Public Comments Received on PL21-0099 and PL21-0100 Project
August 1, 2022 after 5:30 pm to August 17, 2022 at 3:30 pm

	Commenter	Organization (if any)	Comment Submission Date
1	James A Merrill		08/01/22
2	Steve Offerman	Supervisor Park's Offce	08/02/22
3	Todd Collart		08/10/22
4	Doug Off	Ojai Oil Company	08/11/22
5	Marc Traut	Renaissance Petroleum, LLC	08/12/22
6	John Brooks		08/15/22
7	Christina Coulson	Ventura Citizens for Energy Independence	08/16/22
8	Haley Ehlers	Climate First: Replacing Oil & Gas	08/16/22
9	Marc Traut	Renaissance Petroleum, LLC	08/16/22
10	Marc Traut	Renaissance Petroleum, LLC	08/16/22
11	Scott Wagenseller		08/16/22
12	Ben Oakley	Western States Petroleum Association	08/17/22
13	Neal Maguire	Ferguson Case Orr Paterson, LLP	08/17/22
14	Jane Farkas	Carbon California Company	08/1722
15	Marlin Brown		08/17/22
16	Matt Wickersham	CalNRG	08/17/22
17	Alan B. Adler	ABA Energy Corporation	08/17/22
18	Alan B. Adler	ABA Energy Corporation	08/17/22
19	Rose Ann Witt		08/17/22

County of Ventura
Planning Commission Hearing
PL21-0099 and PL21-0100
Exhibit 8 - Public comments received by August 17, 2022 at 3:30 p.m.

From: merrilly@verizon.net
To: Sussman, Shelley
Subject: Oil and Gas Ordinance
Date: Monday, August 1, 2022 6:05:57 PM

Dear Ms. Sussman:

As a Ventura County resident whose family lives near several operational and non-operational petroleum-extraction wells, I write with full support of proposed ordinances to regulate and hold accountable current and potential drilling in our county.

Regards.

James A. Merrill
Oxnard, California

Zendejas, Daniela

From: Offerman, Steve
Sent: Tuesday, August 2, 2022 12:48 PM
To: Ward, Dave; Sussman, Shelley
Subject: Additional PC correspondence for oil item
Attachments: California not counting methane leaks from idle wells.pdf

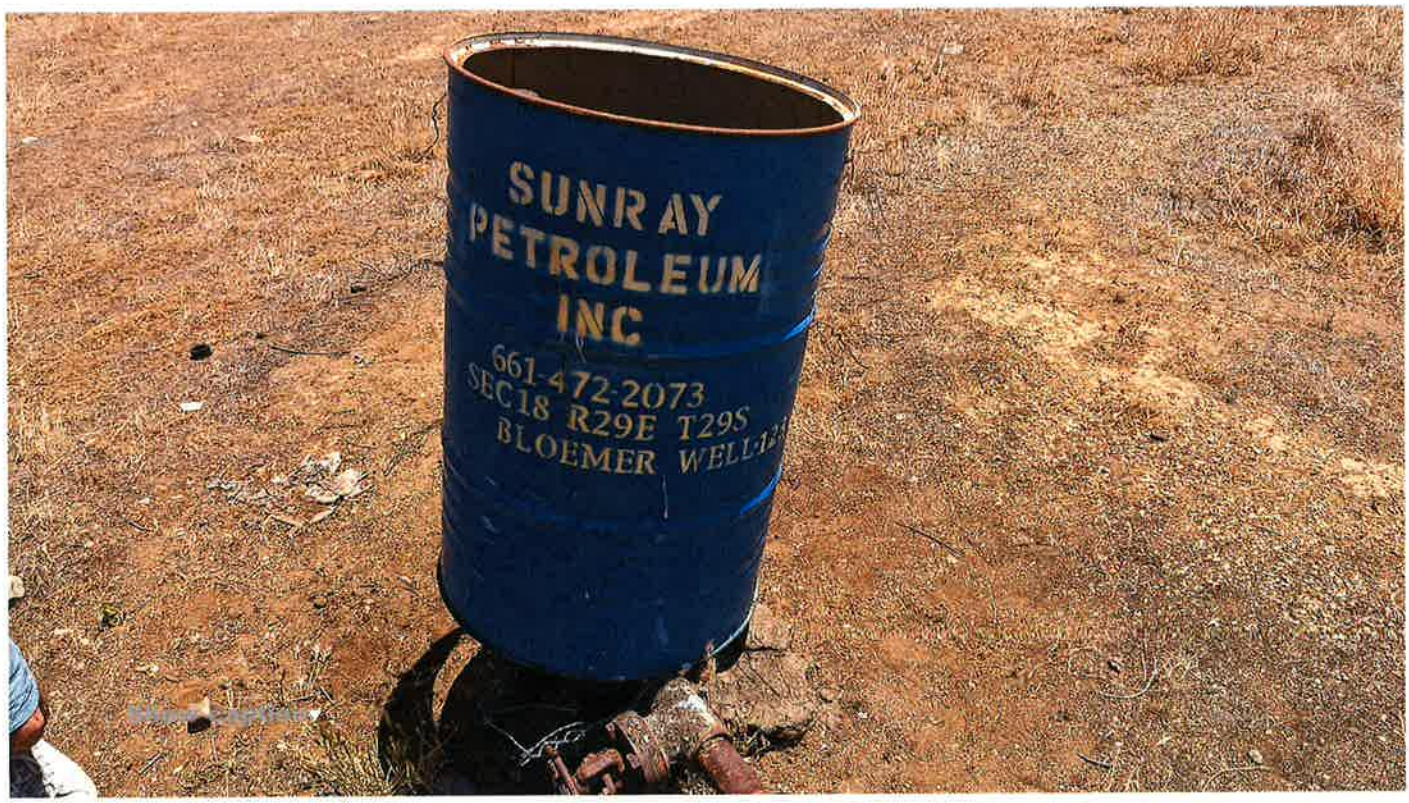
Follow Up Flag: Follow up
Flag Status: Flagged

Dave & Shelly-

Since it's a case of "déjà vu oil over again," please include the attached VC Star article on leaking idle wells in the PC correspondence. Linked here: https://www.vcstar.com/story/news/2022/07/31/california-methane-leaks-idle-wells/10198130002/

Thank you,

Steve Offerman
Supervisor Parks' Office



California not counting methane leaks from idle wells

Drew Costley | Associated Press

California claims to know how much climate-warming gas is going into the air from within its borders. It's the law: California limits climate pollution and each year the limits get stricter.

The state has also been a major oil and gas producer for more than a century, and authorities

include methane that leaks from these idle wells in their inventory of the state's emissions.

Ira Leifer, a University of California Santa Barbara scientist said the lack of data on emissions pouring or seeping out of idle wells calls into question the state's ability to meet its ambitious goal to achieve carbon neutrality by 2045.

Residents and environmentalists from across the state have been voicing concern about the possibility of leaking idle or abandoned wells for years, but the concerns were heightened in May and June when 21 idle wells were discovered to be leaking methane in or near two Bakersfield neighborhoods. They say that the leaking wells are "an urgent public health issue," because when a well is leaking methane, other gases often escape too.

of methane emissions from leaking wells isn't well known and that it's not a major source of emissions when compared with methane emissions from across the oil and gas industry.

Still, he said, "it's adding something very clearly, and we shouldn't be allowing it to happen."

A ton of methane is 83 times worse for the climate than a ton of carbon dioxide, when compared over twenty years.

A 2020 study said emissions from idle wells are "more substantial" than from plugged wells in California, but recommended more data collection on inactive wells at the major oil and gas fields throughout the state.

Robert Jackson, a Stanford University climate scientist and co-author on that study, said they

In order to get a better idea of how much methane is leaking, the state of California is investing in projects on the ground and in the air. David Clegern, a spokesperson for CARB, said the agency is beginning a project to measure emissions from a sample of properly and improperly abandoned wells to estimate statewide emissions from them.

And in June, California Governor Gavin Newsom signed a budget that includes participation in a global effort to slash emissions called the Methane Accountability Project. The state will spend $100 million to use satellites to track large methane leaks in order to help the state identify sources of the gas and cap leaks.

→ McKinney Fire updates: Explosive winds were among worst since Camp Fire

→ Washoe County Republican Party rejects results of Biden's 2020 win

→ Captain during Washington ferry crash resigns; crew drug, alcohol tests come back clean

Some research has already been done, too, to find out how much methane is coming from oil and gas facilities. A 2019 Nature study found that 26% of state methane emissions is coming from oil and gas. A new investigation by the Associated Press found methane is billowing from oil and gas equipment in the Permian Basin in Texas and companies under report it.

Howarth said even if methane from idle oil and gas wells isn't a major pollution source, it should be a priority not just in California, but nationwide, to help the country meet its climate pledges.

"Methane dissipates pretty quickly in the atmosphere," he said, "so cutting the emissions is really one of the simplest ways we have to slow the rate of global warming and meet that Paris target."

A new Senate proposal would provide hundreds of millions dollars to plug wells and reduce pollution from them, especially in hard hit communities.

Zendejas, Daniela

From: Todd Collart <collart@west.net>
Sent: Wednesday, August 10, 2022 8:00 PM
To: Sussman, Shelley
Subject: Commission hearing on financial assurances
Attachments: Financial assurances for oil wells.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Please relay my comments to the Planning Commission.

Sincerely,

Todd Collart

Dear Planning Commissioners,

Subject: Zoning Ordinance Amendments PL21-0099 and PL21-0100

I hope the re-hearing of the subject items on August 18th will lead to a unified recommendation to the Board of Supervisors that was not achieved at the end of the prior July 28th hearing.

After watching the hearing and deliberations, it appeared to me there was uniform acknowledgement among Commissioners that:

- Long-idled and orphaned oil and gas wells pose problems throughout the state and in Ventura County because they are often the sources of air contaminates, such as methane, that damage the environment and the health of residents.
- CalGEM, the State agency charged with oversight of oil and gas wells, does not have the funds on hand to abandon and cap such wells, if oil operators fail to do so.
- CalGEM does not appear to have sufficient staff to monitor and regulate oil and gas wells to the degree needed. I was informed by the State CalGEM office that there were 6 inspectors for Ventura County and they aimed to inspect each well in the County once every 2 years.

Disagreements among Commissioners seemingly arose over:

- Whether the County should venture into the State's regulatory territory, even though County Counsel advised the County was not pre-empted from doing so.
- Was the County supplementing or duplicating CalGEM's resources.
- Should local government, i.e. the County take action to supplement CalGEM's resources
- Should the Board of Supervisors go on record advocating reforms at CalGEM so it can better perform its duties

My recommendations are:

- Adopt the staff recommendations;
- Urge the Board to send a strong message to our elected State leaders that CalGEM must be funded to maintain sufficient staff to conduct its mandated function, and adequate financial assurances must be collected from the petroleum industry to guarantee that the public does not bear the costs of formally abandoning wells.

My rationale:

- The staff recommendations are necessary because the applicable State agencies are not addressing the problem even though it has been known for many years. It that light, it is incumbent on local government to step up to protect the interests of its citizens immediately when it has the authority to do so, and not wait for corrective measures at the State level.
- CalGEM is supposed to maintain the proverbial regulatory dike, it is in the interest of the County (as it was in the Dutch boy's interest) to act swiftly and plug holes in the dike.
- The staff recommendations regarding increased financial assurances do not duplicate CalGEM's insufficient requirements, but rather complement them so that jointly the public is better insulated from the costs of abandoning oil field operations.

- The County should clearly express its concern over CalGEM's regulatory shortcomings. A sample letter to the State is below.

Sincerely,

Todd Collart,
Ventura, CA
Sample letter from the Board of Supervisors to the State:

With the increasingly dire consequences of methane emissions, oversight of Ventura County's large inventory of idle and abandoned wells, in addition to the 2000+ active wells and their accompanying pipelines and wastewater disposal infrastructure, requires increased CalGEM oversight to ensure the health and safety of Ventura County's residents and environment. We urge CalGEM funding and staffing be significantly increased to address the critically important monitoring of ongoing production of oil and gas in Ventura County and the growing inventory of aging in place idle and poorly abandoned wells (decommissioned prior to 1953).

Zendejas, Daniela

From: Doug Off <doug@ojaioil.com>
Sent: Thursday, August 11, 2022 2:21 PM
To: Sussman, Shelley
Subject: Comment letter for August 18, 2022 Planning Commission Meeting, Agenda Item 7
Attachments: Ojai Oil-VC Planning for 8-18-2022.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Shelley – attached is a letter from myself regarding just one issue for our small oil producing company.

"Comment letter for August 18, 2022 Planning Commission Meeting, Agenda Item 7"

Doug

C Douglas Off
Ojai Oil Company
Dba Golden State Storage
4081 Mission Oaks Blvd., Ste A
Camarillo, CA 93012
Wk: 805 388 5858
Cell: 805 377 7713
doug@ojaioil.com

OJAI OIL COMPANY

4081 Mission Oaks Blvd, Suite A
CAMARILLO, CALIFORNIA 93012

Tel: (805) 388-5858
Fax: (805) 388-8024

August 7, 2022

Planning Commissioners
Ventura County, CA

Re: Case Numbers PL21-0099 and
PL21-0100

Attn: Shelley Sussman

Dear Commissioners:

Ojai Oil Company drilled 13 wells in the Upper Ojai area between 1911 and 1958 on a 58 acre parcel of land purchased in 1908. These wells are each still producing 1 to 3 barrels per day. We have no idle wells to contend with at this time. We have abandoned 3 wells, and continue to move forward with our CalGEM recommended abandonment program. .

Ojai Oil depends on the (limited) income from well production to fund our CalGEM recommended abandonment program. Our last abandonment cost was $225,000, with the previous two being approximately $140,000 each. The income from all remaining wells may not cover the full field's abandonment and clean-up costs in our remaining 18 years of our property's proposed restoration.

There is no wiggle room in our abandonment costs. Should the County implement these Zoning Ordinance amendments and demand that Ojai Oil pay these excessively high additional costs, your Zoning Ordinance Amendments will slow down or even stop many planned abandonments.

What is the County trying to accomplish with these Zoning Ordinance amendments? Do you wish to stop all abandonments? Your proposed amendments will not enhance the program of proper well operation in our county.

Please consider the smaller operators like ourselves, continually being placed under pressure by the present County and State regulations, before adding excessive and restrictive new costs and requirements to our operating burden.

Thank you.

Sincerely,

Douglas Off, President

From: Marc Traut
To: Sussman, Shelley
Cc: Zendejas, Daniela; Juachon, Luz; Ward, Dave; Fogg, Mindy
Subject: FW: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments
Date: Friday, August 12, 2022 12:17:03 PM
Attachments: image001.png
Importance: High

Ms. Sussman,

In reviewing our email exchange from July concerning the County's legal authority to impose the proposed amendments on existing permits, I saw that only part of that exchange made it into the record. As a result, I'm forwarding the entire email chain on to you with copies to others members of Planning with the expectation that the entire chain will be included in the record.

Please let me know if you have any questions.
Thanks in advance.
Marc Traut

From: Sussman, Shelley [mailto:Shelley.Sussman@ventura.org]
Sent: Tuesday, July 19, 2022 12:46 PM
To: Marc Traut
Cc: Fogg, Mindy; Ward, Dave
Subject: RE: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Hello Mr. Traut,
Staff is currently working to ensure that the staff report package for this item is publicly available by Thursday, July 21, 2022. The staff report includes a discussion related to the question you raised below regarding the County's legal authority to impose increase financial security obligations on existing permittees.
Information related to accessing the staff report is shown below:

Planning Commission Hearing

The Planning Commission hearing on these proposed ordinance amendments is scheduled for July 28, 2022, at 8:30 a.m. On July 21, 2022 at 5:00 p.m., the Planning Commission staff report will be available for public review on the Planning Commission's meeting and agenda website https://vcrma.org/planning-commission

Thank you,

Shelley Sussman, MPA | Planning Manager
General Plan Implementation Section
shelley.sussman@ventura.org
Ventura County Resource Management Agency
Planning Division
P. (805) 654-2493 | F. (805) 654-2509
800 S. Victoria Ave., L #1740 | Ventura, CA 93009-1740
Visit our website at vcrma.org
For online permits and property information, visit **VC Citizen Access**

From: Marc Traut <marc@renpetllc.com>
Sent: Monday, July 18, 2022 4:22 PM
To: Sussman, Shelley <Shelley.Sussman@ventura.org>
Cc: Fogg, Mindy <Mindy.Fogg@ventura.org>; Ward, Dave <Dave.Ward@ventura.org>
Subject: RE: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Ms. Sussman,

Thank you for the reply. Would you please provide me with the location in the NCZO that provides the BOS the authority to change the terms of use under an existing CUP (i.e., change surety amounts; change insurance amounts) prior to the expiration or a request for a modification of that existing permit?

Thanks in advance.

Marc Traut

From: Sussman, Shelley [mailto:Shelley.Sussman@ventura.org]
Sent: Monday, July 18, 2022 3:46 PM
To: Marc Traut
Cc: Fogg, Mindy; Ward, Dave
Subject: RE: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Dear Mr. Traut,

Thank you for your question regarding the "trigger" for implementation of the new surety and insurance requirements for existing permits. (Existing permits means all current Conditional Use Permits (CUPs) or Special Use Permits (SUPs) in the county.) The triggering event would be Board approval of the ordinance and the subsequent ordinance effective date 30 days later. Specific timing would be as follows:

Sureties

- Board approval
- Ordinance becomes effective 30 days after Board approval
- Existing operators would have 60 days from the ordinance effective date to submit a complete inventory of wells including active, idle, plugged and abandoned, injection, exploratory, etc. for review by the Planning Division.
- Planning Director verifies submitted well information and required surety amount and notifies operator in writing.
- Operator has 180 days from date of notification to submit the required sureties to the Planning Division.

Insurance

- Board approval
- Ordinance becomes effective 30 days after Board approval
- Operator would have 90 days from the ordinance effective date to provide evidence of coverages.

I hope this addresses your question.
Sincerely,

Shelley Sussman, MPA | Planning Manager
General Plan Implementation Section
shelley.sussman@ventura.org
Ventura County Resource Management Agency
Planning Division
P. (805) 654-2493 | F. (805) 654-2509
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From: Marc Traut <marc@renpetllc.com>
Sent: Friday, July 15, 2022 6:47 AM
To: Sussman, Shelley <Shelley.Sussman@ventura.org>
Cc: Fogg, Mindy <Mindy.Fogg@ventura.org>; Marc Traut <marc@renpetllc.com>
Subject: Re: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Ms. Sussman,

I have reviewed the draft document of the proposed amendments to the NCZO concerning oil and gas operations, specifically Sections 8107-5.6.5 (sureties) and 8107-5.6.12 (insurance). Sections 8107-5.6.5 and 8107-5.6.12.c address the implementation of the amended requirements for sureties and insurance, respectively. According to Sec. 8107-5.6.5.h all sureties required are to be provided to the Planning Division within 180 days after 60 days following the effective date of the amended ordinance and according to Sec. 8107-5.6.12.c certificates of insurance for the required amounts are to be provided to the Planning Division within 90 days following the effective date of the amended ordinance.

What is not clear to me is what will trigger the implementation of these two new requirements for existing permits. Will the new requirements discussed above be triggered by some future modification to an existing CUP?

Thanks in advance.

Marc Traut

Renaissance Petroleum, LLC

On Friday, July 8, 2022 at 11:20:46 AM PDT, Sussman, Shelley <shelley.sussman@ventura.org> wrote:

July 8, 2022

Dear Stakeholder,

The County of Ventura is providing information related to the following proposed project:

PROJECT DESCRIPTION: The proposed project consists of the County's adoption and implementation of Non-Coastal Zoning Ordinance (NCZO) and Coastal Zoning Ordinance (CZO) amendments related to establishing a 15-year term for new and extended conditional use permits for oil and gas operations, updated surety and insurance requirements for oil and gas operations, and a request for a professional study to identify idle wells in unincorporated Ventura County that should be prioritized for plugging and abandonment. To learn more about the project and review the proposed ordinance amendments, visit the Planning Division webpage at:

https://vcrma.org/en/proposed-oil-and-gas-regulations

A public hearing will be held by the **Planning Commission of Ventura County on Thursday, July 28, 2022, at 8:30 a.m.**, at 800 S. Victoria Avenue, Ventura CA 93009, County Government Center, Hall of Administration, Board of Supervisors Hearing Room, to consider the matter below. Inquiries on this item may be directed to Case Planner, Shelley Sussman, at (805) 654-2493 or by e-mail to Shelley.Sussman@ventura.org.

The Planning Commission staff report will be available on the Planning Division's website at https://vcrma.org/en/planning-commission or at the Planning Division, a week before the public hearing.

PROVIDING PUBLIC COMMENTS: Public comments may be provided using the following options:

In Advance of Hearing - If you wish to submit your comments in advance of the meeting, please submit your comment to the Case Planner, Shelley Sussman, by email at Shelley.Sussman@ventura.org by 3:30 p.m. on the day prior to the hearing. Please indicate in the Subject Line of your email, the Agenda Item Number on which you are commenting. Your email will be distributed to the Planning Commissioners and placed into the item's record at the Planning Commission hearing.

In Person During Hearing – If you wish to make a comment in-person, you must be present at the meeting location and provide your comment prior to the close of the public comment period for the item you wish to speak on.

On Zoom During Hearing– Register at https://vcrma.org/public-comments-for-planning-commission-hearings before the close of the Commission hearing regarding this project. Please provide your name, email, and the phone number you will be calling in from. Once your registration has been approved, you will receive an email with the Zoom meeting link and password. The participation information is unique to you; please do not share as it may cause issues with your ability to join the meeting. ***Pre-registration is strongly encouraged.*** Registration opens when the Planning Commission's July 28, 2022 meeting agenda is posted, which is projected to occur on July 21, 2022 at 5:00 p.m.

TO LISTEN AND PARTICIPATE IN SPANISH: If you would like to listen and participate in Spanish using video or telephone during the hearing, you can receive Zoom credentials by registering at https://vcrma.org/public-comments-for-planning-commission-hearings. While registering, please check the box for "Spanish Participation." An email with the Zoom meeting link and password will be sent once your registration has been approved. You can then watch the meeting in Spanish through the Spanish channel during this agenda item.

In addition to the upcoming Planning Commission hearing, a public hearing will be held before the Ventura County Board of Supervisors on a future date. Any person may attend and be heard on this matter. If you challenge the above-described action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the County of Ventura at, or prior to, the public hearing.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this hearing, please call (805) 654-2478. Any such request for accommodation should be made at least 48 hours prior to the scheduled hearing for which assistance is requested.

Note: From time to time, hearings are cancelled or rescheduled. We recommend that you contact the Case Planner to confirm the public hearing date one day prior.

Shelley Sussman, MPA | Planning Manager

General Plan Implementation Section

shelley.sussman@ventura.org

Ventura County Resource Management Agency

Planning Division

P. (805) 654-2493 | F. (805) 654-2509

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Visit our website at vcrma.org

For online permits and property information, visit **VC Citizen Access**

COUNTY of VENTURA

Zendejas, Daniela

From: John Brooks <johnbrooks69@gmail.com>
Sent: Monday, August 15, 2022 7:01 PM
To: Sussman, Shelley
Subject: PL21-0099 and PL21-0100

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Planning Commissioners,

I hope during this meeting you will think about how our late Supervisor Carmen Ramirez described herself " I am a champion for the health of people and our world"

Beware of hyperbole and misrepresentation from some local oil and gas executives who use the "sky is falling" technique despite record profits
in an effort to bring fear into regulatory discussions that worked in the recent election. They trumpet the defeat of measures A & B as a mandate and want you to forget that 8 million dollars spent by oil & gas companies only bought them a 9 thousand vote victory.
Thousands of other people voted to reject the hyperbole shown in this letter sent by CalNRG Executive Clif Simonson.

Dear Members of the Ventura Coun

California Natural Resource
regarding the Planning Commissio
("NCZO") section 8107-5 and Coa
"Zoning Amendments"), which wil
gas activities in the County. The p
new and modified Conditional Use
requirements to levels that would n
proposed Zoning Amendments shu
undoubtedly the County's end goal
increase energy prices.[1]

Ask your staff if increased bonds will render infeasible all oil and gas activity in Ventura County. And the snarky attack that the county goal is not to regulate but to shut down oil production.

Really? Of course not. These are modest improvements that will barely impact the coming costs of hundreds of abandoned wells.

Please remember Carmen Ramirez voted YES on A & B along with 92,500 other Ventura County residents who see the planet is on fire and want action.

Please vote yes on the staff recommendation.

John Brooks
Oak View

Dear Members of the Ventura County Planning Commission:

California Natural Resources Group, LLC ("CalNRG") writes to express its deep concern regarding the Planning Commission's proposed amendments to the Non-Coastal Zoning Ordinance ("NCZO") section 8107-5 and Coastal Zoning Ordinance ("CZO") section 8175-5 (collectively, "Zoning Amendments"), which will unlawfully limit and render financially infeasible all oil and gas activities in the County. The proposed Zoning Amendments place a 15-year expiration limit on new and modified Conditional Use Permits ("CUPs") and increase bonding and insurance requirements to levels that would make it impossible to operate in the County. Not only will the proposed Zoning Amendments shut down oil and gas operations in the County – which is undoubtedly the County's end goal – they will also proliferate dependence on foreign oil and increase energy prices.[1]

Zendejas, Daniela

From: Christina Coulson <christina@meridianhq.com>
Sent: Tuesday, August 16, 2022 4:24 PM
To: Sussman, Shelley
Cc: PC Hearing Comments; ClerkoftheBoard
Subject: Planning Commission Comment Item #7 (L21-0099 and PL21-0100)
Attachments: Item 7 - Ventura Citizens for Energy Independence - Informational Packet 8.18.22.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Please include the attached informational packet for the record. Thank you.

VENTURA CITIZENS FOR
ENERGY
INDEPENDENCE

August 16, 2022

To: Ventura County Planning Commission
Cc: Shelley Sussman
Fr: Ventura Citizens for Energy Independence

Re: Item #7 Correspondence on L21-0099 and PL21-0100

Dear Planning Commissioners,

Ventura Citizens for Energy Independence (VCEI) appreciates the reconsideration of the July 28 hearing as the ordinance revisions would have a negative impact on local oil & gas production by limiting the life of CUPs, dramatically increasing bonding requirements, and enacting redundant demands for plugging wells. The ordinance would have the following negative consequences for oil production and county finances.

- These unnecessary actions would be duplicative of the comprehensive state actions in this area, and in fact would undermine the proven, incentive-based approach adopted by the state through its rigorous idle well management and testing programs.
- Adoption of a duplicative county-level idle well program will be expensive to the county, involving significant new staffing and contracts. The state has appropriated millions in the last six months to fund the program.
- The county will face additional costs if its determinations lead to lawsuits regarding unreasonable takings of valuable oil assets.
- The ordinance would undermine state oil and gas production, making the state more vulnerable to shortages and price increases caused by international events.
- The imposition of punitive bond and insurance requirements, coupled with attempted county control over private company decision making and limited permit lengths will send an extremely unsettling message to all businesses in Ventura County.

You will find supporting documentation included in this packet.

- Fact Sheet – Idle Well Management in California
- Fact Sheet – Insurance Bonding for Oil and Gas Sites
- Fact Sheet – Economic Analysis
- 2022-23 CA State Budget - 3480 Department of Conservation Program Descriptions – Enacted on June 27, 2022
- Governor's Budget Summary 2022-23 — Climate Change
- Legislative Analyst's Office Report — The 2022-23 Budget: Oil Well Abandonment and Remediation, January 2022
- Federal Orphan Well Program in California, April 27, 2022

Given the expansive funding that is becoming available to reduce liabilities and accelerate plugging and abandoning idle wells, we urge a "no" vote on the zoning ordinance amendments.

Thank you,

Ventura Citizens for Energy Independence

Idle Well Management in California

CALGEM IDLE WELL MANAGEMENT PROGRAM

The California Geologic Energy Management Division (CalGEM) within the state Department of Conservation, manages a robust and well-funded idle well program to protect public safety and the environment from the potential threats posed by idle wells. CalGEM's recent efforts to accelerate abandonment of idle wells and facilities, and to reduce state liability, are in line with its renewed mission and efforts to strengthen its oversight of oil and gas operations.

Beginning in late 2019, CalGEM implemented major policy and programmatic changes as directed in AB 2729 to help California achieve its climate change and clean energy goals.

AB 2729 aims to sharply reduce the number of, and the risks associated with, idle wells in California. Key provisions of the measure include new fees, increases in required financial assurances, and the imposition of rigorous new testing and remediation requirements for idle wells. Together, these measures have created a major incentive for producers to plug and abandon their idle wells.

These incentives are clearly working, as evidenced by the eight-fold increase in permits issued for idle well plugging and abandonment between the first half of 2018 and the first half of 2022. So far in 2022, the state has issued 4,813 permits for plugging and abandoning, compared to just 257 for the drilling of new wells.

A healthy energy industry will ensure that resources are available to manage oil and gas assets. State activity to encourage plugging and abandonment of idle wells and fund orphan well remediation is significant and comprehensive. **CalGEM's program is working!**

KEY PROVISIONS OF AB 2729 – CALGEM'S IDLE WELL MANAGEMENT PROGRAM

- Imposes blanket indemnity bond requirements starting at $200,000 for 20 to 50 wells, up to $3 million for more than 10,000 wells.
- Imposes idle well fees starting at $150 for each well that is idle for 3 years, up to $1,500 for each well that is idle for 20 years or more. Allows waivers if the producer submits an idle well management plan, agreeing to plug and abandon a specific number of wells each year.
- Requires operators to provide a detailed inventory of idle wells to CalGEM, and to conduct progressively more rigorous testing of wells starting within 24 months of when they become idle.
- Allows testing waivers for wells that are committed to be plugged and abandoned within 8 years.

What is an idle well? A well may become idle when it is no longer economical to produce oil or gas (often due to global prices and economic influences). But it may become economic in the future. No matter what its operational status, the same safety and testing standards apply, just like any other well.

Idle Well Program Annual Report 2021

IDLE WELL MANAGEMENT LEGISLATION ENACTED TO FURTHER PROTECT PUBLIC SAFETY AND THE ENVIRONMENT

AB 2729 Williams 2016	Increases idle oil and natural gas well fees and blanket indemnity bonds to provide incentives for operators to reduce their number of idle wells. It also requires operators to plug between 4-6% of their idle wells annually.
AB 1057 Limón 2019	Allows the State Oil and Gas Supervisor to require any operator in the state to post an additional security bond or alternative compliance mechanism up to $30 million to cover the future estimated cost of remediating all that operator's wells and facilities.
AB 1328 Holden 2019	Requires an independent study commissioned by CalGEM and the California Air Resources Board (CARB) to review emissions from idle and abandoned wells.
SB 551 Jackson 2019	Requires operators to give CalGEM an estimation of their future plugging obligations as well as their plan to financially meet those future obligations. CalGEM will review and certify the operator's estimation. CalGEM then has the ability to require bonding for any shortfall, up to $30 million.
SB 47 Limon 2021	Raises the cap on CalGEM spending for purposes related to hazardous wells, idle-deserted wells, hazardous facilities, and deserted facilities from $1 million to $5 million in any one fiscal year.
AB 896 Bennett 2021	Authorizes CalGEM to impose a claim and lien upon the real property in the state owned by the operator or responsible party of an oil orgas well and attendant facility under specified conditions and in specified amounts. It also requires CalGEM to establish a collections unit responsible for: (1) collection of unpaid idle well fees from an operator, (2) establishing the timelines and criteria for determining if a well has been deserted, and (3) recovering any costs from the operator or responsible party for a well that has been deserted or ordered to undergo well integrity testing or to be plugged and abandoned.
SB 84 Hurtado 2021	Requires CalGEM to clarify the process used by the state to determine that the current operator of a deserted well does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities. It also requires CalGEM to report the location of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, including the county in which they are located, to the Legislature.

IDLE AND ORPHAN WELL PROGRAM FUNDING

FEDERAL FUNDING

The Federal Bipartisan Infrastructure Law allocated a total of **$4.7 billion** to create a new federal program to address orphaned wells.

California is eligible for:

$61 million
in the first phase of federal funding to plug orphaned oil and gas wells.

$165 million
more will be made available in the next couple of years to plug wells in California.

California To Get Federal Funds To Seal Thousands Of Orphaned Oil Wells

STATE FUNDING (PROPOSED)

$100 million
to plug and abandon orphaned oil and gas wells and decommission attendant facilities that could pose a danger to life, health, water quality, wildlife, or natural resources.

As of August 2022, the State has over **$28 million** in two special accounts paid by California oil companies that fund the plugging of orphan wells, which are wells with no known owner. The state, not any county or city, is responsible for remediating these wells with funds from industry.

$354 Million of Total State and Federal Funding

CALGEM'S BUDGET AND SIZE

CalGEM Total Budget: $99.2 million in 22-23
All paid for by the industry by a per barrel assessment

CalGEM has increased significantly in size and budget over the last three years:

40% staff increase

125 new positions created

$23 million per year ongoing

CALGEM APPROVED BY THE LEGISLATURE BUDGET REQUESTS

Data Integrity and Accessibility

- **16** positions requested

Appropriation increase from the Oil, Gas and Geothermal Administrative Fund (3046) to increase functionality of WellSTAR and strengthen data integrity, accessibility, reliability and consistency for internal and external use.

- **$3,261,000** in FY 2022-23
- **$3,046,000** ongoing appropriation

AB 2729 Implementation, Idle Well Testing

- **15** positions requested

$2.5 million ongoing to support testing, inspections, data collection, idle well management plan review, compliance monitoring, enforcement, and reporting to the Legislature.

Mission Transformation and Oversight

- **51** positions requested

The Department of Conservation requests fifty-one (51.0) permanent positions phased in over three years (17.0 in 2022-23, 34.0 in 2023-24, and 51.0 in 2024-25) and an appropriation increase of **$5,056,000** in 2022-23, **$7,561,000** in 2023-24, **$10,842,000** in 2024-25 and **$10,617,000** ongoing from the Oil, Gas and Geothermal Administrative Fund (3046) to strengthen enforcement of existing laws and regulations, limit the state's financial liability, improve public transparency, and implement chaptered legislation.

Oil Well Abandonment & Remediation (Proposed), funding only

General Fund funding request to plug and abandon orphaned oil and gas wells and decommission attendant facilities that could pose a danger to life, health, water quality, wildlife, or natural resources. This funding will help mitigate the State's potential liability, and further the Geologic Energy Management Division's focus on public health, safety, and environmental protection.

- **$100 million** in FY 2022-23 (General Fund)
- **$100 million** in FY 2023-24 (General Fund)

Plugging and Abandoning Hazardous and Idle-Deserted Wells and Production Facilities (SB 47)

- **6** positions requested

To implement the provisions of SB 47, the Department of Conservation requests annual expenditure authority to plug deserted wells and decommission deserted facilities funded at **$5 million**.

CALIFORNIANS FOR ENERGY INDEPENDENCE

Insurance Bonding for Oil and Gas Sites

CALGEM'S ROLE AND AB 1057

The California Geological Energy Management Division (CalGEM,) within the California Department of Conservation, regulates bonding requirements for oil and gas operators in plugging, decommissioning, and remediating oil and gas sites.

In 2018, AB 1057 was signed into law and provides CalGEM the authority to impose new idle oil and natural gas well fees, raises indemnity bonds, and imposes rigorous testing requirements to provide a disincentive for operators to maintain idle wells. Allows waivers for wells that are committed to be plugged and abandoned.

In addition to AB 1057, oil and gas operators are subject to myriad statewide regulations:

SB 551 ABANDONMENT AND DECOMMISSIONING: REPORTING AND INSPECTIONS

Requires operators to give CalGEM an estimation of their future plugging obligations as well as their plan to financially meet those future obligations. CalGEM will review and certify the operator's estimation, can require bonding for any shortfall, up to $30 million. FULL BILL TEXT

AB 2729 IDLE WELL PROGRAM

This bill increases idle oil and natural gas well fees and blanket indemnity bonds to provide a disincentive for operators to maintain large numbers of idle wells. It also requires operators to plug between 4-6% of their idle wells annually. FULL BILL TEXT

SB 1295 HAZARDOUS OR DESERTED WELLS AND FACILITIES: LABOR STANDARDS—PENDING LEGISLATION

Significantly increases the Oil, Gas, and Geothermal Administrative Fund expenditures (funded by operator assessment fees) to address plugging and abandoning hazardous or idle-deserted wells, decommissioning hazardous or deserted facilities, or otherwise remediating well sites of hazardous or idle-deserted wells. FULL BILL TEXT

AB 1328 NOTICE OF INTENTION TO ABANDON WELLS

This bill requires an independent study commissioned by CalGEM and the California Air Resources Board (CARB) to review emissions from idle and abandoned wells. FULL BILL TEXT

SB 84 ENHANCED LEGISLATIVE REPORTING REQUIREMENTS OF IDLE WELL PROGRAM

Requires CalGEM's Supervisor to provide the Legislature a report detailing the process used by the state to determine that the current operator of a deserted well does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities. FULL BILL TEXT

These extensive statewide regulations ensure that there are sufficient funds and resources available to plug, decommission, and remediate oil and gas sites without government or taxpayers paying the bill.

WHY VENTURA COUNTY'S PROPOSED SUPPLEMENTAL BONDING REQUIREMENTS ARE NOT NECESSARY:

PRE-EMPTION

Local legislation is "duplicative" when it is coextensive of state law. The proposed ordinance creates a duplicative program that is unnecessary and could open the County up to potential legal liabilities.

The state, through AB 2729, created several new bonding and fee payment provisions to address the State's liability to properly plug and abandon wells that are orphaned by operator bankruptcy or failure to act.

Ventura County would be establishing an entirely separate, new program that would require additional County funding and management and would provide minimal public benefit.

BOND PRODUCTS NOT AVAILABLE

The proposed insurance bonds are not available to producers due to the challenging political and regulatory environment in California. It is extremely difficult to find carriers willing to issue bonds and insurance products for oil development activities. As a result, there is unprecedented pricing increases and diminished supply.

Subject matter expert weighs in:

"Based on my experience in procuring surety bonds and insurance policies for oil and gas companies throughout California, including in Ventura County, the required surety and insurance coverages will be prohibitively expensive for the majority of independent oil and gas companies currently operating in Ventura County.

Even if an insurers' underwriting department approves a bond that would satisfy the proposed zoning amendments, the operator would likely need to provide 100% collateral in order to satisfy the underwriting requirements. This amount of collateral is not feasible for most operators in the County, especially independent operators.

The proposed amendments also do not specify whether a surety bond can be cancellable. When a surety bond is not cancellable, underwriters are extremely reluctant to issue a bond."

Bart LeFerve, CEO of INpower Global Insurance Services, a specialty insurance brokerage & risk management firm

CALGEM BONDING AND FINANCIAL SECURITY PROGRAM

In response to concerns related to orphan wells and liabilities for plugging, decommissioning, and remediation of oil and gas sites, Public Resources Code (PRC) section 3205.3, codified in 2018 by AB 1057, provides CalGEM the authority to require an operator subject to CalGEM's indemnity bond requirements, to provide an additional security, acceptable to CalGEM, based on CalGEM's evaluation of the risk that the operator will desert its wells and the potential threats the operator's wells pose to life, health, property, and natural resources.

ADDITIONAL LAYER OF BUREAUCRACY THAT IS NOT NECESSARY

It is audacious and shortsighted of the County to add another layer of bureaucracy to the State's effective idle well management program. The State has spent years developing comprehensive and meaningful regulations that have begun to accelerate plugging and abandoning of wells. In addition, significant funds have been directed by the State and Federal Government to further accelerate this process. The State's idle well management program is working. Oil and gas operators are incentivized to plug and abandon wells. Adding another costly and unnecessary layer of bureaucracy will provide little benefit, and only increase the chance of operators going out of business.

CALIFORNIANS FOR ENERGY INDEPENDENCE

Capitol Matrix Consulting
Analysis, Advice, Advocacy

Ventura County Proposed Amendments Related to Oil and Gas Operations

On August 18, the Ventura County ("County") Board of Supervisors will consider amendments to the Non-coastal Zoning Ordinance (PL21-0099) and Coastal Zoning Ordinance (PL21-0100) related to oil and gas operations. These amendments would:

- Limit new discretionary permits for oil and gas operations to 15 years.
- Increase surety and insurance requirements related to oil-well site restoration and compliance.
- Require a third-party study to identify idle wells that are likely candidates for permanent plugging and site restoration.

In this brief, we discuss some of the key economic and fiscal-related policy concerns that the proposed amendments raise. Our bottom-line conclusion is that the changes are unnecessary, will be expensive for both the County and oil producers, and are unlikely to produce any meaningful results beyond those realized from ambitious state-level efforts in this area. The amendments will also discourage oil production and make California even more vulnerable to supply disruptions and price increases for petroleum products. Our specific concerns are discussed below:

15-Year Cap on Discretionary Permits Will Discourage Investment

Exploration, drilling, and completion of a group of wells represent major investments by operators – easily totaling in the tens of millions of dollars for a set of 5 or 10 wells. Unlike wells drilled in mid-continent regions of the U.S, wells in California's depleted oil fields produce at low rates, but hopefully for a long time. All investments have risks, and some wells never produce enough oil to generate a positive return on investment. Others, however, can produce oil at profitable levels for decades.[1]

Operators need to balance both the risks and potential returns when making a decision to spend money on drilling and completion of new wells. An arbitrary 15-year cap will materially change that calculation by making all production after the first 15 years subject to regulatory as well as production risk. For many wells, a shutdown after 15 years would deny the operators recovery of one-half or more of total production that would otherwise be achievable. This leaves operators with

[1] As one indication of the long-term nature of well production in California, a recent review of California well data found nearly 70 percent of "low-producing" wells in operation in 1996 were still in operation 20 years later in 2016. Moreover, over one-fourth of the wells were actually producing at higher levels in 2016 than in 1996 (likely due to recompletions or EOR).

all the risk but only a portion of the reward that would otherwise be available absent the cap. The result will be less investment and less production over time.

County Amendments Unnecessary in View of Comprehensive State Idle Well Program

The California Geologic Energy Management Division (CalGEM) within the state Department of Conservation, manages a robust and well-funded idle well program to protect public safety and the environment from the potential threats posed by idle wells. The comprehensive program is the result of over a half-dozen measures enacted by the Legislature since 2016, which provide for environmental protections and place major incentives on the industry to reduce the number of idle wells in their portfolios. Chief among these measures is AB 2729 (Williams,2016), which has the following key provisions:

- Blanket indemnity bonds starting at $200,000 for operators with 20-50 wells, up to $3 million for operators with more than 10,000 wells.

- New idle well fees starting at $150 for each well that is idle for 3 years, up to $1,500 for each well that is idle for 20 years or more. Waivers are allowed if the producer enters an idle well management plan that eliminates a specific number of idle wells each year.

- A requirement for operators to provide a detailed inventory of idle wells to CalGEM, and conduct periodic and progressively more rigorous testing of wells starting within 24 months of when they become idle. Testing waivers are allowed for wells that are committed to be plugged and abandoned within 8 years.

The testing-related provisions are causing operators to accelerate plugging and remediating idle wells. This is because testing costs are high – especially for long-term idle wells – and if issues are identified during testing, remediation costs are even higher. Feedback we have received from the industry suggests that the testing requirements have caused operators to carefully review their inventory of idle wells. In cases where reactivation seems less than likely, the operators are putting wells into the idle well testing waiver program.

Other legislative measures strengthening idle well management include:

- AB 1057 (Limon, 2019), which authorizes CalGEM to require increased financial assurances as well as additional documentation from operators when ownership of wells or facilities changes.

- SB 551 (Jackson, 2019), which requires operators to provide CalGEM with an estimate of their future plugging obligations and their plan to financially meet those obligations, and authorizes CalGEM to require bonding for any shortfall up to $30 million.

- SB 47 (Limon, 2021), which raises the cap on annual CalGEM spending from $1 million to $5 million for purposes related to hazardous or deserted wells and facilities.

- AB 896 (Bennett, 2021), which authorizes CalGEM to impose a claim and lien on the real property owned by the operator or party under specified conditions, and requires CalGEM to establish a collections unit responsible for collecting unpaid idle well fees and recovering costs from the responsible party for deserted wells or wells that need to undergo testing.

The success of AB 2729 and related idle well measures is evidenced by the *eight-fold* increase in permits issued for idle well plugging and abandonment between the first half of 2018 and the first half of 2022. So far in 2022, the state has issued 4,813 permits for plugging and abandoning, compared to just 257 for the drilling of new wells. Given the success of the State's incentive-based programs, it is unclear what additional benefit would be realized from the redundant County level efforts.

Assurance Requirements Unworkable for Independent Operators

While large producers may be able to self-finance the County's proposed enhanced surety requirements, smaller independent operators will face major problems. This is because bonds and insurance products meeting the County's requirements will be prohibitively expensive or not obtainable at any price, given California's challenging political and regulatory environment. According to the CEO of Inpower Global Insurance Services, a specialty insurance brokerage and risk management firm, the required insurance coverages will be prohibitively expensive for the majority of independent oil and gas companies operating in Ventura County. Even if an insurers' underwriting department approves a bond that would satisfy the proposed zoning amendments, the operators would likely need to provide 100 percent collateral in order to satisfy the underwriting requirements. Such an amount is not feasible for the great majority of independent operators in the County.

Provision Requiring County Idle Well Review Poses Costs and Risks

These costs and risks fall into three areas. First, a meaningful well review would be expensive and time-consuming, requiring extensive review of well records along with geological and engineering data. It is not clear to us how a third party would make such determinations without access to proprietary company geological and engineering data. Second, if the County were to use the results of the study to mandate plugging and abandonment of specific wells, it may face costly regulatory and legal challenges (including takings claims) in cases where operators disagree with County determinations regarding the potential for reactivation of the well. Third, such a "command and control" approach would be inconsistent with, and may even undermine, California's incentive-based policies in this area which, as noted above, are working.

Conclusion

There appears to be no justification for the County to add another layer of bureaucracy to the State's efforts to reduce the inventory of idle wells. California has spent several years developing comprehensive and meaningful idle-well regulations. CalGEM has received nearly $30 million in funding increases and authorization for 125 new positions since 2016-17, financed by fees on the industry, for enhanced oversight. The state has also authorized hundreds of millions of one-time funds to identify and plug orphan wells in the state. The idle well management and testing requirements are clearly having their intended effects, reducing environmental risk and sharply boosting the number of permits for idle-well plugging and remediation.

Adding another costly and unnecessary layer of bureaucracy on top of the state program will provide little benefit and, in fact, may undercut state incentive-based regulatory efforts. The amendments will be costly for the County to administer. They will also drive independent operators out of business and reduce oil production in the County at a time when California is already vulnerable to petroleum-based shortages and price hikes. More generally, the proposed amendments will send a chilling message to all businesses that are concerned about the costs of doing business and bureaucratic regulatory overreach in the County.

