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MICHIGAN HOUSE OF REPRESENTATIVES

**KEVIN A. ELSENHEIMER**

STATE REPRESENTATIVE  
ASSISTANT MINORITY LEADER

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April 22, 2008

Michigan Department of Environmental Quality  
Attn: Director Steven Chester  
Constitutional Hall, South Tower, Sixth Floor  
525 W. Allegan  
PO Box 30473  
Lansing, MI 48909-7917

Dear Director Chester,

Thank you for your response to my March 11, 2008 letter concerning the waste water injection well. In your correspondence, you expressed that your department does not have the authority to require a higher conformance bond to cover prospective costs for an environmental cleanup.

Having read Part 625 of the Natural Resources and Environmental Protection Act, state statute does not limit the amount of a security bond. Conversely, under section 62508(h) the department is explicitly allowed to require an adequate surety or security bond. State law does not set forth a maximum cap for such a bond, rather the statute gives discretion solely to the department to establish the amount of the bond after considering all aspects of the individual permit application which is prudent.

According to your correspondence, your department's own administrative rules have set a maximum bond of \$40,000 for all waste water injection wells, not state law. Therefore, I would hope that your department is willing to reconsider its own administrative rule.

I raise this issue in hopes to communicate the sentiments and desires of the district I represent. A \$40,000 security bond is simply inadequate. Considering state law doesn't limit the bond to \$40,000, I again ask for your department to reconsider the amount of this bond.

I appreciate the time and attention you have afforded my previous requests and correspondence and thank you in advance for considering my sentiments surrounding this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin A. Elsenheimer".

Kevin A. Elsenheimer  
State Representative  
105th House District



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



STEVEN E. CHESTER  
DIRECTOR

April 4, 2008

The Honorable Kevin Elsenheimer  
State Representative  
State Capitol  
P.O. Box 30014  
Lansing, Michigan 48909-7514

Dear Representative Elsenheimer:

Thank you for your letter of March 11, 2008, to Governor Jennifer M. Granholm regarding the waste water injection well in Star Township. Governor Granholm has referred your letter to the Department of Environmental Quality (DEQ) for response.

Your letter expresses the concern that the \$40,000 conformance bond required for the injection well is inadequate. However, the DEQ determined, as part of its review of the permit application, that the bond meets all applicable requirements. The amount of conformance bonds is set by the administrative rules promulgated under Part 625, Mineral Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The amount varies according to depth of the well and is intended to cover the costs to plug the well and reclaim the well site in the event the permittee is unable or unwilling to plug the well. The DEQ does not have the authority to require a higher conformance bond to cover prospective costs of an environmental cleanup in the event of an unexpected spill or release of contaminants.

The DEQ issued a permit for the proposed well in accordance with all applicable requirements and criteria specified in Part 625, and we do not believe there is any basis for revoking the permit.

If you have additional questions, please contact Mr. Harold Fitch, Director, Office of Geological Survey, at 517-241-1548, or you may contact me.

Sincerely,

Steven E. Chester  
Director  
517-373-7917

cc: Governor Jennifer M. Granholm  
Mr. Jim Sygo, Deputy Director, DEQ  
Ms. JoAnn Merrick, Chief of Staff, DEQ  
Ms. Carol Linteau, Legislative Director, DEQ  
Mr. Robert McCann, Press Secretary, DEQ  
Mr. Harold Fitch, DEQ  
Mr. Raymond Vugrinovich, DEQ

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

PART 625  
MINERAL WELLS

**324.62501 Definitions.**

Sec. 62501. As used in this part:

