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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

PUBLIC MEETING AND HEARING

TUESDAY, MAY 19, 2009

Mill Creek Elementary School

9039 Old M-72

Williamsburg, Michigan

Proposed Class II Permit

For the Cherry Berry B1-25 SWD Injection Well

Grand Traverse County, Michigan

Reported by: Kathleen Tulick, CSR 4806

1 Williamsburg, Michigan

2 Tuesday, May 19, 2009 - 8:35 p.m.

3
4 MS. PATTERSON: We do realize that the Cherry
5 Berry hearing was scheduled to be from 8:00 until 9:00.
6 We did let the Hubbell hearing go over, because we
7 wanted to make sure we got everyone's comments. We can
8 run past 9:00. We want to make sure that everyone who
9 wants to submit an oral comment will be able to do so.
10 We are required to read our hearing officer's statement
11 and our permit writer's statement into the record
12 first, then we will go ahead and get started taking
13 group comments.

14 Will the hearing come to order, please? Good
15 evening. Welcome to the public hearing on the Class II
16 injection well permit that the US Environmental
17 Protection Agency has proposed to issue to OIL Energy
18 for the Cherry Berry B1-25 SWD well. My name is Leslie
19 Patterson. I'm an environmental scientist with EPA,
20 and for this hearing I am representing EPA as the
21 hearing officer. With me are: William Tong, a
22 geologist with EPA and author of the draft underground
23 injection control permit; and Marietta Newell, an
24 environmental protection specialist with EPA and
25 tonight's hearing assistant.

1 The Class II permit which is the subject of
2 tonight's hearing is being issued pursuant to the
3 Federal Underground Protection Control Program for the
4 State of Michigan, which may be found in the Code of
5 Federal Regulations at Title 40, Section 147.1151.
6 This section was promulgated pursuant to Part C of the
7 Safe Drinking Water Act. It incorporates the
8 Underground Injection Control Program requirements of
9 Part 124, 144 and 146 of the Code of Federal
10 Regulations. The effective date of this program in
11 Michigan was June 25, 1984.

12 The Underground Injection Control or UIC Program
13 is designed to protect underground sources of drinking
14 water by permitting only those injection wells which
15 meet stringent technical requirements. The program is
16 also designed to ensure public participation in the
17 permitting process. The public is invited to comment
18 on every proposed permit decision. EPA then holds
19 public hearings for those draft permit decisions that
20 generate significant public interest or comments. An
21 announcement of this public hearing was made in the
22 Traverse City Record Eagle on April 13, 2009 and was
23 mailed to interested parties.

24 Public hearings such as this provide members of
25 the public with an opportunity to publicly make the EPA

1 aware of their views on an intended regulatory action.
2 Although oral presentations are recorded word for word
3 by a court reporter, there is no sworn testimony or
4 cross examination. This is your opportunity to tell us
5 officially whether you feel the terms of the permit are
6 consistent with EPA's Underground Injection Control
7 Program requirements and whether the facts, as EPA has
8 determined them, are accurate. As the comments are
9 being given during tonight's hearing, EPA will listen
10 to them, but we will not respond to them during this
11 hearing. EPA will respond to all the comments received
12 throughout the entire public comment period in a
13 comprehensive response to comments.

14 All comments received on this permit will become
15 part of the Administrative Record, which is maintained
16 at EPA's regional office in Chicago. This includes the
17 transcript of this hearing, all written comments
18 submitted tonight, all written comments made prior to
19 this hearing, and all written comments that EPA
20 receives through June 3, 2009. If you have a written
21 statement after tonight, you must forward it to EPA at
22 the address on the comment form and in the public
23 notice by that date. A copy of the comments, the
24 transcript of this hearing, and a copy of the response
25 to comments, will be available for your review at the

1 Traverse Area District Library at 615 Woodmere in
2 Traverse City.

3 EPA will consider all comments in making its
4 decision to issue or deny this UIC permit for OIL
5 Energy. All commenters have the right to appeal EPA's
6 final decision to the Environmental Appeals Board;
7 however, in order to preserve this right, you must
8 submit your comment during the public comment period,
9 whether in writing or orally at this hearing. If you
10 wish to make a statement at this hearing, please be
11 sure that you have filled in a registration form so
12 that we may correctly enter your name into the hearing
13 record. If you have a written comment to submit today,
14 please give it to me before you leave tonight. If you
15 don't choose to make a statement, but you want to
16 receive a copy of EPA's response to comments and the
17 final permit decision, make sure that you have
18 indicated so on the sign-in sheet at the sign-in
19 table.

20 First, Mr. Tong will read his statement into the
21 record. I will then begin calling on those who have
22 checked on their registration form that they would like
23 to make a statement and have it transcribed by the
24 court reporter. Now, I will turn the floor over to Mr.
25 Tong.

