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May 19, 2014

VIA ELECTRONIC MAIL

Santa Barbara County Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101
Attn: Clerk of the Board

Re: Board of Supervisors May 20, 2014 Meeting, Departmental Agenda Item 7 (No. 14-00393), the Initiative to Ban "High-Intensity Petroleum Operations"

Dear Chair Lavagnino and Honorable Members of the Board of Supervisors:

We are writing on behalf of our client, Californians for a Safe, Secure Energy Future ("CSSEF"), to urge the Board of Supervisors not to adopt the so-called "Healthy Air and Water Initiative to Ban Fracking" Initiative.

The Board cannot adopt the Initiative because doing so would violate the California Environmental Quality Act ("CEQA"). The proposed Initiative would have potentially significant environmental impacts. Therefore, before the Board could adopt the Initiative the Board must prepare an environmental impact report analyzing these potentially significant impacts. Since the Board has not prepared an environmental impact report, adopting the Initiative would violate CEQA. Please see Attachment A, which expands on these issues.

As set forth in greater detail in the attached expert report from environmental experts ENVIRON International Corporation provided as Attachment B, a ban on petroleum operations, as the Initiative proposes, would cause potentially significant environmental impacts. CEQA requires the Board to study these potential impacts. These potentially significant environmental impacts, such as increased air and greenhouse gas emissions and biological resources impacts, require preparation of a full environmental impact report prior to the Board's adoption of the Initiative.

We urge you not to adopt the Initiative at your May 20 meeting. Doing so is bad public policy that would inflict harm on Santa Barbara County far out of proportion to any benefits the Initiative seeks to achieve and would violate CEQA.

LATHAM & WATKINS LLP

We appreciate your consideration of this letter and its attachments, and will be available at the Board of Supervisors meeting on May 20 to answer any questions you may have.

Very truly yours,



George J. Mhlsten
of LATHAM & WATKINS LLP

Attachments

cc: Michael C. Ghizzoni, Santa Barbara County Counsel
Catherine Reheis-Boyd, Californians for a Safe, Secure Energy Future
Shivaun Cooney, Latham & Watkins LLP

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I. BACKGROUND & SUMMARY

The Board of Supervisors cannot adopt the Initiative without completing an environmental impact report.

The Initiative proposes to prohibit the use of any land within Santa Barbara County's unincorporated area for, in the proponents' own words, "High-Intensity Petroleum Operations." This would include, but not be limited to, well stimulation treatments and secondary and enhanced recovery operations such as hydraulic fracturing, steam injection, and acid well stimulation treatment. The Initiative also proposes to amend the County's Comprehensive Plan and the County Code to reflect a ban on such uses. These prohibitions would cause significant direct and indirect environmental impacts that are required to be studied under CEQA.

On May 1, 2014, the Initiative's proponents filed a petition with the County Elections Office for verification. The County Clerk, Recorder and Assessor/Registrar of Voters has certified the Initiative. At the May 20, 2014, Board of Supervisors meeting, the Board will consider whether to accept the Initiative's certification. The Board must also decide whether to adopt the ordinance without alteration, order its placement on the ballot for the November 4, 2014 general election, or order additional reports from staff agencies concerning fiscal impacts, consistency with plans, and any other matters of interest to the Board.

Should the Board seek to adopt the Initiative without modification, the Board cannot do so. The Board cannot do so because the Board has not completed the required environmental review. Adopting the Initiative is a discretionary action. The Initiative could have a potentially significant impact on the environment. Therefore, CEQA requires the Board to prepare an environmental impact report to study these impacts prior to the Board adopting the Initiative.

II. THE BOARD MUST COMPLY WITH CEQA BEFORE ADOPTING THE INITIATIVE

CEQA establishes a three-step process for public agencies to evaluate the environmental impacts of their actions. (*Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 285-286.) It does not appear that the County has complied with any of them.

First, the agency must determine whether the proposed action is a "project." A project is defined as an activity "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Pub. Res. Code, § 21065.) If the discretionary action is a "project," the second step is for the public agency to determine whether any environmental review is required. (*Tomlinson*, 54 Cal.4th at 286.) In completing the second step, the agency must determine whether the project is exempt from CEQA review. (See Public Resources Code, §§ 21080, subd. (b), 21084, subd. (a).) If the project is not exempt from CEQA, the agency must determine whether an environmental impact report, negative declaration, or mitigated negative declaration is required. (Pub. Res. Code, § 21080.1; CEQA Guidelines, § 15060.) However, even when a project fits within a categorical exemption, environmental review is required where there are "unusual circumstances" that create a "reasonable possibility" that the activity will have a significant effect on the environment. (CEQA Guidelines, § 15300.2, subd. (c).)

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Applying this three-part test, it is clear that the Board cannot adopt the Initiative without environmental review of the Initiative's impacts. This is so for three reasons: (1) adoption of the Initiative constitutes a project and a discretionary action that triggers CEQA; (2) no CEQA exemption applies to the Initiative; and, (3) even if the Board assumed that an exemption applied, adoption of the Initiative could have a significant effect on the environment that must be studied in an environmental impact report.

A. A Ban on Oil Drilling and Hydraulic Fracturing is a Project Under CEQA

Moratoria on particular activities in furtherance of environmental protection are "projects" under CEQA. (See, e.g., *Save the Plastic Bag Coalition v. City and County of San Francisco* (2013) 222 Cal.App.4th 863 (*Save the Plastic Bag Coalition*) [there was no dispute that an ordinance banning the sale of plastic bags was a "project" for the purposes of CEQA]; *Magan v. County of Kings* (2002) 105 Cal.App.4th 468, 474-475 [ordinance phasing out and ultimately banning land application of sewage sludge was a "project" for purposes of CEQA review].)