3480 Department of Conservation

The Department of Conservation administers programs to preserve agricultural and open space lands, evaluate geology and seismology, and regulate mineral, oil, and gas development activities.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
2420	Geologic Hazards and Mineral Resources Conservation	108.5	124.0	145.0	$27,416	$34,124	$63,909
2425	Geologic Energy Management Division	295.6	341.9	380.9	82,358	91,437	153,889
2430	Land Resource Protection	25.9	35.9	35.9	52,471	261,974	83,054
2435	Division of Mine Reclamation	33.8	38.5	39.5	6,582	9,792	9,998
2440	State Mining and Geology Board	3.8	4.0	4.0	1,581	1,532	1,530
9900100	Administration	112.5	144.6	159.6	22,612	25,443	28,075
9900200	Administration - Distributed	-	-	-	-22,612	-25,443	-28,075
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		580.1	688.9	764.9	$170,408	$398,859	$312,380

FUNDING		2020-21*	2021-22*	2022-23*
0001	General Fund	$4,308	$164,767	$157,691
0035	Surface Mining and Reclamation Account	3,873	4,976	5,173
0042	State Highway Account, State Transportation Fund	-	12	12
0140	California Environmental License Plate Fund	-	168	168
0141	Soil Conservation Fund	3,539	3,882	3,884
0275	Hazardous and Idle-Deserted Well Abatement Fund	303	1,000	1,000
0336	Mine Reclamation Account	4,454	5,381	5,378
0338	Strong-Motion Instrumentation and Seismic Hazards Mapping Fund	10,564	14,530	14,529
0867	California Farmland Conservancy Program Fund	-	-	61
0890	Federal Trust Fund	2,592	5,628	6,305
0940	Bosco-Keene Renewable Resources Investment Fund	1,001	1,150	1,149
0995	Reimbursements	7,903	9,725	11,411
3025	Abandoned Mine Reclamation and Minerals Fund Subaccount, Mine Reclamation Account	154	745	744
3046	Oil, Gas, and Geothermal Administrative Fund	80,445	86,611	99,179
3212	Timber Regulation and Forest Restoration Fund	3,840	4,739	4,738
3228	Greenhouse Gas Reduction Fund	42,462	78,629	-
3299	Oil and Gas Environmental Remediation Account	-	50	50
6029	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	48	3,098	-
6031	Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	1,627	489	420
6051	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	759	114	42
6088	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund	2,536	13,165	446
TOTALS, EXPENDITURES, ALL FUNDS		$170,408	$398,859	$312,380

† Fiscal year 2020-21 budget information reflects the latest available estimates for this department and/or fund(s). Changes resulting from the final reconciliation of the 2020-21 ending fund balance will be reflected as a prior year adjustment in the 2023-24 Governor's Budget publication.

LEGAL CITATIONS AND AUTHORITY

PROGRAM AUTHORITY

* Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.

3480 Department of Conservation - Continued

2420 - Geologic Hazards and Mineral Resources Conservation:
Public Resources Code, Division 1, Chapter 2, Articles 1 and 2; Public Resources Code, Division 2, Chapters 1, 2, 7.5, 7.6, 7.8, 8, 9, 10.

2425 - Geologic Energy Management Division:
Public Resources Code, Division 3.

2430 - Land Resource Protection:
Public Resources Code, Division 9 Chapter 2; Public Resources Code, Division 10.2; Public Resource Code, Division 10.3; Public Resources Code Sections 612-615, Government Code Sections 65565 and 65565.1; Government Code Section 65570; Government Code Section 51200 et seq. ; and Government Code Section 16140 et seq.

2435 - Mine Reclamation:
Public Resources Code, Division 2, Chapters 2 and 9; Public Contract Code, Division 2, Part 2, Chapter 2, Article 2, and Part 3, Chapter 1, Article 42; California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1.

2440 - State Mining and Geology Board:Public Resources Code, Division 1, Chapter 2, Article 2; Public Resources Code, Division 2, Chapter 2, Section 2207, Chapter 9.

MAJOR PROGRAM CHANGES

- Oil Well Abandonment & Remediation—The Budget includes $50 million General Fund in 2022-23 and $50 million in 2023-24 to plug orphan or idle wells, decommission attendant facilities, and complete associated environmental remediation.
- Climate Resilience Package—The Budget includes $50 million General Fund in 2022-23 as part of a $3.7 billion package of investments that address the state's climate risks. This includes funding to support a Biomass to Hydrogen pilot program.
- Sustainable Agricultural Land Conservation Program—The Budget includes $25 million to support goals consistent with the Sustainable Agricultural Lands Conservation program.
- California Geologic Energy Management Division: Mission Transformation and Oversight—The Budget includes $5 million and 17 positions in 2022-23 and ongoing to continue strengthening enforcement of existing laws and regulations and limit the state's financial liability.
- Statewide Seismic Hazards Reduction—The Budget includes $25.6 million and 21 permament positions to mitigate the risk of loss of life and and catastrophic economic impacts of future urban earthquakes in California.

DETAILED BUDGET ADJUSTMENTS

	2021-22*			2022-23*		
	General Fund	Other Funds	Positions	General Fund	Other Funds	Positions
Workload Budget Adjustments						
Workload Budget Change Proposals						
• Oil Well Abandonment & Remediation	$-	$-	-	$50,000	$-	-
• Statewide Seismic Hazards Reduction	-	-	-	25,642	-	13.0
• Legislative Investment: Sustainable Agricultural Lands Conservation Program	-	-	-	25,000	-	-
• Pre-Wildfire Geologic Hazard Mitigation Planning & Post-Wildfire Hazard Identification	-	-	-	2,713	-	8.0
• California Geologic Energy Management Division: Mission Transformation and Oversight	-	-	-	-	5,056	17.0
• CalGEM: Data Integrity and Accessibility	-	-	-	-	3,261	16.0
• Plugging and Abandoning Hazardous and Idle-Deserted Wells and Production Facilities (SB 47)	-	-	-	-	3,000	6.0
• Reimbursement Authority: Strong Motion Instrumentation and Seismic Hazards Mapping Fund	-	-	-	-	1,817	-
• Federal Trust Fund Authority	-	-	-	-	700	-

* Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.

3480 Department of Conservation - Continued

	2021-22*			2022-23*		
	General Fund	Other Funds	Positions	General Fund	Other Funds	Positions
• Relativity Software Procurement	-	-	-	-	434	2.0
• Mines Online Database (SB 854)	-	-	-	-	197	1.0
• Oil and Gas Wells and Facilities: Liens and Collections Unit (AB 896)	-	-	-	-	154	1.0
• California Farmland Conservancy Program Fund - Interest Earned	-	-	-	-	61	-
• California Climate Information System (CalCIS)	-	-	-	-	-	2.0
Totals, Workload Budget Change Proposals	$-	$-	-	$103,355	$14,680	66.0
Other Workload Budget Adjustments						
• Climate Resilience Package (SB 170): Biomass to Hydrogen/Biofuels Pilot	-	-	-	50,000	-	-
• GGRF Transfer per Executive Order NO. E 21/ 22-194 & 195	-	51,081	-	-	-	-
• Water Resilience Package (SB 170): Multibenefit Land Repurposing	50,000	-	-	-	-	-
• Wildfire and Forest Resilience Package (SB 170): Regional Forest Capacity	60,000	-	5.0	-	-	5.0
• Other Post-Employment Benefit Adjustments	-	-4	-	-	-4	-
• Section 4.05 Ongoing Expenditure Reductions Adjustment	-113	-1,933	-	-113	-1,933	-
• Salary Adjustments	196	3,807	-	190	3,618	-
• Benefit Adjustments	76	1,533	-	81	1,728	-
• Authorized Positions, Salaries, and Wages Realignment	-	-	96.3	-	-	96.3
• Carryover/Reappropriation	50,000	15,708	-	-	-	-
• Miscellaneous Baseline Adjustments	-	27,679	-	-	-	-
• SWCAP	-	-	-	-	-23	-
• Retirement Rate Adjustments	-4	-103	-	-4	-103	-
Totals, Other Workload Budget Adjustments	$160,155	$97,768	101.3	$50,154	$3,283	101.3
Totals, Workload Budget Adjustments	$160,155	$97,768	101.3	$153,509	$17,963	167.3
Totals, Budget Adjustments	$160,155	$97,768	101.3	$153,509	$17,963	167.3

PROGRAM DESCRIPTIONS

2420 - GEOLOGIC HAZARDS AND MINERAL RESOURCES CONSERVATION

This program evaluates, assesses and maps the state's geologic and seismologic hazards, such as earthquakes, landslides, tsunami and volcanic eruption threats, and hazardous minerals exposures, in order to protect the public health and safety and the natural environment; analyzes the state's mineral assets; and maps its mineral resources. Information is used by federal, state, and local government agencies, industries and individual businesses, and the public to make informed decisions about land use, seismic safety, and mineral development.

2425 - GEOLOGIC ENERGY MANAGEMENT DIVISION

This program regulates the drilling, operation, and abandonment of oil, natural gas, and geothermal wells to prevent, as much as possible, damage to life, health, property, and natural resources. The program seeks to protect public health and safety and environmental quality, including reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon and geothermal resources in a manner that meets the energy needs of the state. The state is fully reimbursed for program expenditures by annual assessments and fees on the respective industries.

2430 - LAND RESOURCE PROTECTION

This program protects agricultural farmland and open space through various financial incentives. The Williamson Act program provides advice on and reviews documents related to changes to Williamson Act contracts between landowners and local governments. The California Farmland Conservancy Program provides grants to local governments and nonprofit land trusts for planning purposes and for the acquisition of agricultural conservation easements that permanently remove development

* Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.

3480 Department of Conservation - Continued

rights, and therefore development pressure, from agricultural lands. The Farmland Mapping and Monitoring Program develops maps, statistics, and reports relating to farmland conversion, farmland inventory, and land protection to assist in local land use decisions.

2435 - MINE RECLAMATION

This program regulates surface mining operations and monitors local lead agencies to ensure compliance with the Surface Mining and Reclamation Act of 1975. It assists cities, counties, state agencies, and mine operators in their efforts to reclaim mined lands to beneficial uses. This program also compiles an inventory of the state's estimated 47,000 abandoned mines and remediates abandoned mine hazards to protect public safety.

2440 - STATE MINING AND GEOLOGY BOARD

The Board serves as a regulatory and policy body for the state's geology, geologic and seismologic hazards, conservation of mineral resources, and reclamation of mined lands. The department's California Geological Survey and the Division of Mine Reclamation provide the Board with relevant engineering, technical expertise, and support functions for certain reports, plans, and maps. The Board also serves as an appeals body for mining operations that have been issued notice of violation orders to comply, or administrative penalties and in cases where the Division of Mine Reclamation contests the adequacy of a local government's approval of a mine operation's financial assurance cost estimate.

DETAILED EXPENDITURES BY PROGRAM †

		2020-21*	2021-22*	2022-23*
	PROGRAM REQUIREMENTS			
2420	**GEOLOGIC HAZARDS AND MINERAL RESOURCES CONSERVATION**			
	State Operations:			
0001	General Fund	$4,171	$4,748	$32,672
0042	State Highway Account, State Transportation Fund	-	12	12
0336	Mine Reclamation Account	1,887	2,399	2,399
0338	Strong-Motion Instrumentation and Seismic Hazards Mapping Fund	10,564	14,530	14,529
0890	Federal Trust Fund	814	1,075	1,121
0995	Reimbursements	6,140	6,621	8,438
3212	Timber Regulation and Forest Restoration Fund	3,840	4,739	4,738
	Totals, State Operations	$27,416	$34,124	$63,909
	SUBPROGRAM REQUIREMENTS			
2420010	**Mineral Resources Development**			
	State Operations:			
0001	General Fund	$766	$673	$674
0336	Mine Reclamation Account	1,887	2,399	2,399
0890	Federal Trust Fund	105	2	2
0995	Reimbursements	85	378	378
	Totals, State Operations	$2,843	$3,452	$3,453
	SUBPROGRAM REQUIREMENTS			
2420019	**Environmental Review and Reclamation**			
	State Operations:			
0001	General Fund	$512	$223	$104
0995	Reimbursements	1,145	149	149
3212	Timber Regulation and Forest Restoration Fund	3,840	4,739	4,738
	Totals, State Operations	$5,497	$5,111	$4,991
	SUBPROGRAM REQUIREMENTS			
2420028	**Geohazards Assessment**			
	State Operations:			
0001	General Fund	$2,073	$1,998	$3,823
0042	State Highway Account, State Transportation Fund	-	12	12
0338	Strong-Motion Instrumentation and Seismic Hazards Mapping Fund	2,585	4,741	4,750

*** Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.**

3480 Department of Conservation - Continued

		2020-21*	2021-22*	2022-23*
0890	Federal Trust Fund	709	695	741
0995	Reimbursements	2,526	784	2,601
	Totals, State Operations	$7,893	$8,230	$11,927
	SUBPROGRAM REQUIREMENTS			
2420037	Earthquake Engineering			
	State Operations:			
0001	General Fund	$-	$-	$23,818
0338	Strong-Motion Instrumentation and Seismic Hazards Mapping Fund	4,223	5,636	5,643
0890	Federal Trust Fund	-	50	50
0995	Reimbursements	2,384	5,098	5,098
	Totals, State Operations	$6,607	$10,784	$34,609
	SUBPROGRAM REQUIREMENTS			
2420046	Geologic Information/Support			
	State Operations:			
0001	General Fund	$820	$1,854	$4,253
0338	Strong-Motion Instrumentation and Seismic Hazards Mapping Fund	3,756	4,153	4,136
0890	Federal Trust Fund	-	328	328
0995	Reimbursements	-	212	212
	Totals, State Operations	$4,576	$6,547	$8,929
	PROGRAM REQUIREMENTS			
2425	GEOLOGIC ENERGY MANAGEMENT DIVISION			
	State Operations:			
0001	General Fund	$-	$-	$50,000
0275	Hazardous and Idle-Deserted Well Abatement Fund	303	1,000	1,000
0890	Federal Trust Fund	1,610	3,582	3,466
0995	Reimbursements	-	194	194
3046	Oil, Gas, and Geothermal Administrative Fund	80,445	86,611	99,179
3299	Oil and Gas Environmental Remediation Account	-	50	50
	Totals, State Operations	$82,358	$91,437	$153,889
	SUBPROGRAM REQUIREMENTS			
2425010	Regulation of Oil and Gas Operations			
	State Operations:			
0001	General Fund	$-	$-	$50,000
0275	Hazardous and Idle-Deserted Well Abatement Fund	303	1,000	1,000
0890	Federal Trust Fund	1,610	3,582	3,466
0995	Reimbursements	-	194	194
3046	Oil, Gas, and Geothermal Administrative Fund	79,094	84,606	97,174
3299	Oil and Gas Environmental Remediation Account	-	50	50
	Totals, State Operations	$81,007	$89,432	$151,884
	SUBPROGRAM REQUIREMENTS			
2425019	Regulation of Geothermal Operations			
	State Operations:			
3046	Oil, Gas, and Geothermal Administrative Fund	1,351	2,005	2,005
	Totals, State Operations	$1,351	$2,005	$2,005
	PROGRAM REQUIREMENTS			
2430	LAND RESOURCE PROTECTION			
	State Operations:			
0001	General Fund	$137	$2,969	$19
0140	California Environmental License Plate Fund	-	168	168
0141	Soil Conservation Fund	3,539	3,882	3,884

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3480 Department of Conservation - Continued

		2020-21*	2021-22*	2022-23*
0867	California Farmland Conservancy Program Fund	-	-	61
0890	Federal Trust Fund	-	-	735
0995	Reimbursements	1,363	2,410	2,279
3228	Greenhouse Gas Reduction Fund	1,123	1,166	-
6029	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	48	-	-
6031	Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	154	420	420
6051	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	39	42	42
6088	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund	255	696	446
	Totals, State Operations	$6,658	$11,753	$8,054
	Local Assistance:			
0001	General Fund	$-	$157,050	$75,000
3228	Greenhouse Gas Reduction Fund	41,339	77,463	-
6029	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	-	3,098	-
6031	Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	1,473	69	-
6051	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	720	72	-
6088	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund	2,281	12,469	-
	Totals, Local Assistance	$45,813	$250,221	$75,000
	SUBPROGRAM REQUIREMENTS			
2430010	**Open-Space Subvention Administration**			
	State Operations:			
0001	General Fund	$137	$-	$-
0141	Soil Conservation Fund	2,846	1,740	1,737
0867	California Farmland Conservancy Program Fund	-	-	61
0995	Reimbursements	631	2,370	2,239
6029	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	48	-	-
6051	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	39	42	42
6088	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund	-411	-	-
	Totals, State Operations	$3,290	$4,152	$4,079
	Local Assistance:			
6029	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	$-	$3,098	$-
	Totals, Local Assistance	$-	$3,098	$-
	SUBPROGRAM REQUIREMENTS			
2430019	**Farmland Mapping and Monitoring**			
	State Operations:			
0141	Soil Conservation Fund	$592	$1,004	$1,006
0995	Reimbursements	-	40	40
	Totals, State Operations	$592	$1,044	$1,046
	SUBPROGRAM REQUIREMENTS			
2430028	**Soil Resource Protection**			
	State Operations:			
0001	General Fund	$-	$2,969	$19
0140	California Environmental License Plate Fund	-	168	168
0141	Soil Conservation Fund	101	1,138	1,141
0890	Federal Trust Fund	-	-	735

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3480 Department of Conservation - Continued

		2020-21*	2021-22*	2022-23*
0995	Reimbursements	732	-	-
3228	Greenhouse Gas Reduction Fund	1,123	1,166	-
6031	Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	154	420	420
6088	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund	666	696	446
	Totals, State Operations	$2,776	$6,557	$2,929
	Local Assistance:			
0001	General Fund	$-	$157,050	$75,000
3228	Greenhouse Gas Reduction Fund	41,339	77,463	-
6031	Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	1,473	69	-
6051	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	720	72	-
6088	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund	2,281	12,469	-
	Totals, Local Assistance	$45,813	$247,123	$75,000
	PROGRAM REQUIREMENTS			
2435	**DIVISION OF MINE RECLAMATION**			
	State Operations:			
0035	Surface Mining and Reclamation Account	$3,873	$4,976	$5,173
0336	Mine Reclamation Account	1,945	2,457	2,456
0890	Federal Trust Fund	168	971	983
0940	Bosco-Keene Renewable Resources Investment Fund	442	543	542
0995	Reimbursements	-	100	100
3025	Abandoned Mine Reclamation and Minerals Fund Subaccount, Mine Reclamation Account	154	745	744
	Totals, State Operations	$6,582	$9,792	$9,998
	PROGRAM REQUIREMENTS			
2440	**STATE MINING AND GEOLOGY BOARD**			
	State Operations:			
0336	Mine Reclamation Account	$622	$525	$523
0940	Bosco-Keene Renewable Resources Investment Fund	559	607	607
0995	Reimbursements	400	400	400
	Totals, State Operations	$1,581	$1,532	$1,530
	SUBPROGRAM REQUIREMENTS			
9900100	**Administration**			
	State Operations:			
0995	Reimbursements	-	-	370
3046	Oil, Gas, and Geothermal Administrative Fund	22,612	25,443	27,705
	Totals, State Operations	$22,612	$25,443	$28,075
	SUBPROGRAM REQUIREMENTS			
9900200	**Administration - Distributed**			
	State Operations:			
0995	Reimbursements	-	-	-370
3046	Oil, Gas, and Geothermal Administrative Fund	-22,612	-25,443	-27,705
	Totals, State Operations	-$22,612	-$25,443	-$28,075
	TOTALS, EXPENDITURES			
	State Operations	124,595	148,638	237,380
	Local Assistance	45,813	250,221	75,000
	Totals, Expenditures	$170,408	$398,859	$312,380

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3480 Department of Conservation - Continued

† Fiscal year 2020-21 budget information reflects the latest available estimates for this department and/or fund(s). Changes resulting from the final reconciliation of the 2020-21 ending fund balance will be reflected as a prior year adjustment in the 2023-24 Governor's Budget publication.

EXPENDITURES BY CATEGORY †

1 State Operations	Positions			Expenditures		
	2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
PERSONAL SERVICES						
Baseline Positions	570.6	587.6	597.6	$54,222	$62,412	$63,238
Authorized Positions, Salaries, and Wages Realignment	-	96.3	96.3	-	7,979	11,618
Other Adjustments	9.5	5.0	71.0	2,897	5,743	11,068
Net Totals, Salaries and Wages	580.1	688.9	764.9	$57,119	$76,134	$85,924
Staff Benefits	-	-	-	24,994	36,402	39,881
Totals, Personal Services	580.1	688.9	764.9	$82,113	$112,536	$125,805
OPERATING EXPENSES AND EQUIPMENT				$42,042	$36,102	$111,575
SPECIAL ITEMS OF EXPENSES				440	-	-
TOTALS, POSITIONS AND EXPENDITURES, ALL FUNDS (State Operations)				$124,595	$148,638	$237,380

2 Local Assistance	Expenditures		
	2020-21*	2021-22*	2022-23*
Grants and Subventions - Governmental	45,813	250,221	75,000
TOTALS, EXPENDITURES, ALL FUNDS (Local Assistance)	$45,813	$250,221	$75,000

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DETAIL OF APPROPRIATIONS AND ADJUSTMENTS †

1 STATE OPERATIONS	2020-21*	2021-22*	2022-23*
0001 General Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$4,171	$4,612	$82,691
Allocation for Employee Compensation	-	190	-
Allocation for Staff Benefits	-	76	-
Allocation for Telework Stipend	-	6	-
Section 3.60 Pension Contribution Adjustment	-	-4	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-113	-
Wildfire and Forest Resilience Package (SB 170): Regional Forest Capacity	-	2,950	-
Prior Year Balances Available:			
Item 3480-001-0001, Budget Act of 2016 as reappropriated by Item 3480-491, Budget Act of 2019	137	-	-
Totals Available	$4,308	$7,717	$82,691
TOTALS, EXPENDITURES	$4,308	$7,717	$82,691
0035 Surface Mining and Reclamation Account			
APPROPRIATIONS			
001 Budget Act appropriation	$3,873	$4,853	$5,173

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3480 Department of Conservation - Continued

1 STATE OPERATIONS	2020-21*	2021-22*	2022-23*
Allocation for Employee Compensation	-	155	-
Allocation for Other Post-Employment Benefits	-	-1	-
Allocation for Staff Benefits	-	66	-
Allocation for Telework Stipend	-	8	-
Section 3.60 Pension Contribution Adjustment	-	-5	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-100	-
Totals Available	$3,873	$4,976	$5,173
TOTALS, EXPENDITURES	$3,873	$4,976	$5,173
0042 State Highway Account, State Transportation Fund			
APPROPRIATIONS			
001 Budget Act appropriation	-	$12	$12
Totals Available	-	$12	$12
TOTALS, EXPENDITURES	-	$12	$12
0140 California Environmental License Plate Fund			
APPROPRIATIONS			
001 Budget Act appropriation	-	$168	$168
TOTALS, EXPENDITURES	-	$168	$168
0141 Soil Conservation Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$3,539	$3,879	$3,884
Allocation for Employee Compensation	-	139	-
Allocation for Other Post-Employment Benefits	-	-1	-
Allocation for Staff Benefits	-	63	-
Allocation for Telework Stipend	-	7	-
Section 3.60 Pension Contribution Adjustment	-	-5	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-200	-
Totals Available	$3,539	$3,882	$3,884
TOTALS, EXPENDITURES	$3,539	$3,882	$3,884
0275 Hazardous and Idle-Deserted Well Abatement Fund			
APPROPRIATIONS			
011 Budget Act appropriation (loan to the General Fund)	($10,000)	(-)	(-)
Public Resources Code section 3206(b)	303	1,000	1,000
Totals Available	$303	$1,000	$1,000
TOTALS, EXPENDITURES	$303	$1,000	$1,000
0336 Mine Reclamation Account			
APPROPRIATIONS			
001 Budget Act appropriation	$4,454	$5,324	$5,378
Allocation for Employee Compensation	-	141	-
Allocation for Other Post-Employment Benefits	-	-1	-
Allocation for Staff Benefits	-	63	-
Allocation for Telework Stipend	-	9	-
Section 3.60 Pension Contribution Adjustment	-	-5	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-150	-
Totals Available	$4,454	$5,381	$5,378
TOTALS, EXPENDITURES	$4,454	$5,381	$5,378
0338 Strong-Motion Instrumentation and Seismic Hazards Mapping Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$10,564	$14,121	$14,529
Allocation for Employee Compensation	-	377	-
Allocation for Staff Benefits	-	169	-
Allocation for Telework Stipend	-	23	-

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3480 Department of Conservation - Continued

1 STATE OPERATIONS	2020-21*	2021-22*	2022-23*
Section 3.60 Pension Contribution Adjustment	-	-10	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-150	-
011 Budget Act appropriation (loan to the General Fund)	(5,435)	(-)	(-)
Totals Available	$10,564	$14,530	$14,529
TOTALS, EXPENDITURES	$10,564	$14,530	$14,529
0867 California Farmland Conservancy Program Fund			
APPROPRIATIONS			
001 Budget Act appropriation	-	-	$61
TOTALS, EXPENDITURES	-	-	$61
0890 Federal Trust Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$2,592	$5,628	$6,305
Totals Available	$2,592	$5,628	$6,305
TOTALS, EXPENDITURES	$2,592	$5,628	$6,305
0940 Bosco-Keene Renewable Resources Investment Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$1,001	$1,107	$1,149
Allocation for Employee Compensation	-	28	-
Allocation for Staff Benefits	-	13	-
Allocation for Telework Stipend	-	2	-
TOTALS, EXPENDITURES	$1,001	$1,150	$1,149
0995 Reimbursements			
APPROPRIATIONS			
Reimbursements	$7,903	$9,725	$11,411
TOTALS, EXPENDITURES	$7,903	$9,725	$11,411
3025 Abandoned Mine Reclamation and Minerals Fund Subaccount, Mine Reclamation Account			
APPROPRIATIONS			
001 Budget Act appropriation	$154	$844	$744
Allocation for Telework Stipend	-	1	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-100	-
Totals Available	$154	$745	$744
TOTALS, EXPENDITURES	$154	$745	$744
3046 Oil, Gas, and Geothermal Administrative Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$78,445	$83,810	$99,179
Allocation for Employee Compensation	-	2,628	-
Allocation for Other Post-Employment Benefits	-	-1	-
Allocation for Staff Benefits	-	1,097	-
Allocation for Telework Stipend	-	135	-
Section 3.60 Pension Contribution Adjustment	-	-75	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-983	-
Prior Year Balances Available:			
Item 3480-001-3046, Budget Act of 2021 as reappropriated by Item 3480-490, Budget Act of 2021	2,000	-	-
Totals Available	$80,445	$86,611	$99,179
TOTALS, EXPENDITURES	$80,445	$86,611	$99,179
3212 Timber Regulation and Forest Restoration Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$3,840	$4,626	$4,738
Allocation for Employee Compensation	-	146	-

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3480 Department of Conservation - Continued

1 STATE OPERATIONS	2020-21*	2021-22*	2022-23*
Allocation for Staff Benefits	-	62	-
Allocation for Telework Stipend	-	8	-
Section 3.60 Pension Contribution Adjustment	-	-3	-
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-100	-
Totals Available	**$3,840**	**$4,739**	**$4,738**
TOTALS, EXPENDITURES	**$3,840**	**$4,739**	**$4,738**
3228 Greenhouse Gas Reduction Fund			
Prior Year Balances Available:			
Public Resources Code section 75200.3 and Health and Safety Code section 39719(c)	1,123	1,166	-
Totals Available	**$1,123**	**$1,166**	**-**
TOTALS, EXPENDITURES	**$1,123**	**$1,166**	**-**
3299 Oil and Gas Environmental Remediation Account			
APPROPRIATIONS			
001 Budget Act appropriation	-	$200	$50
Section 4.05 Ongoing Expenditure Reductions Adjustment	-	-150	-
Totals Available	**-**	**$50**	**$50**
TOTALS, EXPENDITURES	**-**	**$50**	**$50**
6004 Agriculture and Open Space Mapping Subaccount			
TOTALS, EXPENDITURES	**-**	**-**	**-**
6029 California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$48	-	-
Totals Available	**$48**	**-**	**-**
TOTALS, EXPENDITURES	**$48**	**-**	**-**
6031 Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002			
APPROPRIATIONS			
001 Budget Act appropriation	$154	$420	$420
Totals Available	**$154**	**$420**	**$420**
TOTALS, EXPENDITURES	**$154**	**$420**	**$420**
6051 Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006			
APPROPRIATIONS			
001 Budget Act appropriation	$39	$42	$42
Totals Available	**$39**	**$42**	**$42**
TOTALS, EXPENDITURES	**$39**	**$42**	**$42**
6088 California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund			
APPROPRIATIONS			
001 Budget Act appropriation	$255	$696	$446
Totals Available	**$255**	**$696**	**$446**
TOTALS, EXPENDITURES	**$255**	**$696**	**$446**
Total Expenditures, All Funds, (State Operations)	**$124,595**	**$148,638**	**$237,380**

2 LOCAL ASSISTANCE	2020-21*	2021-22*	2022-23*
0001 General Fund			
APPROPRIATIONS			
101 Budget Act appropriation	-	-	$50,000
Wildfire and Forest Resilience Package (SB 170): Regional Forest Capacity	-	57,050	-
102 Budget Act appropriation	-	-	25,000
Water Resilience Package (SB 170): Multibenefit Land Repurposing	-	50,000	-

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3480 Department of Conservation - Continued

2 LOCAL ASSISTANCE	2020-21*	2021-22*	2022-23*
Prior Year Balances Available:			
Item 3480-101-0001, Budget Act of 2020 as added by Chapter 14, Statutes of 2021	-	50,000	-
Totals Available	-	$157,050	$75,000
TOTALS, EXPENDITURES	-	$157,050	$75,000
0141 Soil Conservation Fund			
TOTALS, EXPENDITURES	-	-	-
3228 Greenhouse Gas Reduction Fund			
Prior Year Balances Available:			
Public Resources Code section 75200.3 and Health and Safety Code section 39719(c)	41,339	77,463	-
Totals Available	$41,339	$77,463	-
TOTALS, EXPENDITURES	$41,339	$77,463	-
6029 California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund			
Prior Year Balances Available:			
Item 3480-101-6029, Budget Act of 2018 as reappropriated by Item 3480-490, Budget Act of 2021	-	1,956	-
Item 3480-101-6029, Budget Act of 2019	-	1,142	-
Totals Available	-	$3,098	-
TOTALS, EXPENDITURES	-	$3,098	-
6031 Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002			
Prior Year Balances Available:			
Item 3480-101-6031, Budget Act of 2019	1,473	69	-
Totals Available	$1,473	$69	-
TOTALS, EXPENDITURES	$1,473	$69	-
6051 Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006			
Prior Year Balances Available:			
Item 3480-101-6051, Budget Act of 2018	310	-	-
Item 3480-101-6051, Budget Act of 2019	410	72	-
Totals Available	$720	$72	-
TOTALS, EXPENDITURES	$720	$72	-
6088 California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund			
Prior Year Balances Available:			
Item 3480-101-6088, Budget Act of 2019	2,281	12,219	-
Item 3480-101-6088, Budget Act of 2020	-	250	-
Totals Available	$2,281	$12,469	-
TOTALS, EXPENDITURES	$2,281	$12,469	-
Total Expenditures, All Funds, (Local Assistance)	$45,813	$250,221	$75,000
TOTALS, EXPENDITURES, ALL FUNDS (State Operations and Local Assistance)	$170,408	$398,859	$312,380

† Fiscal year 2020-21 budget information reflects the latest available estimates for this department and/or fund(s). Changes resulting from the final reconciliation of the 2020-21 ending fund balance will be reflected as a prior year adjustment in the 2023-24 Governor's Budget publication.

FUND CONDITION STATEMENTS †

	2020-21*	2021-22*	2022-23*
0035 Surface Mining and Reclamation Account [s]			

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3480 Department of Conservation - Continued

	2020-21*	2021-22*	2022-23*
BEGINNING BALANCE	$2,730	$3,388	$2,877
Adjusted Beginning Balance	$2,730	$3,388	$2,877
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4154000 Royalties - Federal Land	4,813	4,853	5,473
4163000 Investment Income - Surplus Money Investments	23	12	20
4173500 Settlements and Judgments - Other	2	-	-
Total Revenues, Transfers, and Other Adjustments	$4,838	$4,865	$5,493
Total Resources	$7,568	$8,253	$8,370
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	3,873	4,976	5,173
9892 Supplemental Pension Payments (State Operations)	107	107	107
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	200	293	300
Total Expenditures and Expenditure Adjustments	$4,180	$5,376	$5,580
FUND BALANCE	$3,388	$2,877	$2,790
Reserve for economic uncertainties	3,388	2,877	2,790
0141 Soil Conservation Fund [S]			
BEGINNING BALANCE	$4,872	$3,879	$4,719
Prior Year Adjustments	1,110	-	-
Adjusted Beginning Balance	$5,982	$3,879	$4,719
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4136000 Open Space Cancellation Fee Deferred Taxes	1,642	5,000	4,250
4163000 Investment Income - Surplus Money Investments	27	17	46
4173500 Settlements and Judgments - Other	1	-	-
Total Revenues, Transfers, and Other Adjustments	$1,670	$5,017	$4,296
Total Resources	$7,652	$8,896	$9,015
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	3,539	3,882	3,884
9892 Supplemental Pension Payments (State Operations)	57	57	57
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	177	238	247
Total Expenditures and Expenditure Adjustments	$3,773	$4,177	$4,188
FUND BALANCE	$3,879	$4,719	$4,827
Reserve for economic uncertainties	3,879	4,719	4,827
0275 Hazardous and Idle-Deserted Well Abatement Fund [S]			
BEGINNING BALANCE	$13,087	$7,513	$7,136
Prior Year Adjustments	1	-	-
Adjusted Beginning Balance	$13,088	$7,513	$7,136
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4129600 Other Regulatory Taxes	4,702	621	465
4163000 Investment Income - Surplus Money Investments	35	15	10
Transfers and Other Adjustments			
Loan from Hazardous and Idle-Deserted Well Abatement Fund (0275) to General Fund (0001) per Item 3480-011-0275, Budget Act of 2020	-10,000	-	-
Loan repayment from General Fund (0001) to Hazardous and Idle-Deserted Well Abatement Fund (0275) per Item 3480-011-0275 Budget Act of 2020	-	-	10,000
Total Revenues, Transfers, and Other Adjustments	-$5,263	$636	$10,475
Total Resources	$7,825	$8,149	$17,611
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	303	1,000	1,000

* Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.

3480 Department of Conservation - Continued

	2020-21*	2021-22*	2022-23*
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	9	13	106
Total Expenditures and Expenditure Adjustments	$312	$1,013	$1,106
FUND BALANCE	$7,513	$7,136	$16,505
Reserve for economic uncertainties	7,513	7,136	16,505
0336 Mine Reclamation Account [S]			
BEGINNING BALANCE	$361	$3,340	$1,743
Prior Year Adjustments	2,503	-	-
Adjusted Beginning Balance	$2,864	$3,340	$1,743
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4129200 Other Regulatory Fees	5,191	4,194	4,040
4163000 Investment Income - Surplus Money Investments	27	12	23
4173000 Penalty Assessments - Other	32	17	40
4173500 Settlements and Judgments - Other	1	-	-
Total Revenues, Transfers, and Other Adjustments	$5,251	$4,223	$4,103
Total Resources	$8,115	$7,563	$5,846
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	4,454	5,381	5,378
9892 Supplemental Pension Payments (State Operations)	72	72	72
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	249	367	327
Total Expenditures and Expenditure Adjustments	$4,775	$5,820	$5,777
FUND BALANCE	$3,340	$1,743	$69
Reserve for economic uncertainties	3,340	1,743	69
0338 Strong-Motion Instrumentation and Seismic Hazards Mapping Fund [S]			
BEGINNING BALANCE	$19,187	$15,016	$12,334
Prior Year Adjustments	926	-	-
Adjusted Beginning Balance	$20,113	$15,016	$12,334
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4135000 Local Agencies - Miscellaneous Revenue	11,593	13,000	14,156
4163000 Investment Income - Surplus Money Investments	89	35	77
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	6	-	-
4173000 Penalty Assessments - Other	-	11	-
4173500 Settlements and Judgments - Other	6	-	-
Transfers and Other Adjustments			
Loan from Strong-Motion Instrumentation and Seismic Hazard Mapping Fund (0338) to General Fund (0001) per Item 3480-011-0338, Budget Act of 2020	-5,435	-	-
Total Revenues, Transfers, and Other Adjustments	$6,259	$13,046	$14,233
Total Resources	$26,372	$28,062	$26,567
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	10,564	14,530	14,529
9892 Supplemental Pension Payments (State Operations)	227	227	227
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	565	971	848
Total Expenditures and Expenditure Adjustments	$11,356	$15,728	$15,604
FUND BALANCE	$15,016	$12,334	$10,963
Reserve for economic uncertainties	15,016	12,334	10,963
0940 Bosco-Keene Renewable Resources Investment Fund [S]			
BEGINNING BALANCE	$2,023	$1,930	$1,891
Adjusted Beginning Balance	$2,023	$1,930	$1,891
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			

* Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.

3480 Department of Conservation - Continued

	2020-21*	2021-22*	2022-23*
Revenues:			
4173500 Settlements and Judgments - Other	1	-	-
Transfers and Other Adjustments			
Revenue transfer from Geothermal Resources Development Account (0034) to the Bosco-Keene Renewable Resources Investment Fund (0940) per Public Resources Code Section 3825	977	1,200	1,200
Total Revenues, Transfers, and Other Adjustments	$978	$1,200	$1,200
Total Resources	$3,001	$3,130	$3,091
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	1,001	1,150	1,149
9892 Supplemental Pension Payments (State Operations)	23	23	23
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	47	66	60
Total Expenditures and Expenditure Adjustments	$1,071	$1,239	$1,232
FUND BALANCE	$1,930	$1,891	$1,859
Reserve for economic uncertainties	1,930	1,891	1,859
3025 Abandoned Mine Reclamation and Minerals Fund Subaccount, Mine Reclamation Account [S]			
BEGINNING BALANCE	$1,688	$3,995	$4,234
Prior Year Adjustments	1,538	-	-
Adjusted Beginning Balance	$3,226	$3,995	$4,234
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4163000 Investment Income - Surplus Money Investments	18	9	22
4172500 Miscellaneous Revenue	967	1,049	1,049
Total Revenues, Transfers, and Other Adjustments	$985	$1,058	$1,071
Total Resources	$4,211	$5,053	$5,305
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	154	745	744
9892 Supplemental Pension Payments (State Operations)	25	25	25
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	37	49	54
Total Expenditures and Expenditure Adjustments	$216	$819	$823
FUND BALANCE	$3,995	$4,234	$4,482
Reserve for economic uncertainties	3,995	4,234	4,482
3046 Oil, Gas, and Geothermal Administrative Fund [S]			
BEGINNING BALANCE	$3,419	$19,192	$2,686
Adjusted Beginning Balance	$3,419	$19,192	$2,686
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4129600 Other Regulatory Taxes	119,758	94,873	130,000
4163000 Investment Income - Surplus Money Investments	231	98	186
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	8	17	1
4172500 Miscellaneous Revenue	1	-	-
4173500 Settlements and Judgments - Other	63	-	-
Total Revenues, Transfers, and Other Adjustments	$120,061	$94,988	$130,187
Total Resources	$123,480	$114,180	$132,873
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
0540 Secretary of the Natural Resources Agency (State Operations)	53	67	67
3480 Department of Conservation (State Operations)	80,445	86,611	99,179
3900 State Air Resources Board (State Operations)	2,348	2,686	3,355
3940 State Water Resources Control Board (State Operations)	13,693	14,402	16,416
3980 Office of Environmental Health Hazard Assessment (State Operations)	394	471	470

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3480 Department of Conservation - Continued

	2020-21*	2021-22*	2022-23*
9892 Supplemental Pension Payments (State Operations)	1,853	1,853	1,853
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	5,502	5,404	5,204
Total Expenditures and Expenditure Adjustments	$104,288	$111,494	$126,544
FUND BALANCE	$19,192	$2,686	$6,329
Reserve for economic uncertainties	19,192	2,686	6,329
3299 Oil and Gas Environmental Remediation Account [s]			
BEGINNING BALANCE	$109	$133	$2,558
Adjusted Beginning Balance	$109	$133	$2,558
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4163000 Investment Income - Surplus Money Investments	1	2	-
4173000 Penalty Assessments - Other	29	2,477	200
Total Revenues, Transfers, and Other Adjustments	$30	$2,479	$200
Total Resources	$139	$2,612	$2,758
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
3480 Department of Conservation (State Operations)	-	50	50
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	6	4	21
Total Expenditures and Expenditure Adjustments	$6	$54	$71
FUND BALANCE	$133	$2,558	$2,687
Reserve for economic uncertainties	133	2,558	2,687

† Fiscal year 2020-21 budget information reflects the latest available estimates for this department and/or fund(s). Changes resulting from the final reconciliation of the 2020-21 ending fund balance will be reflected as a prior year adjustment in the 2023-24 Governor's Budget publication.

CHANGES IN AUTHORIZED POSITIONS †

	Positions			Expenditures		
	2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
Baseline Positions	570.6	587.6	597.6	$54,222	$62,412	$63,238
Authorized Positions, Salaries, and Wages Realignment	-	96.3	96.3	-	7,979	11,618
Salary and Other Adjustments	9.5	5.0	5.0	2,897	5,743	3,808
Workload and Administrative Adjustments						
CalGEM: Data Integrity and Accessibility						
Assoc Govtl Program Analyst	-	-	1.0	-	-	73
Assoc Oil & Gas Engr	-	-	4.0	-	-	556
Engring Geologist	-	-	4.0	-	-	404
Info Tech Spec I	-	-	3.0	-	-	273
Info Tech Spec II	-	-	3.0	-	-	324
Research Data Spec I	-	-	1.0	-	-	80
California Climate Information System (CalCIS)						
Research Data Spec III	-	-	1.0	-	-	96
Research Data Supvr II	-	-	1.0	-	-	95
California Geologic Energy Management Division: Mission Transformation and Oversight						
Assoc Govtl Program Analyst	-	-	1.0	-	-	73
Assoc Oil & Gas Engr	-	-	11.0	-	-	1,531
Engring Geologist	-	-	2.0	-	-	202

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3480 Department of Conservation - Continued

	Positions			Expenditures		
	2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
Sr Oil & Gas Engr (Supvr)	-	-	2.0	-	-	321
Staff Svcs Mgr I	-	-	1.0	-	-	86
Mines Online Database (SB 854)						
Info Tech Spec I	-	-	1.0	-	-	82
Oil and Gas Wells and Facilities: Liens and Collections Unit (AB 896)						
Assoc Govtl Program Analyst	-	-	1.0	-	-	73
Plugging and Abandoning Hazardous and Idle-Deserted Wells and Production Facilities (SB 47)						
Assoc Govtl Program Analyst	-	-	1.0	-	-	73
Assoc Oil & Gas Engr	-	-	2.0	-	-	278
Atty	-	-	1.0	-	-	105
Research Data Mgr	-	-	1.0	-	-	109
Research Data Spec I	-	-	1.0	-	-	80
Pre-Wildfire Geologic Hazard Mitigation Planning & Post-Wildfire Hazard Identification						
Civil Engineer	-	-	1.0	-	-	118
Engring Geologist	-	-	2.0	-	-	238
Environmental Scientist	-	-	1.0	-	-	56
Research Data Spec II	-	-	1.0	-	-	90
Sr Engring Geologist	-	-	1.0	-	-	139
Sr Envirnal Scientist (Supvry)	-	-	1.0	-	-	132
Supvng Engring Geologist	-	-	1.0	-	-	153
Relativity Software Procurement						
Info Tech Spec II	-	-	1.0	-	-	124
Sr Legal Analyst	-	-	1.0	-	-	76
Statewide Seismic Hazards Reduction						
Assoc Govtl Program Analyst	-	-	1.0	-	-	73
Engring Geologist	-	-	7.0	-	-	707
Environmental Scientist	-	-	1.0	-	-	72
Precision Electronics Spec	-	-	1.0	-	-	90
Research Data Analyst I	-	-	1.0	-	-	58
Research Data Spec I	-	-	1.0	-	-	81
Sr Engring Geologist	-	-	1.0	-	-	139
TOTALS, WORKLOAD AND ADMINISTRATIVE ADJUSTMENTS	-	-	66.0	$-	$-	$7,260
Totals, Adjustments	9.5	101.3	167.3	$2,897	$13,722	$22,686
TOTALS, SALARIES AND WAGES	580.1	688.9	764.9	$57,119	$76,134	$85,924

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CLIMATE CHANGE

California has a unique opportunity to build upon the state's history of innovation, economic growth, and science-based policymaking to lead global efforts to adapt to and mitigate climate change. The state is positioned to simultaneously confront the climate crisis and build a more resilient, just, and equitable future for all communities.

Integrating climate solutions with equity and economic opportunity can transform every aspect of how Californians live in their communities. The Budget reflects the need for urgent and comprehensive action across government. Record-breaking heat waves, a vanishing Sierra snowpack and life-threatening historic wildfires demonstrate that climate emergencies are growing with frequency and intensity in California. A record-breaking lack of precipitation from January through mid-April pushed California into a third consecutive year of drought. Climate change also continues to cause unprecedented stress on California's energy system—driving high demand and constraining supply—compounded by geopolitical and supply chain issues.

Building on the state's climate leadership and the historic $15 billion climate resilience investments in the 2021 Budget Act, the Budget includes $38.8 billion over five years, for a total $53.9 billion under a climate and opportunity agenda to deliver community resilience, affordable housing, and expanded access to health care and education while advancing equity and expanding the number of Californians that share in the state's economic growth.

CLIMATE ON THE MOVE

Responsible for more than half of the state's climate emissions, the transportation sector generates air pollution, with a disproportionate impact in low-income and underrepresented communities. The Budget's climate investments will deliver opportunities for affected communities, accelerating job-creating clean technologies, advancing environmental justice, and reducing emissions from the transportation system.

ZERO-EMISSION VEHICLES (ZEV) ACCELERATION

The 2021 Budget Act committed $3.9 billion towards ZEV acceleration through 2023-24. It included market-changing investments—ranging from cleaning up short-haul trucks, transit, and school buses to accelerating equitable electrification of passenger vehicles, e-bikes and rail—coupled with infrastructure and incentives for in-state manufacturing.

The Budget includes an additional $6.1 billion ($3.5 billion General Fund, $1.5 billion Proposition 98, $676 million Greenhouse Gas Reduction Fund, and $383 million Federal Funds) one-time over five years to accelerate the state's transition to ZEVs, which includes $3.5 billion that will be allocated in the summer after additional discussions with the Legislature. The Budget focuses on communities that are most impacted by air pollution impacts, to decarbonize California's most polluting sector and improve public health.

SIGNIFICANT INVESTMENTS INCLUDE:

- **Heavy-Duty Zero-Emission Vehicles**—$1.5 billion one-time Proposition 98 General Fund to advance electric school buses in a coordinated effort between educational, air pollution, and energy agencies; and $600 million one-time Greenhouse Gas Reduction Fund to support zero-emission trucks, buses & off-road equipment.
- **Low-Income Zero-Emission Vehicles**—$76 million one-time Greenhouse Gas Reduction Fund to support low-income consumer purchases through Clean Cars 4 All and other equity programs.
- **Zero-Emission Vehicle Infrastructure**—$383 million one-time federal funds to implement ZEV charging infrastructure programs pursuant to the federal Infrastructure Investments and Jobs Act.

