

Thu, Feb. 7, 2013

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ENVIR. APPEALS BOARD

USEPA.

Office of the Administrator
Environmental Appeals Board MC _____
Colorado Bldg 1341 G. Street N.W.
Suite 600, Washington, Dc 20005

VIA USPS EXPRESS

RE: West Bay Exploration Co.
Traverse City, Mi. UIC Appeal No. _____

Dear Environmental Appeals Board:

Enclosed is the original and two copies
of the Petitioner's Petition for Review
of UIC Permit No. MI-075-2D-0009.

PLEASE FORWARD THE ORIGINAL TO THE EAB
IMMEDIATELY! IT IS DUE FRIDAY, FEB. 8, 2013.

Please file / forward the original and
one copy, stamp appropriate filing
information on the remaining copy,
and return the copy to me. THANK YOU!

6600 RIVERSIDE RD
BROOKLYN, MI 49230
517-358-2315

Sincerely,
Sandra K. Yerman
SANDRA K. YERMAN

2 COPIES / ENCLOSURES: 3 - PART III PETITIONER
ALL 7 / 4 - BACKGROUND. A COMMENTERS VIEW.

Before the United States
Environmental Appeal Board (EAB)

In the matter of:

West Bay Exploration Co.

UT @ appeal No. _____

Traverse City, Mi

Mi-076-2D-0009.

Background.

A commenter's view.

May it please the EAB: There have been woes committed by both regulatory authorities - the U.S. EPA Region V (EPA) and the MDEQ - regarding the above Class II injection well permit(s) AND/OR the public hearing process itself, under the Code of Federal Regulations, Title 40, Part 124 (Procedures for Decisionmaking) which, I believe, would require the EAB to:

1... cause the EPA to serve the petitioner with a CORRECT THIRD SERVICE OF NOTICE by the Regional Administrator (R.A.) with a NEW 33-DAY ^{APPEAL} _{TIME} PERIOD according to 40 CFR 124.19 / 124.20 - since the FIRST SERVICE NEVER HAPPENED (TO ME) and the SECOND SERVICE WAS INCORRECT per 40 CFR 124.20 by not allowing me the 3-days for mailing.

(see certified letter from EPA / Anna Meller - permit writer, No. 7069 1680 0000 7661 7321, dated Jan 14, 2013, I received Jan. 19, 2013) see I @ end. ✓
2... cause the EPA to furnish the petitioner with sworn statements from mail room personnel, like what happened with MDEQ / PSD appeal 98-1 (I filed in 1998) to start an investigation! I believe THE FIRST SERVICE OF NOTICE WAS WITHHELD INTENTIONALLY

BY THE EPA / ANNA MILLER, who I told, by phone, in mid-October 2012 that "if the VIC permit was approved, I would be filing an appeal!" And then, Boom! - nothing in the mail for me! IS THIS DISCRIMINATION AGAINST ME? It seems THE EPA WAS USING THE U.S. MAIL (U.S.P.S.) TO PREVENT A CITIZEN-COMMENTER FROM FILING AN APPEAL; ISN'T TAMPERING / INTERFERING WITH THE U.S. MAIL A FEDERAL CRIME? (SEE 2.)

3. ... refer Hal Fitch, head of oil / gas division of MDEQ, TO PROPER AUTHORITIES FOR ALLOWING THE MDEQ TO SPRAY FRACKING LIQUIDS ON DIRT ROADS, TO KEEP DOWN THE DUST LAST SUMMER, DURING THE DECISION MAKING TIME PERIOD FOR THIS VIC PERMIT(S)! FITCH STATED, "... it turns out there really wasn't anything in that water that was deleterious above normal oil field brine. But still..."

(see NPR Environment Report dated Jan. 17, 2013 - www.michiganradio.org; also enclosed.)

4. ... look into Response to Comment document under Comment 58, pg. 21 to see whether the EPA IMPROPERLY DENIED COMMENTER 58 THE (THIRD) PUBLIC HEARING THAT THE COMMENTER REQUESTED, some time before June 1, 2012 (during the public comment period - with 6 months to go before the December 6, 2012 permit approval). Per 40 CFR 124.11, "... any interested person ... may request a public hearing ... in writing, and shall state the nature of the issues proposed to be raised in the hearing." Did Commenter 58 do this, EPA?

3... investigate the Response to Comment document FOR CONTRADICTION RESPONSES TO COMMENTS BY THE EPA.

"EAB: please check - Response 36." The permit does not directly limit injection volumes to a daily amount" VS. Response 42. "The injection rate we used, 1200 barrels per day, is from the company's permit application." A DISTINCTION W/O A DIFFERENCE!

please check - Response 34. "(the) massive anhydrite (confining zone layer) like the Salina A's Evaporite, is impermeable (in geology the term massive means) CRYSTALLINE and homogeneous)" ;

VS. Response 37. "The geologic setting of the West Bay #22 well is different than those in Youngstown, Ohio, which were drilled into deeper, CRYSTALLINE ROCK." EMPHASES ADDED.

