MR. RICK SAHLI: Good afternoon. We are now going to start our second session of discussing the pre-tribunal reports from the state of Ohio and the reports that we submitted in December of last year.

For this afternoon's agenda I have submitted, for the record before the tribunal in this matter, three different witness statements that I recorded slightly after the statements were made in the tribunal. They are three fairly different in subject matter approaches so we can cover as much as possible of the problems we're encountering here in Ohio.

The first video, each of them will be slightly less than 15 minutes long, would be from a young woman named Annie Burke. Annie lives beside a 30-year old injection well in Athens County that has a horrible record of noncompliance going back decades and yet it somehow still finds itself operating in our modern age taking out of state fracking waste into Annie's community.

Second will be from a professor in geology, TREMAINE & CLEMENS, INC. EUGENE, OREGON (541)343-8833
Ray Beiersdorfer, he's from the Youngstown State University. Ray's introduction came to him quickly one morning in the midst of an earthquake caused by an injection well close to his home.

As a professor in geology he began to study the problems of earthquakes and fracking in Ohio and has a lot to say about what he's uncovered.

The third statement will be from a woman whose name is Teresa Mills. Teresa is in Columbus and she works in the grassroots organization in Ohio called the Buckeye Environmental Network served to work with local groups and she's worked with local groups all over the state of Ohio, particularly in getting them information about fracking in their communities. She knows a lot about the public participation problems we've had.

So without any more further ado I am going to put up the statement of Annie Burke.

MR. RICK SAHLI: Good morning. I am here today with Annie Burke who is going to give some testimony about what her life's been in the State of Ohio dealing with the problems of fracking.

And can we start off can you please give us your full name?

A. My name is Annie Burke.

Q. And where do you live, Annie?
A. I live in Hockingport, Ohio. It's in Athens County, Ohio which is where I have grown up, as well as my parents. And it's only less than three miles from a very close injection well site.

Q. And what do you do for a living Annie? What is your profession?

A. I'm a registered nurse.

Q. Going back to the People's Tribunal that we had here in Ohio you spoke, at some length, about the Ginsburg injection well. Can you describe this well for us and give its history?

A. Yes. I actually had not realized that this well existed in our area until I joined and I was talking with other members and when I first saw it I was just appalled at what I was seeing. It was just this big open pit that looks disgusting and smells disgusting. I just can't believe that that is considered a protected area that is supposed to contain toxins for our environment.

And this well is here in Athens County in Alexandra Township and, as I said, it's open to any kind of animals. There is a fence around it but it does not look that secure to where animals could fall into it or come drink out of it. I don't understand how it's not putting toxins into the air.
It also it's really old. It's a converted well. And I believe it to be, and we have seen from the public records, that it's been in violation many times of the few standards that govern these types of well in Ohio.

Q. What do you mean by it's a converted well?
A. It's an old oil and gas well that they now use to store and inject fracking waste.

Q. And does a converted well have to meet the same standards as a new well?
A. My understanding is that the old well is a converted well and was kind of grandfathered in so they don't exactly have the same standards, which I find appalling because based on the same potential for contamination.

Just because this is an old site that somehow has been allowed to be used doesn't mean that it couldn't also release things out into the air and water.

Q. You said that this waste is fully open. It is exposed to the weather? Every time it rains does it fill with water?
A. Yes. It would be exposed to rain, evaporation, wind, all of that would effect it because it's open.

It's also very close to a road. It is out in
the country, driveways. There are a lot of people that
live nearby. There is a sheep farm down the road.
Passerbys. There is people visiting it to see what it
is experience a burning sensation in their eyes, nausea.
The smell, it's got a foul smell.
It's definitely a problem in our area.
Q. You mentioned that this well has a history of
violations.
A. Yes. Like I said it's been operating for over
30-years and many residents of Athens County have
reported concerns about their drinking water supply, the
air that they're breathing.

And there are reports that a person can access
on the Ohio Department of Natural Resources web site. I
am registered nurse and I'm used to reading lab reports
and determining that they look like they're accessible
for the patient or that kind of thing. And I find these
reports and a lot of the tests that are done to be very
hard to decipher, kind of intimidating.

So I'm kind of off the question a little bit
but I also think that is a problem that they say, well,
everything is publicly accessible but (1) you have to
have a special computer program, and it's not
inexpensive.

You have to be able to figure out how to
access, which is not easy. I had to take a day of
training to figure out. And you actually have to have
the right program that is expensive.

And, in addition to the fact, that residents
of Athens County many of them do not have a computer or
access to the internet. So I feel that that is a
problem as to how they're getting by with things in an
area that is considered more disadvantaged from a
socio-economic standpoint.