1 MR. TONG: Good evening. My name is Bill Tong,
2 and I'm a geologist with EPA. I am here today to
3 listen to your comments on a permit which we propose to
4 issue to OIL Energy to inject brine underground by a
5 Class II saltwater disposal well. The permit which is
6 the subject of today's hearing is being issued under
7 the Federal Underground Injection Control Program for
8 the State of Michigan. The well is known as Cherry
9 Berry B1-25 SWD.

10 The scope of the Federal Underground Injection
11 Control (UIC) regulations is to determine the soundness
12 of construction and operation of injection wells as
13 they relate to the protection of all underground
14 sources of drinking water, also known as USDWs. This
15 is done by imposing certain technical requirements on
16 each and every injection well which injects fluids into
17 the ground. An underground source of drinking water is
18 an aquifer or its portion which contains less than
19 10,000 milligrams per liter of total dissolved solids.
20 This includes current sources of drinking water, as
21 well as potential sources of drinking water.

22 The permit which is the subject of today's hearing
23 is a Class II saltwater disposal well. Class II
24 saltwater disposal wells are wells which inject fluids
25 which are brought to the surface in connection with oil

1 or natural gas production, or for enhanced recovery of
2 oil or natural gas. In the oil or gas reservoir,
3 natural formation waters, also known as brines, are
4 mixed in with the oil and gas. During the production
5 of oil or gas, these brines are also brought to the
6 surface, the oil or gas is separated from the brine and
7 the brine is then injected back into the same
8 formation, or into another formation suitable for
9 disposal. In this case, the oil is being produced from
10 the Antrim Formation and the brine will be injected
11 back into the Dundee Limestone, which is located below
12 the Antrim Formation. This well does not accept cherry
13 processing brine or other associated waste.

14 The proposed injection well will be drilled to a
15 total depth of 2,130 feet below ground surface. The
16 base of the lowermost underground source of drinking
17 water in the vicinity of the proposed injection well
18 has been identified as the glacial drift at about 415
19 feet below ground surface. The injection zone will be
20 limited to the Dundee Limestone at depths between 1,920
21 feet and 2,130 feet below ground surface. The
22 injection zone is separated from the lowermost
23 underground source of drinking water by a confining
24 zone of approximately 1,505 feet of shales, limestones
25 and various other rock formations. Because fluids

1 cannot move easily through these formations, the
2 confining zone will serve to prevent the injection
3 fluid from migrating upward out to the injection zone.

4 The construction of the proposed injection well
5 will include an 8 5/8 inch surface casing which will be
6 set at 515 feet and will be cemented all the way to the
7 surface. A 5 1/2 inch diameter longstring casing will
8 be set at 1,935 feet and will also be cemented all the
9 way to the surface. In addition, injection will take
10 place through tubing which is set within the steel
11 casing. A packer will be set at the bottom of the
12 tubing to seal off the space between the casing and
13 tubing, which will be filled with a liquid mixture
14 containing a corrosion inhibitor, and will allow the
15 pressure in the space, known as the annulus, to be
16 monitored. The pressure in the space between the
17 tubing and casing is tested initially after the
18 completion of the well to ensure that the well has
19 mechanical integrity, and then it's tested periodically
20 thereafter to ensure that the well maintains mechanical
21 integrity. These tests are witnessed by an EPA
22 representative. The injection pressure will be limited
23 to 554 pounds per square inch gauge to ensure that the
24 injection pressure will not cause the movement of
25 injection or formation fluids into underground sources

1 of drinking water.

2 If EPA issues this permit, OIL Energy will be
3 responsible for observing and recording injection
4 pressure, flow rate, annulus pressure, and cumulative
5 volume on a weekly basis, and will be responsible for
6 reporting this to the EPA on a monthly basis. OIL
7 Energy will also be responsible for observing,
8 recording and reporting annulus liquid loss on a
9 quarterly basis. An analysis of the injected fluid
10 must be submitted on an annual basis. In addition, OIL
11 Energy is required to conduct and pass a mechanical
12 integrity test before receiving authorization to
13 commence injection, and periodically thereafter.

14 These requirements for proper construction,
15 operation, and monitoring of the well provide multiple
16 safeguards to protect the underground source of
17 drinking water in this area. Now it is your
18 opportunity to tell us your comments regarding the
19 proposed permit. EPA will consider all comments in
20 making its decision to issue or deny this underground
21 injection control permit to OIL Energy.

22 MR. WAGNER: Okay. At this time we are ready to
23 receive your public comments concerning the Cherry
24 Berry well. Remember that if you have written
25 comments, please provide them to the hearing officers

1 before you leave tonight.

2 We're going to deviate a little bit in terms of
3 our approach due to the number of people we have here.
4 We're going to open up the floor. So I'm going to ask
5 if you wish to make a comment, please indicate so by
6 raising your hand. I will call upon you at that time.
7 Please remember to come to the microphone and give your
8 complete name and the spelling of your last name. So,
9 yes, sir?