TRANSPORTATION

Alongside the investments in ZEVs and infrastructure, the Budget includes $13.8 billion one-time General Fund and bond funds over two years for transportation programs and projects that align with climate goals, advance public health and equity, and improve access to opportunity. Further, the state will be competitively positioned to pursue significant federal investments from the Infrastructure Investment and Jobs Act. These investments will create thousands of jobs, accelerate new investments to modernize existing transportation options, and support clean transportation projects that address climate change and equity.

SIGNIFICANT INVESTMENTS INCLUDE:

- **Active Transportation**—$1.2 billion General Fund for projects to transform the state's active transportation networks, improve equity, and support carbon-free transportation options, including funding for: Active Transportation Program projects, the Reconnecting Communities: Highways to Boulevards Pilot Program, and bicycle and pedestrian safety projects.
- **High-Speed Rail and Transit**—$4.2 billion Proposition 1A bond funds for High-Speed Rail, $8 billion General Fund over four years for statewide, regional and local transit and rail projects, including $350 million General Fund for high-priority rail safety improvements.
- **Climate Adaptation**—$400 million ($200 million General Fund and $200 million federal funds) for climate adaptation projects that support climate resiliency and reduce infrastructure risk.

See the Transportation Chapter for additional detail.

CLIMATE RESILIENCE

Building on the over $15 billion in multi-year climate resilience investments in the 2021 Budget, the Budget advances programs to protect communities from the imminent climate threats of wildfire and drought, while implementing budget priorities on extreme heat, nature-based solutions, sea-level rise, and community resilience.

DROUGHT RESILIENCE AND RESPONSE

Climate change is spurring warmer conditions in California and creating larger gaps between significant precipitation events that are vital to water supply. This year, water project operators will make only minimal deliveries to farms and cities, and wildlife managers are taking extraordinary action to relocate salmon to streams with cooler water than can be made available below major reservoirs.

Lessons learned in the 2012-to-2016 drought inform the current state response, which has also benefitted from significant investments, new data tools, and policy shifts over the last several years. This includes new laws related to safe drinking water, drought planning, water conservation, and local management of groundwater.

The historic three-year, $5.2 billion investment in California water systems enacted in 2021-22 has helped to minimize immediate economic and environmental damage from the drought and enabled hundreds of projects by local water suppliers to prepare for and be more resilient to future droughts.

The Budget includes an additional $2.8 billion one-time General Fund over multiple years to support drought resilience and response, which includes $1.5 billion that will be allocated in the summer after additional discussions with the Legislature. The Budget focuses on drought relief, promoting water conservation, and response designed to help communities and fish and wildlife avoid immediate negative impacts as a result of extreme drought while continuing to advance projects and programs that prepare the state to be more resilient to future droughts.

SIGNIFICANT INVESTMENTS INCLUDE:

- **Immediate Drought Support**—$431.5 million to provide grants to urban water districts and smaller community water suppliers for drought relief projects; support public education campaigns; support local technical assistance and emergency drinking water response, including the purchase and pre-positioning of water storage tanks; and enhance water rights enforcement.
- **Drinking Water, Water Supply and Reliability, Flood**—$500 million to advance drinking water and clean water projects that leverage significant federal infrastructure funds, support dam safety, and flood management.
- **Water Conservation/Agriculture**—$280 million to support agricultural water conservation practices, provide on-farm technical assistance, provide direct relief to small farm operators, and support additional water conservation projects.

- **Fish and Wildlife Protection**—$88.3 million to address fish and wildlife impacts associated with drought and climate change, and tribal co-management activities.

WILDFIRE AND FOREST RESILIENCE

The ongoing impact of climate change on California's wildlands continue to drive critically dry fuel conditions and longer, more severe fire seasons. In 2021, the state experienced 5 of the 20 largest wildfires in its history, and California communities continue to rebuild from successive climate change-driven catastrophic wildfire seasons.

The 2021 early action package and 2021 Budget Act included a combined $1.5 billion one-time investment in restoring the state's wildfire resilience by increasing the pace and scale of forest and fuel management practices.

The Budget includes an additional $1.2 billion over two years to support wildfire and forest resilience which includes $530 billion that will be allocated in the summer after additional discussions with the Legislature. This funding supports a comprehensive wildfire and forest resilience strategy to continue to reduce the risk of catastrophic wildfires.

SIGNIFICANT INVESTMENTS INCLUDE:

- **Resilient Forests and Landscapes**—$400 million to enhance wildfire resilience across California's diverse landscapes by thinning forests, replanting trees, expanding grazing, utilizing prescribed fire, and supporting reforestation, which will also improve biodiversity, watershed health, carbon sequestration, air quality, and recreation.
- **Wildfire Fuel Breaks**—$265 million to support strategic fuel breaks projects that will enable local communities to develop their own fire safety projects.
- **Community Hardening**—$5 million to expand defensible space inspections.

NATURE BASED SOLUTIONS, EXTREME HEAT, AND OTHER CLIMATE RESILIENCE ACTIVITIES

The 2021 Budget included $3.7 billion one-time General Fund over three years for investments that support multi-benefit and nature-based solutions, address impacts of extreme heat, build ocean and coastal resilience, advance environmental justice, and deliver community resilience and capacity where resources are most needed. The

Budget includes approximately $2.1 billion General Fund in 2022-23, associated with the second year of investments.

The Budget includes $4.2 billion General Fund that will be allocated in the summer after additional discussions with the Legislature across various climate activities including: $768 million General Fund over two years for nature based solutions; $300 million over two years for extreme heat; and $3.1 billion over four years to support various other investments that support climate and energy activities, including climate-related grants to companies headquartered in California.

ENERGY

Climate change is causing unprecedented stress on California's energy system—driving high demand and constraining supply. Extreme weather events from climate change—including heat waves, wildfires, and the impact of drought on hydropower capacity, combined with other factors such as supply-chain disruptions—are jeopardizing California's ability to build out the electric infrastructure in the time frame and at the scale needed.

The Budget includes a total of $8.1 billion one-time General Fund over five years to support energy reliability, relief, and clean energy investments, which includes $3.8 billion that will be allocated in the summer pending additional discussions with the Legislature.

SIGNIFICANT INVESTMENTS OF THE REMAINING $4.3 BILLION INCLUDE:

- **Strategic Electricity Reliability**—$2.2 billion one-time General Fund to support strategic energy reserve resources that will be available when the grid is stressed. This will increase the state's ability to withstand extreme and coincident climate events, but will not take the place of the longstanding obligations of all load serving entities to procure sufficient resources to maintain reliability.
- **California Arrearages Payment Program**—$1.2 billion one-time General Fund to relieve California households by addressing energy utility arrearages, which builds upon the $1 billion in federal American Rescue Plan Act funds included in the 2021 Budget that supported over 1.5 million residential and commercial accounts.
- **Distributed Electricity Backup Assets**—$550 million one-time General Fund to provide incentives to deploy new zero or low emission technologies, including fuel cells, at

existing or new facilities, and as replacements or to substantially improve the environmental performance of existing backup generators.

- **Demand Side Grid Support**—$200 million one-time General Fund to support the development of demand-side grid support initiatives. These efforts will help reduce energy demand on the grid during peak energy times.
- **Long Duration Storage Incentives**—$140 million one-time General Fund to invest in long duration storage projects throughout the state to support grid reliability. This investment will help with resilience in the face of emergencies, including wildfires, and provide a decarbonized complement to intermittent renewables, which will provide the state with additional energy storage options during periods of low renewable power availability.

LITHIUM VALLEY DEVELOPMENT

Lithium is becoming an increasingly critical resource as the state—and the world—moves toward a clean energy future to tackle the climate crisis. This metal is a crucial component of batteries needed to power electric vehicles, enable a 100-percent clean electric grid, and move the state's homes and industries away from fossil fuels.

California has abundant untapped lithium reserves, including in geothermal brine more than a mile underground near the Salton Sea. Building out a world-class battery manufacturing ecosystem in tandem with lithium production and processing would also increase economic opportunity in the Salton Sea region, delivering quality jobs and community benefits.

The Budget includes a statutory framework for local governments, residents, and disadvantaged communities to benefit from the development and extraction of lithium in the Imperial Valley and will also contribute to the maintenance, operations, and restoration of the Salton Sea.

The Budget includes a volume-based tax on lithium extraction that will take effect on January 1, 2023, with 80 percent of proceeds going to local governments and 20 percent towards Salton Sea restoration efforts and community-benefit projects in the region. The tax rate will be as follows: $400 per ton for the first 20,000 tons of lithium carbonate equivalent that a firm extracts, $600 per ton for the next 10,000 tons, and $800 per ton for all lithium carbonate equivalent extracted over 30,000 tons. These rates

will be indexed to the California Consumer Price Index and will be adjusted annually starting on January 1, 2025.

The Budget also includes $5 million designated for Imperial County, to be used for a county programmatic environmental impact report and a health impact assessment, and to support community outreach related to lithium development.

CAP-AND-TRADE EXPENDITURE PLAN

The Budget includes $1.3 billion Greenhouse Gas Reduction Fund to support various programs that advance the state's greenhouse gas reduction and climate goals, while advancing equity and environmental justice.

SIGNIFICANT INVESTMENTS INCLUDE:

- **Zero-Emission Vehicle Investments**—$676 million Greenhouse Gas Reduction Fund to support low-income consumer purchases and zero-emission trucks, buses and off-road equipment.
- **AB 617 Community Air Protection Program**—$300 million ($260 million Greenhouse Gas Reduction Fund and $40 million General Fund) in 2022-23 and $300 million General Fund in 2023-24 on a one-time basis for the Community Air Protection Program, which reduces emissions in communities with disproportionate exposure to air pollution through targeted air monitoring and community emissions reduction programs.
- **Organic Waste Infrastructure**—$180 million one-time Greenhouse Gas Reduction Fund to advance organic waste infrastructure and support a circular economy that recognizes waste as a resource, shifting the state's focus to a more resilient and renewable economy in California.
- **Sea Level Rise**—$120 million ($80 million Greenhouse Gas Reduction Fund and $40 million General Fund) in 2022-23 and $300 million General Fund in 2023-24 for the Climate Ready Program for purposes of funding nature-based projects to address sea level rise.
- **Methane Satellites**—$100 million Greenhouse Gas Reduction Fund on a one-time basis to expand the number of satellites launched for methane observations, which would provide weekly measurement of large methane emissions in the state and enhance enforcement capabilities. This data will allow California to identify the source of these emissions, work with programs to hold emitters accountable for

violations, and further reduce the amount of short-lived climate pollutants in the atmosphere.

SUSTAINABLE COMMUNITIES

The state is committed to building sustainable and equitable communities by creating and preserving housing in areas that are closer to neighborhood-serving amenities. Building housing in these locations supports the reduction of climate emissions and helps reduce the exposure of low-income Californians to the impacts of the climate crisis. To that end, the Budget invests $925 million General Fund in housing development that also furthers the state's climate goals.

THESE INVESTMENTS INCLUDE:

- **Infill Infrastructure Grant Program**—$425 million General Fund over two years to prioritize housing production on prime infill parcels in downtown-oriented areas, including brownfields.
- **Adaptive Reuse**—$400 million General Fund over two years for adaptive reuse incentive grants. These grants will help remove cost impediments to adaptive reuse (e.g., structural improvements, plumbing/electrical design, exiting) and help accelerate residential conversions, with a priority on projects located in downtown-oriented areas.
- **State Excess Sites Development**—$100 million General Fund over two years to expand affordable housing development and adaptive reuse opportunities on state excess land sites.

See the Housing and Homelessness Chapter for additional detail.

CLIMATE HEALTH

Climate change affects the health of every Californian, but some communities experience disproportionate public health impacts from climate change more than others. The Budget includes key investments to integrate and elevate health and equity into California's climate agenda.

SIGNIFICANT INVESTMENTS INCLUDE:

- **Climate and Health Resilience Planning**—$25 million one-time General Fund for a grant program to bolster the actions of local health jurisdictions and develop regional Climate and Health Resilience Plans.
- **Climate, Health and Disease Monitoring**—$10 million ongoing General Fund to establish a monitoring program to track emerging or intensified climate-sensitive health impacts and diseases.
- **Community Health Workers**—$281.4 million one-time General Fund over three years to recruit, train, and certify 25,000 new community health workers by 2025, in areas such as climate health, homelessness, and dementia.

See the Health and Human Services Chapter and the Labor and Workforce Development Chapter for additional detail.

CLIMATE SCHOOLS AND RESEARCH

California's K-12 and higher education systems are critical in meeting the state's ambitious climate goals. The Budget includes significant investments in research that will support the next generation of innovations to address climate change, and serve as catalysts for expanded opportunity for all Californians. Additionally, the Budget includes infrastructure investments in K-12 and higher education that decarbonize these systems, reducing emissions, improving health of students, and lowering costs over the long term.

The Budget includes $185 million one-time General Fund for research and initiatives to address climate change at the University of California, including:

- $100 million for climate action research seed and matching grants, and grants for projects at UC Innovation and Entrepreneurship Centers to incentivize and expand climate innovation and entrepreneurship.
- $47 million to support climate initiatives at the Riverside campus.
- $20 million to support climate initiatives at the Santa Cruz campus.
- $18 million to support climate initiatives at the Merced campus.

The Budget includes climate resilient infrastructure for K-12 schools and universities:

- $1.5 billion one-time Proposition 98 to support greening K-12 school transportation, including electric school buses, as part of the broader acceleration of ZEVs.
- $249 million over a three-year period ($83 million each year, beginning in 2022-23) for the UC Berkeley Clean Energy Campus project.
- $83 million one-time General Fund to support construction of the California State University (CSU) Bakersfield Energy Innovation Center.
- $75 million one-time General Fund to support equipment and facilities upgrades at the CSU University Farms, which provide hands-on experience for career preparation in climate resilience, regenerative agriculture, animal welfare, food processing, and water and natural resources management.
- $30 million one-time and $3 million ongoing General Fund to continue supporting and expanding the Farm to School Program's investments to improve the health and well-being of California school children through integrated nutrition education and healthy food access.
- $20 million one-time General Fund for a grant to Carnegie Science to support the Pasadena Climate Research Hub facility, which will house approximately 200 researchers focused on climate resilience.

For additional information on these investments, please see the K-12 Education Chapter and the Higher Education Chapter.

CLIMATE JOBS AND OPPORTUNITY

In addition to the significant investments outlined above, the Budget expands workforce training opportunities in climate-related fields so more Californians can participate in the state's economic growth. These investments will reduce harmful emissions in California's communities, and will support workers transitioning to new climate jobs and opportunities. The Budget includes $315 million one-time General Fund over three years to continue expanding workforce strategies to reach its climate goals:

- **Oil and Gas Well Capping**—$100 million one-time General Fund over two years to plug orphan or idle wells, decommission attendant facilities, and complete associated environmental remediation.

- **Well-Capping Workforce Pilot for Displaced Oil and Gas Workers**—$20 million one-time General Fund to support a workforce training pilot to train displaced oil and gas workers in remediating legacy oil infrastructure, as the state aims to establish California as the leader in both well remediation activity and workforce training.
- **Displaced Oil and Gas Worker Pilot Fund**—$40 million one-time General Fund for a pilot support fund to address the needs of oil and gas workers facing displacement.
- **Goods Movement Workforce Training Facility**—$110 million General Fund over three years for a Goods Movement Training Center in Southern California.
- **Low Carbon Economy Workforce**—$45 million General Fund in total over three years to restart the California Workforce Development Board's Low Carbon Economy Workforce grant program.

See the Labor and Workforce Development Chapter for additional detail.

LAO

The 2022-23 Budget:
Oil Well Abandonment and Remediation

JANUARY 2022

Summary. The Governor's budget proposes $200 million General Fund over two years for the California Geologic Energy Management Division (CalGEM) within the Department of Conservation (DOC) to plug deserted wells and decommission associated facilities. Although addressing deserted wells could have environmental, health, and safety benefits, this proposal represents a significant expansion of current well remediation activities. In addition, federal funding for well remediation activities will soon be available. Furthermore, it may be appropriate for the current oil and gas operators to bear at least some of the cost of remediating the environmental damages from these wells—rather than the general taxpayer through the state General Fund. We recommend the Legislature consider reducing the amount of state funding proposed, consider using alternative sources of funding to support well remediation, and require reporting on key program outcomes to inform future funding decisions.

Background

California Has Over 5,000 Deserted Oil and Gas Wells. Oil and gas production in California has decreased over the past several decades. As a result, an increasing number of wells are no longer used for extraction of oil and gas. When a well reaches the end of its productive life, operators are required to plug the well and decommission associated production facilities (also known as remediation). However, there are over 5,000 deserted wells with no responsible solvent operator to appropriately remediate the well and the associated production facilities.

Deserted Wells Have Environmental, Health, and Safety Impacts. Deserted wells without proper remediation can result in negative environmental, health, and safety impacts. For example, deserted wells can leak oil and other injected fluids used for oil and gas extraction, which can contaminate nearby sources of water. In addition, deserted wells can release benzene and methane, among other air pollutants, degrading local air quality. These environmental impacts can pose health hazards, such as harm to respiratory health, to residents in nearby communities. Deserted wells can also present physical safety concerns, potentially endangering unsuspecting people and wildlife.

State Remediates About 11 Wells Annually. CalGEM is responsible for the oversight of the oil, natural gas, and geothermal industries. In the last five years, CalGEM has expended, on average, $2 million annually from the Oil, Gas, and Geothermal Administrative Fund and the Hazardous and Idle-Deserted Well Abatement Fund to remediate roughly 11 deserted wells per year. The division identifies deserted wells to remediate by prioritizing wells that pose the highest relative risk to public health, safety, and the environment. State staff issue permits and oversee the plugging and decommissioning activities, but the division uses external contractors to implement the remediation projects.

Governor's Proposal

Provides $200 Million Over Two Years for Well Remediation. The Governor's budget proposes $100 million from the General Fund in 2022-23 and $100 million in 2023-24—total of $200 million over two years—for CalGEM to plug wells and decommission facilities. The cost to plug a deserted well varies widely, but CalGEM's most recent analysis found the average cost to be about $111,000 per well. Based on this average cost, the division would be able to remediate roughly 1,800 deserted wells with the proposed funding.

Uses Contractors to Manage Projects, Investigate, and Implement Projects. CalGEM would use the total proposed funding to hire three types of external contractors: (1) $10 million for a construction management contractor to manage the remediation projects, (2) $20 million for a contractor to conduct financial obligations and land ownership research, and (3) $160 million for contractors to plug wells and decommission facilities. In addition, the division will use $10 million for department administrative costs. Existing CalGEM staff would provide oversight by issuing permits, witnessing different stages of the project, and managing contracts.

Assessment

Addressing Deserted Wells Has Merit. As discussed above, deserted wells have significant negative environmental, health, and safety impacts. Well remediation projects could provide important water and air quality improvements, as well as health and safety benefits. In particular, communities near these deserted wells would benefit from these projects. Because deserted wells are concentrated in specific parts of the state, such as Los Angeles, Santa Barbara, and Ventura Counties, benefits would likely be concentrated in these geographic regions.

Request Represents a Significant Expansion of Current Well Remediation Activities Without Additional State Staff. The proposed funding is 20 times greater than the existing annual funding dedicated to well remediation and does not include additional positions for CalGEM. Furthermore, as discussed in more detail below, the state is expecting to receive a significant amount of funding from the federal government for well remediation activities. The proposal includes $10 million for department administrative costs, but no additional positions. It is unclear how these funds will be spent and whether the funds will adequately support administration of the additional funding.

Federal Funds Available for Well Remediation, but Details Are Unclear. The federal Infrastructure Investment and Jobs Act (IIJA) includes $4.7 billion nationwide over a five-year period for well plugging, remediation, and restoration. At the time of this analysis, the federal government had not yet issued detailed guidance about how this funding can be used. However, based on our initial understanding, the funding would go to three types of grants:

- ***Initial Grants.*** Initial grants provide states up to $25 million to accelerate well remediation work. This funding has not yet been allocated, but the federal government will accept applications later this spring.
- ***Formula Grants.*** Formula grants provide a larger amount of funding, to be allocated on a formula basis, based on the number of job losses in the state's oil and gas industry, the number of documented deserted wells, and the projected cost to remediate these wells. This funding is intended for well remediation projects. It is unclear how much funding will be available nationwide through the formula grants. Although CalGEM submitted a notice of intent for the formula grant in December 2021, the federal government has not yet provided an estimate of how much the state is expected to be eligible for. Depending on the number of states that apply for this funding, California could receive up to hundreds of millions of dollars over the next several years.
- ***Performance Grants.*** Performance grants include two types of funding categories. First, it includes regulatory improvement grants of up to $20 million, which are intended to help support states in taking steps to strengthen their regulation and oversight of deserted wells. Second, it includes grants of up to $30 million for states that can provide matching funds for remediation activities. Both performance grant types have not yet been allocated and it is unclear when the federal government will accept applications.

Other Ways to Pay Remediation Costs May Be More Appropriate. Under the polluter pays principle, private parties who produce pollution (such as environmental damage associated with oil and gas wells) should bear the costs of managing it to prevent damage to human health or the environment. Deserted wells have no responsible solvent operator that can pay for mitigating the environmental damages. However, it may be

appropriate for the current oil and gas operators to bear at least some of the cost of remediating the environmental damages from these wells—rather than the general taxpayer through the state General Fund. In fact, as mentioned earlier, current well remediation work done by CalGEM is funded by the Oil, Gas, and Geothermal Administrative Fund and the Hazardous Idle Well Abatement Fund. The main source of revenue for both funds is fees on oil and gas operators.

Recommendations

Consider Proposal in Context of Additional Guidance on Federal Funds. Additional information regarding available federal funds is expected to be available shortly. Specifically, further federal guidance regarding the amount of formula grants that the state is eligible for is expected to be available in the coming weeks. A better understanding of the total available federal funding for well remediation activities would help the Legislature determine the degree to which additional state funding for these activities (such as proposed by the Governor) is a priority.

Consider Reducing Amount of Proposed Funding. The Governor's proposal would significantly increase the current well remediation activities overseen by CalGEM. It is unclear whether the division has the capacity to administer such a large increase in state and federal funding within existing resources, given their numerous other responsibilities for the oversight of the oil and gas industries. In addition, a significant amount of federal funding for many of these activities is expected to be available over the next few years. As a result, the Legislature might want to consider reducing the amount of funding proposed by the Governor and targeting funds instead to:

- ***Well and Facility Research.*** Many deserted wells still need to be researched to verify well location, assess facilities, and seek ownership documentation. The Legislature could consider focusing funding exclusively on these research activities to have a better idea of the identification, scope, and cost of well remediation projects. Under this proposal, the administration requests about $10 million annually for such research.
- ***Matching Funds for Federal Funding.*** Some of the federal funds are expected to require a state match. Specifically, under the current federal guidelines, states must provide matching funds to secure up to $30 million in performance grants. The Legislature could reduce the proposed funding to only the amount necessary to secure these available federal funds. This approach could reduce near-term state fiscal costs, allow the state to maximize available federal funding, and give the Legislature an opportunity to better evaluate the benefits and costs of the remediation activities before allocating additional state funding.

Consider Alternative Sources of Funding. Instead of funding these activities through the General Fund as proposed, the Legislature might want to consider raising fees on operators and use special funds, such as the Oil, Gas, and Geothermal Administrative Fund and the Hazardous Idle Well Abatement Fund, that are currently funding similar work. If state matching funds for federal funding is needed faster than can be generated through fee revenues, the Legislature can consider providing a General Fund loan, to be repaid by these special funds over a period of time. This would allow the state to maximize available federal funding for well remediation activities, but also ensure the polluting industry bears the cost of remediating deserted wells.

Require Reporting on Key Program Outcomes. If funding is approved, we recommend the Legislature adopt budget bill language requiring DOC to report annually (until the funds have been fully expended) on expenditures, contracts awarded, number of wells identified and remediated, and quantifiable benefits of remediation activities (such as greenhouse gas reductions, water quality improvements, and health outcomes), as well as federal funds awarded. Additional information on costs and benefits of well remediation work done by CalGEM would be helpful to the Legislature in determining whether any additional funding for these activities is warranted in the future.

LAO PUBLICATIONS

This post was prepared by Eunice Roh, and reviewed by Ross Brown and Anthony Simbol. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

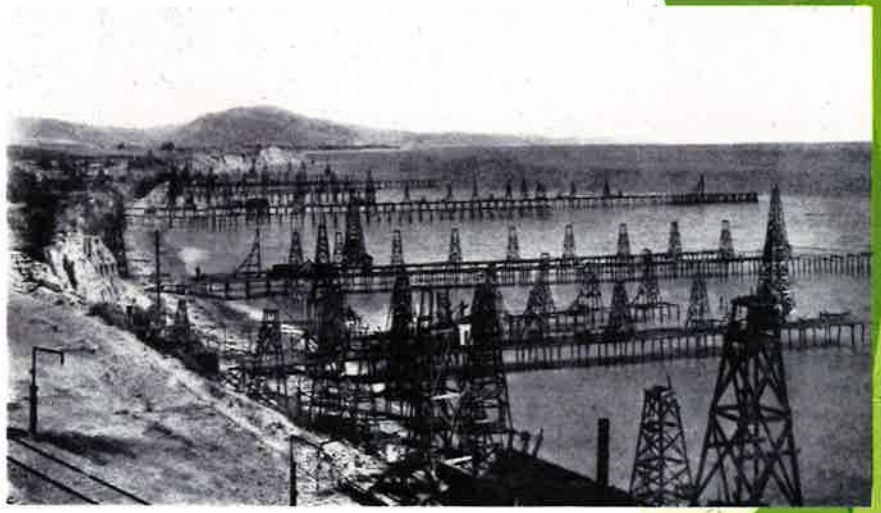
California's Efforts to Address Orphan Wells

April 27, 2022

10:00am

Background: California Oil Industry

- California's first oil operations began in the mid-19th century.
- After more than a century of operations, production peaked in 1985 and has been declining ever since.
- With the decline in oil production, California has been adopting increasingly ambitious climate change legislation and emission reduction targets.
- The natural decline in production, coupled with action on climate change leads to more orphaned and deserted wells.



California's first offshore oil wells, Summerland Field, c.1900

Scope of the Orphan Well Challenge

- **5,356** known orphaned, deserted, and potentially deserted wells.
- Estimate another approx. 18,000 undocumented orphan wells
- Estimated cost to plug and permanently seal the 5356 known wells is **$974 million.**
- It would take California's Geologic Energy Management Division (CalGEM), at current funding levels, decades to address the known inventory of wells, not including unknown wells.
- The federal orphan well program is an unprecedented investment in the state abandonment program.

Federal Orphan Wells Program

- Infrastructure Investment and Jobs Act created the Energy Communities Revitalization Program.
- Provides $4.7 billion for the Federal government, States, and Tribes to address orphaned oil and gas wells.
- California is eligible to receive $165 million dollars in grant funding, and potentially more in additional grant funds to be announced at a later date.
- State grants fall into three categories:
  - Initial - $25 million
  - Formula - $140 million
  - Performance - TBD

California's Commitment to Address Orphan Wells

- **Funding:** Bolster anticipated $165+ million federal investment with potentially $200 million state investment in the Governor's Proposed Budget.
- **Emission Reduction:** Adopt new methane monitoring protocols for all state plug and abandonment operations.
- **Groundwater Monitoring:** Utilize Groundwater Protection Council module to monitor for water contamination.
- **Prioritize Disadvantaged Communities:** Developing a Screening and Prioritization methodology that accounts for impacts on disadvantaged communities, utilizing California's CalEnviroScreen mapping tool.
- **Just Transition:** Two pilots ($65 million) in the Governor's Proposed Budget to support displaced oil and gas worker training.

Zendejas, Daniela

From: Haley Ehlers <haley@cfrog.org>
Sent: Tuesday, August 16, 2022 12:12 PM
To: Sussman, Shelley
Cc: Jeff Kuyper
Subject: Agenda Item 7A - Proposed Amendments to Oil and Gas Regulations (Case Numbers: PL21-0099 and PL21-0100)
Attachments: Item 7A_Sign-on Letter_ Zoning Amendments Related to Oil and Gas_081522.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Shelley,

Please find attached a letter regarding this week's (8/18) hearing regarding Case Numbers: PL21-0099 and PL21-0100 on behalf of the 17 organizations that signed it.

If possible, please confirm you have received this.

Thank you again for all your work on this important issue.

Sincerely,
Haley
--
Haley Ehlers (she/her)
Associate Executive Director
Climate First: Replacing Oil and Gas
(805)794-0629
www.CFROG.org

August 15, 2022

County of Ventura
Planning Commission
800 S Victoria Ave
Ventura CA 93009

Re: Agenda Item 7A - Proposed Amendments to Oil and Gas Regulations (Case Numbers: PL21-0099 and PL21-0100)

Dear Chair McPhail and Commissioners:

On behalf of the 17 undersigned organizations and their thousands of members in Ventura County, we are writing to urge the Commission to approve staff recommendations—with the recommended changes below—regarding proposed amendments to the Non-Coastal Zoning Ordinance (NZCO) and Coastal Zoning Ordinance (CZO) related to permit terms, surety, and insurance requirements for oil and gas operations.

Just a few weeks ago, on July 28th, the Planning Commission first considered and approved the proposed amendments from County staff. During this hearing, Commissioners received over 150 comments from the public in support of the following recommendations to improve the consistency, equity, and accountability related to the amendments. In this second hearing, **we urge you to respect the concerns of your communities by seriously considering the recommendations below.**

According to the most recent state data, as of January 2022, there are 2,267 idle oil and gas wells in Ventura County, 1,520 of which are considered "long-term idle wells," meaning that they have been idle for at least eight years. At least 1,275 of these wells have been idle for 15 or more years, and 155 wells have been idle for a century or more.

The "idle well problem" is likely to soon become an "orphan well problem" in Ventura County. Orphan wells have no financially solvent operator of record, therefore pushing the cleanup to the state and costs to the taxpayer. Since the staff report was written, CalGEM has distributed a list of potentially deserted, deserted, and orphaned wells throughout the state.

- 306 potentially deserted wells in Ventura County
- 4 deserted wells in Ventura County
- 2 orphan wells in Ventura County
- An additional 1,340 potentially deserted, deserted, or orphan wells with unknown county locations, some possibly in Ventura County

These zoning amendments and our recommendations below are an essential step toward protecting communities, holding oil and gas operators accountable, and ensuring our environment is not plagued by legacy fossil fuel infrastructure.

The impacts that these idle and orphan wells cause are clear and well-documented including surface and drinking water contamination and air pollution. Many are located near neighborhoods, schools, farms, and waterways where air and water pollution can have a disproportionate impact on low-income communities and people of color. Many others are located in or adjacent to parks, open spaces, and wildlife habitats, including the Los Padres National Forest, Sespe Condor Sanctuary, and Hopper Mountain National Wildlife Refuge, where idle wells pose threats to recreation, clean water, and rare plants and animals.

Moreover, idle and orphan wells are known to emit methane, a climate-damaging greenhouse gas. According to the Intergovernmental Panel on Climate Change, oil and gas methane emissions must be reduced by at least 30% by 2030 to avert catastrophic climate change. To help reach this goal, local governments must ensure that idle wells are appropriately remediated and emissions minimized. A recent study from the Permian Basin in Texas—the world's largest oil production basin—found that idle wells can be a "substantial source" of methane emissions. A separate California study reached a similar conclusion. Just last month, 38 idle oil wells were found to be leaking methane in or near two neighborhoods in Bakersfield. One well showed emissions at a minimum of 50,000 parts per million (ppm), the maximum level the inspector's device could record. This well had been sitting idle since 1988, a timeline similar to the other identified wells. Addressing idle wells and methane emissions is consistent with the goals and strategies set forth in the County's General Plan for climate change and greenhouse gas emissions reduction.

While we generally support staff's recommendations regarding the proposed amendments to the NZCO and CZO, we urge you to consider and adopt our own recommendations below.

Recommendations

1. *Based on the precedent set by the Planning Commission and amortization of capital investment (ACI) analysis, limit the permit expiration limit to 10 years and require formal consideration of a permit's consistency with emission reduction goals and energy developments.*

   The last conditional use permit (CUP) approved by the Planning Commission (February 17, 2022) was limited to 10 years; 10 years less than the operator applied for and staff recommended.[1] Commissioners cited the growing threat of climate change and the county's commitment to reducing greenhouse gas (GHG) emissions in their discussion. The last time this CUP was up for renewal in the early 1990s, it was approved with a 25-year expiration date. Commissioners specifically noted that since then, Ventura County and society as a whole have learned significantly more about the detrimental impact fossil fuel burning and extraction has on our environment and for that reason, a reduction in time was reasonable.

   These zoning amendments were directed by the Board of Supervisors in 2020. Since then, Ventura County has continued to rank the fastest warming county in the continental United States, increasing our risk and experience of extreme weather events and climate disasters. Additionally, in the last two years, the scientific community has stated "unequivocally" that human influence, largely from the burning of fossil fuels, is to blame for atmospheric warming. Based on the Planning Commission's own rationale, a further limit to 10 years is reasonable.

   Additionally, the staff report shares evidence suggesting that operators can get a return on their investment on an oil permit in as little as five years. A 10-year expiration limit is sound financially and environmentally, considering the escalating crisis of climate change.

   While the permit expiration limit should be set to a *maximum* of 10 years, county staff must consider current climate urgencies and the progress made toward meeting state and county emission reduction goals when considering a new permit renewal or extension. Similar to the staff report for these zoning amendments, new applications should be analyzed in terms of their consistency with the Ventura County General Plan, particularly the GHG emission reduction targets and the county's current progress toward these goals, at the time of the application.

   By requiring a formal consistency analysis, planning staff can also weigh the need for a permit renewal against rapid developments in renewable energy production. Renewable energy has more than tripled in California since 2005 and the state remains ahead of the goal of achieving 100 percent clean electricity by 2045.

[1] CASE NUMBER PL18-0058 – Applicant, Carbon California Operating Company, LLC at February 17, 2022 Ventura County Planning Commission Hearing

2. *Include limits on the number of wells and redrills allowed on a permit—establish a "one-for-one" policy.*

   The county has the authority to limit the number of wells on a permit, in the case of non-antiquated permits. This limit should be formalized within the amendments and should apply to all existing active and idle wells. If the operator is given permission to drill a new well per a permit renewal, one idle well must be abandoned in order to meet the permitted limit for wells. This "one-for-one" policy will ensure old, inactive infrastructure is being cleaned up at the same rate as new development.

   This type of "one-for-one" policy has proved successful in addressing the long-term idle well problem in Los Angeles. For example, a permit renewal issued in 2014 by Los Angeles County required that one idle well be abandoned prior to the drilling of one new well.[2] The permit refers to new wells as "replacement" wells because the permit has a hard cap of 34 total wells (active and idle), as set by the county. There is also a total limit on the number of new wells that may be drilled (4) regardless of their status as replacement wells.

   At the very least, this rationale should be applied to create a mechanism that requires operators to address long-term idle wells before new wells can be drilled. This would require the county to consider an operator's complete inventory of wells when considering a particular permit, rather than only those located within the permit parcel.

   Additionally, it is usual for a permit to include no limit on the number of well redrills or reworks. A quick review of well records in the area reveals that reworking or redrilling can occur as often as twice a year in one well. While this fast-paced well work is unlikely to continue for years, there is no way to be sure what the level of impact open-ended permits might have on air quality, traffic, noise, water usage, or wildlife. In a recent hearing, the Planning Commission followed the "reasonable case" detailed in a staff report and limited re-drilling to one per well.[3]

3. *Increase the renewal application deadline to 24 months prior to the expiration of the current permit and include stipulations for late applications.*

   To account for possible limited county staff capacity, sufficient CEQA review, and appeals, operators should be required to submit for renewal two years before the current permit expires. Additionally, this amendment should include detailed instructions and ramifications for applications submitted after the deadline.

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[2] See page 24 of well record, condition 25-N

[3] CASE NUMBER PL18-0058 – Applicant, Carbon California Operating Company, LLC at February 17, 2022 Ventura County Planning Commission Hearing

Our recommendation is based on recent timelines for oil and gas permit renewals in Ventura County. For example, the operator of CUP 2941 (Basenberg lease) applied for permit renewal in April 2018, just six months prior to permit expiration. The permit renewal received Planning Director approval in September 2021 (more than three years after application submittal) and Planning Commission approval in February 2022.

One year does not give staff, the applicant, or the public adequate time to thoroughly review and consider a permit renewal prior to its expiration. We recommend a two-year timeframe for application deadline.

4. *Increase the $5 million maximum caps on proposed sureties to more accurately reflect the resources needed to properly abandon all wells and the financial capacity of operators.*

   As noted in the staff report: Based on the existing numbers of idle wells in the County reported by CalGEM, three operators would be required to provide the $5 million maximum Well Abandonment Surety and only one operator would be required to provide the $5 million maximum Long-term Idle Well Supplemental Surety. If no maximum was proposed, the surety obligations (for the three largest operators) would range from approximately $21 million to approximately $63 million. These caps essentially operate for the benefit of the largest oil producers, who are the most able to afford a higher cap and hold the most wells throughout the county.

   In reality, oil operators only outright pay 1-5 percent of total bond amounts. With record high profits this year, increased bond amounts are well within the budgets of major operators. Aera Energy LLC, a corporation jointly owned by Shell and ExxonMobil, is the largest operator in Ventura County and had $2 billion in revenue in 2021. Without the caps, the most aggressive estimate of cost directly paid by Aera is only 0.1 percent of their annual revenue. Aera operates 485 idle wells throughout Ventura County - representing 20 percent of all idle wells in the county—in addition to 700 active wells that have the potential to become idle in the future.[4]

5. *Surface restoration and remediation should include all legacy surface* infrastructure *on a permit parcel and be informed and directed by local ecology and Indigenous experts.*

   Currently, permits do not include the full inventory of wells on a parcel by foregoing plugged and abandoned wells. The staff report defines these wells as having been "permanently sealed and closed pursuant to regulatory standards" but should have added, "of the time of abandonment". A recent study conducted by CFROG determined that over 40 percent of plugged wells in Ventura County cannot be confirmed as properly plugged. After reviewing all 4,000+ plugged well records, it was found that 1,629 wells were abandoned before 1953 when modern plugging standards were established, 372 wells were plugged with insufficient materials, and 391 wells had missing or incomplete

[4] Per CalGEM's WellSTAR data, accessed July 25, 2022

abandonment documentation. While the state has dedicated funds to cleaning up orphan and idle wells, poorly abandoned wells have not received any regulatory or financial attention. A common issue noted in these well records is insufficient surface plugs or issues in the well cellar - both pieces of infrastructure at or near the surface.

Therefore, all poorly abandoned wells on a parcel should be included in the surety amount calculation and should be addressed in restoration activities.

An additional amendment to the restoration and remediation requirements (NCZO Section 8107-5.6.11 and CO Section 8175-5.7.8.) should be made to specifically recognize and require local ecology and Indigenous experts in the restoration of oil and gas permit parcel land. According to a recent study, actively involving Indigenous peoples and communities in restoration efforts can (1) help in site and species selection for restoration, (2) increase local participation in restoration activities and in the monitoring and maintenance of restored areas, and (3) provide historical information on ecosystem state and management and an understanding of local successional processes.

6. *Develop a way forward for the prioritization of idle wells for closure with little support or coordination with CalGEM.*

   We support the staff's request that the Board consider funding and directing a commissioned professional evaluation to identify idle wells that should be prioritized for abandonment. We recommend that a plan be developed to ensure this evaluation can be successfully accomplished with little support or coordination from CalGEM, considering their limited capacity and past history with local requests.

   In 2016, after assessing the regulatory responsibilities of crude oil pipelines, the Ventura County Grand Jury recommended that the Board require the development of an annual report which summarizes the state of crude oil pipelines. In 2017, the Board asked DOGGR (present-day CalGEM) to provide a follow-up report and presentation to explain how this report could be completed. It has been five years and there has been, to our knowledge, no follow-up. The county still does not know the maintenance status of the *several hundred miles* of pipelines running throughout the area.

We urge the Commission to adopt a resolution recommending that the Board of Supervisors take the actions described in the staff report and amended with our suggestions above. This is a critical juncture for the County of Ventura to take appropriate steps to ensure that current and future oil and gas operations are more adequately regulated to protect human health and the environment, especially as climate change worsens and its consequences become more pervasive.

Thank you for considering these much-needed amendments to oil and gas regulations.

Sincerely,

Alan Weiner
Chapter Lead
350 Conejo / San Fernando Valley

Jan Dietrick
Policy Team Leader
350 Ventura County Climate Hub

Lucia Marquez
Associate Policy Director
Central Coast Alliance United for a Sustainable Economy (CAUSE)

Haley Ehlers
Associate Executive Director
Climate First: Replacing Oil & Gas (CFROG)

Rose Ann Witt
Co-Founder
Conejo Climate Coalition

Wayne Morgan
Chair
The Climate Reality Project: Ventura County

Michael Chiacos
Director of Climate Policy
Community Environmental Council

Tomás Morales Rebecchi
Central Coast Organizing Manager
Food & Water Watch

Indivisible Ventura

Alasdair Coyne
Conservation Director
Keep Sespe Wild

Bryant Baker
Director of Conservation and Research
Los Padres ForestWatch

Abigail Thomas
Environmental Employee Engagement
Patagonia

Kathleen Baker
Managing Director
Runners for Public Lands

Katie Davis
Chair
Sierra Club Santa Barbara-Ventura Chapter

Cynthia Hartley
Executive Director
Ventura Audubon Society

Kathleen Wheeler
Co-Founder
Ventura Climate Coalition

Faith Grant
Co-Group Lead
Ventura County Chapter-Citizens' Climate Lobby

Zendejas, Daniela

From: Marc Traut <marc@renpetllc.com>
Sent: Tuesday, August 16, 2022 5:09 PM
To: Sussman, Shelley
Cc: Fogg, Mindy; Ward, Dave; Nora Traut; Zendejas, Daniela; Juachon, Luz
Subject: 8-18-2022 Public Hearing, Agenda Item 7A, Non-Coastal Zoning Ordinance (NCZO") Project PL21-0099 - "Takings Issue"
Attachments: Letter to VC PC NCZO proposed amendment - takings issue 8-16-2022.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Sussman,
Please provide the attached letter to the Planning Commission in advance of Thursday's hearing on PL21-0099.
Please confirm receipt of this email.
Thanks in advance.
Marc Traut
President
Renaissance Petroleum, LLC

Renaissance Petroleum, LLC

P.O. Box 20456
Bakersfield, CA 93390-0456
Phone 661-324-9901 / Fax 661-324-9902

August 12, 2022 By: email only

Ventura County Planning Commission
c/o Resource Management Agency – Planning Division
800 South Victoria Avenue
Ventura CA 93009-1740

Re: Public Comment
Public Hearing 8-18-2022, Agenda Item: 7A
Non-Coastal Zoning Ordinance (NCZO") Project PL21-0099 "Proposed Amendments", "Takings Issue"

Dear Chair McPhail, Vice-Chair Boydstun, and Commissioners Aidukas, King and Garcia,

Summary:

1. Multiple operators communicated to the Planning Commission the during public comment period of the subject hearing that the Proposed Amendments would result in significantly higher costs for insurance and sureties and that these higher costs would render production operations economically infeasible. RenPet was one of those operators.
2. Planning Staff and County Counsel stated during the hearing that the cost for insurance and sureties would be "modest" and would not trigger a taking; however, there were no examples of any such costs provided in the Staff Report.
3. In the public comment period of the hearing, RenPet stated that its cost would go up substantially. These cost would significantly impair RenPet's ability to produce oil and gas economically and that RenPet would consider this to be a "taking."
4. The matter concerning the insurance requirements was fully developed in a letter by RenPet to the Planning Commission that was delivered to the Planner in advance of the 3:30 pm 7-27-2022 deadline but was not included in the packet distributed to the Planning Commission.
5. Staff and County Counsel obtained wrong, incomplete and misleading information from the sources it relied on to establish insurance requirements and levels.
6. Planning Staff chose to develop the insurance and surety provisions without **any** input from producers, the affected stakeholders.
7. The proposed amendments to the NCZO are poorly crafted policy, and it is the responsibility of the Planning Commission to send Planning Staff back to the drawing board to craft policy that is sensible and reasonable and that includes input from affected stakeholders.

Discussion:

The Proposed Amendments were mentioned as representing a "taking" in at least three of the public comments, and in at least four letters that were submitted prior to the deadline but which failed to be included in the packet of information distributed to the Planning Commission ("PC") by Planning Staff. In follow-up questioning of staff by Commissioners, Commissioner Aidukas asked Staff during the PC hearing at 02:46:20 in reference to surety bonding about the public comments that stated that the Proposed Amendments would represented a "taking." Commissioner Aidukas asked,

"...that this is a taking and I would direct that County Counsel is the, are these ordinances, could they be considered a taking?"

County Counsel Barnes responded to the "taking" question commencing at 02:47:50 with:

"...in terms of the takings issue, my understanding is the argument is that the regulations would impose a cost that would be so high as to render the operation economically infeasible and so would work a taking by basically making the operator have to shut down the operation because they couldn't economically afford to continue in compliance with the regulations. Based on our research, and Staff's research, that is not the case. Our information is that these regulations would impose a modest increase in operating costs. So we do not believe that they would be infeasible economically to comply with. So, we don't think that argument has merit..."

County Counsel Barnes continues by stating:

"...these regulations do not impose a County fee or exaction on any operation, and so when you looking at a takings issue, that is one issue that could give rise to a takings argument as the government agency imposing a new fee and exaction that is not called out in the permit. That's not what we're doing here and so basically the takings issue would be, in my opinion, as I stated previously, are we imposing operating costs that are so substantial that it would be economically infeasible for operators to comply with, thereby making them shutdown their operations completely, unwarranted regulations and kind of triggering a regulatory taking threshold. We don't believe that's the case."

RenPet's "Insurance" letter to the Planning Commission dated 7-25-2022, which was submitted and received by Staff prior to the 7-27-2022 3:30 pm cutoff as acknowledged by the Planning Director but was not included in the packet distributed to the PC, clearly states the economic impact of the changes in insurance for RenPet as an operator in Ventura County. RenPet's annual insurance would increase from ~$40,000/year to >$200,000/year with the implementation of the proposed amendments, and that is assuming that RenPet will be approved for the required limits. As stated in the insurance letter referenced above, even at current prices, the required increases in insurance would render RenPet's operation economically infeasible, causing it to terminate operations and triggering a "**taking**" per Mr. Barnes' narrative explanation to Commissioner Aidukas' "taking" question.

RenPet's "Well Abandonment Surety" letter to the Planning Commission dated 7-26-2022, which was submitted and received by Staff prior to the 7-27-2022 3:30 pm cutoff as acknowledged by the Planning Director but which failed to be included in the Planning Commission packet of information, clearly states that RenPet would be impaired by the expenses associated with the new Well Abandonment Surety. RenPet has reached out to surety provider RLI for an estimate of the cost for a proposed well abandonment surety for its operation of nine wells. The required surety amount would be $324,000. Per RLI, the minimum requirement for securing such a surety would be a letter of credit for the full value of the surety and an annual fee of 2-6% of the total surety amount. Again, the terms are 100%

collateralization in the form of a letter of credit. The letter of credit would be issued by a bank with RenPet providing liquid assets as collateral. The end result would be an estimated 5-6% bank fee for the letter of credit and a 2-6% fee for the surety, for an estimated total cost of 7-12% on the letter of credit/surety amount or an estimated annual fee ranging from $22,680/year to $38,880/year. As stated in the letter referenced above, even at current prices, the required increases for surety fees and bank fees coupled with the increase in insurance fees would render RenPet's operation economically infeasible, causing it to terminate operations and triggering a "**taking**" per Mr. Barnes' narrative explanation to Commissioner Aidukas' question provided above.

