Oil and Gas Regulation: An Overview

By *William Reid Ralls*

Oil and gas have been produced commercially in Michigan since the 1920's. By 1980, this production has reached annual levels of nearly 35 million barrels of oil and nearly 160 billion cubic feet of natural gas. An especially active area at present is deep drilling for natural gas.

With the extensive drilling and production in Michigan comes extensive regulation by the state. Two state regulatory agencies have a great impact upon oil and gas operations in Michigan: the Supervisor of Wells within the Department of Natural Resources (DNR), and the Public Service Commission within the Department of Commerce.

These two agencies, together with the Michigan court system, have developed a regulatory scheme that affects the ability to drill, the location and spacing of wells, allowable production, allocation and proration between landowners, and the shutting in or plugging of wells. In short, nearly every aspect of oil and gas production in Michigan is affected by these two agencies and by the courts.

This article explores the statutes and regulations governing oil and gas exploration in Michigan. It also examines the agencies that administer these statutes and regulations, as well as selected court decisions affecting the oil and gas industry.

SUPERVISOR OF WELLS

The Legislature created the office of the Supervisor of Wells in Act 61 of 1939, the primary statute that regulates oil and gas operations in Michigan.[1] The Director of the DNR, Gordon Guyer, is designated to fill this office; however, he has appointed R. Thomas Segall as Assistant Supervisor to carry out the functions of the Supervisor of Wells.

The office of Supervisor has jurisdiction and authority over the administration and enforcement of the various statutes which were enacted to foster the development of the oil and gas resources. The Supervisor also has the duty to enact and enforce regulations to accomplish the principles set forth by the Legislature in the statutes.[2]

The Supervisor has an eight-member Advisory Board to assist him in considering the enactment and administration of rules and orders, to participate in public hearings and to advise him on all other matters affecting the industry. Six of the eight Board members are oil or gas producers or owners who operate in this state. The remaining two members represent the general public.

Through various laws passed by the Michigan Legislature, the Supervisor has been empowered to determine the location of wells ("spacing"), acceptable drilling and production operations, the amount of oil—or oil and gas—that can be taken from a well or drilling unit, who may drill a well and measures to address environmental concerns.

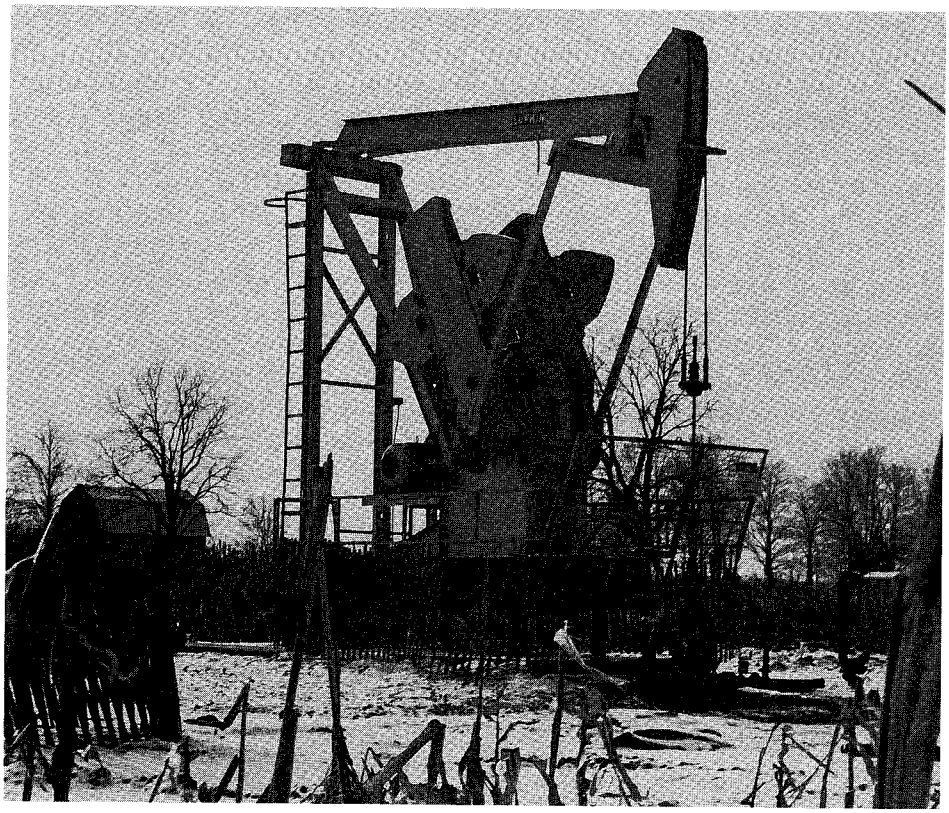
Geological Survey Division

The Geological Survey Division of the DNR functions on a day-to-day basis to administer the laws and regulations affecting the oil and gas industry, including acting as a depository for all geological records. R. Thomas Segall heads this division in addition to his duties as Assistant Supervisor of Wells.