10 BOB GARVEY: Good evening. My name is Bob Garvey,
11 G-a-r-v-e-y. Our farm is located immediately south of
12 the proposed site, and I'd like to first start by
13 saying I don't pretend to understand the technical
14 things that everybody has been talking about tonight.
15 And I also notice that the DEQ has left the table. So
16 I presume that no permit has been asked for from the
17 DEQ at this point?

18 Okay. Anyway, I'd like to know how this site was
19 chosen. Our future land use map classifies the
20 proposed site as rural residential. Quoting our master
21 plan, "this category encompasses areas in Acme Township
22 with special natural features that shall be
23 preserved." I don't think the wise men and women who
24 drafted our master plan believed that a deep injection
25 well falls under the category of special natural

1 features that shall be preserved.

2 My major concern is for potential for failure of
3 the horizontal delivery system, those pipelines that
4 run along the surface. I am concerned the caustic
5 material over time will encourage failure, and just
6 from I found that a two-hour informational meeting
7 could be informative, because I didn't realize that not
8 so many years ago they used to make those pipes out of
9 steel and they stopped, and I presume they stopped
10 because they failed. And then they went to fiberglass,
11 and they stopped using fiberglass I presume because
12 they were failing. And now they are saying
13 polypropylene is the state-of-the-art. When are we
14 going to find out that they are failing; 10 years from
15 now, 15 years from now? You know, my children may want
16 to occupy that farm some day.

17 My concerns are for, first of all, for our
18 drinking water. The Yuba Creek, which is a designated
19 coldwater trout stream, officially designated by the
20 State of Michigan, runs in close proximity to the
21 site. The Grand Traverse Bay is near by. I believe
22 that there are more suitable alternatives including
23 existing wells.

24 We don't know what the facility will look like
25 yet. I'm assuming that, because the DEQ is not sitting

1 at the table. When we do, I would like to request an
2 environmental impact study. I would also request a
3 public hearing from the DEQ after we have more details,
4 and I would also ask the applicant provide adequate
5 security for environmental cleanup. Thank you very
6 much.

7 MR. WAGNER: Thank you, Bill. Yes, sir?

8 GREG REISIG: I'm Greg Reisig, chairman of the
9 Northern Michigan Environmental Action Council. We're
10 asking that this permit be denied. We don't believe
11 that the OIL Company is being honest with the DEQ or
12 the EPA. We believe that the intention of this well is
13 to be a Class I well and be used to receive fruit
14 wastewater.

15 We also believe that there should be a complete
16 environmental impact assessment done on this well, and
17 the well is located in very close proximity to the
18 Hubbell well, and that's kind of an unusual thing to
19 have those two deep wells right there between Elk Lake
20 and Grand Traverse Bay. We were told by the DEQ
21 earlier that there are only 15 of those deep injection
22 wells that receive material other than oil and gas
23 product in the State of Michigan, and now there are
24 likely to be two, because I'm certain that they are
25 going to come back and ask for a Class I permit on

1 this.

2 So they are getting the well under the guise of a
3 natural gas brine well, but it's actually going to be a
4 fruit wastewater disposal well. Please deny the
5 permit. The company should be honest and tell us what
6 they are going to do with this well. I don't believe
7 they are being honest.

8 MR. WAGNER: Thank you, Greg. Anyone else? Yes,
9 ma'am.

10 RACHELLE BABCOCK: I do have another hand-in.
11 Again, my name is Rachelle Babcock. I am also a member
12 of Concerned Citizens for Acme Township. That's my
13 hometown. So the well that you are talking about right
14 now is very close to where I live.

15 Though I call attention to all the contents of the
16 permit, in particular, for the Cherry Berry injection
17 well, I am opposed to allowing it in our area. To
18 further strengthen my comments I'm handing in a copy of
19 a report I have, and I handed it in the first time with
20 the other one too. Both of them are the case against
21 new Great Lakes oil and gas drilling, "Michigan Fails
22 to Clean up Oil and Gas Pollution." And I guess I kind
23 of made a strong statement there.

24 The United States EPA and the State of Michigan
25 DEQ have highly educated and trained specialists in all

1 matters related to any specific topic within the
2 framework of each permit at issue. Both federal and
3 state agencies have worked to create permits that are
4 meant to protect the environment, yet when I look at
5 page 1 of the US EPA underground injection control
6 permit for a Class II facility named Cherry Berry and
7 move down to the last paragraph, I see where the
8 wording of the two statements within that same
9 paragraph have created a weakness that resonates
10 throughout the permit and limits the government's
11 ability to enforce strong environmental protection.

12 An indication of just how weakened the permit
13 gets, once all technical parameters have been put into
14 place by all responsible parties is the statement that
15 says, "this permit shall become effective on and shall
16 remain in full force and effect during the operating
17 life of the well, unless the permit is otherwise
18 revoked, terminated, modified or re-issued," and then
19 it goes on with a bunch of numbers that don't mean much
20 to me. I can give them to you.