WHY ARE THESE CRYSTALLINE ROCKS DIFFERENT, EAB?

please check - Comment AND Response 30, which does not explain at all HOW A CLASS II BRINE DISPOSAL WELL COULD ENHANCE OIL RECOVERY? WHAT GIVES HERE?

PLEASE EXPLAIN, EAB. I NEEDED THIS INFO. BEFORE IT WAS

TIME FOR THIS VIC APPEAL! PLEASE DECLARE THIS PUBLIC

HEARING PROCESS AND VIC PERMIT - NULL - AND - VOID,

REVOKED, ETC. BECAUSE OF A LACK OF INFORMATION BY EPA!

Q... tell the EPA THAT COMPLICATED ISSUES COULD REQUIRE

MORE THAN 2 PUBLIC HEARINGS. (see 40 CFR 124.12

"Public hearings." - or 40 CFR 124.14 "Re-opening

of the public comment period.")

THE COMPLICATED ISSUE OF CONCERN TO ME, BESIDES THE

ABOVE ENHANCED OIL RECOVERY BY DISPOSAL WELL OPERATIONS,

IS FRACKING. SPECIFICALLY, I NEEDED TO KNOW, AFTER

READING ALL 28 PGS. OF RESPONSE TO COMMENT DOCUMENT, THE ANSWER TO THIS Q. "HOW CAN THE "SHALE" LAYER OF ROCK BE BOTH A "CONFINING ZONE" LAYER AND BE THE LAYER OF ROCK THAT IS FRACKED WITH TOXIC LIQUIDS AND SAND? AND, THIS Q. IF FRACKING LIQUIDS, INCLUDING SPENT SAND, COULD BE (RE) INJECTED INTO THIS WEST BAY DISPOSAL WELL UNDER PRESSURE - COULD THE PRESENCE OF LEFT OVER SAND (FROM FRACKING LIQUIDS) CAUSE FISSURES IN THE NIAGARA DOLOMITE ROCK, AND THUS COMPROMISE THE STORAGE OF THOSE TOXIC WATERS ('TIL FOREVER) PER THE UIC PERMIT REQUIREMENTS? I NEEDED TO KNOW THE ANSWERS TO BOTH OF THESE Q. BEFORE I FILED THIS UIC PERMIT APPEAL!

(see "SHALE" Responses) 4, 6, 34.)

EAB, PLEASE DECLARE THIS PUBLIC HEARING PROCESS AND UIC PERMIT - NULL-AND-VOID, REVOKED, ETC, BECAUSE OF A LACK OF INFORMATION BY THE EPA. ANY TALK OF FRACKING WAS VERBOTTEN BY THE EPA!



1. EAB: please check ATTACHMENT 2. all of the other commenters got in December 2012, to see if they got a 33-day appeal time period, or were they cheated out of 3 days too; requiring a NEW 33-DAY APPEAL TIME PERIOD FOR THEM, ALSO!?

2. I BELIEVE THE EPA HAD 2 MOTIVES FOR NOT WANTING ME TO FILE AN APPEAL AND THUS NEGLECTED TO SEND ME THE RESPONSE TO COMMENTS / NOTICE(S) FOR APPEAL BY R.A - ON PURPOSE :

2a. ANNA MILLER ET AL WANTED WEST BAY'S UIC PERMIT TO GO INTO EFFECT SMOOTHLY - WITHOUT THE INTERRUPTION OF THE COMING UIC APPEAL I FOREWARNED MS MILLER ABOUT

2. In 1998, I filed a Title VII, Environmental Justice Complaint based on the UIC Permit(s) the USEPA Region V (EPA) (Quater) Environmental Disposal Systems (EDS) for its Class 1 Toxic Hazardous Waste Commercial Injection Well. The EPA dismissed my timely complaint because it was based on a Federal Permit. If my complaint was based on a State Permit, EPA would have accepted my complaint.

This caused an internal statutory confusion at the EPA! A law review article was published, that stated "... If any future complaint regarding the Romulus facility is accepted, EPA would appear to be holding states to a different - and much harsher - Environmental Justice standard than the Agency holds itself to. OCR (Office of Civil Rights) officials did not return calls for comment. " And ... (The EPA) is also bound by (President Bill Clinton's) 1994 Executive Order on Environmental Justice. "

(See Law Review Article, 1 P. (25) Enclosed.)
So if USEPA Region V / Ms. Miller looked up my Appeal History, after that mid-October phone call, they would have had at least a good motive for trying to prevent me from filing this UIC Appeal - on purpose! ie to prevent another court case? For all the reasons stated in this 5-Page Letter, EAB, please find the EPA Public Hearing Process - and the Permit Faulty. Revise West Boy's UIC Permit, and let's have the EPA sponsor a Real Public Hearing!

Enclosures. + 1 copy of Attachment 2 Reference = 4.
X Feb. 7 2013
DATE
Sandra K. Wetmore
Sandra K. Wetmore



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF MAILCODE :

WU-16J

JAN 14 2013

CERTIFIED MAIL 7009 1680 0000 7661 7321
RETURN RECEIPT REQUESTED

Ms. Sandra K. Yerman
6600 Riverside
Brooklyn, Michigan 59230

RE: U.S. EPA Underground Injection Control Permit # MI-075-2D-0009, West Bay #22, Jackson County Michigan

Ms Yerman:

We received your queries about the appeal process for the West Bay #22 injection well permit (referenced above). You may appeal the West Bay permit within 30 days of the notification date of the decision. The notification date in this case is January 9, 2013 because it is the date at the top of the document we sent to you via express mail on January 9, 2013.