- (a) "Artificial brine" means mineralized water formed by dissolving rock salt or other readily soluble rocks or minerals.
- (b) "Brine well" means a well drilled or converted for the purpose of producing natural or artificial brine.
- (c) "Department" means the department of environmental quality.
- (d) "Disposal well" means a well drilled or converted for subsurface disposal of waste products or processed brine and its related surface facilities.
- (e) "Exploratory purposes" means test well drilling for the specific purpose of discovering or outlining an orebody or mineable mineral resource.
- (f) "Fund" means the mineral well regulatory fund created in section 62509b.
- (g) "Mineral well" means any well subject to this part.
- (h) "Natural brine" means naturally occurring mineralized water other than potable or fresh water.
- (i) "Operator" means the person, whether owner or not, supervising or responsible for the drilling, operating, repairing, abandoning, or plugging of wells subject to this part.
- (j) "Owner" means the person who has the right to drill, convert, or operate any well subject to this part.
- (k) "Pollution" means damage or injury from the loss, escape, or unapproved disposal of any substance at any well subject to this part.
- (l) "Storage well" means a well drilled into a subsurface formation to develop an underground storage cavity for subsequent use in storage operations. Storage well does not include a storage well drilled pursuant to part 615.
- (m) "Supervisor of mineral wells" means the state geologist.
- (n) "Surface waste" means damage to, injury to, or destruction of surface waters, soils, animal, fish, and aquatic life, or surface property from unnecessary seepage or loss incidental to or resulting from drilling, equipping, or operating a well or wells subject to this part.
- (o) "Test well" means a well, core hole, core test, observation well, or other well drilled from the surface to determine the presence of a mineral, mineral resource, ore, or rock unit, or to obtain geological or geophysical information or other subsurface data related to mineral exploration and extraction. Test well does not include holes drilled in the operation of a quarry, open pit, or underground mine, or any wells not related to mineral exploration or extraction.
- (p) "Underground storage cavity" means a cavity formed by dissolving rock salt or other readily soluble rock or mineral, by nuclear explosion, or by any other method for the purpose of storage or disposal.
- (q) "Underground waste" means damage or injury to potable water, mineralized water, or other subsurface resources.
- (r) "Waste product" means waste or by-product resulting from municipal or industrial operations or waste from any trade, manufacture, business, or private pursuit that could cause pollution and for which underground disposal may be feasible or practical.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 467, Imd. Eff. Jan. 4, 1999.

**Popular name:** Act 451

**Popular name:** NREPA

**324.62502 Waste prohibited.**

Sec. 62502. A person shall not cause surface or underground waste in the drilling, development, production, operation, or plugging of wells subject to this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.62503 Supervisor of mineral wells; appointment of assistants; salaries; expenses.**

Sec. 62503. The supervisor of mineral wells shall appoint, with the approval of the department, assistants as necessary to implement this part. The supervisor of mineral wells and assistants, in addition to salaries, shall receive reasonable traveling expenses while on business connected with their duties pursuant to standard

travel regulations of the department of management and budget.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62504 Appeal board; persons entitled to appeal; hearing; right to be heard.**

Sec. 62504. The commission shall act as an appeal board regarding the issuance, denial, suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a permit under this part. If an owner or operator considers an order made by the supervisor of mineral wells to be unduly burdensome, inequitable, or unwarranted, the owner or operator may appeal to the commission or the court for relief as provided in this act, and shall give notice to the supervisor of mineral wells. The chairperson of the commission shall set a date and place to hear the appeal, which may be at any regular meeting or at any special meeting of the commission duly called for that purpose. The supervisor of mineral wells or any person interested in the matter has the right to be heard at such hearing.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62505 Administration and enforcement of part; jurisdiction of supervisor.**

Sec. 62505. The supervisor of mineral wells shall have jurisdiction over the administration and enforcement of this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62506 Prevention of waste; rules; waste; enforcement.**

Sec. 62506. The supervisor of mineral wells shall prevent the wastes defined in and prohibited by this part. Acting directly or through his or her deputy or authorized representative, and following public hearing, the supervisor of mineral wells shall promulgate rules subject to the approval of the department and issue orders and instructions necessary to enforce these rules.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62506a Definitions; drilling multisource commercial hazardous waste disposal well; construction permit required; construction of section.**

Sec. 62506a. (1) As used in this section:

(a) "Hazardous waste", "storage facility", and "treatment facility" have the meanings ascribed to these terms in part 111.

(b) "Multisource commercial hazardous waste disposal well" means a disposal well that receives hazardous waste that is generated by more than 1 person. Multisource commercial hazardous waste disposal well does not include a disposal well that receives hazardous waste generated from a subsidiary of the person that owns or operates a hazardous waste disposal well.

(c) "Person" includes a governmental entity.

(2) Prior to the drilling of a multisource commercial hazardous waste disposal well or the conversion of a well to a multisource commercial hazardous waste disposal well, a person shall have obtained a construction permit for an on-site treatment facility and storage facility under section 11118.

