Katherine Douglas Public Comment - CIPA # 3 LATE DIST

From:	Rock Zierman <rock@cipa.org>
Sent:	Monday, October 20, 2025 7:15 AM
To:	sbcob
Subject:	Santa Barbara County Ordinance 10-17-25
Attachments:	Santa Barbara County Ordinance 10-17-25.doc

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Please find attached CIPA's comments on the proposed oil phase out being considered at Tuesday's board meeting.

Best,

CIPA
California Independent Petroleum Association

ROCK ZIERMAN
CHIEF EXECUTIVE OFFICER

1001 K STREET, 6TH FLOOR
SACRAMENTO, CA 95814
916-447-1177 | WWW.CIPA.ORG
@CIPAENERGY FACEBOOK.COM/CIPAENERGY

CIPA

California Independent Petroleum Association
1001 K Street, 6th Floor
Sacramento, CA 95814
Phone: (916) 447-1177
Fax: (916) 447-1144

October 17, 2025

The Honorable Laura Capps
Chair, Santa Barbara County Board of Supervisors
105 E Anapamu Street Santa Barbara, CA 93101

Re: Proposed phase out of permitted oil operations in Santa Barbara County

Dear Supervisor Capps:

The California Independent Petroleum Association (CIPA) submits the following comments on the county's proposed phase out ordinance of permitted oil operations in the county:

1. The proposed ordinance contradicts Governor Newsom's new energy policy

Recently, the state legislature passed and the Governor signed SB 237, a bill designed to increase in-state production of crude. The bill is the result of months of investigation by the California Energy Commission into why California gasoline prices are so high. The conclusion was that the closure of more and more in-state refineries was leading to a volatile market since only eight refineries remained from more than 40 that existed forty years ago and two of those remaining are slated to close in the next year. One of the leading causes of refinery closures is the inability of the refineries to secure in-state sources of crude. Although California has become increasing reliant on foreign imports, there is a maximum capacity of crude local refineries can offload at the ports. If Santa Barbara County and other jurisdictions decrease local production, the new policy will not be able to achieve its desired effect and Santa Barara County will be responsible for exacerbating a failed state energy policy that has harmed California citizens.

2. The proposed ordinance will increase greenhouse gas emissions

Reducing oil and gas production in Santa Barbara County will result in an immediate, foreseeable increase in the importation of foreign oil. Importation of foreign oil results in increased GHG emissions from tanker ships carrying the oil and the oil itself, which is not climate compliant. By contrast, oil produced in California is climate compliant since it is produced in compliance with the state's rigorous GHG cap and trade reduction program. Imported oil is completely exempt from these programs. Additionally, these imports are exempt from California's other strict environmental, labor, and human rights regulations.

California produces only a fraction of the oil consumed by the State. In 2024, California produced an average of 309,000 barrels of oil per day, while consuming more than 1,800,000 barrels per day of fossil fuels, requiring over 75% of California's oil to be imported. Despite the state's efforts to transition to alternative fuels, fossil fuel consumption in California has not decreased. Since California is an "energy island", meaning that it does not have any pipelines that bring crude into the state, oil must be imported via foreign tanker. The largest sources of foreign crude oil into California are from Iraq, Ecuador, Brazil, and Saudi Arabia.

3. The proposed ordinance must be accompanied by a full CEQA EIR

The County failed to consider the significant, unmitigated, and unmitigable environmental impacts of the Ordinance in violation of the California Environmental Quality Act (CEQA). Specifically, the County failed to consider the increases in greenhouse gas (GHG) emissions that will result from Ordinance adoption. These significant impacts include, among other things, impacts to air quality, which are required to be analyzed under CEQA. For example, the increase in foreign oil shipped to California to replace oil that cannot be extracted under the Ordinance will result in an increase in the release of volatile organic compounds (VOCs) and nitrogen oxide (NOx) emissions from tanker ships (and, to a lesser extent, trucks) bringing this oil to California ports and refineries. This is in addition to the increased GHGs cited above.