You submitted comments on the draft West Bay #22 permit. You have now been sent a response to comments, which is also notification of EPA's final decision to issue this permit. The notification we sent you was dated and express-mailed to you. As described in 40 C.F.R. Part 124.19, "The 30-day period within which a person may request review under this section begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice." In your case, EPA contends that service of notice was January 9, 2013.

For further information, please refer to the response to comments, which includes information on how to appeal, and to 40 CFR § 124.19(a). Please note that this letter pertains only to the service of notice date for you and does not create a general extension of the appeal period for any other commenter.

I hope this information answers any questions about the timeframe for a permit appeal. If you have further questions please call me at (312) 886-7060 or contact me via email to miller.anna@epa.gov or fax to (312) 697-2049.

Sincerely,

A handwritten signature in black ink that reads "Anna Miller".

Anna Miller
Environmental Scientist
Underground Injection Control Branch

Group Questions Use of Fracking Fluids ~~& Sturgeon Season~~

Host: Rebecca Williams

Show date: 01/17/2013

Summary:

This is the Environment Report. I'm Rebecca Williams.

A group that wants to ban hydraulic fracturing in Michigan says the state didn't follow its own rules in disposing fluid from wells that were fracked. Ban Michigan Fracking has learned the fluid was spread on public roads close to a lake and in a campground near the Mackinac Bridge last summer. Bob Allen has more:

State officials have said the fluids used to fracture deep oil and gas wells are to be disposed of carefully. Those fluids typically are millions of gallons of water per well plus a mixture of chemicals necessary to the fracking process.

Last summer, the Department of Environmental Quality allowed 40,000 gallons of fluid from fracked wells to be spread on public roads.

Paul Brady drives Sunset Trail in Kalkaska County to get to work.

He noticed it stayed muddy during a dry period last summer so he traced the wet road directly to a well site.

BRADY: "We know that tons of chemicals went down that well bore. And it came up and it was spread on our roads. And that is why we should be concerned."

When the issue was raised, the DEQ tested the water coming out of the wells and tested the roadbeds.

Hal Fitch is in charge of oil and gas development in the state.

FITCH: "It turns out there really wasn't anything in that water that was deleterious above normal oil field brine. But still..."

Still, the state has decided not to allow brine from fracked wells to be spread on roads to keep dust down.

But it says the group trying to ban fracking altogether is overblowing the issue.

Ban Michigan Fracking says it's been waiting for months for the DEQ test data so it can confirm the results.

And it questions how the state agency "can be trusted to protect the environment when it apparently can't follow its own rules in treating the liquid waste."

says. "They've been made aware of the racial data of the applicant pool since [the facility] opened."

Justice Department attorneys acting on behalf of HUD last month filed their opposition to the joinder, arguing that it is premature to bring HUD into the case because there has been no order yet to demolish the facility, nor has HUD refused to release PRHA from its obligations in the event of such an order.

But in a reply brief filed Feb. 10, attorneys for PRHA argue that federal laws promoting judicial economy and fairness mandate that all concerned parties be dealt with in the same suit, to avoid relitigation of the same issues. In addition, a decision without the involvement of HUD may expose PRHA to "inconsistent obligations," the attorneys argue.

"By any stretch of the imagination, PRHA would be subject to inconsistent obligations, regardless of whether through some act of noblesse oblige, HUD might eliminate the inconsistency," according to the brief.

Observers say HUD attorneys, who have much more experience than EPA in dealing with housing discrimination complaints, may be able to bring in "canned briefs" and proven strategies to aid the defense if brought into the case.

But attorneys for EPA say they do not believe HUD's involvement will affect EPA one way or another.

Sources say the judge in the case will not decide on this motion until he has ruled on a new round of motions by EPA and other defendants to dismiss the case.

(Washington Park Lead Committee, et al. v. EPA, et al., U.S. District Court for the Eastern District of Virginia, 98-CV-421).

EPA TITLE VI COMPLAINT REJECTION RAISES QUESTIONS ABOUT INTERNAL EQUITY POLICIES

A recent EPA decision to dismiss a Michigan Title VI complaint because it is based on an EPA underground injection permit is raising questions about the effectiveness of internal EPA environmental justice policies.

Sources familiar with the decision say the decision could send a signal that EPA does not hold itself to the same standard it holds state regulators to. In fact, sources close to the issue say the state is expected to grant the facility a separate permit this Spring, and that EPA may accept a Title VI challenge based on that action.

Title VI of the 1964 Civil Rights Act bars discrimination on the basis of race by recipients of federal funding.

