

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OIL, GAS, AND MINERALS DIVISION

In the matter of:
Rule Set 2017-17 EQ

/

PUBLIC HEARING
Lansing Community College West
5708 Cornerstone Drive, Lansing, Michigan
Wednesday, February 28, 2018, 6:00 p.m.

APPEARANCES:

MR. JAMES ARMBRUSTER
Saginaw Bay District Supervisor
Oil, Gas, and Minerals Division
Michigan Department of Environmental
Quality

MR. HAL FITCH
State Geologist and Division Director
Oil, Gas, and Minerals Division
Michigan Department of Environmental
Quality

Also Present:

Mr. Adam Wygant
Mr David Fiedler
Mr. Mark Snow
Ms. Deana Lawrence

RECORDED BY:

Sandra K. Bolton, CER 3193
Certified Electronic Recorder
Network Reporting Corporation
Firm Registration Number 8151
1-800-632-2720

TABLE OF CONTENTS

1		
2		PAGE
3		
4	Opening Statement by Mr. Armbruster	3
5		
6	Background by Mr. Wygant.	5
7		
8	Public Comment by Mr. Armbruster.	8
9		
10	Statement by Mr. David Heinz.	9
11	Statement by Mr. Bill Myler, Jr.	11
12	Statement by Mr. Robert Long.	13
13	Statement by Mr. William Stelzer.	15
14	Statement by Mr. Ben Brower	17
15	Statement by Mr. Tim Baker.	18
16	Statement by Mr. Dave Farner.	20
17	Statement by Mr. James R. Neal.	22
18	Statement by Mr. Jeff Ostahowski.	23
19	Statement by Ms. Peggy Case	27
20	Statement by Ms. Wendy Nystrom.	30
21	Statement by Ms. Pamela Gilbert	31
22	Further Statement by Mr. Jeff Ostahowski.	34
23		
24	Closing Statement by Mr. Armbruster	37
25		

1 Lansing, Michigan

2 Wednesday, February 28, 2018 - 6:04 p.m.

3 MR. ARMBRUSTER: Good evening, ladies and
4 gentleman. My name is Jim Armbruster. I am the Saginaw Bay
5 District supervisor for the Oil, Gas, and Minerals Division,
6 Michigan Department of Environmental Quality, and I will be
7 serving as the hearing officer for today's public hearing.
8 With me today, are other staff who will be assisting with
9 this hearing. I would like to introduce Mr. Hal Fitch,
10 state geologist and director of Oil, Gas, and Minerals
11 Division, Michigan Department of Environmental Quality.

12 Other staff members attending this hearing are Mr.
13 David Fiedler, back there, DEQ Regulatory Affairs officer
14 and from the Oil, Gas, and Minerals Division; Mr. Adam
15 Wygant, Permits and Technical Services Section manager; Mr.
16 Mark Snow, Permits and Bonding Unit supervisor; and Ms.
17 Deana Lawrence who is the administrative assistant working
18 out front.

19 This is a public hearing on proposed amendments to
20 the Administrative Rules promulgated under Part 615,
21 Supervisor of Wells, of the Natural Resources and
22 Environmental Protection Act, Act Number 451 of the Public
23 Acts of 1994, as amended. The Oil, Gas, and Mineral
24 Division of the Michigan Department of Environmental Quality
25 is conducting this public hearing under the provisions of

1 Part 615 and in accordance with the Administrative
2 Procedures Act, Act Number 306 of the Public Acts of 1969,
3 as amended.

4 The purpose of this hearing is to receive your
5 comments and recommendations on the proposed rules. We will
6 not be responding to questions tonight; however, the DEQ
7 will prepare a written response to all comments. The DEQ
8 will post that response on its website and provide a copy to
9 any interested person on request.

10 If you haven't done so, please fill out a
11 registration card if you wish to speak. If you need a
12 registration card please raise your hand and DEQ staff will
13 provide you with a card.

14 Mr. Wygant will begin by providing some background
15 on the process the department utilized to prepare the
16 proposed rules and a summary of the major changes that are
17 included in the proposal rules. We will then provide an
18 opportunity for statements from those of you who wish to
19 speak. Any interested person may also submit written
20 comments on the proposed rules. Written comments will be
21 accepted until Friday, March 16th, 2018, at 5:00 p.m.
22 Handouts listing the mailing address and e-mail address for
23 submitting comments are available near the entrance of the
24 hearing room.

25 The mailing address is Department of Environmental

1 Quality, Oil, Gas, and Minerals Division, P.O. Box 30256,
2 Lansing, Michigan, 48909. The e-mail address for comments
3 is DEQ-OGMDpubliccomments@michigan.gov. All public comments
4 are being recorded and will be incorporated into the record.

5 The official legal notice for this public hearing
6 was published in the Lansing State Journal, on February
7 15th, 2018; the Gaylord/Herald Times on February 13th, 2018;
8 and the Escanaba Daily Press on February 15th, 2018. The
9 hearing notice also appeared in the February 15th, 2018 DEQ
10 Calendar of Events and the February 15th, 2018, Michigan
11 Register. The proposed rules were posted on the website of
12 the Office of Regulatory Reinvention and copies were made
13 available directly to any interested person upon request.