Field staff offices of the Geological Survey Division are located throughout the lower peninsula of Michigan to facilitate onsite review of oil and gas operations.

Spacing

"Spacing" is the shorthand description of the process by which the physical pattern of well locations and a drilling unit size is determined.



Pursuant to Act 61, the Supervisor of Wells establishes uniform drilling units for gas and oil wells. The purpose of limiting the location and number of wells is to prevent drilling which is unnecessary to efficiently drain a reservoir of gas or oil.

Spacing regulations developed by the Supervisor require that drilling unit boundaries correspond with government survey quarter-quarter sections, or multiples thereof. The basic spacing requirement is for a drilling unit of a quarter-quarter section of land, also called a standard 40-acre drilling unit.[3] Development wells on the same contiguous structure or pool must locate their wells in the same relative position as the discovery well.

Exceptions to these general spacing rules may be sought by any interested party through a petition to the Supervisor for a hearing to consider a special spacing order to apply to a designated area, field, pool or geological formation.[4] The petition should accompany the application for a permit to drill in the affected area, although on occasion the development of a field may require application after the drilling of a discovery well.

With the extensive drilling and production in Michigan comes extensive regulation by the state.

The Supervisor of Wells hearings are open to the general public, and interested parties may appear to protest or advocate the issuance of a special spacing order. Before an order is issued by the Supervisor, the total size of the area to be affected by the order is determined.

It is important that the petition for a special spacing order provide adequate technical data to support the proposed action and show that the proposed spacing order will conserve natural resources through the orderly development of petroleum reserves, using the most economic means and resulting in as complete drainage as possible from the affected field or pool.

In considering an application for spacing, the Supervisor considers the productive capability of the discovery well and the extent of the field or pool. Therefore, the application should show how much of the well can be effectively and efficiently drained by one well, and provide sufficient technical data to determine orderly development of the pool.

Drilling

A permit must be obtained from the Supervisor before beginning any drilling operations.

The procedure to obtain a drilling permit from the DNR requires filing an application for permit to drill, a $100 application fee and proof of a surety bond. This is true whether the proposed drilling is for an original hole, for secondary recovery, deepening or reworking an existing hole, for a hole to dispose of wastes like brine, or for a well to serve storage reservoirs.[5]

The application form requires information regarding the exact location of the proposed site, distances to various hazards (such as bodies of water) and the elevation of the site above sea level. The Supervisor requires that an environmental impact assessment be filed with the application.[6]

If the permit is granted, the operator must post it at the site and begin drilling within one year, or it expires.

Drilling plans must include, according to the regulations, precautions for stopping or precluding waste at all stages of development—during drilling, production operations, storage of the hydrocarbons, piping and distribution.[7]

The rules promulgated pursuant to Act 61 regulate the drilling process as

well. Depending upon the type of equipment utilized, these rules prescribe the qualities of drilling fluid and mud to be used, the length of time cement placed around pipe or casing must be allowed to set, and the types of records to be kept on various special types of equipment.

Casing and sealing geological strata during drilling is regulated to prevent the migration of oil, gas, salt or fresh water between strata.[8]

The Supervisor may also require the operator of the well to submit drill cutting samples. These samples are labeled as to depth and location and are stored by the DNR for current and future research. Detailed logs of geologic data and test and completion records must be kept by the operator as well, and submitted to the Supervisor within 30 days from the completion of drilling.[9]

Allowable Production

Under Act 61, the Supervisor has authority to limit the amount of oil or gas to be produced from any well, pool, or field of one or more pools, to prevent waste, or to prorate the total amount of hydrocarbons taken from a field among the wells in that field.[10]

Proration of production represents a determination by the Supervisor that waste must be prevented by setting the level of oil and/or gas production lower than the pool would otherwise allow. (As a general rule, the more slowly a reservoir is pumped, the more efficiently it will be drained.) This determination is made in an order issued by the Supervisor following a public hearing and consultation with the Advisory Board.[11] The proration order specifies the maximum amount of oil and gas that may be produced per well per day for wells completed in an established unit within a well spacing pattern. The allowable is then calculated and reported on a monthly basis.

