



RICK SNYDER  
GOVERNOR

DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



KEITH CREAGH  
DIRECTOR

February 2, 2016

VIA E-MAIL AND U.S. MAIL

Mr. Dale Stuart  
Township Manager, Oakland Township  
4393 Collins Road  
Rochester, Michigan 48306-1619

Dear Mr. Stuart:

SUBJECT: Proposed Oil and Gas Structure Ordinance

Supervisor Gonser has asked me to communicate with the township regarding the prospective township ordinance on oil and gas structures.

We have reviewed the draft ordinance as well as the memorandum from Mr. Andy Moore and Mr. Larry Nix of Williams and Works. We agree with the recommendation of Mr. Moore and Mr. Nix that the language on the definition of "oil and gas structure" should not be removed. The referenced language states "However, "oil and gas structure" does not include the exploration, drilling, completion, operation, or abandonment of any oil and gas wells exempted by the Zoning Enabling Act, or any such facility which is under the exclusive jurisdiction of the Supervisor of Wells."

As noted in the memorandum, the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006 (MZEA), states:

"A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells." MCL 125.3205

I should note, however, that we do not agree with the statement in the memorandum that "...cities and villages are free to regulate oil and gas wells however they see fit." While not explicitly prohibited from regulating the drilling, completion, or operation of oil or gas wells, cities and villages cannot enact and enforce regulations that are so restrictive that they effectively deny the owner or lessee of any economically viable means to access the resource. Such regulations would generally be deemed by the courts to be a taking of property, and the governmental unit could be liable for the value of the property that was taken. Furthermore, Michigan courts have found that a local jurisdiction cannot supersede or interfere with state regulation.

The Department of Environmental Quality, through the Supervisor of Wells, regulates the drilling, completion, and operation of oil or gas wells and associated wells drilled for

oil or gas exploration and production, including the issuance of permits for those wells, in a comprehensive and exhaustive manner. The wells are regulated under the provisions of Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 615). The definitions of "drilling, completion, and operation of oil or gas wells," as cited in Administrative Rules promulgated under Part 615, are as follows:

R 324.102(m) "Drilling operations" means all of the physical and mechanical aspects of constructing a well for the exploration or production of oil or gas, or both, for injection of fluids associated with the production of oil or gas, or both, or the storage of natural hydrocarbons or liquefied petroleum gas derived from oil or gas, and includes all of the following:

- (i) Moving drilling equipment onto the drill site.
- (ii) Penetration of the ground by the drill bit and drilling of the well bore.
- (iii) Casing and sealing of the well bore.
- (iv) Construction of well sites and access roads . . .

(o) "Facility piping" means piping that connects any of the following:

- (i) Compressors.
- (ii) Flares.
- (iii) Loadouts.
- (iv) Separators.
- (v) Storage tanks.
- (vi) Transfer pumps.
- (vii) Treatment equipment.
- (viii) Vents."

R 324.103(u) "Well completion operations" means work performed in an oil or gas well, or both, after the well has been drilled to its permitted depth and the production string of casing has been set, including perforating, artificial stimulation, and production testing.

Rule R 324.103(c) "Operation of oil and gas wells" means the process of producing oil or gas, or both, or the storage of natural hydrocarbons or liquefied petroleum gas, including all of the following:

- (i) Production, pumping, and flowing.
- (ii) Processing.
- (iii) Gathering.
- (iv) Compressing.
- (v) Treating.
- (vi) Transporting.
- (vii) Conditioning.
- (viii) Brine removal and disposal.
- (ix) Separating.
- (x) Storing.

- (xi) Injecting.
- (xii) Testing.
- (xiii) Reporting.
- (xiv) Maintenance and use of surface facilities.
- (xv) Secondary recovery.

As demonstrated by the definitions, the DEQ considers a broad range of operations as subject to the exclusive jurisdiction of the Supervisor of Wells and not subject to regulation by townships or counties.

I would be glad to meet with the Township Board of Trustees or other interested persons to discuss this issue, you can contact me if you wish to meet or if you have more questions at 517-284-2836; [fitchh@michigan.gov](mailto:fitchh@michigan.gov); or at DEQ, P.O. Box 30256, Lansing, Michigan 48909-7756.

Sincerely,



Harold R. Fitch  
Assistant Supervisor of Wells  
and Chief  
Office of Oil, Gas, and Minerals  
517-284-6823

cc: Mr. Terry Gonser, Township Supervisor  
Mr. Keith Creagh, Director, DEQ  
Mr. Jim Sygo, Chief Deputy Director, DEQ