

Tish
O'Dell

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DUCK CREEK ENERGY, INC.,)	
7033 Mill Road	)	CASE NO.:
Brecksville, Ohio 44141,)	
	)	JUDGE:
Plaintiff,)	
)	
vs.)	
)	
TISH O'DELL,	)	COMPLAINT
7976 McCreary Road)	
Broadview Heights, Ohio 44147,)	
)	
and)	
)	
MICHELLE GIANNAKOPOULOS)	
aka MICHELLE AINI)	
3128 Osage Way)	
Broadview Heights, Ohio 44147,)	
)	
and)	
)	
JOHN AND JANE DOES,)	
)	
Defendants)	

FACTS COMMON TO ALL COUNTS

The Parties, Jurisdiction and Venue

1. Plaintiff, Duck Creek Energy, Inc. ("Plaintiff"), is an Ohio corporation headquartered in Brecksville, Ohio.
2. Defendant, Tish O'Dell ("O'Dell"), is an individual who resides in Broadview Heights, Ohio.
3. Defendant, Michelle Giannakopoulos aka Michelle Aini ("Aini"), is an individual who resides in Broadview Heights, Ohio.

4. Defendants, John and Jane Doe ("Does") are individuals whose identities are yet unknown who, upon information and belief, have engaged in some or all of the unlawful conduct alleged in this Complaint.

5. This Court has subject matter jurisdiction over this action and venue is proper because O'Dell, Aini and Does ("Defendants") reside in Cuyahoga County, Ohio; conducted activity that gave rise to the claims for relief in Cuyahoga County, Ohio; and because all or part of the claims for relief against Defendants arose in Cuyahoga County, Ohio.

Plaintiff's Business

6. Plaintiff is a privately held natural gas and oil production company.

7. Plaintiff is committed to finding and developing local natural gas and oil resources to help reduce Ohio's and America's dependence on foreign energy.

8. Plaintiff's business creates local jobs and energy and tax revenue in the cities and school districts in which it does business.

AquaSalinaTM

9. Plaintiff manufactures and distributes a liquid deicing product known and trademarked as AquaSalinaTM.

10. AquaSalinaTM is derived from a salt brine solution ("raw brine") that comes naturally from the natural gas and oil production process. Raw brine is a consistent 20% - 23% chloride solution and contains both sodium and calcium chloride.

11. Raw brine is completely contrasted with the fresh water that is used in the hydraulic fracturing process, also known as "fracking". Fracking is the use of pressurized fluids to create fractures in a layer of rock to produce oil or natural gas. "Frac water" is fresh water that is pumped down a well as part of the fracking process and it returns as "frac water". There is little or no salt content in "frac water".

12. Raw brine has been used for many years on roads for snow and ice prevention and removal.

13. Raw brine has a low freeze point typically between plus 5 degrees F to minus 10 degrees F. Water manufactured from mixing rock salt and fresh water typically has only a 15% salinity rate and a plus 23 degree freeze point.

14. Raw brine is therefore preferable as a de-icer compared to mixing rock salt with fresh water.

15. Plaintiff has developed a process to purify the raw brine derived from the natural gas and oil production process at its filtering plant located at Mittal Steel in Cleveland, Ohio.

16. In 2004, Plaintiff had AquaSalina™ environmentally tested (see Exh. A) and that evaluation resulted in the following conclusion: "[t]his conservative risk assessment of the brine demonstrates that if it were not for the salinity, the post-filter brine water would even be acceptable to drink. Therefore, risks posed by spraying this brine on the roads would be negligible and acceptable."

17. Plaintiff submitted the 2004 report to the Ohio Department of Natural Resources ("ODNR") and the Ohio Environmental Protection Agency ("OEPA") and has annually re-tested AquaSalina™ and submitted the test results to the ODNR for review and approval.

18. Plaintiff removed itself from the chain of custody of all samples tested to assure complete independence and reliability of the test results.

19. Since 2004, the ODNR has approved AquaSalina™ as a new method for brine disposal for de-icing road services. The ODNR most recently re-approved AquaSalina™ for use as a road de-icer in December, 2011 (see Exhs. B-C). AquaSalina™ is the only product of its kind so approved and licensed.

20. According to the ODNR (see Exh. B), "AquaSalina can be applied to road surfaces without obtaining a resolution from the county and does not have to adhere to the nine guidelines required for the spreading of untreated oilfield brine under Section 1509.226(B) of the Ohio Revised Code."

21. AquaSalina™ has none of the use restrictions of raw brine and can be safely applied anywhere.

22. The product, among other things, has a lower freeze point compared to fresh water mixed with rock salt; speeds up the ice melting process; is an effective deterrent to black ice; saves money for the purchase and storage of rock salt; reduces the amount of rock salt used on the roads, thereby reducing the grit that salt insolubles dump in storm drains, lawns, rivers and streams; and reduces the amount of energy expended on rock salt mining.

**Defendants Have Spread False and Defamatory Information
About Plaintiff and AquaSalina™**

23. O'Dell is a failed candidate for mayor of Broadview Heights.

24. She has spoken and written publicly against oil and gas drilling and is, upon information and belief, a founding member of Mothers Against Drilling in our Neighborhoods ("MADION").

25. Aini and Does are also, upon information and belief, members of MADION.

26. On March 8, 2012, the Brecksville-Broadview Heights *Gazette* published an article (see Exh. D) about MADION which extensively quoted O'Dell.

27. The *Gazette* article quoted O'Dell as stating that, "[w]e have two goals...One is to get a ban on drilling and fracking in Broadview Heights. The other is to be an educational resource for local residents on any issues."

28. According to the *Gazette* (see Exh. E.), MADION has scheduled an "informational panel discussion" on March 24th. Aini is listed as the contact person for this meeting.

29. On January 4, 2012, the Sun News and Cleveland.com published an article (see Exh. F) about the effectiveness of AquaSalina™ as a snow and ice removal tool.

