

Exhibit 5a
Clean version of proposed ordinance
amending the Non-Coastal Zoning
Ordinance

County of Ventura
Planning Commission Hearing
Case Nos. PL21-0099 and PL21-0100
Exhibit 5a - Clean version of proposed ordinance amending
the Non-Coastal Zoning Ordinance

Exhibit 5a

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA,
AMENDING DIVISION 8, CHAPTER 1, SECTIONS 8107-5.4, 8107-5.6.5, 8107-5.6.11,
AND 8107-5.6.12 OF THE VENTURA COUNTY ORDINANCE CODE, NON-COASTAL
ZONING ORDINANCE, PERTAINING TO OIL AND GAS EXPLORATION AND
PRODUCTION PERMIT TERMS, SURETIES AND INSURANCE**

The Board of Supervisors of the County of Ventura ("County") ordains as follows:

Section 1

Section 8107-5.4 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.4 – Required Permits; Application Processing

- a. No *oil or gas exploration or production* related use may commence without or be inconsistent with a Conditional Use Permit approved pursuant to this Chapter. Furthermore, a *Zoning Clearance* must be obtained by the permittee to confirm consistency with the Zoning Ordinance and/or Conditional Use Permit prior to drilling every well, commencing site preparation for such well(s), or installing related appurtenances, as defined by the Planning Director. However, a single Zoning Clearance may be issued for more than one well or drill site or structure. Possession of an approved Conditional Use Permit shall not relieve the operator of the responsibility of securing and complying with any other permit which may be required by other County Ordinances, or State or Federal laws. No condition of a Conditional Use Permit for uses allowed by this Chapter shall be interpreted as permitting or requiring any violation of law, or any lawful rules or regulations or orders of an authorized governmental agency. When more than one set of rules apply, the stricter one shall take precedence.
- b. New Conditional Use Permits and permit modifications that include, but are not necessarily limited to, permit renewals or time extensions that authorize *oil and gas exploration and production* shall not be approved with a term that exceeds 15 years, although subsequent terms not to exceed 15 years may be sought pursuant to Renewal Applications in accordance with Section 8107-5.4(c) below. Post-closure activities such as any required site restoration may occur after a Conditional Use Permit's term expires.

- c. This Section 8107-5.4(c), rather than Section 8111-2.10 (Continuance of Permit During Application Renewal Process) of this Article, shall apply to discretionary permit modification applications that include, but are not necessarily limited to, a request to renew the term of an existing Conditional Use Permit that authorizes *oil and gas exploration and production* (hereinafter, "Renewal Application"). In order for an existing Conditional Use Permit that is the subject of a Renewal Application to remain in effect while said application is processed and acted upon by the County, the following application materials must be submitted to the Planning Division no later than 12 months before the expiration date of the existing Conditional Use Permit:

- (1) A completed County discretionary permit application form;
- (2) An executed County Reimbursement Agreement regarding the recovery of County costs to process the application;
- (3) An initial fee deposit for the processing of the application in accordance with the Planning Division Fee Schedule;
- (4) A site plan of the entirety of the area subject to the existing Conditional Use Permit that depicts the location and nature of all existing and proposed oil and gas facilities;
- (5) A list of all existing oil and gas wells located within the existing Conditional Use Permit area by American Petroleum Institute (API) number;
- (6) A written project description; and
- (7) Any other generally applicable application materials that are required in writing by the Planning Division.

In order for the existing Conditional Use Permit to remain in effect pursuant to this Section 8107-5.4(c) while a Renewal Application is processed and acted upon by the County, the applicant must also diligently pursue the application to final decision, including, but not limited to, by timely responding to all County requests for information that are required to process and act upon the application.

Section 2

Section 8107-5.6.5 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.6.5 – Sureties for *Oil and Gas Exploration and Production*

Notwithstanding any provision or condition of this Chapter or any existing Conditional Use Permit or Special Use Permit to the contrary, the following requirements shall apply to any *person* who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control an onshore oil and gas well or production facility in unincorporated Ventura County, excluding federal lands. Such *person* is defined as an “operator” for purposes of this Section 8107-5.6.5.

