

Katherine Douglas

Public Comment

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From: mikestoker@aol.com
Sent: Thursday, October 16, 2025 11:03 AM
To: sbcob
Cc: Steve Lavagnino; Bob Nelson; Joan Hartmann; Laura Capps; rlee@countyofsbl.org
Subject: Opposition to Departmental Agenda Item # 3

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"The SBCTAC...Fighting for the Taxpayer and Helping our Businesses Succeed..."

Chairwoman Capps & Honorable Board Members,

On behalf of our over 350 members of the SBCTAC, our organization is strongly opposed to the board's efforts to end oil and gas production in Santa Barbara County. While this may be politically popular for several of the board members, it is bad public policy, contrary to the direction Governor Newsom has recently urged the state to support, and will subject the county to potentially hundreds of millions of dollars in financial exposure as a result of the litigation that is certain to take place if you adopt the options before your board.

Before addressing these two options, I would like to remind the board of the concerns Governor Newsom has expressed regarding California's lack of energy and the concerns for Californians facing gasoline prices of \$8-

\$10 a gallon if California does not change course and work with the oil & gas industry to bring domestic sources of oil & gas to California pumps. In his letter dated April 21, 2025, to the Vice-Chair of the California Energy Commission, Mr. Siva Gunda, he specifically stated, "...it is imperative that we continue to ensure a safe, affordable and reliable supply of transportation fuels over the next two decades." (For a copy of the entire letter, click this link: <https://www.gov.ca.gov/wp-content/uploads/2025/05/Newsom-Gupta-Letter-4.21.pdf>)

With that directive by Governor Newsom in mind, I would like to address those two options.

Option to authorize staff to initiate work on developing an ordinance to prohibit drilling of new oil & gas wells...

I respond to this option with a simple question...Why? Why would you want to abdicate your responsibilities and discretion to prohibit you from being able to support an oil or gas project that has nominal environmental impacts, can generate hundreds of jobs, provide the county with millions of dollars in property taxes, and can lead to additional benefits to our local schools and lead to the protection of open space? By retaining your discretion, you can consider all the facts and then make the decision your constituents elected you to make.

Indeed, the voters on several occasions have voted to NOT remove the discretion from the board and opposed efforts to impose a blanket ban on oil & gas development. The voters have expressly stated they want the Board of Supervisors to do their job and consider oil & gas projects like you would any other projects. To adopt an ordinance imposing a blanket ban totally ignores the will of the very same voters who elected you into office.

The SBCTAC asks the board to honor the will of the voters and to retain your discretion so that you can decide each project on its own merits and keep open the option that projects that make sense and that your constituents want approved can go forward.

Finally, to move in this direction would be completely contrary to the direction the Governor directed above, which is imperative to the State of California in regards to our energy needs.

Option to initiate work on preparing a Request for Proposals to undertake an amortization study to determine an appropriate period to phase out existing oil and gas facilities/operations...

Needless to say, this option, if pursued, is completely contrary to the direction Governor Newsom has directed.

However, more importantly, this option is nowhere near as attainable as you may have been led to believe, and could, if implemented, subject the county to hundreds of millions of dollars in Taking Claims from all the operators that will certainly pursue damages for the wrongful taking of their vested property rights. If County Counsel is doing their job, they have no doubt advised you in Executive Session of these facts.

To shed a realistic light on this issue and what you are contemplating, I would like to share with you what has happened in the City of Los Angeles and County of Los Angeles that pursued the same option you are considering today. To oppose the City and County efforts, several interested parties opposing the implementation of an amortization ordinance retained the well-respected law firm of Manatt, Phelps & Philips to stop the ordinance from being implemented.

The results of Manatt's efforts have realized the following.

Both ordinances were the subject of expensive and protracted litigation, and as of today, both ordinances have been rescinded and are no longer in effect.

The LA County ordinance was voluntarily rescinded by the county's Board of Supervisors.

