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Katherine Douglas *Public Comment - WSPA*

From: Ben Oakley <boakley@wspa.org>
Sent: Monday, August 26, 2024 3:33 PM
To: sbcob
Subject: Agenda Item 24-00869 (b) Oil and Gas Actions Resolution - WSPA Comment
Attachments: SB County CAP - WSPA Comment Letter 8-26-24.pdf

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To Whom It May Concern, please see the attached comment letter on Agenda Item 24-000869 (b) Oil and Gas Actions Resolution.

Ben Oakley
Manager, California Coastal Region



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boakley@wspa.org



Ben Oakley

Manager – California Coastal Region

August 26, 2024

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

via email: sbcob@countyofsb.org

Re: August 27, 2024 Agenda Item 24-00869 (b) – Oil and Gas Actions Resolution

Dear Santa Barbara County Board of Supervisors,

The Western States Petroleum Association (WSPA) appreciates this opportunity to comment on the August 27, 2024 agenda item 24-00869 (b) – Oil and Gas Actions Resolution. WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in California and four other western states.

We agree with the County's position that "the CAP must focus on community and economic sectors over which the County has the ability to influence GHG reductions¹."

However, the CAP lacks a clear and comprehensive description of the regulatory framework in which the local oil and gas industry operates, leading some commenters to suggest that the local oil industry is somehow "unfairly" not included in the County's plan and is therefore being given "a free pass." Nothing could be further from the truth.

Santa Barbara County's oil and gas industry is regulated by over two dozen federal, State, and local agencies including the United States Environmental Protection Agency, United States Fish and Wildlife Service, California Geologic Energy Management Division, California State and Regional Waterboards, California Office of Emergency Services, and Santa Barbara County Air Pollution Control District, to name just a few.

GHG emissions from the oil and gas industry are regulated by the California Air Resources Board (CARB) through various programs including the Low Carbon Fuel Standard (LCFS), Cap-and-Trade, and Oil and Natural Gas Production, Processing, and Storage programs.

According to CARB, the LCFS program is a:

"key part of a comprehensive set of programs in California to cut GHG emissions and other smog-forming and toxic air pollutants by improving vehicle technology, reducing fuel consumption, and increasing transportation mobility options. The LCFS is designed to decrease the carbon intensity of California's transportation fuel pool and provide an increasing range of low-carbon and renewable alternatives, which reduce petroleum dependency and achieve air quality benefits."²

¹ County of Santa Barbara. (2024). 2030 Climate Action Plan Final Draft (page 43).

<https://cosantabarbara.app.box.com/s/smy2ih08hlq9azalu97zhgvcdyuiixag>

² California Air Resources Board. *Low Carbon Fuel Standard - About*. <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard/about> (see attachment A)

Similarly, the Cap-and-Trade program is a:

“key element of California’s strategy to reduce greenhouse gas (GHG) emissions. It complements other measures to ensure that California cost-effectively meets its goals for GHG emissions reductions. The Cap-and-Trade Regulation establishes a declining limit on major sources of GHG emissions throughout California, and it creates a powerful economic incentive for significant investment in cleaner, more efficient technologies. The Program applies to emissions that cover approximately 80 percent of the State’s GHG emissions. CARB creates allowances equal to the total amount of permissible emissions (i.e., the “cap”). One allowance equals one metric ton of carbon dioxide equivalent emissions (using the 100-year global warming potential). Each year, fewer allowances are created and the annual cap declines. An increasing annual auction reserve (or floor) price for allowances and the reduction in annual allowances creates a steady and sustained carbon price signal to prompt action to reduce GHG emissions. All covered entities in the Cap-and-Trade Program are still subject to existing air quality permit limits for criteria and toxic air pollutants.”³

Together, these programs are working to “transform the areas of transportation, industry [including oil and gas production], fuels, and others, to take California into a sustainable, low-carbon, and cleaner future, while maintaining a robust economy.”⁴ Efforts to reduce GHG emissions have been underway for well over a decade; the programs were implemented pursuant to AB 32, the California Global Warming Solutions Act of 2006.

The CAP should be revised to include a more comprehensive description of the regulatory context of the oil and gas industry to avoid further misconceptions about the inclusion of stationary source emissions in the County’s CAP.

Furthermore, after over two years of community outreach and engagement, the eleventh-hour inclusion of a resolution to “identify potentially viable measures and a goal to reduce emissions from new and existing oil and gas extraction and processing; and return to the Board for consideration of such measures and goals within six months, or as soon as feasible” is inconsistent with the County’s own position on the matter as articulated in the CAP:

“Stationary sources, such as oil and gas operations, and agricultural sources are not covered sectors, and do not contribute to the County’s overall emission reduction goal⁵.”

“Goals are not included for this measure [LCE-1: Limit the increase of fossil fuel extraction emissions and develop a sunset strategy] as there are no quantifiable actions with substantial evidence⁶.”

Such last-minute policy reversals do a disservice to the transparent and robust stakeholder outreach process that the County has thus far conducted.

