

Memorandum

Date: June 20, 2017

To: LA County Wells Strike Team Advisory Panel

From: LA County DRP
MRS Environmental

Subject: LA County Strike Team Biannual Report #2 Advisory Panel Comments

The LA County Strike Team Biannual Report #2 (Report) was released on March 13, 2017. The LA County DRP received comments on the report from Advisory Panel members including written comments from Ms. Julia May along with the Communities for a Better Environment (First District), Mr. Andrew Wiessman (Second District), Mr. Tim O'Connor (Third District), and Mr. Matt Rezvani (Fourth District). This memo provides a response, prepared by DRP Staff in consultation with MRS Environmental, to those comments. The comments are attached and have been coded by the Advisory Panel member initials and numbered to correspond with the responses below.

Ms. Julia May, First District

JM-1 Setbacks

The recommendation for a 2,500-foot setback for residential land uses is acknowledged, setback distances will be discussed in the regulatory recommendations section of the final Report. Setbacks however, would only be applicable to new facilities and do not apply to existing facilities. In addition, recommendations for setbacks in future oil and gas ordinance would have to be tied to specific impacts to be legally defensible.

JM-2 City of LA Environmental Review Procedures

The Oil and Gas Facility Compliance Review Project (Project) process follows the Inspection Protocol developed for the Project along with the Public Health Screening Assessment procedures. Updates to the County's environmental review procedures may be discussed in the regulatory recommendations section of final Report.

JM-3 Interview of Community Members

Interview of community members located near oil and gas facilities is not a component of the Project original scope of work. Staff agrees input from the community is important and should be considered for a future project. Review of the record of complaints allows for some understanding of how the facilities are perceived by the surrounding residents and the level of nuisance affecting those residents. The Report contains a section that discusses the complaint record.

JM-4 Odor Prevention Plan

Prevention plans and associated mitigation measures have been shown to reduce the potential for odors at many oil and gas facilities and will be discussed in the regulatory recommendations section of the final Project report. It is envisioned that this will be a recommendation for a future oil and gas ordinance for the County.

JM-5 Hazardous Substance Use and Transport

Prohibiting the use or transport of hazardous substances is beyond the scope of the Project, however, the transportation of chemicals through residential areas is an issue under review by Staff and will be discussed in the regulatory recommendations section of final Project report.

JM-6 Best Available Control Technology and Inspection and Maintenance Improvements

The evaluation of Best Available Control Technology or BACT is beyond the scope of the Project. Staff notes that BACT is primarily associated with air emissions and the SCAQMD has guidelines that establish the procedures and BACT requirements for equipment that emit air pollution. The regulatory recommendations section of the final Project report will include discussion on inspection and maintenance including pipeline system integrity testing, monitoring, and leak detection.

JM-7 "By-Right" Permitting

Oil and gas permitting processes including "by right" permitting will be discussed in the regulatory recommendations section of final Project report.

JM-8 Air Quality Monitoring

Air quality monitoring is not a component of the Project as noted on page 3 of the Report and referenced in the comment. The Project does not preclude County Departments from performing monitoring or other assessments at their discretion during the Project inspections. SCAQMD Rule 1173 was specifically noted in the Report as SCAQMD staff have completed Rule 1173 type inspections at some of the facilities visited to date.

JM-9 Oil and Gas Pipelines

The oil and gas pipelines within the facilities of the well sites are reviewed as part of the Project. The review of the network of oil and gas pipelines located throughout the County, often referred to as oil and gas transmission lines, is beyond the scope of the Project, however, staff agrees that these pipelines merit review and should be considered for a future project.

JM-10 Orphaned and Abandoned Wells

Review and analysis of abandoned or orphaned wells was not a component of the Project original scope of work. As noted in the Report, the ongoing research and review of well data has determined that information on the ownership, status, and documentation for many abandoned wells may be incomplete. In addition, DOGGR is currently updating their data base with regards to abandoned, plugged wells, and buried wells. Staff agrees with the comment that these types of wells need additional review and, as also noted in the Report, recommends further assessment of abandoned wells be slated for a future project.

JM-11 Hydraulic Fracturing

The analysis of hydraulic fracturing and the use of chemicals for well completions is not part of the scope of the Project, however, the Project checklists and reports do note if enhanced recovery methods such as water flooding or steam injection are used. While chemicals are used as part of the oil and gas production, there is no hydraulic fracturing, as defined under SB4, occurring in the unincorporated Los Angeles County at this point.

JM-12 Earthquake Hazards

The analysis and impacts from earthquake hazards is beyond the scope of the Project. However, new regulations will contemplate the requirement for shutdown and inspections in the event of earthquakes of a certain magnitude as determined by the County.

JM-13 Communities for a Better Environment (CBE) Comments

A response to the comments in the referenced CBE letter is included herein.

JM-14 Advisory Panel Input

Staff encourages and appreciates Advisory Panel input on the Project.

Communities for a Better Environment*CBE-1 Setbacks*

The recommendation for a 2,500-foot setback for residential and other sensitive land uses is acknowledged, setback distances will be discussed in the regulatory recommendations section of final Project report. Setbacks however, would only be applicable to new facilities. In addition, recommendations for setbacks in a future oil and gas ordinance would have to be tied to specific impacts to be legally defensible.

CBE-2 "By-Right" Permitting

Oil and gas permitting processes including "by right" permitting will be discussed in the regulatory recommendations section of final Project report.

CBE-3 Nuisance Facilities

Review of facilities includes a review of potential odors being emitted and the complaint record for those facilities. The Project team includes County Public Health and the SCAQMD (for a portion of the facilities) and review of complaints to the Public Health Department and SCAQMD Notice to Comply (NTC) and Notice of Violation (NOV) data is included in the Report. In the event that violations are found, the different agencies had various levels of enforcement that is being applied dependent on the findings.

CBE-4 Oil and Gas Development Moratorium

The initiation or discussion of a moratorium on oil and gas development is outside the scope of the Project.

CBE-5 County Authority to Regulate Land Use

Staff agrees with the comment that the County has the authority to regulate land use in the unincorporated area of Los Angeles County. A subsequent part of this effort will update land use controls for oil and gas development consistent with this comment.

CBE-6 Oil and Gas Regulations

The regulatory recommendations section of the final Project report will include discussion of, and suggestions for, updates to the County ordinance as it regulates oil and gas operations.

CBE-7 Setbacks

The recommendation for a 2,500-foot setback for residential and other sensitive land uses is acknowledged, setback distances will be discussed in the regulatory recommendations section of final Project report.

CBE-8 "By-Right" Permitting

Oil and gas permitting processes including "by right" permitting will be discussed in the regulatory recommendations section of final Project report.

CBE-9 Oil and Gas Development Moratorium

The initiation or discussion of a moratorium on oil and gas development is outside the scope of the Project.

Mr. Andrew Wiessman Second District*AW-1 Abandoned Wells*

Review and analysis of abandoned or plugged wells was not a component of the current Strike Team Project (Project) original scope of work. As noted in the Report, the ongoing research and review of well data has determined that information on the ownership, status, and documentation for many abandoned wells may be incomplete. In addition, DOGGR is currently updating their data base with regards to abandoned, plugged wells, and buried wells. Staff agrees with the comment that these types of wells merit additional review and, as also noted in the Report, recommends further assessment of abandoned wells be slated for a future project.

AW-2 Leak Prevention and Detection

The Project field inspections and associated checklists address pipeline testing and oversight, secondary containment for tanks, and the potential for site contamination. Therefore, the Project is reviewing and documenting information regarding leak prevention and detection. The Project field inspections also look for unused and leaking equipment. Recommendations for improvements in pipeline system leak detection and monitoring will be discussed in the regulatory recommendations section of final Project report.

AW-3 Facilities in Adjacent Jurisdictions

Review of relevant oil and gas facilities in adjacent jurisdictions is discussed in Section 4.1 of the Report. To date, the Strike Team has recommended review of the following oil and gas processing facilities located outside County jurisdiction:

- City of La Habra Heights (Matrix Sansinena wells);
- Orange County (Linn Energy wells);
- County of Ventura (CRC Del Valle and Ramona Field wells); and
- Harbor City (Brea Canon wells).

Additional recommendations for review of facilities located outside the County will be included in future reports as appropriate.

Mr. Tim O'Connor, Third District*TO-1 Air Quality Monitoring*

The SCAQMD is the air pollution control agency for all of Los Angeles County and is the agency tasked with protecting the health of residents from air pollution. The type and quantity of criteria and toxic air pollutants by oil and gas facilities is reported to the SCAQMD under their existing rules and regulations. Air quality monitoring is not part of the scope of the project, however, if well sites have air monitoring it would be noted on the checklists and in the Report.

TO-2 Leak Detection and Repair Plans (LDAR)

The leak detection and repair issues in LDAR plans address VOCs from gas or light liquid service. This program is administered by the SCAQMD and specifically Rule 1173. Rule 1173 requires the operator to perform quarterly inspections and repairs and submit the corresponding data to the SCAQMD. Most operators use a third-party consultant to complete the inspections. The SCAQMD also does an annual Rule 1173 inspection with their own staff and equipment. The SCAQMD is on the Strike Team and have completed Rule 1173 inspections during Strike Team inspections at most of the facilities reviewed to date.

TO-3 Well Stimulation

SCAQMD Rule 1148.2 collects data from well development activities including drilling, well completion, and well reworks. The analysis of well completion chemicals is beyond the scope of the Project, however, the Project checklists and reports do note if enhanced recovery methods such as water flooding or steam injections are used.

TO-4 Interview of Community Members

Interview of community members located near oil and gas facilities is not component of the current Strike Team Project (Project) original scope of work. Staff agrees input from the community is important and should be considered for a future project.

TO-5 Facilities in Adjacent Jurisdictions

Review of relevant oil and gas facilities in adjacent jurisdictions is discussed in Section 4.1 of the Report. To date, the Strike Team has recommended review of the following oil and gas processing facilities located outside County jurisdiction:

- City of La Habra Heights (Matrix Sansinena wells);
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- Harbor City (Brea Canon wells).

