow and fracture migration has been done to gain insight into this system?

Have geophysical surveys thoroughly ascertained the absence of permeable fractures in the Bell Shale above the injection layer?

What are the chances that leakage is now taking place and migrating into the drinking water aquifer and not being detected?

Are the effects of existing wells being monitored effectively?

Are well owners trusted to monitor their own wells? If CMS allowed release of high pH leachate to enter Lake Michigan for several months in 2004, how can we be assured CMS will not allow similar such problems with the proposed injection well?

How is the drinking water aquifer being monitored for contamination?

What can be done to correct a contamination problem after it has occurred and been detected? And what would be done, and who would pay for it?

Does the EPA have enough money to monitor for environmental violations or to enforce permit requirements?

How will the EPA prevent hazardous fluids from been injected into the "non-hazardous" Beeland well?

Will Beeland or CMS suffer no more than a "slap on the wrist" if found in violation of their permit, and will operating in violation of their permit actually be more cost effective to them than complying?

Did Beeland choose their well site based on its own economic interests (including potential litigation) at the expense of the present and future residents of Antrim County? Public disclosure of all financial matters relative to this well should be required.

Is or was CMS a member of the Chemical Manufacturers Association, which exerted significant effects on the regulations for injection wells to the benefit of the injectors and to the detriment of population at risk from the injection wells?

What environmental impact studies have been done for Antrim County?

On page 34 of EPA document, "Class 1 Underground Injection Control Program: Study of the Risks Associated with Class 1 Underground Injection Wells," the following statement appears:

"Pumping in an overlying aquifer with failure pathways increases the amount of waste escaping from the injection zone. (It should be noted that, if a USDW were directly over a proposed injection zone, Class 1 regulations would not allow the well to be constructed; this makes the addition of the pumping scenario to the model overly

conservative.)" [underlining added for emphasis]

Since Tara's neighborhood's USDW (underground source of drinking water) is directly over the proposed injection zone for the Beeland well, why would construction of the Beeland well be allowed or even considered?

I have attached 21 additional comments directed specifically to permit #MI-009-11-0001.

The health and brains of the children are our greatest economic resource. Protecting them from damage should be our top priority. I have done research in computational modeling of the fluid dynamics of porous media, and I have worked as an exploration geophysicist for Exxon. I know many important questions about the safety of the Beeland well and others cannot be answered to my satisfaction and that the safety of the system cannot be predicted. Denying Beeland this permit would be one step toward protecting the children.

Sincerely,

Patricia Patterson, Ph.D., Geophysics
727 799 5423

Attachment (3 pages):
ADDITIONAL COMMENTS ON PROPOSED UNDERGROUND INJECTION WELL
PERMIT MI-009-11-0001

ADDITIONAL COMMENTS ON PROPOSED UNDERGROUND INJECTION WELL
PERMIT MI-009-11-0001

The permit states as its purpose, to protect the quality of underground sources of drinking water (USDW), but the following provisions or lack of provisions in the permit do not offer protection to the present and future population who rely on private wells in the vicinity of the proposed well for their household drinking water:

1. The permit is supposedly for disposal of non-hazardous waste but it allows for both treated and untreated ground water and surface waters from the Bay Harbor, Michigan Remediation Project to be injected.
2. The permit states that there are 3 injection and 1 plugged and abandoned wells within 2 miles of the proposed well site. Monitoring requirements of the permit say nothing about checking the abandoned well for back up into it or monitoring of that well

as potential source/route of contamination to the underground sources of drinking water.

3. Why is the region of review only within 2 miles of the proposed well site?

4. The permit does not limit the amount of fluid to be transported to the well site or injected into the well. Will there be on site storage if more waste is transported to the well site than can be injected within the pressure constraints? Has Beeland applied for any additional permits related to this injection well?

5. The permit requires that if upward migration of fluids through the confining zone of the well is discovered within the two mile area of review and this migration of fluids causes introduction of any contaminant into an underground source of drinking water, Beeland must immediately cease injection until the situation has been corrected. But the permit does not say how contaminants in the USDW will be corrected or how potentially affected people will be contacted or protected.