(3) Nothing in the amendatory act that added this section shall be construed to abrogate common law.

**History:** Add. 1996, Act 168, Eff. May 3, 1996.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62507 Emergency orders; issuance; duration.**

Sec. 62507. The supervisor of mineral wells, acting directly or through his or her deputy or authorized representative, may issue emergency orders without a public hearing to implement this part. Emergency orders remain in force and effect for not more than 21 days.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

### **324.62508 Supervisor of mineral wells; powers.**

Sec. 62508. The supervisor of mineral wells, acting directly or through his or her deputy or authorized representative, may do any of the following:

(a) Make inspections and provide for the keeping of records and checking on the accuracy thereof.

(b) Require the locating, drilling, deepening, reworking, reopening, casing, sealing, injecting, mechanical and chemical treating, and plugging of wells subject to this part to be accomplished in a manner that is designed to prevent surface and underground waste.

(c) Designate after public hearing those areas of the state in which there is no known or potential danger of surface or underground waste from test well drilling and in which permits to drill test wells are not required.

(d) Require on all wells the keeping and filing of logs containing data that are appropriate to the purposes of this part. Logs on brine and test wells shall be held confidential for 10 years after completion and shall not be open to public inspection during that time except by written consent of the owner or operator. Logs for test wells drilled for exploratory purposes shall be held confidential until released by the owner or operator. The logs on all brine and test wells for exploratory purposes shall be opened to public inspection when the owner is no longer an active mineral producer, mineral lease holder, or owner of mineral lands in this state.

(e) Require on storage and waste disposal wells, when specified by the supervisor of mineral wells, the keeping and filing of drillers' logs and sample logs, the running and filing of electrical and radioactivity logs, and the keeping and filing of drill cuttings, cores, water samples, pilot injection test records, operating records, and other reports.

(f) Release to the department or the commission, for meetings and hearings, only data described in this section that are necessary to the administration of this part in the prevention or correction of surface or underground waste.

(g) Order through written notice the immediate suspension or prompt correction of any operation, condition, or practice found to exist that is causing, resulting in, or threatening to cause or result in surface or underground waste.

(h) Require the filing of an adequate surety or security bond and provide for the release of that surety or security bond.

(i) Qualify persons for blanket permits.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

### **324.62509 Drilling or conversion permits; application; bond; permit not required; blanket permit; confidentiality of information, records, logs, and reports; fees.**

Sec. 62509. (1) A person shall not drill or begin the drilling of any brine, storage, or waste disposal well, or convert any well for these uses, and except as authorized by a permit issued by the supervisor of mineral wells pursuant to part 13 and rules promulgated by the supervisor of mineral wells, and unless the person files with the supervisor of mineral wells an approved surety or security bond. The application shall be accompanied by a survey of the well site. The department shall conduct an investigation and inspection before the supervisor of mineral wells issues a permit. A permit shall not be issued to any owner or his or her authorized representative who does not comply with the rules of the supervisor of mineral wells or who is in violation of this part or any rule of the supervisor of mineral wells. Upon completion of the drilling or converting of a well for storage or waste disposal and after necessary testing by the owner to determine that the well can be used for these purposes and in a manner that will not cause surface or underground waste, the supervisor of mineral wells, upon receipt of appropriate evidence, shall approve and regulate the use of the well for storage or waste disposal. These operations shall be pursuant to part 31. The supervisor of mineral wells may schedule a public hearing to consider the need or advisability of permitting the drilling or operating of a storage or waste disposal well, or converting a well for these uses, if the public safety or other interests are involved.

(2) A person shall not drill a test well 50 feet or greater in depth into the bedrock or below the deepest freshwater strata, except as provided in section 62508(c), except as authorized by a permit issued by the supervisor of mineral wells pursuant to part 13 and rules promulgated by the supervisor of mineral wells, and unless the person files with the supervisor of mineral wells an approved surety or security bond. The application shall be accompanied by the fee provided in subsection (6). The department shall conduct an investigation and inspection before the supervisor of mineral wells issues a permit. A permit shall not be issued to any owner or his or her authorized representative who does not comply with the rules of the

supervisor of mineral wells or who is in violation of this part or any rule of the supervisor of mineral wells. A test well that penetrates below the deepest freshwater stratum or is greater than 250 feet in depth is subject to an individual test well permit. A test well that does not penetrate below the deepest freshwater stratum and is 250 feet or less in depth is subject to a blanket test well permit. This subsection does not apply to a test well regulated under part 111 or part 115, or a water well regulated under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