Additional recommendations for review of facilities located outside the County will be included in future reports as appropriate.

TO-6 Advisory Panel Input and Coordination

Staff encourages and appreciates Advisory Panel input on the Project.

Mr. Matt Rezvani Fourth District*MR-1 Tanks Bottom Inspections and Leak Detection*

The CAL FIRE-Office of the State Fire Marshal (OSFM) is responsible for ensuring the implementation of the Aboveground Petroleum Storage Act (APSA) program and County Fire is part of the Strike Team. In addition, the Project field inspections and associated checklists include review for contamination including stained soil around tanks.

MR-2 Secondary Containment

The Strike Team has observed a wide variety of secondary containment types used at the oil fields visited to date. For wells, the range of containment includes zero (no or very little well cellar volume) to deep well cellars with automatic level devices to shut wells down at certain fluid levels. Some operators also have tertiary containment in the form of berms around wells or around well pad areas. Recommendations for the installation of secondary containment and repair of secondary containment structures are included in the Report for applicable facilities. Additional requirements for secondary containment will be discussed in the regulatory recommendations section of final Project report.

MR-3 Leak Detection and Repair Plans (LDAR)

The leak detection and repair issues in LDAR plans address VOCs from gas or light liquid service. This program is administered by the SCAQMD and specifically Rule 1173. Rule 1173 requires the operator to perform quarterly inspections and repairs and submit the corresponding data to the SCAQMD. Most operators use a third-party consultant to complete the inspections. The SCAQMD also does an annual Rule 1173 inspection with their own staff and equipment. The SCAQMD is on the Strike Team and have completed Rule 1173 inspections during Strike Team inspections at most of the facilities reviewed to date.

Second Report - Recommendations of Julia May, First District representative, Advisory Panel of LA County Oil & Gas taskforce, 4/11/2017 *(Likely to be supplemented if we receive additional comment period)*

1. **I wish to express great appreciation** for the important and extensive work of all the Departments of the County, staff and consultants, and the Board of Supervisors' leadership on these key issues.
2. **Many issues remain to be addressed – see my comments below & please refer again to my earlier letters** regarding extraction health, safety, and environmental impacts, nuisances, incompatibility with residences, monitoring, community surveys, and need for policy and enforcement improvements, still relevant to the Second Report.
3. A new recommendation for a **2500 foot setback** between oil & gas extraction and residences has been identified as necessary for public health and should be evaluated by the County. JM-1
4. I re-iterate my earlier comment letters and statements urging the County to:
 - a. Evaluate incorporating the **City of Los Angeles' improved environmental review procedures** JM-2
 - b. **Interview community members** near extraction facilities for comment on impacts JM-3
 - c. Evaluate a requirement for an **Odor Prevention Plan** for all oil and gas extraction. JM-4
 - d. Evaluate **banning extremely hazardous substance use & transport**, especially Hydrogen Fluoride. JM-5
 - e. Evaluate **Best Available Control Technologies & improved inspection/maintenance**. JM-6
5. I am looking forward to the County developing specific policy for **removal of “by right” permitting**, and incorporating discretionary permitting, which is listed as goal in the Second Report (p. 2) JM-7
6. **Regarding Key Monitoring Needs**– I re-emphasize my earlier concerns regarding the need for assessment of monitoring improvements, both existing and added – reviewing standard and advanced methods. The Second Report includes a Scoping limitation excluding monitoring beyond the AQMD's Rule 1173 in the Scope (p. 3), which did not appear in the first report (p. 3). I request staff an explanation about the new exclusion. This appears to contradict other goals & scope, since different County departments are responsible for inspection, evaluation of odors, nuisance, and public health hazards. I do not believe it is possible to carry out these tasks without full evaluation of monitoring. JM-8
7. **Oil & Gas pipelines** – The extensive network throughout the County (in incorporated and unincorporated areas) presents hazards, has had spills, moves between jurisdictions, and appears to be expanding (at least, I know Oil Refineries are extensively expanding pipelines). This needs additional County evaluation. JM-9
8. I appreciate that the Second Report states a need for additional evaluation of **Orphaned & Abandoned wells**, and I support other Advisory Counsel members request for additional evaluation. JM-10
9. Regarding **Hydraulic Fracturing (Fracking)** – I request that staff and consultants evaluate AQMD staff reports, which found that many extraction methods not formally designated as fracking nevertheless use the same methods (acidizing, maintenance acidizing, more). I have found this to be the case in my own review of AQMD reporting – widespread use of a large number of toxic and extremely hazardous chemicals in wells that are not considered to use fracking, but use similar methods and chemicals. JM-11
10. I request additional review by the County of **Earthquake Hazards** of extraction, and related transportation & pipelines. JM-12
11. I request staff to review and consider for incorporation the recommendations of **comments submitted by Communities for a Better Environment (CBE) on March 13, 2017**, to the Taskforce. JM-13
12. I support comments made by Advisory Panel members regarding the need for **additional input by the Advisory Panel**. JM-14



March 13, 2017

VIA Hardcopy Submission

Los Angeles County Oil and Gas Facilities Strike Team
Department of Public Works
900 S. Fremont Avenue, Room B
Alhambra, CA 91803

Re: Recommendations Regarding Updating the Los Angeles County Municipal Code to Protect Public Health, and Comments Regarding *Draft Public Report No. 2*.

Dear Los Angeles County Oil and Gas Facilities Strike Team:

We write on behalf of the Stand Together Against Neighborhood Drilling – Los Angeles (“STAND-L.A.”) coalition. STAND-L.A. is an environmental justice coalition of community groups that seeks to end neighborhood drilling to protect the health and safety of Angelenos on the front lines of urban oil extraction. It is composed of concerned residents, communities of faith, environmental justice champions, researchers, students, and parents located in neighborhoods where oil and gas drilling and operations occur in close proximity to homes, schools, and other sensitive receptors. We respectfully submit the following comments and recommendations for your consideration in your report to the County Board of Supervisors regarding proposed amendments to the County zoning code regulating gas and oil operations.

First, we commend the Board of Supervisors, particularly Supervisors Hilda Solis and Mark Ridley-Thomas, for presenting the motion to advance this necessary process of ensuring regulation of oil and gas operations adequately protects the health, safety and welfare of County residents, as well as the public’s right to clean water and a healthy environment. We look forward to sharing our expertise and engaging in the County’s review of its regulation of oil and gas production facilities.

The motion, passed by the Board of Supervisors on March 29, 2016, tasked this Strike Team to work in conjunction with the Advisory Panel to gather information to “complete an update to the Zoning Code and associated regulations and enforcement protocols” that will ensure that (1) proposed regulations “reflect best practices and current mitigation methods and technologies” to “minimize environmental impacts and protect sensitive uses and populations,” and that (2) “oil and

gas facilities may no longer operate by right in the unincorporated portions of the County[.]”¹

This review of County oil and gas drilling and production facilities is long overdue. The County’s current regulatory framework is outdated and severely deficient, allowing oil and gas production activities to occur dangerously close to homes, schools, and community gathering spaces. As explained in detail below, we respectfully recommend that the Strike Team propose the following to the Board of Supervisors pursuant to the motion:

1. A proposed ordinance with the best practice mitigation measure of a setback between oil and gas operations and homes, schools and hospitals by at least 2,500 feet to protect the health and safety of residents. CBE-1
 2. A proposed ordinance that eliminates drilling by-right, and requires that operators submit an application for a conditional use permit subject to the discretionary approval by the County. CBE-2
 3. That facilities that produce offensive odors, noise, or otherwise operate in violation of permit conditions should be closed pursuant public nuisance administrative proceedings. CBE-3
 4. That the County place a moratorium on approving new facilities or permitting expansion of existing facilities until the new proposed regulations are adopted. CBE-4
- I. The County has broad authority pursuant to its police power to regulate land uses, including oil and gas extraction in unincorporated areas.** CBE-5

California courts and the U.S. Supreme Court have long recognized the authority of a local government to use its police and zoning powers to enact local prohibitions and restrictions on oil and gas operations and development.² A municipality has an “unquestioned right to regulate the business of operating oil wells within its [] limits, and to prohibit their operation within delineated areas and districts if reason appears for so doing.”³ A policy prohibiting future expansion is also within the powers of the County, since operators do not have the right to intensify or expand a nonconforming use, or move the use to another location of the property.⁴

The California Public Resources Code affirms that local authorities retain the power to “enact and enforce laws and regulations regulating the conduct and location of oil production activities, including . . . zoning, . . . public safety, nuisance . . . [and] noise[.]”⁵ Thus, a county may

¹ L.A. County Bd. Of Supervisors (Mar. 29, 2016) Meeting Minutes, Item No. 12. at p. 12 (“*Bd. Of Supervisors’ Motion*”).

² Cal. Const. Article XI, sec. 5; Cal. Pub. Res. Code § 3690.

³ *Beverly Oil Co. v. City of Los Angeles* (1953) 40 Cal.2d 552, 558; *see also* California Attorney General’s Opinion (1976) 59 Ops. Cal. Atty. Gen. 461, 465 (“[I]t is our opinion that cities and counties have the power to prohibit [oil and gas] operations.”).

⁴ *See Beverly Oil Co.*, 40 Cal.2d at 557 (upholding City’s ban against drilling new wells or deepening existing wells and rejecting plaintiff’s claim of a vested right “to reach any and all oil underlying his property”).

⁵ Cal. Pub. Res. Code § 3690.

prohibit and restrict the location where oil and gas operations and development occur pursuant to its zoning authority, including based on their incompatibility with healthy residential communities. Courts have upheld ordinances banning or restricting oil development where “reasonably related to promoting the public health, safety, comfort, and welfare, and if the means adopted to accomplish that promotion are reasonably appropriate to the purpose.”⁶

The County has authority to regulate land use in accordance with its planning and zoning ordinances within the unincorporated area of the County.⁷

II. Existing regulation of oil and gas extraction activities under the Los Angeles Code is outdated, convoluted, and fails to protect the health and safety of County residents.