- a. Each operator shall file, in a form acceptable to County, surety bonds or cash equivalents as described below. Each surety shall list the County of Ventura as the obligee. Operators shall maintain the minimum amount of each surety with no gap in coverage until the operator has fulfilled and performed the obligation secured by each respective surety. Sureties shall not be terminated and cancelled unless and until the Planning Director or designee has confirmed in writing that (1) the operator has fulfilled its obligations secured by each respective surety, or (2) an adequate substitute surety has been provided. The sureties required by the below provisions may be bundled, consolidated, and/or grouped together into a blanket bond or similar financial instrument, so long as the total amount equals or exceeds the total amount of surety coverage required by the below provisions, and covers all wells for which the sureties are being submitted. County sureties required by this Section 8107-5.6.5 are additional to any sureties required by state and federal agencies for oil and gas operations.
- b. For purposes of this Section 8107-5.6.5, the term “well” shall have the same meaning as broadly defined by Public Resources Code section 3008, subdivision (a), and shall include the specific types of wells defined in Public Resources Code section 3008, subdivisions (b) through (e), as may be amended.
- c. Surety bonds shall be issued by an entity listed in the latest version of U.S. Department of Treasury Circular 570 that is authorized to issue bonds in California, and that has a bonding limitation shown in said circular sufficient to provide bonds in the amount required by this Section 8107-5.6.5.
- d. A cash equivalent surety may consist of a letter of credit, cashier’s check, or certificate of deposit. It must be prepared and issued by a federally insured commercial bank with an office in California in a form approved by County Counsel, payable to the County of Ventura, in an amount equal to the required surety or the sum of the amounts of the required surety.

- e. Each surety shall be conditioned upon the operator fulfilling and performing the obligation secured by the respective surety. In particular, the Surface Restoration and Well Abandonment Surety as described below shall be conditioned on the operator's Restoration (defined below) of its onshore *oil and gas exploration and production* sites in unincorporated Ventura County, excluding federal lands, as determined and confirmed by the Planning Director or designee, as well as the operator's proper plugging and abandonment of the operator's onshore wells in unincorporated Ventura County, excluding federal lands, in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements. In case of any failure by the operator to perform its obligations under a surety, the Planning Director shall declare all or part of the surety forfeited in accordance with its provisions. The surety company and principal shall be jointly and severally obligated to pay forthwith the full amount of the forfeiture to the County of Ventura. The forfeiture of any surety shall not insulate the operator and/or property owner from liability in excess of the sum of the surety for damages or injury, or expense or liability suffered by the County of Ventura or other parties, from any breach by operator and/or property owner of any term or condition of a County permit or violation of any applicable law or governmental regulation. Each surety shall be promptly released and exonerated by County after all applicable obligations have been performed and satisfied.

f. Surety Amounts

- (1) Surface Restoration and Well Abandonment Surety. A Surface Restoration and Well Abandonment Surety is required to guarantee the operator's restoration and remediation of its onshore *oil and gas exploration and production* sites in unincorporated Ventura County, excluding federal lands, to as nearly their pre-*oil and gas exploration and production* condition as is practicable including, to the extent not inconsistent with state or federal law, by: removing all equipment, facilities, tanks, pipelines and other improvements associated with the above ground oil and gas operations; performing any required remediation of environmental contamination caused by said operations; and/or otherwise complying with all applicable local, state and federal restoration and remediation requirements including but not limited to all revegetation requirements contained in an existing Conditional Use Permit or Special Use Permit authorizing the land use (collectively, "Restoration"). This surety is also required to guarantee the proper plugging and abandonment of the operator's onshore wells in

unincorporated Ventura County, excluding federal lands, in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements (collectively, "Well Abandonment"). All Surface Restoration and Well Abandonment Surety amounts forfeited to the County shall be held in trust, and released to and used by the California Geologic Energy Management Division, County, or other County-approved *person* for the sole purpose of funding Restoration of the operator's site(s), and abandonment of all wells covered by the surety in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements.

- i. The default amount of the Surface Restoration and Well Abandonment Surety shall be \$43,000 per onshore well, exclusive of properly abandoned wells, within unincorporated Ventura County, excluding federal lands, not to exceed \$10,000,000 for any one operator (hereinafter, "Default Amount"). In lieu of providing a surety in the Default Amount, the surety amount may reflect the estimated cost of Restoration and Well Abandonment of the operator's *oil and gas exploration and production* sites and wells in unincorporated Ventura County based on a site-specific Restoration and Well Abandonment plan and cost estimate prepared by a qualified third-party professional at operator's sole expense and approved by the County Planning Division (hereinafter, "Site-Specific Plan and Cost Estimate Amount").
- ii. For the surety amount to be initially established at the Site-Specific Plan and Cost Estimate Amount, such plan and cost estimate must be submitted to, and approved as to accuracy by, the Planning Division prior to the date the Surface Restoration and Well Abandonment Surety is initially due. Otherwise, the initial surety amount shall be the Default Amount which may thereafter be adjusted upon the Planning Division's approval as to accuracy of an operator-submitted Site-Specific Plan and Cost Estimate Amount.