In addition, CEQA recognizes any limitation on access to mineral resources of local, regional or statewide importance to be an environmental impact, *in and of itself*. Given that the Ordinance will necessarily result in limiting access to mineral resources of local, regional and statewide importance, it cannot be said that the Ordinance provide blanket "assurance" that the environment—*which includes mineral resources*—will be only protected, and not at all impacted. Petroleum and gas reserves in Santa Barbara County constitute a "known mineral resource that would be of value to the region and the residents of the state" the loss of availability of which necessarily results in a significant environmental impact. State CEQA Guidelines, Appendix G, section XII(a). The County's failure to consider or address these impacts requires additional review under CEQA, and makes the Ordinance ineligible for exemption under the Common Sense exemption.

Moreover, such a failure to evaluate material environmental impacts would certainly be grounds for a CEQA challenge if committed by a project sponsor from the oil and gas industry. It is hypocritical for the County to exempt this project from CEQA under one or more categorical exemptions, where the County has consistently required projects by the oil and gas industry to fully and faithfully undertake the highest level of CEQA review, culminating in preparation of Environmental Impact Reports (EIR). Given the significant environmental impacts of the Ordinance, including the foreseeable and material increase in GHG emissions, it is inappropriate for the County to approve the Ordinance under a categorical exemption and avoid conducting the type of in-depth environmental review routinely required of the industry.

4. The proposed ordinance is preempted by federal law

The county is relying upon the protection of AB 3233 to support the proposed ordinance. The purpose of AB 3233 was to overturn a State Supreme Court ruling that ruled that Monterey County could not ban injection wells or regulate downhole operations because those activities are preempted by federal and state law. In 2015, Monterey voters passed Measure Z that banned new produced water injection wells and produced water ponds, phased out existing produced water injection wells and ponds; and banned new oil and gas wells within the county. The Supreme Court ruled in *Chevron U.S.A. Inc. v. County of Monterey* (2023 Cal. LEXIS 4349) that Measure Z went beyond the county's land use authority and sought to prohibit certain oil and gas operations, including Class II injection wells. While the California legislature has changed state law pertaining to the regulation of downhole operations of oil and gas wells, it has no authority to change federal law. The Clean Water Act of 1972 clearly makes permitting of Class II injection wells a federal function. EPA granted the State of California primacy over the UIC program, but that did not include the ability of the state to delegate that authority to any other entity. This has been confirmed by Martha Guzman, former EPA Region 9 Administrator, in the letter she submitted to Representative Vicent Fong on October 11, 2024, "*…the State may not delegate the approved Class II UIC program to another agency without review and approval by the EPA. This would include delegating to another agency the authority to approve or deny UIC Class II permits.*" Accordingly, any application of the proposed ordinance to injection wells by the City of Los Angeles is illegal, since the State does not have the authority to delegate oversight of Class II injection wells to local governments regardless of the passage of AB 3233.

5. The proposed ordinance is an illegal taking of private property

The Ordinance represents an unconstitutional and unlawful taking of private property without just compensation, in contravention of the United States and California Constitutions. The state and federal Constitutions prohibit government from taking private property for public use without just compensation. Cal. Const., art. I, ß 19; U.S. Const., 5th Amend.; *Chicago, Burlington &c. R'd v. Chicago* (1897) 166 U.S. 226, 239 (applying the federal takings clause to the states). In *Penna. Coal Co. v. Mahon* (1922) 260 U.S. 393, 415 (*Penna. Coal*), the United States Supreme Court recognized that a regulation of property that "goes too far" may effect a taking of that property. When a regulation does not result in a physical invasion and does not deprive the property owner of all economic use of the property, a reviewing court must evaluate the regulation in light of the "factors" the high court discussed in *Penn Central Transp. Co. v. New York City* and subsequent cases. *Penn Central* emphasized three factors in particular: (1) "[t]he economic impact of the regulation on the claimant"; (2) "the extent to which the regulation has interfered with distinct investment-backed expectations"; and (3) "the character of the governmental action." *Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 124. Subsequent cases, as well as a close reading of *Penn Central*, indicate other relevant factors such as whether the regulation affects the existing or traditional use of the property and thus interferes with the property owner's "primary expectation" (*id*. at 125, 136), and whether the regulation "permit[s the property owner] . . . to profit [and] . . . to obtain a 'reasonable return' on . . . investment." *Id*. at 136. Under these factors, regulations which significantly limit the uses of private property constitute a taking. Such changes require just compensation, as well as due process and public consultation. This is true, for example, of zoning ordinances which render an existing use nonconforming.