The City of LA ordinance was voided by LA County Superior Court Judge Curtis Kin. *NOPEC, et al. v. City of Los Angeles*, 23-STCP-00085 (Sept. 6, 2024). Judge Kin ruled that the ordinance was preempted by state law because it impermissibly banned "methods of production in existing wells." *NOPEC*, at 11. Judge Kin found that the City's ordinance impermissibly "restricts the [State Oil and Gas] Supervisor's 'express, statutorily-conferred authority to decide what oil production methods are suitable in each case,'" and therefore was implicitly preempted by Public Resources Code section 3106. *Id.*, at 12. In his ruling, Judge Kin relied on the California Supreme Court's ruling in *Chevron U.S.A. Inc. v. County of Monterey* (2023) 15 Cal.5th 135, 140 (*Chevron II*), holding that a similar ordinance in Monterey County was likewise preempted. If Santa Barbara County, after wasting hundreds of thousands of dollars in amortization studies, goes forward with its own ordinance, you will face exactly the same preemption issue, as I can guarantee you the interested parties will legally challenge the County of Santa Barbara, just as they have in the City and County of Los Angeles.

Under Public Resources Code Section 3106(d), *et seq*, the state has vested **complete** authority in CalGEM to "supervise the drilling, operations, maintenance, and abandonment of wells so as to permit owners or operators of wells to utilize all methods and practices known to the oil industry for the purpose of increasing the ultimate recovery of underground hydrocarbons and which, in the opinion of the supervisor, are suitable for this purpose in each proposed case." Pub. Resources Code § 3106(b). AB 3233 doesn't negate this express vesting of authority in the State. The County cannot circumvent the preemption issue by relying on AB 3233. The Legislature cannot, and has not, made Public Resource Code section 3106 inoperative, nor has it taken the issue out of the State's hands. Judge Kin, and the California Supreme Court in *Chevron II*, found that the Supervisor's duty to regulate hydrocarbon extraction and methods and practices was a matter of **statewide** concern. (This is consistent with exactly what the Governor has directed!) Thus, the Legislature cannot remove jurisdiction over the matter and assign it to cities or counties, as it has improperly attempted to do with AB 3233.

If the Board of Supervisors chooses to move forward with the proposed ordinance, the industry will sue, and the law will be overturned – at significant cost to the County.

In addition to the preemption issue discussed above, the Board's plan to initiate an amortization study to determine an appropriate phase-out process for oil and gas operations in the county is fraught with risk. First, as the Board is well aware, such a study will itself cost hundreds of thousands of dollars. However, those hundreds of thousands of dollars do not guarantee that the results of the study will protect the County. As just one example, the City of LA conducted three (3) separate studies, which all reached somewhat different conclusions and still left significant analytical gaps, including the failure to consider transfer of ownership costs, costs of regulatory compliance, or ongoing capital investment, and significant assumptions about operating costs, plugging and abandonment costs, and price forecasts. These major omissions and faulty assumptions leave the City's costly amortization studies open to legal attack, while doing nothing to protect the City from inverse condemnation and takings claims by operators who contest the amortization timelines the studies produced, if and when they are applied to try to force operators to shut down production.

And ultimately, notwithstanding the preemption issue and all the amortization studies the county may undertake, if your board ultimately adopts and enforces the amortization ordinance, you will be faced with

Taking Claim (5th Amendment) lawsuits by EVERY existing oil & gas operator. These claims will be in the hundreds of millions of dollars that could literally bankrupt the county. Whether or not a taking has occurred will not be decided by you, nor by local judges, nor even the California Supreme Court. It will end up going all the way, if necessary, to the US Supreme Court, which your County Counsel will advise you that the current court and its decisions have been very supportive of the property owner in Taking Claims.

Do you really want to take that risk? The responsible thing to do is to avoid thousands of hours of staff time being wasted and millions of dollars of taxpayer dollars being spent, and take no action. Allow the existing oil & gas operators that have vested rights to continue to operate and retain your discretion on a case-by-case basis to decide whether new gas or oil projects should be approved.

Sincerely,
Mike Stoker
President & CEO, SBCTAC