No express rules exist to determine the maximum allowable. There is no formula. The determination is made on a case-by-case basis. Three factors are weighed by the Supervisor and Board in determining whether to prorate production and in setting an appropriate maximum level of production. First, the purposes of proration include the prevention and minimization of drainage of hydrocarbons from areas in which other fluids will not replace the extracted hydrocarbons. The DNR tries to ensure equalization of pressure through counterdrainage.

Another consideration in a proration hearing is whether each owner in the affected pool is receiving its equitable share of oil and/or gas. A well drilled as a spacing or location exception will usually be given a lower production rate to offset any advantage gained by the unusual location.

Finally, the prevention of waste, in any form, is a primary consideration in proration determinations.

The Supervisor will not, however, prorate production until a statutorily allowable minimum production rate is reached, unless waste is occurring. Act 61 allows a well drilled to 1,000 feet or less a base allowable production of 100 barrels of oil per week, and this base increases proportionately with increased depth.[12]

Pooling

Pooling is a process whereby separately owned tracts of property, or so much of them as is necessary, are consolidated into one drilling and production unit which conforms to the government survey quarter-quarter section lines or multiples thereof. Pooling is often necessary because few leased tracts conform exactly to the 40-acre quarter-quarter section, and individual tracts often do not qualify as drilling units.

Pooling is encouraged: (1) To ensure that each owner of a tract has the opportunity to recover a just and equitable share of the hydrocarbons without unnecessary expense, (2) to prevent or minimize avoidable drainage from each tract not equalized by counterdrainage, and (3) to prevent the drilling of unnecessary wells.[13]

Pooling may be voluntary or compulsory. Voluntary pooling can be accomplished through the execution of a pooling agreement by all interested parties, or by the exercise of a pooling provision in the lease followed by the recording of a declaration of pooling by the lessee(s). No hearing or administrative approval is required for voluntary pooling.[14]

Compulsory pooling, on the other hand, is by order of the Supervisor of Wells and occurs only after there have been attempts to pool voluntarily and a public hearing on the matter has been held. Any interested party may petition the Supervisor for a pooling order hearing.[15]

Pooling is often necessary because few leased tracts conform exactly to the 40-acre quarter-quarter section, and individual tracts often do not qualify as drilling units.

If the Supervisor orders pooling, one owner in the affected unit will be authorized to commence drilling in the unit within 90 days. Owners affected by a compulsory pooling order may choose to participate proportionately in payments of drilling costs as they arise, or elect to await the outcome and pay the costs, plus a percentage for risk of a dry hole, if and when the well produces. The pooling order will also set forth the terms and conditions under which each of the owners may share in the working interest production from the well.[16]

Unitization

A final example of the power of the Supervisor of Wells over the oil and gas industry is unitization of mineral interests, pursuant to Act 197 of 1959, as amended by Act 51 of 1984.[17] Unitization is the joint operation of all or some portion of a producing reservoir, and it is ordered where such joint operations will enhance the ultimate recovery from the reservoir in an economic fashion. Unitization is, essentially, forced pooling of existing drilling units for secondary recovery operations.

A reservoir or pool of oil or gas may underlie any number of drilling units. Separately owned tracts incorporated within that area may be developed individually and without concern for the best method to achieve the greatest possible recovery from the entire pool.

In order to achieve an order for unitized development of the area, Act 97 and Act 51 require a verified petition to be filed by a lessee of mineral rights in the affected area detailing the proposed preparation, and a plan of unitization which the petitioner thinks is fair, reasonable and equitable.[18] The petition must be sent to all interested parties in the proposed unit and set out the procedure for filing a protest with the Supervisor.[19]

If no protests are received by the Supervisor, he may issue a unitization order without a hearing. If protests are filed, a hearing will be held and unitization will be ordered by the Supervisor if the following is shown: (1) Unitization is reasonably necessary to substantially increase ultimate recovery from the pool, (2) proposed operations are feasible, will prevent waste and protect the rights of affected parties, and (3) additional costs in unitized development of the pool will not exceed the value of the additional hydrocarbons to be recovered.

