

4-1-2002

# A Background History of Directional Drilling in Michigan

Christine A. Klein

*University of Florida Levin College of Law*, [kleinc@law.ufl.edu](mailto:kleinc@law.ufl.edu)

Follow this and additional works at: <http://scholarship.law.ufl.edu/facultypub>

 Part of the [Environmental Law Commons](#), and the [Oil, Gas, and Mineral Law Commons](#)

---

## Recommended Citation

Christine A. Klein, *A Background History of Directional Drilling in Michigan*, 2002 Mich. St. L. Rev. 173 (2002), available at <http://scholarship.law.ufl.edu/facultypub/4>

This Article is brought to you for free and open access by the Faculty Scholarship at UF Law Scholarship Repository. It has been accepted for inclusion in Faculty Publications by an authorized administrator of UF Law Scholarship Repository. For more information, please contact [outler@law.ufl.edu](mailto:outler@law.ufl.edu).

# A BACKGROUND HISTORY OF DIRECTIONAL DRILLING IN MICHIGAN

*Christine A. Klein\**

2002 L. REV. M.S.U.-D.C.L. 173

Thank you, Dean Blackburn. The students have instructed me that I should simply present a brief introduction of our speakers, let them talk, and then try to stir up some trouble. So, I present two general questions: First, what is directional drilling? Second, why should we care? According to a Michigan Department of Natural Resources (DNR) website,<sup>1</sup> directional drilling is drilling for oil and gas from wells that originate on the land from locations above and inland of the ordinary high water mark of the lakes. These well heads can be anywhere from approximately 1500 feet to one mile away from the lakeshore. The wells generally slant to thousands of feet beneath the Great Lakes, hence the other name for this type of drilling – slant drilling or directional drilling.

Here is a little bit of the history of directional drilling in Michigan. In 1945, the first lease was issued for drilling in Bay County. Today, there are seven producing directional wells in the state of Michigan. Currently, the wells produce about 26,000 barrels of oil annually. In 1997, things started to get interesting when Governor John Engler issued a temporary moratorium against the issuance of additional well-drilling permits pending study by the Michigan Environmental Science Board (MESB) of the ramifications of directional drilling. Since that time, the state legislature has debated whether or not to enact a permanent ban on drilling. Of course, such legislation would be susceptible to a veto by the governor of the state.

At the federal level, on November 1, 2000, there was a vote on a conference report for House Bill 2311, as part of an energy and water appropriations act for fiscal year 2002. I will quote the language that is buried in this appropriations bill passed just last week at the conference level. The language says, “during the fiscal years 2002 and 2003, no Federal or State permit or lease shall be issued for new oil and gas slant, directional or offshore drilling in or under one or more of the Great Lakes.”<sup>2</sup> It is my understanding that that conference report went to the Senate for a vote and to President Bush on November 2, 2001.

---

\* Professor of Law, Michigan State University–Detroit College of Law. Professor Klein teaches Property, Natural Resources, Water Law and Wetlands Law.

1. See Michigan Department of Natural Resources, DNR Forms Workgroup to Review State Oil and Gas Leasing Procedures (Mar. 6, 2001), at <http://www.dnr.state.mi.us/PressReleaseDetail.asp?ReleaseID=3185&LinkID=31&sec=main&imageid=3>.

2. H.R. 2311, 107th Cong. § 503 (2001).

Thus, we have activity at both the federal and state levels, which leads us to our second question: Why should we care about directional drilling? A lot of people care, both at the federal and state levels. Many politicians have weighed in on this issue of whether or not directional drilling should be permitted. It is my understanding that all of the state gubernatorial candidates – both Republican and Democratic – have spoken against drilling.

Beyond state politics, an interesting legal debate has begun over whether the federal or state government has primary regulatory authority over this amphibious sort of drilling, which starts on the land but ends up under the Great Lakes. In 1997, the federal Army Corps of Engineers weighed in to this debate when it sent a letter to an energy company that sought a permit for drilling. The Corps claimed that it had final authority to determine whether or not a permit should be granted. In response to this federal move, a spokesperson for the State of Michigan Department of Environmental Quality (DEQ) recalls, “We told (the Corps) what to do with its letter. This is not a federal issue. It has no impact on the water. The Corps has no authority here.”<sup>3</sup> I think that example provides insight into the tenor of the debate and the anger on both sides as to whether or not drilling should be allowed and whether the federal or state government should have the final say.

Finally, before I introduce our speakers, let me add a spark to the debate. Here is a copy of full-page newspaper advertisement sponsored by opponents of directional drilling, entitled *Oil and Water Don't Mix*. The ad depicts a little girl at the beach. Looming in the background is an artist's depiction of two large oil wells.<sup>4</sup> Supporters of directional drilling have condemned this ad as inflammatory and misleading. In contrast, those who oppose drilling claim that this ad accurately captures the incongruity of permitting oil wells in close proximity to tourist sites and coastal resources. So, I will start the debate with this picture and let our speakers respond as they will.

Now, I would like to give a brief introduction of our speakers. First, we will hear from Mr. Harold Fitch, Chief of the Geological Survey Commission and the Assistant Supervisor of Wells for the Michigan Department of Environmental Quality. He was appointed as Chief in 1996. In his capacity as assistant supervisor of wells, Mr. Fitch is responsible for oversight of Michigan's oil and gas exploration and production industry. He grew up in Michigan. He has a B.S. in geology from the Michigan Technological Institute, and he began his career with the U.S. Geological Survey in Denver,

---

3. George Weeks, *Lakes' Drilling Ban Draws GOP Support*, DET. NEWS, July 1, 2001, at <http://detnews.com/2001/editorial/0107/02/a16-242134.htm> (quoting Ken Silfven of the DEQ).