30. The article mentioned the OEPA and ODNR approval of the product.

31. On January 5, 2012, O'Dell disseminated an email entitled "Dear neighbors" (see Exh. G). The entirety of O'Dell's distribution list is unknown at this time. But one of the recipients was Mayor Jerry Hruby of Brecksville. Brecksville was an AquaSalina™ customer of Plaintiff. Upon information and belief, O'Dell also sent the email to the City of North Royalton, which also purchases AquaSalina™ from Plaintiff, as well as other prospective AquaSalina™ customers of Plaintiff.

32. The email stated the following: "The attached link is to an article that appeared in the Sun Courier today regarding the use of waste fracking fluids being used on the streets to melt the snow...yes really ***If you read the article, the reporter makes it seem completely safe...no toxic chemicals mentioned, no radioactive material that is brought back up with the fracking fluids or even the level of salt in the fluids and how bad this is for our environment. Maybe the reporter doesn't know how to use Google to search for information? Here is a link to just one of many articles I found on the topic, when I did a google search***I urge you to send these articles on to people you know to inform them. I urge you to contact your city hall and tell them that you do not want them to use this toxic substance on your roads."

33. The statements O'Dell made in her email were false. The newspaper article she referenced was about AquaSalina™. She falsely described AquaSalina™ as a waste fracking

fluid. AquaSalina™ is not frac water. AquaSalina™ is completely safe and has been recognized as such by the ODNR. AquaSalina™ does not contain toxic chemicals or radioactive material, as O'Dell falsely stated in her email. The links to articles O'Dell copied in her email had nothing to do with AquaSalina™.

34. On January 23, 2012, Brecksville Mayor Hruby forwarded O'Dell's January 5, 2012 email to David Mansbery, the owner of Plaintiff ("Mr. Mansbery"). In his email response to Mayor Hruby (see Exh. H), Mr. Mansbery said, "Not a shred of truth as we accept NO FRAC water to process. Frac water is mostly freshwater. Our water is salt saturated saltwater produced from the well. I am going to demand a retraction from her sent to all concerned or turn it over to David Jr. This trash is inaccurate and libelous. I stand on principle and will get things properly stated."

35. On January 23, 2012, Mr. Mansbery sent O'Dell the following email (see Exh. I):

Dear Ms. O'Dell

I am in receipt of your email and the statements you made regarding our AquaSalina product are totally false and likely libelous.

AquaSalina is manufactured from water produced from the Clinton Sandstone formation. It is not "frac water". We do not even accept "frac water" at our facility.

You obviously don't know the difference from what you wrote regarding our product and didn't even take the time to find out the difference.

We are certified annually by the ODNR as a licensed alternative method since 2003 after review by the Ohio EPA and ODNR.

In short we demand you retract your statements as misinformed in their entirety to all recipients in writing as you are in error about this fine environmentally sensitive recycled product that saves freshwater and reduces polluting rock salt used by a reported 30%.

We also ask you to educate yourself on this product and you may find it is environmentally very friendly. We are not taking freshwater and fouling it mixing it to make an inferior brinewater like many cities and ODOT. If

you need to be critical, be critical of their practices of polluting freshwater to make brine when we already have a clean, superior product.

We are saving freshwater and the environment while you urge your cities to foul it. You are misguided at best.

Failure to set the record straight immediately will likely prompt us to seek other legal options available to us. Your misguided written comments are damaging to our reputation and ultimately results in financial damages for which we will hold you accountable.

36. O'Dell never acknowledged, let alone responded to the email. Rather, she continued spreading false information about Plaintiff and AquaSalina™.

37. On February 13, 2012, O'Dell spoke at the Service Committee of another one of Plaintiff's AquaSalina™ customers, Broadview Heights. At that meeting, she again falsely stated that Plaintiff's product is an environmental hazard.

38. Since receiving O'Dell's false and defamatory email, Brecksville has decided to no longer use AquaSalina™.

39. On or about March 14, 2012, O'Dell and Aini telephoned the service director of North Royalton and told him to "stop spreading carcinogens on our streets." They were referring to AquaSalina.™

40. Upon information and belief, all Defendants have disseminated false and defamatory communications about Plaintiff and its product, AquaSalina™ to persons unknown, including current and prospective customers of Plaintiff.

41. Defendants have already caused Plaintiff to incur damages and, unless they are enjoined from continuing their unlawful conduct, Defendants will cause Plaintiff to suffer irreparable harm and injuries for which there is no adequate remedy at law.

COUNT I – Defamation Per Se

42. Plaintiff incorporates the preceding allegations of the Complaint as if fully rewritten herein.

43. The statements made about Plaintiff and its product, AquaSalina™, in the “Dear neighbor email”; in the presentation to the Broadview Heights Service Committee; to the North Royalton service director; and to other persons unknown were false. AquaSalina™ is not waste fracking fluid, does not contain toxic chemicals, carcinogens, or radioactive material, and is not a threat to the environment.

44. Defendants’ false statements were per se defamatory because they injured Plaintiff in its trade and business and as such, special damages are presumed.

45. Defendants published their false and defamatory statements to the non-governmental recipients with a degree of fault of at least negligence. They published their false and defamatory statements to governmental entities and officials with actual malice in that they had knowledge of their falsity or recklessly disregarded the truth or falsity of the statements.

46. Indeed, O’Dell continued to publish her false and defamatory statements after being advised that her statements were false and after being apprised of the true facts.

47. Defendants’ actions as described herein have been malicious, wanton, unprivileged and motivated by a desire to harm Plaintiff.

48. Defendants’ actions as described herein have caused Plaintiff monetary damages.

49. If Defendants are not enjoined from making further false and defamatory statements about Plaintiff and its product, AquaSalina™, Plaintiff will suffer irreparable harm and injuries for which there is no adequate remedy at law.

COUNT II – Tortious Interference With Business Relationships

50. Plaintiff incorporates the preceding allegations of the Complaint as if fully rewritten herein.

51. Plaintiff had a business relationship with and sold AquaSalina™ to the cities of Brecksville, Broadview Heights and North Royalton.

52. Defendants had knowledge of these business relationships.

53. O'Dell intentionally interfered with Plaintiff's business relationship with Brecksville by sending her email to Mayor Hruby which contained numerous falsehoods about Plaintiff and its product, AquaSalina™.