CBE-6

Oil and gas extraction operations are regulated under Title 22 of the Los Angeles County Code (“Code”). The County’s regulation of such operations varies and is entirely dependent on land use designation, and not on proximity to homes and other sensitive receptors.

The County prohibits oil drilling in Mixed Use Development zones,⁸ Mixed Use Rural Development zones,⁹ Major Commercial zones,¹⁰ and High Density Residential¹¹ zones. But the County allows oil and gas operations to occur in close proximity to homes, schools, and hospitals in some land use designations, including residential zones, as long as operators obtain a conditional-use permit. Moreover, oil and gas extractions operations may occur by right in other land use zones, without oversight by the County.

Regulation of where oil and gas extraction activities may occur under the County Code is seemingly arbitrary, and no uniform protections apply to protect sensitive receptors from air pollution, groundwater contamination, or noise and vibration impacts associated with oil and gas drilling operations.

A. The Code allows the majority of current oil and gas extraction to occur by-right, without regulatory oversight by the County.

A report on an inventory of County oil and gas wells, prepared at the request of the Board

⁶ *Higgins v. City of Santa Monica* (1964) 62 Cal.2d 24, 30.

⁷ *Stirling v. Bd. of Supervisors* (1975) 48 Cal.App.3d 184, 187 (“Ordinances enacted by the [county] in the zoning and other regulatory fields are effective only in the unincorporated territory.”) (*citing* Cal. Const., Art. XI, § 7); *City of Dublin v. County of Alameda* (1993) 14 Cal.App.4th 264, 274–75 (“[T]he California Constitution specifies that the police power bestowed upon a county may be exercised ‘within its limits,’ i.e., only in the unincorporated area of the county.”).

⁸ Oil wells are not a permitted use in the Mixed Use Development zone, L.A. County Code §22.40.805, and a conditional-use permit may not be granted for oil wells in this zone, *id.* at §22.40.820.

⁹ Oil wells are not a permitted use in the Rural Mixed Use Development zone, L.A. County Code §22.40.460, and a conditional-use permit may not be granted for oil wells in this zone, *id.* at §22.40.475.

¹⁰ Oil wells are not a permitted use in the Major Commercial zone, L.A. County Code §22.28.420, and a conditional-use permit may not be granted for oil wells in this zone, *id.* at §22.28.450.

¹¹ Oil wells are not a permitted use in High Density Residential zones, L.A. County Code §22.20.480, and a conditional-use permit may not be granted for oil wells therein, *id.* at § 22.20.520.

of Supervisors in 2015, concluded that of the 1,687 oil and gas wells in County unincorporated areas, 85% of them do not require discretionary or permit-based approvals, and operators may drill “by-right,” without oversight by the County.¹²

The Code permits oil and gas operations in Heavy Agriculture (A-2) zones, and drilling may be conducted without discretionary approval by, or even notification to, the County or any existing adjacent neighbors.¹³ The only restriction imposed on drilling operations in Heavy Agriculture zones consists of a setback between oil wells and residences. That restriction provides that “[d]rilling shall not be within 300 feet of any residence,” and if drilling occurs within 500 feet of a residence, then “[a]ll derricks used in connection with the drilling of the well shall be enclosed with fire-resistant and soundproofing material.”¹⁴ Similarly, oil wells are a permitted use in M-1 and M-1.5 industrial zones, but cannot be located within 300 feet of residences.¹⁵

Enabling drilling to occur by right without discretionary review by the County places the health and safety of nearby residents especially at risk from toxic chemicals, polluting emissions, disturbing noises, and noxious odors of drilling operations. Oil and gas extraction operations creates the risk of soil and ground water contamination, and contributes to increased emissions of greenhouse gases and smog forming pollutants. Also, while a 300-foot setback is better than no setback between sensitive receptors and oil drilling, it falls woefully short of a distance adequate to protect the health and safety of neighboring residents.

Furthermore, an oil drilling operator may seek an exemption from the minimally protective 300-foot setback, by applying for a conditional use permit. As an example, an operator located in the M-1 zone may apply for a conditional use permit to engage in extraction activities for oil wells located within the 300-foot setback distance.¹⁶

B. Even where the County requires conditional use permits for drilling operations, those permits provide blanket approvals that do not require additional review for expansions or other activities.

The Code does require that an operator seeking to conduct drilling operations in particular land use designations first obtain a conditional use permit. For instance, while oil wells are generally not permitted in the R-1, Single-Family Residence zone,¹⁷ the County allows oil wells in Single-Family Residence zone as long as the operator obtains a conditional-use permit.¹⁸

¹² Marine Research Specialists (Dec. 2015) *L.A. County Oil and Gas Well Inventory Report*, at ES-1 (“*LA County Inventory Report*”).

¹³ L.A. County Code § 22.24.120(D). All section references herein after shall refer to the Los Angeles County Code unless otherwise indicated.

¹⁴ *Id.*

¹⁵ Section 22.32.040 (permitting “Oil wells and accessory facilities,” in Light Manufacturing (M-1) zoned land, “subject to the conditions and limitations of Section 22.24.120 (Zone A-2)[.]”); Section 22.32.110 (same with regard to M-1.5 zones).

¹⁶ Section 22.32.070 (allowing a conditional use permit to issue for “oil wells, not in conformance with the limitations of Section 22.24.120[.]”)

¹⁷ Section 22.20.070.

¹⁸ Section 22.20.100(A) (“Property in Zone R-1 may be used for ... [t]he following use[], provided a conditional use

Conditional use permits to engage in oil and gas extraction activities are also authorized for R-2, R-3, R-4, and R-A residential land use zones.¹⁹ However, an operator need apply for and obtain such a permit only once, and is not required to inform or obtain additional permission from the County if it seeks to redrill, deepen, convert, maintain, or engage in any other additional drilling activity. Thus, once an operator obtains the initial conditional-use permit, the operations may continue by-right.

Furthermore, in land use designations where a conditional use permit is required, the County allows operators to drill in close proximity to homes. Inexplicably, while a 300-foot setback from residences is required in Heavy Agricultural zones,²⁰ and an operator may not obtain an exemption from this setback,²¹ no setbacks apply to protect residents from drilling operations in residential zones.²² At the Brea Canon lease, described in *Draft Public Report Two* (“*Report No. 2*”) prepared by Marine Research Specialists (“MRS”), many wells are located on land zoned for residential uses, either R-1 or R-3. Under this lease “[t]here are 47 wells on properties



Image: Pump jack located within feet of homes at Brea Canon Lease.

adjacent to single family detached residences or mobile homes.”²³ Thus, under the existing Code, oil and gas drilling may occur within feet of homes in areas designated for residential use, and setback distances are non-existent in these most sensitive land uses.

Similarly, at the Matrix Sansinena lease, one of the facilities inspected by the Strike Team and MRS, oil wells are located *within* 300-feet of homes.²⁴ While the wells at this lease are

permit has first been obtained . . . oil wells.”).

¹⁹ For R-2, residential zones, see §§ 22.20.170, 22.20.200(A). For R-3 residential zones, see §§ 22.20.260(A), 22.20.290(A). For R-4 residential zones, see §§ 22.20.340, 22.20.370(A). For R-A residential zones, see §§ 22.20.410, 22.20.440(A).

²⁰ Section 22.24.120.

²¹ See Section 22.24.150 (excluding “oil wells” from the list of uses allowable within an A-2 zone with a conditional-use permit).

²² See e.g., Section 22.20.100 (providing that oil wells may be permitted by conditional use permit, but not requiring any minimum setback distance between homes and oil wells).

²³ Marine Research Specialists (Mar. 1, 2017) *Bi-Annual Report Number Two* at 64-65, (“*Report No. 2*”) (emphasis added).

²⁴ According to *Report No. 1*, the facility is located within 60 feet of residences when measured from property line to property line, or 181 feet if measured from residence to the well. Marine Research Specialists (Oct. 6, 2016) *Oil & Gas Facility Compliance Review Project, Report No. 1* at 12 (“*Report No. 1*”). But, *Report No. 2* reports that the closest residence to the wells located at the Matrix Sansinena facility is located further away, at 224 feet, *Report No. 2* at 15, and yet later states that “wells are located less than . . . 160 feet from homes[.]” *Report No. 2* at 18. These discrepancies between *Report No. 1* and *Report No. 2* are concerning, and should be investigated and addressed by the

currently idle, the company which recently purchased the facility is preparing to bring it back into production,²⁵ and thus will likely engage in drilling activities within 300-feet of homes in the near future. The conditional-use permit for this lease requires that “all setback and other requirements of the A-1-5 zone, in which this property is located must be complied with[.]”²⁶ However, because this lease is located on land zoned for Light Agricultural land uses,²⁷ no setback from residences or other sensitive receptors applies.²⁸ Similarly, the Linn Energy Brea Olinda Lease is located within 236 feet of residences, with 75 wells located on site.²⁹ According to *Report No. 2*, the land is zoned for A-1.5, agricultural land use.³⁰ Oil drilling should not occur in such close proximity to homes, and these sites exemplify the need for a uniform required setback distance to adequately protect public health.

Although the conditional-use permit application purports to require consideration of the impact on public health, allowing oil drilling to occur adjacent to homes creates major risks of public health and safety impacts because of the toxic air pollution and other hazards associated with oil and gas extraction facilities. Before granting a conditional-use permit, the hearing officer must find that the requested use will not:

(1) Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or (2) [b]e materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or (3) [j]eopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare[.]³¹

As discussed below, individuals living within ½ a mile of oil and gas extraction activities face an increased risk of serious health problems including cancer, and thus oil wells will necessarily adversely impact public health.³² Furthermore, a County planning official overseeing the conditional-use permit application is unlikely to have specialized knowledge concerning health impacts associated with oil drilling. Oil and gas drilling near homes has also been shown to lower property values.³³

III. The County should amend the Code to impose the best practice and mitigation method of setting back oil and gas extraction activities 2,500 feet from homes, schools and hospitals to protect public health.

