

July 12, 2007  
EPA Region 5  
UIC Branch  
ATTN: Mr. William Bates  
77 W. Jackson BLVD  
Chicago, IL 60604-3590

Dear Mr. Bates,

We, the undersigned, urge you to deny CMS Energy's proposal for a Class I "Non-Hazardous" waste disposal well in Star Township, Antrim County near the community of Alba. We represent a broad coalition of concerned citizens and organizations who strongly oppose this disposal well and the rationale behind it for the following reasons:

**Risk to our irreplaceable water resources.**

The region surrounding Alba lies atop an enormous, pristine, freshwater aquifer. This aquifer supplies drinking water for the regions citizens and is the source of several major magnificent river systems including the Jordan and Manistee. This aquifer is a priceless, irreplaceable natural treasure. Any mistake, accident or mis-calculation could have devastating impacts for many individuals and the natural resources far into the future.

We acknowledge that Class I disposal wells require extensive safeguards and the best engineering technology can offer. However, they are not foolproof. According to Downriver Digest, July/August 1994, of the 173 deep injection wells in the United States, 23 have leaked or failed EPA's standards. Another six had leaks that were not detected by monitors. For example, the controversial Romulus, MI deep disposal wells, despite earnest reassurances and the promise of bonding, have failed. The operators vanished leaving the surrounding communities and natural resources to suffer the consequences.

Exacerbating the 13% failure rate of well safeguards, operators of the leachate collection system in Bay Harbor shut the system down for seven months without telling anyone or installing an alternative solution to halt the continued contamination of Little Traverse Bay. In spite of their "covenant" not to pollute, the operations have proven to be untrustworthy and not reliable with regard to pollution prevention.

The level of risk associated with well safeguards and previous operator failures is unacceptable to such a pristine resource.

**Strong local opposition.**

While perhaps unintended, the reality is that CMS Energy chose a remote location with limited financial resources to oppose the disposition of toxic wastes generated far away in a privileged resort Community. The small rural community of Alba has spoken out very clearly on this issue -- they do not want this well. At EPA's public hearing on June 13, 2007 in Alba, citizens unanimously voiced their outrage over this proposal.

Not only do we oppose the "dumping " of this toxic waste in our neighborhood, but the transport of an estimated 11 toxic waste-laden tanker truck loads per day, 365 days a year for approximately 20 years

places increased wear and tear on the County's infrastructure, its first responders and undue worry among its residents. Elected officials of Star Township and of Antrim and Charlevoix Counties have also disapproved of this proposal. And, who speaks for the rivers, forests and wildlife? Do they have "standing"?

The only proper, moral and ethical solution is for CMS Energy and Bay Harbor to act responsibly, clean up their mess and not try to dump their toxic waste on someone else's doorstep.

**CMS Energy needs to be fully accountable for their irresponsible choices.**

In the late 1980's and long before Bay Harbor Resort was developed, scientists reported toxic leachate seeping from CKD waste piles at the then abandoned Penn Dixie Cement Plant. We know that when CKD is infiltrated with water a toxic soup emerges. As required at other sites with CKD piles, the proper disposal method was and is to encapsulate the CKD piles with an impervious barrier of high-density polyethylene or two feet of protective material. Back then, it would have been far easier (and less costly) to encapsulate the CKD piles before development occurred. Instead, Bay Harbor chose to cover it with six to twelve inches of top soil, build over it and hoped the problem would go away. It did not.

We can now futilely argue and litigate and seek to assess blame. Or, CMS Energy and Bay Harbor can simply do what they should have done from the beginning. Their gamble did not pan out. These CKD piles need to be capped and encapsulate and made impermeable to moisture. The concept is very simple but the task will be substantial and costly. However, maintaining a collection system prone to failure, neutralizing, transporting and disposing of millions of gallons of toxic wastes into the foreseeable future is also expensive and risky, not to mention unethical.

**Conclusion**

In recent years, as science and society grapple with increasingly complex issues, a new ethic has emerged called "The Precautionary Principle". Simply stated, "When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships have not been established scientifically". We believe that this principle should be applied to the proposed deep injection well in Alba. Should unforeseen problems occur and this aquifer contaminated, there is no easy way to reverse it. Given the unique hydrology in this region, strong local opposition, and the opportunity to hold CMS Energy fully accountable given there are more responsible and protective opportunities to fix their mistakes on-site, the proposed deep well injection should be denied.

Sincerely,

Dr. John W. Richter  
President, Friends of the Jordan