

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
SUPERVISOR OF WELLS**

IN THE MATTER OF

THE PETITION OF OSSA ENERGY LLC FOR AN)
ORDER FROM THE SUPERVISOR OF WELLS)
FOR AN EXCEPTION ALLOWING THE RE-ENTRY)
OF THE PLUGGED WILSON 5 WELL AT A)
LOCATION 264 FEET FROM AN EXISTING) ORDER NO. 01-2022
STRUCTURE USED FOR PRIVATE OCCUPANCY)
IN A 40-ACRE DRILLING UNIT LOCATED IN)
ADAMS TOWNSHIP, HILLSDALE COUNTY,)
MICHIGAN.)

OPINION AND ORDER

This case involves the Petition of Ossa Energy, LLC (Petitioner) which seeks an Order from the Supervisor of Wells (Supervisor) approving an exception to the well surface location requirement that a well be located not less than 300 feet from existing structures used for public or private occupancy, established by R 324.301(2) of Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.61501 *et seq.* The Petitioner proposes to reenter the plugged Wilson 5 well (Permit Number 39763) as a new well known as the Wilson 5-14A. The surface location of this well is located at 264 feet from an existing structure used for public or private occupancy. The owner of the structure has not provided written consent to allow for this reentry.

Background

The Wilson 5-14A well is proposed as a re-entry of the Wilson 5 (Permit Number 39763). The Wilson 5 was drilled in 1986 as a replacement well for the Wilson 4-14 (Permit Number 31625) and subject to Supervisor's Order (A) 59-12-85. The Wilson 4-14 and Wilson 5 produced approximately 128,000 barrels of oil while in operation and both wells were plugged in 1993. The surface location of the proposed Wilson 5-14A well is 264 feet from the northwest corner of the occupied house with an address of 7180 Mauck Road, Hillsdale, Michigan 49242. This house also existed and was previously occupied

at the time that the Wilson 5 well was drilled and was subject to the previous landowner's written consent approving the well location less than 300 feet from the structure.

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, Michigan Compiled Laws 324.61501 *et seq.* The purpose of Part 615 is to prevent waste and ensure the orderly development and production of the oil and gas resources of this state. MCL 324.61502. To that end, the Supervisor may issue orders necessary to prevent waste and enforce rules promulgated under Part 615. Waste includes the unnecessary damage to surface property by oil and gas operations. According to Administrative Rule 324.301(2) a well's surface location and associated surface facilities shall not be located less than 300 feet from existing structures used for public or private occupancy. R 324.301(2) 2015 AACS. Administrative Rule 324.301(4)(c) provides that the Supervisor may grant an exception to the location of wells if the Supervisor determines the well's surface location will prevent waste, protect environmental values, and not compromise public safety after an evidentiary hearing pursuant to Part 12 of the administrative rules. The evidentiary hearing process is governed by the applicable provisions of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.* See 1996 AACS, R 324.1203. The evidentiary hearing in this matter was held on April 25, 2022.

FINDINGS OF FACT

The Petitioner specifically requests that the Supervisor issue an Order that:

1. Approves an exception to the well surface location requirement for the proposed Wilson 5-14A well as located 264 feet from an existing structure used for private occupancy.
2. Names the Petitioner as Operator of the Wilson 5-14A well.

The Administrative Law Judge determined that the Notice of Hearing was properly served and published. An answer to the Petition was filed by Nancy Wilson, the owner of the structure used for private occupancy located within 264 feet of the location of the

proposed Wilson 5-14A well. The Supervisor designated the hearing to be an evidentiary hearing to consider matters of local concern pursuant to R 324.1205(1)(b). The evidentiary hearing was held on April 25, 2022.

In support of its case, the Petitioner offered the testimony of Ms. Jane Flores, CEO of Petitioner. Respondent Ms. Nancy Wilson testified in support of her case. The Petitioner was represented by Mr. William Horn. Respondent Ms. Wilson was represented by Mr. Kevin V.B. Schumacher.

Ms. Flores testified that the Wilson 5 well was drilled as a replacement well to the nearby Wilson 4-14 well by Patrick Petroleum, due to difficulties with lost circulation encountered when drilled, and to a high gas / oil ratio (GOR), in the Wilson 4-14 well.

Now, the Petitioner seeks to reenter the Wilson 5 wellbore and drill the Wilson 5-14A well. The proposed Wilson 5-14A well is targeting the Trenton-Black River formation, which is the same producing formation as the original Wilson wells.

Drilling activities for the Wilson 5-14A well will take place in the same area as was used for drilling, completing, and operating the Wilson 5 well. Ms. Flores testified that by re-entering the plugged Wilson 5 well that prevention of waste would be recognized since the well is already present and cased; no aquifers would be exposed; there would not be a possibility of lost circulation zones being encountered; drilling time and cost would be significantly less than drilling a new location; and because the Petitioner believes the well will be capable of producing again, based on its history. There were no exhibits or expert testimony provided as to the extent of potential recoverable reserves from the proposed well re-entry.

Ms. Flores provided no exhibits or expert testimony regarding the condition of the plugged Wilson 5, knowledge of construction details, that the Wilson 5 previously received a casing exception that specifically prohibits any future deepening of the well due to the short set surface casing, or how other environmental values would be protected. She acknowledged there were past high gas oil ratios and required flaring. Ms. Flores testified that flaring would be avoided if possible and that any flares would be located at the facility and not well pad.

