

22nd JUDICIAL DISTRICT COURT

PARISH OF ST. TAMMANY

STATE OF LOUISIANA

DOCKET NO. 2014 15348

SECTION J

TOWN OF ABITA SPRINGS

VERSUS

JAMES H. WELSH, IN HIS OFFICIAL CAPACITY AS
COMMISSIONER OF CONSERVATION OF THE LOUISIANA
DEPARTMENT OF NATURAL RESOURCES.

AND

HELIS OIL AND GAS COMPANY, LLC

FILED December 1, 2014

Connie Mermaid
DEPUTY CLERK

PETITION FOR DECLARATORY JUDGMENT

NOW INTO COURT, through undersigned counsel, comes the Town of Abita Springs ("Abita Springs"), which respectfully represents the following:

THE PARTIES

1. Plaintiff Abita Springs is a town in St. Tammany Parish.
2. Abita Springs is a municipality tasked with promoting the health, safety, and welfare of its residents.
3. Abita Springs is authorized to sue and be sued.
4. Abita Springs's town hall is located at or nearby Latitude 30.478474, Longitude -90.035633. Abita Springs's southeast boundary is located at or nearby Latitude 30.459566, Longitude -90.015214.
5. Abita Springs is a taxpayer in St. Tammany Parish.
6. Made defendant herein is James H. Welsh, in his official capacity as Commissioner of Conservation, Louisiana Department of Natural Resources.
7. The Office of Conservation of the Louisiana Department of Natural Resources, and the Commissioner of Conservation, are state agencies.

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8. Also made defendant herein is Helis Oil & Gas Company, LLC ("Helis"), a Louisiana limited liability corporation.

JURISDICTION AND VENUE

9. Jurisdiction and venue are proper in this Court pursuant to Louisiana Code of Civil Procedure article 1871, et seq., La. R.S. § 13:5401(A), and La. Code of Civil Procedure articles 77 and 80.

BACKGROUND

10. On or about March 31, 2014, Helis requested a unitization order from the Louisiana Department of Natural Resources, Office of Conservation ("Office of Conservation"). The unitization order would allow Helis to create a single drilling and production unit for the exploration and production of oil and gas from the Tuscaloosa Marine Shale, Reservoir A, in Lacombe Bayou Field, St. Tammany Parish, Louisiana.

11. On August 29, 2014, the Office of Conservation issued Unitization Order 1577, establishing a drilling and production unit for the Tuscaloosa Marine Shale, Reservoir A, in the Lacombe Bayou Field, St. Tammany Parish, Louisiana, as requested by Helis. The unit is designated TMS RA SUA.

12. Upon information and belief, Helis has mineral leases, and claims immovable property in the form of mineral rights, on lands included in Unitization Order 1577 in St. Tammany Parish, Louisiana.

13. On or about September 3, 2014, Helis applied to the Office of Conservation for a permit to drill the Eads Poitevent et al. No. 1 Well ("Well"), to a depth of 13,374 feet, within the Lacombe Bayou Field in St. Tammany Parish ("Well Application").

14. In its Well Application, Helis described the location of its Well as "S09°09'17"W 5,346.47' from USC&GS Monument "PINEY 2", located in Sec 34 T7S-R1 2E St. Tammany Parish LA."

15. Helis will construct a drill pad for its Well and associated infrastructure.

16. Helis intends to vertically drill an exploratory well and then produce oil and/or gas from its Well by horizontal drilling and hydraulic fracturing ("Helis's project").

17. Upon information and belief, Helis has mineral leases, and claims immovable property in the form of mineral rights, at the Well site in St. Tammany Parish.

18. Upon information and belief, Helis has mineral leases, and claims immovable property in the form of mineral rights, on over 60,000 acres in St. Tammany Parish ("leases").

19. Upon information and belief, these 60,000 acres cover all or most of Abita Springs.

20. Upon information and belief, these 60,000 acres cover much of the area surrounding Abita Springs in St. Tammany Parish.

21. Upon information and belief, these 60,000 acres could accommodate nearly 300 horizontal fracking wells and approximately sixty-two surface locations in St. Tammany Parish.

22. Upon information and belief, no hydraulic fracturing ("fracking") has ever been conducted in St. Tammany Parish. Helis's project would be the first.

23. On or about September 15, 2014, Abita Springs and the Concerned Citizens of St. Tammany submitted a request to the Office of Conservation to hold a hearing and allow notice and comment on Helis's application for a permit to drill the Eads Poitevent et al. No. 1 Well.

24. On November 12, 2014, the Office of Conservation held a public hearing concerning the Helis application to drill the Well.

25. The Office of Conservation also opened a notice and comment period on Helis's drilling application. The comment period closed on November 19, 2014.