21 The words modified or re-issued serves as a
22 loophole for a change to take place. A modification
23 could mean the permittee wants to change the Class II
24 well to a Class I well that accepts industrial waste at
25 some later date. Could modified or re-issued in that

1 sentence allow for a change in the classification?

2 Knowing that this area could be geologically
3 receptive to Class I deep injection wells, the very
4 location of the Cherry Berry well is an indication that
5 this action is highly possible. If your answer turns
6 out to be yes, I request that the words modified or
7 re-issued be removed from the sentence and elsewhere in
8 the permit to close this loophole.

9 Another statement I am concerned with, "this
10 permit shall also remain in effect upon delegation of
11 primary enforcement responsibility to the State of
12 Michigan, unless the state chooses to adopt the permit
13 as a state permit." I interpret this statement to mean
14 once this permit is approved the federal government
15 turns the permit over to the State of Michigan to
16 police.

17 If this is the case, where are the protection
18 measures in this permit such as recordkeeping on
19 maintenance and testing in and around the site, and for
20 how long and at whose expense?

21 In the short time I have researched deep injection
22 wells in close proximity to Acme, I find it is the
23 permittee who is allowed to be in charge of
24 recordkeeping. Although, the state acts as an
25 enforcer. This could prove highly problematic for our

1 environmentally sensitive areas here in northern
2 Michigan or anywhere else in Michigan. Permits that
3 allow structures of an industrial nature into these
4 highly sensitive areas and are allowed to be
5 self-policed could pollute our environment, and end up
6 costing us taxpayers a lot of money.

7 Bay Harbor CKD waste and cleanup methods still
8 endanger many watersheds. It has caused residents in
9 the area thousands of dollars and thousands more for
10 the Michigan taxpayer. The State of Michigan, who has
11 been handling the Bay Harbor CKD waste problem for many
12 years, tells us taxpayers that the problem was created
13 years ago when proper laws governing waste of this kind
14 were not then in place. Do we have laws in place today
15 within each permit that guarantees the taxpayers and
16 the environment more protection?

17 Only minimal monetary protection is in place for
18 the Cherry Berry Class II well should a shut-down
19 occur. The permit shows a total cost of plugging and
20 abandonment of the well is \$6,000. Who pays and who is
21 responsible for the what-ifs that can occur? Should we
22 trust that all companies keeping records for state
23 compliance are ethical? What if a company goes
24 bankrupt? What if the well itself or any pipes leading
25 in or out of the well leak causing environmental

1 long-term problems to occur? I do not think that
2 \$6,000 is enough monetary protection for any well in
3 our area. It should be minimally 15 times that
4 amount. I would like to see this issue addressed
5 before a permit is granted to OIL Energy Corp.

6 I strongly encourage the State of Michigan DEQ to
7 require an addendum be added to the permit itself to
8 maintain control over recordkeeping and testing
9 practices on the Cherry Berry injection well, to spell
10 out time tables for inspections and, furthermore,
11 charge the company or individual for these costs if
12 this permit is granted. Thanks.

13 MR. WAGNER: Thank you.

14 (Note from court reporter: Mr. Norris was very
15 difficult to hear, and his statement is transcribed to
16 the best of my ability)

17 JACK NORRIS: Jack Norris, N-o-r-r-i-s. I suppose
18 these questions aren't going to be distinct from the
19 ones already asked in the earlier hearing. So I will
20 repeat.

21 The (inaudible) given, the quarter mile radius
22 from the well, that seems like it -- that doesn't seem
23 far enough to me. I wonder how that, how that decision
24 is made. There must be alternate ways of protecting
25 the drinking water wells, and I should think that a

1 larger area would be needed.

2 Then under, on page 2, under construction
3 requirements, it occurs to me to ask since the midtown
4 ridge runs approximately through the proposed site, is
5 it sufficient for the applicant to say simply that he
6 or she doesn't know of any open faults or fractures?
7 That seems to me something to be really concerned
8 about.

9 And then I wonder about the gallonage. Is the
10 gallon, is the mineral mentioned here, the standard 42
11 gallon barrel or is it some other volume? The
12 gallonage anticipated to be put underground, it looks
13 to me to be about 126,000 gallons per day, and I wonder
14 if that is correct.

15 I'll repeat an earlier question having to do with
16 the Dundee Formation. I think it's becoming
17 increasingly apparent that the Dundee Limestone
18 formation is an open-flowing vascular formation, and it
19 strikes me that this proposal, to have a deep injection
20 well to put waste into that formation, is just a more
21 modern way of throwing it into the lake as our
22 grandfathers got rid of stuff they didn't want. They
23 threw it over the hill or into the river, and I think
24 we're coming to today perhaps our grandchildren will
25 arrive at the information and knowledge that there

1 really isn't any "away," and what you must do with
2 caustic substances is somehow render them benign or at
3 least harmless, and I hope some of the authorities in
4 charge here will adopt that view.