The unitization order will not become effective until the plan prescribed by the Supervisor is approved by: (1) Those parties that will be required to pay at least 75 percent of the costs of the unit operations and the owners of 75 percent of the drilling proceeds credited to interest which is free of costs, or (2) those parties who would receive 75 percent of the production of the unit, provided that within that group there are those who would receive at least 50 percent of the production not subject to cost, or (3) those parties who would receive 90 percent of the production from the unit, including both working interest owners and royalty owners.[20]

General Rule

These examples demonstrate the great influence of one administrative body upon the oil and gas industry in Michigan.

At this point it is appropriate to suggest a rule of thumb to be used in dealing with the Supervisor of Wells. Always keep in mind the "purpose" set forth in Act 61 of 1939: To conserve natural resources *and* encourage development of oil and gas.[21] The Supervisor wants you to show that your plans for drilling or development will provide for the orderly development of petroleum reserves and that the most economic means of recovery will be used, which will result in as complete drainage as is possible from the affected pool or field.

It may appear that the Supervisor's regulatory control leaves little or no room for further state intervention. This is not true, however, a fact which is evidenced by the authority of the Michigan Public Service Commission over the oil and gas industry.

MICHIGAN PUBLIC SERVICE COMMISSION

Statutory Authority

The Michigan Public Service Commission is composed of three members appointed by the Governor for six-year terms; no more than two of the three members may be from the same political party.[22] The Commissioners are aided by a technical staff, which consists of several divisions. Michael Kidd is the director of the Gas Division, which is responsible for oil and gas matters.

The MPSC primarily derives its authority over the oil and gas industry from two sources: Act 9 of 1929,[23] which governs the buying, selling and transportation of natural gas by anyone exercising or claiming the right to do any of those things, other than municipal corporations, and Act 238 of 1923 (as amended in 1973),[24] which regulates natural gas storage.

Act 9 imposes several duties upon the MPSC. It is charged with the responsibility to investigate alleged neglect or violation of the law, as well as the responsibility to issue regulations regarding the following: (1) equitable purchasing, taking and collecting of natural gas, (2) metering and delivery of natural gas, and (3) the provision of adequate facilities for natural gas service demands.[25]

Unitization is, essentially, forced pooling of existing drilling units for secondary recovery operations.

The Commission has also been directed to prescribe the system of accounts, financial records and operating data kept by common purchasers and common carriers of natural gas.[26]

The primary impact of Act 9, and the regulations passed pursuant thereto, is upon the first purchasers of natural gas, who are most often public utilities and gas pipeline companies.

Act 9 specifically authorized the MPSC, through its regulations, to prevent waste and conserve natural gas in producing operations as well as piping and distribution. This power

goes so far as to incorporate regulations relative to the preservation of the public peace, safety and convenience, insofaras it relates to waste prevention and conservation.[27]

Another aspect of Act 9 is a prohibition of discrimination in purchasing and transportation.[28] In other words, the purchaser must buy all natural gas in the vicinity of its pipelines unless that would surpass its needs. In that case, the purchasers will be allowed to purchase less than all of the gas available, but it must be done ratably from all sellers in the area. The purchaser cannot discriminate in favor of gas it has produced on its own. A pipeline company cannot give preferences or advantages either—as to rates, services, facilities for service or as to the commodity it delivers.[29]

Act 9 requires affected parties to file various rate and price schedules, applications, contracts, annual statements, production reports, transmission reports, and many other forms in order to remain in compliance with the Act and regulations. Civil and criminal penalties may result from violations.

Exercise of Authority by the MPSC

Under Act 9, the Commission has claimed the authority to regulate all gas wells—beginning with preparation for gas production and continuing until the well is abandoned.[30] The MPSC has issued regulations empowering the Commission to inspect the maintenance and operations of the gas wells to prevent waste, damage to gas producing strata, or injury to persons and property; to determine how much of the open flow of the gas can be utilized;[31] and to conduct capacity tests and require and prohibit the use of certain types of equipment at the well site.

Act 61 of 1939 grants the Supervisor of Wells of the DNR primary jurisdiction over oil and gas wells.[32] As a practical matter, however, jurisdiction is shifted to the MPSC if the Supervisor determines the reservoir to be drilled contains primarily dry natural gas—as opposed to oil alone, or gas produced incidental to oil production.