6. The permit does not specify any monitoring of the USDW in the vicinity of the well as a reasonable means of detecting contaminants from the injection well.

7. The permit does not specify any requirement of monitoring the wells of the residents living around the injection well. Damage to people, especially children, pregnant women, the ill and elderly, caused by drinking contaminated water is not correctable.

8. The permit states that Beeland has a duty to comply with regulations and to provide information to the EPA, but the permit also states that noncompliance can be allowed by an emergency permit.

9. The permit does not require Beeland to provide any information on the well to the residents living around the injection well, and the permit states that information Beeland submits to the EPA may be claimed as confidential and hence not available to the public. All information should be available to the public.

10. Beeland's duty to mitigate is stated in vague terms that do not protect the population from harm from the well.

11. Beeland's monitoring records need only be retained for 3 years. This is not reasonable for time scales for migration of fluids. Monitoring records should be kept indefinitely for future scientific purposes and modeling. Monitoring records also should be available for the protection of future residents of the area. Surely a record of the history of injection of contaminants into the subsurface strata is something the present and future residents need to know. Among other possible events, future catastrophes could alter substantially the underground fluid dynamic transport processes.

12. Beeland is allowed 24 hours to report noncompliances with the permit that might endanger health. Report should be immediate, not within 24 hours.

13. If the well is temporarily abandoned and loses mechanical integrity, Beeland has 30 days to repair and retest the well. This is unacceptable for the protection of the USDW as backup from nearby injection wells could be occurring during the 30 day period.

14. Beeland appears to be under the honor system in construction of this well in accord with specifications. How can the local residents determine if Beeland has actually followed the specifications?

15. Every twelfth month Beeland is required to submit a certified statement that no waste streams other than those identified in the permit have been injected. Again it appears the residents have on y Beeland's honor as guarantee of their having complied with this aspect of the permit.

16. Beeland need report only nonthly their noncompliance with the permit to the EPA. This would seem to increase the chances of continued noncompliance up to 30 days. Again, any noncompliance should be reported immediately.

17. In-situ stress tests rely on Beeland's honor as there is no requirement that they be observed by the EPA or performed by an independent source.

18. The Corrective Action Plan does not state any required notification by Beeland to the residents around the well site.

19. Minimum monitoring of injection fluid composition does not include monitoring for lead, previously identified as a contaminant from the source site.

20. Remote monitoring of the well, with weekly operator inspection and as otherwise permitted during injection periods, subjects the residents and their drinking water to an unacceptable level of risk. A trained operator should be required at the site of the well during injection.

21. The permit provides no protection from potential sabotage or terrorist use of the well site.

2386 Sumatran Way #50
Clearwater, FL 33763
July 27, 2007

Ray Vugrinovich, MDEQ
vugrinov@michigan.gov
Constitution Hall
525 W. Allegan St.
1-South
P.O. Box 30256
Lansing, MI 48909-7756

RE: Mineral Well Permit Application for Beeland Disposal Well No. 1 (January 5, 2007)

Dear Dr. Vugrinovich:

With regard to Beeland's Application, I am concerned about its inaccuracies, poor technical content, and numerous omissions of information required by law as stated in Michigan's DEQ form, "Permit Application Instructions for Disposal, Storage, or Brine Production Wells." As examples of my concerns, I have included below some comments on the Application (organized under eleven topics).

I am also attaching a separate e-mail document of comments I previously submitted in writing to the EPA regarding the Beeland well. Those comments are additional to those of today.

Beeland has failed to properly evaluate the probable impact of its proposed well as required by the application process. It should be assumed that Beeland would be just as careless and non-compliant in its construction and operation of the proposed well. The permit should be denied.

Very truly yours,

Patricia Patterson, Ph.D. Geophysics

EXAMPLE COMMENTS ON APPLICATION

EXISTING FRACTURES AND FAULTS

In its required discussion of existing fractures and faults, Beeland (p.40) states: "There is no evidence of significant faulting in the immediate vicinity of the Proposed . . . Well . . ."

