

Katherine Douglas

Public Comment - Tunnel

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From: Mark Rogers Tunnell <markofalawyer@gmail.com>
Sent: Monday, October 20, 2025 3:41 PM
To: sbcob
Subject: Letter
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October 20, 2025

SANTA BARBARA COUNTY
BOARD OF SUPERVISORS,

CHAIRWOMAN CAPPS AND HONORABLE BOARD MEMBERS:

The last time I addressed the Board of Supervisors, in October, 2014, I stood among the first wave of cautionary speakers opposing Measure P, during the public hearing against the gas and oil shutdown, in downtown Santa Barbara.

It seems like yesterday, in as much as the Board, since then, has not fully taken time to understand the historic benefits that safe and responsible local oil extraction provides for the citizens of the county. But more importantly, the Board still refuses to acknowledge two important points of constitutional law:

1. The state grants constitutional authority with CalGEM, not the Board, to make decisions regarding continued drilling on county land (See Public Resource Code Sect. 3106(d)) As I stated in October, 2014, Board action which terminates drilling will ultimately lead to expensive and endless Supreme Court litigation against the Board-- based on the violations of CalGEM's preemptive powers. The litigation is unavoidable and will cost millions of dollars in county taxpayer money before it's over. Ask County Counsel. And the legal answer is unavoidable as well: statewide energy concerns cannot be diversely assumed by a patchwork of competing individual county boards of supervisors across California. CalGEM must be the controlling state authority.
2. Since 1791, the US Constitution grants a legal remedy against governmental action (read "county") that deprives (or "takes") the property or property interests of persons without due process—meaning *without a lawsuit*. "Takings" suits in response to oil/gas extraction termination will likely reach the US Supreme Court. As I warned in 2014, a flood of these "takings" lawsuits from existing county-wide oil and gas operators and royalty-owners will cost Santa Barbara County billions of dollars in taxpayer money to support the county's litigation and will bankrupt it should the county have to pay for monetary settlements in resolution.

Whatever the Board's motivations for voting to stop oil drilling, it should at least consider the disastrous legal consequences that vote awaits in light of established constitutional practice, and further consider a measured and economically sound next step.

Very truly yours
Mark R. Tunnell, Esq.

Katherine Douglas

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October 20, 2025

SANTA BARBARA COUNTY
THE BOARD OF SUPERVISORS,

sbcob@countyofsb.org

CHAIRWOMAN CAPPS AND HONORABLE BOARD MEMBERS:

The last time I addressed the Board of Supervisors, in October, 2014, I stood among the first wave of cautionary speakers opposing Measure P, during the public hearing against the gas and oil shutdown, in downtown Santa Barbara.

It seems like yesterday, in as much as the Board, since then, has not fully taken time to understand the historic benefits that safe and responsible local oil extraction provides for citizens of the county.

But more importantly, by its present consideration of an oil drilling ban, the Board again refuses to acknowledge two points of law set forth briefly below:

1. The state grants statutory authority with CalGEM, not the Board, to make decisions regarding continued drilling on county land (See Public Resource Code Sect. 3106(d)) As I stated in October, 2014, Board action which terminates drilling could ultimately lead to nearly endless California Supreme Court litigation against the Board-- based on violations of CalGEM's preemptive powers. The cost to defend the Board's action could run to millions of dollars in taxpayer money before it's over. The legal answer looks unavoidable: statewide energy concerns cannot be diversely assumed by a patchwork of competing individual county Boards. CalGEM must be the controlling stabilizing authority.
2. Since 1791, the Fifth Amendment of the US Constitution grants a remedy for governmental action (read "Board action") that deprives (or "takes") the property, or property interests, of persons without due process—meaning, *without recourse to a lawsuit*. "Takings" suits in response to an oil/gas extraction ban should reach the US Supreme Court. As I warned in 2014, a flood of these "takings" claims from existing county-wide oil and gas operators and royalty-owners could cost Santa Barbara County billions of dollars in taxpayer money in defense of the Board's acts, and could bankrupt the county, when it pays claim resolution settlements.

Whatever the Board's motivations for voting to stop oil drilling, it should at least contemplate the disastrous legal consequences that await such a vote. Indeed, the Board should consider a measured and economically sound next step.

Very truly yours
Mark R. Tunnell