54. O'Dell intentionally interfered with Plaintiff's business relationship with North Royalton by, upon information and belief, sending her email to North Royalton which contained numerous falsehoods about Plaintiff and its product, AquaSalina™. O'Dell and Aini intentionally interfered with Plaintiff's business relationship with North Royalton by making false statements about Plaintiff and AquaSalina™ to the North Royalton service director.

55. O'Dell intentionally interfered with Plaintiff's business relationship with Broadview Heights by making false statements about Plaintiff and its product, AquaSalina™, to the Broadview Heights Service Committee.

56. Defendants, upon information and belief, intentionally interfered with Plaintiff's business relationships with other AquaSalina™ customers by making false statements about Plaintiff and its product, AquaSalina™ to those customers.

57. Defendants did these things with the express purpose of ending Plaintiff's business relationship with its customers and with actual malice, in that they had knowledge that

their statements about Plaintiff and its product, AquaSalina™, were false or they recklessly disregarded the truth or falsity of the statements.

58. Defendants had no justification for their unlawful conduct.

59. Defendants' unlawful conduct has caused Plaintiff to incur damages and, specifically, Brecksville has ceased purchasing AquaSalina™ from Plaintiff.

60. Defendants' actions as described herein have been malicious, wanton, unprivileged and motivated by a desire to harm Plaintiff.

61. If Defendants are not enjoined from engaging from such further unlawful conduct, Plaintiff will suffer irreparable harm and injuries for which there is no adequate remedy at law.

COUNT III – Tortious Interference With Prospective Business Relationships

62. Plaintiff incorporates the preceding allegations of the Complaint as if fully rewritten herein.

63. Plaintiff markets its product, AquaSalina™, widely to municipalities and other political subdivisions throughout the State of Ohio.

64. O'Dell had knowledge of these prospective business relationships and that is why she published her false email and urged the recipients to "contact your city hall and tell them you do not want them to use this toxic substance on your roads."

65. Defendants, upon information and belief, have published false statements about Plaintiff and its product, AquaSalina™, to other prospective customers of Plaintiff.

66. Defendants did so with the intent to interfere with Plaintiff's prospective business relationships with prospective purchasers of AquaSalina™.

67. Defendants acted with actual malice in that they published their statements with knowledge that the statements about Plaintiff and its product, AquaSalina™, were false or they recklessly disregarded the truth or falsity of the statements.

68. There was no justification for Defendants' unlawful conduct.

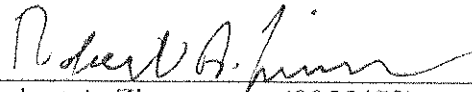
69. Defendants' actions as described herein have been malicious, wanton, unprivileged and motivated by a desire to harm Plaintiff.

70. Unless Defendants are restrained and enjoined from engaging in further unlawful conduct, Plaintiff will suffer irreparable harm and injuries for which there is no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, as follows:

1. As to Counts I, II and III, an Order permanently enjoining Defendants, their agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the Order, whether by personal service or otherwise, from making further false statements, oral or written, about Plaintiff and its product, AquaSalina™. This prohibition includes any statements describing AquaSalina™ as a product of fracking or as frac water, and/or as having any environmentally unsafe properties.
2. As to Counts I, II and III, compensatory damages not presently ascertainable but which will be proven at trial.
3. Punitive damages in the amount of \$1,000,000.00.
4. Attorneys fees and costs.
5. Such other and further relief as this Court deems just and proper.

Respectfully submitted,



Robert A. Zimmerman (0055478)

Lori Welker (0085109)

BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP

200 Public Square, Suite 2300

Cleveland, OH 44114-2378

Phone: 216-363-4500

Email: rzimmerman@beneschlaw.com

lwelker@beneschlaw.com

Attorneys for Plaintiff



January 20, 2004

Dave Mansbury
Duck Creek Energy
7033 Mill Road
Brecksville, Ohio 44141

Re: Evaluation of Brine Chemical Data; DCE001.600.0002.

Dear Mr. Mansbury:

Hull & Associates, Inc. (Hull) was retained to conduct an evaluation of the brine sampling data provided by Duck Creek Energy (American Testing Company, Inc. Laboratory Work Order No. 031200087). Hull has reviewed the laboratory data provided, and conservatively evaluated the potential risks of the detected chemicals. A summary of the findings is provided herein.

DATA EVALUATION

Hull reviewed the laboratory results from the two brine samples collected (pre-filter and post-filter). Of the analyses conducted, only two semi-volatile organic compounds (SVOCs) and three volatile organic compounds (VOCs) along with six inorganic compounds were detected in the pre-filter sample. A summary of the chemicals detected in the pre-filter sample is provided in Table 1. In the post-filter sample, all SVOCs and VOCs were below laboratory detection limits. A summary of the chemicals detected in the post-filter sample is provided in Table 2.

As an extremely conservative assessment, Hull compared the detected chemicals to drinking water standards. Ingestion of the brine is not a complete exposure pathway, and it is not expected that humans will ever drink the brine even incidentally or accidentally. However, comparison to drinking water standards provides an efficient and conservative assessment of the data provided.

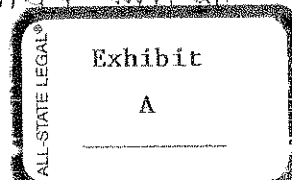
With the exception of benzene in the pre-filter sample, all of the chemicals detected are below applicable drinking water standards. Benzene was detected in the pre-filter sample at a concentration of 52.4 ug/L, which exceeds the chemical's respective drinking water standard of 5 ug/L. However, keep in mind that the drinking water standard is based on the assumption that a person drinks two liters of the water every day for 30 years. More important, benzene was not detected above laboratory reporting limits or drinking water standards in the post-filter sample. The results of these comparisons are presented in Tables 1 and 2 for the pre-filter and post-filter samples, respectively.

DISCUSSIONS WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES

On January 15, 2004, a Hull representative spoke with Tom Tomastic from ODNR's Department of Mineral Resources Management. Mr. Tomastic indicated that he was aware of the plans Duck Creek Energy has for the sale of the brine, and he spoke very positively of the plans. Mr. Tomastic views the brine as acceptable for ice and dust control, provided that the city has a resolution in place for such use.

