



## Friends of the Jordan River Watershed, Inc.

P.O. Box 412, East Jordan, MI 49727

Phone/Fax 231 536-9947

Website [www.friendsofthejordan.org](http://www.friendsofthejordan.org) e-mail [foj@friendsofthejordan.org](mailto:foj@friendsofthejordan.org)

### **Brief Timeline of Events - Bay Harbor CKD and Alba Injection Well**

**1980** - Penn Dixie Cement plant closed, leaving behind piles of CKD (cement kiln dust) along the shore of Lake Michigan near Petoskey. The DNR ordered that these piles be isolated or removed prior to new development of the property.

**Early 1990's** - developers David Johnson and CMS Energy came up with plans to turn the old Penn Dixie cement plant into a posh resort. The DEQ had ruled that CKD was an inert substance, which allowed the developers to skip the cleanup and treat the CKD like dirt. Piles of CKD were bulldozed into quarries and spread on the ground to make way for the multimillion dollar development and golf course.

**July, 1994** - a Covenant Not To Sue was signed by Boyne USA, CMS, and the DNR, which smoothed the way for financing the project without doing a cleanup. Those in the regulatory agencies who pushed too hard to apply rules for environmental cleanup were ignored or moved to other less visible offices.

Ground and surface water flowing through the CKD turned to leachate - a toxic, heavy-metal laden, bleach-like soup, and was flowing freely into Little Traverse Bay. A DEQ study in 2004 showed 100% mortality of fathead minnows in a diluted 10% concentration of leachate.

**2003-2004** - CMS pumped some of the leachate to the City of Petoskey water treatment plant. However, they failed to conduct sampling at required times and leachate often exceeded limitations for pH, mercury and lead. CMS never informed the City of these problems and were cited with numerous violations. In January 2004, the City of Petoskey refused to accept any more leachate. For the next nine months, leachate flowed freely into Little Traverse Bay.

The Little Traverse Band of Odawa Indians filed a complaint with the EPA that leachate flowing into the Bay was impacting their fishing rights.

**Sept. 2004** - The Northwest Michigan Health Department issued health advisories which closed the beaches at East Park and Bay Harbor, due to high, skin-burning pH levels in the water.

**2005** - The EPA ordered CMS to "isolate, contain or remove" the CKD to prevent further contamination of the Bay. That order was ignored in favor of a "less expensive" alternative - allow the groundwater to become contaminated, then transport it to other communities for disposal. A proposed recipient of the toxic waste is Alba, the highest point in Northern Michigan and headwaters to six great river watersheds.

**June, 2007** - The DEQ held a public comment meeting on the Alba injection well proposal. The meeting was poorly publicized, (the only notification was in a newspaper in Gaylord).

Friends of the Jordan (FOJ) asked for and received a 30-day extension to the public comment period. Opposition mounted as scientists and citizens began to understand the ramifications of the proposed well. Hundreds of comments were sent to the DEQ.

**Summer, 2007** - FOJ launched a petition campaign. Hundreds of signatures were sent to Gov. Granholm, Congressman Stupak, Senators Levin and Stabenow, State Rep. Elsenheimer, and State Sen. Allen, asking for a halt to the permit.

**Sept. 28, 2007** - FOJ hosted a day of meetings with representatives from the DEQ and CMS, to discuss concerns about the proposed well.

**Feb. 7, 2008** - The EPA and DEQ approved permits sought by Beeland and CMS Energy to develop an injection well in Alba. Appeals by FOJ and others to deny the permits were ignored or dismissed mostly on technicalities. The permit was approved based on very narrow rules which considered *only* the engineering and operation of the well. Environmental impact issues involving transportation of leachate and surface spills were not addressed.

**March 8, 2008** - Star Township and Friends of the Jordan (FOJ) sponsored a community forum at the Alba public schools to seek reconsideration of the issuance of the permits. The meeting was well attended by public officials, environmentalists and area residents.

**April 2008** - Gov. Granholm denies State Rep. Elsenheimer's request to intervene to halt the permit.

**May 2008** - POWER (Protect Our Water and Environmental Resources) Coalition was formed. Its mission statement is, "to facilitate the cleanup of Bay Harbor without creating additional contamination sites in Northern Michigan." POWER's first goal is to stop the Alba injection well.

**Oct. 3, 2008** - The EPA Environmental Appeals Board issued an order denying a review of the EPA permit approving the well. The review had been requested by FOJ, Antrim County and Star Township.

**Oct. 25, 2008** - FOJ and the POWER Coalition hosted a public informational meeting at North Central Michigan College in Petoskey. Presenters included experts in geology, hydrology and chemistry.

**Oct 31, 2008** - FOJ, Antrim County, Star Township and mineral rights owners filed suit in Antrim County Circuit Court against CMS/Beeland, citing possible harm to the Jordan River watershed and possible destruction of mineral reserves near the injection well site. Dr. John Richter explained that the suit was necessary because the administrative appeals process had been exhausted.

**Jan 29, 2009** - 13<sup>th</sup> Circuit Court Judge Thomas Power issued a preliminary injunction against CMS/Beeland to prevent a "test" well from being drilled. A Petoskey News Review article quoted Judge Power saying, "They need to get rid of this (leachate) but there are other alternatives that are currently being used - they may be more expensive, but they work. The harm (to the defendants - Beeland) seems like it would be financial, but the harm to the environment is pretty great." An Antrim Review editorial by John Tarrant stated that Judge Power "took into consideration the possible damage such a well would do to mineral rights and the owners of those rights, which in this case is Antrim County taxpayers. And he (Judge Power) wisely declared the DEQ to be in error when they declared the wastewater which contains leachate from a former cement plant which is now the site of multimillion dollar homes at Bay Harbor to be harmless." CMS/Beeland appealed Judge Power's decision to the Michigan Court of Appeals.

**May 4, 2009** - The Court of Appeals refused to overturn Judge Power's decision to issue a temporary injunction against the well. CMS/Beeland appealed to the Supreme Court.

**July 7, 2009** - The Michigan Supreme Court refused to review the Court of Appeals decision and upheld the temporary stay against the well.

**June 20, 2009** - CMS held a "celebration" to mark the reopening of East Park. However, CKD leachate is being collected daily from East Park (and other areas in Bay Harbor), and must be trucked off-site to other locations for dumping. FOJ and the POWER Coalition held a protest, stating that the leachate collected here should not be transported to Alba, possibly contaminating the headwaters of several major northern Michigan rivers.

**Aug. 2009** - *Judge Power issued an indefinite stay against the drilling of the Alba injection well!*

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