4. See APPENDIX (advertisement produced by the Michigan Environmental Council in opposition to directional drilling in Michigan).

where he worked for two years. Then he returned to his home state and joined the Michigan Geological Survey Division (GSD). He has been with the GSD since that time, except for a two year interval where he did some graduate work in hydrology at the University of Arizona.

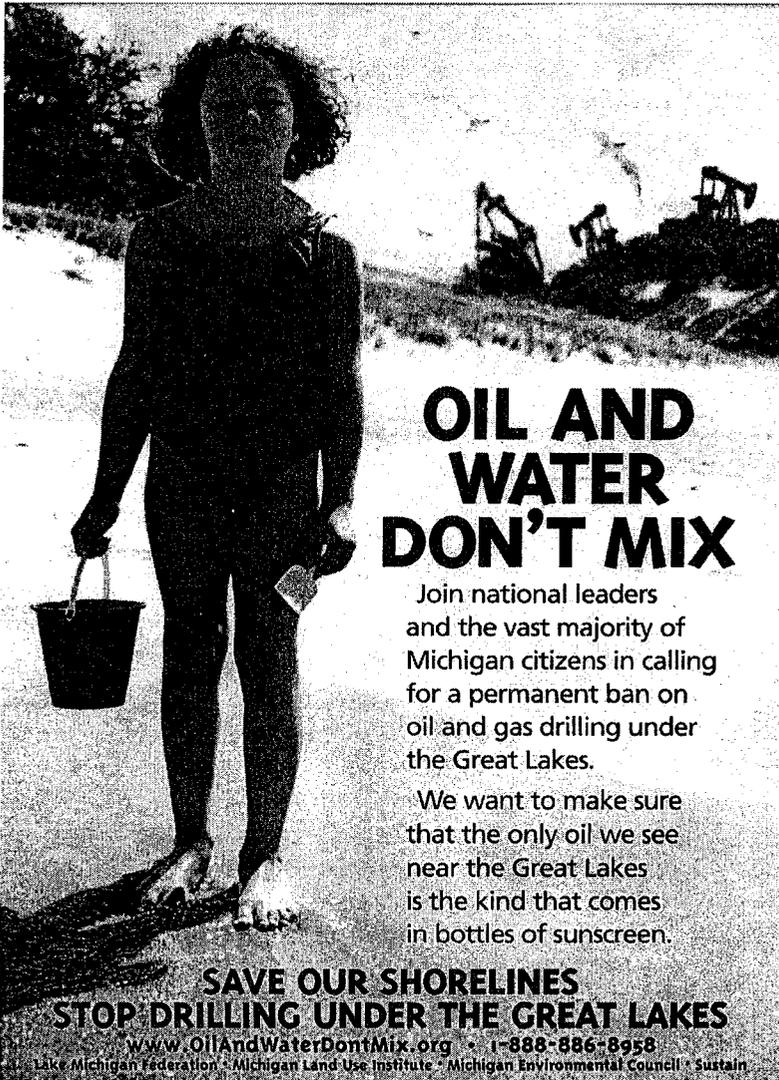
Mr. James Clift will be our second speaker. He is the Policy Director for the Michigan Environmental Council and is a 1985 graduate of Wayne State University Law School. He worked for the Michigan Senate Democratic Office as an environmental policy analyst and policy director for nine years. For the past two and a half years, he has been employed as a policy director for the Michigan Environmental Council (MEC), which is a coalition of over fifty environmental public health organizations of more than 170,000 individual members. MEC currently is fighting sprawl, protecting Michigan's water, lowering threats to children's health and promoting sustainable business practices.

Our third speaker is Mr. Daniel Pulter of the Loomis firm in Lansing. In 1981, he received a B.S. in geology from Michigan State University. Upon graduation, he was employed as a petroleum geologist with Gulf Oil. In 1984, he received an MBA in finance, with honors, from Oklahoma City University and in 1987, he received a law degree from that same institution. He was in private practice in Oklahoma for nine years. In 1997, he returned to Michigan to his current Lansing law firm where he practices oil and gas law.

Finally, our fourth speaker, will be Ms. Tanya Cabala of the Lake Michigan Federation. She is the coordinator of the Land and Water Conservation Program and the Michigan Director. She joined the Federation in 1991 and has worked on a variety of issues, including land use planning and protection of the Lake Michigan watershed. She is the author of the book *Lake Michigan's Vanishing Sand Dunes: Threats from Mining* and is considered to be one of the foremost experts on Great Lakes sand dunes in the United States.

Now, please welcome Harold Fitch.

## APPENDIX



**OIL AND  
WATER  
DON'T MIX**

Join national leaders  
and the vast majority of  
Michigan citizens in calling  
for a permanent ban on  
oil and gas drilling under  
the Great Lakes.

We want to make sure  
that the only oil we see  
near the Great Lakes  
is the kind that comes  
in bottles of sunscreen.

**SAVE OUR SHORELINES  
STOP DRILLING UNDER THE GREAT LAKES**

[www.OilAndWaterDontMix.org](http://www.OilAndWaterDontMix.org) • 1-888-886-8958

Lake Michigan Federation • Michigan Land Use Institute • Michigan Environmental Council • Sustain