³ California Air Resources Board. *Cap-and-Trade Program - About*. <https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program/about> (see Attachment B)

⁴ California Air Resources Board. *Topics – Climate Change*. <https://ww2.arb.ca.gov/our-work/topics/climate-change> (see Attachment C)

⁵ County of Santa Barbara. (2024). 2030 Climate Action Plan Final Draft (page 13). <https://cosantabarbara.app.box.com/s/smy2ih08hlq9azalu97zhgvcduixag>

⁶ *Ibid.* (page 45).

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August 26, 2024

In support of the oil and gas resolution, some commenters point to Ventura County as an example of "taking action" against the oil and gas industry. It's more of a cautionary tale. After Ventura County activists convinced the County Supervisors to adopt policies that would arbitrarily curtail oil and gas production activities, the County spent \$2.8 million in legal fees⁷ over four years to defend such action before ultimately settling the dispute earlier this year.

We strongly urge you to reject the oil and gas activities resolution.

If you have any questions, please contact me at (805) 714-6973 or boakley@wspa.org.

Respectfully,

A handwritten signature in blue ink, appearing to read "Tom Boakley".

⁷ County of Ventura, Office of County Counsel. *September 20, 2022 Board Letter*. (see Attachment D).

Low Carbon Fuel Standard

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ABOUT

Under the AB 32 Scoping Plan, the Board identified the Low Carbon Fuel Standard (LCFS) as one of the nine discrete early action measures to reduce California's greenhouse gas (GHG) emissions that cause climate change. The LCFS is a key part of a comprehensive set of programs in California to cut GHG emissions and other smog-forming and toxic air pollutants by improving vehicle technology, reducing fuel consumption, and increasing transportation mobility options. The LCFS is designed to decrease the carbon intensity of California's transportation fuel pool and provide an increasing range of low-carbon and renewable alternatives, which reduce petroleum dependency and achieve air quality benefits.

The Board approved the LCFS regulation in 2009 and began implementation on January 1, 2011. CARB approved some amendments to the LCFS in December 2011, which were implemented on January 1, 2013. In September 2015, the Board approved the re-adoption of the LCFS, which became effective on January 1, 2016, to address procedural deficiencies in the way the original regulation was adopted. In 2018, the Board approved amendments to the regulation, which included strengthening and smoothing the carbon intensity

Cap-and-Trade Program

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ABOUT

The Cap-and-Trade Program is a key element of California's strategy to reduce greenhouse gas (GHG) emissions. It complements other measures to ensure that California cost-effectively meets its goals for GHG emissions reductions.

The Cap-and-Trade Regulation establishes a declining limit on major sources of GHG emissions throughout California, and it creates a powerful economic incentive for significant investment in cleaner, more efficient technologies. The Program applies to emissions that cover approximately 80 percent of the State's GHG emissions. CARB creates allowances equal to the total amount of permissible emissions (i.e., the "cap"). One allowance equals one

metric ton of carbon dioxide equivalent emissions (using the 100-year global warming potential). Each year, fewer allowances are created and the annual cap declines. An increasing annual auction reserve (or floor) price for allowances and the reduction in annual allowances creates a steady and sustained carbon price signal to prompt action to reduce GHG emissions. All covered entities in the Cap-and-Trade Program are still subject to existing air quality permit limits for criteria and toxic air pollutants.

Program Overview

- Program Overview
- FAQ Cap-and-Trade Program
- How does the Program Work?

(800) 242-4450 | helpline@arb.ca.gov
1001 I Street, Sacramento, CA 95814
P.O. Box 2815, Sacramento, CA 95812



In response to AB 32, California is implementing measures to achieve emission reductions of greenhouse gases (GHG) that cause climate change. Climate change programs in California are effectively reducing GHG emissions that come from all sectors of the economy. These programs include regulations, market programs, and incentives that will transform the areas of transportation, industry, fuels, and others, to take California into a sustainable, low-carbon and cleaner future, while maintaining a robust economy.

The state is also ensuring programs funded by California Climate Investments (CCI) are benefiting all Californians, particularly those in disadvantaged communities, by reducing health burdens of air pollution. CCI projects include affordable housing, renewable energy, public transportation, zero-emission vehicles, environmental restoration, more sustainable agriculture, recycling and much more. At least 50 percent of these investments benefit disadvantaged and low-income communities. CCI is funded through the auctioning of allowances from the state's economy-wide Cap-and-Trade Program.

Subscribe to keep up to date with the latest information about CARB's Climate Change programs.

AB 32 CLIMATE CHANGE SCOPING PLAN

The AB 32 Climate Change Scoping Plan is an actionable blueprint for aligning action to achieve California's ambitious climate goals. The state achieved its 2020 GHG emissions reductions target of returning to 1990 levels 4 years earlier than mandated by AB 32. The state is currently implementing strategies in the 2017 Scoping Plan Update to further reduce its GHG emissions by 40% below 1990 levels by 2030.