5151 Cochran Road, Suite A • Solon, Ohio 44139
440.519.2555 • Fax 440.519.2560 • www.hullinc.com

CARter-Gornelli



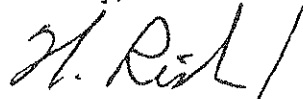
Dave Mansbury
DCE001.600.0002
January 20, 2004
Page 2

CONCLUSIONS

This conservative risk assessment of the brine demonstrates that if it were not for the salinity, the post-filter brine water would even be acceptable to drink. Therefore, risks posed by spraying this brine on the roads would be negligible and acceptable.

If you have any comments or questions, please contact the undersigned at 440-519-2555.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Rish", followed by a long horizontal stroke.

William R. Rish, Ph.D.,
Sr. Project Manager

Attachments

DUCK CREEK ENERGY
BRECKSVILLE, OHIO

TABLE 1

SUMMARY OF CHEMICALS DETECTED IN BRINE (PRE-FILTER) AND COMPARISON TO DRINKING WATER STANDARDS

Parameter	Concentration (ug/L)	Drinking Water Standard (ug/L) ^a
SVOCs		
Dimethylphthalate	28.5	13,000 ^b
Isophorone	73.9	1,700
VOCs		
Benzene	52.4	5
Ethylbenzene	11.5	700
	72.8	1,000
Metals		
Barium	657	2,000
Iron	49,000	-- ^c
Magnesium	106	--
Sodium	10,500	--
Chloride	24,200	--
	211,000	NA ^d

- a. Values presented are Ohio EPA Voluntary Action Program Generic Unrestricted Potable Use Standards, as specified in OAC 3745-300-08(C)(3)(b).
b. A standard for dimethyl phthalate was not available; the standard for diethyl phthalate was used as a surrogate. The standard for diethyl phthalate is more conservative by greater than one order of magnitude and is used for comparison purposes only.
c. -- Indicates that chemical is an essential human nutrient and is not considered toxic.
d. NA-drinking water standard is not available; chemical not expected to pose significant risk.
BOLD concentrations exceed applicable drinking water standard.

DUCK CREEK ENERGY
BRECKSVILLE, OHIO

TABLE 2

SUMMARY OF CHEMICALS DETECTED IN BRINE (POST-FILTER) AND COMPARISON TO DRINKING WATER STANDARDS

Parameter	Concentration (ug/L)	Drinking Water Standard (ug/L) ^a
SVOCs		
Dimethylphthalate	<20	13,000 ^b
Isophorone	<20	1,700
VOCs		
Benzene	<5	5
	<5	700
	<5	1,000
Metals		
Barium	632	2,000
	44,100	-- ^c
	158	--
	9,190	--
	23,200	--
	222,000	NA ^d

- a. Values presented are Ohio EPA Voluntary Action Program Generic Unrestricted Potable Use Standards, as specified in OAC 3745-300-08(C)(3)(b).
b. A standard for dimethyl phthalate was not available; the standard for diethyl phthalate was used as a surrogate. The standard for diethyl phthalate is more conservative by greater than one order of magnitude and is used for comparison purposes only.
c. -- Indicates that chemical is an essential human nutrient and is not considered toxic.
d. NA-drinking water standard is not available; chemical not expected to pose significant risk.
BOLD concentrations exceed applicable drinking water standard.

MATERIAL SAFETY DATA SHEET — 9 Sections

SECTION 1 — PRODUCT INFORMATION

Product Identifier Liquid Salt Solution (20-23% Chlorides)		WHMIS Classification (optional)	
Product Use Ice control for road surfaces			
Manufacturer's Name Duck Creek Energy, Inc.		Supplier's Name Duck Creek Energy, Inc.	
Street Address 7033 Mill Road		Street Address 7033 Mill Road	
City Brecksville	Province Ohio	City Brecksville	Province Ohio
Postal Code 44141	Emergency Telephone 440-838-5135	Postal Code 44141	Emergency Telephone 440-838-5135

SECTION 2 — CHEMICAL INGREDIENTS

Chemical Ingredients (specific)	%	CAS Number	LD ₅₀ of Ingredient (specify species and route)	LC ₅₀ of Ingredient (specify species)
Sodium Chloride	7.7	7647-14-5	—	—
Calcium Chloride	10.3	10043-52-4	—	—
Magnesium Chloride	2.6	7786-30-3	—	—
Water	79.4	7732-18-5	—	—

SECTION 3 — PHYSICAL DATA

Physical State liquid	Odour and Appearance clear liquid, no odor		Odour Threshold (ppm) —
Specific Gravity 10.2 lb/gal.	Vapour Density (air = 1) unk	Vapour Pressure (mmHg) unk	Evaporation Rate low
Boiling Point (°C) unk	Freezing Point (°C) -8 F	pH 5-7	Coefficient of Water/Oil Distribution

SECTION 4 — FIRE AND EXPLOSION DATA

Flammability <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, under which conditions?		
Means of Extinction N/P			
Flashpoint (°C) and Method N/P	Upper Flammable Limit (% by volume) N/R	Lower Flammable Limit (% by volume) N/R	
Autoignition Temperature (°C) none	Explosion Data — Sensitivity to Impact none	Explosion Data — Sensitivity to Static Discharge none	
Hazardous Combustion Products none			

SECTION 5 — REACTIVITY DATA

Chemical Stability <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If no, under which conditions?		
Incompatibility with Other Substances <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, which ones?		
Reactivity, and under what conditions? none			
Hazardous Decomposition Products none			

