

OFA PRIVATE GAS WELL POLICY

Under the Oil, Gas and Salt Resources Act and Regulation 245/97, landowners can operate a natural gas well, defined as a “private well”, to provide gas to heat their home, etc. OFA supports the right of landowners to operate a private well to heat their home, etc.

The OFA does not advocate standards that would in any way compromise public health, safety, or environmental standards.

1. Many of these wells were drilled decades ago, and were abandoned when they ceased to be commercially viable. In some instances, when these wells ceased to be commercially viable they were sold to the owners of the land where they were situated. We believe that specific standards that reflect the low volume, low pressure nature of these wells should be developed by MNR, in consultation with farmers. MNR should make these standards readily available to private gas well owners. Furthermore, MNR should undertake to qualify more oil and gas well drillers/pluggers.
2. The siting requirements for private gas wells should be based on those in effect when the well was drilled. Viable wells should not be ordered plugged simply because the siting requirements have changed, because roads have been built or widened, or lot lines changed. According to MNR staff, the current set back requirements [Operating Standards, 3.1.1] are essentially unchanged since the mid 1900s. However, there have been changes in the actual set back distances due to the conversion from imperial units of measurement to metric units of measurement. For example, the set back from “any high voltage power line, road allowance, ...” [3.1.1 (a)] was 150 feet. Now it is 50 metres [164 feet]. The setback from buildings [3.1.1 (b)] was 250 feet; now its 75 metres [246 feet].
3. Farmers with a private gas well should be able to use the gas produced on their farm, and in any way they choose, i.e. gas from a private well should be able to be used to heat one’s greenhouse, shop, livestock/poultry barn or to fuel a non-commercial grain dryer, in addition to domestic uses.
4. MNR should refine its Abandoned Works Plugging Program to guarantee private landowners that once they advise MNR of abandoned oil or gas wells on their property, that they will not be liable in the future for plugging those wells.
5. MNR should develop a fund to assist in the upgrading of private wells.
6. Existing private gas wells should be exempt from commercial pooling and spacing requirements.
7. MNR and/or TSSA should investigate the possibility of training private well owners to perform simple well maintenance.

Background:

Regulation 245/97 under the Oil, Gas and Salt Resources Act defines a “private well” as’

- a) an unplugged well drilled for the purpose of oil or gas exploration or production on land of which the operator owns both the surface and mineral rights, and
- b) if oil or gas is produced from the well, the oil or gas,
 - i) is for the operator’s private use,
 - ii) is not used in relation to a business or commercial enterprise, and
 - iii) is not sold by the operator.

The Act defines an “operator”, in respect of a work, as;

- a) a person who has the right as a lessee, sub-lessee, assignee, owner or holder of a licence or permit to operate the work,
- b) a person who has control or management of the operation of the work, or
- c) if there is no person described in clause (a) or (b), the owner of the land on which the work is situated.

In some parts of the province, most often towards the east end of Lake Erie, private landowners may have one or more natural gas wells on their property, which they use to heat their home, etc. Often these wells were initially drilled and operated as commercial wells, but as their production fell, they were offered to their landowners for a nominal cost. In other cases, the landowner has arranged for the drilling of a well or wells, which they use to heat their home, etc.

Both the Oil, Gas and Salt Resources Act and Regulation 245/97 address private wells.

Section 10 of the Act requires the licensing of all wells, including private wells.

Maintenance may only be performed on a licenced well. Structures are not permitted within 75 metres (250') of a well. The annual licence fee for a private well is \$0. Likewise, the security deposit for a private well is \$0.

There is one set of provincial standards for the Oil, Gas and Salt Resources Act. Private well standards are included. Among the relevant standards are;

3.1.1 Restricted Drilling Areas

No person shall drill a well having a surface location:

- a) within 50 metres [165'] of any high voltage power line, road allowance, railway, transmission pipeline or any other utility right of way;
- b) within 75 metres [250'] of any dwelling, agricultural, commercial or industrial building, school, church or place of public assembly;
- c) on land, within 100 metres [328'] of the shoreline of any of the Great Lakes, including the

interconnecting waterways and 30 metres [100'] from any other lake, river, stream or municipal drain;

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It seems that these requirements are currently interpreted to include existing wells, regardless of the siting requirements in place at the time of drilling.

Landowners should carefully evaluate the costs, benefits and liabilities of owning and operating a private well. Natural gas from a well is odourless. The odour agent in commercial natural gas (mercaptan) is not available to private well operators. Landowners with a private well should place gas detectors throughout their homes, etc. As well, natural gas may contain hydrogen sulphide (rotten eggs odour), water or both. These may reduce the lifespan and performance of gas appliances, causing more frequent, costly replacement.

At some point, the gas reservoir will be exhausted, and the well will cease to produce. Current law obligates the owner of a private well to have it properly plugged when it is no longer being used. Well plugging can be very expensive. Farmers and private landowners need to be fully aware of this. In particular, a farmer or private landowner who purchases a gas well from a commercial operator becomes the well operators, and assumes responsibility for plugging it.