14 MR. WYGANT: I'll give you a little background on
15 the rule promulgation process and some background on the
16 rule set here tonight. Following tonight's hearing, the
17 next step in the rule-making process is preparing the agency
18 report to the Joint Committee on Administrative Rules or
19 JCAR. That report will contain a summary of all the
20 comments on the rules. Any changes to the proposed rules
21 will have to be based on comments received during today's
22 hearing or written comments received during the public
23 comment period, which will end March 16th at 5:00 p.m.,
24 2018. The agency report will be available on the
25 department's website or by contacting the OGMD office. The

1 report and the final proposed rules will then go through
2 another round of review and approvals by the Legislative
3 Services Bureau (LSB) and the Office of the Regulatory
4 Reinvention (ORR) before they are forwarded to JCAR. JCAR
5 has 15 full session days in which to consider the rule
6 package. The Office of Regulatory Reinvention then files
7 the rules with the Secretary of State. The rules will then
8 become effective seven days after filing with the Secretary
9 of State.

10 As a background, the proposed rule set, 2017-17
11 EQ, will amend the current rules to strengthen and clarify
12 requirements for construction, operation, and monitoring of
13 wells used for injection of fluids associated with oil and
14 gas development. Increased single-well bond amounts to
15 amounts equal or typical to well plugging and restoration
16 costs provide flexibility to extend termination dates and
17 streamline requirements for approving minor changes to the
18 well locations prior to drilling.

19 The OGMD has proposed the increase in single well
20 bond amounts, essentially doubling the amounts for each
21 depth category, as a response to an audit finding that
22 indicated that OGMD plugging costs were higher than single
23 well bond amounts. The proposed increase is the first
24 increase to the single well bond amounts since 1996 and will
25 reflect current actual cost to plug a well based on each

1 depth category.

2 The proposed rule changes to allow greater
3 flexibility in extending permit termination date reflects
4 trends that OGMD has seen in complexity of obtaining other
5 necessary local zoning approval or federal permits, as well
6 as delays due to litigation. Other programs and agencies
7 have authority to extend issued permits for such reasons;
8 however, currently Part 615 does not have this flexibility.
9 Similarly, Part 615 Administrative Rules allow for minor
10 changes to surface hole location when a lost hole situation
11 occurs but does not have such flexibility in the event that
12 a landowner might make a request to avoid some feature,
13 maybe a favorite rock, tree, these sort of things.
14 Currently right now to accommodate this, an operator would
15 have to go back through a full permit application. So this
16 will allow for those minor changes of location up to 165
17 feet with a thorough administrative review and revision to
18 the existing permit upon the event that a permittee turns in
19 the required request and associated documentation.

20 The bulk of the proposed rules in this rule
21 revision relate to injection wells found in the section
22 known as Part 8. This is a comprehensive update being
23 proposed in anticipation of Michigan pursuing Class II
24 underground injection control primacy from the U.S. EPA under
25 Section 1425 of the Federal Safe Drinking Water Act or SDWA.

1 Currently, injection wells related to oil and gas operations
2 and dually regulated by Part 615 at the state level as well
3 as by SDWA at the federal level. Most oil and gas producing
4 states currently have primacy because of the closely related
5 nature of these types of wells, particularly related to
6 enhanced oil recovery and disposal of fluids that are
7 associated with oil and gas production. The proposed rule
8 set did not go beyond federal requirements but will
9 strengthen the state program and position Michigan to
10 eliminate dual regulation by obtaining primacy. The goal of
11 OGMD is to continue having an equally effective program and
12 protecting underground sources of drinking water while
13 eliminating the need for dual regulation over Class II
14 wells.

15 MR. ARMBRUSTER: Thank you for your attention. We
16 will now receive public comments. If there are any
17 completed registration cards in the audience that I don't
18 already have, you can -- I'll look around. Are there any?
19 No? Okay. I will now begin calling the names of those who
20 have indicated they would like to make a statement. In
21 order that your statements may be recorded, we ask that you
22 come to the microphone, the one right up there on the front
23 corner. Please keep your statements brief and to the point.
24 Each speaker will be provided with five minutes. However,
25 if you are unable to complete your statement in five minutes

1 and time is available at the end of the hearing, I will
2 allow those speakers an additional five minutes of time.

3 Prior to presenting your remarks, please give us
4 your name and we ask that you please spell your name and
5 also your address if you want it to be part of the public
6 record. Also, any group or organization that you represent
7 so we can identify your remarks for the record. Please
8 respect the person who is speaking and address your remarks
9 to the department.

10 Now, for the first speaker from the audience,
11 David Heinz.

12 MR. DAVID HEINZ: My name is David Heinz; that is
13 H-e-i-n-z. I'm vice president of exploration at Trendwell
14 Energy, located in Rockford, Michigan. Trendwell currently
15 operates 14 saltwater disposal wells and like other
16 operators here tonight we attempted to permit a new
17 saltwater disposal well several years ago. So we are
18 familiar with how Michigan's current Class II UIC program is
19 managed. I'm here tonight to voice my company's support for
20 the State of Michigan's efforts to gain primacy of Michigan
21 Class II program from the EPA. Even though the EPA
22 currently has primacy of Michigan's Class II program, and
23 the staff of the DEQ's Oil and Gas and Minerals Division
24 perform a dual regulatory oversight role on all aspects of
25 the program, including well permitting, construction,

1 operation, and abandonment of wells, having the program
2 under one state-controlled authority will allow for
3 streamlined permitting process and get rid of redundant
4 regulations that cost companies like Trendwell both time and
5 money.

