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May 10, 2013

Mr. Stephen L. Grimm
Township Supervisor
Township of Cannon
6878 Belding Road, N.E.
Rockford, Michigan 49341

Re: Moratorium on Oil and Gas Operations

Dear Steve:

As discussed, we reviewed the proposed moratorium resolution which had been provided to the Township. This arises out of concerns about a reported increase in oil and gas leasing activity in the Township and surrounding area.

Activities directly associated with drilling and operation of oil and gas wells are under the exclusive jurisdiction of the Michigan Supervisor of Wells. In 1943, when townships were first authorized to regulate land use by zoning, Michigan law exempted oil and gas drilling operations from local control. This has been carried over into the current Michigan Zoning Enabling Act as follows:

“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(2).

The courts have ruled that this does not exempt all aspects of the oil and gas industry from local regulation. Thus, for example, a central gas processing facility has been held to be subject to local zoning. *Addison Township v Gout*, 435 Mich 809 (1990). On the other hand, a brine injection well used to dispose of byproducts of the exploration process has been held to be exempt from local zoning. *Dart Energy Corp v Iosco Township*, 206 Mich App 311 (1994). Michigan law makes other

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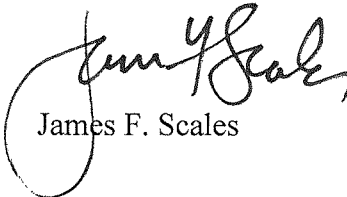
exceptions for oil and gas exploration as well. For example, "oil derricks" are not required to obtain building permits. See Michigan Building Code, Section 105.2(a)(iii).

A "moratorium" is an administrative order directing those boards and officials under the control of the governing body to suspend consideration or issuance of permits for a reasonable amount of time while the need for additional regulation is being studied. A local moratorium is not enforceable to prohibit the issuance of permits for activities which are not under its jurisdiction, and so a local moratorium may not prohibit the issuance of drilling permits by the Supervisor of Wells for those aspects of oil and gas exploration and operations which are under the exclusive jurisdiction of the State.

As drafted, the resolution provided to the Township purports to prohibit any drilling operation in the Township, and would not be enforceable. We enclose a replacement resolution which would impose a six month moratorium on the issuance of any Township permits for activities ancillary to oil and gas exploration which are subject to Township regulation. The moratorium is proposed for an initial term of six months, but it may be extended. In addition, the resolution directs the Township to promptly investigate and consider regulations on oil and gas operations which are within the jurisdiction of the Township.

We would be pleased to assist the Township in developing regulations on activities related to oil and gas operations. If you have any questions or would like to discuss this, please call.

Very truly yours,



James F. Scales

pjr
Enclosures
Via First Class Mail and E-mail
cc: Bonnie Blackledge
James R. Brown

TOWNSHIP OF CANNON
COUNTY OF KENT, MICHIGAN

At a _____ meeting of the Township Board of the Township of Cannon, held at the Cannon Township Center, 6878 Belding Road, N.E., in said Township, on the ____ day of _____, 2013, at _____ p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____ and seconded by _____:

RESOLUTION NO. 2013-__

**MORATORIUM ON ISSUANCE OF PERMITS FOR
OIL AND GAS RELATED ACTIVITIES**

WHEREAS, the Township of Cannon (the "Township") desires to maintain its long tradition of protecting the natural resources and environment within its borders, and promoting compatible land uses; and

WHEREAS, an increase in oil and gas and other mineral leasing activity has been noted within the Township and surrounding area, including the leasing of such rights by the State of Michigan on state-owned lands within the Township; and

WHEREAS, the Township has not previously been faced with the prospect of significant oil and gas exploration activity, and the Township Zoning Ordinance and other ordinances may not satisfactorily control and regulate such activities; and

WHEREAS, the Michigan Zoning Enabling Act provides:

"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 and 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”;
and

WHEREAS, certain aspects of oil and gas operations remain subject to Township regulation; and

WHEREAS, in order to allow the Township an opportunity to investigate and develop appropriate regulations upon those aspects of oil and gas operations which the Township is authorized to regulate, it is in the public interest to adopt a moratorium upon the issuance of permits by the Township for oil and gas activities.

NOW THEREFORE, BE IT HEREBY RESOLVED:

1. That effective upon adoption of this Resolution, and continuing for an initial period of six (6) months thereafter, a moratorium is hereby established on the consideration, review, or action by all Township boards, commissions, officials, employees and/or agents on applications, proposals, requests for zoning approval, zoning or other permits, or similar review and approval by the Township of any oil and gas well, or facilities or operations ancillary to the operation of such wells which are subject to Township regulation.

2. This moratorium is not intended to infringe upon the jurisdiction reserved to state or federal agencies which have exclusive jurisdiction over such subjects.

3. The Township shall proceed promptly to investigate and consider appropriate regulations upon oil and gas activities within the Township.

4. In appropriate cases, upon showing of undue hardship or unnecessary difficulty, the Township Board may grant waivers from this moratorium during its term.

RESOLUTION DECLARED ADOPTED.

Bonnie S. Blackledge, Clerk

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Board at a regular meeting thereof held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Bonnie S. Blackledge, Clerk