5 Again, I ask about the property rights involved
6 plainly displaces neighbors through its minerals
7 without compensation. Does he really have the right to
8 do that? Can the state offer him that right? It
9 doesn't sound right to me.

10 And on the laboratory analysis of what's to be
11 injected has to be available for public review, and if
12 so, where they may be seen; and if not, why not? I'd
13 like to know what the level of protection is in the
14 reports that are given.

15 I also wonder why there were no automatic
16 monitoring (inaudible) rights required in this permit.
17 Are other well operations have to do with them? And it
18 seems to me that it would be if there is (inaudible)
19 well, it would be necessary to have those. And I ask,
20 is it correct that only the substances -- the only
21 substances to be permitted down this well are fluids
22 brought to the surface in connection with the
23 conventional oil or natural gas process or are other
24 fluids likely to be used in addition?

25 Those are my major questions, and I thank you for

1 the opportunity to present them.

2 MR. WAGNER: Thanks, Jack.

3 PAUL BRINK: Hello again. My name is Paul Brink,
4 B-r-i-n-k. I'm a resident of Acme Township. I want to
5 thank you for hanging in here. It's getting late. I'm
6 sorry it's taken so long, and I'll be brief.

7 I speak for myself, but I speak for a lot of
8 people of Acme Township when I can say that many of us
9 support the agricultural community. We love having the
10 farmers around, and, in fact, four years ago we voted
11 to pay extra taxes to support the farming community and
12 to a farmland preservation initiative whereby some of
13 our tax money is used to help the farming community
14 keep their farms in their family. In fact, we're the
15 only township on this side of the bay that has voted to
16 do that.

17 Also, we certainly aren't, at least I'm not,
18 opposed to oil and gas exploration and drilling. Acme
19 Township, in fact, has been a recipient of substantial
20 amounts of money from the trust fund that is funded
21 from the royalties from these operations, and we have a
22 number of wonderful areas that have been preserved
23 partly because of this funding.

24 So what's the problem? Have you had a chance to
25 go out to look at where this well will be located?

1 Maybe you have. I hope so. You need to understand
2 that it's very close to Yuba Creek. Yuba Creek flows
3 into the bay. Our grandkids swim there, and so we are
4 very concerned about should there be any surface spills
5 the implications to Yuba Creek.

6 And I wonder if you are aware that just slightly
7 downstream from this property Yuba Creek flows through
8 what's called the Yuba valley natural area. A
9 wonderfully preserved part of our township. In fact,
10 the State of Michigan through this trust fund has spent
11 a lot of money to preserve this area. A number of us
12 have also donated private money for this purpose. And
13 a spill, a surface spill, would be terrible anywhere,
14 but it would be especially terrible on that property.
15 Because of the proximity it would be a real disaster,
16 and that is why I think so many people came out tonight
17 to raise concern. Thank you.

18 MR. WAGNER: Thank you, Paul. Chris?

19 CHRISTOPHER GROBBEL: Good evening. Christopher
20 Grobbel, Grobbel Environmental and Planning Solutions
21 in Traverse City. The last name is spelled
22 G-r-o-b-b-e-l. And I am here on behalf of the
23 Concerned Citizens of Acme Township as well as a many
24 number of residents.

25 This site is an excellent link to the last in

1 terms of the well network that OIL Corporation has on
2 file with the DEQ. I have in my packet and I'll draw
3 your attention to plans of the natural gas wells,
4 pipelines, brine wells and disposal wells. The OIL
5 Corporation, essentially, has three production units as
6 they name them, two in Acme, one in Whitewater
7 Township, that are connected by a network of over ten
8 miles of pipelines.

9 There is this Angell Road Section 18 system that
10 in 2008 was supposed to be serviced by a deep injection
11 well at its location, and then some time later we see
12 another map show up where all of a sudden we have the
13 Cherry Berry well proposed as well as exploration and
14 production wells in that unit.

15 My point is that because of an economic incentive
16 of wanting to become a liquid waste disposal facility
17 at the Hubbell facility, where an essential processing
18 facility was planned, now we've got this Cherry Berry
19 well, the subject well proposed, and it's not needed.
20 There are other alternatives, and the two issues are
21 not only linked in this permitting process but they are
22 linked by pipes.

23 At this site it's proposed to pump up to 3,000
24 barrels a day of natural gas brine waste into the
25 Dundee. The Dundee Formation has been the subject of

1 some study. You will have sent to you in the next 15
2 days a study by Dr. Jim McClurg, University of Wyoming,
3 who questions based on empirical data the integrity of
4 the Bell Shale in this part of Michigan, where he is
5 also a part-time resident, having studied the Bell
6 Shale formation. He questions it, and that study will
7 be provided for the record, and I ask you to respond to
8 it respectfully.