6 With seven district offices located throughout
7 Michigan staffed by geologists and engineers who are
8 knowledgeable of Michigan's unique geology, freshwater
9 resources, we believe the DEQ's Oil and Gas and Minerals
10 Division is well equipped and better suited to manage
11 Michigan's Class II UIC program. From our observations and
12 interactions with DEQ staff, we see that these are
13 reasonable, well-trained individuals with real field
14 experience and are informed and up-to-date on the best well
15 construction and operational practices. Furthermore, these
16 people live, work, and raise families here in Michigan, not
17 Chicago or Washington, D.C. They have a vested interest
18 in seeing that all the Michigan resources are protected.

19 In Michigan's primacy application, they are also
20 seeking to strengthen the definition of waters that must be
21 protected, going beyond the current EPA definition. Plus
22 they are going to increase the reporting, monitoring
23 requirements on new and existing wells. In our view, these
24 are all good things for the continued protection of
25 Michigan's freshwater resources. The State of Michigan

1 should have primacy of the State's Class II UIC program.

2 Thank you.

3 MR. ARMBRUSTER: Okay. The next speaker is Bill
4 Myler, Jr.

5 MR. BILL MYLER, JR.: Good evening. My name is
6 Bill Myler, Jr., M-y-l-e-r, from [REDACTED]
7 [REDACTED]. I'm the president of Muskegon
8 Development Company. I'm also the chairman of the Oil and
9 Gas Advisory Council Committee and former chairman of the
10 Michigan Oil and Gas Association way back in 1998 to '99, so
11 20 years ago.

12 Michigan's oil and gas regulations, Part 615, are
13 as strong and comprehensive as any set of rules in the
14 country. From the permitting of the well to the operation
15 of the well to the eventual plugging of the well, Michigan's
16 current rules are strict and protective of public health and
17 the environment. My first reaction to these rules changes
18 are that they are overkill and not needed. Our rules are
19 already good enough. But then I realized that without
20 adding these additional rules on top of our already complete
21 set of rules that the EPA will not grant primacy to the
22 State of Michigan, and I believe that is important for
23 Michigan to have primacy.

24 I began working for Muskegon Development Company
25 in 1984. That was the same year that the EPA actually began

1 the UIC program. I submitted the original data provided to
2 the EPA for our company's wells and have worked closely with
3 the UIC program for the past 34 years.

4 During the early years of the program, the 1980's
5 and the 1990's, we applied for permits and received the
6 permits within two to three months. Muskegon applied for
7 and received permits for 35 wells during the time period
8 2010 to 2013. The average time to receive permits for these
9 wells was seven months. More recently, we applied for two
10 permits in August of 2016 and received one of these permits
11 in 16 months and we have not yet received the second permit,
12 so we're going on 20 months for that permit. We are a
13 working interest owner and projects operated by other
14 Michigan operators, and I know that they have also
15 experienced even longer times than this to get permits.

16 In addition, when the program was first started
17 the EPA was -- would respond promptly to requests to
18 pressure test a well by sending an EPA representative to
19 witness the test. More recently, when we need a five-year
20 test or a test after a rework, the EPA is slow to respond to
21 our request, resulting in unnecessary down time and lost
22 production. The current UIC program involves a duplication
23 of work duties and reporting requirements between the State
24 and the EPA. You need a permit for both the EPA and a
25 permit from the State. The UIC program involves a myriad of

1 reporting requirements; the tubing pressure, casing
2 pressure, and injection rate have to be reported on various
3 forms on a weekly, monthly, and yearly basis. Annual still
4 up reports have to be sent in on a quarterly basis. If
5 Michigan gets privacy, the above paperwork will still have
6 to be done, but it eliminates a duplication of reporting
7 between two agencies that currently exist.

8 I believe it is time for the State of Michigan to
9 take over the UIC program from the EPA. The OOGM staff
10 understands our industry and they are in the field and
11 reviewing our operations every day. OOGM is more
12 knowledgeable and they have more expertise when it comes to
13 Michigan geology and the Michigan oil and gas industry.
14 Muskegon Develop Company supports the proposed rules
15 presented here by OOGM because they are necessary for
16 Michigan to obtain privacy.

17 Thank you for the opportunity to speak tonight.

18 MR. ARMBRUSTER: The next speaker is Robert Long.

19 MR. ROBERT LONG: Good evening. My name is Robert
20 Long. That's L-o-n-g. And from Summit Petroleum and our
21 address is [REDACTED].

22 So I'm Robert Long and I'm president of Summit
23 Petroleum, Oil, and Gas, and we're an exploration production
24 company based in Mount Pleasant. We operate over 650 wells
25 in the state; 125 of those are disposal or injection wells

1 that we operate. We also participate in approximately 128
2 wells that were the non-operator, but we know that those
3 wells are also serviced by either disposal or injection
4 wells. And these wells are critical and very important to
5 our business model as we produce oil and gas in the state.
6 Our industry needs these in order to take the produced
7 waters out of the reservoirs that they're currently
8 producing in and putting them essentially, in most cases,
9 right back in the same reservoir that they came from.

10 We have 48 employees in our company that are all
11 reliant on us to make good decisions, be good stewards of
12 our property, and with the help of the DEQ and the
13 regulatory oversight I think we achieve that and it provides
14 good jobs for people in central Michigan and other part of
15 the state that we operate in.

16 Some advantages to the State and the DEQ having
17 primacy, which is what we're here about tonight, would be
18 Michigan is one of the only states or one of several states
19 that don't have primacy and probably should, because we have
20 a knowledgeable staff right here in Michigan that's very
21 familiar with the geology and the makeup of these reservoirs
22 that these wells operate out of. Also, that the elimination
23 of this duplicity -- you've heard that before here
24 tonight -- the redundancy of that, they are already doing
25 the work that is required. They know us. We know them.