CBE-7

Strike Team.

²⁵ *Report No. 1* at 12.

²⁶ *LA County Inventory Report* at 50-51.

²⁷ *Report No. 2* at 15; *Report No. 1* at 12.

²⁸ Section 22.24.070 (excluding “oil wells” from permitted uses); *id.* § 22.20.370 (A) (allowing “oil wells” if the operator obtains a conditional-use permit, but not imposing any setback requirements).

²⁹ *Report No. 2* at 36, 39.

³⁰ *Report No. 2* at 35.

³¹ Section 22.56.040.

³² Cal. Council on Science & Tech. & Lawrence Berkeley Nat’l Lab. (Jul. 2015) *An Independent Scientific Assessment of Well Stimulation in California*, Vol. 3, at 216, available at <http://ccst.us/publications/2015/2015SB4-v3.pdf>.

³³ *See infra*, Part III(B).

- A. Local governments across the nation have enacted setbacks and prohibitions on oil and gas extraction operations to protect the health and safety of residents from toxic air pollution, noise, vibrations, and groundwater contamination.

Oil drilling in close proximity to homes and schools is incompatible with healthy communities. The County should look to best practice mitigation measures adopted in other jurisdictions, including requiring that oil and gas extraction operations be setback a minimum distance from sensitive land uses. As knowledge of the hazards of oil and gas operations expands, cities and counties in California, as well as throughout the country, are increasingly enacting setbacks and moratoriums on oil and gas development and unconventional well stimulation techniques.

There is a growing consensus that traditional regulation of oil and gas production facilities fails to protect the health and safety of nearby residents, the public's right to clean water, and fall far short of mitigating greenhouse gas emissions. Numerous cities and counties both in and out of California have imposed prohibitions on future oil and gas production activities due to concerns over environmental and health impacts. In 2014, voters in San Benito County approved Measure J, prohibiting all future petroleum operations in residential areas, both urban and rural, and prohibiting the use of hydraulic fracturing or other high-intensity petroleum operations at existing wells.³⁴ In March 2014, the Santa Cruz County Board of Supervisors amended its county general plan to prohibit infrastructure that would permit offshore oil and gas drilling.³⁵ In November 2016, residents in Monterey County voted to ban hydraulic fracturing and underground injection of oil and gas wastewater in unincorporated areas of Monterey County.³⁶ Numerous towns in the State of New York, where exploration of the Marcellus shale could occur, have banned all oil and gas drilling activities,³⁷ and in 2015 the State of New York imposed a prohibition on the use of hydraulic fracturing in gas extraction and production³⁸.

Additionally, cities have imposed setback requirements on oil and gas drilling activities to protect the health and safety of residents from toxic air emissions and other detrimental impacts associated with drilling, including to prevent contamination of the public water supply caused by injection of oil and gas wastes or other contaminants into underground aquifers. A few examples include the following: The City of Dallas, Texas imposed a setback on discretionary permitted drilling operations, requiring that drilling occur at least 1,500 feet from protected uses, including

³⁴ See San Benito County (2014) *Measure J*, at 6-10, http://www.protectsanbenito.org/uploads/2/5/9/2/25924404/san_benito_protect_our_water_and_health_ban_fracking_initiative.pdf.

³⁵ See Santa Cruz County Bd. of Supervisors (May 20, 2014) Resolution No. 142-2014, http://sccounty01.co.santa-cruz.ca.us/BDS/Govstream2/Bdsvdata/non_legacy_2.0/Minutes/2014/20140520-623/PDF/038.pdf.

³⁶ Monterey County (2017) *Ballot Measure: Full Text of Measure Z*, http://www.montereycountyelections.us/a_measures_NOVEMBER_2016_EN_MZ.html.

³⁷ For example, in the town of Bethel, New York, the municipal code was amended to remove oil and gas exploration activities from the definition of mining. Bethel, NY Mun. Code § 345-5. Additionally, the municipal code section regulating "uses and activities" "expressly and explicitly prohibited in each and every zoning district within the Town," was amended to include natural gas and oil exploration, extraction and production activities. Bethel, NY Mun. Code § 345-38(A)(1).

³⁸ Freeman Klopott (Jun. 29, 2015) *N.Y. Officially Bans Fracking with Release of Seven Year Study*, Bloomberg, <http://www.bloomberg.com/news/articles/2015-06-29/n-y-officially-bans-fracking-with-release-of-seven-year-study>.

office, recreation, residential, and retail and personal service uses.³⁹ The city of Flower Mound, Texas made it “unlawful to drill, re-drill, deepen, re-enter, activate or convert any oil or natural gas well,” within 1,500 feet of any public park, residence, habitable structure, place of worship, hospital building, or school.⁴⁰ The city also requires submission of a permit application prior to “engag[ing] and/or operat[ing] in oil and/or gas production activities.”⁴¹ Further, the state of Maryland prohibits oil wells from operating within 1,000 feet of the boundary of any property except by express agreement with the owners of the property.⁴²

B. Oil drilling occurring within 2,500 of residences, schools, and hospitals endangers public health and safety.

Oil and gas extraction operations emit pollution at all stages, including well site construction, drilling, production, transportation, and waste disposal. Most emissions of toxic air pollutants from oil and gas development in the Los Angeles Region, including emissions of benzene—a known carcinogen—occur both in conventional and extreme extraction.⁴³ Furthermore, when engaging in extreme oil extraction techniques, such as hydraulic fracturing and acidizing, oil and gas extraction operations use large amounts of reproductive, immunological, and neurological toxins, carcinogens, and endocrine disrupting chemicals, including methanol, hydrochloric and hydrofluoric acid, formaldehyde, and naphthalene—all of which are hazardous air pollutants under federal law.⁴⁴

Oil and gas extraction operations emit criteria pollutants, including volatile organic compounds and nitrous oxides, which combine to form ground-level ozone, a dangerous chemical that can burn tissue in the lungs, causing it to age prematurely.⁴⁵ Chronic exposure to ground level ozone can cause “asthma and chronic obstructive pulmonary diseases[], and is particularly damaging to children, active young adults who spend time outdoors, and the [elderly.]”⁴⁶ A study published in 2016 found that summertime asthma attacks will increase due to ozone formed from oil and gas drilling emissions, resulting in emergency visits, missed school days for children, and

³⁹ Dallas, Tex. Mun. Code § 51A-4.203(b)(3.2).

⁴⁰ Flower Mound, Tex. Mun. Code § 34-422(d).

⁴¹ *Id.* at § 34-420(a).

⁴² Md. Code Ann., Envir. § 14-112 (West 2017) (“[A] well for the production or underground storage of gas or oil may not be drilled on any property nearer than 1,000 feet to the boundary of the property except by agreement with the owners of the gas and oil on adjacent lands.”); Maryland Code of Reg’s, tit. 26, § 26.19.01.09 (Unless due to site constraints a well must be cited closer, the regulating agency “may not issue a permit to drill a well closer than 1,000 feet to the boundary of any property adjoining the tract on which the well is situated except by written agreement with the landowners and royalty owners of that property.”).

⁴³ Cal. Council on Science & Tech. & Lawrence Berkeley Nat’l Lab, *supra* note 22 at 212-215, 240, 258.

⁴⁴ Physicians for Social Responsibility, et al. (Jun. 2014) *Dirty Dozen: The 12 Most Commonly Used Air Toxics in Oil Drilling*, at 4-6, available at <http://www.psr-la.org/wp-content/uploads/20140611-Air-Toxics-One-Year-Report-CBD-PSRLA.pdf>. Note that similar chemicals are used for maintenance and other activities during traditional drilling as well. Abdullah, Khadeeja, et al. (2017) *Toxicity of Acidization Fluids Used in California Oil Exploration*, Toxicological & Environmental Chemistry, Vol. 99, Issue 1, 78-94, available at <http://dx.doi.org/10.1080/02772248.2016.1160285>.

⁴⁵ Theo Colborn, et al. (2011) *Natural Gas Operations from a Public Health Perspective*, Human & Eco. Risk Assess.: Int’l J., Vol. 17, Issue 5 at 5.

⁴⁶ *Id.*

missed work days for adults.⁴⁷ “Small changes in ozone smog concentrations in areas with large total populations can have [] large total health impact numbers.”⁴⁸ Thus, oil and gas extraction operations in densely populated County neighborhoods pose a serious health risk.

In the South Coast Air Basin, 627,546 people live within a ½ mile (2,640 feet) of an active oil and gas well.⁴⁹ Individuals living within a ½ mile from active oil and gas development have an increased risk of acute and chronic respiratory, neurological, and reproductive health effects.⁵⁰ Furthermore, at a distance of a ½ mile, individuals have an elevated excess lifetime cancer risk due exposure to benzene, a known carcinogen, and aliphatic hydrocarbons.⁵¹ A study conducted in Pennsylvania found higher reported health symptoms in individuals living up to 1 kilometer (3,280 feet) from a gas extraction well.⁵²

Furthermore, oil and gas extraction activities depress property values. In a study conducted in Shellmound, Texas, researchers found that homes located within 1,000 feet of an oil or gas well depreciated in value by 2 to 7%.⁵³

C. The Code should be amended to create a uniform human health and safety setback of 2,500 feet irrespective of land-use designation.

The Code should be amended to protect residents’ health, safety, and welfare by creating a protective 2,500-foot setback from oil and gas operations.

The present regulation of oil and gas extraction activities under the Code is unsound because it allows for drilling without setback protections, and where setbacks are required, they are arbitrarily based on land use designations, rather than being based on protecting sensitive receptors. And even then, the Code allows operators to obtain exemptions from setback requirements in some land use designations, altogether eliminating the minimal protection created by the 300-foot setback.

Impacts on human health from oil and gas drilling occur regardless of whether individuals live next to land zoned for heavy manufacturing or agricultural uses. The Code should uniformly protect residents from the impacts of oil and gas drilling by creating uniform setbacks of oil and gas extraction activities from sensitive human receptors.

