

Exhibit 8

Subject: Re: 4/4/12 Encana oil permit applications

From: Ellis Boal <ellisboal@voyager.net>

Date: 4/12/2012 8:58 AM

To: "Fitch, Hal (DEQ)" <FITCHH@michigan.gov>

CC: LuAnne Kozma <luannekozma@gmail.com>, "Biteman, Susanne (DEQ)" <BitemanS@michigan.gov>, "Henderson, Rick (DEQ)" <HENDERSONR2@michigan.gov>

Hal,

Thank you for your prompt response.

But it is puzzling. Granted that fracking is part of completion operations under R 324.103(s), the rules nowhere define "ultimate recovery" of hydrocarbons, and nowhere define or even make reference to "initial recovery." Much less does rule R 324.102(x) or any other rule make a distinction between the two, as you do in excluding frack injection from the definition of "injection well."

You add that the objective of fracking is limited to increasing the "initial" recovery of hydrocarbons. That doesn't sound right, but I will investigate.

Finally, you rely on the longstanding tenure of the DEQ interpretation, dating back to 1996, 2001, and 2002, when the rules were promulgated and amended. The EPA made a similar argument to the eleventh circuit in *LEAF v EPA*, 118 F3d 1467 (1997). The court rejected it as "spurious," equated fracking operations to underground injection, and enforced the literal terms of the then-SDWA. I would add that the DEQ's factual assumptions 10+ years ago are of little relevance today, when the volumes of injected frackwater are a hundred times what they were then.

Thank you again.

Ellis

On 4/11/2012 8:58 AM, Fitch, Hal (DEQ) wrote:

Ellis,

Susanne Biteman's explanation is correct. Because a well is or may be completed using hydraulic fracturing does not make it an injection well. A key phrase in the definition in Rule 102(x) is "*ultimate* recovery of hydrocarbons." That phrase is used again in the definition of secondary recovery in Rule 103(j). While it could be argued that hydraulic fracturing is intended to increase the recovery of hydrocarbons, its objective is the *initial* recovery. Conversely, Rule 103 (s) clearly considers hydraulic fracturing to be a well completion operation—which is defined to include "artificial stimulation"—and not injection. These rules were intended to apply in this manner when they were promulgated and

have always been interpreted that way by our agency. I can speak to this from personal experience because I had a lead role in the 1996 promulgation of the rules as well as in subsequent amendments.

Sincerely,

Harold R. Fitch
Chief, Office of Oil, Gas, and Minerals
Michigan Department of Environmental Quality
517-241-1548

From: Ellis Boal [<mailto:ellisboal@voyager.net>]
Sent: Wednesday, April 11, 2012 1:15 AM
To: Fitch, Hal (DEQ)
Cc: LuAnne Kozma
Subject: 4/4/12 Encana oil permit applications

Hal,

I write for Ban Michigan Fracking, <http://banmichiganfracking.org>.

Kimberly Wood reported Monday on six Encana applications of 4/4/12 to drill new oil wells in the Utica-Collingwood formation. All six would be over a mile deep.

Two in Oliver Township would go down 3+ miles vertically and then turn horizontal. They are deeper than any Utica-Collingwood wells I know of in the state. The surface holes are in the same NE NW NE location in section 1, separated (if I understand the report correctly) on a north-south meridian by 50 feet. The laterals end up in section 25 of Excelsior Township (to the north) separated more than 50 feet; I do not see stated their exact lengths and directions.

A note on the report indicates these would be the second and third wells in an apparently previously-granted 1280-acre spacing exception.

In the past I have noticed that DEQ permit applications don't ask applicants to state whether hydraulic fracturing is part of their plans. So you may not know today definitely whether Encana intends to frack. But I assume from the depths of the holes and the plans for laterals -- and expect you make the same assumption -- that in these cases Encana does intend to frack, particularly in the 3-mile-deep wells.

Accordingly I am concerned by correspondence I had on March 27-28 with Susanne Biteman of your Cadillac office (I will forward a copy separately). I asked her on March 27 about the DEQ's failure to enforce regulatory injection requirements in regard to fracked gas

wells. R 324.102(x) defines "injection well" to include any well into which water or other materials are injected to "increas[e] the ultimate recovery of hydrocarbons...." The application instructions for injection permits (attached) require data, as specified on your data sheet (attached), including the maximum rate, specific gravity, and pressures of the injection and chemical analysis of the injectate. Susanne wrote back on March 28 saying frackers need not abide by the requirement because the definition refers only to "wells operating as secondary recovery wells not completion operations of oil and gas wells." But the definition makes no such distinction.

Again, R 324.201(2)(j)(5) requires that Encana submit information with the application showing the frack job "will not initiate fractures through the overlying strata." I have not seen that information on previous applications for Utica-Collingwood permits.

I assume DEQ requirements for applications for gas wells and oil wells are the same. Please advise whether you will be questioning Encana regarding its fracking intentions and whether you will enforce these regulations if you determine it does intend to frack. Particularly, please advise whether you will reject the applications without further processing should it decline to provide (1) the mentioned injection well data and (2) information showing its operation will not initiate fractures through the overlying strata.

Thank you.

Ellis