.. " Beeland references a 1992 document for that conclusion, the Hydrogeologic Atlas of Michigan. Beeland further states: "Additionally, Ryder (1996) constructed a structure contour map on the Traverse in Antrim county. This map showed there to be no mappable faults transecting the Traverse at the proposed well location." Beeland also states: "Transmissive fractures are not known to be present in this shale [the Bell Shale]" (p.39). Whereas computational capabilities to analyze large databases have increased tremendously in recent years, Beeland's required maps of the Dundee and Traverse, provided as Figures 6 to 19 of its Application, date from 1974 and 1980 documents.

According to a recent study funded by the Department of Energy, the proposed Beeland well appears to lie between what may be two major fault lines running across Antrim County NW to SE. (J. R. Wood & W. B. Harrison, "Advanced Characterization of Fractured Reservoirs in Carbonate Rocks: The Michigan Basin," Final Report for DOE Award No. DE-AC26-98BC15100, Sept. 2002). Based on their detailed (using 10 foot contour intervals) and comprehensive analysis of existing data from 55,000+ wells, the authors concluded that the Michigan Basin is extensively faulted and fractured, with major hydrocarbon accumulation occurring in small anticlines on the upthrown side of the faults. Their study demonstrates that faulting is more pervasive than previously believed in the location and productivity of oil and gas fields. It indicates that faults extend to higher stratigraphic levels than previously interpreted. They believe fractures occur preferentially in black shales because of their low Poisson's ratio and probable high fluid pressure owing to gas generation.

Thus much faulting is likely present in gas-rich Antrim County, and fractures are more likely to be present in the Bell Shale than previously thought. Beeland claims the Bell Shale, overlying the Dundee Limestone, will be the arrestment interval, preventing migration of its injected fluid upward. Beeland's Application fails to address the results and conclusions of the 2002 study or to reference it. Beeland's latest document referenced is the 1996 atlas.

SURVEY REPORT

The Survey Record (form EQ 7200-2) requires a separate plat or plot plan that locates, identifies, and shows distances to: Surface waters and other environmentally sensitive areas . . . , Floodplains . . . , Wetlands. . . , Natural rivers . . . , Threatened or endangered species, . . . within 1,320 feet of the proposed well, and various man-made objects and water wells type within specified distances from the staked well location. The Survey Record and plat are not at the end of Section A.4 as stated in the Application (p.5) but in Attachment A toward the end of the Application.

The Plot Plan attached to the Survey Report:

- Spans at most 800 feet north, south, east, or west from the well stake, whereas reportable items may lie 2000, 1320, or 600 feet from the staked well location.
- Fails to include a graphic of the map's scale.

- Fails to show objects in proportion to their relative distances that are noted on the map. For example, if the road is 495 feet from the stake, then the Existing Gas Well is around 852 feet from the stake, not 975 feet, as noted.
- Fails to show all the woods that based on its attached photos appear to lie within 1320 feet of the staked well location.
- Fails to show structures alluded to in other parts of the Application as lying within the specified areas.

Beeland seems to base its "survey" on available data rather than actual survey. Beeland states, "Available information indicates that there may be a single fresh water well (No 99-524) within the specified 600 feet radius" (water wells also indicated on form EQP 7500-3), but those wells are not shown on the plot plan, as required. Beeland states, "Available data show there to be two structures and two roads (one public, one private) within the radius" (also indicated on form EQP 7500-3), but these man-made features are not shown on the plot plan, as required. Beeland states, "Location maps showing the general location of groundwater wells are provided in Figures 4 and 6," but Figure 6 shows no groundwater wells, and Figure 4 states as its source two internet addresses. Beeland states, "Based on available data, no public water supply wells of any type have been identified within 2,000 feet of the proposed well location" (p.7). Beeland concludes that "no known hazardous waste treatment storage or disposal facilities are present within the AOR based on available state of Michigan permit information" (p.59). An actual survey, including interviewing residential neighbors, should have looked for and identified the locations of these things so they could be shown on the plot plan, as required if they exist.