As in the case of other moratoria that courts have found to be "projects," a ban on "High-Intensity Petroleum Operations" would cause either a direct or indirect physical change in the environment. The potential environmental impacts include significant impacts related to air quality, greenhouse gases, hazards, biological resources, and socioeconomic impacts. These impacts are discussed further below and are detailed in ENVIRON International Corporation's expert report. (See Attachment B.) Since the discretionary action of adopting the Initiative would be a "project" under CEQA, environmental review is required.

B. The Board's Adoption of the Initiative Would Be a Discretionary Action Under CEQA

The adoption of an Initiative without a vote of the people is a discretionary action. As such, the Board cannot adopt the Initiative without undertaking CEQA review.

When a voter-sponsored initiative is presented to a municipality, the municipality may place the initiative on the ballot. Alternatively, the municipality may adopt an initiative as an ordinance and forego an election. This latter decision is a discretionary action subject to CEQA. (*Citizens for Responsible Behavior v. Superior Court* (1991) 1 Cal.App.4th 1013, 1021; fn.4 [once an initiative measure has qualified for the ballot, the city has a mandatory duty to either place it on the ballot or make the choice to adopt the measure without an election.]; see also *Citizens Against a New Jail v. Board of Supervisors* (1976) 63 Cal.App.3d 559, 561 [duty to submit initiative ordinance, without alteration, to voters at the next general election is mandatory and ministerial] (quoting *Blotter v. Farrell* (1954) 42 Cal.2d 804, 812-813); *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal. 4th 165, 185-186 ["CEQA requirements apply to discretionary projects carried out or approved by public agencies..."].)¹

¹ The California Supreme Court is currently reviewing the issue of whether CEQA applies to a municipality's decision to adopt an initiative instead of putting it to a vote in *Tuolumne Jobs & Small Business Alliance v. Superior Court*, Case No. S207173.

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Here, the Board may submit the Initiative to the County's voters without CEQA review because that is a ministerial action. Adopting the Initiative, on the other hand, is a discretionary action subject to CEQA. Therefore, the adoption of the Initiative at the Board's May 20 meeting, foregoing a vote of the people, would violate CEQA because the Board has undertaken no environmental review.

C. Adoption of a Ban on Oil Drilling and Hydraulic Fracturing is Not Exempt from CEQA

The Initiative would cause significant direct and indirect impacts on the environment. Therefore, it is not exempt from CEQA.

While a limited class of projects may avoid CEQA review in some situations if they fall under one of several statutory or categorical exemptions, the Initiative does not fall into such a class. (Pub. Res. Code, § 21080, subd. (b); CEQA Guidelines, §§ 15300-15332.)

First, the staff report does not state one way or another whether the Board's adoption would be subject to CEQA review. However, it is the County that bears the burden of establishing by substantial evidence that the project falls within the limited category of exempt projects. (*Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 115.) Only where the County satisfies this burden does the burden shift to any challenger to show that an exception to the exemption exists and that therefore the project requires some level of environmental review. (*Id.*) Here, since the Board has not put forth any evidence that the matter is exempt, it cannot now claim that it is.²

Second, even if the Board had properly noticed its intention to rely on an exemption in adopting the Initiative, none of CEQA's exemptions apply. Even the Class 8 categorical exemption for the adoption of regulations intended to protect the environment does not apply, as outlined below.³ (See, e.g., *Dunn-Edwards Corp. v. Bay Area Air Quality Management Dist.*

² The Board may also not adopt a categorical exemption or other CEQA document at its May 20 meeting because that would violate the Brown Act. Under the Brown Act (Gov. Code, § 54950 et seq.), the Board is required to disclose the proposed adoption of both the Initiative and the CEQA document as distinct agenda items. (*San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal. App. 4th 1167 [planning commission violated Brown Act when it took action on a mitigated negative declaration for a subdivision application when the mitigated negative declaration was not expressly disclosed on the meeting agenda].) The May 20 meeting agenda contains the Initiative as an agenda item. The approval of a CEQA document is not agendaized. Because the Board is required to post the agenda 72 hours before its regular meeting, the Board may not add the proposed adoption of a CEQA document to the agenda now, nor may it discuss or act upon it at its May 20 meeting. (See Gov. Code, § 54954.2, subd. (a).)

³ Section 15308 states:

Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory

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(1992) 9 Cal.App.4th 644.) But the Board cannot “circumvent CEQA merely by characterizing its ordinances as environmentally friendly and therefore exempt” under the Class 8 categorical exemption. (*Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 219-220; see also *Dunn-Edwards Corp.*, 9 Cal.App.4th at 658 [regulations tightening VOC emission standards were not categorically exempt under sections 15307 and 15308 where agency’s determination lacked evidentiary support and was supported only by staff conclusions that the regulations would cause no significant impact] (disapproved on other grounds by *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559).)

County staff has presented no evidence, let alone substantial evidence, that the Initiative will not have any significant environmental impacts. Because the County has not asserted, let alone established, that a ban on hydraulic fracturing or other well stimulation treatments falls within the exemption for regulatory actions to protect the environment, the Initiative must undergo environmental review because it is a project that is not otherwise exempt from CEQA review.

D. The Initiative’s Potentially Significant Environmental Impacts Require Environmental Review

The Initiative’s ban on hydraulic fracturing and other enhanced well stimulation techniques will result in potentially significant environmental impacts. Therefore, no exemption can apply.

Under CEQA, even where a project purportedly fits within a categorical exemption, which the Initiative does not, environmental review is required where “there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (CEQA Guidelines, § 15300.2, subd. (c).)

