

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

RACHEL B. HOOPER
Attorney
hooper@smwlaw.com

June 12, 2014

Via E-Mail and U.S. Mail

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

Re: Ballot Question for the Initiative to Ban High-Intensity Petroleum Operations: June 13, 2014 Board Meeting

Dear Honorable Supervisors:

We write on behalf of the Santa Barbara County Water Guardians to request that the County revise the proposed ballot question for the Initiative to Ban High-Intensity Petroleum Operations (“Initiative”) so that the effect of the measure may be more readily understood by the public.

The text of the Initiative clearly establishes what types of petroleum operations it applies to. It prohibits land uses in support of “high-intensity petroleum operations.” Initiative § 2. The Initiative then defines high-intensity petroleum operations to include (1) well stimulation treatments and (2) secondary and enhanced recovery operations. These operations are clearly distinguished from “low-intensity” petroleum operations, which the County’s Impact Analysis Report on the Initiative, at page 2, defines as “allowing wells to flow under their own pressure.” On its face, the Initiative does not apply to such operations. Initiative § 1.A.1.

The proposed ballot question, however, makes no reference to high-intensity petroleum operations. Nor does it distinguish low-intensity petroleum operations. Instead, it summarizes the Initiative as prohibiting land uses in support of “certain petroleum operations.” We urge the County to reconsider this approach.

State law requires the ballot question to “state[] the nature” of the proposed measure in a manner that is a “condensed version of the ballot title and summary.” Elections Code §§ 13119; 9051; 13247. The County Counsel’s ballot title and summary

for this Initiative describes the measure's effect in a manner all can readily understand. See attached ballot title and summary. Thus, the County Counsel's summary of the Initiative explains that "*High-Intensity Petroleum Operations* are defined by the Initiative to include well stimulation treatments and secondary and enhanced recovery operations such as hydraulic fracturing, cyclic steam, waterflood or steamflood injection and acid well stimulation treatments." Similarly, the County Counsel's ballot title lists what types of operations would be prohibited: "Initiative to Ban '*High-Intensity Petroleum Operations*' including but not limited to Well Stimulation Treatments and Secondary and Enhanced Recovery Operations such as Hydraulic Fracturing, Steam Injection and Acid Well Stimulation Treatment on all Lands within Santa Barbara County's Unincorporated Area."

Accordingly, we respectfully request that the ballot question be revised to refer to "high-intensity petroleum operations" as opposed to "certain petroleum operations." The proposed revision is shown in track changes below:

Shall the ordinance amending Santa Barbara County's Comprehensive Plan and County Code – to prohibit on all lands within the unincorporated County, with certain exemptions, the construction or use of any facility, appurtenance, or aboveground equipment supporting ~~certain~~ high-intensity petroleum operations, including but not limited to: hydraulic fracturing; acid well stimulation ; or aiding hydrocarbon flow into a well by injecting water, natural gas, steam, air, carbon dioxide, nitrogen, chemicals or other substances – be adopted?

We appreciate your consideration of this matter. A revised ballot question will greatly assist the County electorate to readily understand the measure that they will be voting on.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Rachel B. Hooper



Heather M. Minner

cc: Michael C. Ghizzoni, County Counsel
Mona Miyasato, County Executive Officer

SHUTE, MIHALY
& WEINBERGER LLP

**INITIATIVE MEASURE TO BE SUBMITTED
DIRECTLY TO THE VOTERS**

The County Counsel of Santa Barbara has prepared the following title and summary of the chief purpose and points of the proposed measure.

Initiative to Ban “High-Intensity Petroleum Operations” including but not limited to Well Stimulation Treatments and Secondary and Enhanced Recovery Operations such as Hydraulic Fracturing, Steam Injection and Acid Well Stimulation Treatment on all Lands within Santa Barbara County’s Unincorporated Area

The proposed Initiative amends Santa Barbara County Comprehensive Plan policies and the Santa Barbara County Code to prohibit the use of any land within the County’s unincorporated area for, or in support of, High-Intensity Petroleum Operations, including but not limited to onshore exploration and onshore production of offshore oil and gas reservoirs. The proposed Initiative states that the prohibition, if adopted, would not apply to onshore facilities that support offshore exploration or production from offshore wells. The prohibition also would not apply to off-site facilities or infrastructure, such as refineries and pipelines that do not directly support High-Intensity Petroleum Operations. The prohibition would apply in any zoning district within the County.

High-Intensity Petroleum Operations are defined by the Initiative to include well stimulation treatments and secondary and enhanced recovery operations such as hydraulic fracturing, cyclic steam, waterflood or steamflood injection and acid well stimulation treatments.

The proposed Initiative authorizes the Board of Supervisors to grant an exception to the application of any provision of the Initiative if the Board of Supervisors finds, based on substantial evidence, that both:

- (1) the application of any aspect of the Initiative would constitute an unconstitutional taking of property, and
- (2) the exception will allow additional or continued land uses only to the minimum extent necessary to avoid such a taking.

The provisions of the proposed Initiative would not be applicable to any person or entity that has obtained, as of the effective date of this Initiative, a vested right, pursuant to State law, to conduct a High-Intensity Petroleum Operation as defined by the Initiative.

The proposed Initiative provides that the Board of Supervisors must take all steps reasonably necessary to enforce the Initiative and defend it against any challenge.

Comprehensive Plan policies and County Code provisions amended and adopted through the Initiative may only subsequently be amended or repealed by the vote of County voters.