Beeland identifies the bald eagle, the Eastern Massasauga rattlesnake, and Pitcher's thistle as threatened or candidate threatened species that "may be present in Antrim County." Beeland fails to show any of these on its plot plan, as required if present. Beeland claims instead: "Field verification by the property owner [i.e., Beeland] has not identified the presence of these within the specified radius of 1,320 feet" (pp.6-7). Beeland fails to define or describe what constituted its "field verification." The photos included with the Application seem to show much woodland that could harbor those species.

BEELAND'S ANALYSES OF WELL'S IMPACT ON USDW

For calculation of P_c , critical pressure (pp. 23-24) to raise brine from top of injection interval to base of the underground source of drinking water (USDW), Beeland's assumed model for analysis is a very simple one-dimensional hydrostatic model. It does not consider dynamic effects, such as resulting from pressure gradients at the drinking water aquifer boundary. And Beeline assumes single values for parameters whose values are unknown, rather than assuming probable ranges for those values. Beeland fails to give units, specific gravity is reported as density, and symbols used are mixed up (gamma for γ).

Beeland refers to its use of 900 feet to depth of base of USDW as "conservatively assigned." The closest well (permit #41955) for which Beeland has attached data [in Attachment C], however, found the base of the glacial drift or USDW to occur at 907 foot depth. That well was drilled about 0.4 miles from the proposed Beeland site.

Two important unknowns in Beeland's model calculation are the specific gravity of the injection-zone fluid (Beeland assumes this is brine) and the pre-injection pressure at the base of the Dundee. If the injection zone contains gas, the specific gravity could be lower than Beeland's assumed 1.05. If the specific gravity were assumed to be 1.0, then, using Beeland's other assumed values, the critical pressure, P_c , would be around 92 psi, rather than 119 psi. Small changes in Beeland's assumed constant fluid gradient of 0.35 psi/ft can also result in significant change in P_c . For example if 0.36 is used instead of 0.35, then, using Beeland's other assumed values, P_c would be 97 psi. With both of these small changes in assumed values, P_c would be 70 psi, rather than 119 psi, and based on its simple model, the likelihood of Beeland's exceeding the lower critical pressure would be greater. So Beeland's computed (p. 24) critical pressure of 119 psi for contamination of the drinking-water aquifer represents a very, very rough guess.

Beeland then attempts to show that 20 years of Bay Harbor contaminant injection into the Dundee reservoir at rate of 200 gallons/minute will not exceed the critical pressure of 119 psi, even in the reservoir at distance within 5 feet of the well. For that analysis, at the bottom of p. 24 Beeland gives a "cookbook" formula for pressure rise, dP , without identifying it or its source, some of the parameters in the formula, or any of the assumptions made in its derivation and necessary for its correct application. Beeland uses the dP formula assumedly to compute the increase in pressure at the base of the Dundee at 5 feet from the point of well penetration after 20 years of injection of 200 gallons/minute of Bay Harbor waste. Beeland computes this value to be 115 psi. Because that is less than its previously computed critical pressure of 119 psi, Beeland concludes the well has no core of influence.

The parameters that Beeland plugs into the formula (p. 25) seem to be at best very rough guesses, including:

Thickness, $h = 100$ feet [assumedly of the Dundee injection zone]
 Formation volume factor, $B = 1.015$ feet [not defined or otherwise explained]
 Porosity = 0.10 [unknown and pulled out of air]
 Permeability, $k = 1$ Darcy [unknown and estimated as quite high]
 Viscosity = 1.05 centipoise @ 72 deg. F [unknown, as well as temperature, with which viscosity varies greatly]
 Total compressibility, $C_t = 8 \times 10^{-6}$ psi⁻¹ [unknown]
 ?, $s = ?$ [unidentified parameter in formula, and we are not told what value Beeland assumes for it]

Beeland gives no justification, explanation, or references for the parameter values it has assumed other than they "have been assigned based on site-specific information" (p.

24). Beeland did state, however, on page 22: "Information used in the following calculations has been estimated from logs and available neighboring well information summarized in this document." I was unable to find any such information in or summarized in this document. One wonders why Beeland has not referenced any information or test data from the existing injection well that this well is to replace. Could it be that Beeland or CMS has not been doing the required testing for that well?