So, anyway, we have looked at some of the
reports and we have seen the mentioning of violations.
And there is one rule that if a well that is inoperable
for a certain length of time that it should be entirely
closed and plugged and is no longer accessible for us,
which we had tried to get that to occur because this
well was inoperable for many months. There was
continuous reporting and could not be used because of a
faulty pump.

So we wrote senators. We did a protest. We
sent letters. And they just put a new pump in there,
which it should have already been closed. That
shouldn't have happened. So these are band-aid solutions
to fix a bigger problem and tried to work around a
technicality. Like I said these reports are very
upsetting but we do read them.

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Here's one. In 2016 when the well was listed as not operational and had a faulty pump suddenly 60 barrels of waste were added to the volume tables, which was not consistent with what should have been occurring since it wasn't being used. It doesn't seem to correspond with the rainfall during that time. There is really no explanation to it.

And then according to the Athens Messenger newspaper the ODNR spokesperson stated that 60 barrels of waste were injected to the prior to the pump malfunction. We could not find a record of this.

In my mind it was one of two things. Either there's lying and using it or somebody made a mistake and because they were showing a lack of attention to detail in their reporting of it, either of these frighten me.

I don't want those supposedly safeguarding me but then lying about what is actually occurring at these sites. Nor do I want people monitoring sites that can't pay attention to dates and numbers and keep track of what's going on. I don't trust any of that if they can't explain to me what happened and why did that increased volume occur.

The ODNR said that they are there to protect us and the environment and the community but I don't see
how that's occurring, especially at that site.

Q. When you mentioned there was a long period of malfunction I think you referenced the role of the Ohio Department of Natural Resources that if a well is not functioning for 60 days they are required to shut it down. And not only shut it down but also actually plug the well so it can't be used again.

Was it not operable for more than 60 days?

A. Yes. I believe it was since October of 2015 and they put the new pump in last fall. So that's over a year.

I'm not sure if they're actually really using it even now but they technically could if there's a new pump.

Q. I think you are also concerned, from your testimony before the Ohio Tribunal, about there being leaks at the site and the potential for contamination.

A. Yes. The whole point of these wells is to contain this fluid and, hopefully, protect us.

And there was an inspection report that we found on November 19th of 2015 and it stated that the 5-foot dumpster located next to the entrance to the unloading pad had large holes in the bottom. And this is the dumpster that is used to dispose of the brine.
filters which contain a lot of the contaminant.

The report itself stated that that area behind the dumpster is contaminated. The contaminated soil must be removed and taken to an EPA landfill.

We looked at all of the reports for the next several months and there would be a time when an inspector would say still has -- everything is still in place. Nothing has been removed. And a couple of times they didn't mention it. So it went several months before there was any clean up.

And then when it was finally noted that, obviously, a clean up had occurred the inspector could not give an answer about which USA EPA approved landfill it had been taken to.

So we don't know for sure where it went or if it went to appropriate place. Obviously it was stuff that was there. It was contaminated soil for quite some time. So all of that area would be contaminated.

And they did do stuff with the soil around it but it was so much later who knows what the rain and the run-off and where the contaminants would have gone into to air or into the ground during these months of nobody being held accountable for what little role that we do have.

Q. Now you said you were able to access the ODNR TREMAINE & CLEMENS, INC. EUGENE, OREGON (541)343-8833
records. Was there any record governing this supposed

A. All I ever saw was the inspector stated that
   he could see that something had been done, dumpster
   removed. There was -- looked like the soil was fresh
   soil but, as I said, it was several months after the
   first time, which that is like locking the barn door
   after the cow gets out.

Q. And there were no details that were ever
   presented by ODNR about the nature of the clean up.

   Now you talked about this dumpster holding
   brine filters. What is a brine filter and should we be
   concerned about brine filters?

A. Well, just like any kind of filter it's very
   important to the mechanisms. And if you just think
   about how, you know, your vacuum filter catches things,
   objects and particles of stuff that goes through, that's
   what a brine filter would do.

   And we believe that -- as we believe that the
   fluid in these injection wells is hazardous, contains
   contaminants, there would be contaminants trapped in the
   filter.

Q. Now you talk about contaminants. Is there any
   particular contaminant that worries you?

A. I'm very concerned about several different
ones. There have been a lot of -- there have been
articles saying that there are different contaminants
found in fracking waste that alter -- the endocrine
disrupters which causes the cancers and birth defects.
It's also possible that they're radioactive which we
know is a problem.

I believe brine filters are radioactive and
we're just allowing them to just lay out sometimes, you
know, in a broken dumpster with just holes in the bottom
of it.

And people around the area aren't being told
that and so anybody walking by or taking a Sunday walk
is being exposed to this radiation.