- (2) Long-Term Idle Well Abandonment Supplement Surety. A Long-Term Idle Well Supplement Surety is required, in addition to the Surface Restoration and Well Abandonment Surety, to further guarantee that long-term idle wells are properly plugged and abandoned in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements. The amount of the supplement surety shall be \$15,000 for each of operator's

onshore long-term idle wells located in unincorporated Ventura County, excluding federal lands, that has been idle for 15 years or more. All Long-Term Idle Well Abandonment Supplement Surety amounts forfeited to the County shall be held in trust, and released to and used by the California Geologic Energy Management Division, County, or other County-approved *person* for the sole purpose of funding the plugging and abandonment of all wells covered by the surety in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements.

(3) No Duplication of Surety Requirements

The purpose of this subsection is to avoid the County's requirement of sureties under this Section 8107-5.6.5 ("County Sureties") in amounts, when combined with an operator's sureties required by the State and other public entities covering the same wells, that exceed the Estimated Plugging and Restoration Costs for an operator's onshore wells in unincorporated Ventura County, excluding federal lands. County Sureties shall be reduced or eliminated if the operator establishes either of the following, as applicable:

- i. For operators with no oil and gas operations in California outside of unincorporated Ventura County, that it maintains sureties with the California Geologic Energy Management Division or its successor agency, and any other State agency, for well plugging and abandonment and site restoration ("State Sureties") covering its operations in unincorporated Ventura County in an amount which, when added to the amounts of the County Sureties, meets or exceeds the full estimated costs of properly abandoning all of the operator's wells and completing Restoration of all of the operator's oil and gas sites ("Estimated Plugging and Restoration Costs") in unincorporated Ventura County. If the operator makes this showing, the amounts of the respective County Sureties shall be proportionally reduced to a combined amount which, when added to the amount of the State Sureties, equals the Estimated Plugging and Restoration Costs; or
- ii. For operators with oil and gas operations in unincorporated Ventura County and at least one additional city or unincorporated county in California, if the operator's State Sureties cover its oil and gas operations in unincorporated Ventura County as well as in other California cities and unincorporated counties ("Local Jurisdictions"), that the amount of its State Sureties, when added to the amounts of its County Sureties and all sureties the operator

maintains for well plugging and abandonment and site restoration with other Local Jurisdictions, meets or exceeds the Estimated Plugging and Restoration Costs in unincorporated Ventura County and all other Local Jurisdictions covered by the State Sureties. If the operator makes this showing, the amounts of the respective County Sureties shall be proportionally reduced to a combined amount which, when added to the State Sureties and the sureties of all other Local Jurisdictions, equals the Estimated Plugging and Restoration Costs for all wells and sites covered by such sureties.

- iii. An operator may submit a written application to the Planning Division, in accordance with the applicable provisions of Section 8111-2, seeking to reduce or eliminate its County Sureties pursuant to this Section 8107-5.6.5(f)(3). Unless and until the operator's application is approved in a final County decision, the operator shall be required to furnish all required County Sureties in the full amounts required by this Section 8107-5.6.5. The operator shall provide the following information and materials with the application: (a) its well inventory for unincorporated Ventura County pursuant to Section 8107-5.6.5(g)(2) below; (b) true and correct copies of the operator's State Sureties in effect; (c) if the operator's State Sureties also cover operations in other Local Jurisdictions, copies of all sureties in effect with those Local Jurisdictions, if any; (d) a report stating the number and location of all wells and production sites, and itemizing the Estimated Plugging and Restoration Costs, for the operator's operations in unincorporated Ventura County and all other Local Jurisdictions, if applicable; and (e) all other information and materials reasonably requested by the Planning Division to assess the application.
- iv. The operator's application shall be administratively decided by the Planning Director without a public hearing. The application shall be granted, in whole or in part, if the operator makes the applicable showing set forth in Sections 8107-5.6.5(f)(3)(i) or (ii). The operator shall be responsible for all fees and costs associated with the Planning Division's processing of its application, including those of an independent consultant who may be retained by the County to review and assess the operator's request. The Planning Division shall consult with the California Geologic Energy Management Division or its successor agency regarding all applications.