RenPet's "Surface Restoration Surety" letter to the Planning Commission dated 7-27-2022, which was submitted and received by Staff prior to the 7-27-2022 3:30 pm cutoff and included in the Planning Commission packet of information, clearly states that RenPet would be impaired by the expenses associated with the new Surface Restoration Surety. RenPet has reached out to surety provider RLI for an estimate of the cost for a proposed well abandonment surety for its operation of nine wells. The required surety amount would be $185,000. Per RLI, the minimum requirement for securing such a surety would be a letter of credit for the full value of the surety and an annual fee of 2-6% of the total surety amount. The letter of credit would be issued by a bank with RenPet providing liquid assets as collateral. The end result would be an estimated 5-6% bank fee for the letter of credit and a 2-6% fee for the surety, for an estimated annual cost of 7-12% on the letter of credit/surety amount or costs ranging from $12,950/year to $22,200/year. As stated in letter referenced above, even at current prices, the required increases for surety fees and bank fees coupled with the increase in insurance fees would render RenPet's operation economically infeasible, causing it to terminate operations and triggering a "**taking**" per Mr. Barnes' narrative explanation to Commissioner Aidukas' "taking" question above.

In summary, with the proposed amendments, RenPet's increase in annual operating expense to manage insurance and sureties would rise from ~$40,000/year to between an estimated $235,630/year to $311,080/year, not including the cost of capital to provide the collateral for the lines of credit. These proposed increases would put RenPet out of business and trigger a "taking" as described by Mr. Barnes.

The proposed amendments represent poorly crafted policy and the Planning Commission should not vote to bring these before the BOS. The PC should instruct Planning to return to crafting policy with input from affected stakeholders. Not doing so and forging ahead with poorly crafted policy will inevitably result in a flurry of lawsuits filed against the County not unlike what the County experienced following the BOS's attempt to modify legacy oil and gas permits in 2020.

Sincerely,

Marc Wade Traut

Marc Wade Traut
President
Renaissance Petroleum, LLC

Zendejas, Daniela

From: Marc Traut <marc@renpetllc.com>
Sent: Tuesday, August 16, 2022 5:09 PM
To: Sussman, Shelley
Cc: Fogg, Mindy; Ward, Dave; Nora Traut; Zendejas, Daniela; Juachon, Luz
Subject: 8-18-2022 Public Hearing, Agenda Item 7A, Non-Coastal Zoning Ordinance (NCZO") Project PL21-0099 - "Legal Authority Issue"
Attachments: Letter to VC PC NCZO proposed amendment - legal authority issue 8-16-2022.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Sussman,
Please provide the attached letter to the Planning Commission in advance of Thursday's hearing on PL21-0099.
Please confirm receipt of this email.
Thanks in advance.
Marc Traut
President
Renaissance Petroleum, LLC

Renaissance Petroleum, LLC

P.O. Box 20456
Bakersfield, CA 93390-0456
Phone 661-324-9901 / Fax 661-324-9902

August 12, 2022 By: email only

Ventura County Planning Commission
c/o Resource Management Agency – Planning Division
800 South Victoria Avenue
Ventura CA 93009-1740

Re: Public Comment
Public Hearing 8-18-2022, Agenda Item: 7A
Non-Coastal Zoning Ordinance (NCZO") Project PL21-0099 "Proposed Amendments"
"Legal Authority Issue"

Dear Chair McPhail, Vice-Chair Boydstun, and Commissioners Aidukas, King and Garcia,

Summary:

1. The County has police powers as per CA constitution;
2. The County proposes utilizing its police powers to abate a possible future public nuisance;
3. Imposing the Proposed Amendments on compliant CUPs will alter or otherwise impair an operator's ability to produce oil and conduct its operations contrary to County's claims otherwise;
4. The County's claimed legal authority to impose the Proposed Amendments on existing permits that are in complete compliance is contradicted in NCZO Section 8111-6.2;
5. NCZO Section 8111-6.2 provides that a permit can be modified, suspended or revoked for cause **if** the permit has been so **exercised as to constitute a public nuisance;**.
6. In this case, under NCZO Section 8111-6.2 the burden of proof lies with the County to prove the cause for a modification, suspension, or revocation;
7. The County has no constitutional right to exercise its police power to abate a public nuisance that does not exist but may possibly occur in the future;
8. The County has not provided any plausible legal justification for imposing the Proposed Amendments on compliant CUPs. It has provided only conjecture;
9. Imposing the Proposed Amendments on compliant CUPs would be an abuse of the County's police powers.

Discussion:
On July 18, 2022 I reached out by email to the Planner heading up the subject Project and asked her to provide me the location in the NCZO that provides the BOS the authority to change the terms of use under an existing CUP (i.e., change surety amounts; change insurance amounts) prior to the expiration or a request for a modification of that existing CUP. Ms. Sussman replied on July 19, 2022 that "Staff is currently working to ensure that the staff report package for this item is publicly available by Thursday, July 21, 2022. The staff report includes a discussion related to the question you raised below regarding the County's legal authority to impose increase financial security obligations on existing permittees." That complete email exchange is provided as Exhibit 1 to this document.

The staff report was released on 7-28-2022. The legal justification to change the terms of use under an existing CUP to amend existing permits and to change insurance requirements and to add requirements

for well abandonment sureties and site remediation sureties is found on pages 6 and 7 of the staff report. That legal justification reads as follows:

> "The County has the legal authority, under its constitutional police powers, to impose these increased insurance and financial security obligations on all existing operations without violating operators' property rights because these requirements:
>
> (a) would not alter or otherwise impair an operator's ability to produce oil and conduct its operations under its existing CUPs;
>
> (b) these requirements protect the public health and safety by helping avoid environmental harm and nuisance-type situations from occurring later based on failure to comply with preexisting legal requirements;
>
> (c) the regulations do not expand the County's powers because the County can already modify an existing permit to protect the public health and safety and to prevent a public nuisance pursuant to NCZO Section 8111-6.2 and CZO Section 8181-10.1, subject to the same hearing and notice procedures for approval of the original permit; and
>
> (d) as described in the proposed amendment language and as required under the County's current zoning ordinances, the sureties listed below would be exonerated (i.e., released) after all regulatory requirements pertaining to proper well abandonment and site restoration have been met."

Again, the County's legal authority to impose the Proposed Amendments on compliant CUPs is fully provided in the preceding excerpt from the staff report. The County's claims of the impact of the requirements and what they would and would not do as described in items (a), (b), (c), and (d) above are nothing more than the County's opinion, and in all four cases this opinion is wrong. The following is our rebuttal to items (a), (b), (c), and (d).

Item (a) actually refutes the County's legal justification because the Proposed Amendments **will alter and/or impair** RenPet's ability to produce oil and gas by significantly increasing RenPet's operating costs to the point where as a small operator its operation becomes economically infeasible. This is in conflict with County Counsel Barnes' statement in response to a "taking" question commencing at 02:47:50 during the 7-28-2022 public hearing whereby he stated the following:

> *"...in terms of the takings issue, my understanding is the argument is that the regulations would impose a cost that would be so high as to render the operation economically infeasible and so would work a taking by basically making the operator have to shut down the operation because they couldn't economically afford to continue in compliance with the regulations. Based on our research, and Staff's research, that is not the case.* ***Our information is that these regulations would impose a modest increase in operating costs.*** *So we do not believe that they would be infeasible economically to comply with. So, we don't think that argument has merit..."*

RenPet's estimate of the increase in operating expense to provide the levels of insurance required by the Proposed Amendments is a >5x increase in its insurance cost. This increase in overall operating expense will drive this small family owned and operated oil and gas firm out of business. That is impairment!

	A	B	C	D
		Limits		
		Ventura County Requirement "As Is"	RenPet"As Is"	Proposed "To Be"
1	General Liability	$500,000-$1,00,000 (persons)/$2,000,000 (property)	$1,000,000/$2,000,000	$2,000,000/$4,000,000
2	Environmental Impairment	Not Required	$1,000,000	$10,000,000
3	Control of Well	Not Required	$5,000,000	$10,000,000
4	Excess/Umbrella	Not Required	$5,000,000	$25,000,000
			RenPet"As Is"	Proposed "To Be"
	RenPet Annual Insurance Cost		~$40,000/year	>$250,000/year (if coverages can be obtained)

With item (b) County attempts to claim legal justification by arguing that these requirements will *"protect the public health and safety by helping avoid environmental harm and nuisance-type situations* ***from occurring later*** *based on failure to comply with preexisting legal requirements."* This is conjecture assuming every operator will fail to comply with preexisting legal requirements. County Counsel offered no examples or case law demonstrating where "police powers" were similarly utilized to amend existing condition compliant CUPs. Because a singular situation **may occur later** is not justification for the County to exercise police powers to impose new requirements on all compliant CUPs. To do so is an abuse of the County's police power. Imposing the Proposed Amendments will certainly lead to legal challenges not unlike the multiple writs of mandate that were filed against the County following the move by the BOS in 2020 to amend legacy oil and gas permits.

With item (c) County Staff and County Counsel have attempted to tie justification for imposing the Proposed Amendments on existing compliant CUPs by invoking NCZO Section 8111-6.2. However, that attempt fails because in order for Section 8111-6.2 to be utilized for that purpose, the permit has to have been exercised (i.e., present perfect tense) in a non-compliant manner to invoke a "modification, suspension, and revocation for cause." Further, Section 8111-6.2 requires that the applicant for any such modification, suspension, or revocation, in this case the County, shall have the burden of proving the cause for invoking Section 8111-6.2. Section 8111-6.2 is provided in its entirety as follows:

> **Sec. 8111-6.2 - Modification, Suspension and Revocation for Cause**
> Any permit or variance heretofore or hereafter granted may be modified or revoked, or its use suspended, by the same decision-making authority and procedure which would normally approve the permit or variance under this Chapter. An application for such modification, suspension or revocation may be filed by any person or entity listed in Sec. 8111-2.1 or by any other aggrieved person. The *applicant* for such modification, suspension or revocation shall have the burden of proving one or more of the following causes:
> a. That any term or condition of the permit or variance has not been complied with;
> b. That the property subject to the permit or variance, or any portion thereof, is or has been used or maintained in violation of any statute, ordinance, law or regulation;
> c. That the use for which the permit or variance was granted has not been exercised for at least 12 consecutive months, has ceased to exist, or has been abandoned;
> d. That the use for which the permit or variance was granted has been so exercised as to constitute a public nuisance;
> e. That the permittee has failed to pay any fees, charges, fines, or penalties associated with processing or enforcing the permit; or

f. That the permittee has failed to comply with any enforcement requirement established in Article 14.

During Staff's presentation to the Planning Commission during the 7-28-2022 public hearing the Planner made the following statement at 00:21:09:

"The County's right to require these financial assurances rests with its police powers and its right to protect public health and safety and prevent public nuisance."

During the Q&A between the Planning Commission and Staff during the 7-28-2022 public hearing, at 00:58:33 Chair McPhail made the statement and asked for clarification as follows:

"Okay, I have a couple of questions of Staff perhaps County Council Barnes, can answer. I think he's already answered this question adequately but uh there's already permits have been issued and assuming that the permittee is abiding by the conditions of the CUP which has been issued on Section 8107-5.6.5 seems to me that requiring them to come up with dollars after the CUP has been issued, and it may be a 10 year CUP, may be a 30 years CUP, and I understand that when they come back in or any new CUP's are requested, that they will be for 15 years. I understand that, but again, I'd like clarification to make sure that it is legal to come back on that Section with H234 and 5, requiring more money that they haven't had to put up before. Just to be clear."

County Counsel Barnes responded as follows at 00:59:56:

"...we've taken a close look at that issue and we do, we do feel confident that the County has a legal ability to require the increased insurance requirements and surety amounts under our police power. We do not believe that the County, the way that ordinances are set up, it's their general requirements and we're regulating operators as opposed to specific permits and I know that's a nuance but that's kind of the concept here..."

County Counsel Barnes' statement that with the Proposed Amendments the County is regulating "operators" as opposed to "specific permits" is more than just a nuance. It is pure nonsense. CUPs are land use entitlements. They follow the land, not the operator.

For (c), the logical fallacy for invoking NCZO §8111-6.2 (d) is that the County Staff and County Counsel are basing their authority on a "public nuisance" that **may** occur in the future. With that faulty premise, the "logic" goes like this:

1. The County has "police powers" under the State constitution to abate public nuisances;
2. NCZO §8111-6.2 provides the County the authority to Modify, Suspend or Revoke for Cause a permit that "...**has been so exercised** as to constitute a public nuisance.";
3. Because oil and gas operations may someday pose a public nuisance, the County can exercise its "police power" to modify all permits and impose the Proposed Amendments.

Please review NCZO §8111-6.2 (d) above. It specifically references a permit which **"has been so exercised"** (i.e., present perfect tense) "...as to constitute a public nuisance." It does not provide for "modification, suspension and revocation for cause" for a public nuisance that **might occur in the future**. The latter would be the same as citing a dog owner today because said dog owner may not, in

the future, pick up the dog's waste in the dog owner's backyard, and that waste might create a public nuisance in the form of smells, insects, etc.

The County has no legal authority under NCZO §8111-6.2 to amend a compliant CUP on the speculation that an oil and gas operation may pose a public nuisance sometime in the future.

With item (d) it is true that the collateral for the required sureties would be released upon completion of the required work in compliance with regulations. However, according to RLI, a leading surety firm, a small oil and gas operator must provide a letter of credit for 100% of the surety amount. According to the banking institutions that we have contacted, such letters of credit must be secured by liquid assets, and will be in the form of a secured loan. So the operator would be paying interest on the letter of credit and an administrative fee for the surety, on top of tying up capital to secure the letter of credit. All of the above represent significant increases in operating expense that **will alter or impair the operator's ability to produce oil and gas**. So then, that the sureties will be released when the requirements are fulfilled is no consolation and only serves to underscore how poorly crafted this policy is in its present state.

The preceding rebuttal to items (a), (b), (c), and (d), shows not just how weak the County's position is with respect to its legal authority to impose the Proposed Amendments on a vested compliant CUP, it demonstrates the County has no legal authority whatsoever to impose the Proposed Amendments on a vested compliant CUP. The effort to impose the Proposed Amendments on existing compliant CUPsis a case of history repeating itself, where the County is embarking on a path that previously failed at the expense of Ventura taxpayers. Starting in 2013 the then BOS put legacy (i.e., "antiquated") permits from Ventura County in its cross-hairs. The County CEO at that time in a Board Letter to the BOS provided the BOS with her understanding of the BOS' ability to unilaterally amend existing permits and stated that:

> "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."

That complete Board letter dated 12-17-2013 is provided as Exhibit 2 to this document.

In 2015 the BOS brought forward the issue of unilaterally amending legacy permits again, and County Staff replied to the BOS in a Board letter dated 12-15-2015 that:

> "…vested rights in existing permits cannot be unilaterally impaired by the County under its general land use authority. Instead, vested rights can only be impaired if the impairment resulting from the new permit conditions is reasonably necessary to address a menace to the public health and safety or a public nuisance presented by the permitted use."

That complete Board letter dated 12-15-2015 is provided as Exhibit 3 to this document.

Nonetheless, the BOS ignored Staff's positions and in late 2020 proceeded to amend legacy permits which brought a flurry of court cases by operators of those legacy permits against Ventura County. The matter was ultimately settled by the defeat of A&B at the ballot box and the lawsuits were subsequently dismissed.

From all of the above, there is the clear conclusion that the County has provided no justification or evidence of legal authority for imposing the Proposed Amendments on an existing compliant CUP and that the County has failed in its past efforts to assert that it does.

In its most current attempt with the proposed Amendments the County's justification is based solely on conjecture and "nuance." Imposing the Proposed Amendments on compliant CUPs would be an abuse of the County's police power.

Considering all of the above, the entire matter of amending the NCZO with the Proposed Amendments as provided should be scrapped. That is not to say that some changes in the existing NCZO are not warranted, but the development of any such changes should start with outreach to the affected stakeholders and then should only be applied for new permits, extensions, or modifications, and not on existing compliant CUPs.

Sincerely,

Marc Wade Traut

Marc Wade Traut

Attachments: Exhibit 1, email chain between Ms. Sussman and Mr. Traut
Exhibit 2, Board Letter dated 12-17-2013
Exhibit 3, Board Letter dated 12-15-2015

Exhibit 1

Marc Traut

From: Sussman, Shelley <Shelley.Sussman@ventura.org>
Sent: Tuesday, July 19, 2022 12:46 PM
To: Marc Traut
Cc: Fogg, Mindy; Ward, Dave
Subject: RE: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Hello Mr. Traut,

Staff is currently working to ensure that the staff report package for this item is publicly available by Thursday, July 21, 2022. The staff report includes a discussion related to the question you raised below regarding the County's legal authority to impose increase financial security obligations on existing permittees.

Information related to accessing the staff report is shown below:

Planning Commission Hearing

The Planning Commission hearing on these proposed ordinance amendments is scheduled for July 28, 2022, at 8:30 a.m. On July 21, 2022 at 5:00 p.m., the Planning Commission staff report will be available for public review on the Planning Commission's meeting and agenda website https://vcrma.org/planning-commission

Thank you,

Shelley Sussman, MPA | Planning Manager
General Plan Implementation Section
shelley.sussman@ventura.org

Ventura County Resource Management Agency
Planning Division
P. (805) 654-2493 | F. (805) 654-2509
800 S. Victoria Ave., L #1740 | Ventura, CA 93009-1740
Visit our website at vcrma.org
For online permits and property information, visit **VC Citizen Access**

From: Marc Traut <marc@renpetllc.com>
Sent: Monday, July 18, 2022 4:22 PM
To: Sussman, Shelley <Shelley.Sussman@ventura.org>
Cc: Fogg, Mindy <Mindy.Fogg@ventura.org>; Ward, Dave <Dave.Ward@ventura.org>
Subject: RE: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Ms. Sussman,

Thank you for the reply. Would you please provide me with the location in the NCZO that provides the BOS the authority to change the terms of use under an existing CUP (i.e., change surety amounts; change insurance amounts) prior to the expiration or a request for a modification of that existing permit?

Thanks in advance.

Marc Traut

From: Sussman, Shelley [mailto:Shelley.Sussman@ventura.org]
Sent: Monday, July 18, 2022 3:46 PM
To: Marc Traut
Cc: Fogg, Mindy; Ward, Dave
Subject: RE: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Dear Mr. Traut,

Thank you for your question regarding the "trigger" for implementation of the new surety and insurance requirements for existing permits. (Existing permits means all current Conditional Use Permits (CUPs) or Special Use Permits (SUPs) in the county.) The triggering event would be Board approval of the ordinance and the subsequent ordinance effective date 30 days later. Specific timing would be as follows:

Sureties

- Board approval
- Ordinance becomes effective 30 days after Board approval
- Existing operators would have 60 days from the ordinance effective date to submit a complete inventory of wells including active, idle, plugged and abandoned, injection, exploratory, etc. for review by the Planning Division.
- Planning Director verifies submitted well information and required surety amount and notifies operator in writing.
- Operator has 180 days from date of notification to submit the required sureties to the Planning Division.

Insurance

- Board approval
- Ordinance becomes effective 30 days after Board approval
- Operator would have 90 days from the ordinance effective date to provide evidence of coverages.

I hope this addresses your question.

Sincerely,

Shelley Sussman, MPA | Planning Manager
General Plan Implementation Section
shelley.sussman@ventura.org

Ventura County Resource Management Agency
Planning Division
P. (805) 654-2493 | F. (805) 654-2509
800 S. Victoria Ave., L #1740 | Ventura, CA 93009-1740
Visit our website at vcrma.org
For online permits and property information, visit **VC Citizen Access**

From: Marc Traut <marc@renpetllc.com>
Sent: Friday, July 15, 2022 6:47 AM
To: Sussman, Shelley <Shelley.Sussman@ventura.org>
Cc: Fogg, Mindy <Mindy.Fogg@ventura.org>; Marc Traut <marc@renpetllc.com>
Subject: Re: Ventura County Planning Division Proposes Oil and Gas Ordinance Amendments

Ms. Sussman,

I have reviewed the draft document of the proposed amendments to the NCZO concerning oil and gas operations, specifically Sections 8107-5.6.5 (sureties) and 8107-5.6.12 (insurance). Sections 8107-5.6.5 and 8107-5.6.12.c address the implementation of the amended requirements for sureties and insurance, respectively. According to Sec. 8107-5.6.5.h all sureties required are to be provided to the Planning Division within 180 days after 60 days following the effective date of the amended ordinance and according to Sec. 8107-5.6.12.c certificates of insurance for the required amounts are to be provided to the Planning Division within 90 days following the effective date of the amended ordinance.

What is not clear to me is what will trigger the implementation of these two new requirements for existing permits. Will the new requirements discussed above be triggered by some future modification to an existing CUP?

Thanks in advance.

Marc Traut

Renaissance Petroleum, LLC

On Friday, July 8, 2022 at 11:20:46 AM PDT, Sussman, Shelley <shelley.sussman@ventura.org> wrote:

July 8, 2022

Dear Stakeholder,

Exhibit 2

county of ventura

COUNTY EXECUTIVE OFFICE
MICHAEL POWERS
County Executive Officer

J. Matthew Carroll
Assistant County Executive Officer

Paul Derse
Assistant County Executive Officer/
Chief Financial Officer

Catherine Rodriguez
Assistant County Executive Officer/
Labor Relations & Strategic Development

Kelly Shirk
Director Human Resources

December 17, 2013

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: **Receive Presentation and Report Back in Response to May 21, 2013 Board Direction Regarding the Hydraulic Fracturing of Oil and Gas Wells in Ventura County; and Direct Revisions be Made to the Conditional Use Permit Application/Questionnaire for Oil & Gas Exploration and Production Permits**

RECOMMENDATIONS:

It is recommended the Board:

1. Receive and file a presentation by County staff responding to the direction provided by the Board at its May 21, 2013 meeting regarding hydraulic fracturing of oil and gas wells in Ventura County.

2. Direct the Resource Management Agency to revise the Conditional Use Permit Application/Questionnaire for Oil and Gas Exploration and Production to include the following questions:

   1) Will hydraulic fracturing or acidization well stimulation treatments be performed? If yes,
   2) What hazardous materials will be used?
   3) What water supply will be used?
   4) Where will the liquid wastes be disposed?

FISCAL/MANDATES IMPACT:

Mandatory:	No
Source of Funding:	N/A

Hall of Administration L#1940
800 South Victoria Avenue, Ventura, CA 93009 • (805) 654-2681 • FAX (805) 658-4500

Funding Match: None
Impact on other Departments: None

DISCUSSION:

At your May 21, 2013 meeting, the Board of Supervisors directed the County Executive Officer, County Counsel, and the Resource Management Agency return to the Board with a number of items regarding the hydraulic fracturing and acidization of oil and gas wells in unincorporated Ventura County. The specific items were recommendations for a revision to the Conditional Use Permit Application Form/Questionnaire and legal analysis of: 1) the options available to address antiquated oil & gas permits, 2) potential for restrictions on the use of fresh water in oilfield operations, and 3) the County's ability to require the use of non- or least-toxic fracking chemicals. Each of these items is addressed below. However, it is important to note that a significant amount of activity took place in Sacramento after May 21, 2013, and it profoundly altered the regulatory and legal environment surrounding hydraulic fracturing, acidization, and other well stimulation treatments. The culmination of this State activity was the passage of Senate Bill 4 (Pavley – Chapter 313 – Statutes 2013) (SB 4). A copy of SB 4 is attached as Exhibit 1.

Before responding specifically to the Board's May 21, 2013 direction, it would be valuable to provide a brief summary of SB 4. Beginning on January 1, 2015, SB 4 requires that a permit from the Division of Oil, Gas and Geothermal Resources (DOGGR) be obtained prior to conducting hydraulic fracturing or other well stimulation treatments. The DOGGR permit application is required to include a significant amount of information, including but not limited to: 1) detailed information about the well location; 2) a description of the fluids to be used; 3) a groundwater monitoring plan; and 4) a water management plan. Moreover, copies of any approved permit must be sent to neighboring property owners and tenants, and water well testing must be provided upon request. Much of this information directly addresses the concerns raised by the Board, and this will be discussed in more detail below. Also, included as Exhibit 2 and Exhibit 3 are the "Senate Bill 4 Implementation Plan" and a "Frequently Asked Questions" document prepared by the Department of Conservation.

Revisions to the CUP Application Form/Questionnaire

On May 21, 2013, the Board of Supervisors directed the Resource Management Agency return to the Board with revisions to the Conditional Use Permit (CUP) application form that would address a number of questions related to hydraulic fracturing as a well stimulation treatment conducted in newly permitted wells located in the county's unincorporated area. It is recommended in the Board letter presented at the May 21, 2013 hearing that four specific questions be included in the application form, as follows:

1) Will hydraulic fracturing be performed?

2) What hazardous materials will be used?
3) What water supply will be used?
4) Where will the liquid wastes be disposed?

At the May hearing, the Board further directed that these questions be broadened to include well stimulation by acidization.

On September 20, 2013, Governor Brown signed SB 4, which established a regulatory framework for well stimulation treatment activities, including hydraulic fracturing and acidization. The directives outlined in SB 4 in some manner address all of the issues raised by the Board in its May 21, 2013 action, and it requires DOGGR to have rules and regulations in place by January 1, 2015. In addition, DOGGR is required to work in concert with other entities to complete a scientific study of well stimulation treatments by January 1, 2015. And finally, DOGGR is required to complete an environmental impact report that assesses the environmental impacts of oil and gas well stimulation treatments in the state by July 1, 2015.

SB 4 also includes provisions which address well stimulation treatment activities which might take place between January 1, 2014, when the law goes into effect, and January 1, 2015 when the new DOGGR permitting process is required to be in place. These "interim" provisions (referred to by DOGGR as "emergency regulations") require certain information be provided and actions taken by oil and gas well operators if well stimulation treatment activities are to take place prior to January 1, 2015. The required information and actions largely address the items identified by the Board in May 2013.

DOGGR has announced it will have its emergency regulations in place by January 1, 2014, to address the requirements of SB 4 during this interim period. These emergency regulations are expected to be released after the preparation of this Board letter, on December 13, 2013. Should the emergency regulations be released on that date, a copy will be provided to the Board and posted on the County web page with this Board letter.

The Public Resources Code sections being added by SB 4 are summarized here under the four specific issue areas raised by the Board:

1. Will hydraulic fracturing or acidization be performed?

> *§3160 (d) (1) "....prior to performing a well stimulation treatment on a well, the operator shall apply for a permit to perform a well stimulation treatment with the supervisor or district deputy."*

While the formal permitting process is not required to be in place until January 1, 2015, the law requires that operators notify and provide substantial information to

DOGGR prior to engaging in well stimulation treatment activities between January 1, 2014 and December 31, 2014.

2. What hazardous materials will be used?

§3160 (b) (1) (A) "....The rules and regulations shall include.... full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids, acid well stimulation fluids, and flowback fluids."

§3160 (b) (2) "Full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids and acid stimulation treatment fluids, shall, at a minimum, include:

(B) A complete list of the names, Chemical Abstract Service (CAS) numbers, and maximum concentration, in percent by mass, of each and every chemical constituent of the well stimulation treatment fluids used. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available.

(C) The trade name, the supplier, concentration, and a brief description of the intended purpose of each additive contained in the well stimulation treatment fluid."

Beginning January 1, 2014, operators are required to provide all of the above information to DOGGR prior to engaging in well stimulation treatment activities.

3. What water supply will be used?

§3160 (b) (2) "Full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids and acid stimulation treatment fluids, shall, at a minimum, include:

(D) The total volume of base fluid used during the well stimulation treatment, and the identification of whether the base fluid is water suitable for irrigation or domestic purposes, water not suitable for irrigation or domestic purposes, or a fluid other than water.

§3160 (d) (1) (C) "....The information provided in the well stimulation treatment permit application shall include....A water management plan that shall include:

(i) An estimate of the amount of water to be used in the treatment. Estimates of water that is to be recycled or that could be recycled following the well stimulation treatment may be included.

(ii) The anticipated source of the water to be used in the treatment.

The requirement to prepare a Water Management Plan, including the identification of the source and quality of the water used in the well stimulation treatment process, goes into effect on January 1, 2014.

4. Where will liquid wastes be disposed of?

> *§3160 (d) (1) (C) "....The information provided in the well stimulation treatment permit application shall include....A water management plan that shall include:*
> *(iii) The disposal method identified for the recovered water in the flowback fluid from the treatment that is not produced water...."*
>
> *§3160 (b) (2) (E) "....The information provided in the well stimulation treatment permit application shall include....the disposition of all water, including, but not limited to, all water used as base fluid during the well stimulation treatment and recovered from the well following the well stimulation treatment that is not otherwise reported as produced water..... Any repeated reuse of treated or untreated water for well stimulation treatments and well stimulation treatment-related activities shall be identified."*
>
> *§3160 (b) (2) (F) "....The information provided in the well stimulation treatment permit application shall include.... the specific composition and disposition of all well stimulation treatment fluids, including waste fluids....."*
>
> The information requirements related to the composition and disposition of well stimulation treatment fluids also become operative on January 1, 2014.

Given the above provisions of State law, it appears that beginning January 1, 2014 all of the information the Board action sought through future CUP applications will be required by DOGGR of all existing and proposed oil wells in Ventura County prior to conducting hydraulic fracturing, acidization, or other well stimulation treatment activities. Since July of this year, DOGGR staff has been providing copies of each "Notice of Intent" filed by oil and gas operators for the drilling or modification of oil and gas wells located in Ventura County to the Resources Management Agency, Planning Division. These Notices have been provided to the County within a day of submittal to DOGGR. County staff has reviewed these notices to ensure that the proposed action is consistent with the conditions of approval of any applicable CUP (there is currently only one CUP which prohibits hydraulic fracturing within its 11 wells). This process provides the Planning Division a timely opportunity to notify DOGGR of activities (such as hydraulic fracturing) that are not authorized by the Conditional Use Permit (CUP) governing the well in question.

However, SB 4 does not require this information be provided to the County or DOGGR as part of an application for a CUP to install new oil wells. Thus, it would be reasonable and appropriate at this time for the County to include these four questions in its Oil and Gas Permit Application Form. Gathering this information as part of the application will not only provide information for public noticing purposes prior to the CUP hearing, but also provide information needed for the County to conduct the required environmental review under the California Environmental Quality Act (CEQA) utilizing the *Water Resources* and *Hazardous Materials/Waste* sections of the County's Initial Study Checklist.

Until DOGGR develops the permitting process and regulations, it is not possible to know for certain what County CUP conditions should contain or address. For example, the County is preempted from adopting its own regulations with respect to well casings and well stimulation treatment fluids, but DOGGR may delineate notice duties for the County that can be implemented through permit conditions. In addition, until DOGGR completes the associated environmental impact report required under SB 4, there will be a question regarding the appropriate environmental review of hydraulic fracturing and acidization well stimulation treatments that might need to be prepared by the County to address proposed discretionary oil and gas projects. Therefore, it may be necessary to re-evaluate the County's CUP application questions in 2015 after the implementation of the new DOGGR permitting process mandated under SB 4.

Finally, the Board may be interested in the current status of oil permitting activities in the County. Since the Board's May 21, 2013 action, three CUP applications for new oil and gas wells have been submitted. This brings to five the number of oil and gas projects, involving a total of 40 wells, currently under review by the Planning Division. Although not yet part of the formal CUP application packet, the Planning Division has asked the applicants to indicate whether or not they intend to utilize hydraulic fracturing stimulation treatments in their operations. All four of the applicants have indicated that their projects do not include hydraulic fracturing well stimulation. However, one of these applicants has indicated that hydraulic fracturing may be considered in the future once the new State regulations are in place. The Planning Division did not initially ask for information related to acidization as there was a lack of clarity at the State as to what level of acidization constituted well stimulation as defined in SB 4. DOGGR has recently released information in its draft regulations which addresses this issue and Planning staff now intends to request the information from these applicants.

Confidential Legal Analysis of Antiquated Permits, Water, and Chemical Toxicity

At the May 21, 2013 meeting, the Board also directed the County Counsel to provide the Board with a confidential legal analysis of three questions regarding the County's ability to regulate oil and gas operations including aspects of hydraulic fracturing and other well stimulation treatments. County Counsel has provided the Board with memoranda addressing these questions which are recommended to remain confidential. The Board's questions are set forth below along with the County Counsel's conclusions regarding each.

1. What options are available to the County to address antiquated oilfield CUPs that do not require discretionary review for new drilling, and/or do not incorporate current ordinance requirements, and/or do not provide time limits?

Conclusion: 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. The County's options to modify antiquated oilfield permits consist of imposing: 1) permit changes that are reasonably related to a permittee's request for modification of an existing permit; 2) limited permit changes based on the establishment by the County of harm, danger or nuisance caused by a permitted activity; 3) limited permit changes based on the establishment by the County of a permittee's significant violations of law or permit conditions; and 4) specific permit changes contemplated by existing conditions in the permit. In addition, a permit could be revoked if its operations constitute a nuisance and imposition of conditions to eliminate the nuisance is not feasible.

2. May the County restrict the use of fresh water or require the use of non-fresh water when discretionary permits are issued for oil and gas well drilling or operation?

Conclusion: No. Restricting the use of fresh water or requiring the use of non-fresh water, to the extent it was applied to an operator's well stimulation treatments such as hydraulic fracturing, would likely conflict with extensive State law providing DOGGR, together with other State agencies including the State Water Resources Control Board, exclusive jurisdiction over the down-hole/subsurface aspects of oil and gas operations and over the surface and subsurface aspects of the composition of well stimulation treatment fluids under SB 4.

3. May the County require the use of non-toxic or least-toxic hydraulic fracturing chemicals?

Conclusion: No. Because of State law preemption resulting from existing State law and SB 4, the County is precluded from requiring the use of non-toxic and least-toxic well stimulation treatment fluids, including hydraulic fracturing fluids, since well stimulation treatments and the fluids used for the treatments are within the exclusive jurisdiction of DOGGR and other State agencies.

Conclusion/Summary

Since the Board action on May 21, 2013, directing staff to return with the analysis and information in this Board letter, the legislature passed and Governor Brown signed SB 4, which establishes a comprehensive regulatory and permitting framework for well stimulation activities. These regulations, being developed by DOGGR, will be among the most protective in the nation. The requirements within SB 4 fundamentally address the technical issues raised by the Board in May. They also address the notification and monitoring issues previously discussed by the Board and raised by county residents.

The legal analysis provided by County Counsel indicates that the County is largely pre-empted from actively regulating well stimulation treatment activities at both new and existing wells. However, the County is required under CEQA to assess and address the potential environmental impacts from such activities requiring a discretionary County

approval at proposed new well sites. Therefore, it is recommended that the Board direct the Resource Management Agency to add the following four questions to the CUP application questionnaire for proposed new Oil and Gas Exploration and Production permits:

1) Will hydraulic fracturing or acidization well stimulation treatments be performed?
2) What hazardous materials will be used?
3) What water supply will be used?
4) Where will the liquid wastes be disposed?

This item has been reviewed by the County Executive Office, County Counsel, and the Resource Management Agency. If you have questions concerning this item, please contact Sue Hughes, Deputy Executive Officer, at (805) 654-3836 or Chris Stephens, Director, Resource Management Agency at (805) 654-2661.

Sincerely,

Sue Hughes
Deputy Executive Officer

Chris Stephens
Resource Management Agency Director

Leroy Smith
County Counsel

Exhibit 1: SB 4 (Pavley – Chapter 313 – Statutes 2013)
Exhibit 2: Senate Bill 4 Implementation Plan
Exhibit 3: Frequently Asked Questions

Exhibit 3

RESOURCE MANAGEMENT AGENCY

county of ventura

Planning Division
Kimberly L. Prillhart
Director

December 15, 2015

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Study Session Regarding Potential Impacts of Oil and Gas Operations on the California Condor and Potential Land Use Regulations, Including Permit Conditions, to Address Such Potential Impacts

RECOMMENDATIONS:

1. **RECEIVE & FILE** agency and public presentations and testimony, and provide direction as appropriate, regarding potential impacts of oil and gas operations on the California condor and potential land use regulations, including permit conditions, to address such impacts.

FISCAL/MANDATES IMPACT:

There is no additional fiscal impact associated with this item. However, should the Board direct staff to prepare additional reports, ordinance amendments or permit actions, there may be fiscal impacts associated with that work.

DISCUSSION:

On June 2, 2015, your Board requested that staff schedule a public study session to discuss best management practices related to California condors with a specific focus on measures for the protection of the condors at oil and gas facilities located within Ventura County.

An initial meeting was held on October 15, 2015 and was facilitated by the County Executive Office and Resource Management Agency. The meeting was attended by 35 individuals from 18 organizations (Exhibit 1) and held at the Ventura County Government Center. During this meeting, U.S. Fish and Wildlife Service (USFWS) biologist Joseph Brandt provided background information on the southern California flock of California condors (Exhibit 2) including an overview of mortalities, threats, and changes in the distribution of California condors since protection efforts under the USFWS began in Ventura County. Following the introduction of wildlife information by the USFWS, Bruce Hesson of California's Division of Oil, Gas, and Geothermal Resources (DOGGR) presented the regulatory authority and framework that regulates oil and gas facilities in

Ventura County and throughout California as well as what DOGGR looks for during its oil well and facilities inspections. Jeff Kuyper of Los Padres Forest Watch and John Brooks of Citizens for Responsible Oil & Gas introduced issues of concern to each of their respective organizations as they pertained to protection measures for California condors and the responsible management of oil facilities in Ventura County. Following these presentations, participants discussed trends in condor populations, agency oversight, and responsibilities associated with California condors and oil and gas operations in Ventura County. A focus of discussion was placed on the California condor protection measures that were recommended to Ventura County by USFWS in 2013 (Exhibit 3) and to what extent those measures have been adopted and implemented by oil field operators.

To provide guidance during todays study session, County Counsel has prepared the following summary of the County's legal authority to address condor issues through the review and conditioning of County-issued conditional use permits pursuant to which oil and gas operations occur in unincorporated Ventura County:

> The County's authority to add condor-related conditions to newly-issued conditional use permits, and to permits which the permit holder seeks to modify through a discretionary permitting process, is derived from the County's general land use authority. In general, this authority is subject to a permissive legal standard requiring only that the conditions be reasonably related to the project's potential effects on the public health, safety or welfare.
>
> Many oil and gas facilities, however, operate pursuant to existing permits in which the permit holder possesses vested rights. The County's authority to modify these permits is limited by the vested rights doctrine. Rights in a permit "vest" (i.e., become protected) when the permit has been issued and the permit holder has invested substantial sums in the furtherance of the authorized uses. Once permit rights vest, the permit holder has a property right in the permit as approved that cannot be modified by the County – for instance, by adding new condor-related permit conditions – without satisfying constitutional due process requirements. Hence, vested rights in existing permits cannot be unilaterally impaired by the County under its general land use authority. Instead, vested rights can only be impaired if the impairment resulting from the new permit conditions is reasonably necessary to address a menace to the public health and safety or a public nuisance presented by the permitted use. Important factors to be considered in applying this standard are whether the nature and extent of the impairment to the vested rights is proportionate to the nature, importance, and urgency of the interest to be served by the new permit

conditions, and whether the permit conditions are appropriately tailored and limited to the situation necessitating the action.

In the event the County sought to unilaterally modify existing conditional use permits to add condor-related conditions, the County would be required to meet the above-described standard for impairing the permit holder's vested rights in the permit. The standards must be met with respect to each specific permit the County sought to modify, and with respect to each specific condition sought to be added. Such permit modifications would require the provision of notice and a public hearing to each affected permit holder.

County Counsel intends to present this issue in more detail during the Study Session. Following their presentation, Steve Kirkland, U.S. Fish and Wildlife Service's California Condor Field Coordinator, will provide background information on the southern California flock of California condors including an overview of mortalities, threats, and changes in the distribution of California condors since protection efforts under the USFWS began in Ventura County. And finally, Jeff Kuyper, Executive Director of Los Padres Forest Watch, and Luke Faith, Operations Manager for Seneca Resources, will make presentations as stakeholders invested in the welfare of the California condor.

Following the series of presentations, the remainder of the study session will provide an opportunity for your Board, other interested parties and members of the public to discuss the information provided by the presenters.

This Board item was reviewed by County Counsel, the Auditor Controller's Office, and the County Executive Office. If you have any questions regarding this matter, please contact me at (805) 654-2481.

Kim L. Prillhart, Director
Ventura County Planning Division

EXHIBITS:
Exhibit 1 - List of October 15 2015 Meeting Attendees and Stakeholder Groups
Exhibit 2 - October 15 2015 US Fish & Wildlife Presentation by Joseph Brandt
Exhibit 3 - July 18 2013 Letter from United States Department of Fish & Wildlife by Roger Root

From: Scott Wagenseller
To: Sussman, Shelley
Subject: Stop changing codes for oil and gas!
Date: Tuesday, August 16, 2022 10:19:47 AM

The constant effort to restrict and stop oil and gas exploration in the midst of our current energy crisis is poor planning and adverse to our county's economic well-being.
State and federal policies are destroying our state and country. Stop this war on businesses in Ventura county!

Scott Wagenseller
Thousand Oaks

Zendejas, Daniela

From: Ben Oakley <boakley@wspa.org>
Sent: Wednesday, August 17, 2022 10:15 AM
To: Sussman, Shelley
Subject: Comment on Item 7. A. NCZO/CZO Oil and Gas Ordinance Amendments PL21-0099 and PL21-0100
Attachments: WSPA Comments - Planning Commission Agenda Item No. 7 – Proposed Coastal and Non-Coastal Zoning Ordinance Amendments (8-18-22).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Sussman, please see the attached comment letter regarding 8/18 Ventura County Planning Commission meeting agenda item 7.A.

Regards,

Ben Oakley
Manager, California Coastal Region
WSPA
C 805.714.6973
boakley@wspa.org

Ben Oakley
Manager, California Coastal Region

VIA ELECTRONIC MAIL

August 17, 2022

Shelley Sussman
Planning Commission of Ventura County
800 South Victoria Avenue
Ventura, CA 93009
Shelley.Sussman@ventura.org

Re: **Planning Commission Agenda Item No. 7 – Proposed Coastal and Non-Coastal Zoning Ordinance Amendments**

Dear Members of the Ventura County Planning Commission:

The Western States Petroleum Association ("WSPA") appreciates this opportunity to provide further comments on the proposed amendments to the Non-Coastal Zoning Ordinance ("NCZO") section 8107-5 and Coastal Zoning Ordinance ("CZO") section 8175-5 (collectively, "Zoning Amendments"). The Planning Commission previously conducted a hearing on the Zoning Amendments on July 28, 2022, and WSPA submitted comments in advance of the hearing. However, a subset of comments – including WSPA's – was not included in the public record to the Planning Commission. Therefore, WSPA submits these comments in advance of the Planning Commission's second hearing to consider the Zoning Amendments on August 18, 2022. We request that the Planning Commission seriously consider the issues raised in this comment letter, as well the July 27, 2022 comment letter submitted by WSPA, which is attached hereto as Attachment 1.

I. Well Abandonment Surety Is Flawed and Premature

The proposed Zoning Amendments would require oil operators to post well abandonment sureties "to help ensure that sufficient funds exist for the operators' wells to be properly plugged and abandoned." (Staff Report at p. 10.)[1] According to the Planning Division, the proposed Zoning Amendments reflect the alleged "likelihood that some wells in unincorporated Ventura County will be orphaned and that the State will lack adequate

[1] All references to the "Staff Report" are to the July 28, 2022 Staff Report for Planning Commission Agenda Item 7. The August 18, 2022 Staff Report for Planning Commission Agenda Item 7 notes that the "July 28, 2022 staff report, along with all exhibits and materials submitted in advance of the July 28, 2022 hearing remain relevant and applicable to [the] Commission's consideration of this item. No changes have been made to the project description, the proposed ordinance amendments, or staff recommendations."

resources to properly and timely plug and abandon them." (*Ibid.*) However, the Planning Division's rationale for requiring the well abandonment sureties is fundamentally flawed and unsupported by evidence.

The Planning Division contends that the well abandonment sureties are necessary because the State allegedly lacks adequate resources to plug and abandon orphaned wells. For example, the Staff Report claims that it costs "$974 million to plug and abandon approximately 5,356 currently known, orphaned, deserted, and potentially deserted wells statewide," but that this figure "does not include the estimated cost to plug and abandon any wells that have not yet been identified by CalGEM as orphaned or deserted." (Staff Report at pp. 5-6.) According to the Staff Report, although the State's Hazardous and Idle Deserted Well Abandonment Fund and Oil, Gas, and Geothermal Administrative Fund collectively provide $13 million for plugging and abandonment costs, that "represent[s] just over one percent of what CalGEM estimates it will cost to properly plug and abandon currently known orphaned and deserted wells." (*Id.* at p. 6.)

The Staff Report also relies upon a report commissioned by CalGEM and conducted by the California Council on Science and Technology (CCST) to further support its assertion that the well abandonment sureties are warranted in light of purportedly limited State resources to address plugging and abandonment.[2] The CCST Report presents what it calls a "coarse analysis" to determine wells that are at risk for becoming orphan by identifying six risk categories with varying levels of likelihood of occurrence and the costs to the State if all of the wells within each of these categories were to become orphan and require plugging and abandonment by the State. (CCST Report at pp. ix, xii, 17, 18, 40.) The study team commissioned by the CCST used a rough statistical estimation, based on review of a relatively small sample of well records provided by CalGEM. The report calculates the total <u>potential</u> liability to the State by multiplying the total number of identified wells by a unit cost for plugging and abandonment; with a worst-case scenario of the State facing responsibility to fund the plugging and abandonment of all active and idle wells currently in the State. (*Id.* at pp. x, 28.) The CCST report is – at best – a rough calculation useful to indicate further risk and financial analysis by CalGEM. It is hardly fit for supporting policy changes and vast increases in surety bonds.

[2] California Council on Science & Technology, *Orphan Wells in California* (Nov. 2018), available at: https://ccst.us/wp-content/uploads/CCST-Orphan-Wells-in-California-An-Initial-Assessment.pdf (accessed on Aug. 15, 2022) ("CCST Report").

The CCST Report concludes that 5,540 wells in California may be orphan, or "likely to be deserted," (*id.* at p. ix), and the Staff Report relies upon the following language from the report to support the proposed well abandonment surety requirements:

> The preliminary analysis performed here finds that 5,540 wells in California may already have no viable operator or be at high risk of becoming orphaned in the near future. The likely plugging and abandonment costs for these wells, based on the State's historical experience with orphan wells, exceed the available bond funds by a factor of 10 or more...The total net difference between plugging costs and available bonds across all oil and gas wells in the state is about $9.1 billion...This estimate ignores environmental or health damages that could be caused by orphan wells, which is a poorly understood category of potential impacts...

