

Environmental Appeals Board
U.S. E.P.A.
Clerk of the Board
Environmental Appeals Board
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Mr. & Mrs. Robert B. LeBlanc
9300 Island Drive
Grosse Ile, MI 48138
(734) 675 - 0323

Friday, September 14, 2007

Re: Appeal pursuant to 40 CFR 124.19 as to final permit
MI-137-5X25-0001

To Whom It May Concern:

By letter dated 8-14-07 (and faxed twice to (312) 886 - 4235 on said date at about 2:20p.m.) the LeBlancs' made timely written comments, objections, and requested a public hearing. Then on 8-27-07 the LeBlancs' received a letter via Certified Mail 7001 0320 006 1459 0040 to which this appeal is in reference to. *(See Attachment of 8-23-07 copy of letter.)*

The key issue appears to be the matter of liability (i.e., no adequate policy exists defining the roles and financial responsibilities of the industry and government). E.g., the STATE OF MICHIGAN will likely declare 11th Amendment immunity from any and all lawsuits. Also, it will be a real feat to try to collect from a Limited Liability Company (L.L.C.) such as previously described "State Actor" Core Energy, LLC or any other LLC. Maybe the EPA will shift blame to the Department of Energy (D.O.E) or to the Department of the Interior (D.O.I.) or even the so-called "Midwest Regional Partnership" which all might declare immunity or inability to pay any judgment for seen or unforeseen damages.

Still another issue is that of adverse possession by the STATE OF MICHIGAN or a government sponsored industry company. Most people in the area at issue are unaware of property rights including, but not limited to minerals, all rights to the formations, and rights to the surface--to be considered in awarding just compensation for taking interests in land. Many people just don't have the financial resources to fight either the industry or the government, so, the industry and government "take"

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an individual's hard-earned property by a mere quirk-of-law rather than by fairly administered justice. If the USEPA did not issue permits until verified proof of ownership of minerals, including but not limited to oil and gas, surface rights and formation rights then, at a minimum, neither the industry responsible for the pollution in the first place, nor the government could legally aid and abbet the theft of private property from ~~unsuspecting American~~ citizens.

On the two critical issues listed above (liability and adverse possession) are therefore the basis of this appeal, in part, upon an important policy consideration which the Environmental Appeals Board should, unquestionably, review in order to preserve the integrity of the USEPA in the eyes of the public.

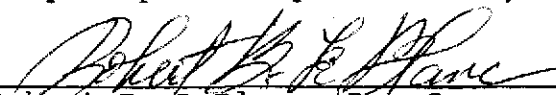
Of these two aforesaid issues the UIC program should have authority to determine surface, mineral, and formation (storage) rights when issuing permit decisions.

Now as to findings of fact or conclusion of law issues, the "Region V policy sets the AOR at a fixed radius of 2 miles" and "Anticipated plume size AOR/ZEI at a fixed radius of $\frac{1}{4}$ miles". It stands to reason that if the AOR and the plume size is normally fixed at within two-miles then by requiring the additional review by the EPA legal department to verify that the applicant does validly possess or can demonstrate ownership or legal access to all affected properties would prevent "sub-surface trespasses" and force the industry to make good faith efforts to deal fairly with surface right(s), formation right(s), and mineral right(s) owners no matter what class of wells the applicants seek. (See the attached copy of the TECHNICAL REVIEW SHEET adopted by reference herein.)

In other words, what the USEPA is doing is analogous to selling guns without a criminal background check on the applicant by issuing a permit to inject CO2 even though the applicant does not possess legal ownership or title to surface rights, formation rights, or/and mineral rights and the property owner instantly loses his or her property rights simply because the EPA didnot require verification and proof of ownership for the AREA OF REVIEW.

In conclusion, property owners deserve a fighting chance to protect their property against sub-surface trespasses and thus, the USEPA via the Environment Appeals Board should professionally adopt a "proof of ownership" requirement as an initial step in submitting an application for injection for ^{AN} area of review (AOR) at a fixed radius of 2-miles or the anticipated plume size at a variable fixed radius--using the largest radius as the threshold area requiring "proof of ownership". The USEPA has an outstanding record for protecting the environment and it should continue to protect the public against industry polluters who seek to dispose of their pollution at the expense of private property owners who compose the law abiding public. Thanks.

Very respectfully submitted,


Robert B. LeBlanc, Pro Se
On Behalf of Himself and
His Wife Joan S. LeBlanc



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 23 2007

REPLY TO THE ATTENTION OF:

WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0040
RETURN RECEIPT REQUESTED

Robert B. and Joan S. LeBlanc
9300 Island Drive
Grosse Ile, MI 48138

**Re: Public Comments on United States Environmental Protection Agency (USEPA)
Final Permit #MI-137-5X25-0001**

Dear Mr. and Mrs. LeBlanc:

Thank you for your comment on this permit, in which you request a public hearing on the issues of federal protection of land owners' and mineral owners' property rights, and the impact of carbon dioxide (CO₂) sequestration on those rights. We appreciate your taking the time to express your concerns regarding underground injection.