Ms. Flores acknowledged that Ms. Wilson lives in a house approximately 264 feet easterly of the proposed well location, and that she has refused to provide consent to this well location. Ms. Flores presented no evidence or testimony on how the non-conforming location sub-300 feet to the residence would protect environmental values related to the pond with a direct surface water connection to a county drain nor protect the safety of the residential structure and homeowner/resident. Further, Ms. Flores provided no testimony of how Ossa would prevent the unnecessary endangerment of the resident's health, safety, and welfare from the reentry of the Wilson 5 proposed closer than the 300-foot setback rule. Ms. Flores provided no evidence or testimony regarding how the Petitioner planned to address issues related to nuisance noise and nuisance odors and the potential of this exception to create an unreasonable interference of the comfortable enjoyment of life and property. Moreover, state records of plugging of the Wilson 5 indicated issues in final plugging of the well which were not addressed by evidence or testimony.

Ms. Wilson testified that she owns the W3/4 of the SW/4 of Section 14, and that the property has been held by her family since 1963. She further testified that she disputes whether the petitioner has the proper mineral rights and agreements necessary to drill the Wilson 5-14A at this location, feels the well location being less than 300-foot from her house would interfere with her life from the sounds, nuisance smells, and the constant activity. She also testified that her acreage qualifies as having a United States Department of Agriculture (USDA) Conservation Reserve Program and based upon this program her land qualifies for \$7,000 a year payment. Ms. Wilson testified that based upon this well she fears she would no longer qualify for that program and would lose that source of revenue. Ms. Wilson, when asked if she knew the Petitioner could drill on other locations on her property, stated "yes, if they have the mineral rights, they could drill." Ms. Wilson twice acknowledged in testimony that she did not want the well in the location of the former Wilson 5.

The Supervisor of Wells previously issued Order (A) 59-12-85 to allow the Wilson 5 to be drilled at an off-pattern location and placed an 89.4% production allowable on the well. The sub-300-foot location was approved by the previous surface owner and the location was granted by order due to the problems encountered in the Wilson No. 4 and

so the Petitioner could recover their fair share of the oil and gas subject to the allowable to protect off-set owners.

CONCLUSIONS OF LAW

Based on the Findings of Fact, I conclude, as a matter of law:

1. The proposed Wilson 5-14A well will have a surface location approximately 264 feet from the structure used for private occupancy, which does not comply with R 324.301(2) wherein the well surface location shall not be located not less than 300-foot from existing structures used for public or private occupancy. As the owner of the structure has not consented to the proposed location of that well, it is necessary that the Petitioner pursue an exception to the required 300-foot setback set forth in R 324.301(2) through a hearing. 2015 AACS R 301(4)(c).

2. In order to grant an exception to that setback requirement, the Supervisor must determine that the well's location will prevent waste, protect environmental values, and not compromise public safety. 2015 AACS R 301(4)(c). "Surface Waste" is defined in MCL 324.61501 to include:

a. The unnecessary or excessive surface loss or destruction without beneficial use, however caused, of gas, oil, or other product, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage, or fire, especially a loss or destruction incident to or resulting from the manner of spacing, equipping, operating, or producing a well or wells, or incident to or resulting from inefficient storage or handling of oil.

b. 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.

c. The unnecessary endangerment of public health, safety, or welfare from or by oil and gas operations.

d. The drilling of unnecessary wells.

3. The Petitioner proposes to reenter an existing wellbore, the Wilson 5 well, rather than drill a new well at a different location. If an exception is granted allowing the Petitioner to reenter the Wilson 5 well, it will not be necessary for the Petitioner to drill a new well nearby to produce the hydrocarbons believed to exist in formations to be penetrated by the proposed Wilson 5-14A well. Reentry of a well can by its nature prevent the drilling of unnecessary wells, however the Petitioner did not provide any evidence related to the condition of the plugged Wilson 5 to ensure that the location would be protective of environmental values, would not compromise public safety, and thereby ultimately prevent waste. The Petitioner did not provide any evidence as to the presence of recoverable reserves for the proposed well re-entry. Further, the Petitioner did not address the consideration of alternate surface locations for this proposal, and instead focused on a re-entry proposal. Testimony was made that surface facilities would be situated at a preferred location separate from the well site which would create surface impact at two locations, the Petitioner did not show why directionally drilling to the target from the anticipated surface facility location is not a viable alternative which would also prevent unnecessary surface waste.

In protecting environmental values and preventing unnecessary endangerment of public health and welfare, it is necessary to also factor in that which affects the quality of people's lives and the unreasonable interference of the comfortable enjoyment of life and property. The proposed well re-entry not only fails to comply with R324.301(2), but it also fails to address surface owner's objection to the well location, while not considering alternate locations or whether recoverable reserves would be present. The Petitioner has many options available to drill an exploratory well, at a legal location, on the Respondent's property. As such, I conclude that in considering the exception requested, the Petitioner did not adequately address potential impacts to public health, safety, and welfare, and affects upon the quality of life of the homeowner, when legal, drillable, locations are available on the property.

DETERMINATION AND ORDER

Based on the Findings of Fact and the Conclusions of Law, the Supervisor determines that the Petitioner's request for an exception to the well surface location requirement that a well be located not less than 300 feet from existing structures used for public or private occupancy, established under R 324.301(2), is denied.

NOW, THEREFORE, IT IS ORDERED:

1. The Petitioner's request for an exception to the well surface location requirement that a well be located not less than 300 feet from existing structures used for public or private occupancy, established under R 324.301(2), is denied.
2. The Supervisor retains jurisdiction in this matter.
3. This Order shall be effective immediately.



Dated: 7 September 2022

Adam W. Wygant
ASSISTANT SUPERVISOR OF WELLS
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