Product Identifier

SECTION 6 - TOXICOLOGICAL PROPERTIES

Route of Entry		<input type="checkbox"/> Skin Contact	<input type="checkbox"/> Skin Absorption	<input checked="" type="checkbox"/> Eye Contact	<input type="checkbox"/> Inhalation	<input type="checkbox"/> Ingestion
Effects of Acute Exposure to Product						
<input checked="" type="checkbox"/> Mild eye irritation						
<input checked="" type="checkbox"/> No acute local toxicity						
<input checked="" type="checkbox"/> No other adverse effects have been described						
Effects of Chronic Exposure to Product						
Exposure Limits (value, source, date)				Irritancy (if yes, explain)		
none determined				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No to eyes		
Sensitization (if yes, explain)				Carcinogenicity (if yes, explain)		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Reproductive Toxicity (if yes, explain)				Teratogenicity (if yes, explain)		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Mutagenicity (if yes, explain)				Synergistic Products (if yes, explain)		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

SECTION 7 - PREVENTIVE MEASURES

Personal Protective Equipment		<input checked="" type="checkbox"/> Gloves	<input type="checkbox"/> Respirator	<input checked="" type="checkbox"/> Eye	<input type="checkbox"/> Footwear	<input type="checkbox"/> Clothing	<input type="checkbox"/> Other
If checked, specify type							
water-proof gloves as required; safety glasses; eye-wash fountain							
Engineering Controls (specify, such as ventilation, enclosed process)							
ventilation - general mechanical							
Leak and Spill Procedure							
wipe up with rags							
Waste Disposal							
flush to drain							
Handling Procedures and Equipment							
no precautions needed							
Storage Requirements							
plastic storage vessel recommended							
Special Shipping Information						PM	
none							

SECTION 8 - FIRST AID MEASURES

Inhalation	none
Ingestion	none
Skin Contact	water flush
Eye Contact	flush 15 minutes with ample water

SECTION 9 - PREPARATION INFORMATION

Prepared by (Group, Department, etc.)	Telephone Number	Preparation Date
David I. Mansbery	440-838-5135	11/10/2003



Ohio Department of Natural Resources

JOHN R. KASICH, GOVERNOR

DAVID MCNEIL, DIRECTOR

February 10, 2011

Mr. Dave Mansbery
Duck Creek Energy, Inc.
7033 Mill Road
Brecksville, Ohio 44141

Dear Mr. Mansbery:

Pursuant to our telephone conversation on February 9, 2011, below is the excerpt from the Administrative Order 2004-82 issued to Duck Creek Energy, Inc. on October 22, 2004.

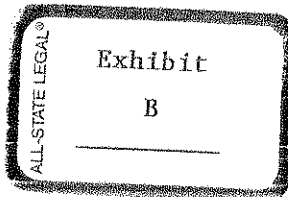
- Pursuant to Section 1509.22 (C)(1) of the Ohio Revised Code, the Division of Mineral Resources Management (Division) hereby conditionally approves the use of AquaSalina as a new technology for disposal of brine for de-icing road surfaces, or dust control, use in port-a-john restrooms, or other product applications so approved by the Division from time to time. Surface application of AquaSalina is exempt from compliance with Section 1509.226 (A-F, H and I) of the Ohio Revised Code.
- This exemption means that AquaSalina can be applied to road surfaces without obtaining a resolution from the county and does not have to adhere to the nine guidelines required for the spreading of untreated oilfield brine under Section 1509.226 (B) of the Ohio Revised Code.

If you have any further questions regarding this matter, please feel free to contact me at (614) 265-1032.

Sincerely,

Tom Tomastik, Geologist 4
Division of Mineral Resources Management
2045 Morse Road, H-3
Columbus, Ohio 43229-6693

Cc: File





Ohio Department of Natural Resources

JOHN R. KASICH, GOVERNOR

JAMES ZEHRINGER, DIRECTOR

Division of Oil and Gas Resources Management

Richard J. Simmers, Chief

2045 Morse Road, Bldg. H-2

Columbus, OH 43229-6693

Phone: (614) 265-6633 Fax: (614) 265-7998

December 20, 2011

Mr. Dave Mansbery
Duck Creek Energy, Inc.
7033 Mill Road
Brecksville, Ohio 44141

Dear Mr. Mansbery:

The Division of Oil and Gas Resources Management is in receipt of your information regarding AquaSalina and the request for approval to continue to use AquaSalina as an Approval of a New Method for Brine Disposal pursuant to Chief's Order No. 2004-82. Based upon an evaluation of the information submitted to the Division of Oil and Gas Resources Management, the Division has approved the renewal for AquaSalina as a Approval of a New Method of Brine Disposal. **This approval remains in effect until November 7, 2012.**

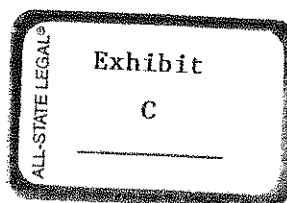
If you have any questions regarding this matter, please contact me at (614) 265-1032.

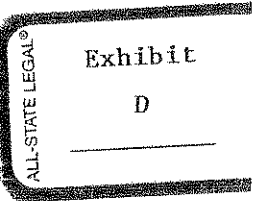
Sincerely,

A handwritten signature in black ink, appearing to read "Tom Tomastik".

Tom Tomastik, Geologist 4
Division of Oil and Gas Resources Management
2045 Morse Road, H-3
Columbus, Ohio 43229-6693

Cc: File





GAZETTE, MARCH 8, 2012 Page 9

Grassroots anti-drilling group forms in Broadview Hts. due to health concerns

BY JOHN BENSON

jbenson@gazette-news.com

Bringing the rights to oil and gas drilling back to Broadview Heights is the goal behind new community group Mothers Against Drilling In Our Neighborhoods (MADION).

"We're an environmental group and just like regular people — mothers, fathers, neighbors," said MADION member Tish O'Dell, who has lived for more than 40 years in Broadview Heights. "We're concerned about the health of ourselves, our children, our environment. We're concerned that the state has stripped Ohioans of our right to keep our children safe from the effects of drilling and fracking."

O'Dell, who ran unsuccessfully for Broadview Heights Mayor last year, said MADION formed over the last several months and already boasts roughly 200 members from Broadview Heights, Brecksville and North Royalton. The grassroots group's goal is to ban the industrial practice of drilling and fracking for oil and gas in residential neighbor-

hoods.

"We have two goals," O'Dell said. "One is to get a ban on drilling and fracking in Broadview Heights. The other is to be an educational resource for local residents on any issues. If a land man comes knocking at their door with a lease and they have nowhere to turn, and they have questions, we can provide information."