The scope of the federal Underground Injection Control (UIC) regulations is to determine the soundness of construction and operation of injection wells as they relate to the protection of all underground sources of drinking water (USDWs). A USDW is an aquifer or its portion which contains less than 10,000 milligrams per liter of total dissolved solids. A federal UIC permit for an injection well conveys permission to inject certain fluids based on U.S. EPA's finding that the construction and operation details of the well are protective of USDWs.

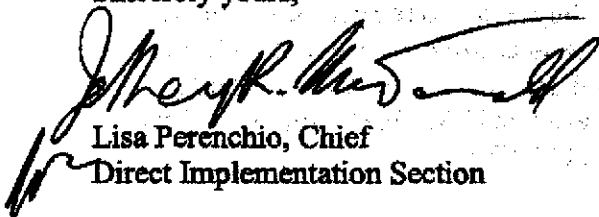
The UIC program does not have authority to determine surface, mineral, or storage rights when issuing permit decisions. Issues relating to property ownership or lessee rights are legal issues between the permittee and property owners. Under federal UIC regulations, a permittee is not required to demonstrate ownership or legal access to all properties, only that the operation of the well will not allow contaminants into a USDW. Issuance of a permit neither confers the right to trespass nor conveys property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local law or regulations. This is the case with respect to all classes of wells, including those which inject CO₂ for permanent sequestration in an underground formation.

U.S. EPA did not receive enough public comments to warrant a public hearing, and no issues have been raised which indicate the draft permit violates any federal UIC requirement. Because the proposed injection operations of the State-Charlton #4-30 injection well meet all federal UIC requirements for environmental protection, the U.S. EPA issued a final permit for this well.

In accordance with Title 40 of the Code of Federal Regulations (40 CFR) Section 124.19, any person who filed comments on the draft permit or participated in the public hearing (if held) may petition the Environmental Appeals Board to review any condition of the final permit decision. Such a petition shall include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including the public hearing, if held) to the extent required by these regulations. The petition should, when appropriate, show that the permit condition(s) being appealed are based upon either, (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review. If you wish to request an administrative review, you must submit such a request by regular mail to the United States Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board (MC 1103B), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-0001. Requests sent by express mail or hand-delivered must be sent to the United States Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board, Colorado Building 1341 G Street, NW, Suite 600, Washington, D.C. 20005. The request must arrive at the Board's office within 30 days of the receipt of this notice of decision. For this request to be valid, it must conform to the requirements of 40 CFR Section 124.19. A copy of these requirements is attached. This request for review must be made prior to seeking judicial review of any permit decision.

If you have any further questions or concerns, please feel free to contact Leslie Patterson at (312) 886-4904 or by email to patterson.leslie@epa.gov.

Sincerely yours,



Lisa Perenchio, Chief
Direct Implementation Section

Enclosure

CLASS I NON HAZARDOUS PERMIT
TECHNICAL REVIEW SHEET
(Keyed to sections of the UIC application form)

UIC Permit No M1-137-5X25-0001

Permit Writer Leslie Patterson

State Permit No. (if any) 57916

Signature _____

Operator Name Core Energy, LLC

Date _____

Well Name State Character 4-30

GENERAL INFORMATION

New Class 5X25 CO₂ sequestration experimental
~~New / Existing Class I / Conversion from Class II~~

If existing or conversion, date well was drilled? 11/30/2006

Is it (or will it be) a commercial well? NO

A. AREA OF REVIEW METHODS

Anticipated plume size / ZBI
~~Region 4 policy sets the AOR at a fixed radius of 1/2 miles.~~ ^{1/4}

If there are inadequately plugged wells within ^{1/4} 1/2 miles, further analysis must be done to determine whether corrective action is needed. To do this, the following information is necessary (conservative estimates will have to be used in many cases):

Depth to top of injection zone 3190'

Pre-injection pressure at top of injection zone TBD

Specific gravity of formation fluid at top of injection zone TBD

Depth to base of lowermost USDW 665'

Hydrostatic head or static water level of lowermost USDW <100'

Maximum pressure buildup in injection zone 2552 psi

Transmissivity (permeability x thickness) of injection zone 6825 md-feet

B. MAPS OF WELLS/AREA OF REVIEW

Topographic map and known features shown adequately? YES

Surface elevation of wellsite 1201' (Ground Level Kelly Bushing)

C. CORRECTIVE ACTION PLAN AND WELL DATA

Number of wells in AOR which penetrate the top of the confining zone 3

T.A.'ed 0 Construction adequate? N/A