1 It's a good relationship. They're tough, but they're fair.

2 Also, the elimination of delays in permitting
3 wells that meet the standards has been an issue lately, and
4 that was brought up earlier, too, and my company had one
5 instance where it took four years to get a permit through,
6 to get an authorization from the EPA. We finally got it.
7 It was contentious. A lot of frustration over it, but we
8 finally got it. We think that that process can be greatly
9 reduced by having the State take over primacy, which would
10 be very important to us, because in our case where we have
11 situations where a well may go down because of mechanical
12 difficulties or you have to redrill it or you have to drill
13 a brand new well with a brand new prospect that's been
14 developed, you can't wait for four years. That's just not a
15 good business model to operate under.

16 And above all, the construction of these wells
17 serve the purpose of protecting underground sources of fresh
18 water. That's been the charge of the EPA all these years
19 and it's the charge of the DEQ also. And I can go on and
20 mention many other facets of this program that we could
21 highlight, but those are the highlights I wanted to touch on
22 tonight, and I want to thank you for the time and that's why
23 I'm in favor of the State getting primacy. Thank you.

24 MR. ARMBRUSTER: Next is Bill Stelzer.

25 MR. WILLIAM STELZER: Good afternoon. My name is

1 William Stelzer, and the spelling is S-t-e-l-z-e-r. I'm a
2 petroleum geologist consultant and my offices are in East
3 Lansing at [REDACTED].

4 I'm speaking this afternoon in support of the
5 proposed rule changes, particularly as they relate to
6 injection wells and the ability of the State to assume
7 primacy of administering those wells. I do not operate any
8 wells but consult for a number of Michigan producers, and
9 this issue of particular -- is of particular significance to
10 me.

11 The time requirement, as it's been mentioned, to
12 obtain permits for Class II injection wells is of great
13 importance and I have observed past delays in obtaining
14 permits creating significant economic impact on operators
15 for water disposal as well as the impact on major
16 exploration programs that require that -- assurance of the
17 economic disposal of such water.

18 At age 75, I'm among a growing number of
19 consultants and members of the oil and gas community in
20 their older years, but I intend to remain active in
21 developing our oil and gas resources in the future. Time is
22 always of the essence in obtaining permits for injections or
23 disposal wells, but particularly for those of us watching a
24 time clock, and I greatly look forward to a more timely
25 process of obtaining permits for Class II wells. I believe

1 the proposed rule set, 2017-17, will provide a comprehensive
2 update for regulating and administrating injection wells
3 which will -- and disposal wells which will also hopefully
4 lead to the ability for the State to assume primacy for
5 these wells. Thank you.

6 MR. ARMBRUSTER: The next commenter is Ben Brower.

7 MR. BEN BROWER: Good evening. My name is Ben
8 Brower and I work for a company called Jordan Exploration up
9 in Traverse City, Michigan.

10 REPORTER: Could you spell your last name, please?

11 MR. BEN BROWER: My last name is spelled Brower.
12 So thank you for letting us come here tonight.

13 A couple of things. I wanted to share -- some of
14 it is consistent with what you've heard tonight -- but my
15 company operates over 400 producing wells in Michigan and
16 some 25 or so injection wells; many of those were drilled a
17 number of years ago but in the last five to ten years we
18 have applied for a handful of injection wells and certainly
19 have met with a lot of resistance from the EPA to get those
20 approved. So as I read through the rules -- the proposed
21 rules from the OGMD office here, it seemed like they're
22 certain stringent. Certainly it seemed like they're maybe
23 overkill for what we would like or expect. However, like
24 the previous speakers have said, we certainly don't like the
25 duplicity and dealing with the EPA has been extremely

1 difficult. I'll give you one example.

2 We applied about a year ago for an injection
3 permit from them, and although we got to the early stage of
4 it quickly, we still haven't received it. For one reason,
5 they tell us they can't hold a public hearing because they
6 can't get funding from the federal government to book a
7 venue and have their staff travel up to Michigan to host a
8 hearing. And so here we sit for six months waiting for a
9 budget or for a continuing resolution, as they call it, to
10 get a budget to come up and host a hearing. So I'm pretty
11 sure that wouldn't happen at the state level and so that's
12 just one reason why we would certainly like to have primacy
13 transferred to the DEQ.

14 Again, it certainly seems stringent to us and
15 onerous, rule changes, but we would much rather have -- our
16 company would much rather have the rules in your shop,
17 because, number one, we work with you a lot and deal with
18 you guys and understand -- you understand our program and
19 how we operate. So I think that's a benefit. Plus it's
20 just the timing of it. We think it would be much better for
21 our company.

22 So those are the main reasons that we support
23 these rule changes and thank you very much.

24 MR. ARMBRUSTER: Tim Baker.

25 MR. TIM BAKER: Name is Tim Baker, B-a-k-e-r. I

1 represent West Bay Exploration, [REDACTED]
2 [REDACTED]. I'm vice president of
3 engineering and operations and I'm here tonight to express
4 our support for the State's obtaining primacy. For the most
5 part, a number of our issues have been previously stated,
6 but let me get our -- the high points with respect to our
7 concern.

8 We support UIC primacy in Michigan because we feel
9 that the MDQ -- the MDEQ personnel undergo extensive
10 training and continuing training. They hold degrees with
11 respect to their job responsibilities and that experience
12 arises from our experience with both the MDEQ and the EPA.
13 We've been waiting for seven years for a permit that the EPA
14 has chosen to give standing to the opposition based on
15 nebulous science issues. We believe that the Michigan staff
16 is much better trained and can address these issues and is
17 much more open to discussion. We have not had that
18 experience with the EPA in Chicago.