Some data provided in the Application relates to the Dundee's porosity and is from well (permit 46244 in Section 1 of same township/range) that stated for the Dundee Limestone (at 2110 to 2174 foot depth) limestone, "microcrystalline to extremely fine, dense to poor porosity," (at 2174 to 2222 foot depth) dolomite, "extremely fine to microcrystalline, good to fair porosity"; (at 2222 to 2315 foot depth) dolomite and limestone, "microcrystalline to extremely fine, good to poor porosity." Another well that could be relevant (permit 2775) in Section 26 of same township/range) drilled through the Dundee, but of its detailed 7 page Formation Record, the page covering Dundee depth 2300 to 2780 is completely omitted from Beeland's Application. Beeland plans to drill to depth 2450 feet (form EQP 7200-1).

The formula (bottom p. 24) must assume, among other simplifications:

- All of the parameters remain constant for 20 years of injection.
- Beeland's injection fluid does not alter or interact with whatever it comes into contact with.
- Permeability in the Dundee Limestone is homogeneous and horizontally isotropic and quite high at 1 Darcy. Hence there are no preferred horizontal directions of fluid migration.
- Beeland injects into an unbounded reservoir without any interaction with the fluid dynamics of the more than 10 wells lying within 2 miles of it, including three wells (one only 0.4 miles away) that have been injecting salt-water and other substances into the Dundee Limestone at least intermittently since around 1989, 1989, and 1992.

Beeland then concludes: "Due to the relatively high permeability and relatively low original pressure of the Dundee Limestone injection formation at this site [both roughly guessed], there exists no potential for contamination of USDW resources due to improperly completed or abandoned wells within the statutory minimum 2 mile radius area of review" (p. 25). Beeland fails to provide "3. A plat which shows the location and total depth of the proposed well, shows each abandoned, producing, or dry hole within the area of influence, and each operator of a mineral or oil and gas well within the area of influence," as required by law per the permit application instructions. (Beeland's Figures 4 and 6 do not show his required information.)

Beeland is also required to but does not provide: "5. Plugging records of all abandoned wells and casing, sealing, and completion records of all other wells and artificial penetrations within the area of influence of the proposed well location and a map identifying all such artificial penetrations. An application shall also submit a plan reflecting the steps or modifications believed necessary to prevent proposed injected waste products from migrating up, into, or through inadequately plugged, sealed, or

completed wells." Rather than providing the required well information and plan, Beeland concludes "a corrective action plan is not required for any of the artificial penetrations within the proposed Beeland well AOR because, based on calculations, there is no cone-of-influence and there are no artificial penetrations to the injection zone within the area of review that have the potential for allowing injection activities to have an impact on the USDW" (p. 3).

The formula Beeland gives at the bottom of page 24 (used to conclude "there is no cone-of-influence") is in fact a transient solution to a partial differential equation for radial flow from a well into a reservoir. Within the framework of other simplifying assumptions, it is valid only until boundaries affect the data. It is used for falloff testing and cannot be applied correctly to model the effects of 20 years of fluid injection. See EPA document, "The Nuts and Bolts of Falloff Testing," 2003.

Beeland is required to provide information to characterize the proposed injection zone (p.47), including:

- D. Effective porosity of the injection zone including the method of determination.
- E. Vertical and horizontal permeability of the injection zone and the method used to determine permeability. Horizontal and vertical variations in permeability expected within the area of influence.
- F. The occurrence and extent of natural fractures and/or solution features within the area of influence.

Beeland does not provide the required information. Relative to the above it states: "The effective porosity of the Dundee is estimated as approximately 10% but will be determined through well log calculations after the well is installed. Horizontal permeability of the injection interval is estimated as approximately 1 Darcy, and vertical permeability is unknown. The occurrence and extent of fracturing specific to the Disposal well location will be assessed through drilling and wireline logging of the hole" (pp. 47-48).