That information can be found at the group's website (madion.org), which is expected to be up and running soon, as well as at its upcoming informational panel discussion March 24 at the Brecksville Library where State Representative Nickie Antonio and others will speak about fracking and oil wells.

"There is much credible, scientific information available about how drilling and fracking for gas and oil so close to our homes will cause health defects, harm to endocrine systems, harm to lung function, contamination of our soil and water and many other effects," MADION co-founder, Michelle Aini said. "This is due to a very probable direct

link between gas and oil drilling and the toxic, carcinogenic chemicals and gases emitted during the drilling and fracking process."

O'Dell said the oil companies are using a loop hole to not only be exempt from the Clean Water Act, Clean Air Act and Safe Water Drinking Act, but are claiming their fracking chemicals are a trade secret so they don't have to disclose what's in them. She said this is despite the fact that the fracking chemicals that have been tested have high levels of carcinogenic and toxic materials.

"The health ramifications are our No. 1 concern," O'Dell said. "In Broadview Heights we have in 13 square miles almost 90 wells. Some of them are 100 feet from people's homes. So we want to approach it on a local level first and then hopefully we can move onto the state. Part of the problem is we lost home rule so Broadview Heights officials have no say about what's going on in the community. The state took that away. They took away our ability to protect ourselves."

Getting home rule back to the city is one of MADION's main goals; however, O'Dell admits that's going to be a tough road.

"Urban drilling is not something that should be going on in our community and our neighborhoods," O'Dell said. "It's dangerous. Right now we're getting brainwashed. Every other commercial on TV is about how safe drilling is. So people are hearing that but they're not hearing the other side. And the Ohio Division of Natural Resources is the one who gives the drilling permits to the drilling companies. When people contact them they're kind of a bias source of information. I think, because they're getting money from the drilling companies."

Having watched the oil and gas drilling issue grow over the last decade, O'Dell said, "I never in my wildest dreams would have thought this would have happened in people's backyards here."

For more information, email to MADION.OH@gmail.com.

Brecksville Women's Club hosts their Parma Foundation offers scholarships

IN A TOWN

COMING EVENTS

March 19

Brecksville-Broadview Heights Community Band Concert

The Brecksville-Broadview Heights Community Band will present its annual

spring concert on Monday, March 19, at 7:30 p.m., at the Brecksville-Broadview

Heights Middle School auditorium, 6376 Mill Rd.

This will be the second concert of the season for the band, which is under the inspired leadership of Patricia Nemitz. Each season there are about 50 to 60 members, ages 16 to 80. The band is truly a community band; although over half of the members reside in Brecksville and Broadview Heights, a total of about 15 communities are represented.

Admission is free. ∞

Feb. 24 and 25 Spotlights' Coffee House Shows

The Spotlights' Coffee House Production closes with two shows on Friday and Saturday, Feb. 24 and 25, at 8 p.m. *Peoples Republic* is a new comedy (and world premiere) by Detroit-based playwright Angie Randsell. *Hotline* is a dark and desperate comedy by Elaine May.

There will be a nonalcoholic beverage bar before the show sponsored by Caruso's Coffee. Between the two shows, there is a

dessert intermission with luscious offerings available for purchase. Michael Angelo's Bakery has been the main dessert sponsor for over 10 years.

Tickets are \$11 for adults and \$10 for seniors and students. All shows are at the Cultural Arts Building, 9543 Broadview, behind the police department. Reservations may be made online at broadview-heights-spotlights.org or by calling 440-526-4404. ∞



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Daniel Skaljic
President

Greg Skaljic
Vice President

March 24

Panel Discussion on Gas/Oil Drilling

A group of concerned mothers have formed MADION, Mothers Against Drilling In Our Neighborhoods, with the intention to ban the industrial practice of drilling for oil/gas in their neighborhoods.

Besides working on a ban, the group's goals include being a resource for local residents on issues and impacts of drilling in neighborhoods ranging from health, environmental and financial factors.

MADION will sponsor an informational panel discussion on Saturday, March 24, from 9:30 a.m. to 12:30 p.m., at the Brecksville Library. They will have expert speakers available to provide unbiased information and answer questions.

For more information contact Aini at 440-832-0767 or michelleaini@yahoo.com. ∞

March 9 and 10

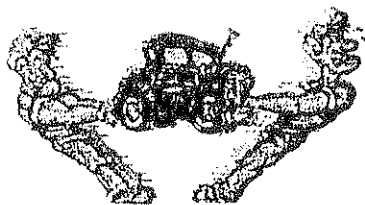
Cabaret Show *Mark Twain*

Spotlights' Theater next cabaret show will be *Mark Twain: Life Stories and Other Lies* – an evening of lies, tall tales and life stories told by the man himself. Performances begin at 7 p.m. and take place at the Broadview Heights Cultural Arts Building, 9543 Broadview Rd. in Broadview Heights. Tickets are \$5 at the door.

The theater features unique performances by local artists for one weekend only. All proceeds benefit the Spotlights' Education Program. ∞

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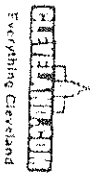


CHAMBER OF
COMMERCE IN
BROADVIEW HEIGHTS

440 838-4343 FREE ESTIMATES!

10135 BROADVIEW RD. BROADVIEW HEIGHTS

Brecksville's Duck Creek Energy produces brine for road use from its gas and oil wells



Brecksville's Duck Creek Energy producing brine for road use from its gas and oil wells

Published: Wednesday, January 04, 2012, 11:18 AM Updated: Wednesday, January 04, 2012, 11:28 AM

By Mike Kozdi, Sun News

BRECKSVILLE — One of the newest weapons in the battle against snow and ice build-up on city streets is the use of brine to enhance the effectiveness of the salt.

Brine is used to pre-treat streets and highways so that the melting process begins as soon as the snow hits. This also helps prevent the formation of black ice. And when used during a snow, brine helps increase the effectiveness of the salt.



Many firms puritate the liquid from their salt supplier and others, like Brecksville, make their own. The problem, according to Brecksville resident David Mansberry, is that this type of brine is made by mixing perfectly good salt with fresh water.