- v. If an operator's application is granted in whole or part the operator shall, as part of the annual surety review process set forth in Section 8107-5.6.5(g)(4) below, thereafter provide the Planning Division with the information and materials referenced in Section 8107-5.6.5(f)(3)(iii) above to establish its continued entitlement to reduced or eliminated County Sureties. The Planning Division shall adjust the amount of the operator's reduced County Sureties during this process if required pursuant to the applicable standard set forth in Section 8107-5.6.5(f)(3). If the County determines that the operator has failed to establish its continued entitlement to reduced or eliminated County Sureties, the operator shall furnish all required County Sureties in the full amounts required by this Section 8107-5.6.5 within 60 days of the County's determination.

g. Calculating, Filing and Maintaining Sureties

- (1) New and renewed Conditional Use Permits shall include a condition of approval requiring the filing of all sureties required by this Section 8107-5.6.5 prior to use inauguration of the new or renewed permit.
- (2) Each operator with existing onshore wells within unincorporated Ventura County, excluding federal lands, shall submit a complete inventory of such wells, including active, idle, and plugged and abandoned wells, for review by the Planning Division by **[60 days after the effective date of the ordinance]**.
- (3) The Planning Director or designee shall verify the required County surety amounts based upon review of information provided by the operator, the California Geologic Energy Management Division or its successor agency, and County permit records, and notify the operator in writing. Operators with existing wells in unincorporated Ventura County shall provide the Planning Division all County sureties (or qualifying cash equivalent sureties) required pursuant to this Section 8107-5.6.5 within 180 days from the date of this notification.
- (4) Between January 1 and January 31st of each calendar year commencing the year immediately after operators submit their initial sureties pursuant to this Section 8107-5.6.5, each operator shall submit an annual inventory of its wells, including active, idle, and plugged and abandoned wells, to the Planning Division, along with verification that the annual premiums for all required sureties have been paid, or that the cash equivalent sureties remain valid. This shall be referred to as the "Annual Surety Review". During the Annual Surety Review, or at any other time, an operator may request a

surety adjustment in the event the amount of a required surety has changed in accordance with the applicable provisions of this Section 8107-5.6.5, or the operator may apply for reduced or eliminated County Sureties pursuant to Section 8107-5.6.5(f)(3) above.

(5) At each five-year interval after the initial Annual Surety Review, each surety amount shall be inflation indexed (i.e., increased or decreased to account for inflation over the preceding five-year period) based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Los Angeles-Long Beach-Anaheim. Approximately 60 days prior to the Annual Surety Review process conducted on each such fifth year, the Planning Division shall notify each operator of the adjusted surety amounts, as inflation indexed. Operators shall thereafter submit replacement sureties to the Planning Division based on the applicable new amounts during the Annual Surety Review for that year.

- h. An operator's compliance with the requirements of this Section 8107-5.6.5 must be confirmed prior to the issuance of a Zoning Clearance authorizing the operator's drilling or re-drilling of any new production well, including for any Zoning Clearance sought prior to the initial deadlines set forth in Section 8107-5.6.5(g).

Section 3

Section 8107-5.6.11 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.6.11 – Site Restoration

- a. Notwithstanding any provision or condition of this Chapter or any existing Conditional Use Permit or Special Use Permit to the contrary, the following restoration and remediation requirements shall apply to all existing and new onshore *oil and gas exploration and production* sites and operations in unincorporated Ventura County, excluding federal lands. On expiration, revocation, relinquishment or abandonment of a Conditional Use Permit or Special Use Permit (collectively, "permit") authorizing the subject *oil and gas exploration and production* land use ("Termination of Use"), the operator or property owner must restore and remediate the site to as nearly its pre-*oil and gas exploration and production* condition as is practicable including, to the extent not inconsistent with state or federal law, by: removing all equipment, facilities, tanks, pipelines and other improvements associated with the oil and gas operations; performing any

required remediation of environmental contamination caused by said operations; and/or by otherwise complying with all applicable local, state and federal restoration and remediation requirements including but not limited to all revegetation requirements contained in an existing permit authorizing the land use (collectively, "Restoration").