19 We believe the MDEQ personnel possess
20 comprehensive understanding of the local geology, the
21 hydrology, well bore design, and implementation. They have
22 witnessed the drilling and completion of wells. They
23 understand how it's done. They understand the mechanisms
24 and they also understand the environment of the area. They
25 interface with the state -- other state agencies quite well;

1 that would be wetlands and the groundwater groups and the
2 environment -- various environmental groups as well.
3 They're open to elected personnel and discussions with them.

4 So it's our feeling that it will foster a much
5 better business relationship for us. These days you must
6 have a relationship with the local groups in order to get
7 anything done in Michigan, and we believe having everything
8 on the local level will foster a better relationship which
9 will transfer into a better result for us.

10 MR. ARMBRUSTER: The next commenter is Dave
11 Farner.

12 MR. DAVE FARNER: Hello. My name is Dave Farner.
13 Last name is F-a-r-n-e-r, and I appreciate the time to speak
14 tonight. I am an employee with Dart Oil and Gas
15 Corporation, located in [REDACTED], and
16 worked in the oil and gas business for over 35 years with a
17 lot of folks in the room here and folks on the panel. As a
18 geoscientist engineer, currently I'm an executive level vice
19 president, engineering and operations, drilled and designed,
20 converted, operated many disposal wells and water flood
21 injection wells in the state of Michigan and also in ten
22 other states. So I've seen states with primacy and states
23 like Michigan where we don't have primacy and big
24 difference.

25 Aside, though, from the oil and gas experience, I

1 mean, I'm also here, I guess, on the record as a citizen,
2 taxpayer, resident of Michigan. I think that's equally as
3 important as all of us who are members of the industry, but,
4 you know, protection of the groundwater is very important to
5 me, my family. We have property on Torch Lake, cherish it.
6 It's been in the family for over 50 years, a water well that
7 we use for drinking water, and so groundwater is a big deal
8 to my family and myself and, like many other Michiganders,
9 like the fish, rivers, streams, lakes. So I strongly
10 support this movement to get the primacy of these rules with
11 the state of Michigan. I just -- I trust the MDEQ more than
12 I do out-of-state federal EPA folks to look after this.

13 I'm also concerned, obviously, like the rest of
14 the folks here in the oil industry. We've seen and had
15 experience with delays and, you know, what we feel are
16 simple permits that take forever to get processed. To be
17 honest with you, and like many in this room, we've seen EPA
18 officials -- you know, they ask the wrong questions. I've
19 been -- heard complaints that they have a lack of staff.
20 Just -- just not getting things done in a timely manner.

21 We all know disposal wells are an important part
22 of the process of producing oil and natural gas in Michigan
23 and nationwide. The wells cut down on truck traffic.
24 They're a safe alternative to carrying this produced waste
25 on our roads. I've operated many disposal wells and know

1 these provide a safe and proven means of handling wastewater
2 from our wells.

3 It's my understanding that 43 states have primacy
4 over Class II injection wells, and the way I see it, that to
5 me says a lot. I mean, the fact that you've got regulatory
6 staff in all these other states that have come to the point
7 where they feel managing these rules at a state level is
8 more important I think speaks volumes. And so -- so I
9 strongly support State of Michigan being granted primacy for
10 administrating the UIC program and the sooner the better.
11 Thanks for the opportunity.

12 MR. ARMBRUSTER: Our next commenter is James R.
13 Neal.

14 MR. JAMES R. NEAL: My name is James R. Neal and
15 my address is [REDACTED]
16 [REDACTED]. I --

17 REPORTER: Spell your name, please?

18 MR. JAMES R. NEAL: N-e-a-l. I assist companies
19 in seeking regulatory approval to inject fluids into
20 reservoirs for enhanced oil recovery. I share the comments
21 that have been made today and ask that this rules package
22 pass with regard to strengthening and clarifying
23 requirements for the construction, operation, and monitoring
24 of wells used to inject fluids associated with oil and gas.

25 In my particular case, the injection of fluids is

1 focused on production; the injection of CO2 and water and
2 natural gas to enhance oil production. We urge that you
3 concentrate regulatory functions in that regard in one
4 agency, the DEQ. We feel that the DEQ has all the
5 administrative experience of -- to administer the program in
6 an efficient and effective way to avoid inefficiencies,
7 duplication of effort, and waste of time. We ask that you
8 move forward and adopt the Class II injection rules as soon
9 as possible. Thank you.

10 MR. ARMBRUSTER: The next card, they didn't mark
11 either way whether they wanted to make a statement, so I
12 will offer it up, and I'm sorry if I get the last name
13 wrong. Jeff Ostahowski?

14 MR. JEFF OSTAHOWSKI: Yes, hello. My name is Jeff
15 Ostahowski. I'm with Michigan Citizens for Water
16 Conservation.

17 REPORTER: Could you spell your name, please?

18 MR. JEFF OSTAHOWSKI: Sure. O-s-t-a-h-o-w-s-k-i.
19 We appreciate the opportunity to make comments on your
20 proposed changes governing the operation of injection wells
21 in Michigan, and we believe that you're tinkering around the
22 edges of a largely inept and failing system. The U.S. EPA
23 has permitted 1800 wells in region five -- 1700 are in
24 Michigan -- and that's only in part related to the oil and
25 gas industry that's here.