In their letter of April 20, 2007 to Minister Ramsay, the Gas Well Coalition raised a number of concerns. Other than the three attached resolutions, OFA has no specific policy on private gas wells. **The issues raised were;**

Recently, there have been new regulations for inspectors and operators but no one has been made aware of them. The MNR has not made an effort to advise operators of the ongoing changes to the regulations. Finding answers to MNR requirements is both frustrating and time consuming.

MNR/TSSA should, with OFA input, develop a factsheet for farmers on private gas well rules. The factsheet could be produced by OMAFRA.

The posting of bonds should not be required for private gas well owners.

The current regulations do not require security for a private well. [Regulation 245/97; section 16.(3)(b)]

The following issues should be addressed through staff training.

- The Petroleum Resource Center, based in London, Ontario, a division of the MNR, needs to be more approachable and less confrontational. MNR staff and private gas well owners should be able to work together in a reasonable way.
- A communication protocol between inspectors and land owners needs to be established.

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- A minimum standard for proper conduct needs to be set for MNR inspectors: Inspectors should start with a phone call to arrange a visit. They should conduct the visit in a manner that clearly shows the well owner that their initial intent is to allow the well owner to continue using the well as a source of energy. Inspectors should refrain from intimidating practices and unnecessary delays.

Issues where no current OFA policy exists;

- Privately owned operating gas wells, not producing gas for sale, should not be required to meet the current operating standards but be grand-fathered to meet the requirements of when they were established.
- Restrictions on setbacks should not apply to an existing gas well. This issue will be resolved if existing wells are grand-fathered.
- Existing private gas wells should not be subject to pooling requirements.
- When a legally constructed, productive well is ordered plugged because of new and more restrictive regulatory requirements, the owner should be compensated for the value of the well and associated costs of conversion to alternate energy sources.
- Commercial well designation should not apply unless gas is sold.
- Owners of private gas wells should be permitted to service their wells. (e.g. pumping or bailing)
- MNR should ensure that their inspectors are properly trained in gas well drilling and maintenance
- If necessary, the MNR should work with small well drillers and maintainers to meet reasonable safety and environmental standards.

- The government should establish an incentive fund to assist with upgrading wells.
- Abandoned gas wells should be plugged by the province if the province is issuing the order.
- An independent body should hear appeals and render their decision in a timely fashion. This independent body should be set up as a tribunal with transcripts of hearings available to all parties involved with the hearing.

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Relevant Resolutions

Haldimand - Private Gas Wells (07-06-25)

WHEREAS the natural gas fields underlying parts of Southern Ontario were largely depleted during the first half of the 20th century and are no longer of commercial value; and

WHEREAS recent energy price increases make remaining private gas wells a valuable asset for many farm families; and

WHEREAS the Ministry of Natural Resources (MNR) Petroleum Resources Division, has recently embarked on an aggressive mission of random enforcement of various provisions of the Oil, Gas and Salt Resources Act; and

WHEREAS the recent outcomes of various orders and directives has invariably resulted in "orders to plug";

THEREFORE BE IT RESOLVED that the Ontario Federation of Agriculture work with County Federations and the Ministry of Natural Resources to develop an amended and transparent protocol for the enforcement of regulations appropriate for low volume, low pressure residual private gas wells; and

FURTHER BE IT RESOLVED that, until the protocol is available, the Ontario Federation of Agriculture seek a moratorium on private well plugging orders by the Ministry of Natural Resources, including a stay of recent orders.

Haldimand - Abandoned Gas Wells (June 1998)

WHEREAS in the early parts of this century, an estimated 40,000 natural gas wells were drilled in the Haldimand-Norfolk and Niagara Regions, and

WHEREAS the land based portion of this resource was exploited and exported prior to 1940 and is now largely depleted and of marginal economic importance, and

WHEREAS in the years prior to 1960 the industry was poorly regulated and as many as 20,000 well locations were not recorded, and

WHEREAS very few farms in the area do not have multiple abandoned gas wells, many not plugged and often at undetermined locations, and

WHEREAS the cost of plugging these wells to industry standards is prohibitive, running upwards from several thousand dollars per well, and

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WHEREAS very few incidents of adverse environmental impacts of these abandoned wells are documented,

THEREFORE BE IT RESOLVED THAT the Ontario Federation of Agriculture request the Minister of Natural Resources to:

- 1) Evaluate, document and publish the potential for environmental impacts of abandoned gas wells in Southern Ontario, and*
- 2) Should plugging of abandoned gas wells prove advisable, that MNR undertake to establish a fund to provide for the plugging of private abandoned gas and oil wells.*

Haldimand - Oil, Gas & Salt Resources Act June (1998)

*WHEREAS the Ministry of Natural Resources, under the **Oil, Gas and Salt Resources Act**, has established new regulations requiring the registration and licensing of gas and oil wells by June 26, 1998, and*

WHEREAS many farmers in the Haldimand-Norfolk and Niagara regions are being affected by these regulations, and

WHEREAS these new regulations and their associated documentation appear to be designed for the commercial gas and oil industry, and

WHEREAS the commercial land based resource in this area was depleted over 50 years ago and residual natural gas in private wells is of minimal economic importance,

THEREFORE BE IT RESOLVED THAT the Ontario Federation of Agriculture request the Minister of Natural Resources remove deadlines for registration to allow time for adequate consultation.