

**April 9, 2024**

**Board of Supervisors Hearing**

**Proposed Amendments to Ventura County  
General Plan Policies COS-7.7 and COS-  
7.8 Regarding Oil and Gas Production  
(PL23-0113)**



**Ventura County Counsel's Office  
Jeff Barnes, Chief Assistant**

# Today's Presentation

1. Project Background
2. Proposed General Plan Amendments
3. CEQA Review and Determination
4. General Plan and Public Interest Consistency
5. Planning Commission Hearing and Recommendation
6. Staff Recommended Actions



# Project Background

# 2040 General Plan and Legal Challenges

- Sept. 2020 -** County adopts 2040 General Plan
- Oct. 2020 -** Multiple lawsuits filed challenging General Plan. Allege violations of CEQA, preemption, unconstitutional takings. Lawsuits seek to nullify approval and monetary damages.
- Feb. 2023 -** County reaches settlement with CoLAB/VCAA and Board adopts resolution clarifying agricultural-related General Plan policies; lawsuits dismissed.
- March 2023 -** County reaches settlement with CalWorks and Board adopts resolution supporting hiring of local labor for plugging and abandoning oil and gas wells; lawsuit dismissed
- June 2023 -** County enters into settlement agreement with petitioners challenging General Plan oil and gas policies; 6 remaining lawsuits placed on hold

# Settlement Agreement Regarding COS-7.7 and COS-7.8

- **Petitioners:** Aera Energy LLC, Western States Petroleum Association, Lloyd Properties, Carbon California Operating Company LLC, CalNRG, the National Association of Royalty Owners, and individual property and royalty owners
- **Key Terms:** Under settlement agreement, ending the 8 lawsuits contingent on two County actions:
  - **First Action:** Board of Supervisors adopting resolution clarifying 4 existing General Plan policies regarding oil and gas production. This occurred on September 12, 2023.
  - **Second Action:** County approving amendments to General Plan Policies COS-7.7 and COS-7.8 to add mitigation language proposed in the General Plan EIR. Your Commission is considering these amendments at today's hearing and making recommendation to Board of Supervisors.

# Settlement Agreement Regarding COS-7.7 and COS-7.8

## OIL WELL SETBACK/BUFFER POLICY NOT BEING CHANGED

- The only General Plan policies being proposed for amendment are COS-7.7 and COS-7.8
- Settlement Agreement does not require County to amend or delete General Plan Policy COS-7.2 (Oil Well Distance), which establishes a 1,500-foot setback between new discretionary oil wells and residential dwellings, and a 2,500-foot setback from schools
- Policy COS-7.2 is not being proposed for amendment or deletion



# Proposed Amendments to General Plan Policies COS-7.7 and COS-7.8

# Existing Policies

## **Policy COS-7.7: Conveyance for Oil and Produced Water.**

The County shall require new discretionary oil wells to use pipelines to convey oil and produced water; oil and produced water shall not be trucked.

## **Policy COS-7.8. Gas Collection, Use, and Disposal.**

The County shall require that gases emitted from all new discretionary oil and gas wells shall be collected and used or removed for sale or proper disposal. Flaring or venting shall only be allowed in cases of emergency or for testing purposes.



# Background of Proposed Amendments

- The proposed amendments are two CEQA mitigation measures proposed in the 2040 General Plan EIR but not adopted by the Board of Supervisors
- General Plan EIR studied environmental impacts resulting from implementation of 2040 General Plan
- Board of Supervisors certified the EIR in approving 2040 General Plan
- EIR determined that Policies COS-7.7 and COS 7.8 would have a potentially significant environmental impact based on the “loss of availability of a known mineral resource that would be of value to the region and the residents of the state.”
- This specific environmental impact is from the State CEQA Guidelines Appendix G environmental checklist

# Background of Proposed Amendments

- EIR determined that certain locations in Ventura County cannot be feasibly connected to pipelines used to convey oil, produced water, and produced natural gas offsite due to technological and economic constraints
- The alternative to conveying oil and produced water by pipeline is by trucking it offsite, which is legal
- And the alternative to conveying produced natural gas by pipeline is by flaring (i.e., burning it off) which is also legal and regulated by the Ventura County Air Pollution Control District
- EIR determined that by prohibiting County approval of “new discretionary wells” that involved flaring or trucking, Policies COS-7.7 and COS-7.8 would preclude access to petroleum resources at locations that could not be feasibly connected to pipelines