In a Feb. 18 letter, the Office of Civil Rights (OCR) dismissed an Oct. 21 complaint against two underground injection control (UIC) permits granted to a Romulus, MI, Environmental Disposal Systems, Inc. injection well. In the letter, OCR head Anne Goods says that since the permits were issued by EPA Region V and federal agencies are not subject to Title VI — EPA cannot accept the complaint.

Observers say the decision raises several serious questions regarding EPA's environmental justice policies. One issue regards EPA's internal environmental justice policies. Although Title VI does not apply to the agency, EPA has drafted internal policies that are aimed at avoiding potential equity claims, and is also bound by a 1994 executive order on environmental justice. If the complaint would have been accepted for investigation had it been directed at a state permit — which several sources agree it would — then EPA's decision to permit the facility could be in violation of the executive order and EPA's own environmental justice regulations.

A second source close to the issue also says the decision will likely put EPA in an extremely difficult position if the citizens file a complaint against any subsequent state policies. This source notes that if any future complaint regarding the Romulus facility is accepted, EPA would appear to be holding states to a different — and much harsher — environmental justice standard than the agency holds itself to.

OCR officials did not return calls for comment.

EPA BEGINS EFFORT TO REINVENT ENVIRONMENTAL JUSTICE PROGRAM

EPA officials have launched an ambitious project aimed at restructuring the agency's Office of Environmental Justice (OEJ) that includes increased outreach to stakeholders and other federal agencies and an emphasis on developing measures to prevent instances of discrimination in the siting and permitting of polluting facilities, according to an internal memo.

A copy of the memo is available free of charge from our online document service, IWP Extra. See page 33 for details.

Sources close to the issue say EPA officials hope the restructuring will bring greater focus to EPA efforts to combat environmental discrimination and make OEJ more effective.

Industry officials and environmental justice activists are cautiously supportive of the effort, noting that its benefits will become apparent after the reforms are instituted. One industry source does, however point out that the memo marks the first time EPA has taken an environmental justice approach sympathetic to business and recognized that a "completely clean environment" may not always be possible.

In the Jan. 8 memo, Barry Hill — EPA's environmental justice chief — says the staff reorganization is being conducted "in order to address more effectively and efficiently the concerns of various stakeholders involved in . . . environmental justice." The memo breaks out staff into five stakeholder "teams:" the state and local governments team; the major business and industries team; the community and grassroots groups team; the federal government

John L.

FAP
1000-3644-4

REFERENCE TO ATTACHMENT 2
SEE 4 1/2 PP DOWN FROM TOP. ↓

company to secure a bond amount large enough to compensate property owners for such events. The bond should address economic impacts to residents and the community.

Response 85: The UIC regulations require the permittee to provide financial assurance for properly plugging the well. There are no provisions under the SDWA which would allow the EPA to require owners/operators to be bonded for other reasons, including the cleanup costs of any potential contamination.

FIMP Appeal

In accordance with 40 CFR § 124.19(a), any person who filed comments on the draft permit or participated in the public hearing 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) 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.

GET ATTACHMENT 2!

The request will be timely if received within this time period. For this request to be valid, it must conform to the requirements of 40 C.F.R. § 124.19. A copy of these requirements is attached (Attachment 2). This request for review must be made prior to seeking judicial review of any permit decision.
33 DAYS 124.20

Final Permit

DRAFT PERMIT ONLY

The final permit and response to comments is available for viewing at: Jackson District Library, Carnegie Branch, 244 W. Michigan; Monday - Thursday 9 a.m. to 9 p.m., Friday 9 a.m. to 6 p.m., and Saturday 10 a.m. to 5 p.m. **NOT!**

USEPA
Clerk of the Board
Environmental Appeals Board
Colorado Bldg, 1341 G Street N.W. SUITE 600
Washington, DC 20005

RE: West Bay Exploration Co. UIC Appeal No. _____
Traverse City, Mi
Bene Disposal Well
UIC / mi-075-2D-0009.

Dear Environmental Appeals Board (EAB):

As I participated in the public hearing process for West Bay Exploration Co.'s UIC Permit(s) (above) with timely written comments, (June 1, 2012) - I would like to Appeal some permit conditions of West Bay's UIC Permit No mi-075-2D-0009.

(NOTE: Background info pages 1-6 preceded this section of my UIC Appeal. Please read first!

NOTE: SAMPLE FORMAT I AM USING / SAMPLE-ONLY

PERMIT CONDITION CHANGE ADD

ASCERTAINABLE N

PART I. D. CONFIDENTIALITY.

EAB: 40 CFR 124.19

ADD: 3.

(A)(i) ERRONEOUS

PART I. D. 3. CONFIDENTIALITY.

(A)(ii) DISCRETION / POLICY

ON THE ADDITION OF
A NEW PERMIT CONDITION

LINKS: 2

COMMENTER 59.

IF ADD : I AM RELYING ON PRECEDENT/
STARE DECISIS, AND/OR USING

← JUNE 1, 2012 LETTER
I SENT TO EPA.

40 CFR 124.3 (b.) [RESERVED] SPACE; OR ANY OTHER EAB APPROVED MEANS

REASON: PLEASE ADDING OR CHANGING PERMIT CONDITION(S).