I really think that is what another big
injustice is being perpetrated on in our county. There
is all these rules protecting these companies but they
need to protect their copyright fluid solution or
whatever but we're the ones that have to live it. We're
the ones who are breathing the air. We're the ones
drinking the water. We're the ones who have seen our
family members die of cancer from other contaminants and
now we're just holding our breath for them to start
saying what's causing the next wave because we're out
there being exposed.

These companies are being protected but we are
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not. We are not allowed to know for sure what is in things. We find things out. There are ways that we find out a little bit. And there have been studies of certain things people get a hold of but there's all this hush-hush to protect these companies.

They don't need to be protected. My family needs to be protected.

Q. Do the brine filters and the concern for radiation that the ODNR records show any testing that was done for radioactive contamination?
A. No, not that I'm aware of. No, which I feel is pretty standard. I don't know of them doing those types of testing.

Q. What about the overall monitoring of the site, is there any monitoring for water pollution or for air pollution?
A. Well, interestingly, they were originally when this was turned into a well for fracking waste there was -- it was discussed and part of the permit was that they would put in a fresh water monitoring well so there could be testing and comparisons made about contamination.

There is no well access at that site and there's never going to be one because that is an extra expense. And they haven't had it at all at this time.
why would they do it now. No one is making them do it.

And it just feels like another example of how our government, our own ODNR, is not protecting us. They are not taking the effort to make sure that there are safeguards in place.

I don't want these wells here but right now we have them and so it angers and saddens me that even though we have a few rules and a few things we could do to try and help mitigate the problem those aren't even happening.

It makes me feel like my community isn't that important in the eyes of the ones who are making these decisions.

Q. So the permit requires a groundwater monitoring well that's not present. The facility was allowed to operate long after it was required to be plugged. It had a requirement that there be a clean up but the clean up was never documented in any way. That must give you a lot of concern about where the loyalties of the Department of Natural Resources are.

Did you try to speak to them about these problems and what type of response did you get?

A. No response. Yes, I actually was very active and I really thought that with the pump not being operable we could get the leaks to this well shutdown.
and closed off or maybe at least help in one area.

We sent new letters to the editor, newspapers. We wrote our senators. We contacted the ODNR. We did all of this and the only thing that happened was that this pump showed up which we weren't notified.

I called my political representatives myself and left my phone number and e-mail and I never hear anything back.

MR. RICK SAHLI: Well, Annie, thanks for your testimony today. Is there anything else that you would like the world to know about the situation here in -- so that's the end of the first video.

Now we are going to do the video of Dr. Beiersdorfer who is an expert geologist and Dr. Beiersdorfer's video is going to start off and the audio might be a little bit soft but it will, I think, soon pick up for you.

DR. RAY BEIERSDORFER: My name is Dr. Ray Beiersdorfer.

Q. (By Mr. Rick Sahli) And what city do you live in doctor?

A. I live in Youngstown, Ohio.

Q. What are your professional credentials.

A. I have three degrees in Geology; a bachelor's
degree, a master's and a PhD in Geology. And for the past -- this is my 25th year I have been a faculty member at Youngstown State University where my current rank is Distinguished Professor of Geology.

Q. How did you first get involved with fracking in Ohio, Professor?

A. I became aware of it due to it happening in other places. I worked in the oil and gas industry between my master's and PhD so I knew about fracking back in the 80's which was quite different from what's been happening now.

My real awareness stemmed from the injection well that started earthquakes in 2011. In fact that would have been seven years ago on St. Patrick's Day. March 17th of 2011 I was sitting home at my computer and I felt an earthquake. And in fact there were two that morning. And then I became aware that they were related to the injection well which was taking the fracking waste. And so that's how I became aware.

Q. Well, how has the overall level of earthquake activity changed in Ohio since fracking and injection wells began to operate?

A. Yeah, from about Revolutionary War time until say 2011, 2010, there have been about 120 earthquakes in Ohio. Most of them were out in western Ohio near Anna.
There was some up near the Great Lakes and the Cleveland area. Some of those were due to human activity from a Class I injection well and then sporadic earthquakes along the Ohio River. But, again, about 120.

We now have, I would estimate, counting the small ones, close to 2,000 earthquakes in this eight year period mostly focused in eastern Ohio in counties like where I live, Mahoney County, Trumbel County where we are now, that never had a historical record of earthquakes now have had hundreds of earthquakes.

Q. Doctor, you testified at some length during the Citizens Tribunal about the North Star 1 injection well in Mahoney County.

What occurred there that concerns you?

A. Well, they drilled that well in 2010 and I actually first became aware of it but actually, in the summer of 2010 when they were drilling it, because they hit a gas pocket and I woke up in the middle of the night gasping for air. There had been a small blow out and people were not aware of this.

