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March 28, 2007

Regional Hearing Clerk  
 Mail Code E-13J  
 U.S. EPA, Region 5  
 77 W. Jackson Blvd  
 Chicago, IL 60604

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RE: Environmental Disposal Systems, Inc.  
 Complaint Docket No. SDWA-05-2007-0003

Dear Sir or Madam:

Please accept this letter as the City of Romulus's formal request to participate in the above-referenced proceeding.

As you are aware, the City of Romulus is the host community to the above-referenced hazardous waste well. The City of Romulus is quite concerned with respect to certain events which occurred recently at the facility. Certain of these violations cited by the EPA may have directly resulted in the release of hazardous substances from the well site to the ground surface. The City of Romulus is unaware of any actual clean up which has occurred at the property as of today's date. Many of the violations are extremely serious in nature and continue to be an ongoing problem. On March 8, 2007, the City of Romulus formally requested that the U.S. EPA revoke the underground injection control permits issued to EDS. (Copy of letter is attached.) The City of Romulus reiterates that request.

As I am sure you are well aware, the current permit holder has impermissibly attempted to transfer its permits to a third party (RDD). The third party is additionally attempting to transfer those licenses and/or allow others to use that license to continue to inject hazardous waste at the above-referenced facility. The proposed transferee and EDS violated the UIC regulations by purporting to transfer the licenses without the consent of the EPA. They should not be allowed to benefit by their failure to comply with the law and, therefore, should be responsible for any of the requested penalties as well as be prohibited from taking the assignment of the permits. Additionally, many of those individuals who are purported to be the operators of the new entity are those very individuals who are responsible for the violations cited in your recent Complaint. This fact alone should serve as sufficient justification for the EPA to deny the transfer to the proposed new operators.

In addition, 42 USC, 300h(b)(1) states that "a civil penalty of not more than \$25,000 for each day or such violation may be issued." Sub Section 2 of the same section states that "if the



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violation was willful, such person may in addition to or in lieu of civil penalty authorized by paragraph 1, be imprisoned for not more than 3 years, or fined in accordance with Title 18 or both.”

The City of Romulus believes that many of the violations outlined in your Complaint are or were willful or at a minimum done with absolute total lack of regard to your requests for information and the wanton failure to respond to your numerous communications. These actions should serve not to minimize any potential penalties to EDS but serve to escalate the penalties and justify the EPA in implementing the maximum penalties permitted by law.

As an example, the failure to provide the EPA with required information appears to be garnering only a \$258 penalty in total, rather than per day of violation. The information flow required to be provided to the EPA is the only way that the EPA can monitor activities at the site without actually conducting a site visit. It is only with this information that the EPA can determine whether, in fact, the operator is complying with the terms of the permit. Obviously, in this case the operator through either lack of economic funds, or a wanton disregard for the rules, did not provide the required information. One would believe that in good conscience an operator who was unable to comply with the terms of certain requirements of the permit would notify the EPA immediately and request an extension or an alternative method of complying. In the present case, EDS did none of the above. It merely continued to operate in violation of the permit. The same can be said for most of the other alleged violations.

The City of Romulus believes that the failure to have qualified staff on site while underground injection was being undertaken may have directly resulted in the release caused by the gasket failures. This failure caused a release of hazardous substances at the property. To date the City of Romulus has not been provided any information that the contamination has been tested and/or remediated. This is a very serious and potentially dangerous situation.

The City believes that the operator's economic conditions should not be taken into consideration when assessing penalties. As previously stated, in the event that the operator failed to have the economic resources to have adequate staff on site or to prepare the proper documentation for reporting to the EPA, the operator should have immediately been required to shut down on its own volition and notify the governmental regulators. Rather than do so, it attempted to garner as much economic benefit from the operation of the well without concern for the safety of the citizens of the City of Romulus and for the rules and regulations enacted and implemented by the EPA or the State of Michigan.

Therefore, the City of Romulus strenuously requests that the maximum penalty of \$125,000 per violation be imposed on EDS. Additionally, the City of Romulus strenuously requests that any transfer of the license be denied and that any potential operator be required to file a new application and show its requisite experience in operating a hazardous injection well such as being undertaken or proposed to be undertaken at this site. Further, any subsequent



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operator should be required to pay any and all administrative or civil penalties and fines and provide adequate assurance that the people that will be operating the well have the requisite experience and their actions are in no way related to the violations which occurred at this facility in the past.

In furtherance of the City of Romulus's request, the EPA should take notice that many of the violations have not yet been cured and, therefore, the penalties should continue to accrue. Finally, the City can see no reason why the EPA mitigated the severity of the penalties. EDS was fully aware of its obligations to comply with the requirements of the permit. In the City's opinion, EDS either intentionally or willfully failed to comply while it was in possession of the premises. At no time did it ever give advance notice to the EPA or the State of Michigan of its financial inability to continue to run the facility in accordance with applicable law.

It appears to the community that EDS, merely in an attempt to mollify its financial backers or make as much money as possible, continued to cut back on those measures which were meant to protect the public safety in order to turn a profit to remain open. Therefore, the City of Romulus believes that there should be no reduction to the maximum penalties permitted by law.

The City of Romulus wishes to be kept informed as to the progress of this action and participate in all available hearings or other appropriate venues. If you have any questions or comments with respect to this or any other matter, please feel free to contact me at my office.

Very truly yours,

Neil S. Silver

NSS/dc

cc: Leslie Patterson, Enforcement Officer  
Tom Kruger, US EPA Region 5  
Mayor Alan Lambert  
Senator Carl Levin  
Senator Debbie Stabenow  
Congressman John Dingell  
Senator Raymond Basham  
Representative Hoon-Yung Hopgood  
Steve Chester, MDEQ  
Barry Seifman, Esq.

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March 8, 2007

Underground Injection Control Branch  
U.S. EPA Region 5, WU-16J  
77 West Jackson Boulevard  
Chicago, IL 60604

**Re: Environmental Disposal Systems, Inc. UIC Permit  
Request for Revocation**

Dear Sir or Madam:

On behalf of the City of Romulus, I respectfully request that the recent request to transfer the underground injection control permits for the above-referenced facility be denied and the current permits be terminated. Section 144.38(a) of the Code of Federal Regulations states that "a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Safe Drinking Water Act." (Emphasis added.)

Although §144.38(b) provides an alternative to transfers under Section (a), the City believes that the conditions imposed in order to perfect the automatic transfer cannot exist. It is our understanding that the current permittee, i.e EDS, no longer exists. Its interests were taken by inappropriate and unlawful assignment by RDD, a holding company of the Detroit Police Fire and Pension Board. RDD's consent to the provisions of §144.38(b)(2) should not qualify as meeting EDS's obligations under this section.

Additionally, it is our understanding that the UIC Program has already notified EDS of several violations of the permit. Furthermore, pursuant to Section 144.39(b) causes for revocation of the permit exist and the permit should be revoked pursuant to §144.40(a)(1) and (a)(2) by EDS's failure to notify the EPA of any transfer to RDD.

The City of Romulus, therefore, respectfully requests that the EPA not allow a transfer to any new entity of the current UIC permits. The UIC permits should be terminated and anyone wishing to obtain a UIC permit to operate the underground injection wells at the above-referenced facility should be required to provide a full and new application for same.



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Environmental Protection Agency

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Thank you very much for your consideration and concern in this matter.

Very truly yours,

Neil S. Silver

NSS/dc

cc: Mayor Alan Lambert  
Senator Raymond Basham  
Senator Carl Levin  
Senator Debbie Stabenow  
Congressman John Dingell  
Steve Chester, MDEQ  
Barry Seifman, Esq.

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