9 Moreover, the site itself is even more problematic
10 than the last that I spoke to. We have a location
11 that's a gravel pit. The well is proposed in a formal
12 gravel pit that's full of broken concrete, stumps and
13 other waste, and the aerial photos will be provided or
14 forwarded. Highly permeable, not the kind of place you
15 want to put hazardous materials or a disposal facility
16 for them.

17 Moreover, with all of these pipes running to this
18 site I am concerned about the junctures of those pipes,
19 wells, old pipes, glued elbows or other types of
20 junctions in the poly pipe, if that's what's going to
21 be used. This is where the problems occur.

22 Further, this site slopes 150 feet down to Yuba
23 Creek. It's a straight shot down. You'll see the
24 ravines on the US topo maps. You'll see them in site
25 visits. Yuba Creek is less than 2,000 feet due east,

1 and wetlands and wetland soils exist between these
2 ravines and Yuba Creek.

3 This site is also right on the northern edge of
4 the wellhead protection area as identified and accepted
5 by the DEQ for the Lockenheath residential development
6 to the west and northwest. This site is unsuited.

7 If you look at the soils, again, we've got the
8 Emmet sandy loam. The aquifers, we have a shallow and
9 a deep aquifer in the area. In that section about half
10 of the drift wells, they are all drift wells, but about
11 half of the residential wells are near surface, about
12 85 feet deep, with a standing water level of 34 feet.
13 There's a deeper system underneath, a thick clay layer,
14 that on average is about 300 feet deep wells, and a
15 standing water level of something like 150 feet.

16 There's upwelling, upward hydrostatic pressure.
17 That's why the wetland is there. That's why the creek
18 is there in the first place. A direct conduit for
19 contaminates to Yuba should a release occur.

20 One of the real frustrations of this process is
21 that many of these issues aren't answered. The public
22 comes, they read a draft permit that doesn't really
23 speak to many of their concerns. We're in the little
24 bureaucratic box. However, if there is a permit
25 application to the DEQ, and we do get to see the

1 facility plan, that plan has to be tight to prevent any
2 kind of spills and releases to the environment should
3 this be permitted.

4 I think that there are numerous alternatives.
5 This is a red herring. This is a strawman. This well
6 is not needed if the Hubbell well is continued in its
7 current use, and wanting to, you know, take some
8 industrial waste from a violator of environmental law
9 who can't seem to manage his own waste currently and
10 has it released to the environment and documented
11 numerous times, that's what that's about, as opposed to
12 truly, you know, being a natural gas developing
13 company, and I think that's the real motivation.

14 I urge you to deny this permit. I urge you to
15 deny the other one. Look at the big picture and see
16 how the two are connected. There are alternatives for
17 all the waste streams, and if you look at their
18 network, this thing is about nine miles away from where
19 the brine is coming from, and they want to send it all
20 the way down to Acme in the corner and where they don't
21 currently have anything producing. And it's just
22 another reason why people like me become suspicious
23 that, in actuality, there's something else at work
24 here, and there will be a re-classification of this
25 well also in a couple of years.

1 Thank you for the opportunity. I hope you take
2 our comments seriously and respond to each one
3 directly. The wellhead protection area map is in your
4 packet as well as the OIL Corporation pipeline network
5 and plan for future wells. Thank you.

6 MR. WAGNER: Thank you, Chris. Yes, ma'am?

7 GAIL VANDERNOOT: My name is Gail Vandernoot,
8 V-a-n-d-e-r-n-o-o-t. I'm the neighbor to the north of
9 the Cherry Berry well. I have the 40 acres off of it
10 that backs right up to this site. I want to reiterate
11 what Chris said. I mean, that is such a strong
12 statement, what he said, and just I've come late into
13 this process and just came here tonight to try to find
14 out some information.

15 It was really interesting when I came in there was
16 a group of experts, people with the DEQ over here, and
17 I saw all these maps and, okay, and I say, well, I live
18 next door to that, would you live next door to that,
19 and the gentleman there didn't know what to say, didn't
20 know how to quite answer me, and I thought that was
21 real interesting. And I know it's really late and I'm
22 missing the end of "Dancing With the Stars" to be here,
23 and you guys have listened to all these comments and
24 everything, but it's important to us, and it's
25 important to me. That property that I am on is the

1 Kesner farm. It's with the Kesner Road, and that means
2 something to me.

3 And as we're here talking about these wells and
4 about this type of thing and disposal and nasty
5 chemicals and everything, right now downtown Traverse
6 City they are talking about our grand vision, what we
7 want for this area, how we want to protect it, and I
8 don't think disposal wells are part of it.

9 And the other thing that I find so interesting is
10 that the name of this well. I mean, come on. Let's
11 call it what it is. Cherry Berry? Get real. I mean,
12 this is unbelievable. There's no reason for it to be
13 put there. It just flies in the face of common sense.