Courts have held that “an unusual circumstance refers to ‘some feature of the project that distinguishes it’ from others in the exempt class. In other words, ‘whether a circumstance is “unusual” is judged relative to the *typical* circumstances related to an otherwise typically exempt project.’” (*San Lorenzo Valley Community Advocates for Responsible Education*, 139 Cal.App.4th at 1381 [citations omitted, emphasis in original].) Courts have found that “unusual circumstances” overcome a categorical exemption “where the circumstances of a particular project (i) differ from the general circumstances of the projects covered by a particular categorical exemption, and (ii) those circumstances create an environmental risk that does not exist for the general class of exempt permits.” (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1206.) The “unusual circumstances” themselves must cause a “significant effect on the environment.” (*Citizens for Environmental Responsibility v. State ex rel. 14th District Agricultural Association* (2014) 224 Cal.App.4th

process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption. (CEQA Guidelines § 15308.)

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1542, 1560; *Save the Plastic Bag Coalition*, 222 Cal.App.4th 863 [indicating that “unusual circumstances” of a local ordinance tailored to address the specific environmental goals of that specific locality must relate to impacts on the local environment].)

The Initiative would have widespread impacts on the future of all oil drilling in and outside the County. Most of the oil in Santa Barbara County is both “heavy” and “sour.” This means that it is low gravity and high in sulfur content. Because of its low gravity nature, continued production of most of Santa Barbara County oil requires the use of enhanced recovery techniques. (Santa Barbara County Comprehensive Plan, Conservation Element at 240.) As such, a ban on “High-Intensity Petroleum Operations” would have the practical effect of halting the future productivity of oil and gas drilling within the County. Doing so would have significant impacts on the environment.

ENVIRON International Corporation’s expert report highlights a few of the potentially significant environmental impacts that the ban will cause. (See Attachment B.) These potentially significant impacts include impacts on air quality, greenhouse gases, hazards, and biological resources, as well as socioeconomic and land use and planning impacts. As a result, an EIR must be prepared to study these impacts. (Pub. Res. Code, §§ 21100, subd. (a), 21151, subd. (a); CEQA Guidelines, § 15064, subd. (a); *Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 330 [an EIR, not a negative declaration or mitigated negative declaration, is required for any project that a public agency proposes to carry out or approve that may have a significant effect on the environment].)

Reduced local oil production may cause potentially significant air quality and greenhouse gas impacts. Reduced local production would force Southern California refineries to obtain oil from more distant places within the Monterey Shale or outside the County. This would increase the use of trucks, ships, and new pipelines to transport oil. In turn, there would be an increase in pollutant and greenhouse gas emissions. The increase in trucking or pipeline transfer of crude oil due to reduced local production would also introduce an increased probability of hazards to certain areas of the County. For example, the added trucking of either crude oil or refined liquid fuels that may result from the Initiative could increase the probability for a hazard risk impact. The need to develop new pipelines to transport oil to the County would have potentially significant impacts on various sensitive environments and biological resources. The ban would also force companies to reduce or maintain current levels of oil production. This could result in job losses leading to urban decay as well as indirect impacts to ancillary businesses that support oil production.

III. CONCLUSION

For all these reasons, the Board is required to prepare an environmental impact report before adopting the Initiative. Adopting the Initiative is a discretionary action that triggers CEQA. The Initiative has the potential to have significant impacts on the environment and, therefore, an environmental impact report must be prepared. These potentially significant impacts include impacts to air quality, greenhouse gases, hazards, biological resources, and socioeconomic impacts. Unless and until these impacts are addressed and the public is fully informed of these impacts through the environmental review process, the Board cannot adopt the Initiative.



May 19, 2014

Santa Barbara County Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101

**Re: Potential Environmental Impacts of the Proposed Ban
on "High-Intensity Petroleum Operations"
in Santa Barbara County, California**

Honorable Supervisors:

On behalf of the Californians for a Safe, Secure Energy Future, ENVIRON International Corporation (ENVIRON) has reviewed the proposed initiative to prohibit the use of land for "High-Intensity Petroleum Operations"¹ in Santa Barbara County. ENVIRON is a nationally recognized environmental consulting firm.² A summary of the firm's capabilities and my credentials are attached. Based on the information available regarding the proposed initiative, this initiative would have the potential to cause significant adverse environmental impacts. Furthermore, the proposed initiative includes "findings" that are not fully substantiated and are not consistent with public policy and published literature. As such, these "findings" do not accurately or comprehensively describe the potential environmental consequences of the proposed initiative.

To help evaluate whether the proposed initiative could cause potentially significant environmental impacts, we considered the environmental factors identified in the checklist from Appendix G of the California Environmental Quality Act (CEQA) Guidelines. As explained below, based on the limited information available, a more thorough environmental review under CEQA is needed. As described below, the proposed initiative could result in direct and/or indirect potentially significant environmental impacts related to air quality, socioeconomics, hazards, and biological resources, at a minimum. In addition, the greenhouse gas emissions and land use and planning impacts should be evaluated to ensure adequate disclosure of the potential consequences of the proposed initiative. As discussed further below, our evaluation indicates that the proposed initiative has the potential to cause significant environmental impacts and a thorough environmental review is needed.

The Proposed Ban Could Result In Potentially Significant Environmental Impacts

There are direct and indirect environmental impacts related to removing a local supply of oil and natural gas. The production of oil and natural gas is the first step in the process to a number of products and the economy. For example, oil and natural gas produced in Santa Barbara County is transported via pipeline to refineries such as the Phillips 66 Santa Maria facility. At this facility, the oil is refined to a high quality feedstock for gasoline, diesel, and jet fuel.³ The Phillips 66 facility also

¹ As defined in the initiative, "High-Intensity Petroleum Operations" include hydraulic fracturing, acid well stimulation treatments, cyclic steam injections, and other types of oil and gas development that use advanced well stimulation technology.

² Available at: <http://www.vironcorp.com/home.aspx>. Accessed: May 2014.