BELOW 2 VIOLATIONS
HAPPENED AFTER THE
COMMENT PERIOD ENDED
6-1-2012.

PART I. B. PERMIT ACTIONS.

ASCERTAINABLE %

REVOCACTION / TERMINATION.

EAB: 40 CFR 124.19

EAB: Could this UIC Permits be REVOKED OR TERMINATED

(a.1) ERRONEOUS
(a.2) POLICY

based on my Background info. pgs 15, which preceded the UIC Appeal, per 40 CFR 144.39, 144.40, or 144.41?

LINKS:

FITCA VIOLATED SDWA;
MINER VIOLATED
40 CFR 124.19 + 124.20!

If so, could the EAB please explain in writing, how I would go about doing that? I see there is a guideline for revocation or termination in 40 CFR 124.6(a)(b): "Permits may be... revoked and reissued, or terminated... at the request of any interested person..." However, permits may only be... revoked and reissued, or terminated for the reasons specified in 144.39 or 144.40 UIC (+ THE PERMIT ADDS 144.41)." as above on pg 2 of 15. 40 CFR 124.5 continues: "all requests shall be in writing and shall contain facts or reasons supporting the request." 40 CFR 124.5 mentions a "Director" and a "Regional Administrator" - WHO ARE THEY - NAME, ADDRESS, PHONE #, FAX #, ETC. - I WOULD LIKE THIS INFO SUPPLIED TO ME, BY THE EAB - IF APPLICABLE! 40 CFR 124.5 goes on "... Denial by the Regional Administrator may be informally appealed to the Environmental Appeals Board (EAB) by a letter briefly setting

PART I B. PERMIT ACTIONS.
CONT.

forth the relevant facts). The (EAB) may direct the Regional Administrator to begin ... revocation and reissuance, or termination proceedings under paragraph (C) of this section."

AND ON. IT SEEMS THE WORDS - DIRECTOR AND REGIONAL ADMINISTRATOR ARE USED INTERCHANGEABLY - SO I DON'T KNOW WHICH ONE I CONTACT - FOR EITHER ONE OF THEIR NAMES.

EAB PLEASE ADVISE ME; DOES AN INFORMAL REQUEST FOR REVOCATION OR TERMINATION OF A VIC PERMIT AFFECT A VIC APPEAL; IN WHAT WAY; WHICH SHOULD COME FIRST? (DON'T FORGET: I AM ONE

-MONTH-PLUS LATER THAN THE FIRST SERVICE OF NOTICE BY THE R.A. - SO HOW DOES THAT LATE SECOND SERVICE OF NOTICE AFFECT THIS REVOCATION / TERMINATION REQUEST - IF APPLICABLE TO 144.39 144.40 OR 144.41?)

AND, WHAT OFFENSES APPLY TO THOSE (3) 40 CFR. REGS?

- WE HAVE HAL FITCH, THE HEAD OF THE MDEQ SPRAYING FRACKING LIQUIDS ON COUNTRY ROADS, TALK HIS MDEQ, IN VIOLATION OF THE SDWA! LAST SUMMER-2012!
- WE HAVE US EPA REGION V / ANNA MILLER DELIBERATELY NOT SENDING ME A RESPONSE TO COMMENTS & R.A. NOTICES, BESIDES VIOLATING 40 CFR 124.20 TO ME (AND POSSIBLY TO ALL COMMENTERS (CHECK THEIR ATTACHMENT 2) ✓.

These are the 2 main reasons I would like to file a request for REVOCATION OR TERMINATION of West Bay's VIC Permit(s) No. Mi 05-2D-0009.

EAB, please advise. (see Background, a Commenter's view, pgs 1-5, preceding). THANK YOU.

PART I. D. CONFIDENTIALITY.

ADD: (3)(4)(5)(6)(7)(8)

PER PRECEDENT, 40 CFR 124.3 124.3(b) ET AL

HOW TO READ THIS MEANS, IN RESPONSE TO COMMENTS BY EPA, 2ND RESPONSE TALKED ABOUT "CONFIDENTIAL FORMATION" ETC ASCERTAINABLE ON

EPA: 40 CFR 124.19

PART I. D. (3) INFORMATION WHICH

DEALS WITH THE EXISTENCE, ABSENCE, OR LEVEL OF FRACTURES, OR FISSURES IN THE CONFINING ZONE LAYER OF ROCK.

- (a)(1) ERRONEOUS
- (a)(2) POLICY

LINKS:

D.(4) INFORMATION WHICH

DEALS WITH AN INCREASE IN THE MAXIMUM INJECTION PRESSURE.

RESPONSE (TO) COMMENT.

2. (D.3) 39. (D.4)

39. (D.4) 68. (D.6)

53. (D.5) (D.7) (D.8)

D.(6) INFORMATION WHICH

DEALS WITH NON-COMPLIANCE BY THE PERMITTEE.

D.(6) INFORMATION WHICH DEALS WITH A TRANSFER OF OWNERSHIP.

D.(7) INFORMATION WHICH DEALS WITH A MODIFICATION TO THE PERMIT FOR ENHANCED OIL RECOVERY.

