

**State of Michigan  
Ingham County Circuit Court**

Paul Brady,

Plaintiff,

v

Case No: 13-648-AA

Hon: Clinton Canady III

Filed: 6/13/13

Michigan Department of Environmental  
Quality and Encana Oil & Gas (USA) Inc,

Defendants,

\_\_\_\_\_ /

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**Affidavit of Ellis Boal**

1. Part 12 of the DEQ rules, R 324.1201 et seq, concerns hearings to receive evidence pertaining to the need or desirability of an action or an order by the DEQ.

2. On receipt of a petition the DEQ is to prepare a notice of the hearing and the petitioner is to serve it on various persons and publish it “in an oil and gas industry publication circulated in Michigan and in a newspaper of general circulation in the county or counties involved” according to the rules.

3. If Paul Brady were to petition for an evidentiary hearing, publish the notice, and the final decision went against him, and if he were allowed to appeal, the rules say he would have to file another petition, purchase and file a copy of the transcript of the hearing, and publish another notice in the newspapers.

4. The state's industry trade paper is Michigan Oil and Gas News (MOGN). It is a private publication of the Michigan Oil and Gas Association (MOGA), but non-MOGA members such as myself can subscribe.

5. On July 30, August 13, and September 23, 2013, I wrote the MOGN editor inquiring whether it would accept a legal notice from someone who is not a MOGA member and not a subscriber.

6. The editor Scott Bellinger wrote back on September 25 saying advertising is at the discretion of the publisher. The rate for a legal notice is \$22/column-inch. See attached exhibit 20.

7. Searching recent issues of MOGN I found a random legal notice, which I assume is of typical size, attached as exhibit 21. It appears to be over 20 column inches. Assuming the notice for a petition by Brady would be about the same size, at the quoted

price it would cost him \$484, or \$968 if he had to publish it twice.

8. On September 25 I called the Leader & Kalkaskian, the major publication in Kalkaska County, to inquire about prices for legal notices. The receptionist told me \$6.30 per column inch, which would come to \$126 for a 20-inch ad there, or \$252 if Brady had to run it twice.

9. It appears advertising the notice would cost Brady \$610, or \$1220 if he had to run the ads twice. The price of a transcript is of course unknown, but typically they run into the hundreds of dollars.

10. On June 26, July 11, and August 1, I wrote a FOIA request to the DEQ. Ultimately I narrowed the request to documents related to Encana's January 28 application for a spacing exception for the eight wells of pads A and B between that date and June 21. See attached exhibit 24, email of 8/1/13. The DEQ responded on August 7 only with information regarding wellpad B. The response was in 4 files, which are exhibits 25-28.

11. The same day I forwarded the exhibits (not labeled as “exhibits”) to Dan Bock, counsel for DEQ in this case, and commented that they showed no consideration by DEQ of interference data:

Looking them [the FOIA response] over, you will see Encana did provide "Anticollision Reports." . . . The anticollision reports show only the distances of the three wellbore centers to each other, which max out at about 850 feet. There is no mention of interference, or of data from Excelsior 1-13 and 1-25 and Pioneer 1-3.

Nor is there is anything else in the documents which in any way relates to Encana-MDEQ discussion of the possibility of interference among the wellbores.

Exhibit 17.

12. The same day I forwarded exhibits 25-28 to Brady.

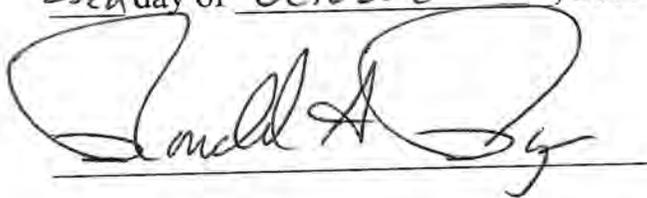
13. On September 11 I forwarded exhibits 17 and 25-28 to Bill Horn, counsel

for Encana.



Ellis Boal

Subscribed and sworn to before me this  
23rd day of October, 2013



Notary public, \_\_\_\_\_ County  
My commission expires:

RONALD A. PUZON  
Notary Public, Otsego County MI  
My Commission Expires: January 12, 2014