(Staff Report at pp. 11-12.)

However, the Planning Division's justification for recommending the increases in well abandonment surety is fundamentally flawed. In fact, the Planning Division concedes that ***CalGEM has not identified any orphan wells in Ventura County*** (Staff Report at p. 3), so imposing well abandonment sureties to address plugging and abandonment of orphan wells that have not yet been identified is arbitrary and premature. Furthermore, the very premise upon which the Planning Division bases the well abandonment surety – i.e., the belief that the State lacks adequate resources to plug and abandon orphaned wells – is false and unsupported for the three reasons set forth below.

1. The Planning Division Overestimates the Number of Orphan Wells

The CCST Report estimates that "5,540 wells in California may already have no viable operator or be at high risk of becoming orphaned in the near future." (Staff Report at p. 11.) However, this is a significant overestimate of the number of wells at high risk of becoming orphaned. In fact, a 2020 report by Catalyst Environmental Solutions – the same consultant the Ventura County Resource Management Agency retained to assist with the development of the Zoning Amendments (*id.* at p. 1) – found that the CCST report significantly overestimated the number of potential orphan wells in the State. (See Catalyst Environmental Solutions, *Analysis of CCST's Orphan Well Report* (May 30, 2020) at p. 1 ("Catalyst Report"), attached hereto as Attachment 2.)

For example, Catalyst reviewed the relevant well production and status data and assumptions of operator behavior used in the CCST report to start at a common point. (*Id.* at p.

1.) Catalyst then conducted additional evaluations of well records, well ownership, well production lifecycles, and Capital Matrix Consulting conducted operator interviews to obtain proprietary information to determine the validity of the assumptions used to define the number of likely orphan and high risk of becoming orphan wells in the State. (*Ibid.*) Using this information, Catalyst determined that the number of likely orphan and high risk of becoming orphan wells identified in the CCST report (5,540 in total) "***would be reduced by half or more, which would represent a corresponding reduction by half or more in potential net liability***." (*Ibid.*, emphasis added; *see also id.* at pp. 8-10.) Thus, according to the County's own consultant, the Staff Report's contention that the State does not have adequate resources to plug and abandon wells is factually unsupported because it relies upon incorrect data regarding the number of likely orphan and high risk of becoming orphan wells.

2. The Planning Division Relies Upon "Unlikely" Worst-Case Scenarios

While the Staff Report notes that "the total net difference between plugging costs and available bonds across all oil and gas wells in the State is about $9.1 billion," the Planning Division omits that the CCST Report found that this $9.1 billion figure is "***an unlikely 'worst-case' scenario for the State plugging liability***." (CCST Report at p. 28.) It is inappropriate and misleading for the Planning Commission to premise the imposition of exorbitant well abandonment sureties on "unlikely, worst-case" scenarios, which Catalyst has already found are significantly overestimated.

3. The Planning Division Overlooks Recent Legislative and Regulatory Developments

The Staff Report also fails to recognize how recent legislative and regulatory developments have significantly reduced the State's liability to plug and abandon wells. As the Catalyst Report found:

> ***[R]ecent legislation and regulations relating to orphan wells are having substantial impacts*** in reducing the State's liability for orphan well abandonment. Reporting on the first year of implementation of new idle wells regulations indicates that the number of idle wells plugged and abandoned by operators in 2018 alone exceeded CalGEM expectations by 80%. Of the wells that were converted from idle to plugged in 2018, just the first year of the new regulations, we find that 25 had been identified by the CCST Orphan Well Report as Likely Orphan (Category 1), 41 had been categorized as high risk of becoming orphan (Category 2), 1,227 had been categorized as other marginal or idle wells

> (Category 3), and the remaining wells had either been classified as high-producing wells or had not been included in the CCST data analysis. The idle well regulation is working very well in ***reducing the State's liability for orphan wells***.

(Catalyst Report at p. 2, emphasis added; *see also id.* at pp. 16-18.)

The implication of the Catalyst Report, as well as the annual reports from CalGEM (2019-2020) on the performance of the revised Idle Well Management program, is that a change in the rules and incentives for maintaining wells in idle status has resulted in a significant recalculation by California operators of the potential productive value of their assets. The Planning Division seems to ignore this very significant change in operator behavior, and on the contrary seems to assume that the incentives built into the program are ineffective. This assumption is simply not supported by the actual evidence.

For example, **AB 2729 (Williams, 2016)** raises idle well fees, but allows operators to avoid these fees by entering an idle well management plan. Under the requirements of AB 2729, idle well management plans must commit operators to eliminating a minimum percentage of their long-term idle wells each calendar year. CalGEM notes that the idle well management plans are an effective way "to reduce the number of idle wells for which the State may become responsible."[3] At the time the CCST Report was published (November 2018), no data was yet available to review how implementation of this law would affect potential State liability related to wells becoming orphan. Even the CCST Report notes that, at the time of publication, the effects of the new idle well program at CalGEM were still to be realized.

CalGEM published its first legislative report covering the period January 1 through December 31, 2018, on July 1, 2019, and reported that it collected ***$4.3 million in idle wells fees***, and while operators were expected to eliminate a minimum of 596 long-term idle wells, they ***significantly exceeded*** the expected number of eliminations and 988 long-term idle wells were plugged and abandoned by operators.[4] CalGEM's second legislative report (2019) found that ***1,927 idle wells were plugged and abandoned*** and ***543 long-term idle wells were***

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[3] California Department of Conservation, *Idle Well Program*, available at: https://www.conservation.ca.gov/calgem/idle_well#:~:text=Since%201977%2C%20CalGEM%20has%20plugged,a%20cost%20of%202429.5%20million (as of Aug. 11, 2022). CalGEM's webpage on its Idle Well Program also notes that "***wells are now being plugged before they become a problem***" and "***operators are complying.***" (*Ibid.*, emphasis added.)

[4] California Department of Conservation, *Idle Well Program Report On Idle & Long-Term Idle Wells in California* (July 1, 2019), available at: https://www.conservation.ca.gov/calgem/idle_well/Documents/AB-2729-Idle-Well-Program-Report.pdf (as of Aug. 11, 2022); *see also* Catalyst Report at p. 16.

eliminated.[5] Finally, the third legislative report (2020), CalGEM found that ***2,154 idle wells were plugged and abandoned*** and ***558 long-term idle wells were eliminated***.[6]

AB 2729 also required CalGEM to substantially expand idle well testing requirements. CalGEM issued final regulations in April 2019 which require, among other things, operators to provide a detailed inventory of idle wells to CalGEM, and to conduct progressively more rigorous testing starting within 24 months of when they become idle. (14 CCR §§ 1772, 1772.1.) Companies can avoid these costly tests by putting idle wells into an approved idle-well testing waiver plan or idle well management plan. Wells put into the testing waiver plan must be plugged and abandoned within 8 years. (14 CCR § 1722.2.) In the three years since the new implementing regulations of AB 2729 were in effect, the State has seen a very significant and positive change in operators' calculation of financial risk, and a dramatic decline in the number of idle wells. According to Catalyst:

> Based on our interviews with producers, the new idle well testing requirement is having a major impact on their management of idle wells. Testing costs are high, and if issues are identified during testing, remediation costs are even higher. This has caused companies to carefully review their inventory of idle wells. In cases where reactivation seems less than likely, producers are putting the wells into the idle well testing waiver program, where they will be plugged and abandoned within 8 years. ***Based on responses we received, it appears that more than half of existing idle wells will be scheduled for abandonment.***

(Catalyst Report at p. 17, emphasis added.)

Other legislation will also reduce the State's liability to plug and abandon wells:

- **AB 1057 (Limon, 2019)** authorizes CalGEM to require (1) increased financial assurances from onshore operators if existing assurances are inadequate; and (2) additional documentation from operators when ownership of wells or facilities changes." The Catalyst Report notes that a study by the Interstate Oil and Gas Compact commission

[5] California Department of Conservation, *Idle Well Program Report On Idle & Long-Term Idle Wells in California* (March 2021), available at: https://www.conservation.ca.gov/calgem/idle_well/Documents/AB%202729%20Idle%20Well%20Program%20Report%202019.pdf (as of Aug. 11, 2022).
[6] California Department of Conservation, *Idle Well Program Report On Idle & Long-Term Idle Wells in California*, available at: https://www.conservation.ca.gov/calgem/pubs_stats/Documents/Idle%20Well%20Program%20Report%202021_FINAL.pdf (as of Aug. 11, 2022).

provides that California's financial assurance requirements already occupy the "high end" of the regulatory spectrum. (Catalyst Report at p. 18.)

- **Public Resources Code Section 3205.3**, codified in 2018 by AB 1057, provides CalGEM the authority to require an operator subject to CalGEM's indemnity bond requirements to provide an additional security, in an amount acceptable to CalGEM, based on CalGEM's evaluation of the risk that the operator will desert its wells and the potential threats the operator's wells pose to life, health, property, and natural resources. AB 1057 additionally gives the Oil and Gas Supervisor broad discretion to make a determination of desertion, and to thereby access budgetary resources to mitigate public risks.

- **Public Resources Code Section 3205.7,** amended by SB 551 (Jackson, 2019), requires each operator of a well to submit a report to CalGEM estimating the cost to plug and abandon all its wells, decommission all attendant production facilities, and complete site remediation. CalGEM has issued a pre-rulemaking discussion draft of the implementing regulations and is in the process of reviewing public comment in order to initiate a final rulemaking. The cost estimate reports provided by operators will provide a mechanism for CalGEM to assess the full costs associated with these activities and will inform a more accurate assessment of the level of surety bonding appropriate to an operator's assets.

- **SB 1295 (Limon/2022)** would increase the amount of money CalGEM can expend in one fiscal year to address plugging and abandonment **from $3 million to $5 million**.

- **California State Budget (2022-23)** includes a **$100 million** one-time General Fund over two years to plug orphan or idle wells, decommission attendant facilities, and complete associated environmental remediation.[7]

Accordingly, the Planning Division's justification for the well abandonment surety is premised upon faulty and misleading data regarding the number of potential orphan wells in the State and a highly unlikely worst-case scenario for the State's plugging and abandonment liability. The Division further overlooks the significant funding recently made available to address plugging and abandonment of idle and deserted wells, and prematurely assumes that CalGEM's efforts will be inadequate and ineffective.

[7] California State Budget – 2022-23, at pp. 67, 127 available at: https://www.ebudget.ca.gov/FullBudgetSummary.pdf (as of Aug. 11, 2022).

WSPA hopes that the Planning Commission seriously considers the issues raised in this letter, as well as the previous letter submitted in advance of the July 28 hearing. There are significant risks associated with moving forward with the proposed Zoning Amendments, not the least of which could be the undermining of an effective relationship with CalGEM and significant budget resources that could be made available in Ventura County. The proposed Zoning Amendments are arbitrary, legally indefensible, and vastly out of touch with Ventura County voters.

Respectfully,

Ben Oakley

Ben Oakley
Manager, California Coastal Region

VIA ELECTRONIC MAIL

July 27, 2022

Shelley Sussman
Planning Commission of Ventura County
800 South Victoria Avenue
Ventura, CA 93009
Shelley.Sussman@ventura.org

Re: **Planning Commission Agenda Item No. 7 – Proposed Coastal and Non-Coastal Zoning Ordinance Amendments**

Dear Members of the Ventura County Planning Commission:

The Western States Petroleum Association ("WSPA") appreciates this opportunity to provide comments on the proposed amendments to the Non-Coastal Zoning Ordinance ("NCZO") section 8107-5 and Coastal Zoning Ordinance ("CZO") section 8175-5 (collectively, "Zoning Amendments"). WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in California and four other western states. The industry contributes $152 billion every year in economic activity and directly contributes $21.6 billion in local, state, and federal tax revenue to support schools, roads, public safety, and other vital services. More specifically, in Ventura County alone, the oil and gas industry contributes over $56 million in state and local tax revenue annually.

On July 28, 2022, the Planning Commission will hold a public hearing to consider recommending that the County Board of Supervisors adopt the proposed Zoning Amendments. The proposed Zoning Amendments limit new discretionary permits for oil and gas operations to 15-years and significantly increase surety and insurance requirements. These proposed amendments will render oil and gas operations in the County financially infeasible such that companies will be forced to shut down their operations.

Ventura County voters have already spoken on the County's unlawful attempts to phase out oil and gas production in the state through amending the CZO and NCZO. In rejecting Measures A & B on the June 7, 2022 ballot – which sought to repeal the County's adoption of restrictive amendments to the CZO and NCZO that would have radically disregarded property rights held by oil and gas operators and mineral rights owners throughout the County – Ventura

County voters sent a clear message: stop trying to shut down the most highly regulated oil and gas production activities in the nation.

By rejecting Measures A & B, voters blocked the dangerous policies that would have arbitrarily shut down local production, eliminated thousands of local jobs and tens of millions in tax revenues, and led to an even greater dependence on unstable and costly foreign oil for everyday energy needs. The California Geologic Energy Management Division ("CalGEM") has recognized that "alternatives that would increase the importation of oil into California *would lead to higher global [greenhouse gas ("GHG")] emissions* because California imposes GHG-reduction requirements on oil and gas production that do not exist in the countries and states that would have to supply any imported oil and gas needed to make up for the reductions in domestic production that would occur under those action alternatives."[1]

The results of the June 7 election show that the County's efforts to eliminate local energy production are wildly out of step with a broad, bipartisan coalition of Ventura County voters.

Nevertheless, the County has persisted in its attack on local oil and gas production with the newly proposed Zoning Amendments. But County officials cannot turn their backs on the very people who elected them to office. Accordingly, for the reasons detailed below, we urge the Planning Commission not to move forward with recommending the adoption of the proposed Zoning Amendments to the Board.

I. Increased Surety Requirements

The proposed Zoning Amendments significantly increase oil and gas bonding requirements to levels that would render operations within the County financially infeasible. These increases come in the form of Surface Restoration Sureties, Well Abandonment Sureties, and Long-Term Idle Well Abandonment Supplement Sureties.

A. Surface Restoration Surety

According to the County, the proposed Surface Restoration Sureties are intended to "establish funds for surface demolition, removal of structures and equipment, and restoration/remediation of both well sites and related facilities if the operator does not fulfill these requirements at the end of its permitted operations. Surface infrastructure associated with oil and gas operations can include large pieces of equipment and significant development, including but not limited to storage tanks, water treatment systems, gas separation and

[1] See CalGEM, Well Stimulation Environmental Impact Report (June 2015) ("WST EIR"), at C.2-66, available at https://www.conservation.ca.gov/calgem/Pages/SB4_Final_EIR.aspx (select "Access SB4 EIR").

treatment systems, waste storage areas, pipelines, and appurtenant infrastructure." (Staff Report at p. 8.)

Currently, both the NCZO and CZO (Sections 8107-5.6.5 and 8175-5.7.8(e), respectively), state that "...a bond or other security in the penal amount of not less than **$10,000.00** for each well that is drilled or to be drilled. Any operator may, in lieu of filing such a security for each well drilled, redrilled, produced or maintained, file a security in the penal amount of not less than **$10,000.00** to cover all operations conducted in the County of Ventura..." Now, the County has proposed significantly increased Surface Restoration Sureties based on the number of wells, excluding properly abandoned wells, ranging for **$100,000.00** for 1-5 active/idle wells to **$10 million** for over 401 active/idle wells. (*Id.* at p. 9.) According to the County, three operators would qualify for the $10 million surface restoration surety.

The County justifies these astronomical increases of 1 to 4 *orders* of magnitude, based on "information" from Catalyst (Exhibit 6 to Staff Report), which estimates unit costs for removal of physical infrastructure and equipment. Notably, the Catalyst report does not identify the source of information or basis for these estimates. Nevertheless, the costs for this surety, which can reach $10 million, will render oil and gas operations in the County financially infeasible.

B. Well Abandonment Surety

The County has also created a new Well Abandonment Surety to ensure that sufficient funds exist for the operators' wells to be properly plugged and abandoned. According to the Staff Report, "staff is recommending a Well Abandonment Surety of $36,000 per well, not to exceed $5 million for any individual operator, which is approximately 25 percent of the estimated costs of closure per well (i.e., $143,300 multiplied by 0.25)." (Staff Report at 15.) This new Well Abandonment Surety is *in addition to* required bonds and annual fees operators already pay the state to address plugging and abandonment of orphan wells, including those identified on page 5 of the Staff Report and Exhibit 5 thereto.

Notably, the Well Abandonment Surety is preempted by state law. Local legislation conflicts with state law where it "duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication." (*Sherwin-Williams Co. v. City of L.A.* (1993) 4 Cal.4th 893, 898.) Local legislation enters an area that is "fully occupied" by state law when the legislature expressly or impliedly manifests an intent to occupy the area. (*Ibid.*)

Here, the restoration of oil and gas sites is thoroughly regulated and enforced by CalGEM through the California Code of Regulations, title 14, section 1776. That state regulation requires well sites to be returned to as near a natural state as practicable within 60 days of

plugging and abandonment of any oil well. Section 1776 also contains specific restoration requirements, including the plugging of any holes, removal of ground pipelines, debris, and other facilities and equipment, closing of sumps, and mitigation of slope conditions. These comprehensive requirements evidence a clear intent by the state to uniformly regulate the restoration of oil and gas sites, including the plugging and abandonment concerns addressed by the Well Abandonment Surety.

The County's attempt to regulate these activities enters an area fully occupied by state law and is therefore preempted. (*Sherwin-Williams*, *supra*, 4 Cal.4th at 989.) While the County cites Public Resources Code section 3205.3(c)(8) for the proposition that local governments may require their own well abandonment sureties, that section only references CalGEM's obligation in evaluating abandonment risks to consider "whether the operator's well or wells are subject to any bonding or financial assurance requirements by a local government" generally, and make no specific reference to bonding or financial assurance requirements related to the alleged issues the Well Abandonment Surety attempts to address, i.e., proper plugging, abandonment, and decommissioning. (Staff Report at p. 10.) The Well Abandonment Surety also enters an area that is already fully occupied by state law since CalGEM has exclusive jurisdiction over plugging and abandonment of wells (Cal. Code Regs., tit. 14 § 1723) and issuing plugging and abandonment orders.

Finally, the proposed Well Abandonment Surety is unsupported by any evidence. The Staff Report states that "Planning Staff is recommending that a separate Well Abandonment Surety be required to reflect the likelihood that some wells unincorporated Ventura County will be orphaned and that the State will lack adequate resources to properly and timely plug and abandon them . . ." (Staff Report at p. 10.) And yet the County acknowledges that "orphan wells must be formally identified by CalGEM, and ***none have yet been formally identified in the County***." (*Id.* at p. 3.) Since CalGEM has not identified *any* orphaned wells in the County, the Planning Commission's proposed Well Abandonment Surety is based on pure conjecture, rather than a reasonable basis in fact.

C. Long-Term Idle Well Abandonment Surety

Finally, the County is recommending a Long-Term Idle Well Abandonment to address the "Board's direction to encourage the timely plugging and abandoning of long-term idle wells that have been idle for 15 years or more." (Staff Report at p. 15.) If adopted, operators would be required to provide a supplemental bond of $15,000 for each Long-Term Idle Well (not to exceed $5 million for any individual operator) that has been idle for 15 years or more. The County has recommended this surety even though (1) several state laws already address plugging and abandonment of wells (e.g., Cal. Code Regs., tit. 14 §§ 1723, 1723.1, 1723.7, 1723.8, 1722.8, 1722.1.1) (2) CalGEM has jurisdiction over plugging and abandonment of wells

(Cal. Code Regs., tit. 14 § 1723) and issuing plugging and abandonment orders, and (3) operators of idle wells are required to either pay annual fees to the State for each idle well or file an Idle Well Management Plan, which outlines and operator's plan to manage and eliminate idle wells. (Staff Report at pp. 2, 5.) In other words, despite the extensive statutory and regulatory regime governing timely plugging and abandonment of long-term idle wells, the County proposes to impose further restrictions without consideration of how the associated costs will impact operations. And while the County notes that there are long-term idle wells in Ventura County (Staff Report at p. 7), it fails to address or acknowledge whether any of these wells have *already* been properly plugged and abandoned.

Taken together, these sureties will significantly increase the cost of operating in Ventura County by millions of dollars such that it will no longer be financially feasible to operate in the County for many operators. Indeed, the proposed Zoning Amendments frustrate the state's statutory duty "to permit owners or operators of wells to utilize all methods and practices known to the oil industry for the purpose of ***increasing the ultimate recovery of underground hydrocarbons*** . . ." (Pub. Res. Code §3106, subd. (b).) Rather than increase the ultimate recovery of hydrocarbons, the proposed Zoning Amendments will have the opposite effect by phasing out production in the County. And since the proposed Zoning Amendments will unlawfully frustrate the purpose of Public Resources Code Section 3106, they are preempted by state law. (*Great W. Shows, Inc. v. Cnty. of L.A.* (2002) 27 Cal.4th 853, 867–870 ["[W]hen a statute or statutory scheme seeks to promote a certain activity and, at the same time, permits more stringent local regulation of that activity, local regulation cannot be used to completely ban the activity or otherwise frustrate the statute's purpose."].)

II. Increased Insurance Requirements

The current versions of the NCZO and CZO (Section 8107- 5.6.12 and 8175-5.7.8(l), respectively), require that "the permittee shall maintain for the life of the permit, liability insurance of not less than $500,000 for one person and $1,000,000 for all persons and $2,000,000 for property damage. This requirement does not preclude the permittee from being self-insured." Now, the County has proposed increasing these requirements as follows:

1. General Liability for Oil & Gas Businesses: General Liability, with at least $2,000,000 each occurrence and $4,000,000 general aggregate;

2. Environmental Impairment: Pollution Liability Policy with coverage not less than $10,000,000.

3. Control of Well: (initial drill or well modification) coverage of a minimum of $10,000,000 per occurrence.

4. Excess (or umbrella) Liability Insurance: providing excess coverage for each of the perils insured by the preceding insurance policies with a minimum limit of $25,000,000.

The County has not cited any justification for these proposed increases, other than they are purportedly "required to address potential operator liabilities and environmental damage arising from oil and gas operations." (Staff Report at p. 6.) But the County does not cite any evidence to support its assumption that "operator liabilities" and "environmental damage" allegedly associated with operations have substantially changed such that increased insurance requirements are now warranted. Nor does the County analyze or consider the costs of premiums associated with these increased insurance premium requirements.

The proposed insurance hikes will compound the financial effects of the proposed increased surety requirements to render oil and gas operations in the County infeasible – which is contrary to the will of the electorate when they voted on Measures A and B.

III. Improper Piecemealing

The California Environmental Quality Act ("CEQA") requires the consideration, analysis, and disclosure of all potentially significant environmental impacts of a proposed "project." (Cal. Code Regs., tit. 14, § 15060.) "Project" is defined as the entire activity before the agency, "the *whole of the action*, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (*Id.*, § 15378, emphasis added.) "Accordingly, CEQA forbids 'piecemeal review of the significant environmental impacts of a project. Agencies cannot allow environmental considerations to become submerged by chopping a large project into many little ones." *(Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222, internal citations omitted.)

In *Laurel Heights Improvement Assoc. v. Regents of Univ. of Cal* (1988) 47 Cal.3d 376, 396, the Supreme Court established the following test for illegal piecemealing: "We hold that an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."

Here, the County committed illegal piecemealing when it certified the EIR for the 2040 General Plan that expressly omitted any consideration or analysis of the actions the County knew would be necessary to implement the General Plan's proposed oil and gas policies, i.e., the newly proposed Zoning Amendments. At the time the EIR was certified, the County committed illegal piecemealing by moving the originally proposed (and subsequently repealed)

Zoning Amendments through the County's review process, and the County has now compounded that error by proposing new Zoning Amendments that should have been analyzed in the EIR.

In addition, the newly proposed Zoning Amendments will "change the scope or nature of the initial project [the General Plan Update] or its environmental effects" by phasing out oil and gas production. (*Laurel Heights*, *supra*, 47 Cal.3d at 396.) Moreover, the County expressly recognizes that the newly proposed Zoning Amendments will have growth-inducing impacts, which the CEQA Guidelines define as "ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." (Cal. Code Regs., tit. 14, § 15126.2(d).) Indeed, the County *uses nearly identical language* from the regulatory definition of "growth-inducing impacts" and states that the proposed Zoning Amendments could "foster economic growth, job creation, potentially provide for development of new housing and recreational opportunities . . ." (Staff Report at p. 24.) By definition, those are growth-inducing impacts, that were never analyzed in the EIR for the General Plan Update. As such, any approval of these Zoning Amendments cannot be considered exempt from CEQA.

IV. The Required Findings for the Proposed Zoning Amendments are Not Supported by the Evidence

The County is required to make findings in order to adopt the proposed Zoning Amendments. *First*, the County must find that the proposed Zoning Amendments would not be detrimental to the public health, safety, or general welfare. However, as discussed above, the proposed Zoning Amendments will render oil and gas operations in the County financially infeasible and thus result in the eventual phase out of these operations. However, phasing out oil and gas production in the County will result in a comparable increase in production elsewhere. Overall crude demand has held steady in California for the past 20 years, but the percent of domestic (California) production has declined due to several factors, including regulatory constraints.[2] Crude oil imports from Saudi Arabia, Ecuador, Columbia, Iraq, Kuwait, and Alaska have offset the decline of California production over the last two decades.[3] Because California does not have any interstate pipelines that supply crude oil to the State from other states, it is isolated from the larger national petroleum network and therefore must rely on

[2] U.S. Energy Information Administration, Alaska Field Production of Crude Oil, Annual, 1988-2019, available at https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpak2&f=m (as of March 21, 2022); U.S. EIA, California Field Production of Crude Oil, Annual, 1985-2019, available at https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCRFPCA2&f=M.

[3] California Energy Commission, Foreign Sources of Crude Oil Imports to California 2019, updated July 15, 2020, available at: https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/foreign-sources-crude-oil-imports-0.

foreign and Alaskan sources of oil that are transported by marine tankers. Any reduction in supply from the County cannot be offset by increasing imports from another state. The marine transport emits GHGs and leads to a net increase in lifecycle GHG emissions if the County adopts the proposed Zoning Amendments.[4] The net increase in GHG emissions will be detrimental to the public health, safety, or general welfare.

Second, contrary to the County's findings, the proposed Zoning Amendments do not constitute good zoning practice. (Staff Report at pp. 23-24.) The County states that the "proposed zoning amendments also require greater amounts of financial sureties," which will purportedly "help facilitate the redevelopment and reuse of former oil and gas production sites in the unincorporated area upon cessation of oil production. This will help foster economic growth, job creation, potentially provide for development of new housing and recreational opportunities, and otherwise allow for the beneficial use of former oil facilities located in the unincorporated." (Staff Report at p. 24.) But the County's finding that this would constitute a "good zoning practice" is nonsensical.

The local oil and gas industry *already* supports over 2,000 good-paying jobs, including entry-level jobs that provide a meaningful path to the middle class for those who would otherwise be left out of the workforce or stuck in low-paying work with limited career opportunities. The local industry also contributes $56 million dollars in local and state taxes for priorities like schools and public safety. Thus, the County conveniently overlooks the jobs that the proposed Zoning Amendments *will kill* and revenue that they will *cut* – and the devastating effects that would have on the livelihood of over 2,000 workers, as well as schools, roads, public safety and other vital services dependent on revenue from oil and gas operations – when it finds that the proposed Zoning Amendments will create jobs and foster economic growth. That is not "good zoning practice" – rather, it is an illogical step, which is out of touch with the electorate as expressed in the recent election.

Third, the County incorrectly finds that the proposed Zoning Amendments are consistent with the County General Plan. However, the Zoning Amendments conflict with the General Plan in numerous regards. For example, the proposed Zoning Amendments conflict with:

- The (1) Hazards and Safety Guiding Principles, (2) Climate Change Guiding Principles, and (3) Community Greenhouse Gas Emissions Reduction Target for 2030, 2040, and 2050 by increasing reliance on foreign oil, which will lead to increases in greenhouse gas

[4] *See, supra*, fn. 1. *See also* Sharath Ankaathi, et al., *Greenhouse gas emissions from the global transportation of crude oil* (March 23, 2022) ("Oil tankers alone accounted for 13% of total maritime emissions in 2015, or 101 million metric tons.").

emissions, as a result of zoning provisions that will make it harder to produce oil and gas within the County.[5]

- The Economic Vitality Guiding Principles, which seek to foster economic and job growth, by phasing out an industry that employs over 2,000 individuals and generates tens of millions of dollars in tax revenue.

Thus, the proposed Zoning Amendments are patently inconsistent with the General Plan, and the County's findings are unsupported by evidence.

WSPA is committed to a truly sustainable energy future and empowering the future energy mix, partnering with state, local, and community leaders in civil public discourse and calling out potentially damaging policy changes such as the ones being considered here that threaten equality, economy, environment, and energy. We urge the Planning Commission not to move forward with its recommendations that the Board of Supervisors adopt the proposed Zoning Amendments.

Respectfully,

Ben Oakley

Cc: Sophie Ellinghouse, Vice President, General Counsel & Corporate Secretary (WSPA)

[5] *See*, *supra*, fn. 1 at p. C.2-84 ("On a global scale, this switch to a greater reliance on imported fuels will lead to more GHG emissions, as those emissions will not be subject to offset requirements or caps as they would be in California."); *see also*, *supra*, fn. 4.

Analysis of CCST's Orphan Well Report

Prepared for: Western States Petroleum Association

Date: May 30, 2020

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Summary of Findings

Concerned about the potential financial risks involved with idle and orphan wells and aware of similar problems in other parts of North America, the Department of Conservation, California Geologic Energy Management Division (CalGEM) requested the California Center for Science and Technology (CCST) produce a study assessing the State's potential orphan well liabilities. Based on the assumptions and definitions of risk categories for determining wells likely already orphan and likely to become orphan, the CCST found that "5,540 wells in the State may already have no viable operator or be at high risk of becoming orphaned in the near future". This estimate includes all wells with Risk Categories 1 and 2. CCST calculates that the State's potential net liability for these wells is approximately $500 million. The CCST analysis finds an additional 69,425 economically marginal or idle wells that could also become orphan in the future as production declines and/or they are acquired by financially weak operators.

CCST determined the number of wells found within each of the high-risk categories based on what they called a "coarse analysis" of well production and status data and broad assumptions of operator behavior. Catalyst and Capital Matrix Consulting were retained by Western States Petroleum Association (WSPA) to review the CCST report and to further refine the coarse analysis based on this new information. Catalyst obtained and reviewed the input and output from the CCST analysis to start at a common point. We then conducted additional evaluations of well records, well ownership, and well production lifecycles, and Capital Matrix Consulting conducted operator interviews to obtain proprietary information to determine the validity of the assumptions used to define the risk categories. The new information indicates that the original CCST analysis over-estimated the number of potential orphan wells in the state (Table 1). Starting at CCSTs coarse analysis and adding additional information, including modified assumptions and definitions bounding each risk category the number of wells within each of the high-risk categories would be reduced by half or more, which would represent a corresponding reduction by half or more in potential net liability.

Table 1. Summary of Analysis and Potential Liability Based on Refined Assumptions

Risk Category	Definition and Primary CCST Assumptions	Number of Wells in CCST Analysis	Proposed Revised Assumptions Based on Additional Analysis	Reduction of Wells Included in the Risk Category	Percent Difference in Potential Liability to the State
Category 1 – Likely Orphan Wells	Wells within no production in the last five years that belong to operators with no California production or injection in the last five years.	2,565	1. Remove wells owned by operators known to still be present and active 2. Adjust analysis to reflect municipal protections to avoid adverse effects of buried wells and likelihood of State involvement in reabandonment.	1,200	47%

Category 2 – High Risk of Becoming Orphan	Wells with no production or injection in the last five years, where the responsible operator is currently active in California, but operator has primarily idle or marginal wells. Operators average production rate across all wells is less than 5 BOE/day and operator has less than 1,000 actively producing wells.	2,975	1. Revise operator size definitions to reflect that many active mid-size operators in the State. Small operators defined as <100 active wells.	1,800	60%
Category 3 – Other Idle and Marginal Wells	All idle wells that do not fit into Categories 1 or 2, plus wells that produce less than 5 BOE/day, plus currently active injection wells.	69,425	1. Remove the definition of "marginal wells" reflecting that low-production wells comprise more than half of the States active production wells and the majority are owned by large producers. 2. Remove injection wells from this category. Injection wells are necessary produced water disposal and enhanced oil recovery and are not more at risk of becoming orphan than other wells	44,785	64%

It is noteworthy that the CCST report also considered alternative rules for identifying orphan wells and the analytical result (Appendix B of the CCST report), in essence conducting a sensitivity analysis of the results of their coarse evaluation. The reduction in the number of wells found based on refinements to the CCST assumptions that are more reflective of oil and gas production in the State is within the range of CCST's sensitivity analysis.

Finally, both our review of data and results of interview with companies strongly suggest that recent legislation and regulations relating to orphan wells are having substantial impacts in reducing the State's liability for orphan well abandonment. Reporting on the first year of implementation of new idle wells regulations indicates that the number of idle wells plugged and abandoned by operators in 2018 alone exceeded CalGEM expectations by 80%. Of the wells that were converted from idle to plugged in 2018, just the first year of the new regulations, we find that 25 had been identified by the CCST Orphan Well Report as Likely Orphan (Category 1), 41 had been categorized as high risk of becoming orphan (Category 2), 1,227 had been categorized as other marginal or idle wells (Category 3), and the remaining wells had either been classified as high-producing wells or had not been included in the CCST data analysis. The idle well regulation is working very well in reducing the state's liability for orphan wells.

The idle well program waivers and idle well management plans include lists of wells planned for plugging and abandonment over the next few years. These data, which were not available at the time the CCST

report was prepared, is pertinent to the estimate of potential state liability for orphan wells and the number of wells identified is likely already orphan or high risk of becoming orphan in the CCST report. Idle wells that are planned for abandonment by current operators should not be considered in the tally of potential orphan wells that are a liability to the state.

Overall, we would therefore recommend that the analysis in the CCST report be modified as indicated in the table above based on new information, and that the number of potential orphan wells be further reduced based on the reported operator plugging and abandonment plans required by the new idle well program, in order to provide a more accurate estimate of potential liability for the State.

SECTION 1 Introduction

The California Department of Conservation, California Geologic Energy Management Division (CalGEM), requested the California Council for Science and Technology (CCST) prepare an assessment of potential future costs to the State for plugging and abandoning orphan wells. Orphan wells are wells that have no known operator responsible for long term maintenance, or no financially viable operator capable of plugging the well and decommissioning the well's production facilities.

The report presents what it calls a "coarse analysis" to determine wells that are at risk for becoming orphan by identifying six risk categories with varying levels of likelihood of occurrence and the costs to the State if all of the wells within each of these categories were to become orphan and require plugging and abandonment by the State. The total potential liability to the state is then calculated by multiplying the total number of identified wells by a unit cost for plugging and abandonment; with a worst-case scenario of the State facing responsibility to fund the plugging and abandonment of all active and idle wells currently in the State. The report concludes that 5,540 wells in California (the total of all wells in risk categories 1 and 2 defined in the report) may be orphan presently and that the potential net liability to the State from these wells is approximately $500 Million. The report also concludes that an additional 69,425 wells (the total of all wells in risk category 3) could become orphan in the future. The report was completed in 2018 and relies on production and well data from year ending 2017 or earlier. However, the report was first released in January 2020.

At the request of the Western State Petroleum Association (WSPA), Catalyst Environmental Solutions (Catalyst) and Capital Matrix Consulting reviewed the CCST Orphan Wells Report and prepared this report. The objective of our work was to start with the conclusions of the CCST coarse analysis, and then if available provide additional information not considered in the CCST report to refine the coarse analysis with relevant new information. We first evaluated the validity of the assumptions made in defining the six risk categories by reviewing publicly available well production, injection, and transfer records on CalGEM's Well Records Search feature on their website. In addition to reviewing the well records, we also interviewed oil producers in the State of California to further inform our analysis of the assumptions regarding operator behavior related to low-producing wells, well transfers of ownership from one operator to another. Finally, Catalyst staff spoke with the lead author of the report, Dr. Judson Boomhower, and the team at CCST to better understand the analysis methods, the data relied upon, and their assumptions via conference call on May 2, 2020. This discussion led to Dr. Boomhower providing the CalGEM data he relied upon, and the script for the statistical software that he used. Using this information, we were able to replicate the results presented in the CCST report.

Using the provided material and starting with the replication of results in the CCST report (that is, a common starting point of agreement), we suggest modifications to the assumptions in the CCST report based on this information from CalGEM records and operators, and then evaluate the resulting change to the output from CCST's analysis. Our focus in this analysis is on the wells identified as likely already orphan or high risk of becoming orphan (e.g. the breadth of the orphan well issue) rather than on CCST's approach for quantifying potential plugging and abandonment costs. We note that the CCST report includes a list of recommendations for CalGEM to be able to refine and verify the results of their

analysis, including review of well records and developing a better understanding well ownership dynamics. We agree that with these recommendations, the additional analysis in this report provides a more refined and accurate assessment of the potential future liability of orphan wells in California. As shown in this evaluation, conducting a more thorough analysis of the wells within the top three risk categories suggests that the liability is roughly half that identified in the CCST report.

We also compared the current regulatory protections in place that address idle wells in California and CalGEM's report summarizing operator compliance during the first year of implementation of CalGEM's updated Idle Well Regulations. As the CCST Orphan Well Report was completed in 2018, before initiation of CalGEM's idle well program, the CCST analysis could not have considered this highly relevant new information.

We also note that CalGEM is also engaged in an independent assessment of the likelihood and liability posed by orphan wells and is currently in the process of developing procedures to identify orphan wells in accordance with the recently adopted Idle Well Regulations. As suggested in our analysis, updating the CCST report to reflect current regulatory oversight and economic incentives for plugging and abandoning long-term idle wells, would further reduce the estimated liability in the top three risk categories.

SECTION 2 Evaluation of CCST Risk Categories and Data Analysis

This section evaluates the validity of the assumptions and definitions of the CCST report, based on our analysis of well records and CalGEM production data available on the CalGEM website and operator interviews that were not in the CCST report. Based on our discussion with Dr. Boomhower, who conducted the CCST study, we obtained the input data, statistical script, and output files from the underlying analysis provided in the CCST report. We were able to replicate the results provided in the CCST report using this information. Both this report and the CCST report therefore have a common starting point of the results of the CCST study. We then use additional information to determine how proposed adjustments to CCST's definitions bounding the different risk categories would affect the report conclusions regarding potential liability to the State from orphan wells. The first step of the CCST analysis was to define six risk categories for potential orphan wells based on broad assumptions of producer behavior. Table 2 provides the CCST definitions for each of the six risk categories and the number of wells that they determined for each category. The column labeled "CCST reasoning" is a summary of the basis for each of the definitions as described within the report. For the purposes of this report, and consistent with the CCST report, we have focused on Risk Categories 1, 2, and 3 as the only categories that have a meaningful liability to the state.

Table 2: Breakdown of CCST Categorization of Oil and Gas Wells

Category	Number of Wells	CCST Category Definition	CCST Reasoning
Category 1 – Likely Orphan Wells	2,565	Wells within no production in the last five years that belong to operators with no California production or injection in the last five years.	Lack of observable activity by the operator of these wells is an indicator that they may have no viable operator.
Category 2 – High Risk of Becoming Orphan Wells	2,975	Wells with no production or injection in the last five years, where the responsible operator is currently active in California, but operator has primarily idle or marginal wells. Operators average production rate across all wells is less than 5 BOE/day and operator has less than 1,000 actively producing wells.	Research from other states suggests that smaller operators are more likely to orphan wells and are harder to recover cost from in the event of default.
Category 3 – Other Idle and Marginal Wells	69,425	All idle wells that do not fit into Categories 1 or 2, plus wells that produce less than 5 BOE/day, plus currently active injection wells.	All active injection wells are included because of a lack of method to identify injection wells that are financially marginal. While many of these wells are owned by large companies, a single bankruptcy from

			one of these large companies could leave the state with many orphan wells.
Category 4 – Higher Producing Wells	31,722	Wells that produce more than 5 BOE/day	Low risk of becoming orphan. Even if current operators become insolvent, others would likely find it profitable to acquire the wells.
Category 5 – Wells Plugged Before Modern Requirements	41,390	Wells plugged before February 1978.	Likely will need to be reabandoned in the future. Note that plugged wells are not included in CCST analysis of potential orphan well costs.
Category 6 – Wells Plugged After Modern Requirements	80,571	Wells plugged after February 1978.	No additional explanation of these wells provided. Assume that these wells are considered low-risk. Note that plugged wells are not included in CCST analysis of potential orphan well costs.

The CCST report does not provide the specific wells that populate each risk category, instead providing the following caveat in the report:

> *It is important to note that this coarse categorization is a rough screen meant to assess the approximate magnitude of the orphan well problem in California using the best available data from the Division. The thresholds used in the analysis to define marginal wells and to categorize operators are by necessity somewhat arbitrary. In the appendix, we investigate the sensitivity of our categorizations to changes in these category thresholds. More broadly, this coarse approach is substantially less detailed than would be required to make legal determinations about the status of any given well. It is also less sophisticated than approaches used by regulators in other jurisdictions (e.g. Alberta, Canada), which rely on detailed, company-specific financial information that is not tracked by the Division.*

In other words, the CCST report provides a statistical analysis based on certain pre-defined thresholds to estimate the total number of wells within each of their defined categories. The report intentionally does not provide specific details regarding the individual wells the fall into each category. Dr. Boomhower informed us that reviewing individual well records and identifying the presence of potentially responsible parties was outside the scope of the CCST review. Legal determinations of the status of all wells is the responsibility of CalGEM, who is presently conducting their own internal analysis of how best to approach this determination. Respecting CCST's desire to not publish the output tables from their analysis, we have produced summary tables that explain each our analyses.

2.1 Category 1 – Wells Deemed Likely Orphan Due to No Production in the Last Five Years (2012-2017)

Wells placed in Category 1 are considered most likely already orphan within the CCST report. The designation is defined by wells that had no production between 2012 and 2017 and were owned by operators who had not operated in California within that same time frame. However, many of the wells that fall within this category are long-term idle wells that have been idle for decades. Following this classification of wells, CCST did not conduct any further investigation of the well records or operators for any wells that fell into any of the categories. Thus, no additional research or validation has been done to date to confirm how many of the **idle** wells CCST included in Category 1 are actually **orphan** wells with no responsible party.

As CCST did not intend to conduct further evaluation beyond the coarse analysis, we observed that the script for running the data analysis identifies wells only by operator code and stops short of the next step to assign the corresponding operator name. When we completed this step, we found that over 250 wells designated Category 1 were held by operators known to still be active and operating either in California or elsewhere or that had been reorganized or operations purchased by large, active operators in the State (e.g., Linn Western Operating Company reorganized as Berry Petroleum, and Union Oil of California holdings were purchased by Chevron)), or were held by government entities (e.g. State of California, City of Whittier, Bureau of Land Management, US Geologic Survey, City of Los Angeles). This new information from a review of operators suggests that conducting only a coarse analysis without results validation leads to a substantial overestimate of the magnitude of the potential issue.

Secondly, the CCST report notes that many of the wells in Category 1 are located in Los Angeles County. We reviewed the CCST data output and cross-checked the operators of the listed wells with the data available on Well Records Search feature of the CalGEM website. Using this feature, we were able to identify those wells classified as Buried-Idle, whereas the data sets provided to CCST by CalGEM did not include this distinction. Based on our rough analysis of CalGEM status and mapping of the buried wells using GIS software, approximately 1,000 of the wells included in Category 1 are buried beneath the City of Los Angeles for decades. While some may be accessible (e.g. beneath streets or open space areas), the vast majority are buried beneath buildings and for all practical purposes, are not accessible to be reabandoned by the State, even if further investigation by CalGEM determines that there is no viable operator. Therefore, the liability for Buried-Idle wells is addressed in a different manner than plugging and abandonment.

The City of Los Angeles has addressed the issue of buried wells and the high natural level of methane gas beneath the City the establishment of Methane Hazard Zones. The City of Los Angeles enacted two ordinances to address potential hazards (Ordinance 175790 and 180619). These ordinances defined methane hazard zones and methane buffer zones throughout the City, where it is known that methane concentrations are elevated. Any development within these zones requires implementation of mitigation measures overseen by the Los Angeles Department of Building and Safety to avoid adverse impacts. Such measures include preparation of a Methane Hazard Mitigation Standard Plan, site testing, detection standards, and installation of vents. The Department of Building Safety has the authority to withhold permits unless detailed plans for adequate protection against methane intrusion are taken.

Through the enaction of these ordinance and oversight by the City Department of Building and Safety, Los Angeles has effectively treated all historic wells the same regardless of whether they were plugged and sealed or not and implemented measures to avoid adverse impacts. That is, the City addresses the issue of unknown and buried wells by protecting the receptor points (buildings) rather than one of several potential sources of the methane (buried and inadequately abandoned oil wells). Los Angeles County and many cities have similar protections within their municipal codes that allow the issue to be addressed through construction standards.

Given that these wells are highly unlikely to be reabandoned by the State due to inaccessibility (i.e. location beneath active hospitals, multi-story office buildings, etc.) and that the City has addressed the primary hazards associated with the presence of these buried wells through their Building Code, we recommend the analysis exclude these wells from calculations of potential costs to the State. ***This would reduce the number of wells in Category 1 by approximately 1,000.***

2.2 Category 2 - Risk Based on Operator Size and Number of Active Wells

Category 2 assumes that operators with less than 1,000 wells are high risk of leaving orphan wells. Only eight operators in California own greater than 1,000 active wells: Chevron, CRC [considering all various forms of CRC entities], Aera, Berry, Sentinel Peak Resources, Seneca Resources, THUMS, and E&B Natural Resources Corporation. A cut-off of 1,000 active wells to define a high risk of producing orphan wells erroneously puts many successful long-term businesses in a category of high risk for leaving orphan wells to the State. These firms, such as Macpherson, Bellaire, Signal Hill Petroleum, Brea Canon, Matrix, Vaquero, and others have been operating in communities for decades, and have been operating within the regulatory framework, paying idle well fees and developing and implementing idle well management plans, all of which are part of the State's program for offsetting risk of orphan wells.

As stated by CCST in the report, this threshold is necessarily arbitrary, to allow CCST to do a rough screening of the approximate magnitude of wells with potential to become orphan in the State. CCST also acknowledges the sensitivity of their categorizations to changes in category thresholds in Appendix B1 of their report.

We recommend that CCST revise their definition of operator size to be inclusive of the larger independent producers that are common in the state, and provide a means to differentiate risk between medium-sized independent financially-solvent companies and smaller operations that maintain a very small portfolio in the State. A review of the DOGGR AllWells dataset shows that those operators with greater than 100 active wells, primarily have active wells as part of their portfolio (not including wells already plugged, active wells comprise >75% of the total wells). This adjustment in operator size definitions will more accurately reflect the reality of production in California. Therefore, we recommend CCST adjust their analysis as follows: Large operators should be defined as those operators with 400 or greater active wells. Medium-sized operators should be defined as those with 100-399 active wells, and small operators defined as any operator with less than 100 active wells in the State.