³ Available at: <http://www.phillips66.com/EN/about/our-businesses/refining-marketing/refining/santamaria/Pages/index.aspx>. Accessed: May 2014.

produces petroleum coke and sulfur. The sulfur is used to create fertilizer, which is likely used by many of the agricultural businesses in Santa Barbara County. The crude oil is the basis for a number of other products including tires and asphalt. If the proposed initiative is adopted, the portion of the supply of crude oil that currently comes from Santa Barbara County would have to be found elsewhere to support these processes. Crude would likely be trucked or shipped from sources located at greater distances than would have occurred without the proposed initiative. Environmental impacts of this transport process must be considered and evaluated as part of an evaluation of the environmental impacts of the proposed ban.

Direct and indirect adverse impacts must be evaluated in the context of CEQA to allow full disclosure of environmental effects and unusual circumstances associated with the proposed initiative. Potentially significant environmental impacts associated with the proposed ban are discussed next.

Air Quality

The downstream users along the Central Coast that rely upon the supply of oil and natural gas from Santa Barbara County producers are not likely to change even if the proposed initiative is adopted. As such, downstream users likely will look for oil and natural gas supplies elsewhere, and at greater distances, than this local supply. These suppliers will likely need to replace the lost oil and natural gas supply by truck, tanker, or pipeline. Additional trucks or tankers needed to accommodate a significant reduction in the local supply of oil and natural gas under the proposed initiative could result in criteria pollutant emissions. Alternatively, if the local refinery were to close due to a lack of oil supply under the proposed initiative, additional trucks would likely be required to transport gasoline and diesel and they would be traveling much longer distances to bring gasoline and diesel from refineries much farther away.

As an example of the potentially significant air quality impacts of the proposed initiative, we have estimated the criteria pollutant emissions associated with the potential truck transport of crude oil that would be needed to accommodate the significant reduction in oil production in Santa Barbara County under the proposed initiative (or to transport gasoline or diesel from refineries farther away should local refineries be unable to keep up with demand due to a lack of oil supply under the proposed initiative). The analysis assumes that the crude oil would be transported from Bakersfield, California. The exact amount of oil that may be lost due to the proposed initiative is currently uncertain. For purposes of illustration, this analysis assumes that 1.4 million barrels of oil (i.e., 50% of the oil produced in 2011, 2.8 million barrels) would be lost should the proposed initiative be adopted. Since the initiative applies to drilling and re-drilling activities and prohibits most forms of well stimulation that are often used in oil and natural gas recovery, it is reasonably likely, if not a certainty, that oil and gas production from Santa Barbara County will significantly diminish due to these restrictions. Actual losses from production could be greater than is estimated here. The analysis relies upon EMFAC 2011 emission factors (a California Air Resources Board approved model⁴) and USEPA AP-42 to estimate paved road fugitive dust. Table 1 shows that the estimated emissions for this potential consequence of the proposed initiative exceeds the Santa Barbara County Air Pollution Control District significance thresholds,^{5 6 7} equating to a significant impact under CEQA unless the emissions

⁴ Available at: <http://www.arb.ca.gov/msei/modeling.htm>. Accessed: May 2014.

⁵ "County of Santa Barbara Environmental Thresholds and Guidelines Manual." October 2008. Available at: <http://www.sbcountyplanning.org/pdf/ManualsReports/Manuals/Environmental%20Thresholds%20October%202008%20corrected%206-1-2009.pdf>. Accessed: May 2014.

⁶ "Scope and Content of Air Quality Sections in Environmental Documents." March 2014. Available at: <http://www.sbcapcd.org/apcd/ScopeContentMarch2014.pdf>. Accessed: May 2014.

are further mitigated below the significance thresholds. The reasonable likelihood of potentially significant air quality impacts due to the proposed initiative warrants additional CEQA review to ensure the severity of the air quality impacts are properly evaluated.

Table 1. Estimated Air Quality and Greenhouse Gas Emissions

Pollutant:	Construction Thresholds	Estimated Emissions (lb/day)	Operational Thresholds	Estimated Emissions (tpy, CO2e in metric tons per year)	Operational Thresholds
	tpy		lb/day		tpy
NO _x (motor vehicle trips only)	N/A	85	25	N/A	N/A
ROC (motor vehicle trips only)	N/A	1	25	N/A	N/A
NO _x	25	85	55	16	10
ROC	25	1	55	0.2	10
CO	N/A	N/A	N/A	N/A	N/A
SO _x (SO ₂)	25	N/A	N/A	N/A	N/A
PM ₁₀	25	42	80	7	15
CO2e	N/A	N/A	N/A	2,979	N/A

The increase in transport needed to accommodate a significant reduction in local oil and natural gas production under the proposed initiative could result in increased traffic patterns and emissions that have not been analyzed. Increased traffic may require new routes through residential and other areas that have not been studied and warrants additional analysis under CEQA.

If additional pipelines are needed to transport oil and natural gas in light of a reduction in local production under the proposed initiative, the construction of those pipelines could also lead to criteria pollutant emissions. As such, the construction emissions associated with new pipelines needed to accommodate a significant reduction in oil and natural gas production under the proposed initiative should be evaluated against the construction significance thresholds as shown in Table 1. In the context of evaluating the proposed initiative relative to the environmental checklist for the CEQA, we conclude that there are potentially significant impacts related to air quality. In addition, it should be noted that construction of additional pipelines needed to accommodate a significant reduction in oil and natural gas production under the proposed initiative may have impacts on biological resources depending on the proposed routes of such pipelines, as discussed below.