# Background of Proposed Amendments

- Under CEQA, the lead agency (County) must develop mitigation to address significant environmental impacts resulting from projects
- To address potential significant impacts resulting from Policies COS-7.7 and COS-7.8, County developed Mitigation Measures PR-2 and PR-3 and included them in General Plan EIR
- These mitigation measures were revised versions of Policies COS-7.7 and COS-7.8
- Mitigation measure versions still generally prohibit trucking and flaring

# Background of Proposed Amendments

- However, under the mitigation measure versions, County can approve “new discretionary wells” that require trucking or flaring if the applicant demonstrates it would be “infeasible” to use pipelines for specific project
- Under both CEQA and the General Plan, “feasible” means “capable of being accomplished in a successful manner within a reasonable period of time, taking in account economic, environmental, legal, social, and technological factors” as determined by the County in the context of specific projects based on substantial evidence
- Mitigation measure versions thus allow County to approve “new discretionary wells” involving trucking or flaring upon County finding that it would be infeasible for an operator to use a pipeline or to operate without a flare

# Background of Proposed Amendments

- Use of pipelines for conveyance of crude oil and natural gas was already required – and continues to be required – under the Ventura County Zoning Ordinance, unless a permit applicant demonstrates that doing so is not feasible or practicable at the proposed location

# Mitigation Measures/Proposed Amendments

## EIR Mitigation Measure PR-2

### **Policy COS-7.7: Limited Conveyance for Oil and Produced Water.**

The County shall require new discretionary oil wells to use pipelines to convey crude oil and produced water, if feasible.; ~~oil and produced water shall not be trucked.~~ Trucking of crude oil and produced water may only be allowed if the proponent demonstrates that conveying the oil and produced water via pipeline is infeasible. In addition, trucking of crude oil and produced water is allowed in cases of emergency and for testing purposes consistent with federal, state and local regulations.

# Mitigation Measures/Proposed Amendments

## **EIR Mitigation Measure PR-3**

### **Policy COS-7.8: Limited Gas Collection, Use, and Disposal.**

The County shall require that gases emitted from all new discretionary oil and gas wells be collected and used or removed for sale or proper disposal, if feasible. Flaring or venting ~~shall~~ may only be allowed if the proponent demonstrates that conducting operations without flaring or venting is infeasible. In addition, flaring or venting is allowed in cases of emergency ~~or~~ and for testing purposes consistent with federal, State, and local regulations.

# Background of Proposed Amendments

- General Plan EIR found that with implementation of these mitigation measures, the environmental impacts from Policies COS-7.7 and COS-7.8 would be less than significant
- Proposed General Plan amendments would revise Policies COS-7.7 and COS-7.8 to include these mitigation measures in the policy text



# Background of Proposed Amendments

- In approving General Plan, Board of Supervisors decided not to approve the mitigation measure versions of Policies COS-7.7 and COS-7.8. Non-mitigated policies were approved and are currently in effect
- Instead, pursuant to CEQA, Board adopted Statement of Overriding Considerations finding that the environmental benefits of approving Policies COS-7.7 and COS 7.8 as proposed would outweigh the significant and unavoidable impact resulting from the loss of availability of known petroleum resources that could result from the policies

# Background of Proposed Amendments

- In making Statement of Overriding Considerations (SOC), Board was tasked with weighing the importance of allowing access to local oil and gas resources with the known local environmental consequences of oil and gas production
- EIR and SOC found that as proposed, COS-7.7 and COS-7.8 would benefit local environment by reducing impacts resulting from new oil and gas production to air emissions, greenhouse gasses, vehicle miles traveled, traffic safety, and public health

# Background of Proposed Amendments

- Conversely, EIR found that COS-7.7 and COS-7.8 would have significant and unavoidable impact by causing loss of availability of known petroleum resource of value to region and state
- EIR also found that policies could reduce the economic productivity of the local oil and gas industry, and increase environmental impacts associated with increased importation of oil into the state