1 Basically, what my comments will say is that we
2 need to stop using freshwater for oil and gas enhancement
3 activities. We need to use oil -- we need to use the brine
4 water that is used throughout much of the West, and,
5 frankly, in many states, using freshwater for oil and gas
6 enhancement is prohibited by law. We don't have enough. We
7 don't have enough water to support continuous operation for
8 oil and gas recovery.

9 Okay. Let me get back to this. We do recognize
10 this will be a major change, but it's long past due and you
11 only need to go to many of the other states and their oil
12 and gas enhancement activities and see the trucks standing
13 there with the brine that they will be using to increase
14 their production.

15 The next problem that we have with your program
16 deals with the unlimited nature of your permitting. Once a
17 well gets permitted, it really doesn't matter how many days
18 it seems to run. So, in essence, by not having a limit
19 according to new science that was issued by the U.S.
20 Geological Survey in March of 2016, at some point in time
21 you almost guarantee that there will be an earthquake. It
22 may be 40 or 50 months from now or it may be 40 or 50 months
23 from now. But unlimited disposal without regulation of the
24 total amount will, in fact, produce the changes that physics
25 will demand.

1 So the second point in that is that there are a
2 number of wells -- injection wells that are within a quarter
3 mile, half mile, or two miles. It doesn't matter. Most of
4 this stuff everyone believes will spread out at least two
5 miles. But if you have two wells within two miles -- two
6 injection wells, you don't necessarily double the physics
7 and probably are hastening an earthquake at some point in
8 time. I don't have to tell you what's happened in Oklahoma.
9 Twenty years ago they may have had one earthquake. They've
10 been averaging three to four a day for the last two years,
11 and you know it and I know it. And we don't need that in
12 Michigan.

13 Okay. The next issue deals with the earthquake
14 that Michigan had in May of 2015, and you know it was right
15 around the Kalamazoo area. It was a 4.2 earthquake on the
16 Richter scale. Geologists say that anywhere within a 200-
17 mile radius a 4.2 earthquake can affect the strata. You
18 have not taken into consideration and have not done the well
19 samples that are needed to assure that the confining strata
20 is intact. You need to do that, and you need to make a
21 comment, in my opinion -- in our opinion -- on every well
22 that's in the Lower Peninsula, because every well was
23 virtually within that 200 mile radius.

24 I'm skipping stuff, because it's kind of long, but
25 I will leave this with you so you have whatever benefit or

1 non-benefit it might be.

2 The next deals with import of waste from other
3 states, injection well import of waste from other states.
4 First, we believe that all that needs to be tested before it
5 gets put into permanent storage underground in our state,
6 and it's not being tested currently. There are no manifests
7 that tell what is exactly going down and there needs to be a
8 manifest system that handles the identification of the
9 contaminants from its source to the well if, in fact, it
10 gets to be disposed. In terms of radioactivity, that's
11 another issue you're trying to address with these, but our
12 position is radioactivity -- radioactive waste should not be
13 disposed of in injection wells that have no
14 containerization. So if you're going to have an injection
15 well and permit radioactive waste, you need to have an
16 engineer containerization that is suitable to protect those
17 wastes.

18 MR. ARMBRUSTER: I'm sorry. I'm going to have to
19 stop you there, and if we have time at the end I'll be happy
20 to --

21 MR. JEFF OSTAHOWSKI: Okay. We will do that.

22 MR. ARMBRUSTER: -- offer to bring you back up.

23 MR. JEFF OSTAHOWSKI: Okay. You can have this for
24 what it -- what value you may possess it.

25 MR. FITCH: Is there other commenters?

1 MR. ARMBRUSTER: There are a few more commenters,
2 yes. Our next commenter is Peggy Case.

3 MS. PEGGY CASE: I'm Peggy Case, C-a-s-e,
4 president of the Michigan Citizens for Water Conservation.
5 We have right now noticed that -- of course, that the EPA is
6 completely dysfunctional, so, you know, the issue of primacy
7 is kind of a weird issue right at the moment, but we're
8 hoping that that will be a -- not a permanent position.
9 We're hoping that eventually they will, in fact, start
10 functioning again.

11 We do not support primacy for the DEQ primarily
12 because we don't see that the DEQ has done the work that it
13 needs to do on these injection wells so far. If you have
14 changed the rules so that there are stronger rules, we would
15 certainly support a lot of those rules. We've looked at
16 some of them. We think perhaps some of them will make
17 things better, but currently the DEQ simply doesn't do the
18 job that we think they need to do with the injection wells.
19 They -- it has not designed any permits that we're aware of.
20 You have not been willing to do more than just do what the
21 industry has asked you to do and grant these permits in a
22 rapid way. We don't -- we're not really interested in the
23 speedy permitting of an injection well if you have not
24 examined the area around it; if you have not examined where
25 the old well bores are.

1 In the one township that we sent you data on a
2 long time ago, showing that there were 115 old well bores in
3 the area where an injection well was being proposed, it
4 didn't seem to matter. Most of us -- many of us have wells.
5 We get our drinking water from wells. I live up in Benzie
6 County. We're all pretty much dependent on wells. And so
7 the issue of having an injection well, you know, with that
8 taking toxic waste, perhaps from Pennsylvania, and putting
9 it down below our aqua filters when there's all these
10 other -- this pincushion effect already -- the holes are
11 already there -- and you're not willing to examine the
12 condition of those old well bores and didn't even know about
13 most of the ones that we reported to you.