⁴⁷ Lesley Fleischman, et al. (Aug. 2016) *Gasping for Breath*, Clean Air Task Force at 8, available at http://www.catf.us/resources/publications/files/Gasping_for_Breath.pdf.

⁴⁸ *Id.* at 11.

⁴⁹ Cal. Council on Science & Tech. & Lawrence Berkeley Nat’l Lab. (Jul. 2015), *Table 4.3-12*, at 244.

⁵⁰ McKenzie, L. M., Witter, R. Z., Newman, L. S., & Adgate, J. L. (2012) *Human Health Risk Assessment of Air Emissions from Development of Unconventional Natural Gas Resources*, *Science of the Total Environment*, Vol. 424, at 79-87.

⁵¹ *Id.*

⁵² Peter M. Rabinowitz, et al. (Jan. 2015) *Proximity to Natural Gas Wells and Reported Health Status: Results of a Household Survey in Washington County, Pennsylvania*, *Env’tl Health Perspectives*, Vol. 123, at 21–26, available at <http://dx.doi.org/10.1289/ehp.1307732>. <http://dx.doi.org/10.1289/ehp.1307732>

⁵³ Terrence S. Welch (2015) *Natural Gas Drilling and Its Effect on Property Values: A Municipal Perspective*, *American Bar Association: State & Local News*, Vol. 38, No. 2.

Further, the Code's minimal setback distance of 300 feet falls far short of "best practices and current mitigation methods." As discussed above, studies show that residents living within ½ a mile of drill site have an increased risk of acute and chronic respiratory, neurological, and reproductive health effects. Exemptions from setbacks undermines their very purpose of protecting the health and welfare of residents within close proximity and therefore particularly vulnerable to impacts from drilling operations.

Thousands of oil- and gas-producing wells operate within the County of Los Angeles, many within close proximity to residences, schools, medical clinics or hospitals, exposing children, the sick, and the elderly to serious health and safety risks. **The County should adopt an ordinance requiring that oil and gas operations be uniformly setback by 2,500 feet from homes, schools, and hospitals to protect public health. Furthermore, exemptions from setback requirements through a conditional use permit should be eliminated.**

IV. The Code should be amended to eliminate "drilling by right," and operators should be required to apply for a conditional use permit to engage in oil and gas extraction activities.

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Following issuance of the inventory report, the Board of Supervisors tasked this Strike Team with reviewing existing regulations and developing proposed amendments and enforcement protocols to "ensure that oil and gas facilities **may no longer operate by right** in the unincorporated portions of the County[.]"⁵⁴ We reiterate this imperative. The County must move beyond drilling-by-right, which has allowed the industry to drill without environmental and health assessments by the County, to the detriment of communities living within unincorporated areas. For example, in 2004, 600 wells were permitted to be drilled in the unincorporated area of Windsor hills without any environmental review. Local wells in that community contain "brown-tinged water," potentially contaminated by oil and gas extraction activities.⁵⁵

The County can look to the City of Los Angeles as an example of permit-based review and approval of oil and gas extraction activities. In the City of Los Angeles, an operator must submit an application for discretionary review of conditions in order to "drill, deepen or maintain an oil well[.]" Los Angeles, Cal. Mun. Code §13.01H.

Last year, the Los Angeles Department of City Planning adopted a new set of procedures and guidelines to ensure compliance with the California Environmental Quality Act and local code in reviewing applications for oil drilling approvals. (Exh. A, L.A. Zoning Administrator Memo No. 133). The City Planning Department created dedicated application forms, including a required environmental assessment form. Under these new procedures, applications for oil and gas drilling must be noticed for a public hearing to residents living within 1,500 feet of the drill site prior to approval. *Id.* Furthermore, applications to "drill, re-drill, deepen, or convert" a well now require preparation of an initial study to determine whether the activity will have a significant

⁵⁴ *Bd. of Supervisors' Motion* at 12 (emphasis added).

⁵⁵ Alan Taylor (Aug. 26, 2014) *The Atlantic*, "The Urban Oil Fields of Los Angeles," <https://www.theatlantic.com/photo/2014/08/the-urban-oil-fields-of-los-angeles/100799/>.

impact on the environment. *Id.* at 7. If the Initial Study shows that the project is within 1,500 feet of a sensitive receptor,⁵⁶ and one or more Health Impact Criteria is triggered, then an operator must prepare a Health Impact Assessment to determine possible short-term and permanent health impacts of the project on people living near to oil and gas production activities. (Exh. A, L.A. Zoning Administrator Memo No. 133.)

The State of Maryland similarly requires an operator to submit an application for a permit if it seeks to:

[P]repare[] a well site for the operation; . . . Drill[] a well for oil or gas; . . . Redrill[] at a location previously permitted; . . . Deepen[] an existing well drilled for oil or gas; . . . Drill[] a core hole or stratigraphic test; or . . . Drill[] a well for the storage of natural gas or the observation of the storage of natural gas.⁵⁷

An application to drill must accompany an environmental assessment, a sediment and erosion control plan, a storm water management plan, a reclamation plan for restoring the well site, a design plan that will prevent drilling liquids from coming into contact with waters of the state, a spill prevention and control plan, a map documenting all water wells, churches, schools, occupied buildings and buildings within ½ a mile of the well.⁵⁸ The operator must also demonstrate minimum financial assurances, including that it has fixed assets totaling at least \$20,000,000.⁵⁹

The County should amend the Code to regulate oil and gas extraction activities through a discretionary permit approval process, to exercise its power to limit the impact of oil and gas drilling on the local water supply, emission of toxic pollution and greenhouse gases, or otherwise cause a public nuisance to surrounding neighbors. **The County should regulate by discretionary permit approval if and where oil and gas production activities occur outside a setback, and should institute a set of procedures and policies to ensure strict compliance with environmental review mandates, including the California Environmental Quality Act.** Doing so will enable the County to meet its duty to protect the public's health safety and welfare, protect the public water supply, and uphold California's legislative commitment to reducing greenhouse gas emissions.

V. Additional Recommendations:

Because existing County regulations are deficient and have proven problematic, the County should place a moratorium on approving new facilities or permitting expansion of existing facilities until the new proposed regulations are adopted. While the County is completing its review of oil and gas extraction facilities in unincorporated areas of the County, new facilities or new expansions should not be approved.

⁵⁶ The ZA memo incorporates by reference, the South Coast Air Quality Management District's definition of "sensitive receptor." (Exh. A, ZA Memo at 8.)

⁵⁷ Maryland Code of Reg's tit. 26, § 26.19.01.06.


⁵⁸ *Id.*

⁵⁹ *Id.*

Further, facilities that produce offensive odors, substantial noise, or otherwise operate in violation of permit conditions should be closed pursuant public nuisance administrative proceedings.

Thank you for your consideration of these important matters that most directly impacts the lives of residents near drilling operations. Please contact us if you have any questions or would like additional information.

Sincerely,

/s/ 

Jaimini Parekh
Attorney/ VABANC Law Foundation

Gladys Limón (ext. 117)
Fellow Staff Attorney

Encls.

Exhibit A



OFFICE OF ZONING ADMINISTRATION

City Hall 200 N. Spring Street, Room 763 Los Angeles, CA 90012

OFFICE OF ZONING ADMINISTRATION

MEMORANDUM

ZA MEMORANDUM NO. 133

September 19, 2016

TO: Office of Zoning Administration
Development Services Centers
Department of Building and Safety
Department of Public Works – Bureau of Engineering
Los Angeles Fire Department
Los Angeles Department of Water and Power

FROM: Linn K. Wyatt
Chief Zoning Administrator

SUBJECT: **APPLICATION AND PROCESSING REQUIREMENTS, INCLUDING
CEQA REVIEW, FOR OIL AND GAS APPROVALS PURSUANT TO LOS
ANGELES MUNICIPAL CODE SECTION 13.01-H.**

This Memorandum supersedes ZA Memorandum No. 94, dated December 12, 1994, and ZA Memorandum No. 94A, dated March 24, 2000.

This Memorandum is intended to establish a comprehensive set of procedures and policies for the acceptance and processing of applications for oil drilling approvals pursuant to Los Angeles Municipal Code (LAMC) Section 13.01-H and to establish City guidelines for the California Environmental Quality Act (CEQA) review of Section 13.01-H oil drilling applications.

I. Background

The LAMC requires a formal application and a filing fee in conjunction with a request for a determination of conditions for the conduct of oil drilling pursuant to LAMC Section 13.01-H. Other than the requirement for an application and payment of a filing fee, the LAMC contains no express procedural requirements for the determination of conditions under Section 13.01-H for an original approval or for a modification or clarification to a previously approved determination of conditions.

Z.A. Memoranda Nos. 94 and 94A

Historically, as described in ZA Memoranda Nos. 94 and 94A, applicants were permitted to apply for modifications to the original conditions for oil drilling approvals through the use of a more limited review process (similar to a plan approval under LAMC Section 12.24-L and M).

The use of the process outlined in Memoranda Nos. 94 and 94A is no longer permitted for any Section 13.01-H application, including those submitted as a determination of conditions, modification of condition, request for clarification, or related approval. All applicants seeking an approval under Section 13.01-H must follow the application procedures outlined in this Memorandum. All applications seeking any approval under Section 13.01-H will be processed by the City, including the Office of the Zoning Administrator, pursuant to this Memorandum.

Existing Approvals with Modification Procedures

In addition to the above historical process, there are existing active approvals which include conditions establishing a process for subsequent modifications or condition review. An example of one condition reads substantially as follows:

Drilling operations for the first X wells identified in the grant clause of the instant determination shall be completed within 36 months from the effective date of this determination. The drilling for the following X wells as hereby authorized shall be subject to a review of plans by the Zoning Administrator, without a public hearing, for the purpose of updating the record with the well identification and path.