14 And the other thing that is what I probably
15 shouldn't say and go on record, but I wonder what the
16 price of the rooms are going to be at the bed and
17 breakfast that's located on the property. Thank you.

18 MR. WAGNER: Thank you.

19 ANDY KNOTT: Again, I'm Andy Knott, K-n-o-t-t.
20 I'm with the Watershed Center at Grand Traverse Bay.
21 I'll hand in my written comments which were similar to
22 the ones I've provided earlier. So I will just
23 paraphrase.

24 As we said with the earlier permit, we have
25 similar very strong concerns about the proposed new

1 Cherry Berry Class II well. As he says, it's a quarter
2 to a half mile from Yuba Creek, which flows through the
3 Yuba Creek natural area, and then into the bay, Grand
4 Traverse Bay, about one and a half miles downstream.

5 Similarly, there are near surface groundwater
6 aquifers under the site. They are drinking water
7 sources, including the Lockenheath development. Again,
8 based on information we've seen, there's been no
9 examination of potential impacts to surface and
10 groundwater from a spill or leak from the well
11 operation. No facility plans have been provided for
12 spill containment, which we think is essential in these
13 kinds of facilities.

14 And, again, as has been said by others, I think
15 this is very important, there's been no examination of
16 alternatives. And one obvious alternative is the
17 continued use of the Hubbell well, which is operating
18 by the same applicant, and that alternative should be
19 asked.

20 Lastly, again, it appears as a trend here where
21 the applicant applies for a Class II well and then, as
22 we saw with the Hubbell well, they have it
23 re-classified to accept other wastes that are more
24 dangerous. And, again, this just seems a concern,
25 because it doesn't really get the information out to

1 the public at the beginning that it should.

2 Again, we think the EPA has a duty under the Safe
3 Drinking Water Act to protect groundwater aquifers, and
4 because of the potential threats to both subsurface and
5 surface water resources, including Yuba Creek and Grand
6 Traverse Bay, we urge the EPA to deny the Cherry Berry
7 injection well permit. Thank you.

8 MR. WAGNER: Thank you, Andy. Is there anyone
9 else at this time that would like to put a comment on
10 the record? Barb?

11 BARBARA BRADFORD: Thank you. My name is Barb
12 Bradford, B-r-a-d-f-o-r-d. I live in Bellaire. I
13 would like to make the same comments that were in the
14 Hubbell. Is there a way that those comments can be
15 transferred into this one as part of this hearing as
16 well or do I have to repeat them all?

17 MS. PATTERSON: If you are looking to have them
18 formally entered as part of a public comment period you
19 should restate them. If you are looking for a
20 response, a response to your comments, as opposed to
21 have them formally entered, you can certainly respond
22 to them, but then they would not be, unless you enter
23 them for this well, they would not be formally entered
24 into the record.

25 BARBARA BRADFORD: Okay. Thank you. First of

1 all, I would like to thank you all for your
2 attentiveness. Bob, thank you. And, ma'am, I would
3 like to say I never saw anybody sit at a table, and I'm
4 on the Antrim County Planning Commission, and I'll tell
5 you, your eyes never leave the people, and that's a
6 good attribute. That says you are paying attention.
7 You are listening. And, Mr. Tong, I thank you as well
8 for your attendance. And I think you people are very
9 interested in what you are trying to achieve, and
10 you're caught within goals that need to be met as
11 well.

12 I would like to make these comments then that
13 would say I feel the same way about this well as I did
14 the other well a few minutes ago, the Hubbell. However,
15 my emphasis now would be that Lisa Jackson is setting a
16 pace that seems to be, as director of EPA, she wants to
17 see better cleanup. She wants to see Super Funds that
18 could never be addressed find a way to be addressed.
19 And with the economy like it is, and it seems to go
20 deeper every day, I can't see how all those things are
21 going to be met unless you people are given better
22 tools. So that you can have more discrimination on
23 what is brine, when brine can be called an inert
24 product and it can be CKD, it can be anything, because
25 the definitives were taken away. I would urge somehow

1 that if it can come from you to her as a guidance tool,
2 I wish we could find some of those tools and put them
3 back in place.

4 I would wish that you people would hear the
5 judgment made by Judge Power on our first well here in
6 Alba when he said you cannot trespass. Your mineral
7 rights are yours. The brine has a value. Dow Chemical
8 proved it. So you have no right to trespass on your
9 neighbors' mineral rights, and there is no box out
10 there that you can put all your brine in and keep it
11 safely in your pocket. It will be in your neighbors'
12 and it's a trespass.

13 If you can understand, first, that the judge has
14 made that decision, though it's being appealed, his
15 decision is made. That is standing at this moment.
16 The appeal hasn't happened. So to me his word is now
17 the word it would seem.