Mansberry, owner of **Duck Creek Energy**, a Brecksville-based oil and gas well drilling company began the process of trying to convert his brine, a byproduct of oil and gas production, to be usable for use as a liquid deicer and dust control agent.

"I was watching ODOT use brine while we were passing them going the other way with brine water from our wells," Mansberry said. "It made no sense to me."

That is why in 2003 Mansberry went about creating **Aqua Salina**, natural and eco-friendly brine. Instead of taking his brine water to a state-approved injection well to dispose of the liquid, he began figuring out the process of cleaning it up for use on city streets.

"Nature has, by definition, provided us with a superior product," Mansberry said referring to Aqua Salina's negative 10 degree freeze point. According to Mansberry, brines made from salt have a freeze point of 23 degrees.

The reason that is the case is because Aqua Salina contains both calcium and sodium chloride.

Using a series of pumps and filters at his processing plant in Cleveland, Aqua Salina is filtered to one micron. This, according to Mansberry, means that Aqua Salina does that have the same amount of grit associated with other brines.

"We are the sole licensee from the Ohio EPA and ODOT for the processing and sale of this product," Mansberry said. "We're happy and willing to share how we are doing this with others."

The Cleveland processing facility can make 1,000 gallons of brine in an hour and those who purchase Aqua Salina could either pick it up themselves or have it trucked to their facilities. Cost, since 2003, is 12 cents a gallon at the tank.

Aqua Salina customers include local landscape companies, North Royalton, Massillon and Canton. The latter, Mansberry says

Brecksville's Duck Creek Energy produces brine for road use from its gas and oil wells

were trucking to Michigan or Pennsylvania for their brine before using Aqua Salina.

Mansberry also uses it at his home and the Duck Creek parking lot on Mill Road.

"It's something that has come of age," Mansberry said. "It makes sense for us economically to do this."

In the end, Mansberry says he has taken a byproduct of well production that cost his company money, and turned it into something that turns a small profit.

More Brecksville stories

[Return to Brecksville home page](#)

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From: "Hruby, Mayor" <mayorhruby@brecksville.oh.us>
Date: Mon, 23 Jan 2012 18:41:00 -0500
To: david@jdsenergy.com<david@jdsenergy.com>
Subject: FW: Aqua Salina Email

To: Hruby, Mayor
Subject: Aqua Salina Email

From: Tish O'Dell [mailto:tishodell@gmail.com]
Sent: Thu 1/5/2012 3:47 PM
To: Tish O'Dell
Subject: What is Brecksville thinking?

Dear neighbors,

The attached link is to an article that appeared in the Sun Courier today regarding the use of waste fracking fluids being used on the streets to melt the snow...yes really!

http://www.cleveland.com/brecksville/index.ssf/2012/01/brecksvilles_duck_creek_energy.html

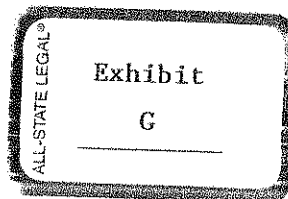
If you read the article, the reporter makes it seem completely safe....no toxic chemicals mentioned, no radioactive material that is brought back up with the fracking fluids or even the level of salt in the fluids and how bad this is for our environment. Maybe the reporter doesn't know how to use Google to search for information? Here is a link to just one of many articles I found on the topic, when I did a google search:

<http://www.nytimes.com/2011/03/02/us/02gas.html?pagewanted=all>

I urge you to send these articles on to people you know to inform them. I urge you to contact your city hall and tell them that you do not want them to use this toxic substance on your roads.

Tish

"Be the change you want to see in the world." - M. Gandhi



From: david@jdsenergy.com
Date: Mon, 23 Jan 2012 23:59:59 +0000
To: Hruby, Mayor<mayorhruby@brecksville.oh.us>
ReplyTo: david@jdsenergy.com
Subject: Re: Aqua Salina Email

Mayor

Thank you. Not a shred of truth as we accept NO FRAC water to process. Frac water is mostly freshwater. Our water is salt saturated saltwater produced from the well.

I am going to demand a retraction from her sent to all concerned or turn it over to David Jr.

This trash is inaccurate and libelous.

I stand on principle and will get things properly stated. Thank you.

David

Sent from my Verizon Wireless BlackBerry



Trish Gibbons

From: dmansbery@duckcreekenergy.com
Sent: Monday, January 23, 2012 7:30 PM
To: Tish O'Dell
Cc: David Jr; Trish Gibbons
Subject: January 5 2012 Email Regarding Duck Creek Energy Inc AquaSalina

Dear Ms O'Dell

I am in receipt of your email and the statements you made regarding our AquaSalina product are totally false and likely libelous.

AquaSalina is manufactured from water produced from the Clinton Sandstone formation. It is not "frac water". We do not even accept "fac water" at our facility.

You obviously don't know the difference from what you wrote regarding our product and didn't even take the time to find out the difference.

We are certified annually by the ODNR as a licensed alternative method since 2003 after review by the Ohio EPA and ODNR.

In short we demand you retract your statements as misinformed in their entirety to all recipients in writing as you are in error about this fine environmentally sensitive recycled product that saves freshwater and reduces polluting rock salt use by a reported 30%.

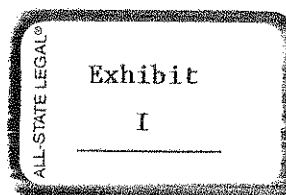
We also ask you educate yourself on this product and you may find it is environmentally very friendly. We are not taking freshwater and fouling it mixing it to make an inferior brinewater like many cities and ODOT. If you need to be critical, be critical of their practices of polluting freshwater to make brine when we already have a clean, superior product.

We are saving freshwater and the environment while you urge your cities to foul it. You are misguided at best.

Failure to set the record straight immediately will likely prompt us to seek other legal options available to us. Your misguided written comments are damaging to our reputation and ultimately results in financial damages for which we will hold you accountable.