The MPSC *prorates the production so that there is an "equitable sharing" between all those capable of producing.*

The reason the MPSC takes over at this point is that it requires sales of natural gas to be preceded by the issuance of a well connection permit by the MPSC.[33] Before a well connection permit is issued, the producer must show the Commission it has contracted to sell the gas and that a pipeline is available or will be built to carry the gas.

Negotiating the terms of the original gas sales contract is not within the Commission's authority, but it is important to note that it does have jurisdiction over changes in the terms of the contract.[34]

At approximately the same time the Commission grants the well connection permit, it issues an "allowable withdrawal order" which sets the maximum rate of gas production to avoid damage and waste.[35] This allowable is similar to the type of allowable issued by the Supervisor of Wells for an oil well.

If the purchaser plans to build a pipeline to transport the gas, rather than connect to an existing pipeline, it should seek the MPSC's permission at this time. If the purchaser has arranged for all the necessary rights-of-way (and all other preconditions are met), the MPSC will, at a hearing in which adverse parties are not present, grant the purchaser the authority to build the pipeline.

If the purchaser—normally a Michigan public utility—has not acquired the necessary rights-of-way, it will seek to exercise eminent domain in a circuit court action. This is an action in which the court allows the purchaser to condemn and take as much property as is needed for the pipeline. If the circuit court grants the purchaser the right of eminent domain, the MPSC will generally approve building of the pipeline.

Once the pipeline is built properly, the producer will connect the pipeline at the well and withdraw up to the maximum allowable production.

Proration of Natural Gas Production

So long as there is only one producing well in a reservoir, the primary limitation upon the amount of gas taken from the ground is the maximum rate set by the "allowable withdrawal order."

Challenges arise where a second or other additional well begins producing from the same reservoir. At this point the term "proration" takes on a profoundly different meaning than before the Supervisor of Wells. The MPSC prorates the production so that there is an "equitable sharing" between all those capable of producing. In other words, the MPSC attempts to equitably divide the resources below the ground among those that own the rights to the surface, and has developed several methods to estimate the extent of those resources underlying each unit. This proration, however, is only between units in a common reservoir and not between owners of an individual drilling unit.

The first thing the Commission must do is determine the percentage of the gas which is below each well, and then a determination must be made as to what formula for proration

is to be used. An equitable split is the goal, but the formula used and its application to the wells in the reservoir presents challenges for all parties involved in proration proceedings before the MPSC.

Act 61 gave the Supervisor of Wells authority to prorate oil *and* gas production.[36] Section 24 of Act 61 gives this authority *exclusively* to the Supervisor.[37] However, the interpretation held by the MPSC, and accepted by the DNR, is that the power to prorate is a necessary part of the Commission's function to regulate gas production.[38]

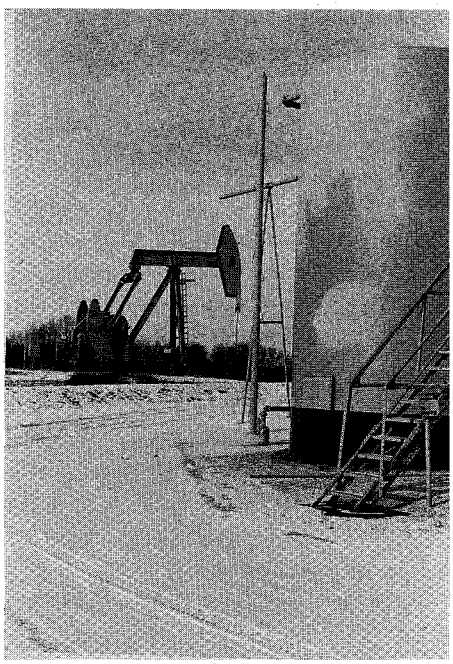
If, after the MPSC exerts jurisdiction over a well, it is discovered that other than "primarily natural gas" is produced from that well, the proration power is turned back over to the Supervisor of Wells.

COURT INTERVENTION

The regulatory roles of the above two agencies, like the roles of all administrative agencies, have been affected by court action. Court action may occur in either a direct action, such as an injunction, or through the administrative appeal process. This section will examine the effects each of these processes has had on the oil and gas industry by examining three cases that wound up in the appellate courts. The first involves an injunction action which relates the Environmental Protection Act to oil and gas operations. The second and third cases involve appeals from the Supervisor of Wells and the Public Service Commission, respectively.