D.(8) INFORMATION WHICH DEALS WITH ALL OTHER MODIFICATIONS TO THE PERMIT.

LINK: ABOVE BOX + MY JUNE 1, 2012 LETTER, COMMENTS RE: TRADE SECRET(S); I WAS TOLD JAN. 8, 2013 THAT TRADE SECRETS ARE CALLED CBI BY EPA, i.e. CONFIDENTIAL BUSINESS INFORMATION. LISA PERENCHIO SENT ME INFO ABOUT CBI AFTER OUR JAN. 8, 2013 PHONE CONVERSATION. I WANT MORE DISCLOSURE, LESS SECRET i.e. LESS CONFIDENTIALITY. PER MY LETTER!

REASON FOR ADDITIONS TO CONFIDENTIALITY. i.e. ITEMS THAT SHOULD NOT BE CONFIDENTIAL (AS ABOVE): COMMENTERS AND CITIZENS HAVE A RIGHT TO KNOW. WHAT'S GOING ON IN THEIR COMMUNITIES. CITIZENS WHO KNOW WHAT'S GOING ON (UNDERGROUND OPS) ADDS A 2ND LAYER OF SAFETY TO DISPOSAL WELLS OPS.

PART I. E. (2) PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS.

NO CHANGE, NO ADD - JUST PUT LAST SENTENCE IN DARKER PRINT.

ie "ANY PERSON WHO WILLFULLY VIOLATES A PERMIT CONDITION IS SUBJECT TO CRIMINAL PROSECUTION."

ACTION BY HAL FITCH - M'DEQ - HAPPENED SUMMER 2012.

ASCERNABLE Y (N)

EAS: 40 CFR 124.19

(a)(1) ERRONEOUS

(a)(2) POLICY

REASON: LET M'DEQ "LAW BREAKERS" KNOW - WE ARE WATCHING. ^{SDWA}

PART I. E. (3) NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.

ADD ~~(a.)~~ ONLY FOLLOWING ORDERS NOT A DEFENSE. ie

PART I. E. (3) (a.) IT SHALL NOT BE A DEFENSE FOR A PERMITTEE IN

AN ENFORCEMENT ACTION TO STATE THAT THEY (PERMITTEE) WERE ONLY

FOLLOWING THE ORDERS OF THE REGIONAL ADMINISTRATOR / DIRECTOR IF THE PERMITTEE KNOWS SAID ACTIVITY VIOLATES

ANY CONDITION OF THIS PERMIT.

ACTION BY HAL FITCH - M'DEQ HAPPENED SUMMER 2012.

ASCERNABLE Y (N)

(a)(1) ERRONEOUS

(a)(2) POLICY

REASON: AS ABOVE. LET M'DEQ "LAW BREAKERS" KNOW - WE ARE WATCHING.

REASON: FOR BOTH ABOVE -

HAL FITCH, THE HEAD OF OIL/GAS AT THE M'DEQ

WILL BE THE TOP "WATCHDOG" OVER SURFACE OPERATIONS OVER THIS CLASS II DISPOSAL INJECTION WELL.

THAT MEANS: WE DON'T WANT "FITCH AND CO." (M'DEQ)

SPRAYING FLACKED WATER (DESTINED FOR INJECTION AT WEST BAY'S DISPOSAL WELL) ON OUR DIRT COUNTRY ROADS,

AS "FITCH AND CO." (M'DEQ) DID UP NORTH LAST SUMMER - 2012.

SEE NPR'S ENVI. REPORT JAN. 17, 2013 @

WWW.MICHIGANRADIO.ORG

ADD ONE PHRASE "THE LIFE OF THE WELL."

PART I.E.(8) RECORDS.

STRIKE: AT 3RD SENTENCE DOWN FROM THE TOP "AT LEAST THREE YEARS" THRU "REPORT."

ADD: "THE LIFE OF THE WELL," AFTER "PERIOD OF "ie

"THE PERMITTEE SHALL RETAIN RECORDS OF ALL MONITORING INFORMATION, INCLUDING ALL CALIBRATION AND MAINTENANCE RECORDS, AND COPIES OF ALL RECORDS REQUIRED BY THIS PERMIT FOR A PERIOD OF THE LIFE OF THE WELL."

STRIKE: THE WHOLE LAST SENTENCE; DOESN'T MAKE SENSE - NOW.

REASON: IF THERE EVER IS ANY KIND OF FAILURE AT THIS DISPOSAL WELL, ie LEAKS, ODOORS, FIRES ETC. CITIZENS IN THE SURROUNDING AREA COULD DETERMINE THE "5-W's" ie "WHO, WHAT, WHERE, WHEN, AND WHY," BY HAVING ALL RECORDS FROM DAY ONE, AVAILABLE, EVEN AFTER, 3, 10, 20 YEARS!

AND, IF THERE IS A TRANSFER OF OWNERSHIP, NEITHER PARTY CAN BLAME THE OTHER, RIGHTLY OR WRONGLY, WITH CITIZENS ENDING UP HOLDING THE BAG FOR CLEANUP, IF THIS INFORMATION IS ON FILE, AND WELL DOCUMENTED!