[MORE INFORMATION](#)

FEATURED

ATTACHMENT D



COUNTY of VENTURA

OFFICE OF COUNTY COUNSEL

TIFFANY N. NORTH
COUNTY COUNSEL

September 20, 2022

JEFFREY E. BARNES
CHIEF ASSISTANT

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, California 93009

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SEAN A. PEREZ
JOHN E. POLICH
MARINA PORCHE
CHRISTINE A. RENSHAW
JACLYN SMITH
MATTHEW A. SMITH
LINDA L. STEVENSON
THOMAS W. TEMPLE
FRANCESCA S. VERDIN
ERIC WALTERS

SUBJECT: Approval of an Increase in the Maximum Amount of the Legal Representation Agreement with Cox, Castle & Nicholson LLP from \$2,058,000 to \$2,800,000 to Continue Defending Lawsuits Challenging 2040 General Plan and Asserting Constitutional Takings Claims

RECOMMENDED ACTION:

Approve an increase in the maximum amount of the legal representation agreement with Cox, Castle & Nicholson LLP from \$2,058,000 to \$2,800,000 to continue defending lawsuits challenging 2040 General Plan and asserting constitutional takings claims.

FISCAL IMPACT:

Sufficient appropriations for the costs associated with the proposed contract increase are available in the CEO Special Accounts and Contributions unit.

DISCUSSION:

On September 15, 2020, your Board approved the 2040 General Plan (“General Plan”) and, pursuant to the California Environmental Quality Act (“CEQA”), certified an environmental impact report (“EIR”) and made findings regarding environmental impacts associated with implementing the General Plan. The General Plan took effect on October 15, 2020.

On October 15, 2020, your Board approved Ventura County Ordinance Nos. 4567 and 4568 amending the County's zoning ordinances to modify permitting requirements for new oil and gas development and to clarify applicability of the County's oil and gas regulations ("Zoning Amendments"). Your Board determined that approval of the Zoning Amendments was exempt from CEQA. On February 2, 2021, your Board certified the results of referendum petitions against the Zoning Amendments and directed that the referenda, called Measures A and B, be placed on the June 2022 general election ballot. On June 7, 2022, a majority of Ventura County voters did not vote in favor of Measures A and B and therefore, pursuant to Election Code section 9145, the Zoning Amendments did not take effect.

Eleven lawsuits were filed against the County in Ventura County Superior Court, mostly by entities associated with the oil and gas industry, challenging your Board's approval of the General Plan and Zoning Amendments. The lawsuits primarily allege violations of CEQA, the Brown Act, state Planning Law, and state and federal preemption, and some allege the County's unconstitutional taking of property rights and other constitutional violations. The lawsuits primarily seek to nullify your Board's approvals of the General Plan and Zoning Amendments, and some seek unspecified monetary damages. With the electoral defeat of Measures A and B, the parties have stipulated to petitioners' dismissal of their claims seeking to nullify the Zoning Amendments. Dismissal of these claims narrowed the focus of the lawsuits and resulted in three lawsuits being dismissed in their entirety. However, the eight other, separate lawsuits are still moving forward challenging the General Plan on multiple grounds and asserting constitutional takings and other claims seeking monetary damages. As stipulated between the parties, the writ claims, including the CEQA, Brown Act, Planning Law, and preemption claims, in the lawsuits are being tried during Phase 1 of the litigation. The hearings on the merits for the Phase 1 writ claims are scheduled for November 1 and 2, 2022. The non-writ claims, alleging constitutional violations, will subsequently be litigated in Phase 2.

On November 5, 2020, County Counsel approved a legal representation agreement with Cox, Castle & Nicholson LLP and, through the Purchasing Agent, opened a requisition order in an initial amount not to exceed \$200,000 to defend the multiple lawsuits challenging the General Plan. By letter dated January 11, 2021, the scope of this agreement was expanded to provide for legal representation regarding the subsequently filed claims and lawsuits challenging the Zoning Amendments. On February 23, 2021, your Board increased the maximum amount of the legal representation agreement to \$1,000,000, and on October 5, 2021, increased the maximum amount to its current \$2,058,000. Your Board also directed the County's attorneys to conduct at least two meetings to discuss potential settlement with the parties. Such meetings did not result in settlement of the litigation.

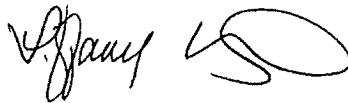
The County's legal defense costs have exceeded earlier budgeted amounts based on unanticipated work associated with, among other things, participating in a discovery referee process and engaging in law and motion to prevent disclosure of privileged and

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confidential County documents, preparing a motion to strike petitioners' extra-record evidence in this complex litigation involving multiple, varied lawsuits, and coordinating with counsel for intervening parties that are also defending the General Plan. While the County's opposition briefing for the Phase 1 writ claims is now complete, additional work is needed to prepare for the two-day Phase 1 hearings, argue at the hearings in November, possible post-hearing work, as well as defense in Phase 2 of the complex litigation. For all these reasons, County Counsel recommends that your Board now authorize an increase to the maximum amount of this agreement to \$2,800,000. Sufficient funds necessary to support this increase are available in the CEO Special Accounts and Contributions budget unit.

This item has been reviewed by the County Executive Office and the Auditor-Controller's Office. If you have any questions, please call me at (805) 654-2581.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tiffany N. North", followed by a large, stylized circular flourish.

Tiffany N. North
County Counsel

TNN:tdb