Environmental Protection Act Injunctions

Oil and gas drilling operations may be delayed or even prevented by an injunction action in the courts based upon the Michigan Environmental Protection Act.[39] The prime example of this kind of court intervention occurred in a case involving the Pigeon



River Country State Forest. That case resulted in a landmark decision by the Michigan Supreme Court that permanently enjoined oil and gas drilling operations in the Pigeon River Forest area.[40]

The Pigeon River Country State Forest was one of the largest remaining tracts of publicly owned, wild, undeveloped land in the lower peninsula containing rare, favorable habitats for elk herds, bear, game birds and other wildlife. In 1968, oil and gas leases covering more than one-half million acres of state land in the northern lower peninsula were sold by the DNR. Ten percent of the affected acreage was located in the Pigeon River Forest, resulting in more than one-half of the forest being leased for gas and oil development.

On June 11, 1976, the Natural Resources Commission (NRC) and certain oil companies adopted a "Stipulation Consent Order" allowing for limited gas and oil development in certain areas of the forest. Despite objections by the West Michigan Environmental Action Council (WMEAC), the Supervisor of Wells granted Shell Oil Company permits to drill ten exploratory wells in the forest. The WMEAC then sought an injunction under the Michigan Environmental Protection Act, claiming the consent order was unlawful.

The trial court and the Court of Appeals denied injunctive relief, upheld the consent order, and upheld the issuance of drilling permits.

The Michigan Supreme Court reversed. The Supreme Court first held that when a court is reviewing administrative proceedings in environmental matters, the Environmental Protection Act requires that independent, de novo determinations be made. The usual standards of review under the Administrative Procedures Act were deemed inapplicable in this instance. The court then surmised from the record, based upon its own independent judgment, that in order to prevent the impairment of such a vital wildlife area, a permanent injunction should be issued.

While the Supreme Court's decision in this case has been substantially modified by statute,[41] the opinion remains instructive. Where drilling is allowed on public land and an environmental issue is presented, traditional deference to administrative expertise may be ignored by the appellate courts in favor of the court's own independent judgment. It remains to be seen whether this approach will have a dramatic impact in future cases involving public leases.

The Supervisor of Wells

Appeals from orders of the Supervisor of Wells may be made to the Ingham County Circuit Court, which has exclusive jurisdiction of all actions arising under Act 61.[42]

The most significant appeal of a Supervisor's order in recent years resulted in the Michigan Supreme Court enforcing certain lease provisions allocating production between owners in a drilling unit.[43] The plaintiffs were landowners in Grand Traverse County who leased oil and gas rights to Shell Oil Company. The lease provided that plaintiff's property could be pooled with other properties to form

a drilling unit, and that the one-eighth royalty interest in production in the event of pooling would be allocated on the basis of the ratio of surface acreage owned by the lessor to the total surface acreage in the unit. Shell then obtained a drilling permit on a standard 80-acre unit,[44] and successfully completed a well. Plaintiffs owned 40 of the 80 acres, resulting in a 50% interest in the royalty under the lease formula, and all of the 40-acre tract owned by plaintiffs was underlain by the pool or reservoir.

The most significant appeal of an MPSC gas order in recent years challenged the statutory basis of the Commission's jurisdiction over gas regulation.

Shell then petitioned the Supervisor of Wells to expand the unit from 80 acres to 240 acres. This resulted in diluting the plaintiffs' interest to 33⅓% (plaintiffs owned 80 acres of the new 240-acre unit). Further, a significant amount of the acreage added to the new unit was not underlain by the reservoir.

The plaintiffs appealed the expansion of the unit to the Ingham County Circuit Court, which affirmed. The Court of Appeals found that the Supervisor had ample authority under the statute to expand the unit[45] but, following a rehearing, held that because the drilling unit was created pursuant to statute by the Supervisor, production had to be allocated in proportion to the ratio the acreage underlain by the pool or reservoir has to the total unit acreage underlain by the pool rather than on a surface acreage basis.[46] Because a relatively large proportion of the plaintiffs' land within the unit was underlain by reservoir, the plaintiffs would have obtained larger royalties under the method required by the Court of Appeals.