Another condition reads substantially as follows:

Review of Conditions. Two years following completion of construction... the applicant shall submit a Plan Approval application for reviewing the effectiveness of these conditions. ... The applicant shall submit a 500-foot radius map with accompanying labels for owners and occupants. The Zoning Administrator may set the matter for public hearing if warranted.

Both of these conditions include processes that are inconsistent with the processes established in this Memorandum. The first condition is inconsistent because it allows for modifications without a public hearing. The second condition is inconsistent because it allows the Zoning Administrator to not set a public hearing for a Plan Approval and implies the notice radius is 500 feet.

To the extent that any existing condition or grant in an existing approval gives the Zoning Administrator discretion in the process to be followed for a modification or condition review, the procedures in this Memorandum shall be followed, in accordance with the findings in Section II and the purpose statements in Section III.

To the extent that any existing condition or grant in an existing approval mandates a procedure that is inconsistent with this Memorandum, the Zoning Administrator shall consider whether a Plan Approval process shall be initiated by the City to revise any conditions to protect the public health, safety and welfare, including any condition establishing a process inconsistent with the purpose of this Memorandum. On the other hand, if an existing condition or provision is not modified through a Plan Approval, then the process outlined in the existing approval shall be followed.

Nothing in this Memorandum is intended to expand the authority the City has to initiate a Plan Approval.

II. Findings

In issuing this Memorandum, the Zoning Administrator makes the following findings:

- A. In adopting the California Environmental Quality Act¹, the Legislature declared:

It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian. (Public Resources Code Section 21000(g).

- B. The CEQA Guidelines provide that CEQA's basic goal of protecting the environment has two purposes:

- (1) avoiding, reducing, or preventing environmental damage where possible by requiring alternatives or mitigation measures; and
- (2) providing information to decision-makers and the public concerning the environmental effects of proposed and approved actions. (CEQA guidelines 15002(a).)

- C. One oft-repeated purpose of the CEQA Guidelines is to provide for public participation, including as set forth in Section 15201:

Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedure for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issue related to the agency's activities. Such procedure should include, wherever possible,

¹ Public Resources Code, Sections 21000, *et seq.*

making environmental information available in electronic format on the Internet, on the web site maintained and utilized by the public agency.

- D. Although CEQA does not require formal hearings at any state of the environmental review process, section 15202 provides that:

...

- (b) If an agency provides a public hearing on its decision to carry out or approve a project, the agency should include environmental review as one of the subjects for the hearing.
- (c) A public hearing on the environmental impact of a project should usually be held when the lead agency determines it would facilitate the purposes and goals of CEQA to do so. The hearing may be held in conjunction with and as part of normal planning activities.

...

- (f) A public agency may include, in its implementing procedures, procedures for the conducting of public hearings pursuant to this section. The procedures may adopt existing notice and hearing requirements of the public agency for regularly conducted legislative, planning, and other activities.

- E. Applications for oil and gas projects under LAMC Section 13.01-H have the potential to create unique risks and hazards to have the potential for significant and immediate impacts on the health, safety, and welfare of the residents in and around the project site through increased noise, odor, dust, traffic, and other disturbances, as well as the potential to significantly impact the City's air, water, soil, biological quality, geology, water, stormwater and wastewater infrastructure, transportation, emergency response plans and other aesthetic values and community resources.
- F. People living and working within the land use and environmental impact range of oil and gas operations and activities have a substantial interest in participating in a public hearing on 13.01-H approvals.
- G. Section 13.01-H provides authority for the Zoning Administrator to condition, approve or deny a Section 13.01-H application under the City's police powers to protect public health, safety and welfare and to issue and implement reasonable procedures to process Section 13.01-H applications consistent with the requirements for due process.

III. Purpose and Intent of Memorandum

This Memorandum is issued with the following intent:

- Ensure that the City complies with all legal requirements of CEQA in approving Section 13.01-H projects;
- Provide all parties that may be impacted by a project subject to a Section 13.01-H application an opportunity to participate in a public hearing;
- Meet the intent of CEQA in the review and approval of CEQA findings and determinations, to provide adequate public participation;
- Ensure that staff has time to adequately consider and respond to, if necessary, evidence submitted on a Section 13.01-H application and its related environmental findings (including the CEQA Guideline Section 15300.2 exceptions) prior to the issuance of any decision;
- Provide decision-makers and City Staff, and the public with the information and data needed for adequate decision-making under CEQA and Section 13.01-H;
- Ensure that Section 13.01-H applications are processed efficiently;
- Ensure that applicants, staff, and the public can rely on a consistent practice in reviewing Section 13.01-H applications;
- Provide for transparent disclosure and participation process; and
- Ensure that the city's processing and approvals pursuant to 13.01-H will not result in adverse effects to public health, safety, and welfare

IV. Application Requirements

The original case number shall be used for the plan approval request. Before an application may be deemed complete, the applicant must submit:

- 1) A completed "Land Use Application For Oil & Gas Project Conditional Approval" (CP Form CP-7834) with all required attachments, as specified in the application and the Instructions (CP Form CP-7833.)
- 2) A completed Environmental Assessment Form for Oil and Gas Projects (EAF-O, CP-7832), with all required attachments.
- 3) The filing fee pursuant to LAMC Section 19.01.

V. Processing Section 13.01-H Applications

A. CEQA Review

The following review procedures are intended to provide guidelines to implement CEQA on all Section 13.01-H applications. Nothing in this Memorandum or the guidelines provided herein are intended to conflict with CEQA. To the extent that these guidelines are silent or ambiguous, the Zoning Administrator shall fall back on the requirements and intent of CEQA. To the extent that these guidelines impermissibly conflict with CEQA, the provisions of CEQA control. Nothing in these Guidelines is intended to conflict with the Permit Streamlining Act, Gov't Code Section Government Code § 65920 et seq.

1. Preliminary Review for Exemptions

No categorical exemption forms will be processed for consideration or issued at the Planning Department Development Services. The applicant shall submit a complete EAF-O form with their application, which shall be reviewed by the Zoning Administrator. The Zoning Administrator will conduct a preliminary review to determine whether the application qualifies for an exemption from environmental review pursuant to CEQA. The Zoning Administrator may require the applicant to provide additional supporting materials from the applicant to support the use of a categorical exemption.

An application to drill, re-drill, deepen, or convert a well is not eligible for a categorical exemption and shall require an Initial Study or an EIR as described in section V.A.2. All other projects may be reviewed to determine if the project is exempt under any applicable categorical exemption in CEQA Guidelines Section 15300-15333 or any City Guidelines (adopted pursuant to CEQA). If a project is determined not to fall into any categorical exemption based on the project description, an Initial Study shall be prepared pursuant to section V.A.2. If the project falls within a categorical exemption, the Zoning Administrator shall determine if, based upon the whole of the record, any exception to any exemption under CEQA Guidelines, Section 15300.2, applies to the project, including, but not limited to the following:

Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

If the project is determined to be categorically exempt (CE) and no exceptions apply, the Zoning Administrator shall do all of the following:

- Give the public hearing notice required in section V.B., including a notice of an intent to adopt a categorical exemption to all property owners and occupants within a 1,500-foot radius of the project site's outer boundary, and provide for a 35-day comment period on the project, prior to approval. The public hearing may be held during the comment period. The hearing notice (with the notice of intent to adopt a CE) must be provided in English and Spanish.
- If after the 35-day comment period, or any time prior to making a decision on the project, the Zoning Administrator determines that substantial evidence does not support the use of the exemption, including from the existence of an exception in Section 15300.2, the Zoning Administrator shall require an Initial Study to be prepared consistent with the procedures outlined herein.

- Alternatively, if the Zoning Administrator finds after the 35-day comment period, or any time prior to making a decision on the project, that additional information and analysis is required to determine if the categorical exemption is supported with substantial evidence, and the applicant desires the City to use a categorical exemption rather than a prepare an Initial Study, the Zoning Administrator may require the applicant to submit additional information or documents and/or technical studies or reports, including requiring the applicant to hire independent consultants to prepare any necessary technical studies or reports or peer review any prepared studies or reports. If after reviewing any additional documents, reports or studies, required by the Zoning Administrator, it is determined that a categorical exemption is not supported by substantial evidence, an Initial Study shall be prepared.
- If the use of the categorical exemption is supported by substantial evidence in the record at the time of the decision, the Zoning Administrator shall ensure the record contains a memorandum or narrative substantiating the use of the categorical exemption, including explaining how substantial evidence in the administrative record supports the use of the exemption, and that the Zoning Administrator considered whether any exception to an exemption under CEQA Guidelines Section 15300.2 is applicable, including providing where necessary an explanation or evidence to demonstrate that any comments submitted on the intent to adopt the Categorical Exemption do not provide substantial evidence that an exception applies or the exemption does not apply.

2. Initial Study Determination

For any project that does not qualify for a categorical exemption, including any project to drill, redrill, or convert a well, an Initial Study must be completed.

Nothing in this subsection is intended to require the preparation of an Initial Study, when a preliminary review of the project demonstrates an EIR is clearly required, pursuant to CEQA Guidelines Section 15060(d).

The Initial Study must be prepared by an environmental consultant with the qualifications and experience required in this Memorandum. The Zoning Administrator may require the applicant to provide any additional documents, information or technical studies or reports necessary to complete the environmental review of the project, including requiring the applicant to hire an independent contractor to prepare or peer review technical studies or reports. The Initial Study shall comply with Section 15063 of the CEQA Guidelines and be prepared using Appendix G to the CEQA Guidelines and any City issued procedures or guidelines.

If the Initial Study shows both of the following Health Impact Assessment Criteria apply, the Zoning Administrator shall also require a Health Impact Assessment (HIA), as defined in Subsection V.A.5., before preparing the environmental clearance for the project:

- one or more of the air or hazards impact thresholds on Appendix G identified as III(a), III(b), III(d), VIII(a), VIII(b), VIII(c), or VIII(g) are found to be “less than significant impact with mitigation”; and
- the project is within 1,500 feet of any sensitive receptors, as defined by SCAQMD.

