

**LIMESTONE LAW & POLICY ADVOCATES**  
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June 11, 2014

Board of Supervisors  
County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, CA 93101  
*via electronic mail*

**Re: The Healthy Air and Water Initiative to Ban Fracking**

Dear Chair Lavagnino and Honorable Supervisors,

The following comments for your June 13, 2014, hearing on the above-titled Initiative are submitted by Limestone Law and Policy Advocates on behalf of the Santa Barbara County Water Guardians. Please note that comments submitted by the attorneys of Shute Mihaly & Weinberger on behalf of the Santa Barbara County Water Guardians, dated June 5, 2014, are incorporated herein by reference in their entirety.

We urge the Board to adopt the Initiative under your own authority or, alternatively, to place the Initiative before the voters on this November ballot. The Initiative would generally prohibit new high-intensity oil and gas development within the County. The County's Comprehensive Plan notes that high-intensity oil operations create significant implications for human health and the environment,<sup>1</sup> and the County's Land Use and Development Code was amended specifically to address the threats posed by hydraulic fracturing ("fracking") and other enhanced oil recovery techniques.<sup>2</sup> As we have learned more about the impacts and risks associated with fracking and steam injection, et al, the need for this Initiative has become even more apparent. It is time to definitively put the health and safety of our communities and our environment above a few, outspoken parochial corporate interests.

You should adopt the Initiative despite various spurious criticisms levied against it by the oil and gas industry. For example, the May 19, 2014, letter that you received from the offices of Latham & Watkins, which in turn relies on correspondence signed by a Mr. Eric Lu of ENVIRON, perpetuates several misconceptions and outright fabrications.

The letter describes how oil from Santa Barbara County is sent to the Phillips 66 Santa Maria Refinery in San Luis Obispo County;<sup>3</sup> there, the oil is partially refined into a

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<sup>1</sup> County of Santa Barbara Comprehensive Plan, Conservation Element (2010) at 241.

<sup>2</sup> County of Santa Barbara Land Use and Development Code § 35.52.050.C.2.

<sup>3</sup> Letter from ENVIRON to the Santa Barbara County Board of Supervisors, May 19, 2014, at 1.

feedstock for the Phillips 66 San Francisco Refinery in Rodeo.<sup>4</sup> Some of the processed crude may eventually be made into gasoline, jet fuel or some other fully refined product.<sup>5</sup> However, the ENVIRON letter incorrectly intimates that the Initiative would cause a disruption in the refinery supply chain that would in turn lead to crude oil being trucked or shipped “from sources located at greater distances than would have occurred without the proposed initiative.”<sup>6</sup> In fact, the Initiative would lead to a *gradual* decline of existing oil production as conventional sources are depleted,<sup>7</sup> and this would not significantly affect near-term throughput at the Santa Maria Refinery. Furthermore, Phillips 66 is *already* seeking to expand its existing rail terminal in order to import more crude oil from outside of California in the long-term: “With the decline in California crude oil production, the refinery is looking to alternate sources outside the state for reliable supplies of competitively priced crude oil.”<sup>8</sup> There is substantial evidence that the Initiative will not have a significant effect on the operations of the Santa Maria Refinery, and therefore ENVIRON’s assumptions are incorrect. Accordingly, the Initiative will not result in the air quality or other impacts that ENVIRON describes, and ultimately the opponents of this Initiative are not capable of making a fair argument that the Initiative would result in significant impacts to the environment, as described by the California Environmental Quality Act (CEQA).

The ENVIRON letter also states that the Initiative would cause “economic changes” that “could be potentially significant under CEQA, and should be evaluated.” However, CEQA does not require evaluation of social or economic impacts; in order for an impact to be significant, it must have an effect on the *environment*.<sup>9</sup>

Finally, the ENVIRON letter attempts to disprove the Initiative’s Findings with little more than semantics: “none of these studies *conclusively* related identified groundwater *and* surface water pollution to the practice of hydraulic fracturing *when all BMPs and regulations are followed*.”<sup>10</sup> In fact, the US Environmental Protection Agency

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<sup>4</sup> Phillips 66 Santa Maria Refinery, *available at* <http://www.phillips66.com/EN/about/our-businesses/refining-marketing/refining/santamaria/Pages/index.aspx>, last visited June 11, 2014.

<sup>5</sup> Phillips 66 San Francisco Refinery Public Affairs, *available at* <http://www.phillips66.com/EN/about/our-businesses/refining-marketing/refining/SFRPA/Pages/SFRPA.aspx>, last visited June 11, 2014.

<sup>6</sup> Letter from ENVIRON, *supra*, at 2.

<sup>7</sup> Santa Barbara County, Impact Analysis Report on Initiative to Ban “High-Intensity Petroleum Operations” Responding to Elections Code 9111, Attachment to June 13, 2014, Board Letter, at 3.

<sup>8</sup> Phillips 66 Santa Maria Refinery Rail Project, *available at* <http://www.phillips66.com/EN/about/our-businesses/refining-marketing/refining/santamaria/Pages/rail-project-information.aspx>, last visited June 11, 2014.

<sup>9</sup> CEQA Guidelines § 15064(e). “Economic and social changes resulting from a project shall not be treated as significant effects on the environment.”

<sup>10</sup> Letter from ENVIRON, *supra*, at 5-6.

found *in 1987* that high-intensity petroleum operations had caused hazardous materials to migrate from a producing well through an old, abandoned well and into a freshwater aquifer in West Virginia, thus proving the potential for risk.<sup>11</sup>

ENVIRON also asserts that high-intensity petroleum operations are not associated with earthquakes.<sup>12</sup> In fact, officials in Ohio recently concluded that fracking activities have caused earthquakes in that state.<sup>13</sup> Santa Barbara County is particularly vulnerable to the risks of groundwater contamination and ground movement, given the network of old and/or abandoned wells and fault lines that crisscross the region.

Please consider these facts as you deliberate this week, and as the conversation about unconventional oil continues. Please do all that you can to protect our communities and our environment.

Sincerely,

/s/

Nathan G. Alley

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<sup>11</sup> New York Times, *Documents: A Case of Fracking-Related Contamination*, available at [http://www.nytimes.com/interactive/us/drilling-down-documents-7.html?\\_r=1&](http://www.nytimes.com/interactive/us/drilling-down-documents-7.html?_r=1&), last visited June 11, 2014.

<sup>12</sup> Letter from ENVIRON, *supra*, at 6.

<sup>13</sup> Charles Q. Choi, NBC News, *Confirmed: Fracking practices to blame for Ohio earthquakes*, available at <http://www.nbcnews.com/science/science-news/confirmed-fracking-practices-blame-ohio-earthquakes-f8C11073601>, last visited June 11, 2014.