(3) A permit is not required to drill a test well in those areas of the state where rocks of Precambrian age directly underlie unconsolidated surface deposits or in those areas that have been designated pursuant to section 62508(c). However, within 2 years after completion of the drilling of the well, the owner shall advise the supervisor of mineral wells of the location of the well and file with the supervisor of mineral wells the log required under section 62508(d). The provisions of this part pertaining to the prevention and correction of surface and underground waste have the same application to these test wells as to other wells defined in this part.

(4) Upon request, the supervisor of mineral wells may issue to qualified persons a blanket permit to drill within a county test wells which will not penetrate below the deepest freshwater stratum and are 250 feet or less in depth.

(5) All information and records pertaining to the application for and issuance of permits for wells subject to this part shall be held confidential in the same manner as provided for logs and reports on these wells.

(6) A permit application submitted under this section shall be accompanied by the following permit application fee:

- (a) Disposal well for disposal of waste products other than processed brine..... \$ 2,500.00.
- (b) Disposal well for disposal of processed brine..... \$ 500.00.
- (c) Storage well..... \$ 500.00.
- (d) Natural brine production well..... \$ 500.00.
- (e) Artificial brine production well..... \$ 500.00.
- (f) Individual test well under subsection (2)..... \$ 500.00.
- (g) Blanket permit for test wells drilled pursuant to subsection (4):
  - (i) 1 to 24 wells..... \$ 75.00.
  - (ii) 25 to 49 wells..... \$ 150.00.
  - (iii) 50 to 75 wells..... \$ 300.00.
  - (iv) 75 to 200 wells..... \$ 600.00.

(7) The supervisor of mineral wells shall deposit all permit application fees collected under this section into the fund.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 467, Imd. Eff. Jan. 4, 1999;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62509a Mineral well regulatory fee.**

Sec. 62509a. (1) The owner or operator of a well regulated under this part is subject to the following annual mineral well regulatory fee. The fee shall apply to any mineral well that is usable for its permitted purpose, or has not been properly plugged in accordance with the requirements of this part and rules promulgated under this part, at the time the fee is due:

- (a) For a disposal well for disposal of waste products other than processed brine..... \$2,500.00
- (b) For a disposal well for disposal or processed brine..... \$ 500.00
- (c) For a storage well..... \$ 500.00
- (d) For a natural brine production well..... \$ 500.00
- (e) For an artificial brine production well.. \$ 500.00
- (f) For an individual test well..... \$ 500.00

(g)	For a blanket permit for test wells:
(i)	1 to 24 wells..... \$ 75.00
(ii)	25 to 49 wells..... \$ 150.00
(iii)	50 to 75 wells..... \$ 300.00
(iv)	75 to 200 wells..... \$ 600.00

(2) Mineral well regulatory fees shall be submitted to the department in the manner required by the department along with any documentation required by the department.

(3) The department shall forward all mineral well regulatory fees collected under this section to the state treasury for deposit in the fund.

**History:** Add. 1998, Act 467, Imd. Eff. Jan. 4, 1999.

**Compiler's note:** In subsection (1)(b), the phrase "For a disposal well for disposal or processed brine" should evidently read "For a disposal well for disposal of processed brine."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62509b Mineral well regulatory fund.**

Sec. 62509b. (1) The mineral well regulatory fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to implement and enforce this part.

**History:** Add. 1998, Act 467, Imd. Eff. Jan. 4, 1999.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62510 Enforcement of part and rules; jurisdiction of court; representation by attorney general.**

Sec. 62510. The supervisor of mineral wells may bring proceedings for the enforcement of this part and rules promulgated under this part in the circuit court of Ingham county or in the circuit court of the county in which a violation is alleged to have occurred. The attorney general shall represent the supervisor of mineral wells in all actions brought under this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62511 Suits against supervisor, commission, agent or employee; jurisdiction of Ingham county circuit court.**

Sec. 62511. The circuit court of Ingham county has exclusive jurisdiction of all suits brought against the supervisor of mineral wells or commission, or their agents or employees, by or on account of any matter or thing arising under this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62512 Hearing; notice of time, place, and issues; service in form of notice by registered mail; responsibility for publication of notice and payment.**

Sec. 62512. (1) The jurisdictional requirement of notice of time, place, and issues involved in a hearing required by this part shall be given in the manner prescribed by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, and by publication once each week for 2 weeks consecutively in a newspaper of general circulation in the area where a specific matter of concern is located, with the last date of publication at least 3 days before the date set for hearing.