The police were driving around thinking there was a gas leak, knocking on peoples doors. And it turned out that it was that well.

They started injecting that December and small earthquakes started that January. Again, it wasn't
until March that we felt it. We then continued to have sporadic large earthquakes.

In fact we had eight and a half months of, you know, noticeable earthquakes that were felt and that were reported and -- but what woke me up was that the ODNR our, Ohio Department of Natural Resources was, at that point, was denying any connection between these earthquakes in close proximity to this well and the well.

And my 80-year old neighbor saw the connection. My freshman students saw the connection. Yet our state regulators were denying that there was any connection. They continued.

There was an earthquake on December 24th, Christmas Eve, and fortunately the Columbia University which, at ODNR's request, put up four portable seismometers. They were able to figure out exactly where the focus or hydrocenter was, close proximity to the bottom of the well. They shut the well down on December 30th. And the next day, New Year's Eve around 3:30 in the afternoon, there was a magnitude 4.0, which caused localized damage. After that the earthquakes continued and at least 566 earthquakes from that well.

That well should have been shutdown within 60-
in 2018, seven years, six years after, and they still
haven't plugged that well down.

Q. So what did ODNR do, the state regulator,
about these earthquakes? And has what they've done
been, in any way, effective?

A. Well, they've gotten worse. We've continued
to have earthquakes. And so that was 2011 during that
year.

In 2014 we had two issues. We had a well --
a fracking well in Poland, Ohio, southeast of
Youngstown, that started to have earthquakes. They had
77 earthquakes on a fault that was three football fields
in length, 300 meters in length, which ODNR then called
a microfault. A microfault is something you need a
microscope to see.

Yet this thing was 300 meters in length, 77
earthquakes, and they had admitted that it was due to
fracking and that wound up getting a lot of
international and national attention because supposedly
this was the first place in the United States where
fracking had caused the earthquakes. Turned out that
wasn't true.

It turned out in the prior year, in 2013,
October of 2013, there had been over 400 earthquakes in
Harrison County in southern Ohio due to fracking.
kept that secret. None of them were big enough to get on the regional US Geological Survey Network and let the world know about them.

But the paper that finally was published and came out said that ODNR had deployed their portable seismometers to this site, meaning they knew about it, yet they kept it secret. They didn't put it on their web site.

Their rules. If it's a felt earthquake or it's a magnitude 2.0 or larger it should be on their web site for recent events. They kept it off their web site. Eventually they did put it on after the publication had come out and I nagged them via e-mail why isn't this on? Why isn't this on?

Also after the Poland earthquakes they had announced that any new fracking permits within three miles of a known fault were going to have special permit regulations and/or requirements.

I've gone subsequently and found wells that were permitted within a mile of a known fault and they had no special permit restrictions on them. I actually got, from the head of oil and gas at ODNR, Rick Simmers, in writing that they were not even following their own rules. And so that has continued.

There's now at least a half a dozen fracking
sites down in southern Ohio in Harrison County that have caused earthquakes. I doubt very much -- I haven't yet gone and checked -- but I doubt very much if they even have any of these special permit conditions.

We also here in Trumbull County in 2014 we had a well that they drilled 2.9 miles from a high risk dam, the reservoir for the drinking water supply for up to, I think, 400,000 people, including my own water supply, they put that in. They drilled two wells.

They had started having earthquakes there.

Again, ODNR kept them secret until one was large enough to get on the -- so the regional network and let the world know about it and that one wound up causing 108 earthquakes under -- on two different faults.

And I just recently -- a pre-publication came out this very week about earthquakes due to injection wells -- an injection well in Washington County in southeastern, near Marietta, that had caused over 300. I think about 318 earthquakes in a complicated series of several faults.

So things have not gotten better. Just the more that we're finding out about it we're realizing how bad it actually is.

Q. Has the Department of Natural Resources ever prepared a study or given any comprehensive report to
the people of the state about this problem?

               A. They -- after the Youngstown earthquakes, so
that was the first -- you know, papers -- let me back
that up.

                The Ashtabula Class I injection well there was
some publications, not by the state to my knowledge, but
by scientists from Lamont-Doherty Earth Observatory. So
there was some publications about that injection well.

                After the Youngstown they prepared a rather
lengthy preliminary report. They never did a final
report. And then the next one were public.

                After the Poland earthquakes all they did was
a press release. I contacted them and said after the
Youngstown you did a report. Is there going to be a
report?

                They said no. It was just -- there was just
the press release. I had to do a public records request
to get more further information about that because they
were not going to be forthcoming.

                Just last year there was a -- just a notice
that a well had been shutdown because of seismic
activity. Nothing other than a statement.

                I contacted ODNR and I wanted the well number,
the API number for the well. They wouldn't even give me
that.
So it's gotten worse. From preliminary report to a press release and now just a statement and they won't even tell you which well it is.

I suspect they didn't tell me which well it was because I was going to go back and look at permit conditions and see that, again, they were violating their own rules from April of 2014.

Q. The report, the preliminary report that you mentioned, can I go on-line today and look at that data and try to find at least what the state has tried to put together about it?

A. Yeah, it was available on-line. I haven't checked recently. And so I think I checked last summer and it still wasn't available but I haven't checked if it was available.

I would imagine it is unless they scrubbed it from their web site.

Q. Well, could you please sum up for me, Professor, your opinion on what the Department of Natural Resources record has been on fracking regulation?

A. I think it's been very poor particularly with these induced earthquakes. They are not doing their due diligence. They are going ahead and requiring the operators to prove that there is no fault.
We know now that there is a series of faults deep in the basement in here, in the geologic basement, 9,000 feet below the surface. They are not requiring -- they're allowing the companies just to go right ahead and monitor things. I believe in the proportionary principle, especially after.

There is some evidence that this is happening yet they are not doing that and I feel that they have really dropped the ball in terms of protecting public health and safety.

Q. With all this history of earthquakes in northeast Ohio and injection wells and, I guess, other parts of the state with production wells, is ODNR still authorizing injection wells in these areas of known activity, known earthquakes?

A. Well, right here where we're sitting in Brookfield, Ohio they've actually already permitted two, and they have three more that the company has applied for. These poor citizens are going to get five injection wells.

I've looked at what the proposed volumes for that and applied it to a formula from seismologists from the U.S. Geological Survey where, according to their work, there's a relationship between the amount of fluids you pump underground and the energy associated
with those fluids.

And then if there is an earthquake -- again, it's a gamble, if there's a fault there that energy is going to get released. And the calculations, based on the proposed injection volumes from here, they're going to have anywhere -- over a magnitude 5.00 earthquake if there's a fault and if it all gets released in one seismic event.

They're basically doing some sort of perverse science experiment with the citizens of Brookfield, Ohio. So, no, they are not doing their due diligence and they are not protecting public health and safety.

They had a public comments period. I provided them with that information. I have not heard anything back from them and, frankly, I don't expect to hear anything back from them.

MR. RICK SAHLI: That is the second statement from Dr. Beiersdorfer.

Now I would like to show you the third and last statement that I have for you today from Teresa Mills about public participation in Ohio

TERESA MILLS

Q. (By Mr. Sahli) And who do you work for or how is it that you work with these communities?

A. Well I have been an activist, an environmental
activist for 30-years, so I have a lot of experience. I do represent two organizations. Statewide I represent the Buckeye Environmental Network and nationally I work with the Center For Health, Environment and Justice, which is -- was started by Lois Gibbs from Love Canal fame.

Q. You said that you had a large concern about the environmental justice impacts of fracking in Ohio. What is environmental justice and what are those impacts that concern you?

A. To me environmental justice and human rights should go hand-in-hand. Environmental justice is the equal treatment of the population.

No one population should be over-burdened more than another population when it comes to environmental stresses. And there is no bigger stress in the state of Ohio right now than fracking to our local communities.

Q. Well, what are those impacts that effect environmental justice from fracking?

A. Well, what I see not only the health impacts and the psychological impacts that occur with fracking and injection wells but there is a huge human rights violation in the state of Ohio that is being supported by US EPA. And that is there is a total lack of citizen participation in the permitting process, both with the
production wells and the oil and gas wells.

It's a human rights violation to not have a say in what goes on in your own community. What goes on right next door. An injection well or a production well can be 150-feet from a domicile, someone's house. I know earlier people said 1800 feet or 1800 yards. They can be as close as 150 feet.

When it comes to production wells you will not know that there is a production well being proposed for your community unless you see (1) the ravaging of the land preparing for the well pad or (2) all of a sudden a rig shows up in your sky.

Other than that you have no indication that a production well is being proposed. You have no opportunity to comment on any permit and that is for production wells.

Injection wells there is a phony 15-day comment period, a public notice, which is very inadequate. They expect people to be able to read an application. It's not a permit. It's just the application, which is like two or three pages, and be able to make a technical comment on an application.

I want to make a technical comment on a permit, not an application, because by the time the permit is issued there could be changes that I never get
to comment on a permit. All I get to comment on is the application. That is an injustice that is a human rights violation.

Q. You said that the 15-day comment period is ineffective. Why?

A. Typically most citizens would not have the technical expertise to be able to technically comment on a permit. And even if they had had the ability to hire a technical person within 15 days that is not going to happen. And the information in an application does not give the technical person the ability to comment.

And in the permit application there's supposed to be an area of confinement. So there's supposed to be a confining zone.

Q. That's a geologic term.

A. Yes. Sorry. Yes, that's a geological term. But that's not stated in the permit application but there is supposed to be a confinement zone. Okay.

So when I looked at the torched wells, the wells -- the technique wells, I noticed that there was no confinement zone listed. So I called and made an appointment with a geologist from Ohio University and I actually had to do a PowerPoint of what I saw in order to be able to convey it, to convey my concerns to the geologist.
Because what I was seeing was there was no confinement zone, solid confinement zone. And she agreed with me that it was already a fractured confinement zone.

Q. So you've got a complicated geologic situation.

A. Right.

Q. And you're got 15-days to analyze and develop comments.

A. Right. Absolutely.

And as a citizen, you know, not as a technical expert -- most people can't hire technical experts and they don't realize, you know, well let me call the university and see if they've got someone that can at least look at this. You can't do that in 15-days.

Q. And you only have 15-days if you see the legal notice --

A. Absolutely.

Q. -- in the newspaper.

A. Absolutely. If you see the legal notice and you understand what that legal notice is saying then that makes a difference.

Q. Now fracking in Ohio is mostly in the southeastern part of the state. That's where the shale clay is located geologically. It's also pretty
well-known that southeastern Ohio is also considered Appalachian.

A. Right.

Q. And that is an area of significant economic disadvantage compared with much of the rest of the state. Does that factor into your concerns about the environmental justice?

A. It does factor into my concerns a great deal. And one of the reasons is because it factors into my concerns but nobody else's. I mean not -- I'm not talking about citizens but I'm talking about governmental agencies that are supposed to be -- you know, especially federal government that are supposed to be under, you know, Clinton's executive order on environmental justice.

All of these things should be taken into consideration and the state of Ohio does not consider environmental injustice whatsoever.

Q. Have you notified the US EPA and the Environmental Justice Office about your concerns about the disparate impacts on this area?

A. Yes, we did. We notified US EPA several times. We've gone to them asking them to do several things and they've just brushed us off.

So we did take a step and sent a letter to the
Office of Environmental Justice in Washington D.C., a lengthy letter, quoting the laws, quoting where Ohio Department of Natural Resources were in violation of federal laws. And to our great, great disappointment the Office of Environmental Justice also blew us off.

So that is one of the reasons -- we have tried every step that I can think of. I tried all the tricks in my book and I'm just to the point is I don't know what to do any more.

So that was why we initiated the original Ohio Tribunals to give citizens a chance to have their say.

You know, we're not sure what's going to happen with that yet but during the tribunals citizens were crying. And I went out into the hallway and the one lady said, you don't understand. This is the first time I feel that someone really cared and someone listened to me. That is shameful. That is absolutely shameful.

We should not have to, you know, spend our money to hold tribunals when it should be the obligation of the state of Ohio and the federal government to protect us. They should be protecting our right to participation and they should be protecting our right to information. And we have none of that.

Q. Is there any federal law that applies to the
production wells that are being fracked?

A. No, not that I can think of. Because unlike injection wells there is federal laws that production wells I think those are just regulated by the state. And, you know, with the captured agency of the Ohio Department of Natural Resources who are in bed with the petroleum industry, you know, what do they expect. You know, they're going to be -- they know what side their -- what's the saying, they know what side their bread is buttered on.

Q. I know that saying.

A. So they're not going to go against anything that the oil and gas industry wants and the citizens are the ones to suffer.

Q. You said that there's a federal oversight layer that at least addresses injection wells.

A. Right.

Q. Now I assume with all of the explosion in fracking in the last few years there's been a lot of activities and changes and improvements in that federal law. Would I be correct in thinking that?

A. You would totally be wrong on that. Ohio received primacy in 1983 to regulate injection wells. And that was under statute or code -- it's not a code -- it's 1425 which was 30-years ago and their rules or
their laws have not changed in 30-years.

   Actually it was just a guidance that was
written. Those have not been updated in 30-years even
though the injection wells and the production waste has
changed greatly with the addition of chemicals, with the
addition of the radioactive, you know, isotopes in the
waste and the lack of just caring.

   Again, we wrote the letter under 1425 and
here's what -- what really bothered me, one of the
things that bothered me about this, if you look at the
next state over, Pennsylvania. Pennsylvania is not --
they did not settle for primacy under -- I can't
remember the title or the code, but Ohio did.

   So Pennsylvania is regulated by both the
federal EPA and the Pennsylvania Department of
Environmental Protection. So it takes much longer. The
requirements are much more strict and stringent than
they are in Ohio.

   When you come to Ohio, you know, it's like we
might as well go to the corner of Broad and High where
the state house is and just hand out permits willy-nilly
because that's what they're doing.

   But -- so, actually, the federal EPA is
encouraging, and there is a word I'm looking for,
perpetuating.
Q. Perpetuating, yes.
A. Perpetuating at the environmental justice itself because of the difference in the regulations between Pennsylvania and Ohio.
Pennsylvania has a handful or two handfuls of injection wells. And their statement always is well, we'll, just send our waste to Ohio.
So the EPA, US EPA, is creating their own environmental justice issue by the way they have issued primacy.
Q. So how many wells, injection wells are there in Pennsylvania and how many in Ohio?
A. Well, they've just issued a couple more permits. I think they may have 11.
Q. 11?
A. 11.
Q. And Ohio has --
A. And Ohio has 238 permits that have been issued. But back in 2011 when we first were inundated with fracking we had 144. So from 2011 to 2018 we went from 144 up to 238.
Q. And the federal government designates counties as being Appalachian.
A. Right.
Q. From all those injection wells do you know,
approximately, what percentage of those are in the economically disadvantaged Appalachian counties?

A. Yes. And there's 32 Appalachian counties and out of those 32 I think 23 have injection wells but those 23 counties take in 3/4 of the injection waste.

Q. Let me try to summarize this, Teresa. There's no federal law overseeing the fracking production wells.

A. No.

Q. The federal law that pertains to injection wells dates back to the 1980's and hasn't been updated at all in Ohio since the advent of the fracking revolution?

A. Correct.

Q. And the most economically disadvantaged, the most politically disadvantaged portion of Ohio is getting over 3/4 of the fracking waste.

A. Right. Right.

Q. And you think there's an environmental justice issue involved in those three facts.

A. Absolutely. Absolutely.

And one thing is in Athens, where we are right now, in Athens County, Athens County ranks No. 1 in the state for poverty, for being at poverty.

So it's not the people they're working for.
You know, it's -- so when -- like with production wells and injection wells I see a lot of counties where some citizens will say, well, it's jobs, you know. And now we have an industry that goes in and what I call buys out the local politicians by the promise of, well, we'll give you some money to update your fire department or we'll give you money to build a building. Or, in Columbiana County they bought them a truck, a police car, and a crime dog.

So there's a lot of citizens when they see that, they think, well, it's good for the community. Well, it's not good for community. That's like dangling a radioactive carrot in front of a hungry rabbit and expect it not to eat that carrot.

It's an injustice. These are human rights violations and this needs to stop before there is so much disease and so many cancers that it would be too late.

MR. RICK SAHLI: That is the end of our three statements. And I think we have about 10 minutes left, maybe, to have questions.

Francis, perhaps you would like to ask your question again that you tried to ask earlier.

MR. FRANCESCO MARTONE: I was referring back to one of the statements that were made during the
first presentation before the last break related to the
media smear campaign against environmental organizations
and the environmental NGOs. That these are basically
one on of the first, let's say, signals of the worrying
tendency that is actually repeating itself in many
situations where there are strong resistors or strong
resistance on the ground against large scale
infrastructure projects, especially the fracking
industry.

And I was wondering whether this is just
something that is confined to media misrepresentation or
slandering of environmental activists or if this is also
followed by some consistent behavior by police, for
instance, in terms of intimidation or restricting the
capacity of initiative or environmental groups?

Is there any signal that this kind of smear
campaigns actually lead to criminalization of the
environmental rights defenders and to some specific
police control over territories and the demonstration of
the case like at Standing Rock.

MR. RICK SAHLI: I think in the fracking
situation, while there is intimidation by the state and
I think with the expressions of hostility that
regulators constantly give the citizens there, they're
definitely trying to push the citizens away and get them
not to care.

There's only one incident where the police were involved that was similar to your concerns and that was when the Department of Natural Resources had a public information meeting that they very tightly controlled, and I've heard from several people who were at that meeting police presence was extremely large. Especially for a small rural area to have a lot of police is somewhat unique.

In addition to just the police themselves, they had guard dogs. So here you come out to meet with your state officials and you're met with guard dogs before you can ask your questions. That is as close as I've seen.

Often times with my clients, claims, oh hey, if you continue on to question our activity, if you hurt our profits, we'll bring a lawsuit against your client for interference with our contract rights.

And to which I say, fine, go ahead because we'll countersue you for trying to intimidate us and exercise of our free speech rights.

And I have had that conversation more often than I would like to think of and there has never yet been a lawsuit filed because they realize it's still free speech right and is far different than what any
court wants to go to suppress.

So up until the current administration in the White House I was not really concerned about those matters, Francis. But this new administration that's gone so much further than any other one, the fact that the reach of that new president of ours seems to be heading throughout the entire republican party, while we're entering another campaign season and it seems like so many candidates are falling over themselves in their fealty to the new president, that we're on path that may lead to the type of concerns that you just said.