PART I.E.(9)(b) ANTICIPATED NON-COMPLIANCE.

STRIKE: THE WHOLE PERMIT (P.C.) CONDITION (ABOVE) PART I.E.(9)(b)! NON-COMPLIANCE SHOULD NOT BE ALLOWED; THIS P.C. TAKES ALL OF THE TEETH OUT OF PART I.E.(1) DUTY TO COMPLY! ← REASON.

ASCERNABLE (Y/N) EAB: 40 CFR 124.19

(a)(1) ERRONEOUS (a)(2) POLICY

LINK: COMMENTER 68.

THIS DOES NOT BELONG! ASCERNABLE (Y/N) EAB: 40 CFR 124.19

(a)(1) ERRONEOUS (a)(2) POLICY

LINK: RESPONSE 53.

PART III CORRECTIVE ACTION PLAN.
 ADD OHIO DNR NEW INJECTION WELL REFORMS, HIGHLIGHTED-ONLY PORTION FROM PG 1 AND PG 2.
 PERMIT. 1501:9-3-06
 DATE. 09-21-2012 8:53 AM.
 SUBSTITUTE DIRECTOR FOR "CHIEF" X,
 LEAVE THE WORD "PROPOSED" X 2,
 COPY WORD FOR WORD - BEGINNING:
 (C), THEN (1.) (2.) (3.) (4.) (5.) (6.) (7.),
 THEN (D), THEN (E) - STOP AFTER (E).
 ENCLOSURES 3^B. EXEC. ORDER 2012-09R,

9-21-2012 REGS. AFTER COMM. PERIOD ENDED.
 ASCERNABLE. Y. (N)
 EAB: 40 CFR 124.19 LINKS: CONT.
 (a)(1) ERRONEOUS
 (a)(2) DISCRETION/POLICY
 ODNR REF. 37, 52, 37, -
 PER 40 CFR 124.13 - (1501:9-30)
 BRINE INJECTION WELL REFORMS
 2 COPIES - EACH - ALL 3 OHIO REGS. OK
 INC. BY REF., BUT ARE PRELIMINARY RPT. NOMINATED

(C) The chief may require the following tests or evaluations of a proposed brine injection well, in any combination that the chief deems necessary:

- (1) Pressure fall-off testing;
- (2) Geological investigation of potential faulting within the immediate vicinity of the proposed injection well location, which may include seismic surveys or other methods determined by the chief to assist in identifying potential faulting within the immediate vicinity of the proposed injection well;
- (3) Submittal of a plan for monitoring seismic activity;
- (4) Testing and recording the original bottomhole injection interval pressure;
- (5) Gamma ray, compensated density-neutron, and resistivity geophysical logging suite on all newly drilled injection wells. All geophysical logs shall be

1501:9-3-06

submitted to the division within sixty days of completion of well drilling;

- (6) Radioactive tracer or spinner survey; and
- (7) Any such other tests that the chief deems necessary. The applicant may request a meeting with the chief to discuss any test deemed necessary.
- (D) If the chief requires the performance of tests or evaluations of a proposed injection well pursuant to paragraph (C) of this rule, the applicant shall refrain from injecting any fluid into the injection well until the chief has evaluated the results of any tests performed. The chief shall have the right to withhold authority to inject fluids based upon the results of the tests performed, and may order the plugging of the well if deemed necessary.
- (E) The chief, in his discretion, may implement graduated maximum allowable injection pressure requirements based upon data provided in the permitting process and any applicable testing requirements.

SOME PART III CORRECTIVE ACTION 9-21-2012 OHIO REFORMS LISTED
OHIO WELL REFORMS TO BE PLAN. HAPPENED AFTER PUBLIC COMMENT PERIOD ENDED 6-1-2012.
INCORPORATED INTO MI. PERMIT CONT. ASCERTAINABLE Y, (N)
MI. 015-21-0009. (VIC) PC. 2. EAB: 40 CFR 124.19

WEST BAY EXPLORATION CO.
TRAVERSE CITY, MI
VIC APPEAL NO _____

(a)(1) ERRONEOUS FACT/LAW
(a)(2) EXERCISE DISCRETION / POLICY CONSIDERATION

ODNR REFORMS TO BE LISTED ON CORRECTIVE ACTION PLAN ONLY. PC. C-1 OF I- ONLY.
LEAVE: "NO CORRECTIVE ACTION IS REQUIRED AT THIS TIME." "OK"

LINKS: ODNR RESPONSE TO COMMENTS: COMMENT & RESPONSE
12. "WELL DENSITY" 2. "PRESSURE TEST"
13. "RADON"
17. "TRACERS"
26. "RADIO ACTIVE MAT" ^{N.D.R.M.} 26. "RADIO-NUCLIDES"
39. "INCREASED PRESSURE" 39. "INCR. PRESS."
70. " " 70. " "

THEN LIST HIGHLIGHTED PORTION ONLY OF PERMIT 1501:9-3-06, SUBSTITUTE DIRECTOR FOR "CHIEF."
LEAVE "PROPOSED" - OK.
BLUE WELL (ABOVE) HASN'T BEEN DRILLED YET - STILL "PROPOSED."