# CEQA Review and Determination

# CEQA Review and Determination

- Proposed General Plan amendments are “project” under CEQA
- County previously certified EIR in approving 2040 General Plan
- CEQA Guidelines 15164 provides that if some changes or additions to previously certified EIR are needed but none of the conditions described in CEQA Guidelines 15162(a) calling for preparation of subsequent EIR have occurred, an addendum to the previous EIR shall be prepared

# CEQA Review and Determination

- County analyzed conditions in CEQA Guidelines 15162(a) and determined that none exist for this project. These conditions are summarized as follows:
  - Substantial changes to project are proposed requiring major revisions to previous EIR due to new or substantially increased significant impacts
  - Substantial changes occur with respect to circumstances under which the project is undertaken requiring major revisions to previous EIR due to new or substantially increased significant impacts
  - New information not known or reasonable knowable when previous EIR certified shows that: (1) the project will have significant impacts not discussed in previous EIR or substantially increase severity of significant impacts previously examined, or (2) mitigation measures or alternatives which are considerably different from those analyzed in previous EIR would substantially reduce significant impact but project proponent declines to adopt

# CEQA Determination

- General Plan amendments would revise Policies COS-7.7 and COS-7.8 to mitigation measure version of same policies identified as PR-2 and PR-3 in General Plan EIR
- Because amendments were recommended in previous EIR itself as mitigation measures, no changes are required in the previously certified EIR, and the amendments would not result in any new significant impact or substantial increase in the severity of previously identified significant impact
- To the contrary, amendments would mitigate significant and unavoidable impact that existing Policies COS-7.7 and COS-7.8 were determined by the EIR to have by causing loss of known petroleum resources of value to the region and state

# CEQA Determination

- Consequently, County staff determined that no subsequent EIR is required for the proposed General Plan amendments



# CEQA Impact Evaluation

- Proposed General Plan amendments were already included in 2040 General Plan EIR, so County determined no further CEQA review required
- To provide full disclosure, County staff nevertheless prepared an addendum to the EIR to evaluate potential impacts of the General Plan amendments on resource areas implicated by Policies COS-7.7 and COS-7.8
- This analysis determined that the amendments would not cause or contribute to the severity of any significant environmental impact

# CEQA Impact Evaluation – Policies Anticipated to Have Limited Application

- Policies COS-7.7 and COS-7.8 only apply to projects seeking approval of “new discretionary wells” which is a small subset of new oil development
- Most new oil development consists of re-drills of existing wells (and thus does not involve “new” wells) or new wells that are ministerially approved under existing conditional use permits (and are thus not “discretionary” wells)
- County has not approved any new discretionary wells since 2015 and is not currently processing permit applications for any
- Unknown how many future applications County will receive that would be subject to the policies, let alone how many applicants could establish infeasibility of their project without flaring or trucking

# CEQA Impact Evaluation – Policies Anticipated to Have Limited Application

- Ventura County oil production has been declining over the past 30 years decreasing likelihood of future development proposals that will be subject to the policies:
  - 15,659,398 barrels produced in 1987
  - 9,121,781 barrels produced in 2015
  - 6,519,070 barrels produced in 2020

# CEQA Impact Evaluation – Projects Subject of Policies Would Be Subject to CEQA Review and County Discretionary Approval

- Because amended policies would apply to “new *discretionary* wells,” specific projects seeking new wells would be evaluated for environmental impacts under CEQA
- Specific projects would also be subject to County’s discretionary permitting authority, meaning they could be denied or conditioned to address potential impacts



# General Plan and Public Interest Consistency

# General Plan and Public Interest Consistency

- Amended Policies COS-7.7 and COS-7.8 would incorporate mitigation measures recommended by the General Plan EIR and presented to the Board of Supervisors for potential inclusion in the 2040 General Plan
- Consequently, proposed amendments were previously determined to be consistent with the 2040 General Plan and this determination remains unchanged
- The proposed amendments are also consistent with public health, safety and general welfare: they would incorporate CEQA mitigation into General Plan that could increase access to local petroleum resources, increase the economic productivity of the oil and gas industry, and reduce environmental impacts associated with importation of oil into the state