MR. FRANCESCO MARTONE: Thank you.

MR. GILL BOEHRINGER: Yes, Gill Boehringer here.

Actually Francesco asked the question that I was going to ask. I think it's important for us to state, on the basis of research that I've done and others, that being a human rights activist or a supporter or a lawyer is a very dangerous activity around the world.

In the Philippines, for example, where I mainly do my research, environmental activists are being killed all of the time. It's one of the most dangerous countries in the world but also lawyers and journalists and others who are trying to protect the public and the
rights of nature.

So I guess I would have to say to you, Rick, it must be very frustrating for you to do the work that you're doing and receive the rubbish that you get from the corporations and the government agencies but at least you're not being disappeared or killed as of today.

I wanted to also maybe follow-up on what Louis was asking this morning and that is you mentioned that in civil cases it's very difficult for systemic reasons and other reasons. I was wondering if any criminal sanctions are available and have they been brought against the corporations -- I think I know the answer -- as result of their operations and/or corruption, tax evasion and other things of that sort, which might be connected with their operations in fracking?

MR. RICK SAHLI: There was one example of a successful criminal prosecution but it was brought by the U.S. Attorneys' Office in the northern part of Ohio. This involved a company that was transporting fracking waste water and they were supposed to take it to a treatment or disposal facilities and neighbors of the truck garage where they would be stored began to notice that there were strange odors in that garage and certainly began to grow concerned. And they noticed
that the trucks were dumping fracking water into the local river, which was very close to Youngstown.

And someone passed that word along to the ODNR and ODNR actually sent investigators out there. Those investigators got information and sent it to the U.S. Attorneys office, frankly, because I don't think that they trusted the state prosecutors in any type of a criminal case.

They caught them red-handed. They did get a conviction and agreed to a sentence but that was the only time that involved some pretty alarming circumstances.

Meanwhile we've had spills, kind of routine at some of these sites, but it's the industry itself, legitimate part of the industry doing that. And that's not where we're seeing enforcement.

We see explosions. That's not where we see enforcement. So they were very unsafe conditions a lot of the times with the explosions.

MR. GILL BOEHRINGER: I wanted to follow that up, if I may. I noticed that in your report you refer to the Guiding Principles on Business and Human Rights. Many critics of the infamous, I would say, pillars, state protection, business respect for rights and providing access to justice, many critics of those
so called pillars, believe that while they sound good, and who could deny that, nevertheless, they are really failing and almost inevitably likely to fail because of what has happened through the market globalization and, in particular, the dominance of corporations over states and their agencies. Would you like to --

MR. RICK SAHLI: That was my staff that came in. It's dinner time.

MR. GILL BOEHRINGER: We're in trouble now, mate.

Would you like to comment on the principles and what might be done to advance the establishment of norms and implementation?

MR. RICK SAHLI: I agree with the reservations. I mean the statements -- just one moment please.

MR. GILL BOEHRINGER: Must be a warning.

MR. RICK SAHLI: The statements do make appropriate comments about the role of nongovernmental actors. The corporations need to be brought into the system of accountability as well.

As in so many areas the real force you're in opposition to is a corporate force and not a governmental force.

That's certainly the case in Ohio. What we
often have in Ohio is government acts as a sponge that
stands between the community and the corporate actor.
So that they take the rage of the public, they take the
worry and the corporation stays high and dry.

The problem here in the United States and in
our discussion of legislative enactments that we've had
in Ohio have been essentially dictated by the oil and
gas industry and our legislature has been little more
than a stenographer to write it down and pass it into
law.

When industry has that level of control over
the governing process I don't think saying nice words
about corporations being responsible are going to get us
very far.

The United States of America has a huge
problem now with campaign finance. It's something I
have seen in the environmental movement for at least 25-
years.

Now with our Citizens United case that lets
corporate money go directly into the political system
and to be untraceable how everybody, I think, sees what
I've been able to see in the environmental movement what
the sale of a government is.

More than the legislature it's the courts too.

I used to have a pretty good success rate in court and
I've seen it's peter-out over the years and, frankly, I don't think that petering-out is due to my becoming a worse lawyer as I gain more experience.

We can't talk about corporations playing nice when they are in as much control of this system or in this much control of the media and how it gets described to the public. We need more aggressive steps than that.

That is my view, Gill.

MR. GILL BOEHRINGER: I think many would agree with you.

MR. RICK SAHLI: Well, it's been a pleasure. You've shown a lot of patience to listen to the Ohio story. I appreciate that patience very much and I wish you Godspeed and enjoy your upcoming week and I look forward to speaking to you close to the end of the process and I wish you well.

Thank you much.

[youtube.com/watch?v=zBjGpVDDBW8]