26. Upon information and belief, the Office of Conservation considers Helis's application complete and may issue the drilling permit at any point.

27. The Office of Conservation may not provide notice or an opportunity for comment when Helis converts its vertical exploratory well to horizontal drilling and fracturing operations.

28. The Office of Conservation may not provide notice or an opportunity for comment when Helis applies for a drilling permit on any of its St. Tammany Parish leases.

LAW AND FACTS

29. Article 6, Section 17 of the Louisiana Constitution provides authority for local governments to adopt regulations for land use, zoning, and historic preservation.

30. Article 6, Section 5 of the Louisiana Constitution also provides a local government, through the adoption of a Home Rule Charter, with authority to exercise "any power and perform[] any function necessary, requisite, or proper for the management of its affairs, not denied by general law or inconsistent with this constitution." LA. CONST. Art. VI, § 5(E) (1974).

31. In addition to the authority provided under the Louisiana Constitution, Act 518 of 1954 further authorized the Parish "for the purposes of promoting health, safety, morals or the general welfare of the community..." to enact zoning ordinances to restrict and regulate land use throughout the Parish.

32. Pursuant to Act No. 388 of the 1988 Louisiana Legislative Regular Session, Act 518 was repealed. However, the same Act 388 codified that authority in La. R.S. § 33:4776. Specifically, La. R.S. § 33:4776(A) reads, in pertinent part:

In case any building or structure is erected, structurally altered, or maintained, or any building, structure, or land is used in violation of any St. Tammany Parish building code ordinance, any parish land use regulation zoning ordinance, any parish subdivision regulatory ordinance, or any ordinance or regulation made under the authority of Act 518 of the 1954 Regular Session of the Legislature of Louisiana, the St. Tammany Parish Police Jury, in addition to other remedies, may institute any appropriate action or proceedings, including but not limited to the issuance of misdemeanor summons or citations, to prevent such unlawful erection, structural alteration, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

33. Under La. R.S. § 33:101, et seq. and § 33:4721, et seq., St. Tammany Parish has the authority to zone and control land uses in its territory, to regulate and separate land uses, and to protect the health, safety, and welfare of its citizens by prohibiting the intrusion of incompatible land uses and the negative impacts that one land use might have on another.

34. St. Tammany Parish has adopted a Master Plan and has enacted a Unified Development Code ("Zoning Code") zoning all of the land in the parish.

35. St. Tammany Parish's Master Plan and Zoning Code represent reasonable, proper, and necessary exercises of its police powers to ensure its residents' health, safety, and welfare.

36. St. Tammany Parish's Zoning Code includes districts designated as A-3(D) Suburban Districts.

37. A-3(D) Suburban Districts are residential in nature. These districts are "intended to provide a single-family residential environment on moderate sized lots." St. Tammany Parish Unified Development Code § 5.0801 (2010).

38. Use of A-3(D) Suburban Districts is limited to permitted uses enumerated in section 508 of the Zoning Code. St. Tammany Parish Unified Development Code § 5.0802 (2010).

39. Installation and/or existence of drill pads, structures associated with drill pads, oil and gas wells, and drilling of wells in connection with oil and gas production are not enumerated as permitted uses in Zoning Code § 508.

40. Development of drill pads, structures associated with drill pads, oil and gas wells, and drilling of wells in connection with oil and gas production are neither similar to nor compatible with any permitted use enumerated in Zoning Code § 508.

41. Installation of drill pads, structures associated with drill pads, oil and gas wells, and drilling of wells in connection with oil and gas production are prohibited in A-3(D) Suburban Districts.

42. Helis's Well, well pad, and infrastructure will be located within an A-3(D) Suburban District.

43. Helis is aware that its Well, well pad, and infrastructure will be located within an A-3(D) Suburban District.

44. Direct impacts and activities associated with Helis's project, and projects on Helis's leases, may include drill pads, drill rigs, ponds for storage of stormwater, pits/ponds for storage of contaminated wastewater including produced water and flowback water from the Well, truck traffic coming to and from the site delivering water and chemicals and removing waste containing toxic chemicals and radioactive material, compressors, flares, generators, pumps, diesel engines, water lines, pipelines and pipeline corridors, storage tanks with vents, condensate storage tanks, crude oil storage tanks, and processing plants.

45. This infrastructure and activity will have detrimental impacts on residential areas and are incompatible with residential uses.

46. Upon information and belief, the entrance to Helis's Well site is approximately three hundred feet from the entrance to Lakeshore High School.