Greenhouse Gases

The potentially significant environmental impacts related to air quality would also have similar implications with regard to greenhouse gas (GHG) emissions. As described above, the potential increase in GHG emissions due to the trucking of crude oil needed to accommodate a significant

⁷ Santa Barbara Air Pollution Control District (APCD) New Source Review, Rule 804 and 202. Available at: <http://www.sbcapcd.org/rules/download/rule804.pdf> and <http://www.sbcapcd.org/rules/download/rule202.pdf>. Accessed: May 2014.

reduction in oil and natural gas production under the proposed initiative can also be estimated using similar assumptions and emission factors. Table 1 also shows the estimated GHG emissions based on the illustrative example described above. The significance of potential GHG impacts should be fully evaluated under CEQA prior to adoption of the proposed initiative.

Hazards

The additional trucking of either crude oil, or refined liquid fuels needed to accommodate a significant reduction in oil and natural gas production under the proposed initiative could increase the probability for a hazard risk impact. By virtue of increasing the number of trucks and the distance trucks need to travel, as well as the locations where they need to travel, the probability for a hazard risk impact is likely to also increase under the proposed initiative. If additional oil or natural gas pipelines are required to accommodate a significant reduction in local oil and natural gas production, such pipelines would likely need to be of a substantial diameter and may be placed in areas that have not been studied for pipeline placement. In the context of evaluating the proposed initiative relative to the environmental checklist for CEQA, we conclude that there are potentially significant impacts related to hazards that warrant analysis under CEQA.

Socioeconomics

Adoption of the proposed initiative could have a significant adverse effect to the socioeconomics of Santa Barbara County. The oil and gas industry has been operating in Santa Barbara County since 1886⁸ and is a meaningful component to the County's economy. The industry provides direct jobs, and revenues spent locally have a magnification effect as they ripple through the local economy. In addition, oil and gas producers support ancillary business such as oil field service providers, equipment maintenance services, and nearby refineries. These revenues also magnify as the dollars of those who work in this industry are spent locally. Other businesses such as restaurants, hotels, and stores also profit from the industry having a presence in Santa Barbara County. If the proposed initiative is adopted, the related economy may meaningfully change.

The oil and gas industry provides direct jobs, and revenues spent locally have a magnification effect as they ripple through the local economy. A study conducted in 2013 by UCSB for the Santa Maria Valley Chamber of Commerce on the economic impacts on onshore oil and gas production in Santa Barbara County found that a total of 16 companies operate within Santa Barbara County and collectively produced 2.8 million barrels of oil and 2.4 million mcf of natural gas in 2011. While the total direct employment from the industry in the county is limited, it provides an important source of high-wage jobs in an economy that is projected to predominately add low paying professions in the near future. The average oil and gas industry employee earns an annual salary between \$75,000 and \$100,000, in sharp contrast to the median household income of \$58,000 in Santa Barbara County in 2011. In addition, oil and gas producers support ancillary business such as oil field service providers, equipment maintenance services, and the refineries (indirect impact). These revenues also magnify as the dollars of those who work in this industry are spent locally. Other businesses such as restaurants, hotels, and stores also profit from the industry having a presence in Santa Barbara County (induced impact). Note also that individual oil and gas projects can add hundreds of millions of dollars to the local economy that may not be captured by the data shown below. Table 2 below, copied from the study, shows the direct, indirect, and induced economic results of the onshore oil and gas industry in the county.⁹

⁸ Available at: <http://www.sbcountyplanning.org/energy/information/history.asp>. Accessed: May 2014.

⁹ Available at: http://santamariaedc.com/Library/pdf/SB_County_Oil_and_Gas_Study.pdf.

Table 2. Direct, Indirect, and Induced Economic Impacts for Santa Barbara County (in 2013 \$\$)

Impact Type	Employment	Output
Direct	957.5	\$149,244,962
Indirect	280.3	\$46,054,141
Induced	716.2	\$96,055,861
Total	1,953	\$291,354,963

Economic changes due to the proposed initiative could influence the population and housing situation as well as the funding available for various public services in Santa Barbara County. If the proposed initiative is adopted, the related economic changes could be potentially significant under CEQA, and should be evaluated.

Biological Resources

As discussed above, the downstream users that rely upon the supply of oil from Santa Barbara County producers will likely look to other suppliers to make up for the lost supply. One option could be to obtain additional oil supply from pipelines. To the extent that existing pipelines cannot meet the potential demand, new pipelines may need to be constructed to accommodate a significant reduction in local oil and gas production under the proposed initiative. The development of new pipelines could have impacts on biological resources that should be evaluated. If additional oil or natural gas pipelines are required to accommodate a significant reduction in local oil and natural gas production, such pipelines would likely need to be of a substantial diameter and may be placed in areas that have not been studied for pipeline placement. In addition, if there was increased shipping, particularly in the coastal corridor, there could be potential environmental impacts to sensitive marine resources. In the context of evaluating the proposed initiative relative to the environmental checklist for CEQA, we conclude that there are potentially significant impacts related to biological resources under the proposed initiative that should be studied.

Land Use and Planning

As part of the proposed initiative, it appears that there are proposed amendments to the County's Comprehensive Plan. Given this, the proposed initiative appears to conflict with the existing Comprehensive Plan. If this is in fact the case, in the context of evaluating the proposed initiative relative to the environmental checklist for CEQA, the impacts of the proposed initiative regarding Land Use and Planning should be evaluated.

“Findings” in the Proposed Initiative Are Not Fully Substantiated and Are Not Consistent With Public Policy and Published Literature

The proposed initiative includes a number of “findings” for the ban and attributes the identified concerns to “High-Intensity Petroleum Operations”. These findings are not consistent with public policy and published literature.