14 So we're hopeful that the DEQ will do its job
15 better. We would really like to support you in doing that,
16 but right now we don't see that that's happening with the
17 injection wells. So we don't -- we don't really want to
18 grant primacy. We think that the DEQ, in fact, should be
19 listening more to the people who are ones that you are
20 supposed to be serving under the Public Trust Doctrine.
21 It's the people in Michigan. It's their water. The
22 drinking water belongs to them. It doesn't belong to the
23 oil and gas industry; and, therefore, it should not be
24 threatened by the oil and gas industry. And so your job is
25 to work for us. That's who we want you to work for.

1 So we're in favor of strengthening the rules and
2 it looks like in some cases you've done that with your
3 new -- with your new rules, but there are some pieces of it
4 that are not quite right yet. There's some things about the
5 radioactive waste -- and we're going to be submitting a
6 second set of comments pretty soon that will hopefully
7 pinpoint some of those places. It doesn't really address
8 the issue of out-of-state waste properly and the testing of
9 that waste. We don't think you should accept out-of-state
10 waste in the first place.

11 And then there's another issue about the FOIA.
12 This new set of rules seems to limit our ability to get
13 information and the public deserves the ability to get
14 information. So we don't want any rules that will limit our
15 ability to ask you what's going on with the wells in our
16 neighborhood. What do you know about the injection wells
17 that are up where I live? More of them are being suggested
18 for permits. I want to know what you know about the one in
19 my township that's about to go in, and if I don't have the
20 right through FOIA, I don't have the right to do anything
21 about it. So I think that's it for me. Thank you.

22 MR. ARMBRUSTER: Our next speaker is Karen
23 Turnbull.

24 MS. KAREN TURNBULL: I'm going to pass. Thank
25 you.

1 MR. ARMBRUSTER: Okay. Our next commenter is
2 Wendy Nystrom.

3 MS. WENDY NYSTROM: Hello. I'm Wendy Nystrom, N--
4 y-s-t-r-o-m. Do you need any other information? I'm a
5 board member on the Michigan Citizens for Water Conservation
6 also. I became involved when they were going to put them
7 in -- well, they did, where you allowed an injection well to
8 go in Barry County where everyone is on well water there;
9 even the schools, the businesses. And I don't find the
10 permit process very strict on protecting the water, and what
11 I would like to see in the rules change is a moratorium on
12 all injection wells right now, new injection wells, so that
13 you can go and take the time to test and monitor and check
14 the safety of the water and the strata, as Jeff talked about
15 earlier, of the current inject -- 17 -- over 1700 injection
16 wells currently in operation. I have spoke to people at the
17 DEQ and they have told me they don't have the personnel to
18 check. We -- they trust the energy companies.

19 Also, as -- the EPA says the same thing. "We
20 don't have enough staff to check." Why? I don't -- I don't
21 want Michigan to turn into a dump site. I don't know why
22 we're encouraging Michigan with the most water in the
23 country out of -- it is the most valuable resource, and we
24 need to strengthen all the rules for protecting the water,
25 and these companies will come here no matter what. And

1 telling them "you've either got to follow" -- we need to
2 redo our water protection rules. It's not going to last
3 forever if we continue to allow this toxic dumping below
4 ground, and we already have lots of damaged water that we
5 haven't fixed. Not all of it, I'm not saying, is from the
6 energy companies, but we really need to reevaluate this Type
7 II and we cannot allow toxic waste to come into the state to
8 be dumped here. We need to protect the water at all costs;
9 otherwise, my children and my grandchildren -- if I ever
10 have any -- will not have any clean water. Thank you.

11 MR. ARMBRUSTER: The next commenter is Pamela
12 Gilbert.

13 MS. PAMELA GILBERT: Gilbert, G-i-l-b-e-r-t,
14 Pamela. I'm on the board of Michigan Citizens for Water
15 Conservation. Unlike some of those that have spoken before
16 me, I'm here as a citizen. I know they are also. But I'm
17 here to protect the water of our state. Twenty-one percent
18 of the freshwater of the entire world is here, and I
19 appreciate what you do. I really do, because without you
20 making the laws and the rules and the regulations, we
21 wouldn't have something that we all need in order to
22 survive. And so let it be known they are appreciated, but I
23 agree that our rules need to strengthen and very much so.
24 I'll read to you just a little bit of what I've prepared
25 here.

1 Twenty years ago in the state of Oklahoma they had
2 no earthquakes. Ten years ago in the state of Oklahoma they
3 had four earthquakes. And for the past three years, the
4 state of Oklahoma has had more than 1,000 earthquakes. All
5 of them are produced by unregulated, long-term disposal of
6 toxic brine in Class II injection wells. That's what I'm
7 hearing are some reasons why they want primacy. I'm
8 thinking maybe we need you on board a lot firmer than what
9 you are now.

10 So in March of 2016, the United States Geological
11 Survey made the scientific finding that injection wells can
12 cause earthquakes. The DEQ must change this injection well
13 policy, allowing for the unlimited permanent disposal of
14 contaminants and toxic brine in the DEQ-permitted injection
15 wells. There must be a finite maximum disposal amount and a
16 finite operational time period for the operation of an
17 injection well in Michigan. As it presently stands,
18 allowing for continued operation of an injection well
19 without a total maximum amount insures that most -- insures
20 that at some point in the future the injection well will
21 induce an earthquake. It may take 20 years or 50 years, but
22 continued disposal will eventually cause an earthquake.
23 Michigan does not need to be an Oklahoma in waiting.