Similar information is required for the proposed confining zone with addition of grain mineralogy and matrix cementing. Again Beeland does not provide the required information but states relative thereto: "The confining zone includes all rock units from the Antrim to the top of the Dundee Lithologic characteristics of these units are described in section B.7, above. Effective porosities of each zone are estimated as between 2 and 20%. The vertical and horizontal permeability of the confining zone is estimated as being substantially less than 0.1 md. Formations included as part of the confining zone are expected to be laterally continuous . . . and are not expected to exhibit extreme variations in effective permeability within the area of influence. The occurrence and extent of natural fractures and/or solution features within the area of influence will be assessed through wireline logging during drilling. . . . (p. 49)"

Impact of injection (p. 25): Beeland's spreading model with assumption of 10% effective porosity over 100 ft. thick reservoir is not substantiated and is likely high so underestimates spreading impact. The model also incorrectly assumes Beeland's well

is an isolated source that spreads by diffusion and incompressible mass conservation, ignoring pressure effects from other sources and sinks, directional variations, chemical interactions, fingering, etc.

OTHER WELLS WITHIN 2 MILES THAT DRILLED INTO OR THROUGH DUNDEE LIMESTONE

Beeland states (p.30) that only four of 109 wells within 2 mile radius actually penetrated into the Bell Shale or Dundee limestone. Three of these are active Class II brine disposal wells (41955, 42680, and 46244), and one was plugged in 1969 as a dry hole (27750). And "due to the small pressure rise associated with projected injection activities and the corresponding limited cone-of-influence, it is noted that none of the wells within the regulatory minimum two-mile AOR could have the potential for causing any endangerment to USDW" Significantly, Beeland does not even provide a plat showing the location of these four wells (listed in Table 4) relative to its proposed well.

Beeland was required to include a map showing the locations, depths, and operators of all well within 2 miles of the proposed well. It instead lists some 109 wells in tables and includes as Figure 6 a printout (apparently from MDEQ's online database) that covers a much larger area and has scale so small that the wells cannot easily be located and their depths and operators are not given, as required. The four most significant Dundee wells are not designated on that map, and I was unable to locate one of the four (#46244).

SURFACE WATERS AND SUBSURFACE AQUIFERS

The Application requires: "6. A map showing the vertical and areal extent of surface waters and subsurface aquifers containing water with less than 10,000-ppm total dissolved solids. A summary of the present and potential future use of the waters must accompany the map."

For the subsurface aquifer, Beeland does not include a map showing the vertical extent of the subsurface aquifer. To show its horizontal extent, Beeland attaches a USGS undated map (Figure 14), (presumably from the 1992 Michigan Groundwater Atlas). The map spans four states, and its scale is such that details around the proposed well site are not clear. It does appear to show, however, that over Michigan and near the proposed well site, there are areas where glacial deposits are thin or missing, which sites might be better than Beeland's proposed site for a contaminant injection well.

Beeland's required use summary (two sentences long) is not responsive to the Application requirement but states: "In Michigan, the Glacial Till and/or unconsolidated material is a source of fresh water for domestic, industrial, and agricultural purposes (Olcott, 1992). Based on available data, this unit is anticipated to be the lowermost USDW. This will be confirmed during installation of the proposed well" (p. 36). How



Beeland intends to confirm during installation of its well that the Glacial Till is the lowermost USDW would be of interest.

DRILLING THROUGH SALT

In the required "Environmental Impact Assessment for Mineral Wells and Surface Facilities" form (EQP 7500-3), Beeland reports the well will not be drilled into or through bedded salt deposits. Beeland states no evidence supporting that conclusion. Beeland plans to drill to approx. 2450 feet, into the top of the Detroit River Group Dundee Limestone. Information from nearby wells indicates a not insignificant chance Beeland will drill through salt. A well (permit 41955) in adjacent Section 23 drilled for purpose of salt-water injection into the Dundee Limestone drilled through scattered beds of anhydrite (abundant in the cap rock of salt domes) at depth of 2385 to 2411 feet. Beeland has omitted very important information from Shell Oil's nearby well (27750) in Section 26. It omits page 4 of Shell's sample description covering the 2300 to 2780 foot depth, where the Dundee begins at 2172 and continued at least to 2300. At 2798, Shell hit salt, but what did it hit from (omitted) 2300 to 2780 feet, the very region most relevant to Beeland? And nearby well 42680 hit scattered anhydrite beds within the Dundee (2061 to 2141 feet) and hit salt at depth 2472 feet. (Beeland has included the data on these wells at the end of the Application.)