The initiative states that Santa Barbara cannot afford the risk of high-intensity extraction to groundwater and surface water pollution (Finding 4). ENVIRON conducted a comprehensive review of all literature related to water quality and hydraulic fracturing across the U.S., which includes nearly 100 published studies between 2009 and 2013. This review showed that 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. The risks associated with routine oil and gas operations have been addressed by local, state, and federal laws, regulations, ordinances, and standards. These have been developed over many years of practice that provide regulatory protections for water resources and monitoring of the effectiveness of these controls. The California Division of Oil, Gas, and Geothermal Resources has responsibility for providing regulatory review of all "downhole" drilling methods. In addition, Senate Bill 4 includes additional monitoring and protection for groundwater and surface water resources for hydraulic fracturing activities within the State of California. "High-Intensity Petroleum Operations" would not increase the risk of pollution to groundwater and surface water resources from the conventional oil drilling that has occurred for over a century within Santa Barbara County.

The initiative also claims that "High-Intensity Petroleum Operations" are inconsistent with Santa Barbara County's agricultural heritage (Finding 5). Oil operations and agricultural operations have coexisted in California for over a century, often on the same parcel of land. According to the California Department of Food and Agriculture, Kern County was the second top producing county in the State of California in 2011¹⁰, the same year it led the state in oil and natural gas production.¹¹ The Santa Barbara County Comprehensive Plan allows oil development within parcels zoned for agriculture, indicating that County policy and history has shown the two land uses can coexist. It is also worth noting that the oil and gas industry has been operating in Santa Barbara County since 1886.¹²

With regard to earthquakes, the initiative states that activities associated with petroleum operations have been shown to induce or exacerbate earthquakes (Finding 6). The only study currently published on hydraulic fracturing in the state of California was conducted at the Inglewood Oil Field, which is bisected by the Newport-Inglewood fault.¹³ This study used primary data and measured seismicity (using an independent third party CalTech seismometer onsite) during hydraulic fracturing and found no evidence of any ground movement as a result of the completion technique. Other recent studies by the U.S. Geologic Survey¹⁴ and the National Research Council have consistently concluded that the forces generated by hydraulic fracturing do not cause earthquakes. Seismologists at the U.S. Geologic Survey have found that hydraulic fracturing "itself probably does not put enough energy into the ground to trigger an earthquake."¹⁵

The initiative also claims that "High-Intensity Petroleum Operations" would hurt the County's scenic vista or biological resources (Finding 7 and 8). These claims are not well supported. In actuality, the effect on visual resources would be minimal from High-Intensity Petroleum Operations. These operations are part of well completion techniques. Each operation lasts a short amount of time and then the well is brought into operation. While more wells may be drilled in the County if these practices are allowed, the granting of well permits is at the discretion of the County and the well locations would most likely be within existing oil field leases. Therefore, the effect on visual resources would be minimal. With regard to biological resources, oil operations are required to comply with all state and federal laws. Further, there are a variety of regulations and ordinances in Santa Barbara County to ensure that any development within the county (e.g., golf courses, housing developments,

¹⁰ Available at: <http://www.cdfa.ca.gov/statistics/PDFs/2013/CountyStatisticalData.pdf>. Accessed: May 2014.

¹¹ Available at: <http://www.bakersfieldchamber.org/section.asp/csasp/DepartmentID.537/cs/SectionID.1171/csasp.html>.

¹² Available at: <http://www.sbcountyplanning.org/energy/information/history.asp>. Accessed: May 2014.

¹³ Available at: <http://www.inglewoodoilfield.com/res/docs/102012study/Hydraulic%20Fracturing%20Study%20Inglewood%20Field10102012.pdf>.

¹⁴ Available at: <http://www.sciencemag.org/content/341/6142/1225942>.

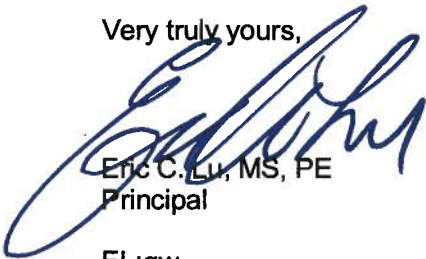
¹⁵ Available at: <http://www.sciencemag.org/content/341/6142/1225942>.

oil and gas development) minimizes impacts to biological resources. High-intensity extraction practices used during oil operations are required to abide by the same set of regulations, in addition to the new regulations set forth by Senate Bill 4.

Closing

Based on our review of the information available regarding the proposed initiative, we determined that a more thorough evaluation under CEQA is warranted. The “findings” in support of the proposed initiative are not fully substantiated and are not consistent with public policy and published literature. Furthermore, the proposed initiative could cause potentially significant environmental impacts related to air quality, socioeconomics, hazards, and biological resources, at a minimum. In addition, the greenhouse gas emissions and land use and planning impacts should be evaluated to ensure adequate disclosure of the potential consequences of the proposed initiative. Accordingly, although the proposed initiative states an intent to reduce environmental impacts, our review indicates that a thorough CEQA review is needed to understand the full scope of environmental impacts associated with the proposed initiative. We appreciate the opportunity to perform this preliminary evaluation, please contact us with any questions.

Very truly yours,



Eric C. Lu, MS, PE
Principal

EL:gw

Attachment
ENVIRON's Capabilities
Environmental Professionals Qualifications



An introduction ►

ABOUT ENVIRON

Since 1982, ENVIRON® has worked with clients around the world to help resolve their most demanding environmental and human health issues. We combine resources across geographic boundaries and technical and scientific disciplines to provide clients with the best, most responsive teams—whether responding to existing challenges, evaluating opportunities to improve performance or seeking to reduce future liabilities.

Environment

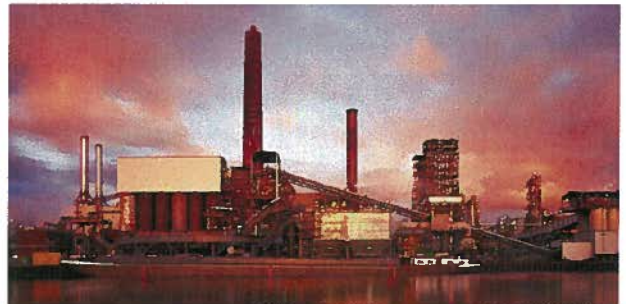
ENVIRON's expert assistance in assessing and mitigating potential environmental risks enables clients to respond more effectively to current business, regulatory and legal challenges, and to reduce or eliminate future liabilities.