• ODNR (OHIO DNR) REFERENCE: COMMENT 37. RESPONSE: 37.
COMMENT 52. NA

NOTE: COMMENTERS 12-70 (BEFORE 9-21-12 COMMENTS)

EAB: AS YOU KNOW, WHETHER COMMENTERS 37 & 52 (ABOVE) SENT IN THE OHIO WELL REFORMS (I AM INCLUDING IN MY VIC APPEAL), OR NOT - ACCORDING TO 40 CFR 124.13 STATES:
"ANY SUPPORTING MATERIALS... MAY NOT BE INCORPORATED BY REFERENCE, UNLESS THEY... CONSIST OF STATE OR FEDERAL STATUTES AND REGULATIONS..." EMPHASIS ADDED

SO, THE OHIO WELL REFORMS I AM SENDING YOU, AS PART OF THIS VIC APPEAL ARE STATE OF OHIO STATUTES/REGULATIONS - AND DO QUALIFY TO BE MADE A PART OF ADMINISTRATIVE RECORD.

• AND, RE: ADDING PERMIT CONDITIONS: I AM RELYING ON THE BELIEF THAT PERMIT CONDITIONS HAVE BEEN ADDED - SOME TIME IN THE PAST - EVEN ONE (1) TIME, I.E. "PRECEDENT / STARE DECISIS" - AND/OR USING ^{40 CFR} 124.3(b) [RESERVED] SPACE TO INSERT PERMIT CONDITIONS OR OTHER MEANS "OR" TO EAB.

PART III CORRECTIVE ACTION PLAN. CONTINUED. 3RD PAGE.

REASON: I FEEL THAT OHIO'S (DNR) COMPREHENSIVE NEW CLASS II INJECTION DISPOSAL WELL REFORMS ARE VERY GOOD; RESPONSE TO COMMENT DOCUMENT BEARS THIS OUT, SEE COMMENTS (IN BOX) i.e. 12, 13, 17, 26, 39, AND 70, AND RESPONSES 26, 39, AND 70. AND 31 AND 52 (IN OTHER BOX). SINCE THE ODNR'S WELL REFORMS ARE NOT MANDATED BY THE UIC PROGRAM IN 40 CFR 144 OR 40 CFR 146 - THAT'S WHY I PLACED ODNR'S WELL REFORMS UNDER "CORRECTIVE ACTION PLAN".

NOW, THE USEPA REGION V MIGHT SAY "WELL, SINCE MICHIGAN DID NOT DEVELOP THESE REGULATIONS, WE'LL JUST HAVE TO WAIT FOR MICHIGAN REGULATORS (MDEQ?) TO DO THIS!" NOT! WE'RE NOT WAITING - ESPECIALLY FOR A MDEQ "LEADER" - HAL FITCH - WHO ALLOWS HIS MDEQ TO BREAK THE LAW, SDWA, BY LETTING MDEQ SPRAY FRACKED WATER ON DIRT COUNTRY ROADS LAST SUMMER (2012). (SEE NPR'S JAN. 17, 2013 ENVI. REPORT @ [WWW.MICHIGANRADIO.ORG](http://www.michiganradio.org)).

NOTICE THE LANGUAGE IN THE FIRST HIGHLIGHTED SENTENCE: (C.) "THE ^{DIRECTOR} ~~CHIEF~~ MAY REQUIRE THE FOLLOWING TESTS... THE WORD "MAY" MEANS THESE "TESTS" ARE NOT PART OF USUAL PRACTICE - BUT COULD BE REQUESTED IF THE ~~CHIEF~~ IS THE DIRECTOR DECIDED EXTRA TESTS WERE NECESSARY. WHAT'S WRONG WITH THAT? AREN'T THESE EXTRA TESTS i.e. "PRESSURE FALL-OFF TESTING", "SEISMIC SURVEYS", "BOTTOM HOLE INJECTION INTERVAL PRESSURE", "GAMMA RAY..." ETC. BETTER THAN WHAT WE'VE GOT LISTED, i.e. NOTHING? IN CAPITALISM, YOU HAVE TO SPEND MONEY TO MAKE MONEY - IT'S TIME FOR WEST BAY TO ANTE UP!



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Activity
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Undeliverable as Addressed, February 08, 2013, 11:47 am, WASHINGTON, DC 20005
Notice Left (No Authorized Recipient Available), February 08, 2013, 11:25 am, WASHINGTON, DC 20005
Arrival at Unit, February 08, 2013, 10:14 am, WASHINGTON, DC 20004
Processed through USPS Sort Facility, February 08, 2013, 7:56 am, WASHINGTON, DC 20074
Electronic Shipping Info Received, February 08, 2013
Depart USPS Sort Facility, February 07, 2013, DETROIT, MI 48242
Processed through USPS Sort Facility, February 07, 2013, 8:08 pm, DETROIT, MI 48242
Depart USPS Sort Facility, February 07, 2013, JACKSON, MI 49202
Processed through USPS Sort Facility, February 07, 2013, 6:54 pm, JACKSON, MI 49202

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