

ATTACHMENT B – NOTICE OF EXEMPTION (Land Use and Development Code)

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Doug Anthony, Planning & Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: not applicable

Case No.: 11ORD-00000-00022

Location: The proposed ordinance amendment would apply solely to the unincorporated area of Santa Barbara County located outside the Montecito Community Plan Area and not including the Coastal Zone.

Project Title: Clarification of Permit Process for Hydraulic Fracturing

Project Description: 11ORD-00000-00022 proposes to amend Article 35.5, Oil and Gas, Wind Energy and Cogeneration Facilities, and Article 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, to clarify discretionary permitting requirements for hydraulic fracturing, and to clarify that preliminary determination of potential adverse impacts of a proposed oil/gas project for purposes of determining the appropriate permit process is made by the Director of the Planning and Development Department.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Board of Supervisors

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: Guideline §15308, Actions by Regulatory Agencies for Protection of the Environment.

Reasons to support exemption findings: Hydraulic fracturing, a method to stimulate production of oil and/or gas, has the potential to cause significant impacts to air quality, water resources, geology, and public health and safety. The proposed text amendments clarify that any producer within the unincorporated area of Santa Barbara County who desires to employ hydraulic fracturing in existing or new wells must first obtain the County Planning Commission's approval of an Oil Drilling and Production Plan. An Oil Drilling and Production Plan is a discretionary permit that requires adequate environmental review of potential impacts pursuant to CEQA, along with identification of mitigation for significant impacts to the environment. These amendments further revise the preliminary determination of potential

adverse impacts of a proposed oil/gas project subject to Section 35.52.050 to clarify that such determination is made by the Director, and deletes language that suggests the determination is made during a site visit, so that all environmental factors are considered.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

The Categorical Exemption applied to this project is Class 8; therefore, this exception does not apply to the proposed project.

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The Categorical Exemption applied to this project is Class 8; therefore, this exception does not apply to the proposed project.

- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The proposed project clarifies the zoning code permit process as being a discretionary Oil Drilling and Production Plan under the approval authority of the County Planning Commission, which must be supported by adequate review of potential environmental impacts pursuant to CEQA. The zoning code requires that the Planning Commission make several findings in order to approve an Oil Drilling and Development Plan (§ 35.55.030) including: a) there are no feasible alternative location for the proposed drilling of an onshore reservoir that are less environmentally damaging; b) significant adverse environmental effects will be mitigated to the maximum extent feasible; and c) the project will not be detrimental to health safety, and general welfare of the neighborhood and will be incompatible with uses of the surrounding area. The proposed clarification to the zoning code avoids significant effects by ensuring that hydraulic fracturing is subject to a permitting process with full CEQA review.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic**

buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The proposed text amendment does not influence any approval of future hydraulic fracturing in a manner that damages scenic resources. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The proposed text amendment does not influence any approval of future hydraulic fracturing in a location listed as a hazardous waste site. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

The proposed text amendment does not influence any approval of future hydraulic fracturing in a manner that causes substantial adverse change in the significant of a historical resource. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

Lead Agency Contact Person: Doug Anthony Phone #: (805) 934-6559

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

distribution:
Hearing Support Staff
11ORD-00000-00022 file

Date Filed by County Clerk: _____.