- b. Within 90 days after Termination of Use, operator or property owner shall submit to the Planning Division a Restoration plan prepared by a qualified third-party professional at operator's sole expense detailing the components and timing of Restoration. The Planning Director or designee, in consultation with the California Geologic Energy Management Division, shall review and approve the Restoration plan if it is compliant with this Section 8107-5.6.11. Restoration shall be diligently pursued and completed within one year after the plugging and abandoning of the last oil well in the subject permit area, unless the Planning Director or designee, in consultation with the California Geologic Energy Management Division, approves a different deadline for Restoration.

Section 4

Section 8107-5.6.12 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.6.12 – Insurance

- a. Notwithstanding any provision or condition of this Chapter or any existing Conditional Use Permit or Special Use Permit to the contrary, the following requirements shall apply to any *person* who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control an onshore oil and gas well or production facility in unincorporated Ventura County, excluding federal lands. Such a person is defined as an "operator" for purposes of this Section 8107-5.6.12.
- b. Each operator shall maintain the following insurance coverages with no gap in coverage, pursuant to the following terms and conditions, until full restoration of the operator's *oil and gas exploration and production* site(s) in unincorporated Ventura County in compliance with this Article is confirmed by the Planning Director or designee:
 - (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 \$5,000,000. Coverage shall apply to sudden and gradual pollution

conditions resulting from: the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos) written on an occurrence basis. If the coverage is written on a claims-made basis rather than occurrence basis, any retroactive date applicable to coverage under the policy shall be no later than the policy inception date, and continuous coverage shall be maintained or an extended discovery period must exist for a period of at least three (3) years beginning from the date that full restoration of all of the operator's *oil and gas exploration and production* sites in unincorporated Ventura County in compliance with this Article is confirmed by the County. If the operator is responsible for the transport of any hazardous waste this Pollution Liability Policy must cover said transport activity, or operator may add Insurance Services Office (ISO) endorsement CA 9948 and MCS-90 to a Business Automobile Policy.

- (3) Control of Well (initial drill or well modification) coverage of a minimum of \$5,000,000 per occurrence to cover cost of controlling a well that is out of control, drilling or restoration expenses, and seepage and pollution damage.
- (4) Excess or Umbrella Liability Insurance: Minimum limit of \$10,000,000 providing excess coverage for each of the perils insured by the preceding insurance policies — General Liability, Environmental Impairment, and Control of Well.
- (5) The County of Ventura, its boards, agencies, departments, officers, employees, agents, and volunteers shall be named as additional insureds ("Additional Insureds") as respect to all work done, activities undertaken, and operations conducted by the operator on all required insurance policies. All required insurance shall be primary coverage with respect to Additional Insureds, and any insurance or self-insurance maintained by Additional Insureds shall be excess of operator's insurance coverage and not contribute to it.
- (6) Operator shall immediately inform the Planning Division if any aggregate insurance limit is exceeded in which case the operator must obtain additional coverage to meet the requirements of this Section 8107-5.6.12.
- (7) Policies shall not be canceled, non-renewed or reduced in scope of coverage until after 60 days written notice has been provided to the Planning Division. Operator shall provide the Planning Division with certificates of insurance and Additional Insured endorsements demonstrating proof of any new policy with verification that it will be effective on or before the end of the existing policy.

- (8) Operator shall require adequate insurance of its contractors and subcontractors.
- c. Operators with existing onshore oil and gas wells or production facilities in unincorporated Ventura County, excluding federal lands, shall provide the Planning Division with certificates of insurance and Additional Insured endorsements demonstrating proof of all insurance required by this Section 8107-5.6.12 by **[90 days from effective date of ordinance]**. New and renewed Conditional Use Permits shall include a condition of approval requiring the provision of said proof of insurance prior to the use inauguration of the new or renewed permit.
- d. An operator's compliance with the requirements of this Section 8107-5.6.12 must be confirmed prior to the issuance of a Zoning Clearance authorizing the operator's drilling or re-drilling of any new production well, including for any Zoning Clearance sought prior to the initial deadlines set forth in Section 8107-5.6.12(c).

Section 5

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Ventura County Board of Supervisors hereby declares that it would have passed and adopted this ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 6

This ordinance shall become effective and operative 30 days after adoption.

PASSED AND ADOPTED this __ day of _____, 2023, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

CHAIR, BOARD OF SUPERVISORS

ATTEST:
Sevet Johnson, PsyD
Clerk of the Board of Supervisors,
County of Ventura, State of California

By _____
Deputy Clerk of the Board

DRAFT