In duplicating CCST's steps in categorizing the wells within the databases they received from CalGEM, we found that CCST did not include a final step to identify the operators of the wells (they are instead defined by CalGEM operator codes, not names). Our findings suggest that had this step been taken and

operators classified as small, medium, large (as suggested in Section 2.1), and wells owned by medium-sized, active producers in the state removed (those operators with greater than 100 active wells), Category 2 would be reduced by over 1,800 wells. As discussed above, CCST's admittedly arbitrary threshold of 1,000 active wells is not reflective of most of the production in the State. There are many financially-solvent, actively producing, mid-size, independent producers in the State, and that have a long history of operating in the State.

Of the wells that would remain in Category 2 following this adjustment, Catalyst notes that 37 were still designated active in 2017 and 33 are defined as new. These wells also should have been reclassified to a category of less risk by the CCST. If these steps had been taken, the number of wells left in Category 2 would have been just over 1,000, comprised of wells owned by approximately 150 different small operators. Using the average cost of well abandonment in the CCST report ($68,000 per well), these additional steps in refining the model output would have reduced the estimated State liability by $71,196,000.

2.3 Category 3 – Risk Based on Low Production Rate

Category 3 considers that idle wells are at a higher risk of becoming orphan wells if they produce less than 5 BOE/day, which includes all active injection wells, in addition to production wells. Note that the CCST report does not have a middle category for production. In the Orphan Wells Report, wells are either considered marginal and low-producing if they produce less than 5 BOE/day (or less than 1,825 barrels of oil per year since the databases only provide monthly totals not daily totals for production) or they are considered high-producing if the average is greater than 5 BOE/day. This threshold is predicated on two underlying assumptions: 1) larger operators are more likely to sell off wells once they become low-producing, and 2) wells start off producing high and continuously taper off in production until such point that they are idled or plugged. We show in this section that there are several reasons why these assumptions are not correct with respect to California oil and gas production:

- More than half the production wells in the state produce less than 5 BOE/day
- Most lower production wells are owned by large producers
- The production trajectory of wells goes up and down over its lifecycle based on technology, economic market, and operator ability to manage produced fluids and get the product to market.

These points are addressed further in the following paragraphs. We note that our analysis of the data showing why these assumptions are false, is also consistent with statements contained within the CCST report to describe the wells within Category 3. Further, CCST's report acknowledges that these assumptions are a simplification of the data used to conduct their coarse analysis. As stated in footnote 9 of the CCST report, "The actual economic limit of any given well depends on field-level production costs, output prices, and other factors."

The false assumption that low-production wells have a comparatively high risk of becoming orphaned underpins all of Category 3. As shown in the data, there is not a minimum production level that would indicate the risk of a well becoming orphan. Further, as noted by CCST, there is not a clear method to identify economically-marginal injection wells but all injection wells (active and idle) were included in

Category 3. Injection wells by their nature, allow production wells to be economically-productive either through disposal of produced water or enabling enhanced oil recovery. Therefore, there is no clear reason why active injection wells are considered at a higher risk of becoming orphan. Based on the data, we suggest that Category 3 be reduced to only the remaining idle wells, after consideration of Categories 1 and 2. **This adjustment would reduce Category 3 from 69,425 wells to 24,640 wells and reduce the projected liability to the State if all wells in Category 3 were to become orphan by over $3 billion (using CCST's average cost of plugging and abandonment of $68,000 per well).**

2.3.1 Low-Producing Wells Comprise Over Half the Production Wells in the State and Most Are Owned by Large Operators

Table 3 and Chart 1 were produced by isolating active oil and gas production wells from CalGEM's production databases, totaling 67,330 wells. We examined the data from five separate Microsoft Access databases published by CalGEM and available on their website (2013, 2014, 2015, 2016, and 2017) to get a five-year average production for each well, in order to classify the wells as high-producing or low-producing (based on the CCST threshold of 5 BOE/day). As demonstrated by Table 3 and illustrated in the accompanying chart, wells that produced less than 5 BOE/day are a large part of most operator's portfolios of active wells, regardless of operator size. Large operators own 85% of all of the low-producing wells in the State. In fact, for large operators, low-producing wells make up 55% of the total portfolio of active wells. These wells make up more than half of all active production wells in the State of California and are therefore important to the total overall production in the State. Therefore, defining wells that produce less than 5 BOE/day as marginal and more likely to become idle and then orphaned is an inaccurate categorization.

Table 3: Comparison of the Number of Low-Producing Wells to High-Producing Wells Owned by Different Size Operators

Operator Size	Number of Low Producing Wells Owned by Operators (<5Bbl/day)	Percentage that Low Producing Wells Make Up of Total Portfolio within Operator Size Categories	Number of High Producing Wells Owned by Operators (>5Bbl/day)	Percentage that High Producing Wells Make up of Total Portfolio within Operator Size Category	Total Active Production Wells During the Subject Years
Small (<100 active wells)	3,056	75%	1,029	25%	4,085
Medium (<400 active wells)	2,772	63%	1,599	37%	4,371
Large (>400 active wells)	32,209	55%	26,665	45%	58,874
Total	38,037	56%	29,293	44%	67,330

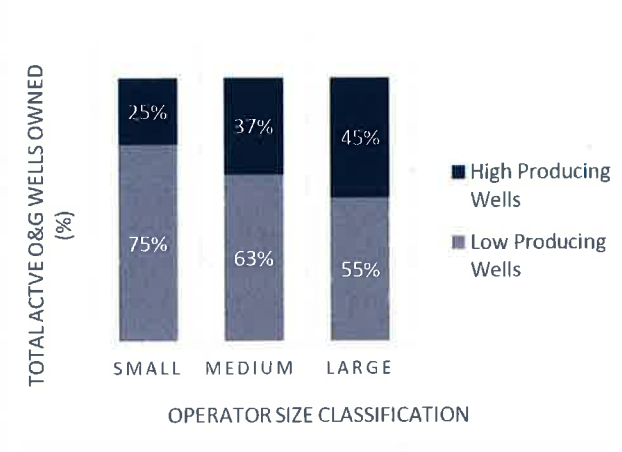

Chart 1. Ratio of the ownership of high-producing to low-producing wells based on operator size.

2.3.2 Wells Are Not Generally Transferred from Larger Operators to Smaller Ones Once They Become Low-Producing

The CCST report assumes that once wells begin to produce less and become "marginal", these wells are more likely to be sold by larger operators to smaller ones. However, as the data in the Table 3 above indicates, large operators maintain a large percentage of these lower producing wells in their portfolio, and there is not an indication, when looking at well ownership that there is a transfer of low-producing wells from larger to smaller operators.

Chart 2 further illustrates these points. Chart 2 compares the average production (barrels/year) of the wells categorized as either high-producing or low-producing, as owned by operators of various sizes. As shown in the chart, there is not a significant difference in the production levels of wells owned by small or large operators. The low-producing wells owned by smaller operators are not producing a significantly less amount of oil per day (1.27 bbl/day) than the low-producing wells owned by larger operators (1.65 bbl/day). Similarly, there is not much difference in the average annual production of the high-producing wells between the various size operators (the daily production rate for these wells is 17 bbl/day).

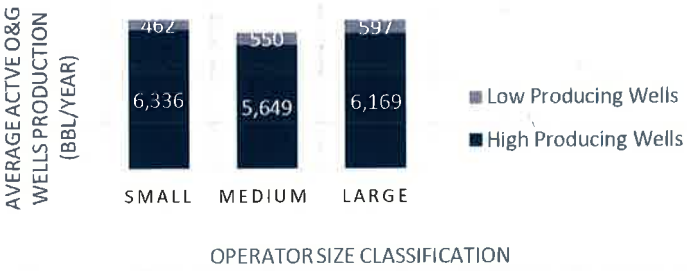

Chart 2: Production of low and high producing oil wells (averaged production from 2013-2017, Bbl/year) categorized by size of operator.

Based on a review of well records and interviews with major operators in the State, we find that wells are not generally transferred on a one-off basis. Rather, when a sale occurs, an operator will generally sell an entire lease or an entire drill site operation containing many wells, including high-producing, low-producing and injection wells. Well transfers and sales are reflective of operator finances, strategic decisions to focus in operations in specific fields or formations, and various other business decisions.

To further evaluate this assumed trend, we posed the question to several large producers in the State. The feedback we received from large producers indicate that systematic "down-selling" does not occur and is inconsistent with their business objectives for the following reasons

- Oil reserves in California are long-lived with slow decline rates. Producers indicated that they are able to operate low-production wells at a profit for a prolonged time period – sometimes for 20 years or more. This is partly due to the efficiency of oil operations in this state. Relative to other oil-producing regions, oil fields are more compact, with wells spaced tightly together, and thus able to share common power sources and other field infrastructure.
- Slow decline rates and compact fields work against a "down-selling" strategy for individual wells. Such a transfer does not work for either the buyer or seller. The buyer would not have access to power sources and infrastructure needed in the field, and the seller would have fewer producing-wells over which to share its fixed costs – making the remaining wells less cost-efficient and less profitable.

Indeed, company representatives we spoke to indicated that their acquisition and selling decisions typically involve single or multiple leases, or fields, and seldom involve individual wells. They indicated that their decisions regarding whether to hold or sell leases come down to whether the asset continues to align with the its broader business objectives, geological evaluations, and investment priorities. They indicated that the age of wells is not normally a factor in acquisition and divestiture decisions.

2.3.3 The Lifecycle of a Well Is Not a Straight Downward Trajectory in Production Until Plugged

To further this analysis, Catalyst reviewed the well production and status records over a 20-year period (1997 to 2017) to examine if there is a trend of low-producing wells becoming idle after a period of low production years. There were 12,528 low-producing wells in 1997 (between 1 and 1,852 bbl oil produced in 1997). Of these, 68% (8,512 wells) were still active, 20 years later in 2017. Furthermore, of those that remained active after a 20-year period, 27% (2,273 wells) were producing at a greater rate in 2017 than they were in 1997. This increase in production could be due to implementation of enhanced oil recovery techniques, reworking or recompletions in a different zone, or change in operator focus for production activity. Many different considerations go into operator strategy for production; but these data shows that the assumption that a well produces the most oil at the beginning of its life and tapers off for the rest of its productive years until it is idled or plugged is not accurate across the board, with respect to California oil fields, and that improvements in oil production technology can result in higher production levels at different points in the well lifecycle. Of the low-producing wells that were no longer active in 2017, 17% were plugged, buried, or cancelled and 16% were idle.

2.4 Other Proposed Refinements to the CCST Analysis

In addition to the specific reviews and refinements of the CCST category definitions provided above, we also reviewed the well type and well status designations of the wells in the output for each risk category. Table 4 shows the number of each type of well within the risk categories. As shown, the data sets included dry holes, observation wells, water source wells, and core holes (shaded light gray). These types of wells do not pose a liability for reabandonment as a hazard well because they did not encounter an oil reservoir. As such, these wells should have been excluded from the dataset prior to running the analysis. Excluding these non-oil wells form the analysis reduces the number of wells in Category 1 by 203, the number of wells in Category 2 by 23, and the number of wells in Category 3 by 2,963.

Table 4. CCST Risk Factor Designations by Well Type

Well Type	Category 1: Likely Orphan Wells	Category 2: High Risk of Becoming Orphan Wells	Category 3: Other Idle and Marginal Wells	Category 4: Higher-Producing Wells	Grand Total
Core Hole	11		95		106
Dry Gas			1		1
Dry Hole (DH)	182	3	20		205
Gas	61	111	1,315	675	2,162
Gas Storage		7	20	337	364
Injection	21	299	13,057	17	13,394
Multi	41	301	8,088	2,099	10,529
NA	150	5	185	13	353
Observation	7	7	2,744		2,758
Oil & Gas	2,088	2,229	43,243	28,203	75,763
Cyclic Steam	1		474	376	851
Steam Flood			15		15
Water Flood			64	2	66
Water Source	3	13	104		120
Total	**2,565**	**2,975**	**69,425**	**31,722**	**106,687**

We next reviewed the well status of each of the wells within the risk categories. Under regulations in effect when the report was finalized (2018), a well was not considered idle until it had been inactive for five consecutive years. We found that based on the CCST definition for categories 1 and 2 (no production for 5 years), the data analysis inadvertently included a small set of active wells and new wells in Category 1 (Table 5). As Category 1 is meant to define those wells at high risk for becoming orphan, these wells should have automatically been taken out of Category 1, and recategorized through a review of the actual well records. The active wells that were captured in this category consist of observation

wells, injection wells, which, by definition, would have had no production for five years, and a four production wells. A review of well records for the active production wells in this output, indicates that two are actually plugged and abandoned already, one is an active well owned by U.S. Geologic Survey, and only one has been converted from active to idle status since the CCST report was completed. By definition, new wells are likely those that were permitted and either not yet drilled (only to be confirmed through the actual well records) or wells that were recently drilled but have not yet been brought online. It is not surprising that production records for the new wells was zero and 2,060 new wells were therefore, classified as "marginal". These wells also shown have been excluded from the dataset prior to running the analysis.

Table 5. CCST Risk Factor Designations by Well Status

Well Types	Category 1: Likely Orphan Wells	Category 2: High Risk of Becoming Orphan Wells	Category 3: Other Idle and Marginal Wells	Category 4: Higher-Producing Wells	Grand Total
Active	18	88	40,434	31,269	71,809
Idle	2,424	2,516	24,640	453	30,033
New	11	180	2,600		2,791
Unknown	112	191	1,751		2,054
Total	**2,565**	**2,975**	**69,425**	**31,722**	**106,687**

SECTION 3 Effects of Updated Idle Well Regulations on State Liability

CCST's report was completed in 2018, and as such, reflected the regulatory environment that existed during that year. Much has occurred since then, in terms of both enacted legislation and the drafting and adoption of new idle well regulations by CalGEM. The regulations followed significant public outreach and comment on drafts to address public health and environmental concerns. Collectively, these actions have substantially strengthened state protections against liabilities for plugging and abandoning orphan wells. We discuss these legislative and regulatory changes in more detail below.

3.1 AB 2729 (Williams/2016)

This measure, which is described in the CCST report, raises idle well fees, but allows operators to avoid these fees by entering into an idle well management plan. Under the requirements of AB 2729, idle well management plans must commit operators to eliminating a minimum percentage of their long-term idle wells each calendar year. The required rate of elimination of long-term idle wells is based on the total number of statewide idle wells in the operator's possession on January 1 of each year. Unless and until the operator has no long-term idle wells, the operator must eliminate the required rate of wells annually. The required elimination rates are as follows:

- Operators with 250 or fewer idle wells must eliminate at least 4% of their long-term idle wells.
- Operators with 251 to 1,250 idle wells must eliminate at least 5% of their long-term idle wells.
- Operators with more than 1,205 idle wells must eliminate at least 6% of their long-term idle wells.

At the time the CCST Orphan Well Report was completed no data was yet available to review how implementation of this regulation would affect potential state liability related to wells becoming orphan. CalGEM published its first legislative report covering the period January 1 through December 31, 2018, on July 1, 2019. In this report, CalGEM reported that it collected $4.3 million in idle well fees and received and approved idle well management plans from 76 oil and gas operators. Based upon the terms of the approved idle well management plans, operators were expected to eliminate a minimum of 596 long-term idle wells. Operators significantly exceeded the expected number of eliminations and eliminated 988 long-term idle wells. Nineteen operators eliminated more long-term idle wells than was required by their approved idle well management plan, resulting in those operators earning 453 elimination credits, which can be used for idle well management plan compliance for up to two years.

On January 1, 2019, the Supervisor conducted an annual review of each 2018 idle well management plans which yielded the following results:

- 52 operators were found in compliance with the terms of their approved IWMPs.
- 988 LTIW were eliminated in 2018 as part of approved IWMPs.

- Four operators eliminated all their LTIW in the State. Two of these operators plugged all their idle wells in the State.
- Sixteen operators voluntarily voided their 2018 IWMP and filed idle well fees, totaling $461,550 to remain in compliance with Public Resources Code section 3206.

Reviewing the summary tables in Appendix A of CalGEM's report, we find that of the 1,346 idle wells that were plugged in 2018, 25 had been identified by the CCST Orphan Well Report as Likely Orphan, 41 had been categorized as high risk of becoming orphan (Category 2), 1,227 had been categorized as other marginal or idle wells (Category 3), and the remaining wells had either been classified as high-producing wells or had not been included in the CCST data analysis. Based on these data, we think review of the submitted idle well management plans and the plans for plugging and abandonment of idle wells proposed within the plans is pertinent to the analysis of potential State liability for orphan wells. We suggest that this data be incorporated into CCST's analysis and liability estimates adjusted accordingly.

3.2 New well-testing regulations

In addition to the idle well fee and management plan provisions, AB 2729 required CalGEM to substantially expand idle well testing requirements. CalGEM issued final regulations in April 2019 following significant public outreach and comment on drafts to address public health and environmental concerns.

The regulations require operators to provide a detailed inventory of idle wells to CalGEM, and to conduct progressively more rigorous testing of wells starting within 24 months of when they become idle. Companies can avoid these costly tests by putting idle wells into an approved idle-well testing waiver plan or the previously mentioned idle well management plan. Wells put into the testing waiver plan must be plugged and abandoned within 8 years.

Based on our interviews with producers, the new idle well testing requirement is having a major impact on their management of idle wells. Testing costs are high, and if issues are identified during testing, remediation costs are even higher. This has caused companies to carefully review their inventory of idle wells. In cases where reactivation seems less than likely, producers are putting the wells into the idle well testing waiver program, where they will be plugged and abandoned within 8 years. Based on responses we received, it appears that more than half of existing idle wells will be scheduled for abandonment.

Consistent with these actions, companies we spoke to indicated they have sharply raised their budgets for plugging and abandonment. This was prior to the onset of the Covid-19-related economic contraction and oil price collapse, so it is possible that some of these expenditures will be delayed. However, what is clear from our conversations is that the testing requirements have fundamentally changed the financial calculations with respect to idle wells.

3.3 AB 1057 (Limon/2019)

This measure authorizes CalGEM to require (1) increased financial assurances from onshore operators if existing assurances are inadequate; and (2) additional documentation from operators when ownership

of wells or facilities changes. According to a recent study by the Interstate Oil and Gas Compact Commission (IOGCC), California's financial assurance requirements already occupy the "high end" of the regulatory spectrum. CalGEM is seeking 7 new positions in the 2020-21 budget to carry out these responsibilities.

Additionally, the bill provides CalGEM with additional authority to track and trace the ownership of wells and facilities with greater accuracy to enable it to take enforcement actions against the appropriate operators. A key impact of these track and trace provisions is better enforcement of SB 2007 (Costa), enacted in 1996, which makes oil producers jointly liable for plugging and abandonment costs. Under SB 2007, if a well is deserted but the operator cannot pay for the costs of plugging and decommissioning, CalGEM can pursue operators that owned the well as far back as January 1, 1996 for plugging and abandonment costs. Therefore, as is described in the CCST report, verification of whether the wells within the top two risk categories have responsible parties to pay for plugging and abandonment is the necessary next step to determining the potential State liability for orphan wells. CalGEM is currently developing their process for how they will determine orphan wells and address potential risks and identifying potentially responsible parties. We expect additional data regarding these wells to be available in the coming year, which would further inform the CCST report and liability estimates.

Ward, Dave

From: Neal P. Maguire <nmaguire@fcoplaw.com>
Sent: Wednesday, August 17, 2022 11:09 AM
To: Ward, Dave
Cc: Jane Farkas
Subject: Amendments related to Permit Terms, Surety, and Insurance Requirements for oil and gas operations
Attachments: 2891027.pdf

Dave, please see attached.

Neal P. Maguire
Attorney | Ferguson Case Orr Paterson LLP
a: 1050 S Kimball Rd, Ventura, CA 93004
e: nmaguire@fcoplaw.com **w:** www.fcoplaw.com
p: (805) 659-6800, ext. 217 **f:** (805) 659-6818

FERGUSON CASE
ORR PATERSON LLP
ATTORNEYS AT LAW

Writer's Email:
nmaguire@fcoplaw.com

Reply to: Ventura Office

August 17, 2022

Via Email

Director Dave Ward, AICP
County of Ventura
Resource Management Agency
Planning Division
800 S. Victoria Ave. #1740
Ventura, CA 93009-1740

Re: *Amendments to the Non-Coastal Zoning Ordinance (PL21-0099) and Coastal Zoning Ordinance (PL21-0100) related to Permit Terms, Surety, and Insurance Requirements for oil and gas operations*

Dear Dave:

On behalf of Carbon California, thank you for recognizing that the July 28th Planning Commission hearing regarding the above-referenced item did not proceed in accordance with County and State law due to the omission of "numerous public comments" from the record. We appreciate your further acknowledgment that because the "July 28 public hearing and resulting decision did not comply with these laws, that decision is of no effect."

However, we are puzzled as to why the County refers to the August 18th hearing as the "second hearing" on this item. If the first hearing was held in violation of the law, the proper remedy is to vacate that hearing entirely, including any resulting decision, and start from scratch. It is not appropriate to adopt a halfway measure whereby your office negates the decision but still maintains that the record of proceeding for this matter will still include all the tainted testimony and hearing from the illegal hearing.

We request that you take the above required steps to wholly remedy the acknowledged violations associated with the July 28th hearing.

Sincerely,

Neal Maguire

Cc: Jane Farkas

Zendejas, Daniela

From: Jane Farkas <jfarkas@carbonenergycorp.com>
Sent: Wednesday, August 17, 2022 11:27 AM
To: Sussman, Shelley
Cc: Ward, Dave; Maguire, Neal
Subject: 8/18/22 Planning Commission Comment Letter - Item 7.A.
Attachments: CCC Letter - Surety Bonding Environment.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Shelley,

Attached is Carbon California's comment letter and attachment for tomorrows Planning Commission meeting (Item 7.A. – Case Numbers: PL21-0099 and PL21-0100).

Thank you,

Jane Farkas
VP-Land and Regulatory Affairs
Carbon California Company
270 Quail Court, Suite B | Santa Paula, CA 93060
Cell: 805-443-9276

Local Energy Made in Ventura County

carbon

August 17, 2022

Dave Ward
Planning Director – VC RMA
800 South Victoria Ave., L#1740
Ventura, CA 93009

Mr. Ward,

In connection with proposed additional surety requirements being considered by the Ventura County, I thought it would be helpful for you to understand the recent challenges that Carbon California Company, LLC ("Carbon") and its affiliated companies are experiencing.

In January 2021, our current surety underwriter requested updated financial and oil and gas reserve information. These are typical requests in these relationships; however, what was not typical nor expected was the demand letter we received shortly thereafter notifying us that the underwriter would now be requiring 100% cash collateral of approximately $3.3 million to be posted within 10 business days. This collateral was required in addition to the annual bonding fee of approximately 3% we were being charged historically.

Having negotiated our way through the immense challenges that the effects of the pandemic placed on the oil and gas industry in 2020 (historically low oil and gas prices and keeping our workforce safe to deliver critical commodities to our community as an essential business), this notice felt like a "sucker punch" while we were attempting to get our feet back under us.

Since our receipt of this cash collateral demand letter, we have worked tirelessly with our broker, IMA, in an attempt to place our required surety bonds with a different underwriter that would be willing to provide oil and gas surety bonds in the state of California. To date, our brokers have been unable to find an underwriter willing to place a surety bond without the requirement of 100% cash collateral. It is my understanding that recent changes to legislation in California affecting the oil and gas industry have created significant uncertainty for surety underwriters leading them to require 100% cash collateral, effectively ceasing to underwrite surety bonds in California.

I have included a letter from our broker, IMA, which supports my statements. As they note, it is not as simple as it was in the past whereby an operator could expect to pay an annual 3% or lower premium on surety bond amounts. 100% cash collateral is the current environment, which puts a significant-crippling financial burden on operators.

Sincerely,

Erich Kirsch
Chief Financial Officer, Carbon Energy Corporation
Secretary/Treasurer, Carbon California Company, LLC

1700 Broadway, Suite 1170, Denver, Colorado 80290
270 Quail Court, Suite B, Santa Paula, California 93060
Telephone 720 407 7030 Facsimile 720 407 7031
Telephone 805 933 1901

August 4, 2022

Erich Kirsch
Carbon California Operating Company, LLC
1700 Broadway, Suite 1170
Denver, CO 80290

RE: CA oil and gas reclamation bond increase considerations

Mr. Kirsch,

There is a misconception that surety bonds are underwritten like insurance in that higher limits just translate into higher premiums. While it is true that you will pay more for a larger bond paying those higher premiums does not guarantee that you will be able to get a higher bond amount. Each company and bond request are underwritten separately and not all companies will qualify for additional capacity or have terms from the surety that just include premiums of 3% or lower. Some companies will need to fully secure the surety company with up to 100% cash or letter of credit collateral.

In the case of Carbon Energy Corporation there have been extensive marketing efforts with surety companies that specialize in providing bonds in the Energy space. The latest including 6 markets and all 6 of these markets either declined or would require substantial collateral up to 100%.

Please let me know if you have any questions.

Thank you,

Desiree Westmoreland, AFSB
Surety Department Manager

IMA, Inc.
PO Box 2992
Wichita, KS 67201
Phone: 316-267-9221
Phone: 800-284-9447
Fax: 316-266-6254

Zendejas, Daniela

From: Marlin Brown <buglegroup@yahoo.com>
Sent: Wednesday, August 17, 2022 9:16 AM
To: Sussman, Shelley
Subject: Agenda Item 7A Regarding Proposed NCZO 8107-5 and CZO 8175-5
Attachments: Protest to Ventura Co. re amendments.docx

Follow Up Flag: Follow up
Flag Status: Flagged

My comments on the captioned matter are attached. Please download and distribute to the Planning Commissioners and place in the record of these proceedings.

Please acknowledge receipt.

Marlin K. Brown
31567 High Ridge Drive
Bulverde, TX 78163
(805) 878-8986 Cell
buglegroup@yahoo.com

MARLIN K. BROWN
31567 High Ridge Drive
Bulverde, TX 78163

August 16, 2022

Planning Commission of Ventura County
800 South Victoria Avenue
Ventura, CA 93009

Attn: Shelley Sussman

RE: PROPOSED ZONING CHANGES NCZO 8107-5 AND CZO 8175-5

Ladies and Gentlemen:

This is a demand for withdrawal of the captioned proposed amendments.

You may protest that these do not wipe out oil production but in fact that is clearly your aim. Do not keep lying about your motives.

The captioned changes are entirely unacceptable. The voters of Ventura County just voted down these changes. It is creepy that you are going directly against the public will.

At least two-thirds of the oil workers in Ventura County are Hispanic. It's clearly racist for you to conspire to make them jobless.

I own royalty interests in Ventura County. You are proposing an illegal taking of my ownerships.

OTHER NEGATIVES

- The proposal would wipe out at least 1,500 high-paying jobs. Most of these are head-of-household jobs. Why do you want to impoverish over 1,000 of your neighbors?
- We need more domestic energy, not less.
- You are unlawfully singling out one industry for punitive treatment.
- You are acting without proper transparency.
- You will be removing tens of millions in tax income from the county. Why should the remaining taxpayers (who you purport to serve) be forced to pick up that burden?

Withdraw these proposed amendments.

Marlin K. Brown

Zendejas, Daniela

From: Wickersham, Matt <Matt.Wickersham@alston.com>
Sent: Wednesday, August 17, 2022 9:40 AM
To: Sussman, Shelley
Cc: Clif Simonson; Olivia Simonson
Subject: CalNRG Comment on Agenda Item 7.A. Amendments to Zoning Ordinance
Attachments: CalNRG comment letter re 8-18-22 PC Item 7A.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Sussman, please see the attached letter regarding agenda item 7A for tomorrow's hearing before the Planning Commission. Please confirm receipt.

Thanks,

Matt Wickersham (*he/him*) | **ALSTON & BIRD LLP**
333 South Hope Street, 16th Floor | Los Angeles, CA 90071
matt.wickersham@alston.com | t: 213.576.1185 | c: 310.699.0931

VIA ELECTRONIC MAIL

August 16, 2022

Planning Commission of Ventura County\
c/o Shelley Sussman
800 South Victoria Avenue
Ventura, CA 93009
Shelley.Sussman@ventura.org

Re: **Planning Commission Meeting (July 28, 2022) – Agenda Item No. 7 – Proposed Coastal and Non-Coastal Zoning Ordinance Amendments**

Dear Members of the Ventura County Planning Commission:

California Natural Resources Group, LLC ("CalNRG") submits the attached comment letter on the Planning Commission's proposed amendments to the Non-Coastal Zoning Ordinance ("NCZO") section 8107-5 and Coastal Zoning Ordinance ("CZO") section 8175-5 (collectively, "Zoning Amendments"). CalNRG previously submitted this comment letter before 3:30 pm on July 27, 2022, as required for submission of comments for the Planning Commission's July 28 meeting. We later learned that this letter was never provided to the Commissioners for their review. We request that the Commissioners consider the attached letter seriously, particularly the descriptions of the significant impacts that will be inflicted on CalNRG's operations by these Zoning Amendments.

Sincerely,

Clif Simonson
President & COO

Attachments

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VIA ELECTRONIC MAIL

July 27, 2022

Shelley Sussman
Planning Commission of Ventura County
800 South Victoria Avenue
Ventura, CA 93009
Shelley.Sussman@ventura.org

Re: **Planning Commission Meeting (July 28, 2022) – Agenda Item No. 7 – Proposed Coastal and Non-Coastal Zoning Ordinance Amendments**

Dear Members of the Ventura County Planning Commission:

California Natural Resources Group, LLC ("CalNRG") writes to express its deep concern regarding the Planning Commission's proposed amendments to the Non-Coastal Zoning Ordinance ("NCZO") section 8107-5 and Coastal Zoning Ordinance ("CZO") section 8175-5 (collectively, "Zoning Amendments"), which will unlawfully limit and render financially infeasible all oil and gas activities in the County. The proposed Zoning Amendments place a 15-year expiration limit on new and modified Conditional Use Permits ("CUPs") and increase bonding and insurance requirements to levels that would make it impossible to operate in the County. Not only will the proposed Zoning Amendments shut down oil and gas operations in the County – which is undoubtedly the County's end goal – they will also proliferate dependence on foreign oil and increase energy prices.[1]

Notably, in a clear effort to have a second bite at the proverbial apple, the proposed Zoning Amendments follow the recent results of the June 7, 2022 primary election where Ventura County residents voted to *repeal* the County's adoption of previous amendments to the CZO and NCZO, which would have had similarly devastating impacts on local oil and gas production. Rather than listen to the will of the electorate, the Planning Commission turned a blind eye and immediately rushed back to the drawing board to renew their efforts to phase out oil and gas production in the County.

[1] The County has made the goal of the proposed Zoning Amendments crystal clear – in fact, the Staff Report's required findings cite an April 23, 2021 quote from Governor Newsom where he "requested that the California Air Resources Board (CARB) analyze pathways to ***phase out oil extraction across the state by no later than 2045***." (Staff Report at p. 23, emphasis added.)

And while the Planning Division apparently consulted behind closed doors with County Risk Management and various private consultants regarding the proposed Zoning Amendments (Staff Report at pp. 1, 7, 16), it failed to engage with the very stakeholders who will be impacted by these amendments – the local oil and gas industry. In fact, the Planning Commission held no workshop events, no stakeholder meetings, and absolutely no opportunities for the local industry to engage with the Commission regarding these unlawful amendments. The Planning Commission's efforts to operate in secrecy is at odds with basic democratic principles and wildly out of touch with the will of the electorate, as expressed during the June 2022 election.

Moreover, the timing of these attacks on the oil and gas industry could not be worse. Inflation is skyrocketing, Californians are paying record prices at the pump, and international conflicts, like Russia's invasion of Ukraine that has roiled energy markets, are highlighting the importance of energy independence. The County should play its part in alleviating these issues, rather than wasting taxpayer dollars on proposed Zoning Amendments that will threaten over 2,000 good-paying industry jobs, wipe out approximately $56 million annually in state and local taxes, and increase dependence on foreign oil from countries with poor environmental and human rights standards.

I. The County has Rejected the Will of the Electorate

This is now the County's ***second attempt*** to amend the CZO and NCZO as a pretense to phase out oil and gas production in the County along with thousands of good-paying jobs. On November 10, 2020, the County adopted amendments to the CZO and NCO, which would have required the issuance of a new CUP, or approval of a discretionary permit adjustment or modification, to authorize all new oil and gas development, including that proposed under long-term permits, unless the proposed development is already specifically described as being authorized under an existing CUP. New development triggering the need for discretionary approval would have included the installation of new wells, tanks and other oil field facilities, and the re-drilling or deepening of existing wells.

Numerous County residents, oil and gas operators, royalty owners, and industry groups opposed the County's previous attempts to amend the CZO and NCZO, including because subjecting CUPs to discretionary approval would unlawfully impair the constitutionally protected vested property rights of the holders of such permits, and would subject the County to takings liability. The County also unlawfully determined that the amendments were exempt from review under the California Environmental Quality Act. Many residents and industry workers also expressed concern that the amendments would have devastating impacts on the oil and gas industry, which has created jobs and supported the local economy for decades. Indeed, the County *admitted* that this would be the precise consequence of its action: "[T]he proposed zoning amendments could slow and/or reduce the potential expansion of new local oil and gas development, which in turn could have a ***negative economic impact on this economic sector and its employment base*** . . ."

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(Ventura County Resource Management Agency Letter to Board of Supervisors, Nov. 10, 2020, emphasis added.)

The County's adoption of the previous CZO and NCZO amendments was met with an onslaught of litigation. (See, e.g., *California Natural Resources Group, LLC v. County of Ventura, et al.*, Case No. 56-2020-00546189; *Western States Petroleum Association v. County of Ventura, et al.*, Case No. 56-2020-00547988; *Lloyd Properties v. County of Ventura, et al.*, Case No. 56-2020-00546196; *Carbon California Company, LLC, et al. v. County of Ventura, et al.*, Case No. 56-2020-00548181; *National Association of Royalty Owners-California, Inc., et al. v. County of Ventura, et al.*, Case No. 56-2021-005505588; *Aera Energy LLC v. County of Ventura, et al.*, Case No. 56-2020-00546180; *ABA Energy Corporation v. County of Ventura, et al.*, Case No. 56-2020-00548077.) The County is now exposing itself to the risk of even further litigation by wasting taxpayer dollars on proposing and potentially adopting these unlawful Zoning Amendments.

Ultimately, the County gave voters the opportunity to repeal the CZO and NCZO amendments through Local Measures A and B on the June 7, 2022 ballot:

> A. Shall Ordinance No. 4567, an ordinance of the County of Ventura repealing and reenacting Division 8, Chapter 1.1, Sections 8175-5.7 of the Ventura County Ordinance Code, to amend the Coastal Zoning Ordinance regulating oil and gas exploration and production, be adopted?
>
> B. Shall Ordinance No. 4568, an ordinance of the County of Ventura repealing and reenacting Division 8, Chapter 1.1, Sections 8107-5 of the Ventura County Ordinance Code, to amend the Non-Coastal Zoning Ordinance regulating oil and gas exploration and production, be adopted?

A majority of Ventura County residents voted against Measures A and B, thereby soundly rejecting the County's efforts to amend the CZO and NCZO to shut down existing oil and gas production.[2]

Nevertheless, despite the ***clear message*** sent by voters during the June 2022 election, the County has persisted in its affront on the oil and gas industry and brazenly turned its back on the will of the electorate. Not only has the County rejected the will of the electorate, its newly

[2] Ventura County Clerk-Recorder-Registrar, June 7, 2022 Statewide Direct Primary Election, Election Night Reporting, https://results.enr.clarityelections.com/CA/Ventura/114132/web.285569/#/summary (as of July 20, 2022).

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proposed Zoning Amendments are also unlawful and would render oil and gas production financially infeasible, as further discussed below.

II. Limits on New Conditional Use Permits to 15 Years Lack Factual Support

The proposed Zoning Amendments limit new discretionary permits for oil and gas operations to 15-years. According to the Staff Report:

> One consideration related to establishing CUP terms is the estimated amount of time it takes for an operator to recoup its investment in the permitted operation. This can be referred to as the amortization of capital investment (ACI). Although there are several accounting methods that can be used to calculate amortization, in general, ACI occurs when cumulative income from an investment is sufficient to offset the initial capital investment and to provide a return on that investment to the owner.

(Staff Report at p. 4.)

The Staff Report then cites the Baker & O'Brien study titled, *Capital Investment Amortization Study for the City of Culver City Portion of the Inglewood Oil Field*, which concludes that the simple payback period for wells drilled prior to 1977 in the ***Inglewood Oil Field***, was about five years, and that for wells drilled after 1977, ACI has allegedly "been achieved within a short time." (*Id.* at p. 5.)

Based on this single study, for a *different* oil field in a *different* municipality (Culver City), the Staff Report concludes that "a duration of 15 years for new and renewed CUPs (even independent of the possibility of an operator obtaining additional 15-year renewal periods), is reasonable to realize ACI depending on the capital investment and the price of oil during the time period." (*Ibid.*)

However, there are numerous flaws in the County's ***sole*** "consideration" for establishing 15-year CUP terms, i.e., the purported amount of time it takes for an operator to recoup its investment in the permitted operation, which is ***solely*** premised on the fundamentally flawed Baker & O'Brien report.

First, the Baker & O'Brien report ignores the substantial plugging and abandonment costs associated with operations in Culver City, which the proposed Zoning Amendments will substantially increase through the proposed bonding and insurance requirements. Wells are plugged and abandoned at the end of life of a field based on environmental and other regulations. The plugging and abandonment costs represent a significant capital investment to be incurred in the future, and to ignore those capital investments renders Baker and O'Brien's study economically

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unsupportable and unreasonable. (See *Review of the Baker & O'Brien Report* by Robert Lang of Alvarez & Marsal, dated August 13, 2020 ("Lang Report 2020"), Section 64, attached hereto as **Exhibit 1**.) The Staff Report estimates that plugging and abandonment costs can average approximately $143,300 per well. (Staff Report at p. 14.) It is impossible to determine when ACI will occur without including the costs of plugging and abandoning wells in the County, which, again, will be exacerbated by the County's proposed increases to bonding and insurance requirements.

Second, the Baker & O'Brien study is not (1) unique to any particular property on the Inglewood Oil Field and (2) is not based on any actual data about any specific operator's investment in the Inglewood Oil Field. This is troublesome since ACI must be "commensurate" with the *specific operator's* "investment." (*Elysium Institute, Inc. v. County of Los Angeles* (1991) 232 Cal. App. 3d 408, 436.) The County compounds these errors by applying the already flawed Baker & O'Brien study to *different oil fields* operated by *different operators* and does not even attempt to analyze or consider those operators' specific investments in their oil fields.

Third, and finally, the Baker & O'Brien report does not consider the variability of the price of oil to establish when ACI occurs.

For all these reasons, the County's ***sole*** "consideration" for establishing 15-year CUP terms – the Baker & O'Brien study – is fundamentally flawed, inapplicable, and does not support these arbitrary proposed terms.

Finally, separate from the flawed and irrelevant Baker & O'Brien study, the County has not identified any public health or safety reason to support the 15-year limits on new discretionary permits for oil and gas operations. While zoning and other land use controls may be a legitimate subject for legislative consideration under the police power, they must be "reasonable in object and not arbitrary in operation." (*La Mesa v. Tweed & Gambrell Planning Mill* (1956) 146 Cal.App.2d 762, 768.) Thus, the police power is not "illimitable and the marking and measuring of the extent of its exercise and application is determined by a consideration of the question of whether or not any invocation of that power . . . is reasonably necessary to promote the public health, safety, morals or general welfare of the people of a community." (*Miller v. Board of Public Works* (1925) 195 Cal. 477, 484; *accord Griffin Dev. Co. v. City of Oxnard* (1985) 39 Cal.3d 256, 272.)

However, the proposed term limits are not "reasonably necessary" to promote public health, safety, and general welfare of residents in the County. Indeed, the Planning Commission has not cited any studies demonstrating any negative public health or safety effects that would be resolved by these term limits. Instead, the sole reason the Planning Commission has proposed these term limits is because the Board of Supervisors directed the Resource Management Agency in November 2020 to "return to the Board with draft amendments to the NCZO and CZO addressing . . . limit[ing] new discretionary permits for oil and gas operations to 15 years." (Staff Report at p. 1.)

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But the Board of Supervisors' directive was not tied to any public health or safety concern that would be resolved by these arbitrary limits.

III. Increased Surety and Insurance Requirements Will Phase Out Production

The proposed Zoning Amendments also substantially increase oil and gas bonding and insurance requirements. The County proposes three types of increased bonding requirements. First, the proposed Zoning Amendments impose Surface Restoration Surety requirements ranging from $100,000 - $10,000,000 depending on the number of wells (exclusive of properly abandoned wells). Second, the County has recommended Well Abandonment Sureties to reflect the alleged likelihood that some wells will be orphaned and to address the alleged impacts of orphaned wells. The proposed surety amount is $36,000 per well not to exceed $5 million for any single operator. Third, the County has recommended that operators provide a supplemental bond of $15,000 for each Long-term Idle Well (not to exceed $5 million for any individual operator) that has been idle for 15 years or more. However, as discussed below, these requirements will render oil and gas operations financially infeasible within the County, lack factual support, and are preempted by state law.

In addition, the County has proposed significantly increased insurance requirements without even attempting to estimate the costs for these insurance premiums. Taken together, the costs associated with the bonding and insurance requirements will make it impossible to continue operations in the County.

A. Surface Restoration Surety

The County has increased surety amounts to levels that would render oil and gas operations in the County financially infeasible, such that operators would have no choice but to end their operations. Currently, both the NCZO and CZO (Sections 8107-5.6.5 and 8175-5.7.8(e), respectively), state that "…a bond or other security in the penal amount of not less than ***$10,000.00*** for each well that is drilled or to be drilled. Any operator may, in lieu of filing such a security for each well drilled, redrilled, produced or maintained, file a security in the penal amount of not less than ***$10,000.00*** to cover all operations conducted in the County of Ventura…" Now, the County has proposed significantly increased Surface Restoration Sureties based on the number of wells, excluding properly abandoned wells, as set forth below:

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Table 1 – Surface Restoration Surety Categories

Total Number of Active/Idle Wells per Operator	Number of Operators	Proposed Surface Restoration Surety
1-5	8	$100,000
6-10	4	$185,000
11-20	4	$300,000
21-50	5	$500,000
51-100	1	$1 million
101-200	0	$3 million
201-400	0	$5 million
≥401	3	$10 million

Source: Staff Report at p. 9.

As discussed in the attached statement of Bart LeFevre, CalNRG would be required to pay the entire amount of the proposed $10 million surety (along with another $10 million for the well abandonment sureties) in collateral to the underwriting firm, which is prohibitively expensive and not financially feasible.

B. Well Abandonment Surety

The County has also created a new Well Abandonment Surety to ensure that sufficient funds exist for the operators' wells to be properly plugged and abandoned. According to the Staff Report, "staff is recommending a Well Abandonment Surety of $36,000 per well, not to exceed $5 million for any individual operator, which is approximately 25 percent of the estimated costs of closure per well (i.e., $143,300 multiplied by 0.25)." (Staff Report at 15.) This new surety will compound the financial effects of the increased Surface Restoration Sureties.

Critically, the County's justification for the proposed Well Abandonment Surety is devoid of factual support. For example, the County contends that this surety "reflect[s] the likelihood that some wells in unincorporated Ventura County will be orphaned and that the State will lack adequate resources to properly and timely plug and abandon them." (Staff Report at p. 10.) Likewise, the County states that "staff is recommending this surety to address the negative impacts that orphaned wells pose to the environment, human health and safety, and the potential impairment of subsequent use or redevelopment of the affected land." (*Ibid.*) And yet the County simultaneously concedes that "orphan wells must be formally identified by CalGEM, and ***none have yet been formally identified in the County***." (*Id.* at p. 3.) Given that CalGEM has not identified a ***single*** orphaned well in the County, the Planning Commission has ***zero*** factual support for its contention that a Well Abandonment Surety is necessary to address alleged impacts associated with orphaned wells. Thus, the proposed Well Abandonment Surety is wholly unsupported by any evidence.

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C. Long-Term Idle Well Abandonment Supplement Surety

The Planning Commission is also recommending a requirement that operators provide a supplemental bond of $15,000 for each Long-term Idle Well (not to exceed $5 million for any individual operator) that has been idle for 15 years or more. Again, this new surety in combination with the Surface Restoration Surety and Well Abandonment Surety will significantly increase the cost of operating in Ventura County by millions of dollars such that it is no longer financially feasible to operate in the County. While the County claims that these various sureties are intended to address purported environmental risks posed by orphaned and idled wells, the County offers no evidence to support those contentions. Instead, the County's feigned concerns are just a pretense to penalize an industry that has contributed millions of dollars to the local and state tax base and phase out oil and gas production in the County solely due to political reasons. But the County's attempts to end production in the County through the proposed Zoning Amendments are not in touch with the will of the electorate, which soundly rejected the County's previously proposed Zoning Amendments.

D. Surety Requirements are Preempted

The County's efforts to increase surety requirements are also preempted because they duplicate and enter an area that is fully occupied by state law, and they frustrate a statutory purpose of increasing the ultimate recovery of hydrocarbons.

Local legislation conflicts with state law where it "duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication." (*Sherwin-Williams Co. v. City of L.A.* (1993) 4 Cal.4th 893, 898.) Local legislation conflicts with state law where it "duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication." (*Id.* at 897.) Local legislation is "duplicative" when it is coextensive of state law. (*Ibid.*) In addition, legislation enters an area that is "fully occupied" by state law when the legislature expressly or impliedly manifested an intent to occupy the area. (*Ibid.*)

Here, state law already regulates areas of law that the proposed Zoning Amendments attempt to regulate. For example, with respect to the Surface Restoration Sureties, the restoration of oil and gas sites is thoroughly regulated and enforced by CalGEM through California Code of Regulations, title 14, section 1776. That state regulation requires well sites to be returned to as near a natural state as practicable within 60 days of plugging and abandonment of any oil well. Section 1776 also contains specific restoration requirements, including the plugging of any holes, removal of ground pipelines, debris, and other facilities and equipment, closing of sumps, and mitigation of slope conditions.

In addition, regardless of the Well Abandonment Surety and Idle Well Abandonment Supplement Surety, Public Resources Code section 3206.1 already mandated CalGEM to review, evaluate, and update its regulations pertaining to idle wells. These regulations implement new

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testing requirements for idle wells and provide specific parameters for testing. (Cal. Code Regs., tit. 14 §§ 1772.1, 1772.1.4.) The regulations provide a 6-year compliance period for testing wells idle as of April 1, 2019 and a Testing Waiver Plan for those wells that an operator commits to plugging and abandoning within eight years. (*Id.*, § 1772.2.) Operators are also required to submit an idle well inventory and evaluation for each of their idle wells. (*Id.*, § 1772.) The regulations also provide requirements for monitoring and mitigating inaccessible idle wells, a regulatory definition for partially plugging idle wells, and requirements for operators to submit a 15-Year Engineering Analysis for each idle well idle for 15 years or more. (*Id.*, §§ 1722.1.2, 1772.4.)

These comprehensive requirements evidence a clear intent by the state to uniformly regulate the restoration of oil and gas sites, including the plugging and abandonment concerns addressed by the Well Abandonment Surety. The County's attempt to regulate these activities enters an area fully occupied by state law and is therefore preempted. (*Sherwin-Williams*, *supra*, 4 Cal.4th at 989.)