Facilities

Clients rely on ENVIRON's technical and strategic assistance to help ensure regulatory compliance and manage potential liabilities of facility operations, and to assess environmental, health and safety risks during the merger and acquisition due diligence process.

Human Health

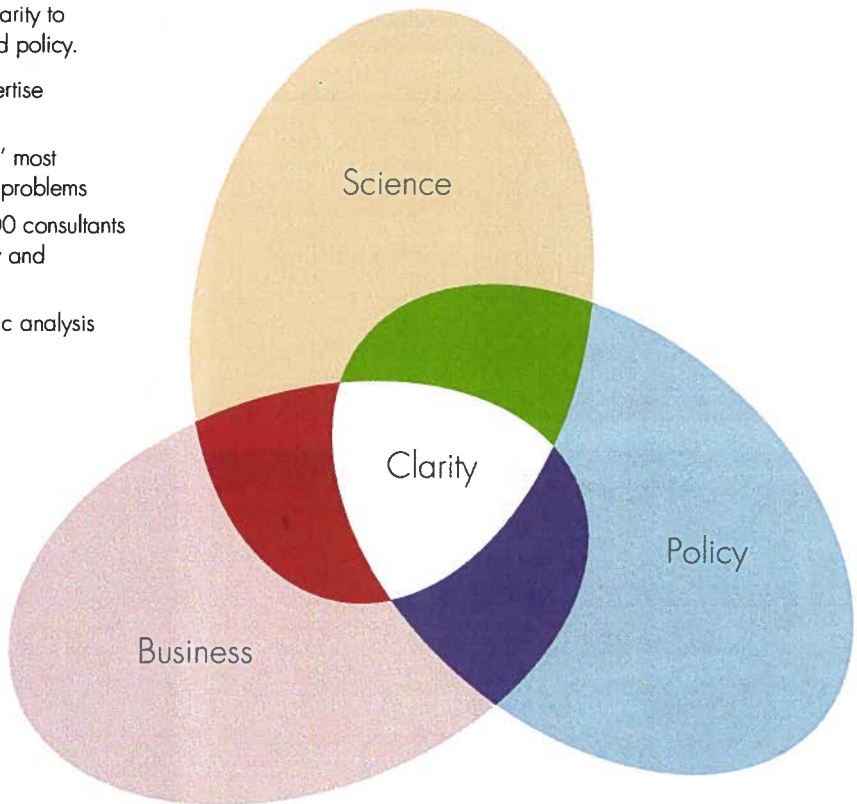
ENVIRON's preeminent skills in health sciences, exposure assessment and chemical transport help guide efforts to address the increasingly complex challenges related to protecting human health in occupational, consumer and environmental settings.



WHY ENVIRON?

Clients benefit from our unique ability to bring clarity to issues at the intersection of science, business and policy.

- Unmatched range and depth of technical expertise and practical experience
- Innovative, value-added solutions to our clients' most challenging environmental and health science problems
- Responsive, agile global network of over 1,000 consultants with in-depth understanding of local regulatory and business drivers
- Reputation for credibility and objective scientific analysis



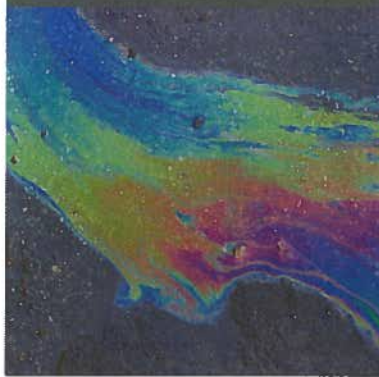
SOLUTIONS DELIVERED

Award-Winning Technology



ENVIRON's US-patent-pending VOC BioTreat™ technology garnered the Grand Prize in the Research category of the prestigious American Academy of Environmental Engineers (AAEE) 2011 Excellence in Environmental Engineering® Competition. Using existing facilities, this innovative biotreatment solution not only meets EPA requirements for the destruction of regulated VOC emissions, but also reduces operational costs by an order of magnitude.

Historical Petroleum Releases



ENVIRON provided expert consulting services and expert testimony on issues related to historical releases of petroleum hydrocarbons and solvents to the environment, including assessments of risks associated with potential exposures to vapors migrating from groundwater into homes and other buildings.

Auditing for Improvement



For a leading global automotive supplier, ENVIRON conducts tri-annual EHS compliance audits at more than 100 production facilities in 14 European countries to identify and implement innovative ways continually to improve overall EHS performance.

Reconstructing Workplace Exposures



For a global electronics industry client, ENVIRON completed a rigorous, quantitative exposure reconstruction for workers who had developed certain diseases during their employment at semiconductor facilities in Asia. Our exposure reconstruction confirmed findings by the occupational agencies that the diseases were unrelated to exposures at the client's facilities.

[More ►](#)



SOLUTIONS DELIVERED

Modeling Hong Kong Air Quality



ENVIRON developed a comprehensive air quality model system for the Hong Kong Environmental Protection Department to address air quality concerns, including ozone, particulate matter and other pollutants from local sources, as well as transport from China and other areas in Asia.

Ensuring Safe Packaging



To address concerns about migration of organic chemicals from packaging components to food, ENVIRON worked with an international packaging products company to evaluate risks and implement good manufacturing practice (GMP) for a wide range of food contact packaging products.

Rehabilitative Service



ENVIRON was selected from among a field of 20 consulting firms to conduct human health and ecological risk assessments and sediment characterization at a large, heavily contaminated former mining site. Our work supports the rehabilitation strategy of the environment ministry for the site, where low-level radioactive contamination currently prevents its return to productive use.