After the Initial Study is completed (and the HIA, if necessary), the Zoning Administrator will determine whether the proposed environmental clearance for the proposed project is a Negative Declaration (ND) or a Mitigated Negative Declaration (MND) or whether an EIR is required pursuant to sections 15065 or 15064 of the CEQA Guidelines.

If the Initial Study demonstrates that all of the impact areas will have no impact or less than significant impact, the Zoning Administrator may prepare a ND. (Note: if the Health Impact Assessment Criteria apply, a ND could not be prepared because the Initial Study identified significant impact requiring mitigation.)

If the Initial Study (and the HIA, if required) demonstrates that the project will not result in a significant impact with mitigation imposed, the Zoning Administrator may prepare a MND.

If the Initial Study (and the HIA, if required) demonstrates that the project may result in a significant impact to the environment that cannot be mitigated to less than significant, the Zoning Administrator shall require the preparation of an EIR. In determining whether an EIR is required, the Zoning Administrator shall review and consider all of the following CEQA Guidelines, without limitation to any other applicable requirements of CEQA:

- 15064 (guidelines on determining significant impacts),
- 15064.4 (guidelines on determining greenhouse gas impacts),
- 15064.5 (guidelines on determining cultural and archaeological impacts), and
- 15065 (guidelines requiring consideration of Mandatory Findings of Significance, including subsection (a)(4): “The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.”)

If an ND or MND is issued, the Zoning Administrator shall publish a Notice of Intent to Adopt an ND or MND pursuant to CEQA Guidelines Section 15073, prepare the ND or MND findings (and the Mitigation Monitoring Program for a MND) and process the application pursuant to Section IV. The Public Hearing notice sent in section V.B. will include a statement that the City has published a Notice of Intent to Adopt an ND or MND and include a link to the City’s website where the Notice of Intent is published. The Notice of Intent to Adopt an ND or MND shall be published on the City’s website in English and Spanish.

If the Initial Study demonstrates the project requires an Environmental Impact Report (EIR), the Zoning Administrator shall follow the procedures in section V.A.3.

3. *Environmental Impact Report*

If an EIR is to be prepared on a project, in addition to any other requirements of CEQA, the City will require all of the following:

- Provide the Notice of Preparation to all property owners and occupants within a 1,500-foot radius of the project site's outer boundary; and
- Prepare a Health Impact Assessment, as defined in section V.A.5., if not already prepared, and provide a relevant summary of the Health Impact Assessment in the EIR where appropriate to inform the required analysis. The Health Impact Assessment shall be considered in any certification of the EIR and the approval, conditional approval, or denial of the Section 13.01-H application.

An environmental consultant with qualifications and experience provided in section V.A.4 must prepare the EIR. The EIR must be prepared and certified in compliance with CEQA, including but not limited, CEQA Guideline Sections 15080-15097, 15120-15155.

4. *Environmental Consultant Qualifications*

The City shall ensure that any environmental consultant that is preparing an Initial Study, MND, ND, or an EIR on a 13.01-H project has the following qualifications and experience:

- The Project Manager has at least seven (7) years' experience preparing CEQA documents.
- The Project Manager has prepared and/or reviewed at least five (5) EIRs for projects involving oil and gas drilling or production.
- The consultant or consultant team, including any subcontractors, have demonstrated training, knowledge, and experience in the following topic areas as they specifically relate to oil and gas projects: environmental health, public health, hazardous materials, air quality, GHG emissions, water quality, geology, noise, traffic, aesthetics, and risk and safety issues.
- In the case of EIRs or MNDs requiring Health Impact Assessments, the consultant team, including any subcontractors, has at least five (5) years' experience in preparing Health Impact Assessments. The consultant who prepares the HIA shall be familiar with accepted HIA process and content including, but not limited to, the "Minimum Elements and Practice Standards for Health Impact Assessment," Version 3.

The City shall ensure that all environmental consultants have copies of this Memorandum prior to preparation of any Initial Study, ND, MND or EIR.

5. *Health Impact Assessment (HIA)*

A HIA is defined as follows:

A study of the project for the surrounding vicinity identifying pollution and population indicators, such as, but not limited to, those analyzed in the

California Communities Environmental Health Screening Tool; the number of people affected by the project; short term or permanent impacts caused by the project; likelihood that impacts will occur; and recommended mitigation measures.

Any HIA required under these procedures shall be used to inform whether an EIR is required and whether to approve, condition, or deny the application under Section 13.01-H.

B. Public Participation

The Zoning Administrator will hold a public hearing on all Section 13.01 applications prior to project approval.

Notice of this public hearing must be sent to all property owners and occupants within a 1,500-foot radius of the project site's outer boundary, in English and Spanish. For projects being approved with a CE, ND or MND, the Notice of Intent to Adopt a CE, ND or MND may be combined with the public hearing notice.

C. Final Determination

Notices of final decisions will be issued to the applicant, all residents abutting the project site, and all individuals who request such notice.

All Zoning Administrator Section 13.01-H Determinations may be appealed to the Area Planning Commission. The Area Planning Commission decision is final. All CEQA determinations by the Zoning Administrator or the Area Planning Commission are subject to appeal to the City Council pursuant to Public Resources Code Section 21151(c).

Nothing in this Memorandum is intended to limit the Zoning Administrator's express and inherent authority to administer LAMC Section 13.01-H.

LKW:lw

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April 10, 2017

Timothy Stapleton, AICP
Zoning Enforcement West
Department of Regional Planning
320 W. Temple Street Los Angeles, CA 90012

Re: Comments to LA County Oil Well Strike Team Biannual Report #2

Dear Mr. Stapleton:

As the 2nd Supervisorial District's representative on the Advisory Panel, I commend the Strike Team on its work to date.

The charge of the Advisory Panel is to assess the bi-annual reports of the Strike Team and to review, comment, and provide input to the Board of Supervisors on the Project results and reports. In that regard, I offer the following comments with respect to Strike Team Biannual Report No. 2:

1. I previously expressed my opinion that abandoned/plugged wells and site inspection and maintenance plans for leaking and / or broken equipment are what matter the most to constituents in the 2nd Supervisorial District in terms of ensuring the safety of active operations. I continue to believe that the public will be better served by greater efforts on behalf of the Strike Team in the area of leak prevention and detection programs to provide assurance that the safety of the public is adequately protected and would recommend more be done in this area.

AW-1

AW-2

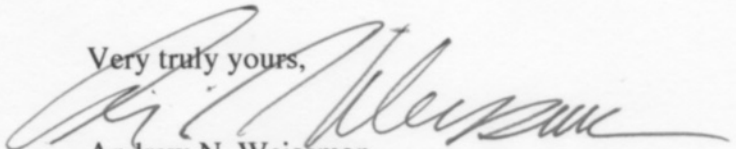
2. I echo the concern expressed by Representative Burga that the Board of Supervisors consider review of relevant oil and gas facilities located outside County jurisdiction given the "cross jurisdictional boundaries of several of the County's facility operations, with associated processing facilities, trucking routes and pipelines often being located in adjacent counties or cities". The value of such a review cannot be overstated. As a former Mayor of one such jurisdiction (Culver City), an across the jurisdictions analysis is critical to ensure the proper review and inspection of all aspects of all facility operations, both inside and outside County jurisdiction.

AW-3

Thank you for the opportunity to provide these comments.

I look forward to reviewing the Strike Team's continuing efforts on this important matter.

Very truly yours,


Andrew N. Weissman

bwa

April 6, 2017

Timothy Stapleton, AICP
Zoning Enforcement West
Department of Regional Planning
320 W. Temple Street
Los Angeles, CA 90012

Re: Comments by Tim O'Connor (District 3 rep.) and EDF on the LA County Oil Well Strike Team's Biannual Report No. 2

Dear Mr. Stapleton,

As a member of the LA County Oil Well Strike Team Advisory Panel and on behalf of the Environmental Defense Fund (EDF), please accept these comments on the second draft of the biannual report.

We commend the LA County Oil Well Strike Team and the Board of Supervisors for taking on the challenging but necessary task of reviewing the zoning codes and permitting processes and taking a close look at oil and gas wells in the area. The Strike Team did update the initial report to the Board by integrating several comments made by the Advisory Panel in the second draft of the initial report. However, more can be done to ensure that proper review has been made and to effectively protecting the health and safety of County residents.

1. Air Monitoring of all Facilities Should be Recommended to the County Board

TO-1

In common business parlance, better measurement leads to better management, and in the case of oil and gas facilities which can emit troubling amounts of climate and toxic air pollution, this couldn't be more important. In general, other than monitors required for combustible gas detection or monitors required because of lawsuits and settlements, there are no statutory or land use requirements for monitoring of air emissions from oil and gas production facilities. This is a notable policy shortcoming and missed opportunity to gather valuable emissions data that can help drive better policy and management of oil and gas facilities.

In a February 2017 report titled "Enhanced Inspection & Maintenance for GHG & VOCs at Upstream Facilities," the California Air Resources Board looked at data collected from 39 different oil and gas production facilities across the state. Of the 211 different gas leaks recorded, nearly half of them included the cancer-causing chemical benzene in addition to the climate pollutant methane. The frequency at which toxic chemicals were measured is concerning, and is something that should raise both concerns for the Strike Team staff and the Board and inspire action towards improved air emissions monitoring.

We recommend that the Strike Team staff document the type (which air pollutants and what technology) and amount (if any) of monitoring occurring at each facility that is inspected as part of the “Well Inspection Protocol” checklist. In the case that a facility is conducting monitoring, the emissions data should also be recorded, included in the report, and incorporated as part of the review process. This independent review and information gathering is integral to understanding whether operators are properly monitoring the emissions emanating from the facility operations. This data will also help the staff, the Advisory Panel, and the Board analyze and better assess a proper course of action and recommendations in the final staff report for better and more effective community health protection tools such as requiring monitoring as a pre-requisite for the safe and proper operation of facilities in the County. Additionally, without air monitoring or site observational data for air emissions, the report risks being incomplete as to likely community impacts.