On appeal, the Michigan Supreme Court reversed. The court found that the expansion of the drilling unit did not pool the interests, but that the pooling and allocation of production took place as a result of private contracts.[47] The creation or expansion of the drilling unit itself pooled no interests, with the Supervisor pooling only when the parties failed to agree. The plaintiffs had agreed to both pooling and the surface acreage allocation method when they executed the lease.

While this decision upheld standard practice at the DNR, the case is instructive as to how the statutes operate, and certain language in the opinion indicates that the surface acreage allocation method is not sacred. First, the court indicated that absent the lease provision or in the event the Supervisor directed the allocation method to be used and thereby gave a royalty interest to owners of barren land, the result may have been different.[48] Further, the court expressly held that the Supervisor may not compel use of the surface acreage allocation method.[49] This raises the possibility of future challenges to allocation of oil and gas interests, and that landowners may have more leverage in lease negotiations because oil companies may be unwilling to risk appeals absent express provisions governing pooling and allocation.

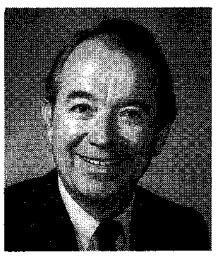
The Public Service Commission

Appeals from Public Service Commission orders are to be made directly to the Court of Appeals as of April 1, 1987. Prior to that time, appeals were brought to the Ingham County Circuit Court.[50]

The most significant appeal of an MPSC gas order in recent years challenged the statutory basis of the Commission's jurisdiction over gas regulation. The basis of the challenge was as follows: Act 61 supercedes all other laws affecting oil and gas regulation except for the authority given the MPSC in Sections 7 and 8 of 1929 PA 9.[51] These two sections allow proration "whenever the full production of any common source or field of supply natural gas in this state is in excess of the market demands."[52] When a Commission proration order restricted production at the Thompson I well in the Cleon 22 gas pool in accordance with a proration formula, Northern Michigan Exploration Company (NOMECO) challenged the Commission's authority in an appeal to Circuit Court. NOMECO claimed that the MPSC lacked jurisdiction to prorate production because there was no allegation or showing that production exceeded demand.

Following affirmance in Circuit Court, NOMECO appealed to the Court of Appeals. The Court of Appeals rejected all of NOMECO's arguments and upheld the Commission's authority to prorate natural gas production.[53] After reviewing the history of conflicting statutes and recognizing the inconsistency, the Court of Appeals found that Act 9 did give the MPSC the necessary jurisdiction. The Court of Appeals was especially reluctant to disturb the MPSC's exercise of the jurisdiction for over 50 years based on the two agencies' long-standing administrative interpretation of the two conflicting statutes.[54]

As a result of this decision, further appeals of the Commission's authority over natural gas production seem



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NOTICE

On December 8, 1988 a panel of the United States Court of Appeals for the Seventh Circuit unanimously reversed an earlier decision of the United States District Court for the Western District of Wisconsin holding that compelled membership in the State Bar of Wisconsin violated the First Amendment to the United States Constitution. The appellate court concluded that the issue was controlled by the 1961 decision of the United States Supreme Court in *Lathrop v Donahue,* 367 U.S. 820, upholding the constitutionality of the State Bar of Wisconsin.

NOTICE
Young Lawyers Section Membership

Membership in the Young Lawyers Section is automatic for all who qualify. It is conferred upon the lawyer's admission to practice in Michigan and continues until the lawyer reaches his or her 36th birthday or completes five years of practice, whichever is longer. No additional dues are charged for Section membership and participation in all Section activities is voluntary.

Any member who wishes to terminate his or her membership in the Young Lawyers Section may do so by notifying the State Bar in writing.

Young Lawyers Section
State Bar of Michigan
306 Townsend Street
Lansing, Michigan 48933-2083

I herewith resign from the Young Lawyers Section of the State Bar of Michigan. I understand that if I am still eligible, I may reinstate my membership without cost by simply notifying the State Bar in writing of my intention.

DATE

SIGNATURE

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unlikely. Still, the emphasis placed on the long-standing agency interpretation may indicate that more recent actions that are seen as encroachments on the DNR's authority, even if natural gas is involved, may not be given deference by the courts. Disputes between the DNR and the MPSC cannot be ruled out either. But the general authority of the MPSC appears certain absent legislative action.