Furthermore, these sureties are preempted because they "duplicate" "an area fully occupied by general law, either expressly or by legislative implication." (*Sherwin-Williams*, *supra*, 4 Cal.4th at 897.) Indeed, the Staff Report notes that "[p]ursuant to Assembly Bill (AB) 2729 (2016), several new bonding and fee payment provisions were created to address the State's liability to properly plug and abandon wells that are orphaned by operator bankruptcy or failure to act." (Staff Report at p. 5.) For example, AB 2729 already requires:

1. Updated bond requirements for operators when they drill, re-drill, deepen, or permanently alter any well or any operator acquires a well.

2. Bonds intended to address the state's liability to properly plug and abandon wells that are orphaned by operator bankruptcy or failure to act.

3. Operators must file a $25,000 bond with CalGEM for a well less than 10,000 feet deep and $40,000 for each well that is greater than or equal to 10,000 feet deep; alternatively, an operator can file a blanket indemnity bond based on the number of wells they own (ranging from $200,000 for 50 or fewer wells and $3 million for more than 10,000 wells).

4. Idle well fees, which increase based on the length of time a well is idle (ranging from $150 for 3-7 years idle to $1,500 for 20 or more years idle).

5. An operator of an idle well must pay an annual fee or file an Idle Well Management Plan, which outlines the operator's plan to manage and eliminate (i.e., either plug and abandon or bring back into production) their idle wells. Idle well fees are paid into the Hazardous and

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Idle-Deserted Well Abandonment Fund, which CalGEM uses to plug and abandon orphan wells and plug and/or decommission hazardous wells or production facilities.

In addition, AB 1057 (2019) authorizes CalGEM to require an operator filing an individual or blanket indemnity bond to provide an additional amount of security based on CalGEM's evaluation of various risks. The amount cannot exceed the lesser of CalGEM's estimate of the reasonable costs of properly plugging and abandoning all of the operator's wells and decommissioning any attendant production facilities, or $30,000,000.

Furthermore, SB 84 (2021) revises and enhances the legislative reporting requirements of CalGEM's idle oil and gas well program. It also requires CalGEM's Supervisor to provide the Legislature with a report detailing the process used by the state to determine that the current operator of a deserted well does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities.

In addition, the Ventura County Air Pollution Control District has extensive rules regarding the methane and other air quality concerns that the County purportedly seeks to address by its new surety requirements. (See, e.g., Ventura County APCD, Rules 71.1, 74.16.) "The Legislature has designated regional air pollution districts as the primary enforcers of air quality regulations." (*So. Cal. Gas Co. v. So. Coast Air Quality Mgmt. Dist.* (2012) 200 Cal.App.4th 251, 269.) And in fact, these rules are actively implemented and enforced by the APCD. The County lacks the statutory authority or justification to impose unnecessary surety requirements that are intended to address issues that the Legislature has already delegated to other agencies.

All of these statutory provisions demonstrate that the County's attempts to impose increased sureties are duplicative of bonding and related requirements already enacted by the Legislature. Accordingly, they are preempted as duplicative of state law. (*Sherwin-Williams*, *supra*, 4 Cal.4th at 897.) The Staff Report asserts, based on an unsupported citation to a "[p]ersonal communication" with the State Oil and Gas Supervisor, that these requirements are supported by CalGEM and within the County's jurisdictional authority. Even if these assertions were reasonable interpretations of whatever communication occurred (which seems unlikely), the jurisdictional authority of CalGEM to regulate oil and gas operations is set by statute, and cannot be disavowed by the agency. The Legislature has set in place a detailed statutory regime, as clarified by more detailed regulations adopted by CalGEM, and the County cannot impose duplicative requirements that lack any rational nexus to local concerns that are within the County's authority.

Finally, since these sureties will have the effect of phasing out oil and gas production in the County – which is an activity that a "statute or statutory scheme seeks to promote," they impermissibly "frustrate[] the statute's purpose" and are therefore preempted. (*Great W. Shows, Inc. v. Cnty. of L.A.* (2002) 27 Cal.4th 853, 867–870.) Indeed, California law vests complete authority in CalGEM to "supervise the drilling, operation, maintenance, and abandonment of wells ***so as to permit owners or operators of wells to utilize all methods and practices known to the oil***

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industry for the purpose of increasing the ultimate recovery of underground hydrocarbons and which, in the opinion of the supervisor, are suitable for this purpose in each proposed case." (Pub. Res. Code §3106, subd. (b).) Rather than "increase[e] the ultimate recovery of underground hydrocarbons," the proposed sureties will have the opposite effect, and therefore frustrate the purpose of Public Resources Code section 3106. And by making continued oil operations prohibitively expensive in Ventura County, the County will only make it difficult or impossible for operators to continue the aggressive well abandonment schedule that has been effectively encouraged by CalGEM's regulations.

E. Insurance Requirements

The current versions of the NCZO and CZO (Section 8107- 5.6.12 and 8175-5.7.8(l), respectively), require that "the permittee shall maintain for the life of the permit, liability insurance of not less than $500,000 for one person and $1,000,000 for all persons and $2,000,000 for property damage. This requirement does not preclude the permittee from being self-insured." Now, the County has proposed increasing these requirements as follows:

- General Liability for Oil & Gas Businesses: General Liability, with at least $2,000,000 each occurrence and $4,000,000 general aggregate;
- Environmental Impairment: Pollution Liability Policy with coverage not less than $10,000,000.
- Control of Well: (initial drill or well modification) coverage of a minimum of $10,000,000 per occurrence.
- Excess (or umbrella) Liability Insurance: providing excess coverage for each of the perils insured by the preceding insurance policies with a minimum limit of $25,000,000.

According to the County, these increases are "required to address potential operator liabilities and environmental damage arising from oil and gas operations." (Staff Report at p. 6.) And yet the County does not cite any evidence to support its assumption that "operator liabilities" and "environmental damage" allegedly associated with operations have substantially changed such that increased insurance requirements area now warranted.

Moreover, the County incorrectly contends that it is within its police power to increase these insurance requirements because they "would not alter or otherwise impair an operator's ability to produce oil and conduct its operations under its existing CUPs." Not true. The increased insurance and bonding requirements will render oil and gas operations in the County financially infeasible such that operators like CalNRG can no longer "produce oil and conduct . . . operations" under existing CUPs. Quite tellingly, the County does not even attempt to analyze or consider the costs of

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premiums associated with these increased insurance requirements; instead, the County erroneously contends that "it is not possible to provide accurate cost estimates for insurance premiums."

These proposed amendments are grossly disproportionate to any practical need or justification. Accordingly, CalNRG requests that the Planning Commission withdraw its recommended actions that the Board of Supervisors adopt the proposed Zoning Amendments. To the extent that the County can identify an actual need to pursue these issues, CalNRG also requests that the Commission direct County staff to engage in a meaningful constructive dialogue with the local oil and gas industry and to return with provisions that have some legal and factual support. As currently written, not only are the proposed Zoning Amendments unlawful, they also contradict the will of the very people who elected the Board of Supervisors into office. The electorate spoke on the June 2022 ballot – the County should listen to its voters, not turn its back on them.

Sincerely,

Clif Simonson
President & COO

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ATTACHMENT

Statement by Bart LeFevre

I am the Co-Founder, President and CEO of INpower Global Insurance Services, a specialty insurance brokerage & risk management firm, established in 2008. I have over 25 years of experience in the insurance brokerage industry, providing loss mitigation and risk management services to companies in the areas of commercial real estate, marine/energy, alternative energy, transportation and manufacturing.

I have reviewed the requirements for surety and insurance coverages that are proposed in the zoning amendments for consideration by the Ventura County Planning Commission on July 28, 2022. Based on my experience in procuring surety bonds and insurance policies for oil and gas companies throughout California, including in Ventura County, the required surety and insurance coverages will be prohibitively expensive for the majority of independent oil and gas companies currently operating in Ventura County.

The hostile political and regulatory environment in California has also made it more difficult to find carriers that would be willing to issue bonds and insurance products for oil development activities. As a result, we are also seeing unprecedented pricing increases and diminished capacity.

Even if an insurers' underwriting department approves a bond that would satisfy the proposed zoning amendments, the operator would likely need to provide 100% collateral in order to satisfy the underwriting requirements. This amount of collateral is not feasible for most operators in the County, especially independent operators.

The proposed amendments also do not specify whether a surety bond can be cancellable. When a surety bond is not cancellable, underwriters are extremely reluctant to issue a bond.

Sincerely,

Bart J. LeFevre

Bart LeFevre
Chief Executive Officer

EXHIBIT 1

REVIEW OF THE BAKER & O'BRIEN REPORT

BY ROBERT LANG

August 13, 2020

INTRODUCTION

1. I was retained by Sentinel Peak Resources LLC, on behalf of Sentinel Peak Resources California LLC ("SPR") to review and provide opinions regarding the Baker & O'Brien report dated May 29, 2020 and titled Capital Investment Amortization Study for the City of Culver City Portion of the Inglewood Oil Field ("B&O Report" or "B&O").

2. The analyses upon which I have based my opinions, as outlined in this report, have been performed by me or by individuals working under my direction and supervision.

3. Founded in 1983, Alvarez & Marsal ("A&M") is a global professional services firm that helps clients in the corporate and public sectors solve financial and related problems. A&M has 53 offices located in 24 countries and 65 offices with more than 4,500 professionals. I am a Managing Director at A&M. I am experienced in financial, economic damage, and accounting matters related to the scope of my work on this matter. For more than 25 years, I have helped clients analyze complex commercial disputes and measure the financial impact of external events, operational changes, and other market factors.

4. I received a B.B.A. from Baylor University and am a CFA (Chartered Financial Analyst) charter-holder. I am a frequent guest lecturer in the Graduate Accounting program at Baylor University, where I also serve on the Advisory Board for the Accounting and Business Law department.

5. I have assisted companies across a wide variety of industries and have a particular expertise in the energy industry, dealing with matters throughout the product life cycle. I have assisted oilfield services, exploration and production (E&P), midstream, and downstream entities with valuation issues, transaction support/analysis, business interruptions, royalty disputes and many other matters.

6. Many of my cases also involve the measurement of value and quantifying the creation or destruction of value. I have analyzed the value of entities and assets ranging from oil & gas operations to steel mills to complex securities to the world's largest cancer tumor bank. I have performed these assignments for clients in the US, Canada, Mexico, South America, the Middle East and Asia.

7. My resume at Attachment A provides a summary of my experience and credentials.

INFORMATION CONSIDERED

8. Attachment B provides a list of the documents and information I have considered in preparing my report and supporting analyses. I may supplement and amend the opinions in this report in response to additional information received including the actual income models, supporting workpapers and document references cited by the B&O Report or to address issues raised later.

LEGAL FRAMEWORK

9. This report is to be considered in conjunction with the legal framework set forth in the letter submitted simultaneously by Alston & Bird LLP dated August 13, 2020.

10. As described in that letter, an existing use to extract natural resources (diminishing asset) cannot be eliminated through an amortization period because vested rights for a diminishing asset include an expansion of the use. To the extent that some form of amortization could apply to a diminishing asset, the fair market value to be amortized would be required to consider the expanded use, among other factors.

SUMMARY OF OPINIONS

A. The B&O Report does not establish fair market value for the use of a diminishing asset, including the life of the Inglewood Oil Field, and is therefore irrelevant to determine any amortization period.

B. The concept of Amortization of Capital Investment used in the B&O Report is inappropriate and irrelevant in the context of this matter.

C. Even if Amortization of Capital Investment was appropriate or relevant, both ACI calculations performed by B&O contain numerous errors and false/unsupported assumptions that render the conclusions completely unreliable.

INTERESTED PARTIES

11. Founded in 1917, the City of Culver City (the "City") is an incorporated city in Los Angeles County in California and is within a few miles of downtown Los Angeles and the Los Angeles International Airport.

12. In 2016, SPR acquired the rights to multiple leases that allows it the exclusive right to explore, drill, and produce oil and gas in the Inglewood Oil Field ("IOF") which covers approximately 1,000 acres. This also includes acreage in the City limits ("City IOF"), which covers about 78 acres.

13. As noted, SPR does not actually own the IOF minerals, rather it leases the minerals from mineral owners. SPR pays royalty amounts to the property owners based on production value received. Tens of millions of dollars in royalty payments are paid to over 13,000 property owners of the IOF each year.[1]

14. In addition to paying royalties, SPR pays ad valorem taxes to Los Angeles County and fees to the City. In 2015, the IOF was a source of over $12 million in ad valorem taxes paid to Los Angeles County.[2] SPR has paid fees of approximately $340,000 to the City since 2018.

SUMMARY OF THE B&O REPORT

15. B&O was hired by the City to prepare a study of the amortization of capital investment ("ACI") for existing oil and gas production facilities located in the approximately 78-acre portion of the City IOF. The B&O Report states the information developed by its report will be considered by the City in its review of the possible termination of oil and gas operations within the City IOF.

16. A calculation of ACI first establishes the amount of capital investment as of a certain date and then projects cash flows forward from that date to determine when there have been sufficient cash flows to cover both the capital investment and a "reasonable" rate of return. B&O defines ACI as occurring when,

> *"cumulative income from an investment is sufficient to offset the initial capital investment and to provide a return on that investment to the owner. The income model uses the Internal Rate of Return and Net Present Value as tests to determine when ACI would occur."*

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[1] Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/

[2] Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/

Thus, in calculating the time to ACI, B&O is considering the initial investment and an IRR or required rate of return.

17. B&O prepared two different approaches to estimate the time to ACI. The first approach estimates the capital investment made by SPR in 2016 and then projects SPR's cash flows from that date forward to develop a time to ACI ("SPR ACI Model"). The second approach utilizes historical transaction data relating to all owners dating back to 1977 and attempts to estimate time to ACI related to those historical capital investments ("All Owners ACI Model"). B&O additionally performs a sensitivity analysis related to the SPR ACI Model.

A. SPR ACI Model

18. Because the City IOF is a relatively small piece of SPR's total acquisition of the Inglewood Oil Field, B&O estimated the amount of SPR's capital investment specific to the City IOF. B&O attempted to back into the amount of that capital investment by performing a valuation of the City IOF utilizing three valuation methods (Section 6 of the B&O Report). B&O then developed a ten-year cash flow projection spanning mid-year 2017 through 2026. B&O utilized this cash flow analysis to determine when SPR would achieve ACI. B&O determined ACI was achieved in 2020 (Section 6 of the B&O Report). As will be described in more detail later in this report, not only is this approach inappropriate in its entirety, even if this approach was appropriate, both B&O's estimate of capital investment and projection of cash flows are fatally flawed and rife with inaccuracies and false assumptions.

B. All Owners ACI Model

19. B&O performed a second calculation of ACI to determine how long it would take the various oil and gas operators that drilled and completed wells within the City IOF since 1977 to achieve ACI (Section 7 of the B&O Report). B&O did this by using historical production data related to previous operators of the City IOF to determine the amount of capital investment. B&O utilizes a similar income model as previously described in order to estimate how long it took the prior owners to achieve ACI.

20. The B&O Report determined that the string of investors drilling and completing wells since 1977 achieved ACI "well before 2016." It also appears that B&O is concluding that all wells drilled

prior to 1977 achieved ACI by 1976. The All Owners ACI Model is similarly flawed to the SPR ACI Model and should be likewise disregarded.

ANALYSIS AND OPINIONS

The B&O Report does not establish fair market value of a diminishing asset, nor does it establish a fair market value for the City IOF.

21. The B&O report calculates a time to ACI for the City IOF and does not develop a fair market value for the value of a diminishing asset or other measure for the value of the City IOF. The California State Board of Equalization ("CSB") defines fair market value as:

> "the price at which a property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other."[3]

22. The CSB Handbook also identifies the three acceptable methods on how to calculate fair market value; the market approach, the cost approach, and the income approach. In the oil and gas exploration industry, all three approaches are considered, but the first two methods have inherent limitations. Therefore, the oil gas industry heavily relies on the income approach.

23. The fair market value of an oil field at any given time, such as the IOF and City IOF, is related to the amount of oil and gas that can be expected to be recovered over the life of the oil field. There are three categories of reserves; proved reserves, probable reserves, and possible reserves. While each of the categories have value, proved reserves are the most certain and most valuable, for which I will focus on in this section.

24. To determine fair market value of proved reserves, reserve reports are developed to determine how much oil and gas production can be reasonably extracted and at what cost and when cash flow will go out and cash flow will come in. Based on the reservoir characteristics and other factors, engineers will determine how many wells need to be drilled and when/where/how they

[3] California State Board of Equalization, Assessor's Handbook Section 566 Assessment of Petroleum Properties, August 1996, ("CSB Handbook"), page I-21.

should be drilled. The reserve report is typically based on a discounted cash flow calculation (income model). Inputs into discounted cash flow model estimates include:

- Expected product in the ground that can be produced, along with what price it may receive (revenue) and when
- Expected development costs to drill wells and get them ready to produce (initial capital investment)
- Sustaining capital investments required to maintain production capacity
- Operating expenses
- Income taxes
- Royalties due
- Abandonment costs
- Discount rate to estimate a current value of a future cash flow stream based on the above estimated data inputs

25. The status of proved reserves also have subcategories including:

- Proved, developed and producing ("PDPs") – Wells and facilities that are in place and producing at the time of an estimate
- Proved, developed, but not producing ("PDNPs") – Wells and facilities that are in place, but are not producing at the time of an estimate (i.e., idle wells). The well or zone is currently not producing, but requires little or no investment to be brought to production
- Proved, but undeveloped ("PUDs") – Wells that have been proved but would require significant capital expenditure for the well to come on to production.

26. Over time, reserve reports are adjusted as new data is learned, such as the amount of oil and gas actually being produced, new technology, current pricing conditions that may make it more or less economic to drill new wells that were previously scheduled to be drilled, or to idle wells that have already been drilled because they are uneconomic at current sale prices. In fact, some wells that were idle may be turned to active wells if prices increase that make it profitable. In addition, existing wells that were idle can be re-drilled with new technology that make them profitable once again. Companies will continue to allow wells to produce if it makes economic sense, even if the production volumes are minimal.

27. When companies sell oil & gas assets, the fair market value is based not only on what existing wells and equipment are currently in place, but also the future value to be derived through the life of the oil field as represented in the various categories of proved reserves, probable reserves, and possible reserves.

28. B&O has not performed an analysis of the current fair market value of the reserves and operations of the City IOF. Instead, they have attempted to back in to SPR's initial capital investment and then determine how long it would take for SPR to recover its sunk costs plus a reasonable rate of return. B&O refers to this as ACI. B&O's ACI is unrelated to and entirely divorced from fair market value of a diminishing asset or the IOF or City IOF.

29. One of the reasons B&O's ACI is unrelated to fair market value is that it ignores everything but the PDPs. Because it is only interested in determining the sunk capital costs and how long it would take to recover those costs, B&O's ACI ignores the consideration given and value of the other categories of reserves such as PDNPs and PUDs, or probable or possible reserves. This serves to significantly understate the value of the City IOF and the diminishing asset.

30. To demonstrate the magnitude of error, SPR's website states since the inception of the IOF in 1924, which covers about 1,000 surface acres, approximately 1,600 wells have been drilled, producing more than 400 million barrels of oil. Production over the last 10 years has averaged between 2.5-3.1 million barrels a year.[4] With technological advances in the oil and gas industry, engineers estimate that as much as 50% of the field's oil resources remain in place in producing zones and can be readily accessed through drilling and production activities.[5] Considering there is possibly 400 million barrels of oil still in the ground, which would include reserves within the City IOF, SPR would certainly consider drilling new wells and/or work over current wells to continue production in the City IOF. As a result, the B&O Report does not calculate a fair market value of the City IOF.

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[4] Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/

[5] Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/

The concept of amortization is inappropriate and irrelevant in the context of a diminishing asset and the City IOF.

31. Amortization has been referenced by the Supreme Court of California in a decision involving extractive industries, for which the oil and gas exploration and production industry would be included. However, that same court case stated that the state of California recognizes the "diminishing asset doctrine" as it relates to extractive industries.[6]

32. I understand the diminishing asset doctrine protects owners' rights to value in a property even if city ordinances or zoning laws change the allowed use of that property. For operations that were not yet built, the owner has the vested right to continue and expand operations if it had objectively manifested the intent to expand its operations into those areas as of the rezoning dates.[7]

33. In other words, the California Supreme Court has concluded that extractive industries, such as the oil and gas industry, have the right to normal expansion of its operations in the aggregate. The diminishing asset doctrine protects explicit value associated with the continued development and exploration in an oil field and this value must be taken into account.

34. On SPR's website, it states since the inception of the IOF in 1924, which covers about 1,000 surface acres, approximately 1,600 wells have been drilled, producing more than 400 million barrels of oil.[8] Production over the last 10 years has averaged between 2.5-3.1 million barrels a year.[9] With technological advances in the oil and gas industry, engineers estimate that as much as 50% of the field's oil resources remain in place in producing zones and can be readily accessed through drilling and production activities.[10] Considering there are possibly 400 million barrels of oil still in the ground, SPR would certainly consider drilling new wells and/or work over current wells to continue production. This has been publicly stated on SPR's website for all the world to see.

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[6] Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996)
[7] Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996)
[8] History of the Inglewood Oilfield, available at https://inglewoodoilfield.com/history-future/history-inglewood-oilfield/
[9] Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/
[10] Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/

35. In addition, both the previous operator and SPR have provided annual reports to the Baldwin Hills Community Standards District ("CSD") related to its drilling operations for the upcoming year. I noted in these annual reports the following:

- The 2017 Plan prepared by Freeport McMoRan and filed with and approved by the CSD stated it intended to drill/redrill 53 wells in 2017.
- The 2018 Plan prepared by SPR and filed with and approved by the CSD stated it intended to drill/redrill 10 wells in 2018. Based on discussions with SPR, it did not perform all of these activities due to then current oil and gas prices.
- The 2019 Plan prepared by SPR and filed with and approved by the CSD stated it intended to drill/redrill 10 wells in 2019. Based on discussions with SPR, it did not perform all of these activities due to then current oil and gas prices.
- The 2020 Plan prepared by SPR and filed with and approved by the CSD stated it intended to drill/redrill 10 wells in 2020. Based on discussions with SPR, it does not expect to drill/redrill these wells due to current oil and gas prices.

36. Excluding bonus wells, the 2020 Plan shows that only 127 wells have been drilled, leaving an additional 373 wells that SPR could drill under the settlement agreement, which permits drilling activity through October 1, 2028 or during the remaining life of the CDS, *whichever is later*. Based on discussions with SPR, it has not expressed an intent to abandon its rights to drill these additional wells within the County IOF or City IOF, rather it has delayed drilling due to continued suppressed oil and gas prices.

37. The B&O Report did note that SPR had not drilled the wells it planned in 2017-2020. However, B&O has not expressed an opinion that this lack of drilling as scheduled allows the City to claim SPR has lost its vested right. It is my understanding that SPR does not lose its vested right to drill any future wells because it didn't drill the wells in the year it planned. B&O's Report has no justification to ignore the value of the City IOF protected by the diminishing asset doctrine. The ACI as developed by B&O is incapable of measuring this value that should be considered.

38. On a side note, Section 4.2 of the B&O Report states that SPR has not provided any drilling plans for the City IOF that present information about historical production, planned drilling of new wells, or planned abandonment of wells not issued any drilling plans for the City IOF. B&O ultimately concludes that it appears unlikely that SPR will drill new wells within the City IOF or

plan to plug and abandon wells that are currently idle or shut in. First, as noted by the City itself, the City regulations do not require SPR to make such reports to the City.[11] Second, SPR has not abandoned any rights to drill/redrill within the City IOF, it just postponed any drilling/redrilling activities due to suppressed pricing.

Even if amortization was appropriate or relevant (which it is not), the SPR ACI Model contains so many errors and false/unsupported assumptions as to render the analysis completely unreliable.

39. As previously described, ACI is not equivalent to fair market value for a diminishing asset, the IOF or City IOF, or oil & gas operations generally.

40. B&O has not provided all the data and supporting schedules supporting its conclusions, but even without that information, it is clear that in addition to being inappropriate and irrelevant, the B&O model is riddled with data input errors and/or false/unsupported assumptions. Following is a listing of the errors I have identified to date.

A. Errors Related to B&O's Determination of SPR's Initial Capital Investment

41. In order to calculate SPR's initial capital investment, B&O looked at three "indications of value" the income indication of value, the cost indication of value, and the market indication of value. These three approaches are traditionally considered when determining the fair market value of an asset. However, B&O made numerous errors in assessing each indication of value, and then inappropriately averaged the three indications instead of using them as a guide to determine the best indication of value. As a result, B&O severely underestimated the fair market value that SPR paid for the City IOF.

42. B&O's own sensitivity tests in section 8 of the B&O Report show as the acquisition cost or initial capital investment increases, the time to ACI increases as well. B&O identifies changes to the initial capital investment as having a "moderate" impact on the time to achieve ACI. Thus, this

[11] Comparison of Proposed Culver City Drilling Regulations to Existing City Regulations and Approved County Community Standards District (CSD) and Settlement Agreement, dated 10/5/2017 from City of Culver City website, available at https://www.culvercity.org/home/showdocument?id=9884

inappropriate underestimation in the value of the initial capital investment has a meaningful impact in decreasing the time frame that SPR could achieve ACI.

i. B&O inappropriately calculated the Income Indication of Value Related to the Initial Capital Investment in the City IOF.

43. Section 6.1.1 of the B&O Report states it prepared a discounted cash flow model based on future income and expenses from the City IOF which resulted in a fair market value of the City IOF of $5.34 million as of January 1, 2017. As discussed on page 15 of its report, B&O only considered wells that existed as of SPR's acquisition date in 2016 for which it identified only 41 production and injection wells that existed as of 2016 (as noted on Exhibit E to its report). As a result, B&O makes no consideration of PDNPs, PUDs, probable reserves, or possible reserves. By ignoring reserves, B&O's determination of the fair market value of the City IOF using the income method is understated and cannot be relied upon.

44. Further, B&O calculated cash flows for ten years from the date of purchase to estimate the income indication of value. However, all of these wells have lifespans greater than a ten-year period. In actuality, wells identified in Exhibit E of the B&O Report have been in existence for an average of 58 years in the case of operating wells and 41 years in the case of injection wells (as seen in Exhibit 1). B&O provides no support to only value 10 or more years of remaining production, which is in contrast to the long history of the operating wells identified.

ii. B&O provided no support for its Cost Indication of Value Related to the Initial Capital Investment in the City IOF.

45. Section 6.1.2 of the B&O Report states that it determined the functional replacement value ("FRV") for the oil and gas production wells within the City IOF in 2017 was $15.1 million and the deferred replacement value ("DRV") was $3.00 million. It used the DRV as one of the three indicators of value for the fair market value of the City IOF as of January 1, 2017. While B&O does provide a short description of deferred replacement cost, it did not provide a description of what it considers functional replacement value. In addition, it provided no support on how it calculated either FRV or DRV or why it chose DRV as it cost indication of value. B&O further stated it has not visited the site to determine the condition of the wells. In short, B&O has provided no support on its calculation of the cost indication of fair market value.

46. In addition to providing no support for the FRV and DRV values it calculated there is no indication that B&O placed a value on PUDS, probable reserves and possible reserves or equipment serving the City IOF that is in the County IOF.

iii. The Market Indication of Value of the City IOF Prepared By B&O is grossly oversimplified and unreliable.

47. As noted by B&O, the market approach uses similar transactions to try to infer a fair market value for a subject property such as the City IOF. B&O stated they found a small number of potential transactions, but there was insufficient public information available to make suitable adjustments to derive a supportable market indication of value.

48. As a result, B&O attempted to use the SPR/Freeport-McMoRan ("FCX") transaction in 2016 that involved numerous different and differentiating properties to estimate the City IOF fair market value. In B&O's attempt to create a market indication of fair market value for the City IOF, they determined the total sales price of the SPR/FCX transaction was $742 million (per Exhibit I of their report). B&O states that the total production from all of the properties that SPR purchased produced 28,000 barrels of crude oil per day ("BPD") in 2017 and the City IOF crude production (apparently based on the 41 City IOF wells it identified) was only 211 BPD. Utilizing nothing more than rudimentary math, B&O determined that 211 BPD/28,000 BPD equal .75%. As a result, B&O assumed the City IOF purchase price was .75% of the $742 million purchase price (and resulting fair market value), or $5.59 million.

49. There are several items inherently wrong with B&O's market value method. There is not enough public information to ensure that it a reasonable market value indicator. For instance, B&O cannot make any adjustments for the size of the reservoirs that SPR purchased in multiple locations, the condition of the equipment, the quality of the crude, transportation costs and ultimate netback pricing or operating costs nor any of the other relevant data points as noted in paragraph 24 of my report. As noted in FCX's 2015 10-K, there are significant differences in the quality and cost of the crude as noted below:

> "*Onshore California.* FM O&G's onshore properties are located in the Los Angeles Basin and San Joaquin Basin. FM O&G holds a 100 percent working interest in the majority of its onshore positions including the Inglewood, Las Cienegas, Montebello, Packard and San Vicente fields in the Los Angeles Basin, and the Cymric, Midway Sunset, South Belridge, and North Belridge fields in the San Joaquin Basin. The Los Angeles Basin properties are characterized by light crude

> oil (21 to 32 degree American Petroleum Institute (API) gravity), have well depths ranging from 2,000 feet to over 10,000 feet and include both primary production and secondary recovery using waterflood methods (whereby water is injected into the reservoir formation to displace residual oil), where producing wells have a high ratio of water produced compared to total liquids produced (high water cuts). The San Joaquin Basin properties are characterized by heavier oil (12 to 16 degree API gravity) and shallow wells (generally less than 2,000 feet) that require enhanced oil recovery techniques, including steam injection."[12]

50. Therefore, B&O's analysis using the market indication of value is unreliable. Additionally, it only addressed PDPs and did not address PDNPs, PUDs, probable reserves and possible reserves and these related costs. As a result, even if allocating the SPR/FCX production volumes was a reasonable methodology, it severely understates the number of wells and equipment, which understates the fair market value.

iv. B&O provides no support for why it averaged three different methods of calculating fair market value.

51. On page 25 of its report, B&O weighted the three methods of determining the fair market value of the IOF giving each method equal weighting of 1/3 to determine the fair market value of the City IOF as of January 1, 2017 without providing any explanation. In fact, the CSB specifically states not to use the simple mathematical average to reach a conclusion.[13] Typically in fair market valuation calculations, one will choose one method over another. This approach of just averaging the three methods to determine the value is inappropriate and unusual.

52. Further, by averaging the three methods B&O significantly depresses their assumed investment as the cost indication of value calculated an indication of value over 44% lower than the other two measurements of value. This greatly depresses B&O's initial indication of value of SPR's investment, and as previously stated, decreased the time to ACI.

B. Errors Related to B&O's Determination of SPR's Cash Flows

53. B&O estimated SPR's expected cash flow from January 1, 2017 forward by multiplying estimated production volumes from the City IOF wells that existed as of January 1, 2017 times B&O's estimate of expected sales prices. B&O then estimates the costs associated with the ongoing

[12] Freeport-McMoRan 2015 Form 10-K, page 43.
[13] CSB Handbook, page 5-3.

expenditures of the City IOF such as sustaining capital, operating costs, and taxes. For every one of these revenue and expense categories, B&O utilized faulty and erroneous assumptions and failed to include categories that must be considered.

i. Production Volumes (Oil and Gas)

54. Per Section 5.4.1 of the B&O report, to determine the production volumes from January 1, 2017 forward, B&O estimated the total production for 41 wells within the City IOF as of 2016 using a proprietary software package. I have not seen the production volume estimates; therefore, I cannot comment on the calculation. However, due to the diminishing asset doctrine, B&O should have looked at reserve reports and expected drilling plans, among other factors, to estimate production from future wells, which apparently it did not do. As a result, the B&O Report underestimates expected future production volumes (and capital expenditures), which severely underestimated the time that SPR could achieve ACI.

ii. Production Pricing (Netback Crude Oil Prices)

55. In Section 5.4.6, the B&O Report provides a description in bits and pieces on how it determined netback crude oil prices including using Brent crude pricing as the starting point plus adjustments for crude quality and transportation costs. The B&O Report states the netback crude oil prices that it estimates SPR received is shown on Exhibit G. Exhibit G is only a graph, so it is hard to determine the exact prices it used. However, it appears that B&O used approximately $58/barrel for 2017, over $70 per barrel for 2018, about $75 for 2019, and over $75 for 2020. B&O states that it used data available up until January 2020.

56. In addition, B&O states it used data through January 1, 2020. The actual Brent daily price average for 2017 was $54.12, for 2018 was $71.34 and for 2019 was $64.30. This does not comport with B&O's own Exhibit G, as Brent Crude decreased in 2019 relative to the prior year.[14]

57. This difference in actual netback crude oil prices received versus what B&O projected significantly overstates the amount of cash SPR has received, which significantly decreases the time in which SPR would be able to achieve ACI.

[14] Average Daily price of Brent Spot Price FOB available from the U.S. Energy Information Administration, at https://www.eia.gov/dnav/pet/hist/RBRTED.htm.

58. In addition, the FCX 2017 10-K indicates that SPR took over various financial derivates that would put a cap on how much SPR could receive for its crude oil production after actual sales prices were received. FCX's 2017 10-K states:

> "As part of the terms of the agreement to sell the onshore California oil and gas properties, FM O&G entered into derivative contracts during October 2016 to hedge (i) approximately 72 percent of its forecasted crude oil sales through 2020 with fixed-rate swaps for 19.4 million barrels from November 2016 through December 2020 at a price of $56.04 per barrel and costless collars for 5.2 million barrels from January 2018 through December 2020 at a put price of $50.00 per barrel and a call price of $63.69 per barrel, and (ii) approximately 48 percent of its forecasted natural gas purchases through 2020 with fixed-rate swaps for 28.9 million British thermal units (MMBtu) from November 2016 through December 2020 at a price of $3.1445 per MMBtu related to these onshore California properties. Sentinel assumed these contracts at the time of the sale in December 2016."

59. It does not appear that B&O considered the financial derivates that limited the actual cash SPR would ultimately receive, which severely decreases the time ACI would be achieved.

iii. Production Pricing (Netback Natural Gas Prices)

60. In Section 5.4.7, the B&O Report describes how it estimated future natural gas prices that SPR would receive based on Henry Hub prices published in the AEO 2019, which it listed on Exhibit G to its report. Exhibit G is expressed in price/barrel. Therefore, I am not exactly sure what price B&O is projecting for natural gas. Looking at B&O's glossary, assuming it used an industry standard 6:1 conversion rate to calculate barrels of oil equivalent, then B&O's projected price is about $3.33 per mcf.

iv. Sustaining Capital

61. The B&O Report states that it included sustaining capital for workovers during the projection period related to 1) return idle wells to oil and gas production, and 2) renovation of operating production wells at seven-year period interval basically at a cost of $180,000 per well. B&O has not provided any information on how it determined that a seven-year interval of $180,000 per well or $180,000 per well was reasonable. Without further detail, I cannot comment on the reasonableness of their assumption on how often a workover would be needed or the reasonableness of the cost estimate.

62. Additionally, B&O makes no consideration for maintenance capital required to sustain facilities and offices that support the City IOF. The regulations by both the City and LA County regarding maintenance would result in sustaining capital costs of the operation that should be considered by B&O but are not.

v. Operating Costs

63. B&O has underestimated operating costs. In Section 5.4.1, B&O states it used operating cost information related to fields owned by CRC and later describes in Section 5.4.9 that CRC has similar operating costs as SPR. However, while CRC provides information relating to water-flood fields like those contained within the City IOF, B&O fails to make any adjustment for differences between the relevant fields that would have an impact on the costs associated with drilling the fields. For example, the wells at the Mt. Poso fields referenced by CRC are much more shallow than the IOF oil fields.[15] Further, the majority of CRC fields are not in heavily urbanized metro areas like the IOF meaning costs associated with development of the fields are lower due to the lack of having to work around existing city infrastructure.[16] Additionally, the CRC fields may have access to an aquifer that supplies the necessary pressure rather than having to inject water to provide the necessary pressure, decreasing costs.

vi. Plug and Abandonment Costs

64. B&O stated it did not include plug and abandonment costs in its income model. There is an assumed $100 million liability included in SPR's purchase price for plug and abandonment costs, which is not considered in the B&O Report. Without further detail on why B&O excluded these costs, I cannot comment on this assumption.

vii. General and Administrative Costs

65. Further, B&O makes no estimates or consideration regarding general and administrative costs relating to the operation that should be included in their model.

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[15] "California Oil & Gas Fields Volume 1 – Central California," California Department of Conservation Division of Oil, Gas, and Geothermal Resources, pages 293-300. See also California Oil & Gas Fields Volume 2 – Southern, Central Costal, and Offshore California Oil and Gas Fields," California Department of Conservation Division of Oil, Gas, and Geothermal Resources, pages 192-194.

[16] Value-Driven November Corporate Presentation, California Resources Corp., Nov 2018, page 7.

viii. Income Taxes

66. B&O has assumed a 35% corporate federal tax rate prior to 2018 and 21% in 2018 onward and a California state corporate income tax rate of 9%, respectively the highest corporate tax rates. However, as a limited liability company ("LLC") SPR does not realize corporate tax rates. LLCs are pass through entities where the profits and losses are passed on to the owners and these amounts are then taxed on the individuals. Profits realized from SPR would experience individual tax rates which are as high as 37% in 2020 and even higher in years prior to 2020 for individuals at the federal level.[17] California state income taxes reach as high as 13.3% in 2020 for individuals and were as high as 12.3% in years prior.[18] As a result, B&O has significantly underestimated tax rates.

C. Errors Related to B&O's Determination of SPR's Discount Rate (Reasonable Rate of Return)

67. The discount rate is the interest rate used to calculate the present value of future cash flows from a project or investment. An appropriate discount rate will take into consideration the risks and requirements specific to the project and the investor. In B&O's ACI calculation, the discount rate serves as the reasonable rate of return previously described in this report. Recall that B&O defines ACI as the time it takes for cash flows to amortize, or cover, the initial capital investment plus a reasonable rate of return. Therefore, the time to ACI is significantly affected by the selection of the discount rate.

68. In Section 5.4.11, B&O states it used an industry rate of return by evaluating the weighted average cost of capital for exploration and production companies. B&O references a New York University publication. Based on B&O's evaluation of this website data, it determined it would use an 8% discount rate (reasonable rate of return) to apply to the cash flows. B&O states this is above the average of companies engaged in oil and operations from 2016 through 2019.

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[17] "IRS provides tax inflation adjustments for tax year 2020," available at https://www.irs.gov/newsroom/irs-provides-tax-inflation-adjustments-for-tax-year-2020.

[18] H&R Block California Tax Rates 2020, available at https://www.hrblock.com/tax-center/filing/states/california-tax-rates/. "Standard deductions, exemption amounts, tax rates, and doing business thresholds updated for 2019," available at https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/december-2019/standard-deductions-exemption-amounts-tax-rates-and-doing-business-thresholds-updated-for-2019.html

69. While I generally agree that an industry rate of return using the weighted average cost of capital is an adequate starting point, many adjustments must be considered. In B&O's definition and description of ACI, the discount rate must reflect the risks and profile of the specific investment and investor—in this case SPR and the City IOF. Following is a non-exhaustive list of project specific risk factors that would require upward adjustments to the discount rate:

- Regulatory costs and risks associated with being located in an urban area, specifically Los Angeles County, California and specifically in the City and being subject to over 20 regulatory entities.
- Potential political risks (such as the case with the City of Culver City initiating this study and its desire to stop production completely within the City IOF).
- Development risk associated with developing in a heavily urbanized area.
- Environmental related costs associated with running complex water flood wells.
- Risks associated with the company size of SPR on the cost of capital commonly referred to as the size premium.
- Risks dealing with a lack of marketability as SPR is a privately held company.

70. B&O fails to adjust their discount rate for project specific factors in order to determine an appropriate discount rate for the County IOF or City IOF. Further, as the reasonable rate of return should be specific to SPR, there should be consideration given that private equity owned companies generally require a rate of return in excess of 20% to reflect the risk inherent in their investments.

Even if amortization was appropriate or relevant, the All Owners ACI Model contains so many errors and false/unsupported assumptions as to render the analysis completely unreliable.

71. Based on my review of Section 7 of the B&O Report, the All Owners ACI Model not only tries to analyze wells that were drilled since 1977, but also attempts to analyze wells that were drilled from 1925 through 1976 and conclude, in the aggregate, that all wells drilled prior to 1976 achieved ACI within a few years. Based on my review of the description of the analysis B&O performed, I find the opinion completely unreliable.

72. As noted by B&O in Section 5.2 of its report, just as it needed in its first income model, it needs the following data to prepare a reasonable income model and resulting ACI:

- Capital Investments
- Sustaining capital investments required to maintain production activity
- Revenue (which means production volumes and price received)
- Changes in revenues due to market events
- Operating expenses
- Incomes taxes, ad valorem taxes
- Market rates of return

73. First, as noted in Section 7 of the B&O Report, B&O admits that the public data is "generally incomplete or unavailable" to develop baseline assumptions for an income model. Records date back to the first well drilled within the City IOF in 1925, nearly 100 years ago. However, B&O still made broad brushed assumptions for wells drilled from 1925-1976 based on only 6 wells drilled from 1977 to 2002.

74. Even in their Executive Summary on page 5, B&O noted there was significant variability among just these six wells, with only four wells achieving ACI and two wells not achieving ACI. B&O's rationale to accept this variability was to analyze them in the aggregate.

75. While aggregating may give one the answer they are looking for, trying to use this data to apply it to other wells drilled in the previous 50 years is inappropriate and speculative. B&O does not have the data for the older wells and can only make broad brushed assumptions. As it noted in its own report, there were two world wars, increase in number of light vehicles, changes in technology, changes in environmental laws, oil embargos, etc. B&O has performed some various analytics to try and support their apparent conclusion that all wells, in the aggregate, have achieved ACI by 1976, but there are too many data inputs with very little support to reasonably conclude that this occurred.

76. In addition, other facts/factors may have occurred whereby the wells drilled within the City IOF did not achieve ACI in the aggregate. The City IOF is only 78 acres of the IOF which is approximately 1,000 acres. B&O has provided no data regarding the previous and/or expected volumes associated with the specific City IOF wells, instead they make broad brush assumptions assuming the City IOF wells achieved ACI based on sale of the full IOF.

77. Lastly, in my opinion, whether the City IOF wells from 1926-1975 achieved ACI is irrelevant. SPR purchased its interest in the City IOF in 2016 and the City had no laws regulating ACI. From a financial perspective, it is not reasonable to take away land for which SPR paid millions of dollars without legal justification.

Attachment A

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Certification

Chartered Financial Analyst (CFA)

Accredited by AICPA in Business Valuation (ABV)

Professional History

Navigant Consulting (2010 – 2016)

UHY Advisors (2005 – 2010)

Arthur Andersen/FTI Consulting (1995-2005)

Professional Affiliations

CFA Society

CFA Society of Dallas

American Bar Association Commercial Litigation—Energy Committee

Education

Baylor University, BBA—Financial Services

Robert Lang, CFA, ABV

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For the past 25 years, Robert has been trusted by attorneys and companies to analyze complex commercial disputes and measure the financial impact of external events, operational changes, and other market factors. He has served as an expert and testified in high profile cases involving hundreds of millions of dollars and has led large investigations into complex economic and accounting issues.

Robert has assisted companies across a wide variety of industries and has a particular expertise in the energy industry, dealing with matters throughout the product life cycle. Robert has assisted oilfield services, E&P, midstream, and downstream entities with valuation issues, transaction support/analysis, business interruptions, royalty disputes and many other matters.

Many of Robert's cases involve the measurement of value and quantifying the creation or destruction of value. He has analyzed the value of entities and assets ranging from oil & gas operations to steel mills to complex securities to the world's largest cancer tumor bank. He has performed these assignments for clients in the US, Canada, Mexico, South America, the Middle East and Asia.

Robert serves as a guest lecturer in the Graduate Accounting program at Baylor University, where he also serves on the Advisory Board for the Accounting and Business Law department. He is a frequent speaker, author, and instructor on oil and natural gas issues, valuation, and financial analysis.

Representative practice areas and example engagements include:

Energy Related Disputes

- Conducted valuation analysis and testified as an expert for an energy industry client regarding the value of lost opportunities.
- Analyzed project economics and calculated damages on behalf of an oil field services company involved in converting natural gas into clean diesel. Analyzed the impact of several interruptions on the project.
- Performed several calculations of damages and testified at jury trial regarding contract losses and fraud damages suffered by an oilfield services company in the Fayetteville Shale.
- Calculated contract damages in a pricing dispute between a Marcellus natural gas fracking operator and an oilfield services company.
- Analyzed the impact of alleged negligence by a drilling operator on the

economics of a project in the Monterrey Shale. Testified as an expert on resulting cost increases and overall impact to the project.

- Analyzed damages and drafted expert report on over $150mm of economic losses suffered by a refinery. Analysis included review of economic and operational issues leading to bankruptcy and determination of resulting losses.

- Assisted a major Barnett Shale natural gas producer faced with hundreds of royalty litigation cases regarding midstream deductions. Analyzed gathering costs including review of cost of service model used to determine cost. Evaluated reasonableness of terms, including targeted rate of return, negotiated with the midstream company after producer spun it out into a separate entity. Reviewed net wellhead prices and reasonableness of all deductions. Analyzed impact of trading operations on royalty payments.

- Assisted a litigation trust with financial advisory and litigation related to the bankruptcy of a coal producer. Reconstructed the accounting environment of the bankrupt entity, analyzed more than 50 entities and thousands of related party transactions, performed solvency and valuation analysis, and calculated damages.

- Calculated damages and provided expert testimony in a large claim on behalf of an offshore oil & gas operator in litigation over repair, rebuild, and pollution cleanup costs.

- Assisted a major oil and gas client in developing a "net-back pricing" model for litigation that tracked the delivery of and payment for product originating in 4,000 wells and covering five pricing pools over seven years.

- Conducted royalty audits and performed numerous damage calculations in royalty disputes on behalf of major oil and gas clients.

- Constructed a highly complex model and calculated damages in a dispute over appropriate reductions in calculating natural gas liquids royalties.

- Calculated lost business value and provided expert opinion regarding the construction of fueling stations for a major airline.

- Calculated damages and drafted expert report to determine the lost profits suffered by a refinery as a result of contractor negligence and the resulting inability to produce cyclohexane and paraxylene. Analysis included an estimation of "but for" market prices in the absence of the supply shock.

- Calculated lost profits and performed valuations in a dispute between a major oil and gas company and numerous franchised service stations.
- Assisted oilfield services company with complex database analysis to identify and characterize competing sales in an anti-trust matter.