Form EQP 7500-3 requires Beeland to describe its plans for handling and disposing of drill cuttings and to provide other information, if the well is drilled through bedded salt deposits. Beeland does not describe such a plan and provide that information, even though there is a significant probability it will drill through salt.

POSSIBLE RADIOACTIVE CONTENTS OF WASTE TO BE INJECTED

Potassium and sulfate appear to be the contaminants in highest concentration in the injectate (pp. 44-45). Does this include significant amounts of radioactive potassium?

SOME PROBLEMS WITH FORM EQP 7200-4, "INJECTION WELL DATA"

No. 10. Fracture pressure of confining formation is given as "1720 at base" without units. Showing of calculation is required but not provided in a meaningful manner [no units stated].

No. 11. Fracture pressure of injection formation "1720 at base" without units. This is clearly incorrect as equal to that of confining formation. Showing of calculation is required but not provided in a meaningful manner [no units stated]

No. 12. Specific conductance of representative sample of injection fluid is given as "TBD." Beeland has been operating another injection well for disposal of the injection

fluids. If Beeland has complied with laws/regulations for periodic testing of that well, then the specific conductance should have been determined already, not TBD.

No. 9. Maximum bottom hole injection pressure is given as "1221" without units. Showing of calculations is required but not provided in a meaningful manner.

PIT FLUIDS & DRILLING FLUIDS

In the "Environmental Impact Assessment for Mineral Wells and Surface Facilities" form (EPQ 7500-3), Beeland answers "yes" to "Will any pit fluid be disposed by a licensed liquid waste hauler?" But Beeland's Waste Analysis Plan, dated October 6, 2006 (attached to the Application), states that "fluids generated at the disposal well facility operation itself will also be injected into the well" (section 1.B). Form 7500-3 requires Beeland to describe disposal plans for pit fluids, which Beeland does not do.

"Fresh water will be used as drilling fluid, trucked to the site using local oilfield suppliers or a pre-existing water well already located on the property for water during drilling and testing of well" (p 15). But the Survey Record Plat fails to identify specifically the pre-existing water well on the property that might be used.

TRUCK TRAFFIC

In the "Environmental Impact Assessment for Mineral Wells and Surface Facilities" form (EPQ 7500-3), Beeland reports that anticipated frequency of truck traffic entering the site, less than 20 trucks per day, will not appreciably increase traffic in the area. How does Beeland reach that conclusion without any analysis of existing traffic in the area? Furthermore, twenty trucks/day for 20 years (p. 2) is 292,000 truck trips past my niece's home on Alba Highway, including on icy roads. And additional trucks will be required during drilling and testing operations for supply of drilling fluid and disposal of pit fluid.

LAND USE

In the "Environmental Impact Assessment for Mineral Wells and Surface Facilities" form (EPQ 7500-3), Beeland reports that present land use is "woodlands and crop/agricultural areas" but previously reported on page 6 that the area "is used for agricultural and residential purposes."

* * *

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July 30, 2007

EPA Region 5

UIC Branch, Attn. William Bates

77 W. Jackson Blvd (WU-16J)

Chicago, IL 60604-3590

In Re: Additional Supplemental Comments and Response to DEQ presented by Peter J. Vellenga
Combined Hearing EPA - DEQ - Beeland Group LLC - Non Hazardous Disposal Well

Notice of Objections: Proposed Deep Well Injection of Hazardous Materials (classified by EPA as Non-Hazardous coming from Kiln Dust) and moving hazardous materials and water between aquifers

Dear Mr Bates,

I had previously filed objections. Since that time I have received a response from DEQ dated July 16, 2007. This is to supplement my objections previously filed.

