

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SUPERVISOR OF WELLS**

IN THE MATTER OF:

THE PETITION OF PAUL BRADY AND AUGUST JYLA,)
TO CONTEST SPACING EXCEPTIONS GRANTED)
UNDER R 324.303 IN KALKASKA COUNTY,) CAUSE NO. 01-2014
MICHIGAN, AND FOR CREATION OF A SPACING)
ORDER FOR THE UTICA SHALE FORMATION AND)
THE COLLINGWOOD SHALE FORMATION)
_____)

**ORDER DENYING REQUEST FOR SPECIAL SPACING ORDER FOR THE UTICA
COLLINGWOOD FORMATION**

PROCEDURAL HISTORY

This matter is before the Supervisor of Wells pursuant to the Verified Petition to Contest Spacing Exceptions Pursuant to Rule 324.1201 and for Supervisor of Wells Investigation and Creation of Order Spacing the Utica Collingwood Formation Pursuant to Rule 324.302 ("Petition"), dated December 6, 2013, and filed by the Petitioners Paul Brady and August Jyla ("Petitioners").

A prehearing was held in the above-captioned case on March 4, 2014. At the prehearing, the Assistant Supervisor of Wells established that the request for a uniform spacing order for the Utica/Collingwood formation would be a separate matter to be addressed in a separate proceeding as it was the second request made for such an order (the other being made by Kosco Energy Group, LLC).

On May 16, 2014, Motions for Summary Disposition filed by Encana Oil & Gas [USA] Inc. ("Encana") and Michigan Department of Environmental Quality ("MDEQ") were granted by the Assistant Supervisor of Wells, disposing of all claims by the Petitioners; leaving the Petitioners request of a spacing order as the only outstanding issue in this matter.

On July 8, 2014, Kosco withdrew its request for a spacing order for the Utica Collingwood formation, leaving the Petitioners' request as the only remaining request for such a spacing order.

JURISDICTION

The development of oil and gas in this state is regulated under Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.61501, et seq. Part 615 directs the Supervisor to prevent "waste," and gives the Supervisor jurisdiction and authority over all matters relating to the prevention of waste. MCL 324.61506 and 324.61505, respectively. "Waste" is defined as including, among other things, the locating, spacing, or drilling of a well or wells in a manner to reduce or tend to reduce the total quantity of oil or gas ultimately recoverable from any pool; unnecessary damage to or destruction of the surface, soils, animal, fish, or aquatic life, property, or other environmental values from or by oil and gas operations; unnecessary endangerment of public health, safety, or welfare from or by oil and gas operations; and the drilling of unnecessary wells. MCL 324.61501(q). Part 615 specifically authorizes the Supervisor to require the locating, drilling, casing, sealing, and operating of wells drilled for oil and gas to be done in such manner and by such means as to prevent the escape of oil or gas out of one stratum into another. MCL 324.61506(c). Further, Part 615 authorizes the Supervisor to fix the spacing of wells and to regulate the production from wells. MCL 324.61506(j).

Part 615 provides that, upon the verified complaint of any person interested in the subject matter alleging that waste is taking place or is reasonably imminent, the Supervisor shall call a hearing to determine whether or not waste is taking place or is reasonably imminent, and what action should be taken to prevent that waste. MCL 324.61507. Hearings in such matters are governed by the applicable provisions of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201, et seq. See 1996 MR 9, R 324.1203. Such causes are delegated by the Supervisor to the Assistant Supervisor of Wells for hearings and decisions.

FINDINGS OF FACT

Adoption of special spacing orders is governed by Part 615 of the Michigan Oil and Gas Regulations, R 324.302, which provides,

The development of an oil and gas field after the completion of a discovery well may warrant the adoption of a drilling unit and well spacing pattern other than as specified in R 324.301. An interested person may request, or the supervisor may schedule, a hearing pursuant to part 12 of these rules to consider the need or desirability of adopting a special spacing order to apply to a designated area, field, pool, or geological strata. The drilling unit established by the special spacing order may be smaller or larger than the basic 40-acre unit pursuant to R 321.301(1)(a).

Rule R 1202(2) of the administrative rules promulgated under Part 615 states:

All of the following additional information shall be filed with the petition when a spacing or proration order is to be considered:

- (a) The size, shape, and orientation of the proposed drilling unit.
- (b) The well spacing pattern to be proposed.
- (c) The surface geographic area to be included in the spacing order, and the geologic formation or formations to be spaced or prorated.
- (d) *Well production, testing history, and other applicable reservoir and geological data.*
- (e) Proposed daily well allowables, if applicable.

[Emphasis added.]

In their Petition, the Petitioners state:

Well production, testing history, and other applicable reservoir and geological data is in the possession of Encana and/or the Michigan Department of Environmental Quality (MDEQ), Office of Oil, Gas, and Minerals (OOGM). (See Petition, page 3.)

Further, the Petitioners' request for a uniform spacing order for the Utica/Collingwood formation is predicated on the Supervisor acquiring and evaluating information from Encana on seismic records, reservoir mapping or modeling, fracture mapping, stimulated reservoir volume, and production; and assessing the data to determine extent and location of fractures. (See Petition, page 10.) In a previous Order granting summary disposition with respect to other issues in this matter, the Supervisor declined to request the subject information from Encana.

The issue of sufficiency of information to establish spacing for the Utica/Collingwood was pivotal in Cause 12-2010. The Supervisor initiated that cause in July 2010, but dismissed the matter on June 11, 2012, due to a lack of information and

data necessary to establish an appropriate spacing order. Since that time there has not been significant relevant data added to the Supervisor's records.

At this time, I find that the Petitioners have not provided sufficient information to form a basis to initiate a proceeding regarding appropriate spacing in the Utica Shale and Collingwood Shale Formations.

I further find that, without sufficient information, a proceeding would be administratively inefficient and wasteful of both the Supervisor's and the Petitioners time and resources.

If the Petitioners can provide the appropriate technical information necessary to form the basis for consideration of a spacing order proceeding in the future, I will reconsider their request. If the Petitioners do provide that information in the future, they will be held to the same standards and requirements as an owner/operator of a drilling unit for such a request, including any and all notice requirements.

Without making a determination of the Petitioners' standing at this time, I reserve the right to revisit the Petitioners' standing as it relates to a special spacing order request if they should renew their request with the requisite information in the future.

OPINION AND ORDER

I find that there is a lack of information to proceed with a special spacing order proceeding at this time and, therefore, deny the Petitioners' request for a special spacing order proceeding.

This order shall be effective immediately.

Dated: July 24, 2014


HAROLD R. FITCH
ASSISTANT SUPERVISOR OF WELLS
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