Valuation, Forensic Accounting and Commercial Damages

- Analyzed damages and testified as an expert regarding the lost business value suffered by a radiology management provider that resulted from an alleged faulty installation of Customer Relationship Management software.
- Determined lost research value suffered by medical school following a tropical storm. Testified as an expert on over $100mm of losses when claim was litigated. Judge ultimately awarded the exact damage calculation.
- Analyzed damages and testified as an expert regarding lost business value in a dispute between former business partners of a consumer products company.
- Served as court-appointed auditor in an alleged real-estate investment Ponzi scheme. Traced funds, identified improper transfers, and analyzed distributions within over 100 investment and development funds.
- Performed analysis and testified at trial regarding an alleged Ponzi scheme involving 1031 exchange investments and alleged violations of the Texas Securities Act.
- Performed valuation analysis and testified in bench trial regarding the difference in standard and liquidated values.
- Calculated damages and testified regarding damages suffered by a warehouse equipment distributor due to an alleged breach of contract.
- Analyzed and investigating facts, documents, and damages in a False Claims Act matter.
- Calculated damages and investigated allegations in a healthcare quit am action.
- Analyzed lost profits suffered by a regional airline that resulted from non-performance of a software vendor that was engaged to install an ERP system.
- Developed damage analysis and drafted expert report regarding an

investment fund's participation in a regional shopping mall as compared with suitable alternative investments.

- Assisted a multibillion-dollar underwriter in litigation regarding the profitability of its automotive extended-warranty business and the causes of decreasing margins.
- Quantified damages for defendant in a breach of contract suit concerning the distributorship agreement of a large athletic shoe company.
- Performed analysis of tracking data collected from a website in a class action lawsuit alleging deceptive billing practices against a dating website.

Bankruptcy Litigation and Restructuring

- Designated as an expert and performed valuation and solvency analysis in a dispute between a trustee and the previous owners of a multi-billion dollar telecommunications company.
- Calculated damages, rebutted opposing expert's calculation of lost business value, and analyzed solvency issues for a telecom company concerning a breach of contract with a developer of GPS technology who claimed the alleged breach forced bankruptcy.
- Analyzed debtors' plans for reorganization while working on behalf of creditors' committees in several bankruptcy matters.
- Advised a large manufacturer in restructuring various operations and financial structure.
- Developed damage model, refuted opposing expert's analysis, and drafted expert report for a utility industry client concerning the valuation of an acquired security alarm company and the impact of the software on the operations of the business.
- Analyzed transactions and calculated damages alleged by several municipalities against the investment bank that assisted in bond issuances.

Insurance and Construction Claims

- Assisted numerous clients in preparing insurance claims and negotiating settlements for business interruption and property damage totaling nearly $1 billion. Served as the National Practice Leader for the Business Insurance Claims practice of a large accounting firm. Clients have included oil and gas processing facilities and refineries, cogen facilities,

universities, hotels, hospitals, retailers, engine manufacturer, cement plant, power plant, steel plants, retailers, grocery stores, golf clubs, and numerous other manufacturers.

General Strategic and Business Advisory

- Helped a textile manufacturer identify the causes of lagging profits, streamline operations, reduce throughput, determine which plants to close, and determine the impact to shareholder value of the recommendations.
- Assisted several start-up businesses in formulating business plans, building financial infrastructure and structuring the financing.
- Assisted several growing private companies in securing private placements of additional capital.

Publications

- Low Crude Oil Price Impacts: Market Dynamics, Economic Implications, and Disputes, May 2015.
- The Shale Energy Revolution: A Lawyer's Guide, Chapter 3—Common Contractual Disputes-Royalty Disputes.
- Rising Tide: Litigation Wave from Low Oil Prices & Economic Implications, May 2015
- Gas Royalty Disputes on the Rise, NG Market Notes, April 2014
- Unconventional Oil & Gas Litigation Trends, A Geographical View, ABA Panel Moderator, July 2014
- Gas Royalty Disputes, Energy Law Advisor Volume 8 No. 3, July 2014
- Trends Emerging from Unconventional Oil & Gas Resources, ABA Energy Litigation Article, July 2014
- Capital Investment Decisions in Oil and Gas, April 2014
- Trends and Outlook for Shale Oil & Gas, New York County Lawyer's Association, February 2014
- Primer on Shale Oil & Gas, Industry Trends and Outlook, San Diego, California, September 2014

Attachment B
Documents Considered

Reports

- Capital Investment Amortization Study for the City of Culver Portion of the Inglewood Oil Field, prepared by Baker & O'Brien Incorporated

Letters

- Letter submitted simultaneously by Alston & Bird LLP dated August 13, 2020

Publicly Available Material

- Daily Brent Crude Spot Price FOB, U.S. Energy Information Administration, available at https://www.eia.gov/dnav/pet/hist/RBRTED.htm
- California State Board of Equalization, Assessor's Handbook Section 566 Assessment of Petroleum Properties, August 1996
- "California Oil & Gas Fields Volume 1 – Central California," California Department of Conservation Division of Oil, Gas, and Geothermal Resources
- "California Oil & Gas Fields Volume 2 – Southern, Central Costal, and Offshore California Oil and Gas Fields," California Department of Conservation Division of Oil, Gas, and Geothermal Resources
- Comparison of Proposed Culver City Drilling Regulations to Existing City Regulations and Approved County Community Standards District (CSD) and Settlement Agreement, dated 10/5/2017 from City of Culver City website, available at https://www.culvercity.org/home/showdocument?id=9884
- Freeport-McMoRan 2015 Form 10-K
- Freeport-McMoRan 2017 Form 10-K
- Freeport-McMoRan 2017 Drilling, Re-drilling, Well Abandonment and Well Pad Restoration Plan, Inglewood Oil Field, Filed November 2016
- Sentinel Peak Resources 2018 Drilling, Re-drilling, Well Abandonment and Well Pad Restoration Plan, Inglewood Oil Field, Filed November 2017
- Sentinel Peak Resources 2019 Drilling, Re-drilling, Well Abandonment and Well Pad Restoration Plan, Inglewood Oil Field, Filed November 2018
- Sentinel Peak Resources 2020 Drilling, Re-drilling, Well Abandonment and Well Pad Restoration Plan, Inglewood Oil Field, Filed November 2019
- Value-Driven November Corporate Presentation, California Resources Corp., Nov 2018

Attachment B
Documents Considered

Website Articles

- History of the Inglewood Oilfield, available at https://inglewoodoilfield.com/history-future/history-inglewood-oilfield/
- Future of the Inglewood Oil Field, available at https://inglewoodoilfield.com/history-future/future-inglewood-oil-field/
- "IRS provides tax inflation adjustments for tax year 2020," available at https://www.irs.gov/newsroom/irs-provides-tax-inflation-adjustments-for-tax-year-2020
- H&R Block California Tax Rates 2020, available at https://www.hrblock.com/tax-center/filing/states/california-tax-rates/
- Standard deductions, exemption amounts, tax rates, and doing business thresholds updated for 2019," available at https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/december-2019/standard-deductions-exemption-amounts-tax-rates-and-doing-business-thresholds-updated-for-2019.html

Court Cases

- Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996)

Review Of The Baker & O'Brien Report
Average Number of Years Since Well Was Drilled
Exhibit 1

Model #	Drill Year	Status	Lease Name	Well #	Years Since Well was Drilled as of 2020
3700248	1966	Operating	TVIC	59	54
3700249	1966	Operating	TVIC	63	54
3707468	1947	Operating	Block	22	73
3707475	1961	Operating	Block	29	59
3707477	1964	Operating	Block	31	56
3707873	1941	Operating	Machado	3-A	79
3707881	1952	Operating	Machado	7-A	68
3708129	1954	Operating	VRU	105	66
3709082	1979	Operating	VRU	113-A	41
3709086	1953	Operating	VRU	116	67
3709113	1925	Operating	TVIC	25	95
3709118	1953	Operating	TVIC	30	67
3709139	1961	Operating	TVIC	55	59
3709140	1962	Operating	TVIC	56	58
3709145	1957	Operating	TVIC	62	63
3709149	1966	Operating	TVIC	74	54
3720069	1967	Operating	TVIC	54	53
3725342	2002	Operating	TVIC	100	18
3725375	2002	Operating	TVIC	101A	18
		Operating Wells Average Years Since Drilling			**58**

Model #	Drill Year	Status	Lease Name	Well #	Years Since Well was Drilled as of 2020
3707876	1957	Injection	Machado	5	63
3709083	1977	Injection	VRU	114A	43
3709087	1954	Injection	VRU	117	66
3709088	1954	Injection	VRU	118	66
3720042	1967	Injection	TVIC	64	53
3722281	1980	Injection	TVIC	220	40
3725079	1998	Injection	TVIC	268	22
3725221	2000	Injection	VRU	284	20
3725222	2000	Injection	TVIC	271	20
3725256	2000	Injection	TVIC	272	20
		Injection Wells Average Years Since Drilling			**41**

Source:
B&O Report Exhibit E

Zendejas, Daniela

From: Al Adler <aba@abaenergy.com>
Sent: Wednesday, August 17, 2022 3:04 PM
To: Sussman, Shelley
Subject: Agenda Item No. 7a; Planning Commission Meeting of August 18, 2022 regarding Amendments to the NonCoastal Zoning Ordinance (PL210099) and Coastal Zoning Ordinance (PL210100).
Attachments: Letter from ABA Energy Corporation to VC PC - Agenda item No. 7a Public Hearing 8-16-22 (003).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Shelley,

Please find attached ABA Energy Corporation's written comments for item 7a of the aforementioned 8/18/22 Planning Commission Hearing.

ABA Energy Corporation

ABA

Alan B. Adler
President & CEO

ABA ENERGY CORPORATION

August 17, 2022

Sent Via Email Only - shelley.sussman@ventura.org

County of Ventura – Resource Management Agency – Planning Division
Ventura County Planning Commission
800 S. Victoria Avenue
Ventura, CA 93009-1740
Attn: Ms. Shelley Sussman, Case Planner

RE: Planning Commission Meeting of August 18, 2022 to consider and make recommendations via Agenda Item No. 7a, to the Board of Supervisors regarding Amendments to the Non-Coastal Zoning Ordinance (PL21-0099) and Coastal Zoning Ordinance (PL21-0100).

Dear Chair McPhail and Members of the Ventura County Planning Commission:

This letter provides comments on behalf of ABA Energy Corporation ("ABA") opposing the proposed amendments to the Non-Coastal Zoning Ordinance (PL21-0099) and Coastal Zoning Ordinance (PL21-0100) (the "Zoning Amendments"). ABA further adopts the comments and comment letters and evidence heretofore submitted, or submitted after this letter, by and on behalf of those oil and gas industry groups and companies that oppose the proposed Zoning Amendments and incorporates same into this letter as though fully set forth. ABA also adopts and incorporates herein by reference all of ABA's prior comment letters to the County, including its comment letter of July 27, 2022 and all of its prior comment letters to the Planning Commission and the Board of Supervisors.

As an initial matter, it is quite troubling that the Planning Department held no workshops, no stakeholder meetings, and provided absolutely no opportunities for the local industry or insurance representatives to engage with the Planning Department regarding the proposed Zoning Amendments. If the Planning Department had held such meetings, it would have learned the facts that are now being presented via comment letters—**the increased insurance and bonding requirements are economically infeasible and will result in a loss of development of mineral resources in the County**. This impact not only renders the County's reliance on a CEQA exemption unlawful but also will unquestionably result in further litigation against the County for the taking of real property rights from mineral owners and their lessees, like ABA.

The County has already spent significance taxpayer dollars on litigation to stop oil and gas activities only to be reversed by the will of its own taxpayers. Indeed, the proposed Zoning Amendments are being introduced at a time when the ink is barely dry on the election certification for the June 7th referendum election, whereby the Ventura County residents voted to repeal the County's adoption of previous amendments to the zoning ordinance, which would have had similarly devastating impacts on local oil and gas production, including ABA's ability to continue to operate in the County. It is interesting that the County chose to continue the assault on the Ventura County energy industry, as well as the local landowners who benefit from our oil and gas production, rather than listen to the will of the electorate and even sit

down with industry and discuss the issues. It is unimaginable that the County is ignoring the will of the people and then does not even educate itself as to the question of why the referendum vote went the way it did.

Please consider the following with respect to the proposed Zoning Amendments that will threaten over 2,000 good-paying industry jobs, wipe out approximately $56 million annually in state and local taxes, increase dependence on foreign oil from countries with poor environmental and human rights standards and create further litigation and liability for the County:

The Insurance and Bonding Limits are Arbitrary and Capricious, May Not Even Be Available to ABA Without Personal Guarantees and Letters of Credit or Cash Backing and are Economically Infeasible.

The Staff Report suggests new insurance limits for Operators and yet provides absolutely no rational justification for the increases. (ABA for instance, carries limits on its policies commensurate with the reasonable amount of an actual loss (in that unlikely event).) The limits suggested by the Staff Report are collectively overreaching with no understandable or reasonable justification.[1]

ABA has yet to receive firm approval that it can even acquire the increased insurance coverage and bonding requirements without a personal guarantee from its officers, which is completely unreasonable and unacceptable and would force ABA to shut down operations. ABA also has been informed that it likely will need to put up a letter of credit or the cash to back the new bonding amounts, which would be $983,000 in cash in addition to an extra $49,000/year of bonding fees. Again, ABA would be forced to shut down operations if required to provide this type of collateral for the new bonding limits. The Staff Report simply fails to account for these types of devasting impacts from the proposed Zoning Amendments.

As far as potential costs, ABA has received one quote that to obtain the increase insurance and bonding limits, assuming that ABA even qualifies without the restrictions noted above, ABA would be bearing an approximate increase of 332% of its current annual costs totaling $243,000 (current insurance and bonding costs are $73,000). While this would be an extreme, and unwarranted hardship, the more realistic and grim outcome is that with an insurance industry that is quickly tightening, our underwriters will not be able to bind these increased limits, preventing ABA from developing its mineral rights in the County. The same result will happen, as discussed above, if the bonding underwriter invokes the likely scenario where ABA must put up a letter of credit or cash for the increased bonding limit.

In short, these new suggested insurance and bonding limits are unreasonable, impractical, arbitrary and capricious, lacking in any rational basis and quite frankly, punitive. Perhaps that is why the cost burden and lack of availability to Operators were not even addressed in the Staff Report and no meetings were held with Operators to discuss the issues. **More importantly, these policies, as shown above, would likely, directly cause a loss of availability of a known mineral resource—the reserves of ABA and the Maulhardt Family beneath the Maulhardt Ranch.**

---

[1]In addition to the suggested increase of limits, hidden at the bottom of the list is an ambiguously worded umbrella mandate that adds $25 million to each of the preceding limits. As of the date hereof, we have assumed that the requested $25 million umbrella is only meant to go over the top of the General Liability policies.

The Proposed Zoning Amendments Would Likely Result in the Elimination of ABA's Ability to Develop its project under SUP #672 and therefore will be a Wrongful Taking of ABA's Vested Rights.

If the County adopts the proposed Zoning Amendments, such adoption will likely have the effect of eliminating the vested rights ABA has under SUP #672, and the County's actions will constitute a taking of ABA's property interests, which are presently estimated to be valued in excess of a third of a billion dollars. The imposition of new draconian limits on bonding, surety, and insurance likely will result in a deprivation of ABA's economically productive use of its leases, facilities, and minerals and will thereby result in a taking of ABA's property interests. (*See e.g., Lucas v. S.C. Coastal Council* (1992) 505 U.S. 1003, 1015–1020, 112 S. Ct. 2886, 120 L. Ed. 2d 798).

These policies also will deprive ABA of its distinct, investment-backed expectations--expectations that were generated by the County's own actions. In *Penn Cent. Transp. Co. v New York City* (1978) 438 US 104, 98 S Ct 2646, the Supreme Court determined what constitutes a regulatory taking by reiterating the generalized principle that courts are to decide whether "'justice and fairness' require that economic injuries caused by public action be compensated by the government, rather than remain disproportionately concentrated on a few persons." (438 US at 123.) It added some specificity to that, however, by explaining that while the determination "depends largely 'upon the particular circumstances [in that] case,'" three factors are particularly significant (438 US at 124): "The economic impact of the regulation on the claimant"; "[T]he extent to which the regulation has interfered with distinct investment-backed expectations"; and "[T]he character of the governmental action." Under these factors, the proposed Zoning Amendments likely would result in a taking of ABA's real property rights.

The Proposed Zoning Amendments are Not Exempt from CEQA Because They Likely Will Result in the Loss of Availability of a Known Mineral Resource.

As it is likely that the new arbitrary and capricious insurance and bonding requirements could render the production of ABA's minerals infeasible or impossible, it is improper to rely on a CEQA exemption. **"[L]oss of availability of a known mineral resource that would be a value to the region and the residents of the state" or the "loss of availability of a locally important mineral resource recovery site" constitutes an adverse environmental impact.** (CEQA Guidelines, Appendix G, § XII(a), (b) (emphasis added).) Categorical exemptions cannot apply where substantial evidence in the record indicates that the action will likely result in a significant environmental impact. (CEQA Guidelines, 15300.2(c); *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086.) As discussed above, the proposed Zoning Amendments will likely impact the availability of mineral resources in the County.

In *San Francisco Baykeeper, Inc. v. Cal. State Land Commission* (2015) 242 Cal.App.4th 202, 227-228, the Court of Appeal confirmed that, in the context of analyzing potential environmental impacts to mineral resources, the phrase "loss of availability" means "loss of accessibility," as opposed to depletion, of a known mineral resource. There, the State Lands Commission approved a private mining permit, and determined in its environmental impact report that the project would not result in significant adverse environmental impacts to mineral resources, under the thresholds relating to the "loss of availability" of a valuable mineral resource. (*Id.* at p. 226.) Petitioner group sued, alleging that because the mining activities

would deplete the mineral resource, the Commission should have determined that environmental impacts would occur. (*Id.* at p. 227.) The State Lands Commission rebutted on grounds that "the purpose of a CEQA impact analysis was not to assess whether mining would deplete the mined resource, but rather whether the project would interfere with important mineral resource deposit areas that should be conserved for purposes of the extraction of the valued mineral, and not be lost to an incompatible use." (*Id.* at p. 226.) The Court sided with the Commission, concluding that CEQA's concern with "impacts on accessibility to a known mineral resource that would be valuable to the region or locality is consistent with state policies regarding the regulation of land uses that are incompatible with mineral extraction." (*Id.* at p. 228, citing to Pub. Resources Code, § 2711(a) ["the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society"]; § 2711(d) ["the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the states infrastructure are vital"]; § 2790 [authorizing the state geologist to designate geographic areas as areas of statewide or regional significance in order to prevent premature development incompatible with the "advantages that might be achieved from extraction of the minerals of the area"].)

The County has attempted to avoid conducting a CEQA analysis of the proposed Zoning Amendments by asserting that the adoption of the proposed Zoning Amendments is exempt from CEQA review pursuant to, among other things, CEQA Guidelines section 15308 as an action by a regulatory agency to assure maintenance or protection of the environment "where the regulatory process involves procedures for protection of the environment." However, a new regulation that strengthens some environmental requirements may not be entitled to an exemption if the new requirements could result in other potentially significant effects. (See *California Unions for Reliable Energy v. Mojave Desert Air Quality Management Dist.* (2009) 178 Cal.App.4th 1225, 1240.) In the *California Unions* case, the agency found exempt from CEQA a new rule regarding the use of road paving as a mitigation measure to offset fugitive dust emissions. The Court of Appeal overturned the exemption because newly-paved roads could lead to adverse environmental impacts from increased vehicle emissions. The Court of Appeal noted that the agency "failed to show that those effects would be either de minimis or too speculative to analyze."

The proposed Zoning Amendments do not qualify for a categorical exemption because they will adversely impact the environment both directly and indirectly. Public Resources Code § 21060.5 defines the "environment" to mean "the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance". Here, the Zoning Amendments will impact the availability of mineral resources in the County. Requiring oppressive bonding, surety and insurance limits, or limits rendering their acquisition impossible, will obviously have a negative impact on the ability to produce minerals, which is a direct impact on the environment. Further, it is reasonably foreseeable that an indirect physical change in the environment will occur as the County's preference for imported foreign oil over locally produced oil will result in greater amounts of Greenhouse Gases being produced to the detriment of the environment (a fact the County has recently acknowledged in its FEIR for the 2040 General Plan Update.) ABA reasonably estimates that it has many millions of barrels of oil left to produce by drilling additional wells and if the oppressive bonding, surety and insurance limits prohibit ABA from developing fully the oil and gas reserves as provided in its existing SUP, these millions of barrels of oil will be replaced by imported oil that contains a higher Carbon Intensity, as determined by CARB, and the long-distance transportation of such oil will also result in an increase in air emissions including Greenhouse gases. **In other words, eliminating locally produced oil and gas will have the exact opposite environmental effect as is being touted by the County to justify their refusal to study the environmental impacts of the proposed Zoning**

Amendments. The County is expressly aware of this as the FEIR for the recently approved 2040 General Plan Update expressly acknowledged that eliminating local production would result in an increase in greenhouse gases, but the County refuses to study those impacts.

Simply put, the County must analyze these environmental impacts and cannot rely on a CEQA exemption to avoid doing so. The County is obligated under CEQA to analyze the GHG emissions that are likely to result from the project. The CEQA Guidelines provide that "[a] lead agency shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." (Cal. Code Regs., tit. 14, § 15064.4.) As part of this obligation, the County must make either a quantitative or qualitative evaluation of the resulting GHG emissions. By claiming that the proposed Zoning Amendments are exempt from CEQA, the County is essentially admitting that it did not even attempt to analyze the GHG impacts that would result from its efforts to reduce oil production within the County. By refusing to make any effort to calculate the effects from the increased import of oil and gas, the County has failed to make any effort to analyze the GHG emissions resulting from the project, much less a "good-faith effort," as required by section 15064.4.

The proposed Zoning Amendments in combination with the recent 2040 General Plan Update policies that were heretofore approved by the Board of Supervisors will undoubtedly have a significant impact on GHG emissions as a result of the increased importation of oil into the state. As noted in my prior comment letters from 2020, the Carbon intensity of Ventura crude is significantly less than that of imported oil. California's crude oil production has fallen 54 percent from 1986 to 2022. The decreased in-state production has resulted in corresponding increases in the import of oil from foreign sources. Since 1986, the proportion of foreign crude oil imported into California has swelled from 5% to over 58%. Currently, most of the crude oil accepted by California refineries for in-state consumption arrives in tanker ships from foreign countries such as Saudi Arabia, Ecuador, or Iraq. Any decrease in domestic production will result directly in an increase in deliveries by tanker ships from foreign countries. The County has refused to analyze or even consider these significant impacts and is essentially burying its head in the sand as it blindly goes about stripping the vested rights of its citizens and harming the environment by directly causing the importation of more foreign oil to the detriment of everyone.

The Proposed Zoning Amendments Will Likely Deprive ABA of Its Vested Rights.

As noted above, the proposed Zoning Amendments will likely strip ABA and other similarly situated Operators of their vested rights, and eliminate ABA's ability to develop the applicable petroleum resources for which ABA has already expended millions of dollars in anticipation of recouping significant revenues, all without legal or factual substantial evidence. Further the disparate treatment of ABA and the entire industry via the imposition of new draconian limits on bonding, surety, and insurance is not only a violation of due process, but violates the Equal Protection Clause as applied through the 14th Amendment. ABA will likely suffer grievous economic harm as a direct result of County's action.

In 2014, County Counsel for the County of Ventura specifically addressed the issue of vested rights and "antiquated permits" in an 8-page memorandum. This thorough and thoughtful legal analysis considered the County's authority, or lack thereof, to impose new conditions on existing oil and gas operations subject to an existing SUP/CUP. Without reciting the full legal authority and citations here, it is enough to note County Counsel's conclusion that "vested rights cannot be terminated or impaired by ordinary police power regulations, and can be revoked or impaired (such as by new conditions imposed by

a county) only to serve a "compelling state interest," such as a harm, danger or menace to public health and safety or public nuisance, and that the government's interference with the vested right be narrowly tailored to address the compelling interest and its magnitude."

Rather than cite any actionable harm, danger or menace to public health and safety or public nuisance, the County seeks to impose draconian bonding, surety, and insurance limits that would be financially infeasible or impossible for ABA to achieve. In doing so, the County thus would be eliminating the vested rights of property owners such as ABA because the drilling of additional wells in order to properly recover the natural resources would be impossible and/or impactable.

The County has Rejected the Will of the Electorate

This is now the County's second attempt to amend the zoning ordinances as a pretense to phase out oil and gas production in the County along with eliminating thousands of good-paying jobs. On November 10, 2020, the County adopted amendments to the zoning ordinance, which would have required the issuance of a new CUP, or approval of a discretionary permit adjustment or modification, to authorize all new oil and gas development, including that proposed under long-term permits, unless the proposed development is already specifically described as being authorized under an existing CUP. New development triggering the need for discretionary approval would have included the installation of new wells, tanks and other oil field facilities, and the re-drilling or deepening of existing wells.

The County's adoption of the previous amendments to the zoning ordinance was met with an onslaught of opposition from residents, operators, royalty owners and industry groups. Many were concerned about the impact on the local economy. Indeed, the County admitted that this would be the precise consequence of its action: "[T]he proposed zoning amendments could slow and/or reduce the potential expansion of new local oil and gas development, which in turn could have a negative economic impact on this economic sector and its employment base . . ." (Ventura County Resource Management Agency Letter to Board of Supervisors, Nov. 10, 2020.)

Moreover, the County already is incurring the expense of seven lawsuits, including one filed by ABA, as a result of its actions against oil and gas operations in the County and has incurred an expensive referendum vote that resulted in rejection of the County's prior zoning amendments on oil and gas operations. **The County is now again exposing itself to the risk of even further litigation by the adoption of the newly proposed Zoning Amendments, as well as the additional risk of another referendum vote thereon. The County thereby will be wasting more taxpayer dollars on these issues when the will of the voters has been made clear through the referendum vote in June on the previous amendments.**

Ultimately, the County gave voters the opportunity to repeal the previous zoning amendments through the referendum on the June 7, 2022 ballot. A majority of Ventura County residents voted against the referendum, thereby soundly rejecting the County's efforts to amend the zoning ordinance to shut down existing oil and gas production. Nevertheless, despite the clear message sent by voters during the June 2022 election, the County has persisted in its affront on the oil and gas industry and brazenly turned its back on the will of the electorate. Not only has the County rejected the will of the electorate, but its newly proposed Zoning Amendments are also unlawful and would render oil and gas production financially infeasible if not

impossible for Operators like ABA, as discussed above. ABA thus requests that the Planning Commission not recommend approval of the proposed Zoning Amendments.

Respectfully,
ABA ENERGY CORPORATION

Alan B. Adler, President 8-17-22

Zendejas, Daniela

From: Al Adler <aba@abaenergy.com>
Sent: Wednesday, August 17, 2022 3:24 PM
To: Sussman, Shelley
Subject: FW: Agenda Item No. 7a; Planning Commission Meeting of August 18, 2022 regarding Amendments to the NonCoastal Zoning Ordinance (PL210099) and Coastal Zoning Ordinance (PL210100).
Attachments: Letter from ABA Energy Corporation to VC PC - Agenda item No. 7a Public Hearing 8-16-22 (003).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Al Adler
Sent: Wednesday, August 17, 2022 3:04 PM
To: shelley.sussman@ventura.org
Subject: Agenda Item No. 7a; Planning Commission Meeting of August 18, 2022 regarding Amendments to the Non-Coastal Zoning Ordinance (PL210099) and Coastal Zoning Ordinance (PL210100).

Dear Shelley,

Please find attached ABA Energy Corporation's written comments for item 7a of the aforementioned 8/18/22 Planning Commission Hearing.

ABA Energy Corporation

ABA

Alan B. Adler
President & CEO

ABA ENERGY CORPORATION

August 17, 2022

Sent Via Email Only - shelley.sussman@ventura.org

County of Ventura – Resource Management Agency – Planning Division
Ventura County Planning Commission
800 S. Victoria Avenue
Ventura, CA 93009-1740
Attn: Ms. Shelley Sussman, Case Planner

RE: Planning Commission Meeting of August 18, 2022 to consider and make recommendations via Agenda Item No. 7a, to the Board of Supervisors regarding Amendments to the Non-Coastal Zoning Ordinance (PL21-0099) and Coastal Zoning Ordinance (PL21-0100).

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In short, these new suggested insurance and bonding limits are unreasonable, impractical, arbitrary and capricious, lacking in any rational basis and quite frankly, punitive. Perhaps that is why the cost burden and lack of availability to Operators were not even addressed in the Staff Report and no meetings were held with Operators to discuss the issues. **More importantly, these policies, as shown above, would likely, directly cause a loss of availability of a known mineral resource—the reserves of ABA and the Maulhardt Family beneath the Maulhardt Ranch.**

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These policies also will deprive ABA of its distinct, investment-backed expectations--expectations that were generated by the County's own actions. In *Penn Cent. Transp. Co. v New York City* (1978) 438 US 104, 98 S Ct 2646, the Supreme Court determined what constitutes a regulatory taking by reiterating the generalized principle that courts are to decide whether "'justice and fairness' require that economic injuries caused by public action be compensated by the government, rather than remain disproportionately concentrated on a few persons." (438 US at 123.) It added some specificity to that, however, by explaining that while the determination "depends largely 'upon the particular circumstances [in that] case,'" three factors are particularly significant (438 US at 124): "The economic impact of the regulation on the claimant"; "[T]he extent to which the regulation has interfered with distinct investment-backed expectations"; and "[T]he character of the governmental action." Under these factors, the proposed Zoning Amendments likely would result in a taking of ABA's real property rights.

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As it is likely that the new arbitrary and capricious insurance and bonding requirements could render the production of ABA's minerals infeasible or impossible, it is improper to rely on a CEQA exemption. **"[L]oss of availability of a known mineral resource that would be a value to the region and the residents of the state" or the "loss of availability of a locally important mineral resource recovery site" constitutes an adverse environmental impact.** (CEQA Guidelines, Appendix G, § XII(a), (b) (emphasis added).) Categorical exemptions cannot apply where substantial evidence in the record indicates that the action will likely result in a significant environmental impact. (CEQA Guidelines, 15300.2(c); *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086.) As discussed above, the proposed Zoning Amendments will likely impact the availability of mineral resources in the County.

In *San Francisco Baykeeper, Inc. v. Cal. State Land Commission* (2015) 242 Cal.App.4th 202, 227-228, the Court of Appeal confirmed that, in the context of analyzing potential environmental impacts to mineral resources, the phrase "loss of availability" means "loss of accessibility," as opposed to depletion, of a known mineral resource. There, the State Lands Commission approved a private mining permit, and determined in its environmental impact report that the project would not result in significant adverse environmental impacts to mineral resources, under the thresholds relating to the "loss of availability" of a valuable mineral resource. (*Id.* at p. 226.) Petitioner group sued, alleging that because the mining activities

would deplete the mineral resource, the Commission should have determined that environmental impacts would occur. (*Id.* at p. 227.) The State Lands Commission rebutted on grounds that "the purpose of a CEQA impact analysis was not to assess whether mining would deplete the mined resource, but rather whether the project would interfere with important mineral resource deposit areas that should be conserved for purposes of the extraction of the valued mineral, and not be lost to an incompatible use." (*Id.* at p. 226.) The Court sided with the Commission, concluding that CEQA's concern with "impacts on accessibility to a known mineral resource that would be valuable to the region or locality is consistent with state policies regarding the regulation of land uses that are incompatible with mineral extraction." (*Id.* at p. 228, citing to Pub. Resources Code, § 2711(a) ["the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society"]; § 2711(d) ["the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the states infrastructure are vital"]; § 2790 [authorizing the state geologist to designate geographic areas as areas of statewide or regional significance in order to prevent premature development incompatible with the "advantages that might be achieved from extraction of the minerals of the area"].)

The County has attempted to avoid conducting a CEQA analysis of the proposed Zoning Amendments by asserting that the adoption of the proposed Zoning Amendments is exempt from CEQA review pursuant to, among other things, CEQA Guidelines section 15308 as an action by a regulatory agency to assure maintenance or protection of the environment "where the regulatory process involves procedures for protection of the environment." However, a new regulation that strengthens some environmental requirements may not be entitled to an exemption if the new requirements could result in other potentially significant effects. (See *California Unions for Reliable Energy v. Mojave Desert Air Quality Management Dist.* (2009) 178 Cal.App.4th 1225, 1240.) In the *California Unions* case, the agency found exempt from CEQA a new rule regarding the use of road paving as a mitigation measure to offset fugitive dust emissions. The Court of Appeal overturned the exemption because newly-paved roads could lead to adverse environmental impacts from increased vehicle emissions. The Court of Appeal noted that the agency "failed to show that those effects would be either de minimis or too speculative to analyze."

The proposed Zoning Amendments do not qualify for a categorical exemption because they will adversely impact the environment both directly and indirectly. Public Resources Code § 21060.5 defines the "environment" to mean "the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance". Here, the Zoning Amendments will impact the availability of mineral resources in the County. Requiring oppressive bonding, surety and insurance limits, or limits rendering their acquisition impossible, will obviously have a negative impact on the ability to produce minerals, which is a direct impact on the environment. Further, it is reasonably foreseeable that an indirect physical change in the environment will occur as the County's preference for imported foreign oil over locally produced oil will result in greater amounts of Greenhouse Gases being produced to the detriment of the environment (a fact the County has recently acknowledged in its FEIR for the 2040 General Plan Update.) ABA reasonably estimates that it has many millions of barrels of oil left to produce by drilling additional wells and if the oppressive bonding, surety and insurance limits prohibit ABA from developing fully the oil and gas reserves as provided in its existing SUP, these millions of barrels of oil will be replaced by imported oil that contains a higher Carbon Intensity, as determined by CARB, and the long-distance transportation of such oil will also result in an increase in air emissions including Greenhouse gases. **In other words, eliminating locally produced oil and gas will have the exact opposite environmental effect as is being touted by the County to justify their refusal to study the environmental impacts of the proposed Zoning**

Amendments. The County is expressly aware of this as the FEIR for the recently approved 2040 General Plan Update expressly acknowledged that eliminating local production would result in an increase in greenhouse gases, but the County refuses to study those impacts.

Simply put, the County must analyze these environmental impacts and cannot rely on a CEQA exemption to avoid doing so. The County is obligated under CEQA to analyze the GHG emissions that are likely to result from the project. The CEQA Guidelines provide that "[a] lead agency shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." (Cal. Code Regs., tit. 14, § 15064.4.) As part of this obligation, the County must make either a quantitative or qualitative evaluation of the resulting GHG emissions. By claiming that the proposed Zoning Amendments are exempt from CEQA, the County is essentially admitting that it did not even attempt to analyze the GHG impacts that would result from its efforts to reduce oil production within the County. By refusing to make any effort to calculate the effects from the increased import of oil and gas, the County has failed to make any effort to analyze the GHG emissions resulting from the project, much less a "good-faith effort," as required by section 15064.4.

The proposed Zoning Amendments in combination with the recent 2040 General Plan Update policies that were heretofore approved by the Board of Supervisors will undoubtedly have a significant impact on GHG emissions as a result of the increased importation of oil into the state. As noted in my prior comment letters from 2020, the Carbon intensity of Ventura crude is significantly less than that of imported oil. California's crude oil production has fallen 54 percent from 1986 to 2022. The decreased in-state production has resulted in corresponding increases in the import of oil from foreign sources. Since 1986, the proportion of foreign crude oil imported into California has swelled from 5% to over 58%. Currently, most of the crude oil accepted by California refineries for in-state consumption arrives in tanker ships from foreign countries such as Saudi Arabia, Ecuador, or Iraq. Any decrease in domestic production will result directly in an increase in deliveries by tanker ships from foreign countries. The County has refused to analyze or even consider these significant impacts and is essentially burying its head in the sand as it blindly goes about stripping the vested rights of its citizens and harming the environment by directly causing the importation of more foreign oil to the detriment of everyone.

The Proposed Zoning Amendments Will Likely Deprive ABA of Its Vested Rights.

As noted above, the proposed Zoning Amendments will likely strip ABA and other similarly situated Operators of their vested rights, and eliminate ABA's ability to develop the applicable petroleum resources for which ABA has already expended millions of dollars in anticipation of recouping significant revenues, all without legal or factual substantial evidence. Further the disparate treatment of ABA and the entire industry via the imposition of new draconian limits on bonding, surety, and insurance is not only a violation of due process, but violates the Equal Protection Clause as applied through the 14th Amendment. ABA will likely suffer grievous economic harm as a direct result of County's action.

In 2014, County Counsel for the County of Ventura specifically addressed the issue of vested rights and "antiquated permits" in an 8-page memorandum. This thorough and thoughtful legal analysis considered the County's authority, or lack thereof, to impose new conditions on existing oil and gas operations subject to an existing SUP/CUP. Without reciting the full legal authority and citations here, it is enough to note County Counsel's conclusion that "vested rights cannot be terminated or impaired by ordinary police power regulations, and can be revoked or impaired (such as by new conditions imposed by

a county) only to serve a "compelling state interest," such as a harm, danger or menace to public health and safety or public nuisance, and that the government's interference with the vested right be narrowly tailored to address the compelling interest and its magnitude."

Rather than cite any actionable harm, danger or menace to public health and safety or public nuisance, the County seeks to impose draconian bonding, surety, and insurance limits that would be financially infeasible or impossible for ABA to achieve. In doing so, the County thus would be eliminating the vested rights of property owners such as ABA because the drilling of additional wells in order to properly recover the natural resources would be impossible and/or impactable.

The County has Rejected the Will of the Electorate

This is now the County's second attempt to amend the zoning ordinances as a pretense to phase out oil and gas production in the County along with eliminating thousands of good-paying jobs. On November 10, 2020, the County adopted amendments to the zoning ordinance, which would have required the issuance of a new CUP, or approval of a discretionary permit adjustment or modification, to authorize all new oil and gas development, including that proposed under long-term permits, unless the proposed development is already specifically described as being authorized under an existing CUP. New development triggering the need for discretionary approval would have included the installation of new wells, tanks and other oil field facilities, and the re-drilling or deepening of existing wells.

The County's adoption of the previous amendments to the zoning ordinance was met with an onslaught of opposition from residents, operators, royalty owners and industry groups. Many were concerned about the impact on the local economy. Indeed, the County admitted that this would be the precise consequence of its action: "[T]he proposed zoning amendments could slow and/or reduce the potential expansion of new local oil and gas development, which in turn could have a negative economic impact on this economic sector and its employment base . . ." (Ventura County Resource Management Agency Letter to Board of Supervisors, Nov. 10, 2020.)

Moreover, the County already is incurring the expense of seven lawsuits, including one filed by ABA, as a result of its actions against oil and gas operations in the County and has incurred an expensive referendum vote that resulted in rejection of the County's prior zoning amendments on oil and gas operations. **The County is now again exposing itself to the risk of even further litigation by the adoption of the newly proposed Zoning Amendments, as well as the additional risk of another referendum vote thereon. The County thereby will be wasting more taxpayer dollars on these issues when the will of the voters has been made clear through the referendum vote in June on the previous amendments.**

Ultimately, the County gave voters the opportunity to repeal the previous zoning amendments through the referendum on the June 7, 2022 ballot. A majority of Ventura County residents voted against the referendum, thereby soundly rejecting the County's efforts to amend the zoning ordinance to shut down existing oil and gas production. Nevertheless, despite the clear message sent by voters during the June 2022 election, the County has persisted in its affront on the oil and gas industry and brazenly turned its back on the will of the electorate. Not only has the County rejected the will of the electorate, but its newly proposed Zoning Amendments are also unlawful and would render oil and gas production financially infeasible if not

impossible for Operators like ABA, as discussed above. ABA thus requests that the Planning Commission not recommend approval of the proposed Zoning Amendments.

Respectfully,
ABA ENERGY CORPORATION

Alan B. Adler, President 8-17-22

Zendejas, Daniela

From:	rawitt@verizon.net
Sent:	Wednesday, August 17, 2022 3:25 PM
To:	Sussman, Shelley
Subject:	Public Comments for Ventura County Planning Commission Hearing , August 18, 2022 - Agenda Item 7A
Follow Up Flag:	Follow up
Flag Status:	Flagged

County of Ventura
Planning Commission
800 S Victoria Ave
Ventura CA 93009

August 17th, 2022

Re: Agenda Item 7A - Proposed Amendments to Oil and Gas Regulations (Case Numbers: PL21-0099 and PL21-0100)

Dear Chair McPhail and Commissioners,

I would like to call your attention to a few recent news items that should have a direct bearing on your decision regarding Agenda Item 7A's proposed ordinance amendments, which I urge you to support and strengthen.

Late last year, CalGEM, the agency responsible for controlling our state's greenhouse gas pollution, conceded that living near oil and gas wells is injurious to human health; and Governor Newsom announced rules intended to codify 3,200 foot setbacks separating sensitive sites, including homes, schools, businesses and health facilities, from new wells. The proposed definition of "new wells", however, doesn't apply to idled wells, which can be reactivated as easily as flipping a switch. As a result, tens of thousands of previously idled wells may soon be brought back into production, often without environmental review or public notice. *Data available on CalGEM's website indicates more than 800 idled Ventura County wells within the 3,200-foot health and safety buffer* and, because "aging well sites that have been around for a long time have *a much higher rate of casing failures* and *elevated level of groundwater contamination* than if you plug them," these hundreds of inactive wells could pose a significant risk both to our families' health and to the severity of regional climate impacts. (2/17/22, Capital and Main, California Oil Safety Rule Contains 'Zombie Well' Loophole, Advocates Say - Lawsuit in Bay Area represents a looming issue for thousands of idled oil and gas wells: https://capitalandmain.com/california-oil-safety-rule-contains-zombie-well-loophole-advocates-say)

While California claims to know the amount of climate-heating greenhouse gas that is being discharged into our air; CalGEM officials have acknowledged that *they don't include the super-climate-heating methane gas* that leaks from our state's 35,000 decades-old and inactive oil and gas

wells in California's greenhouse gas emissions inventory. (8/2/22, Associated Press, California not counting methane leaks from idle wells: https://apnews.com/article/science-california-pollution-carbon-neutrality-cd2ffda45e2671e5a4249b0b80be2a7f) Methane, the main component of fossil (aka "natural") gas , is 104 times *more potent* than carbon dioxide (CO2) at heating our atmosphere over a 10-year period – approximately the same timeframe in which scientists warn we must cut greenhouse gas pollution 43% to have any hope of limiting Global Heating sufficiently to avoid the dire impacts detailed in the latest reports from the Intergovernmental Panel on Climate Change. Part Two of IPCC's Sixth Assessment Report, Climate Change 2022: Impacts, Adaptation and Vulnerability (https://www.ipcc.ch/report/sixth-assessment-report-working-group-ii/), released on 2/28/22, warns that the world's window for cutting greenhouse gas pollution, and our capacity to adapt to resulting impacts, is rapidly narrowing and will quickly reach "hard limits" beyond which adaptation becomes impossible.

In addition to the terrifying implications of humanity's inability to adapt to ever-escalating Climate Destabilization, there are equally pressing health and safety consequences to oil and gas wells billowing unmeasured, unrestrained pollutants locally -- as highlighted by the accidental, May through July, discoveries of 41 idled wells spewing explosive levels of methane within just hundreds of feet of homes near two Bakersfield neighborhoods. Sunray Petroleum, which owns the relevant lease, has failed to pay idle well fees or submit an Idle Well Testing Compliance work plan, and has been repeatedly cited for oil field violations. As reported by The Desert Sun and ProPublica, CalGEM "has a spotty record of enforcing its own orders related to safety and the environment … and many companies walk away, potentially leaving taxpayers saddled with large clean-up costs." (May 23, 2022, The Desert Sun, Six idled oil wells leak explosive methane near Bakersfield homes in the past week: https://www.desertsun.com/story/news/environment/2022/05/23/six-wells-leak-explosive-methane-into-california-neighborhood-week/9896141002/) A CalGEM engineer who disputed the agency's downplaying of the Bakersfield situation warned that, "No one evaluated the leaks," and hurried, temporary seals just make "these wells … more dangerous as the [explosive] gas now could follow the least resistant path and could come to the surface away from the wells" -- meaning it could be "seeping through natural cracks or pipes below ground and building up to dangerous levels under or near homes."

Followup reporting (June 29, 2022, The Desert Sun, California oil inspectors balk at quotas, say in-person reviews neglected: https://www.desertsun.com/story/news/environment/2022/06/29/california-oil-staff-forced-to-do-5-000-inspections-a-month-with-no-time-for-in-depth-reviews/9908823002/) revealed understaffed CalGEM personnel, who are forced to do thousands of well inspections every month covering tens of thousands of square miles, 1) turning increasingly to *remotely inspecting sensitive operations*, "like properly plugging idle wells, or monitoring whether oil waste pumped back underground is reaching drinking water aquifers," *from behind their desks,* rather than on-site and, 2) also limiting physical, in-person inspections to low-risk areas where oil wells are densely clustered and allow for quick reviews of numerous wells in a single visit, rather than spending time on wells near homes and schools, where in-depth inspections can require up to 8 hours each.

Most recently, illegal oil and gas discharges, including from idled wells leaking methane gas, which documented 'shocking' infrared video across dense urban, residential, and commercial areas of Los Angeles County, "going right into people's windows," suggests widespread systemic health and climate hazards posed by the tens of thousands of active and idled wells in California cities and counties. (8/12/22, Capital and Main, Infrared Video Shows Widespread Oil and Gas Leaks in Los Angeles: https://capitalandmain.com/infrared-video-shows-widespread-oil-and-gas-leaks-in-los-angeles) Kyle Ferrar, the Western Program Coordinator for FracTracker Alliance, which filmed the video, said he witnessed plumes of methane & volatile organic compounds spewing emissions at oil and gas sites in both Kern and Ventura Counties as well.

CalGEM's failure to properly and timely inspect wells or to measure methane gas discharges from idled and abandoned wells are, per CalGEM staffers, "putting citizens' life and health in danger." These practices represent "an urgent public health issue, because when a well is leaking methane, other gases often escape too." People who live within a mile of these oil and gas wells face exposure to cancer-causing volatile organic compounds like benzene, xylene, toluene, and formaldehyde, as well as numerous other toxins; and a 14-year air quality analysis conducted by Stanford researchers found elevated air pollutants extending as far as 2.5 miles of oil and gas wells.

These recent revelations and accumulating investigations document an urgent need to quickly minimize toxic emissions from oil and gas wells. They also present an opportunity, which you can and must seize at tomorrow's hearing by strengthening the proposed amendments to the Non-Coastal and Coastal Zoning Ordinances related to oil and gas operations in Ventura County.

To that end, I urge you to pass both proposed ordinances after amending them in accordance with recommendations submitted by Los Padres Forest Watch, Climate First: Replacing Oil and Gas (items 1. – 3. below), and Todd Collart (items 4. – 6. below), including:

1. Limit permit expiration to no more than 10 years.

2. Limit the number of wells on individual permits and adopt a "one-for-one" policy.

3. Increase the surety cap beyond $5 million to guarantee every well is timely and properly abandoned.

4. Adopt abandonment triggers.

5. Formalize property owners' obligations.

6. Add permit monitoring and tracking fees.

As Robert Howarth, a Cornell University methane researcher, has said of efforts to meet Paris Climate Accord targets, while it is a super-pollutant, "Methane dissipates pretty quickly in the atmosphere, so cutting the emissions is really one of the simplest ways we have to slow the rate of Global Heating" to ensure Ventura County meets our emissions reduction goals while also vastly improving local health outcomes. Cutting methane emissions is one of those rare win-wins. Please, take the win.

Sincerely,

Rose Ann Witt
Thousand Oaks