Regards

David I Mansbery
President and Owner
Duck Creek Energy Inc.
7033 Mill Road
Brecksville Ohio 44141.
Sent from my Verizon Wireless BlackBerry



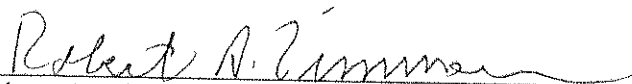
IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DUCK CREEK ENERGY, INC.,	)	CASE NO.:
)	
Plaintiff,	)	JUDGE:
)	
vs.)	
)	
TISH O'DELL, et al.,	)	MOTION FOR EXPEDITED CASE
	)	MANAGEMENT CONFERENCE
)	
Defendants.)	

Plaintiff, Duck Creek Energy, Inc. ("Plaintiff") hereby respectfully moves the Court to set an expedited Case Management Conference in this case. In the Complaint, Plaintiff alleged causes of action against Defendants for defamation *per se*, *tortious interference with business relationships* and *tortious interference with prospective business relationships*. These torts are continuing and Plaintiff needs to immediately commence discovery to ascertain the extent of the unlawful conduct and to take appropriate action.

To this end, Plaintiff has already noticed the depositions of Defendants O'Dell and Giannakopoulos for March 23, 2012. At the expedited Case Management Conference, Plaintiff will ask the Court to enter an order requiring the expedited response to written discovery requests and to otherwise set an expedited case management schedule to complete discovery, motion practice and trial. It is respectfully suggested that this expedited Case Management Conference be held on March 22nd at 3:30 P.M. A proposed Journal Entry is attached.

Respectfully submitted,

A handwritten signature in cursive script, reading "Robert A. Zimmerman", written over a horizontal line.

Robert A. Zimmerman (0055478)

Lori Welker (0085109)

BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP

200 Public Square, Suite 2300

Cleveland, OH 44114-2378

Phone: 216-363-4500

Email: rzimmerman@beneschlaw.com

lwelker@beneschlaw.com

Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DUCK CREEK ENERGY, INC.,	)	CASE NO.:
)	
Plaintiff,	)	JUDGE:
)	
vs.)	
)	
TISH O'DELL, et al.,	)	JOURNAL ENTRY
)	
Defendants.)	

Upon the Motion of Plaintiff and for good cause shown, a Case Management Conference shall be held in this case on Thursday, March 22 at 3:30 P.M. in courtroom ____.

Judge

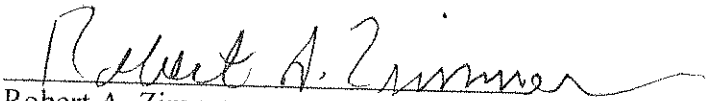
CERTIFICATE OF SERVICE

This foregoing Motion for Expedited Case Management Conference is being personally served along with the Summons and Complaint upon the following, this 27th day of March:

Tish O'Dell
7976 McCreary Road
Broadview Heights, Ohio 44147,

and

Michelle Giannakopoulos
3128 Osage Way
Broadview Heights, Ohio 44147,


Robert A. Zimmerman

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DUCK CREEK ENERGY, INC.,

Plaintiff,

vs.

TISH O'DELL, et al.,

Defendants.

) CASE NO.:

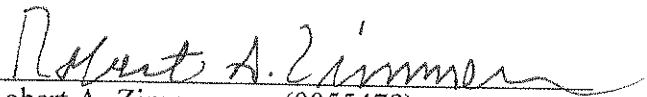
) JUDGE:

) NOTICE OF DEPOSITION OF
) DEFENDANT, TISH O'DELL

Pursuant to Rule 30 of the Ohio Rules of Civil Procedure, Plaintiff, Duck Creek Energy, Inc., by and through counsel, will take the deposition of Defendant, Tish O'Dell, on Friday, March 23, 2012 at 9:00 a.m. The deposition will convene at the offices of Benesch Friedlander Coplan & Aronoff LLP, 200 Public Square, Suite 2300, Cleveland, Ohio 44114.

The deposition will continue from day to day until completed. The deposition will commence before a notary public or other officer duly authorized to administer oaths.

Respectfully submitted,



Robert A. Zimmerman (0055478)

Lori Welker (0085109)

BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP

200 Public Square, Suite 2300

Cleveland, OH 44114-2378

Phone: 216-363-4500

Email: rzimmerman@beneschlaw.com

lwelker@beneschlaw.com

Attorneys for Plaintiff

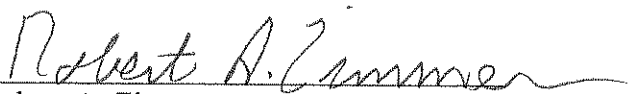
CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was personally served with the Summons and Complaint upon the following this 2nd day of March, 2012.

Tish O'Dell
7976 McCreary Road
Broadview Heights, Ohio 44147,

and

Michelle Giannakopoulos
3128 Osage Way
Broadview Heights, Ohio 44147,


Robert A. Zimmerman

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DUCK CREEK ENERGY, INC.,

Plaintiff,

vs.

TISH O'DELL, et al.,

Defendants.

) CASE NO.:

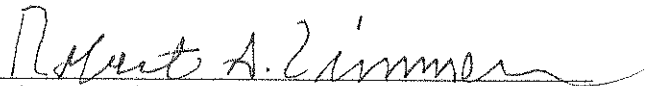
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Respectfully submitted,



Robert A. Zimmerman (0055478)

Lori Welker (0085109)

BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP

200 Public Square, Suite 2300

Cleveland, OH 44114-2378

Phone: 216-363-4500

Email: rzimmerman@beneschlaw.com

lwelker@beneschlaw.com

Attorneys for Plaintiff

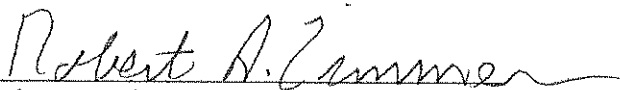
CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was personally served with the Summons and Complaint upon the following this 20th day of March, 2012.

Tish O'Dell
7976 McCreary Road
Broadview Heights, Ohio 44147,

and

Michelle Giannakopoulos
3128 Osage Way
Broadview Heights, Ohio 44147,


Robert A. Zimmerman