24 The DEQ needs to place maximum allowable
25 disposable amounts on every disposal well in Michigan.

1 There also should be consideration given to the operations
2 permitting for a defined period, perhaps ten years, for
3 operational permits. Most freshwater aquifers are found
4 between the surface and 600 feet down. Most injection wells
5 are below 2,500 feet and many are considerably lower the
6 distance between the injection well area and the bottom of
7 the aquifer. A serious problem is that a 4.2 scale
8 earthquake can affect the strata anywhere with a 200-mile --
9 within a 200-mile radius. The effect could be to destroy
10 the confining number of the strata exposing the aquifer to
11 the disposal contaminants.

12 We can find no factoring in of this earthquake by
13 the DEQ. It appears as though the DEQ position is to
14 disregard the possible effects of this earthquake and trust
15 that the confining strata before it issues the permits for
16 injections wells that's there. Trusting that the confining
17 strata have not been affected by this earthquake is a
18 response -- is irresponsible or not even a responsible
19 position for the DEQ to take.

20 MCWC asks that the DEQ comment on the condition of
21 the confining strata on every future injection well permit
22 located in the Lower Peninsula of Michigan. Thank you for
23 listening.

24 MR. ARMBRUSTER: Now, that was the end of the
25 registration cards I have. Before I offer to bring -- and

1 I'm going to mess your name up again, I'm sorry --
2 Ostahowski? Before I offer to give you five more minutes,
3 are there any additional registration cards or comments?
4 No?

5 MR. JEFF OSTAHOWSKI: I'll leave my hat up here
6 this time.

7 MR. ARMBRUSTER: That's fine.

8 MR. JEFF OSTAHOWSKI: Thank you very much. My
9 name is Jeff Ostahowski again; same guy. The first comment
10 I would have is that hopefully this won't be the last public
11 hearing that you have on this matter. This is a critical
12 set of rules that you are considering, and obviously there's
13 a lot of people here who are cognizant of it, but there's
14 also a lot of people who, in my opinion, would love to
15 comment on these rules. So that's the first question that I
16 would have is hopefully you can have another hearing, and
17 perhaps even extend the comment period for another 30 days.

18 This is a serious issue. It deals with many
19 sites, not all injection wells, but it has to deal with
20 what's called flow or transfer lines from existing
21 operations that are contiguous. There's no maps. You don't
22 have a map. The EPA doesn't have a map, and the Public
23 Service Commission -- the Public Service Commission does not
24 have a map. No one knows where these flow lines or no
25 regulatory body knows where these flow lines are. It's my

1 understanding that once a year you'll request -- the
2 industries say that they've checked the lines and the safety
3 blow back preventers have been changed if they needed to be
4 changed, but a lot of these safety valves have urethane
5 rings and they are susceptible to actually be integrated by
6 SO2 gas and other corrosive gases. So it's not an issue
7 that should be taken lightly, and it's our opinion --
8 Michigan Citizens for Water Conservation -- is that you can
9 do no regulation on this area without knowing where it's at.
10 So we ask that you develop with the industry -- because I'm
11 sure you're going to need their help -- maps that you can
12 actually do your own monitoring from if, in fact, it needs
13 to come to that.

14 Okay. One of the other issues has to deal with
15 the trend in the industry for injection wells to be serviced
16 by secondary companies. We will call them contracted
17 companies. A great many of them are LLCs. Limited
18 liability corporations, by definition, limit liability. And
19 our understanding is currently you have a \$250,000 operating
20 bond that is basically for plugging a well, and that's
21 really all the bonding that you do. These LLC companies
22 aren't bonded, and if they're not operating the well but
23 transporting the well and operating the injection well, the
24 contamination needs to be protected, and LLCs are not going
25 to protect the aquifer if, in fact, it gets spoiled, and

1 there are a list of spoiled aquifers that you can get from
2 the DEQ. You have a whole list of them, and many of them
3 are gas and oil related. So it's not like it can't happen,
4 it does happen.

5 Now, how you go about establishing some kind of
6 bonding or enough bonding to protect -- I do believe that
7 also get into the whole issue of risk. If you have a well
8 that's right on top of a small city and that small city does
9 not have an -- any public option for other water, you may
10 want to require a different site. We do know that in spite
11 of the rules for only examining wells within a quarter mile,
12 that most of the contamination, given the operation of any
13 length of time, will go out much further than that; two,
14 three, four miles easy. So there's a lot of potential here
15 and you're not covering enough of those kinds of
16 considerations. How you factor in and how you evaluate
17 risk, I think you need a whole departmental issue to take
18 that up and consider it in its entirety, because it's a huge
19 issue, and I think it affects the future in big ways.

20 I'm just about done, believe it or not. There are
21 numerous safety issues that we will be responding to in a
22 separate letter under the comment period. We do appreciate
23 the opportunity to speak before you today. We do request
24 that you have another public hearing and perhaps extend the
25 extension period for comments. But, irrespective, this is a

1 good opportunity and we appreciate it very much. Thank you.

2 MR. ARMBRUSTER: Okay. Having no further
3 speakers, this public hearing is concluded. Thank you for
4 your comments and cooperation. We appreciate your interest
5 in the proposed Part 615 Administrative Rule revisions and
6 that you took the time to be here today.

7 As previously mentioned, the public comment period
8 ends Friday, March 16th, 2018. In order to be included for
9 consideration, comments must be received, not postmarked, by
10 5:00 p.m. on March 16th, 2018. Please submit any additional
11 comments in writing to DEQ-OGMDpubliccomments@michigan.gov.

12 This hearing is now closed. Thank you again.

13 (Proceedings concluded at 7:08 p.m.)

14
15 -0-0-0-
16
17
18
19
20
21
22
23
24
25