It has come to my attention based upon information and belief that Rhonda O'Connell, Cheryl Darrah, and Robert Massey Jr. apparently own the mineral rights on the property where the proposed injection well is located. It is also my information and belief that they are opposed to the use of their property for these mineral purposes, and no authorization has been obtained by Beeland or CMS Energy Inc. to use these mineral rights. It is further my information and belief that these individuals are making this position known to Beeland. This is a factual determination that should be ascertained by EPA before granting a permit. If there is no ownership of the minerals there would be need to be a determination as to mineral ownership.

If this determination is not made by both EPA and DEQ and the mineral rights are not properly owned by Beeland then both governmental agencies would potentially be subject to a RICCO action.

It is the apparent position of DEQ that there is no responsibility by DEQ to investigate the mineral ownership. I believe that this is one more indication that they are not in a position to act as an impartial tribunal. This will supplement my position as to the question of conflict of interest.

Sincerely,



Peter J. Vellenga, P-21804

Attorney At Law

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1 than one relationship with CMS Energy over the
2 years. I also have looked at the documents here.
3 The documents that I see CMS Energy did not say,
4 after they stopped doing the work they were
5 supposed to do, oh, guys, we stopped doing it. No,
6 the plume had to be found. These people are not
7 good sound environmentalists.

8 Now I'm going to look at DEQ. I hate to
9 say it, DEQ has gone down in my estimation,
10 seriously down in my estimation. I just got a
11 letter from the DEQ saying, well, we can fill
12 someplace between 15 and 50 feet of Walloon Lake
13 because of facts.

14 You people have lost credibility. You
15 have lost more credibility because of the fact that
16 you entered into an agreement with CMS Energy to
17 allow this to happen. You knew that there was a
18 problem, you entered into an agreement, and I'm
19 going to ask the Attorney General of the United
20 States to carry out an investigation to see whether
21 there was criminal culpability between CMS,
22 Governor Engler and the DEQ. And I would ask for
23 prosecution to take place, because that never
24 should have happened and what happened there was
25 wrong.

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1 And you say, well, now we've got to deal
2 with what we've got. No, when criminal activity
3 took place and things weren't done right, you don't
4 just say it goes away.

5 There was fraud. And I hate to say it, I
6 have been in hearings where I heard CMS say, oh,
7 well, it's okay. We didn't steal anything.

8 Well, folks, you stole from every royalty
9 owner in this state, and how you did it was with
10 the complicity of the governor, and that's
11 something that has happened. I'll stand on it. I
12 don't have to worry about it, because in my book, I
13 have an absolute and complete defense against it,
14 and it's truth.

15 Now, let me tell you the last thing.
16 Furthermore, leachate from CKD piles often contains
17 elevated levels of mercury, arsenic, cadmium, lead,
18 zinc and more. Mercury levels tested by MDEQ --
19 that's you folks, Michigan Department of
20 Environmental Quality -- in cement were found to be
21 at least 300 nanograms per liter NCO, 230 times
22 greater than the surface water quality of 1.3 NCO.

23 Okay, I'm going to stop there. Folks,
24 not only have you dropped the ball, you are in bed
25 and you need to disqualify yourselves from anything

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1 involved with this permit, and I think you should
2 appoint a special master to take over because of
3 your complicity with that agreement. And I would
4 ask specifically for a copy of that settlement
5 agreement. Thank you.

6 (Applause)

7 DAVE NOVA: Number 24, Wanda?

8 WANDA SIRNOS: My name is Wanda Sirnos.
9 I actually own three pieces of property in Alba,
10 and I'm going to have to agree with pretty much
11 everything that everybody else has said here.

12 But I also want to bring up one point,
13 important point, and that is, I have a son that's
14 in the military, he's in Germany right now. I
15 mentioned this to him today. He was very upset,
16 because for one, he is a resident of Alba, but he
17 had no knowledge of any of this until I said
18 something.

19 Two, he'd like to know a lot more.
20 Three, he planned on living here for the rest of
21 his life and raising his children. But
22 unfortunately, we don't think about that. There's
23 a lot of us that have children that are in the
24 military that plan on coming back here and plan on
25 living here and raising their family and just