18 Number two, I'm concerned that, again, we're
19 looking at areas close to our Grand Traverse Bays, East
20 Bay, West Bay, but the native Americans have rights,
21 sovereign rights, fishing rights. They shared them
22 with us. They have a right to see their fishing rights
23 preserved, their water preserved. And when these wells
24 are leaking and they are coming up in the different
25 waters, and they know that they are coming from

1 somewhere, and you just keep pushing it down this hole
2 with never-ending thousands of gallons or millions of
3 gallons, common sense says that it's going somewhere,
4 are we really being fair to them? They go through a
5 different court system, that's true. They go through
6 the Indian Bureau, but the answer is, are we being
7 caretakers? Are we being good to our neighbors? They
8 were here. They are sharing. Is this our way of
9 sharing back? I hope it's not.

10 Another thing I would like to ask you, I'm
11 concerned that there constantly seems to be a case of
12 changing what is "is." You know, you hear the
13 bureaucracy on television, what is "is." You've heard
14 it. Everybody has heard it; what is "is," what is
15 meant by the word "is." Is "is" inert brine? No, it's
16 not. Is brine something pure and pristine? That's
17 what the intended view of brine was, pure and valuable
18 and had a reasonable value, dollar value, but once you
19 pump all this stuff down it you are diluting its value.
20 You are really taking away its value.

21 And so why are we doing this? When we know that
22 treatment plants can work. Treatment plants can take a
23 lot of the contaminants away. Not all of them. Some
24 are going to go right back in the bays, because waste
25 treatment plants will eventually push it out, and if

1 there are metals and things that will go in there
2 because you can't dilute a metal, but yet we know that
3 that is the safest bet. Why are we saving it here when
4 we could fix it and be done with it there?

5 And if a treatment plant were put on each site as
6 a prerequisite, instead of saying, well, why don't you
7 just put \$6,000 down and that's a deposit in case you
8 go oops? If we had that safety factor put in place to
9 begin with, each of these small ones like you do a
10 small subdivision now can be made to have its own
11 septage treatment. So why can't these treatment plants
12 be a part of the prerequisite to allowing them to
13 operate rather than a well? Can we not say, no, not a
14 well, but a treatment plant we can work with? Thank
15 you, and thank you for tonight.

16 MR. WAGNER: Thank you, Barb. Yes, sir?

17 DEAN VELIQUETTE: My name is Dean Veliquette, and
18 we own the land on the Cherry Berry well site, and our
19 kids are quite proud of coming up with the name Cherry
20 Berry to name the company, and we had no idea that it
21 would cause such a stir; namely, cherries are berries.

22 We're not asking, or anybody that I know of,
23 we're not asking for a permit to put cherry brine or
24 anything else done this site. It should be considered
25 just for the gas company, and I trust the gas company.

1 I came here and I asked five people at this hearing
2 questions that I had. I had two hours to do that
3 before the hearing, and I got a lot of questions
4 answered from people that are not drilling the wells
5 and they are not gaining financially from the wells,
6 and I was able to have my questions answered to my
7 satisfaction.

8 I didn't know we had so many gas and oil experts
9 in the crowd here that can have so much passion and
10 emotion and everything else without one shred of
11 evidence. We're worried about everything. I got my
12 tooth pulled last week, and I worried about my dentist.
13 I tried to assure myself that I'm doing the right
14 thing, getting my tooth pulled. But worrying about
15 putting the brine back into the ground minus the
16 natural gas almost twice the depth that it comes out of
17 the ground at, that's all this is about.

18 This is just so they can extract the gas, so that
19 we can warm our homes, and at some point in time we
20 will be looking for jobs in this state. A lot of
21 people work for the gas companies. A lot of people
22 work for the cherry growers, the processing plants. A
23 lot of people consume our products, but don't tie the
24 two together. They are not together. They have never
25 been together on this site.

1 And, you know, all of the questions about whether
2 or not the facility, from down the road, the people who
3 have spent money reporting it to the DEQ, we have a
4 plant for wastewater treatment and disposal on over 240
5 acres of property that we own. We have never had any
6 intentions of using that site for that purpose. We're
7 not asking for it. We don't have any intention of ever
8 doing it in the future. We spent a lot of money
9 cleaning up the water, putting it back on our own land
10 and growing another crop of cherries. That's what we
11 do.

12 MR. WAGNER: Thank you.

13 MS. PATTERSON: Is there anyone else who would
14 like to enter comments into the formal record? Let the
15 record show that no one indicates they wish to enter
16 comments. Again, if you have written comments but do
17 not wish to speak, please give them to me before you
18 leave here tonight or forward them in writing to Mr.
19 Tong prior to the deadline of June 3, 2009. This
20 concludes the hearing. Thank you and good night.

21

22 (At 9:30 p.m. hearing concluded)

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STATE OF MICHIGAN)
COUNTY OF GRAND TRAVERSE)

I certify that this transcript, consisting of 36 pages, is a complete, true, and correct transcript of the proceedings and testimony taken in this case on May 19, 2009.

Date: _____

Kathleen Tulick, CSR 4806
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