

December 17 , 2013 Board of Supervisors Letter – Report Back on Hydraulic Fracturing of Oil and Gas Wells

“The County has only a limited ability to address antiquated oilfield permits due to the vested rights doctrine and constitutional takings and due process principles.”

It goes on to say...

“the County’s options to modify are limited to four areas:
1. a permittee’s request for modification of an existing permit... 2. limited changes based on harm or nuisance... 3. limited changes based on violations... or 4. changes contemplated by existing conditions in the permit.”

2013 County Counsel Memo states that:

“...vested rights are highly protected by the courts and such rights cannot be impaired at all unless impairment is narrowly tailored.”

2013 County Counsel Memo (continued)

“Impairment of these property rights through changed permit conditions or termination of these rights through permit revocation by the County **cannot be accomplished through ordinary police power actions such as zoning regulations** to prohibit a use or to add modern permit conditions. Rather, such impairment is subject to constitutional procedural and substantive due process protections.”