47. Abita Springs residents attend Lakeshore High School.

48. Helis's Well will be drilled through the Southern Hills Aquifer.

49. The Southern Hills Aquifer is the sole source of drinking water for Abita Springs.

In total, it serves as a drinking water source for nearly 1,100,000 people in the state of Louisiana. It is the only drinking water source for St. Tammany Parish, and a drinking water source for nine other parishes – West Feliciana, Pointe Coupee, East Feliciana, West Baton Rouge, East Baton Rouge, St. Helena, Livingston, Tangipahoa, and Washington.

50. Drilling the Well and future oil and gas wells and the associated activities presents a risk of contamination of the Southern Hills Aquifer.

51. Remediation of contaminated aquifers is difficult, if not impossible.

52. Abita Springs and its residents are concerned about the health, safety, and welfare risks Helis's project presents to the Southern Hills Aquifer.

53. Abita Springs enjoys a unique connection to the Southern Hills Aquifer, as the Town's identity is inextricably entwined with the cleanliness and purity of the Southern Hills Aquifer water.

54. Much of Abita Springs's identity and value as a place to live, work, and recreate derives from its clean environment, peaceful setting, and lack of industrial activity.

55. Abita Springs is concerned about the negative impacts of Helis's project, and future projects in areas of St. Tammany Parish covered by Helis's leases, on Abita Springs and the surrounding area, as well as the health, safety, and welfare of its citizens.

56. Drilling the Well and the associated infrastructure and activities, as well as future oil and gas projects in St. Tammany Parish, could result in the following adverse impacts on Abita Springs and its residents: air pollution; noise; significantly increased truck traffic and the associated increase in accidents, which may include spills of toxic chemicals and radioactive materials; contamination of groundwater in the Southern Hills Aquifer, impacting public and private water supplies; contamination of surface water, including nearby Scenic Streams used and enjoyed by Abita Springs and its residents; contamination of land; decrease in property

values of current and future residences and businesses in Abita Springs; health impacts to Abita Springs's residents; decrease in tourism and income provided to Abita Springs through tourism; quality of life impacts; aesthetic impacts; decrease in property taxes; and potential impacts to students at Lakeshore High School.

57. Drilling the Well and the associated activities, as well as future oil and gas projects in St. Tammany, can also lead to adverse impacts on Abita Springs and its residents from the development of extremely high-density, temporary residential developments, also known as "man camps," and associated growth of illegal markets, institution of menacing social practices, and spread of moral decay and corruption.

58. Abita Springs and its residents are concerned about all of the above-listed impacts of Helis's project and future projects in areas of St. Tammany Parish covered by Helis's leases.

59. The impacts of Helis's project and future projects in areas of St. Tammany Parish covered by Helis's leases are incompatible with residential uses and are detrimental to the health, safety and welfare of St. Tammany Parish residents, including Abita Springs.

60. Abita Springs is concerned about the increased direct and indirect infrastructure burden, especially the economic costs, of performing its duty to provide for the health, safety and welfare of its residents in light of the Helis project and future projects in St. Tammany Parish covered by Helis's leases.

61. Abita Springs relies on the St. Tammany Parish Zoning Code and St. Tammany Parish Master Plan to protect it from the detrimental impacts of uses which are incompatible with the health, safety, and welfare of residents in Abita Springs.

62. The Office of Conservation's regulations do not address local zoning laws.

CLAIMS

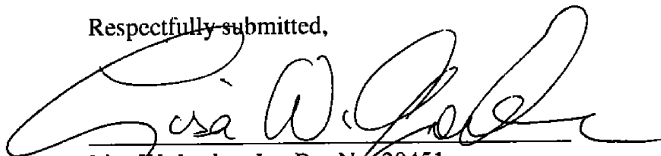
63. Abita Springs is entitled to declaratory relief that the St. Tammany Parish Unified Development Code controls where drilling operations permitted by the Office of Conservation may occur because the St. Tammany Unified Development Code was duly adopted, represents a necessary and reasonable exercise of St. Tammany Parish's police powers, and is necessary to protect and to ensure the health, safety, and welfare of St. Tammany Parish citizens.

64. Abita Springs is entitled to declaratory relief that Helis's drilling project violates the St. Tammany Parish zoning laws, contained in the Unified Development Code, because Helis will drill in an A-3(D) Suburban District, in which Helis's project activities are not permitted.

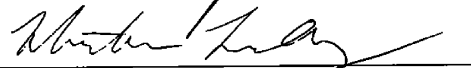
RELIEF REQUESTED

WHEREFORE, the Town of Abita Springs respectfully prays that defendants be duly cited to appear and show cause, at a hearing date and time to be set by this Court, why this Court should not declare: 1) that the St. Tammany Parish Unified Development Code controls where drilling operations permitted by the Office of Conservation may occur, and 2) that Helis's drilling project violates the St. Tammany Parish zoning laws in the St. Tammany Parish Unified Development Code, and for all general and equitable relief.

Respectfully submitted,



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