# General Plan and Public Interest Consistency

- Policy implications of General Plan amendments are anticipated to be marginal at most based on anticipated limited applicability of Policies COS-7.7 and COS-7.8
- With that significant caveat, proposed amendments could marginally support attainment of the following General Plan Guiding Principles and policies:
  - **Guiding Principle Economic Vitality:** Foster economic and job growth that is responsive to the evolving needs and opportunities of the County's economy and preserves land use compatibility with Naval Base Ventura County and the Port of Hueneme, while enhancing quality of life and promoting environmental sustainability.
  - **Policy EV-1.4: Regulatory Environment.** The County shall promote business-friendliness in the regulatory and permitting environment throughout Ventura County through collaboration, exchange of ideas and best practices, improvement in clarity and efficiency in the permitting process, taking advantage of opportunities for streamlining in the development process, and promoting consistency in policy and practice among cities and the County.

# General Plan and Public Interest Consistency

- With the same significant caveat, proposed amendments could marginally reduce attainment of the following General Plan Guiding Principles and policies:
  - **Guiding Principle: Hazards and Safety.** Minimize health and safety impacts to residents, businesses and visitors from human-caused hazards such as hazardous materials, noise, air, sea level rise, and water pollution, as well as managing lands to reduce the impacts of natural hazards such as flooding, wildland fires, and geologic events.
  - **Guiding Principle: Climate Change and Resilience.** Reduce greenhouse gas emissions to achieve all adopted targets, proactively anticipate and mitigate the impacts of climate change, promote employment opportunities in renewable energy and reducing greenhouse gases, and increase resilience to the effects of climate change.



# General Plan and Public Interest Consistency

- **Guiding Principle: Environmental Justice.** Commit to the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies, protect disadvantaged communities from a disproportionate burden posed by toxic exposure and risk, and continue to promote civil engagement in the public decision-making process.
- **Policy COS-10.2: Community Greenhouse Gas Emissions Reduction Target for 2030.** The County shall work toward achieving a community-wide GHG emissions reduction target of 41 percent below 2015 levels by 2030.
- **Policy COS-10.3: Community Greenhouse Gas Emissions Reduction Goals for 2040 and 2050.** The County shall work toward achieving longer-term, post-2030 community-wide GHG emissions reduction goals, as follows: 61 percent below 2015 levels by 2040, and 80 percent below 2015 levels by 2050.
- **Policy COS-10.4: Greenhouse Gas Reductions in Existing and New Development.** The County shall reduce GHG emissions in both existing and new development through a combination of measures included in the GHG Strategy, which includes new and modified regulations, financing and incentive-based programs, community outreach and education programs, partnerships with local or regional agencies, and other related actions.

# Planning Commission Hearing and Recommendation

- On February 1, 2024, Ventura County Planning Commission held public hearing to consider the proposed amendments to COS-7.7 and COS-7.8
- 14 public speakers provided public comment at hearing; written public comments were also submitted before hearing (these are attached as Exhibit 6 to today's Board letter)
- Planning Commission voted 4-1 (Chair Garcia dissenting) to recommend that your Board take the actions recommended by staff today



## Recommended Actions

# Recommended Actions

1. **ADOPT** the Resolution attached to the Board letter as Exhibit 1:
  - a. **CERTIFYING** that your Board has reviewed and considered the Board letter and all exhibits thereto, and has considered all other materials and public comments received during the public comment and hearing processes.
  - b. **FINDING** that Addendum No. 1 to the Ventura County 2040 General Plan Environmental Impact Report (EIR) reflects your Board's independent judgment, **APPROVING** the Addendum, and **FINDING** that the County's approval of the amendments to General Plan Policies COS-7.7 and COS-7.8 do not require any changes or revisions to EIR and that none of the conditions described in CEQA Guidelines Section 15162(a) calling for preparation of a subsequent EIR have occurred.

# Recommended Actions

- c. **FINDING** that the proposed amendments to General Plan Policies COS-7.7 and COS-7.8 are consistent with the goals, policies and implementation programs of the General Plan and good planning practices and are in the interest of public health, safety and general welfare.
- d. **APPROVING** the amendments to General Plan Policies COS-7.7 and COS-7.8.
- e. **SPECIFYING** the Clerk of the Board of Supervisors at 800 S. Victoria Avenue, Ventura, CA 93009 as the location and custodian of the documents and materials that constitute the record of proceedings upon which these decisions are based.



Questions?