CONCLUSION

Oil and gas activities are closely governed in Michigan. Regulation by the two bodies which have the greatest impact upon the industry—the Supervisor of Wells and the MPSC—extends into all facets of the development and production of oil and gas. Often their authority and control overlap on particular functions. It is important to understand the form and manner of operation and control exerted by these agencies since they impact the economic interests of all parties, producers and mineral interests owners, alike, involved in oil and gas development and production in Michigan.

Footnotes

1. MCL 319.1 *et seq;* MSA 13.139(1) *et seq.*
2. MCL 319.5; MSA 13.139(5).
3. 1979 AC, R. 299.1201.
4. 1979 AC, R. 299.1203.
5. 1979 AC, R. 299.1101.
6. 1979 AC, R. 299.1101(2)(e).
7. 1979 AC, R. 299.1301.
8. 1979 AC, R. 299.1306.
9. 1979 AC, R. 299.1310 and R. 299.1311.
10. MCL 319.13; MSA 13.139(13).
11. 1979 AC, R. 299.1501 *et seq.*
12. MCL 319.13; MSA 13.139(13).
13. MCL 319.13; MSA 13.139(13).
14. 1979 AC, R. 299.1204.
15. 1979 AC, R. 299.1205.
16. 1979 AC, R. 299.1205(c).
17. MCL 319.351 *et seq;* MSA 13.139(101) *et seq.*
18. MCL 319.354; MSA 13.139(104).
19. MCL 319.355; MSA 13.139(105).
20. MCL 319.357; MSA 13.139(107).
21. MCL 319.1; MSA 13.139(1).
22. MCL 460.1; MSA 22.13(1).
23. MCL 483.101 *et seq;* MSA 22.1311 *et seq.*
24. MCL 486.251 *et seq;* MSA 22.1671 *et seq.*
25. MCL 483.105; MSA 22.1315.
26. MCL 483.113; MSA 22.1323.
27. MCL 483.114; MSA 22.1324.
28. MCL 483.104; MSA 22.1314.
29. MCL 483.106; MSA 22.1316.
30. 1979 AC, R. 460.855(1).
31. 1979 AC, R. 460.855(3).
32. MCL 319.5; MSA 13.139(5).
33. 1979 AC, R. 460.864(1).
34. MCL 483.110; MSA 22.1320.
35. 1979 AC, R. 460.864(2).
36. MCL 319.13; MSA 13.139(13), and 1979 AC, R. 299.1501.
37. MCL 319.24; MSA 13.139(24).
38. This interpretation of the jurisdiction to prorate gas production was upheld by the Court of Appeals in *Northern Michigan Exploration Company v Public Service Commission,* 153 Mich App 635; 396 NW2d 487 (1986).
39. MCL 691.1201 *et seq;* MSA 14.528 (201) *et seq.*
40. *West Michigan Environmental Action Council v Natural Resources Commission,* 405 Mich 741; 275 NW2d 538 (1979), *cert den,* 444 US 941 (1979).
41. In 1980 PA 316, the Legislature enacted the Pigeon River Country State Forest Hydrocarbon Development Act. MCL 319.121 *et seq;* MSA 13.140(51) *et seq.* This Act allows drilling activity in certain areas of the forest along the lines permitted under an amended stipulation and consent order.
42. MCL 319.17; MSA 13.139(17).
43. *Manufacturers National Bank of Detroit v Department of Natural Resources,* 420 Mich 128; 362 NW2d 572 (1984).
44. Special Order 1-73 of the Supervisor of Wells, effective April 1, 1973, alters the standard drilling unit size for Niagaran wells in specified counties to 80-acre units composed of two governmental surveyed quarter-quarter sections of land with a common boundary of approximately 1320 feet.
45. *Manufacturers National Bank of Detroit v Department of Natural Resources,* 85 Mich App 173; 270 NW2d 550 (1978).
46. *Manufacturers National Bank of Detroit v Department of Natural Resources (On Rehearing),* 115 Mich App 294; 320 NW2d 403 (1982).
47. 420 Mich 128, 142.
48. 420 Mich 128, 141.
49. 420 Mich 128, 145-146.
50. See MCL 483.110; MSA 22.1320, and MCL 462.26; MSA 22.45.
51. MCL 319.24; MSA 13.139(24).
52. MCL 483.108; MSA 22.1318.
53. *Northern Michigan Exploration Company v Public Service Commission,* 153 Mich App 635; 396 NW2d 487 (1986).
54. 153 Mich App 635, 645.

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