Long-Range Water Management



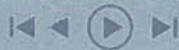
ENVIRON helped a leading beverage producer develop a long-range water management strategy, which included an assessment of internal water minimization opportunities, treatment technology and recycle/reuse options, as well as external options for impacting the local watershed.



SERVICES & EXPERTISE

Air Quality Management
Applied Epidemiology
Building Technology Services
Climate Change and Energy Management
Compliance Assistance
Ecology and Sediment Management
EHS Information Management
EHS Management
Expert Services
Exposure Reconstruction and Analysis
Human Health Sciences
Impact Assessment and Planning
Industrial Wastewater Management
International Finance

Due Diligence
Nanotechnology
Occupational Health and Safety
Product Safety and Regulatory Support
REACH
Risk Assessment and Management
Site Investigation and Remediation
Sustainability
Toxicological Sciences
Waste Management
Water Resources
WEEE, RoHS and Eco-Design



ENVIRON AROUND THE WORLD

The Americas

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Valinhos

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Vancouver

Mexico

Monterrey

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Anchorage, AK
Ann Arbor, MI
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Asheville, NC
Atlanta, GA
Austin, TX
Baton Rouge, LA
Boca Raton, FL
Boise, ID
Boston, MA
Chicago, IL
Clackamas, OR
Cleveland, OH
Columbus, OH
Denver, CO
Emeryville, CA
Grand Rapids, MI
Hartford, CT
Houston, TX

Indianapolis, IN
Irvine, CA
Kansas City, KS
Little Rock, AR
Los Angeles, CA
Lynnwood, WA
Milwaukee, WI
Monroe, LA
Mountain View, CA
Nashville, TN
Newark, NJ
New Orleans, LA
Norman, OK
Novato, CA
Olympia, WA
Philadelphia, PA
Phoenix, AZ
Port Gamble, WA
Portland, ME
Princeton, NJ
Salt Lake City, UT
San Diego, CA
San Francisco, CA
Seattle, WA
St. Louis, MO
Tampa, FL
Tulsa, OK
Westford, MA
Wichita, KS

Asia Pacific

Australia

Hunter
Melbourne
Perth
Sydney

China

Beijing
Shanghai

Hong Kong

Malaysia
Kuala Lumpur

Myanmar

Yangon

Republic of Singapore

Europe and Africa

Benelux

Delft
Den Dolder
Oudenaarde

Finland

Helsinki

France

Aix-en-Provence
Lyon
Paris

Germany

Essen
Frankfurt
Munich

Italy

Milano
Rome

Poland

Warsaw

Russia

Moscow

South Africa

Johannesburg

Spain

Barcelona
Madrid

United Kingdom

Bath
Birmingham
Cardiff
Edinburgh
Exeter
Glasgow
Leeds
London
Maidstone
Manchester



Eric C. Lu, MS, PE

Principal

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Eric Lu has 15 years of experience in air quality management and climate change issues. He has expertise with air permitting, air dispersion modeling, risk assessment, litigation support, greenhouse gas (GHG) emissions inventory and reporting and the California Environmental Quality Act (CEQA). His clients span a broad range of industries including, but not limited to, oil and gas, manufacturing, landfills, commercial and residential land use development and renewable energy. He has provided litigation support on matters related to air emissions and air toxics risk assessment. He is an expert on indoor and ambient air sampling programs for particulates, metals and volatile organic compounds.

Expertise

Emissions Estimations
Chemical Process Analysis
Regulatory Compliance
Air Dispersion Modeling
Indoor Air Quality Analysis
Ambient Air Monitoring
Litigation Support
California Environmental
Quality Act (CEQA)

Credentials

MS, Chemical Engineering,
University of California,
Berkeley
BS, Chemical Engineering,
Brown University (Honors)
Registered Professional
Engineer (CH6248,
California)
Certified Permitting
Professional (M6053,
South Coast Air Quality
Management District)
Accredited Greenhouse
Gas Lead Verifier with
sector specialty Oil & Gas
and Process Emissions
(ARB Executive Order
H-09-037)

EXPERIENCE HIGHLIGHTS

- Coordinated the preparation of technical studies in multiple disciplines in support of the preparation of EIRs. This included geology and soils, biological resources, water resources, water quality and hydrology, hazards and hazardous materials, air quality, greenhouse gas and climate change, noise, and traffic. This included assessing mitigation options for the various technical areas.
- Provided planning guidance for the CEQA entitlement process. This included strategic decision making, project description development, scheduling, consultant selection, and assistance with public outreach efforts.
- Evaluated air quality and climate change impacts including the preparation of complex air emissions inventories (criteria pollutant, toxics, GHGs), air dispersion models and health risk assessments in support of California Environmental Quality Act (CEQA) requirements.
- Prepared an analysis of life cycle GHG emission from alternative energy types in support of a solar energy project. Reviewed studies from the literature and placed the studies into context considering the different methods used and boundaries drawn.
- Managed and participated in large litigation support teams to complete complex technical analysis including source testing, emissions estimation, health risk assessment, meteorological data evaluation and air dispersion modeling. Provided litigation support in regards to toxic court cases involving oil and gas production facilities, hydrogen sulfide emissions in a city-wide area, mining facilities, paint burn-off ovens, RECLAIM requirements, indoor air quality and cooling tower emissions.
- Assisted various facilities in maintaining compliance with South Coast Air Quality Management District (SCAQMD) Rule and Regulations. These facilities have included pet food manufacturers, airport/airline facilities, gas production facilities, universities, coatings manufacturers and pharmaceutical companies. These facilities have encountered issues related to the Regional Clean Air Incentives Market rules (RECLAIM) and Title V. Assisted with annual emissions reporting and permitting.