In addition, the United States Supreme Court has definitively established that a land use regulation "goes too far"—amounting to a facial taking of property—where it "denies an owner economically viable use of his land." *Lucas v. SC Coastal Council* (1992) 505 U.S. 1003,1016, citing *Agins v. City of Tiburon* (1980) 447 U.S. 255, 260. This occurs where a regulation, by implementation alone, leaves the property owner without "substantial economic use" of the affected property. *See Maritrans Inc. v. U.S.* (2003) 342 F.3d 1344, 1351-52. A facial taking analysis does not require a fact-based probe as set forth in *Penn Central*. Rather, the dispositive inquiry is "whether the mere enactment of the [regulation] constitutes a taking." *Agins*, 447 U.S. at 295, *abrogated on other grounds*; *see also Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency* (2002) 535 U.S. 302, 318.

The Ordinance would give rise to a claim for just compensation by oil well operators and owners as well as royalty holders. The Ordinance would severely restrict the ability of well operators, owners, and royalty holders to use their property and would materially infringe on their property rights and interests, up to and including completely eliminating the value of those rights. Therefore, the Ordinance constitutes a taking for which compensation must be made. The cost of such compensation could run into the hundreds of millions of dollars, if not greater.

The Ordinance constitutes a violation of the vested rights of oil well operators, owners, and royalty holders. Under *Avco Community Developers, Inc. v. South Coast Regional Commission*, (1976) 17 Cal.3d 785 ("Avco"), where a permit holders make an investment in that permit, they possess vested legal rights. Subsequent case law has clearly concluded that the doctrine of vested rights applies to use permits and the activities authorized thereunder. *See Hansen Brothers Enterprises v. Board of Supervisors*, (1996) 12 Cal.4th 533 ("Hansen"). Post-*Avco* decisions have held that use permits confer vested rights. *HPT IHG-2 Properties Tr. v. City of Anaheim* (2015) 243 Cal. App. 4th 188, 199 (where a CUP has been issued and the landowner has relied on it to its detriment, the landowner has a vested right.); *see also Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal.App.4th 359, 367. The scope of the vested rights is the scope of activity authorized under the permit. *Santa Monica*

Pines, Ltd. v. Rent Control Bd. (1984) 35Cal.3d 858, 865. Here, the Ordinance will unlawfully curtail the vested rights related to the oil wells at issue.

6. The proposed ordinance will eliminate jobs and lower the county's tax base

The oil and gas industry pays millions of dollars annual to the county through an Ad Valorem tax on reserves. The county is facing a severe budget deficit, and the loss of millions of additional dollars will only exacerbate the problem. The county will also eliminate high-paying jobs that cannot be replicated by any other industry. 2/3 of all employees in the oil and gas industry do not possess a college degree, but average $123,000 in salary. There are over 1,400 Santa Barbara County residents directly employed by the oil and gas industry and another 5,000 that depend on the industry, which account for over $2 billion of economic activity in the county.

7. The proposed ordinance will increase gasoline prices on California drivers

Because Californian refiners pay $5-$6 more per barrel for foreign imports than in-state production, the more the state becomes reliant on foreign oil, the higher gasoline, diesel, and jet fuel prices will be.

In conclusion, phasing out oil production in Santa Barbara County will increase greenhouse gas emissions, increase other environmental harms, raise gas prices, put people out of work, exacerbate the county's budget deficit, violate CEQA law, violate federal law, and subject the county to expensive litigation that it will lose. For these reasons, the county would be well advised to pause this action and have a dialogue with industry on a better path forward.

Sincerely,

Rock Zierman
CEO