2. Leak Detection and Repair (LDAR) Plans Should Be Reviewed and Disclosed

TO-2

As in our previous comments for the first report drafted by the Strike Team staff, one of the areas that continues to be conspicuously absent from the report is information on the site level inspection and maintenance plans for leaking and / or broken equipment. Individual facilities should have site specific leak detection and repair plans – and such plans should be reviewed in the site inspection protocol. This information is pivotal for understanding how facility operators are handling leaks, and what the repair protocol is, since leaks are one of the biggest sources of fugitive emissions that contribute to environmental damage and health impacts.

Since the first report was completed by the Strike team, the State of California enacted new regulations that require improved leak detection and repair at oil and gas facilities, including quarterly inspections of components at production sites, monitoring well casing vents, and elimination of certain practices and pieces of equipment. The Strike Team’s final report should evaluate the extent to which these facilities have LDAR programs consistent with the state’s new requirements and report if deficiencies are noted.

3. Well Stimulation Operations and Practices Are Missing in the Report

TO-3

One important component of the Strike Team’s review process is a public health screening and safety risks assessment. Part of that assessment includes prioritizing oil and gas facilities for further action based on highest health or environmental risks” and “consideration should be given to the age and history of the facility, the proximity of nearby communities (specifically disadvantaged communities) or sensitive populations, and whether the facility is operating using controversial well stimulation techniques (such as hydraulic fracking).”

As noted in our previous comments, and as is contemplated in the motion directing the Strike Team’s tasks, understanding whether well stimulation operations have been occurring at the sites, and whether this creates unsafe conditions is of utmost importance for resident concerns regarding health and safety. While the current well inspection protocol looks at several site characteristics in an individual manner, there doesn’t appear to be any holistic assessment of

whether well stimulation has, or is planned to take place at the sites. While the facility and well inspection protocol checklists and the health review summary of each site incorporate elements of review for well stimulation practices, there is a great deal of data missing on what chemicals / constituent compounds are used to perform such operations, and the origination / volume of water used to conduct it. In several of the site visit reports, the staff simply recommends that the SCAQMD look into and provide much of the information on well work procedures. EDF recommends that for the upcoming report, the staff work with SCAQMD to actually acquire and report on that data, or note if well work procedure data is missing. It is insufficient to simply place the burden on another agency if this review process is to be complete. Furthermore, since SCAQMD has volunteered to work with the Strike Team staff during this review process, acquiring and disclosing this data should not be too cumbersome.

4. Interviews of Surrounding Residents Should be Conducted During Site Visits

TO-4

We commend the Strike team on developing facility and well inspection protocol checklists that incorporate reviews of regulatory and site characteristics, and that incorporate efforts to address neighborhood complaint history by acquiring complaint reports from the SCAQMD. However, there is currently a lack of any substantive information on odor or noise complaints acquired through interviews of surrounding residents, business, schools, etc. This is especially troubling in facilities that are located alarmingly near sensitive receptors such as in the case of the Matrix Sansinena facility as well as several others. The public health risk for this facility is ranked high by the Strike Team staff in the latest update due to the facility being located less than 100 feet away from a nursery and less than 160 feet from homes.

Many complaints brought by residents or businesses are not formally filed with the SCAQMD due to a number of barriers including lack of awareness for how to file a complaint, concerns over interacting with law enforcement agencies, or concerns over unresponsiveness from the agencies with whom complaints are filed. Yet when speaking with local surrounding residents, valuable information can be drawn that will allow the Strike Team to document a more accurate and holistic narrative of how the facility is being run, what the experience is like day-to-day for surrounding residents, and the impacts the facility has on residents by way of nuisances (noise and odors) and health.

Accordingly, we recommend that requiring interviews or meetings with of community members located nearby sites be added to the “Well Inspection Protocol” checklist, specifically the noise and odors items, as well as the “Facility Checklist,” which includes an item for “neighbor issues and complaint history.” EDF acknowledges that this added checklist requirement would likely be somewhat time-intensive and may lengthen the Strike Team’s review process, however, it is our belief that a proper and thorough analysis of the sites, with proper engagement and feedback from the communities at the frontlines of the facility operations, warrant such an effort. EDF also recommends that in convening community meetings and resident interviews, the Strike Team take into account environmental justice issues, including time of meeting and location, and that the staff enlist the close advisement and aid of organizations well-versed in

community organizing including our colleagues at Communities for Better Environment, who are also part of the Advisory Panel.

5. The Strike Team's Recommendation For Inspecting Associated Oil And Gas Facilities Is Important And Well Founded

TO-5

The Strike Team staff astutely noted that several of the County's facility operations cross jurisdictional boundaries, with associated processing facilities, trucking routes and pipelines often being located in adjacent counties or cities. We agree with the staff recommendation that the Board "consider review of relevant oil and gas facilities located outside County jurisdiction under the parameters of the Project." However, we do not believe the review should be on a "case by case" basis – rather there should be an automatic review of any and all operations, regardless of location, associated with a core facility located within the County. To this end, EDF also agrees that the Board should work in tandem with other counties and cities to ensure the proper review and inspection of all aspects of facility operations. Additionally, this is a pivotal opportunity for the Board to share this important undertaking and the lessons learned as well as recommendations that result from this Strike Team review process.

6. Better Coordination Between The Strike Team And The Advisory Panel Is Essential

TO-6

The motion, passed by the Board of Supervisors on March 29, 2016, tasked this Strike Team with "assessing the conditions, regulatory compliance and potential public health and safety risk associated with existing oil and gas facilities in unincorporated Los Angeles County." The Strike Team is to work in conjunction with the Advisory Panel to gather information to "complete an update to the Zoning Code and associated regulations and enforcement protocols" that will ensure that (1) proposed regulations "reflect best practices and current mitigation methods and technologies" to "minimize environmental impacts and protect sensitive uses and populations," and that (2) "oil and gas facilities may no longer operate by right in the unincorporated portions of the County[.]" The Advisory Panel's role in the Project is to review, comment, and provide input on the Project findings and reports.

While we commend efforts by the Strike Team in coordinating a series of meetings with the Advisory Panel in order to provide Advisory Panel members and the public an opportunity to comment, we believe that more meaningful engagement on the Strike Team project review and field visits would create more robust recommendations and outcomes. EDF proposes an opportunity to comment on the Strike Team's initial observations and draft report prior to the reports being prepared for public dispersal and distributed to the Board of Supervisors. Without an opportunity for our comments to be reviewed and incorporated into the updated report by the Strike Team staff, before it becomes final, the Advisory Panel's role becomes sidelined and trivial. In order for there to be a fair and complete review process – while leveraging the expertise in the fields of oil and gas, health, safety, law, and policy – meaningful interaction and engagement with the Advisory Panel members should be prioritized. It is a missed opportunity to not properly incorporate valuable feedback from this group of experts into each updated report.

Thank you for considering these comments moving forward.

Sincerely,

Timothy O'Connor

County District 3 Representative, Oil and Gas Strike Team Advisory Panel Member

Director and Senior Attorney, California Oil and Gas Program, Environmental Defense Fund

Irene Burga

Policy Advocate, California Oil and Gas Program

Environmental Defense Fund

Mr. Timothy Stapleton,
AICP Zoning
Enforcement West
Department of Regional
Planning 320 W. Temple
Street
Los Angeles, CA 90012

April 7, 2017

**Subject: Los Angeles County Oil and Gas Facilities Strike Team Report
Comments by Matt Rezvani – 4th District Advisory Panel member**

Dear Mr. Stapleton,

The Strike Team should be commended for their comprehensive efforts in inspecting the oil and gas facilities within unincorporated areas of Los Angeles County. These efforts are major undertakings that are time consuming and at the same time important in ensuring the safety of LA County residents. Like any other environmental audits or inspection programs, these efforts can only improve and benefit from the input and suggestions it receives.

As the representative of the 4th District on the Advisory Panel of LA County Oil and Gas Facilities Strike Team I would like to offer the following comments on the second draft of the biannual report.

In my opinion, the Strike Team's report can be enhanced by providing more detailed information and specifics about its finding on leak prevention and detection programs of the facilities inspected

Undetected leaks from leaking tanks and pipelines can be a major source of leaks to underground waters and aquifers. Fortunately, there are several programs designed to prevent such leaks and those are administered by various federal and state agencies with oversight over these facilities. The strike team report appears to be incomplete in addressing the inspection of these programs in the following areas:

1. Tanks leak detection and Tank Bottom inspections

Leaks from tank bottoms can often result in underground oil and petroleum products plumes. There are federal and state rules addressing tank leak prevention and detection, and tank

bottom inspections. These requirements are administered by California Division of Oil and Gas at producing facilities and by other agencies in other types of oil and gas facilities. While the Strike Team report indicates inspection of tanks in general, any discussion of tank bottom inspections or tanks leak detection systems and their effectiveness appears to be absent from the report.

2. Secondary Containment

The USEPA Spill Prevention, Control and Countermeasure (SPCC) plan requirement is very specific on the volume of oil the secondary containments need to hold. The Strike Team report does address the issue of secondary containments in all the facilities inspected. However, the report included some pictures of earthen berms secondary containments that seemed to have been compromised. They appeared to have been detreated or partially washed off by rain. The angle from which the pictures were taken may have contributed to the appearance. If that is not the case, the secondary containments have been compromised and the issue needs to be addressed.

MR-2

3. Leak Detection and Repair Plans

Many facilities do have a leak Detection and Repair Plan (LDAR) that are either undertaken by the facility operators as part of their maintenance plans or required by an oversight agency because of past incidents. If the existence of these programs were evaluated by the Strike Team, they appear to be missing from the report. The Strike Team report should address the existence and the effectiveness of these programs at the facilities that have incorporated an LDAR plan in their maintenance programs.

MR-3

I appreciate the opportunity to comment and look forward to future reports.

Regards,

Matt Rezvani
LA County 4th District member of the Advisory Panel