(2) If a list of interested persons is a part of the petition for hearing, or if the name of an interested person is on record with the supervisor of mineral wells, service in the form of notice by registered mail shall be made by the petitioner to the interested person.

(3) The publishing of a notice of hearing and payment for the publishing are the responsibility of the petitioner. The supervisor of mineral wells is responsible for the publishing and payment for the publishing on a hearing initiated by the supervisor of mineral wells.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62513 Persons authorized to conduct hearings and investigations; acts by supervisor's deputy or representative; effect.**

Sec. 62513. All hearings and other actions pertaining to these hearings or investigations may be conducted by the supervisor of mineral wells or the supervisor's deputy or authorized representative, and all acts of the deputy or authorized representative have the same force and effect as if done by the supervisor of mineral wells.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62514 Supervisor of mineral wells; power to summon witnesses, administer oaths, require production of documents; noncompliance; contempt.**

Sec. 62514. (1) The supervisor of mineral wells may summon witnesses, administer oaths, and, when necessary to carry out the provisions of this part, require the production of appropriate records, books, and documents.

(2) Upon failure or refusal of any person to comply with a subpoena issued by the supervisor of mineral wells, or upon the refusal of any witness to testify as to any matter on which he or she may be interrogated as being pertinent to the hearing or investigation, the person or witness may be subject to a court order compelling him or her to comply with such subpoena, and to appear before the supervisor of mineral wells and produce the records, books, and documents for examination and to testify. The court may punish for contempt or for refusal to testify.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62515 Failure to case, seal, operate, repair, or plug wells; notice; expense of repair or correction; collection.**

Sec. 62515. Whenever the supervisor of mineral wells or the supervisor's deputy or authorized representative determines that an owner or operator has failed or neglected to case, seal, operate, repair, or plug a well pursuant to this part or the rules promulgated or orders issued under this part, notice of the determination shall be given to the owner or operator and to the surety executing the bond filed by the owner or operator. If the owner or operator, or surety, fails to correct the specified conditions pursuant to the rule or order of the supervisor of mineral wells within 60 days after service of notice, the supervisor of mineral wells may enter into or upon any private or public property on which the well is located, and across any private or public property to reach the well, and repair or correct the specified condition, and the owner, operator, and surety are jointly and severally liable for all expenses incurred. The supervisor of mineral wells shall certify to the owner, operator, and surety the claim of the state, listing in the claim the items of expense in making the repair or correction. The claims shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time, the supervisor of mineral wells may bring suit in the circuit court of Ingham county against the owner, operator, and surety, jointly and severally, for the collection.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62516 Prohibited acts.**

Sec. 62516. A person shall not do any of the following:

- (a) Willfully violate any provision of this part or any rule or order of the supervisor of mineral wells.
- (b) Drill or convert any well subject to this part without first obtaining a permit or operate a storage or waste disposal well without approval as provided in this part.

(c) Do any of the following for the purpose of evading or violating this part or any rule promulgated or order issued under this part:

(i) Make false entry or statement in any required report or record.

(ii) Omit or cause to be omitted from any required report or record full, true, and correct entries as required by this part.

(iii) Remove from this state or destroy, mutilate, alter, or falsify any report or record required by this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62517 Violations; penalties.**

Sec. 62517. A person who violates this part is subject to a fine of not more than \$1,000.00, and each day that the violation continues constitutes a separate offense. The penalty shall be recovered by suit brought by the supervisor of mineral wells. A person aiding in a violation of this part or a rule promulgated under this part is subject to the same penalties as prescribed in this section.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.62518 Construction of part.**

Sec. 62518. This part does not apply to wells drilled under the authority of part 41 or part 615. This part does not supersede or contravene any of the provisions of part 81.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA