



# COUNTY OF SANTA CRUZ <sup>0966</sup> ~~0966~~ 0967

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
**KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR**

April 30, 2014

**AGENDA DATE: May 20, 2014**

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**SUBJECT: PUBLIC HEARING TO CONSIDER GENERAL PLAN AMENDMENT TO CLARIFY EXISTING GENERAL PLAN POLICY 5.18.4, WHICH PROHIBITS OIL AND GAS EXPLORATION AND DEVELOPMENT**

Members of the Board:

On September 10, 2013 your Board took action to approve an urgency ordinance establishing a temporary moratorium on onshore oil and gas exploration and development within the unincorporated area (Attachment 5). The Board also reviewed a draft General Plan Amendment to permanently ban oil and gas exploration and development in Santa Cruz County, and referred the proposed Amendment to the Planning Commission for public hearing and recommendation. On October 22, 2013 the Board extended the moratorium for 10 months and 15 days (Attachment 6), as allowed by State law. The moratorium will expire on September 6, 2014, if not renewed or replaced with a permanent ban.

The Planning Commission held a public hearing on April 9, 2014 (Attachment 7). The Planning Commission adopted a resolution (Attachment 8) recommending your Board approve the CEQA Notice of Exemption (Attachment 4) and adopt the proposed General Plan amendments (Attachment 2) prohibiting oil and gas exploration and development in Santa Cruz County, with direction to staff to clarify the policy to ensure that it could not be interpreted as prohibiting businesses that operate out of facilities in Santa Cruz County from participating in oil and gas activity that occurs outside the County. The Commission made an additional recommendation that the Board of Supervisors send a letter to neighboring counties advising them of the Santa Cruz County action regarding this matter. Lastly, the Planning Commission requested that staff provide additional information about whether wells in oil fields that are near the County boundary currently extend into the subsurface below the County, and whether well stimulation techniques such as hydraulic fracturing have been used in any of these wells.

In accordance with the Planning Commission recommendation, the proposed General Plan Amendment now contains additional language indicated in ~~strikeout~~/underline, which clarifies that the prohibited facilities are those directly involved with drilling for oil and gas, such as wells, pipes and pumps. The policy would not prohibit a business or individual based in Santa Cruz County from providing services to oil and gas activity located in another County.

As requested by the Planning Commission, staff checked available records on nearby oil fields and other information in an attempt to determine if any existing oil and gas facility extends under, through or terminates beneath Santa Cruz County. Based on the available information on wells in nearby fields, which is consistent with oil and gas well drilling in California in general, wells do not extend into the County beneath the surface. Most oil and gas wells in California are vertical wells, and all of the active

0967  
0968

wells in oil fields near Santa Cruz County are vertical wells. A review of directional surveys completed for selected wells in nearby fields show the wells do deviate from true vertical, but not enough to place any portion of a well beneath Santa Cruz County.

On September 20, 2013, Governor Brown signed into law Senate Bill 4. Accordingly, effective January 1, 2014, an interim set of Well Stimulation Treatment Regulations requires oil and gas well operators to submit notification of well stimulation treatments, such as hydraulic fracturing, to the State Department of Conservation, Division of Oil Gas and Geothermal Resources (DOGGR). Prior to these regulations, operators were not required to provide any public notification of well stimulation activities. No notifications have been filed under the new law for well stimulation activities in oil fields near Santa Cruz County. However, DOGGR records do indicate well stimulation activities have occurred in the past in the Sargent oil field in Santa Clara County southwest of Gilroy.

A map showing the five well fields that are close to the County boundary is included as Attachment 9.

### CEQA

The proposed Amendment is an action by the County to assure the maintenance and protection of the environment. Therefore, the proposed Amendment is exempt from the California Environmental Quality Act under Class 8, "Actions by Regulatory Agencies to Protect the Environment". The proposed General Plan Amendment would not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)) and it can be seen with certainty that there is no possibility that the enactment of this ordinance would have a significant effect on the environment. A Notice of Exemption is attached as Attachment 4.

It is therefore RECOMMENDED that your Board take the following actions:

1. Conduct a public hearing on the proposed General Plan amendment.
2. Adopt the attached resolution (Attachment 1) finding the proposed General Plan amendment exempt from further review under the California Environmental Quality Act, and approving the proposed General Plan amendment.
3. Authorize the Planning Director to send a letter to neighboring counties advising them of the change to the Santa Cruz County General Plan.

Sincerely,



Kathy M. Previsich  
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO  
County Administrative Officer

Attachments:

1. Board of Supervisors Resolution
2. Proposed General Plan Amendment clean copy
3. Proposed General Plan Amendment underline strikethrough
4. CEQA Notice of Exemption
5. Temporary Moratorium
6. Extension of Moratorium
7. Planning Commission Staff report (without Exhibits)
8. Planning Commission Resolution
9. Map showing well fields close to County boundary

0969  
~~0968~~

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. \_\_\_\_

On the motion of Supervisor  
duly seconded by Supervisor  
the following is adopted:

**BOARD OF SUPERVISORS RESOLUTION AMENDING THE SANTA CRUZ  
COUNTY GENERAL PLAN REGARDING PROHIBITION ON OIL AND GAS  
EXPLORATION AND DEVELOPMENT**

---

WHEREAS, great interest has been shown by the oil and gas industry in extracting oil and gas from the Monterey Shale Formation; and the Monterey Shale Formation underlies much of the County of Santa Cruz; and

WHEREAS, the County of Santa Cruz includes numerous areas of great environmental sensitivity subject to damage by poorly regulated extraction activities; and

WHEREAS, the County of Santa Cruz has limited supplies of surface and subsurface potable water; and

WHEREAS, the County of Santa Cruz is a seismically active area with several active earthquake faults; and

WHEREAS, oil and gas drilling, including, but not limited to, hydraulic fracturing activities, elsewhere have resulted in allegations of significant adverse impacts, including pollution of air and groundwater, exhaustion of local aquifers, noise pollution and alleged seismic problems; and

WHEREAS, the proposed General Plan Amendment is consistent with other parts of the adopted General Plan; and

WHEREAS, the proposed amendment is exempt from the California Environmental Quality Act under Class 8, Actions by Regulatory Agencies to Protect the Environment, and would not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)), and it can be seen with certainty that there is no possibility that the enactment of this ordinance would have a significant effect on the environment; and

WHEREAS, at its regular meeting on April 9, 2014 the Planning Commission conducted a duly noticed public hearing and considered the proposed General Plan Amendment, and adopted a resolution recommending that the Board of Supervisors approve the proposed General Plan Amendment; and at its regular meeting of May 20, 2014 the Board of Supervisors conducted a duly noticed public hearing, and considered all evidence and testimony received at the public hearing;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors approves the

CEQA Notice of Exemption (Attachment 4, staff report) and adopts the proposed General Plan Amendment (Attachment 2, staff report) prohibiting oil and gas exploration and development in Santa Cruz County, and directs that the material which constitutes the record of proceedings upon which the Board's decision is based shall be located in the offices of the Clerk of the Board, located 701 Ocean Street, Santa Cruz, California.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2014 by the following vote:

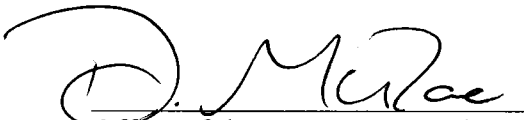
AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Office of the County Counsel

0971  
~~0970~~**5.18.4 a) Offshore Oil and Gas Development**

Prohibit development, construction, or installation of any onshore facility necessary for or intended to support offshore oil or gas exploration and development unless a General Plan and Local Coastal Program amendment is approved by the voters of the County which allows such development. (See policies in sections 5.3 and 5.4.)

**5.18.4 b) Onshore Oil and Gas Development**

Prohibit development, construction, installation, or use of any facility necessary for or intended to support oil or gas exploration or development from any surface location within the unincorporated area of the County of Santa Cruz, whether the subsurface portion(s) of such facility is within or outside the unincorporated area of the County of Santa Cruz, and prohibit development, construction, installation or use of any facility necessary for or intended to support oil or gas exploration or development from surface locations outside the unincorporated area of the County of Santa Cruz which may begin, pass through or terminate below the surface of land located within the unincorporated area of the County of Santa Cruz. This prohibition applies to facilities directly involved in oil and gas exploration, production, and refinement such as wells, pipelines and pumps.

**5.18.4 a) Offshore Oil and Gas Development**

Prohibit on and off shore oil Prohibit development, construction, or installation of any onshore facility necessary for or intended to support offshore oil or gas exploration and development unless a General Plan and Local Coastal Program amendment is approved by the voters of the County which allows such development. (See policies in sections 5.3 and 5.4.)

**5.18.4 b) Onshore Oil and Gas Development**

Prohibit development, construction, installation, or use of any facility necessary for or intended to support oil or gas exploration or development from any surface location within the unincorporated area of the County of Santa Cruz, whether the subsurface portion(s) of such facility is within or outside the unincorporated area of the County of Santa Cruz, and prohibit development, construction, installation or use of any facility necessary for or intended to support oil or gas exploration or development from surface locations outside the unincorporated area of the County of Santa Cruz which may begin, pass through or terminate below the surface of land located within the unincorporated area of the County of Santa Cruz. This prohibition applies to facilities directly involved in oil and gas exploration, production, and refinement, such as wells, pipelines and pumps.

CALIFORNIA ENVIRONMENTAL QUALITY ACT  
NOTICE OF EXEMPTION

0972  
0973

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: Not applicable  
Assessor Parcel Number: County wide  
Project Location: County wide

**Project Description:** Proposal to amend the General Plan to prohibit oil and gas exploration or development within the unincorporated area of Santa Cruz County.

**Person or Agency Proposing Project:** County of Santa Cruz

**Staff Contact and Phone Number:** David Carlson  
(831) 454-3173

- A.  The proposed activity is not a project under CEQA Guidelines Section 15378.
- B.  The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C.  **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D.  **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

- E.  **Categorical Exemption**

Specify type: Class 8 Actions by Regulatory Agencies to Protect the Environment

**F. Reasons why the project is exempt:**

The proposed General Plan Amendment is an action to assure the maintenance, and protection of the environment. It would not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060c2 and it can be seen with certainty that there is no possibility that the enactment of this ordinance would have a significant effect on the environment.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Staff Planner: Pam Leome for OVC Date: May 20, 2014

0974  
~~0973~~

ORDINANCE NO. 5161.

**INTERIM ORDINANCE OF THE COUNTY OF SANTA CRUZ IMPOSING A TEMPORARY MORATORIUM ON OIL AND GAS EXPLORATION AND DEVELOPMENT WITHIN THE UNINCORPORATED AREA OF SANTA CRUZ COUNTY AND DECLARING THE URGENCY THEREOF** 0974

The Board of Supervisors of the County of Santa Cruz find as follows:

**WHEREAS**, great interest has been shown by the oil and gas industry in extracting oil and gas from the Monterey Shale Formation, and from other rocks containing accumulations of oil and gas resources; and

**WHEREAS**, the Monterey Shale Formation, and other rocks potentially containing oil and gas resources, underlies much of the County of Santa Cruz; and

**WHEREAS**, although no active production of oil or gas resource currently takes place with Santa Cruz County, technically feasible and economically viable approaches may be discovered by the oil industry to tap potential accumulations of oil and gas resources in the Monterey formation or other rocks containing oil and gas resources, and interest could turn from the developed resource areas in southern California to other parts of the State, including Santa Cruz County; and

**WHEREAS**, oil and gas exploration and development has raised the following public health, safety or welfare concerns: pollution of air, soil, surface water, and groundwater; depletion of water supplies; noise pollution; and seismic hazards; and

**WHEREAS**, greenhouse gas emissions resulting from oil and gas exploration and burning fossil fuel are warming the planet and causing climate change with potential public health, safety, welfare, economic, and social impacts in Santa Cruz County, including increased risk of flooding and inundation, extreme storm events, erosion, water shortages, heat waves, and wildfires; and

**WHEREAS**, on April 16, 2013 the Board of Supervisors directed the Planning Department to consider a prohibition on oil and gas development within Santa Cruz County; and

**WHEREAS**, the Board of Supervisors is currently considering a prohibition on oil development within Santa Cruz County; and

**WHEREAS**, Article XI, Section 7 of the California Constitution permits a county to make and enforce all local police, sanitary and other ordinances and regulations not in conflict with general laws; and



**WHEREAS**, California Government Code Section 65858, subdivision (a), provides: that legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths (4/5) vote of the legislative body; that such measures shall be of no effect forty-five (45) days from the date of adoption, and may be extended a maximum of two times and have a maximum total duration of two (2) years; and

**WHEREAS**, California Government Code Section 65858, subdivision (c), provides: that legislative bodies may not adopt or extend such ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety or welfare; and

**WHEREAS**, the Board of Supervisors desires to amend the Santa Cruz County General Plan Policies regarding oil and gas exploration and development, prohibiting exploration and development of oil and gas resources from surface and subsurface locations within the unincorporated area of Santa Cruz County, and process a General Plan Amendment to add clarifying language to General Plan Policy 5.18.4 to make it clear that the prohibition on oil and gas development also applies to onshore oil and gas exploration and development not related to offshore development, and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) Guidelines, this Ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the County pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

(3) This Ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

**NOW, THEREFORE BE IT ORDAINED** by the Board of Supervisors of the County of Santa Cruz as follows:

### SECTION I

**Incorporation of Recitals.** The Board of Supervisors finds that all of the above Recitals are true and correct and are incorporated herein by reference.

### SECTION II

**Moratorium Imposed.** In accordance with the authority granted the County of Santa Cruz under Article XI, Section 7 of the California Constitution, California Government Code section 65858, and subdivision (d) of California Government Code section 25123, from and after the effective date of this Ordinance and throughout the period that this Ordinance remains in effect, no person shall engaged in oil and gas exploration and development within the surface or subsurface of the unincorporated area of the County of Santa Cruz. Oil and gas exploration and development is hereby expressly prohibited.

### SECTION III

**Authority; Urgency Statement.** This Ordinance is an interim ordinance adopted as an urgency measure pursuant to Government Code section 65858 and subdivision (d) of California Government Code section 25123, and is for the immediate preservation of the public welfare. The facts constituting an urgency and a current and immediate threat to the public health, safety and welfare are these: considerable uncertainty exists as to whether a commercial operation engaged in oil and gas exploration and development within the unincorporated area of the County of Santa Cruz is in conformance with the General Plan and whether they may be hazardous to the public health, safety and welfare. Until the General Plan is amended, this uncertainty will remain. The granting of land use entitlements for uses that are inconsistent with the General Plan is contrary to state law. Absent the adoption of this urgency Ordinance, this uncertainty will continue and negatively impact the public welfare, safety and health. As a result of this threat to the public welfare, safety and health, it is necessary to temporarily establish a 45-day moratorium on the granting of any land use entitlement allowing the establishment of a commercial operation engaged in oil or gas exploration or development.

### SECTION IV

**Establishment of an Oil and Gas Drilling Business Declared Public Nuisance.** The establishment of a commercial operation engaged in oil or gas exploration or development within the unincorporated area of the County of Santa Cruz is declared to be a public nuisance. Violations of this Ordinance may be enforced by any applicable laws or ordinances.

SECTION V

**Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VI

**Effective Date and Duration.** This Ordinance shall become effective immediately upon adoption by at least four-fifths (4/5) vote of the Board of Supervisors and shall be in effect for 45 days from September 10, 2013 unless extended by the County in accordance with California Government Code section 65858.

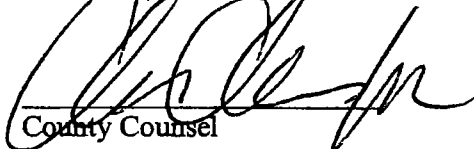
PASSED AND ADOPTED THIS 10th day of September, 2013, by the Board of Supervisors of the County of Santa Cruz by the following vote:

|          |             |   |
|----------|-------------|---|
| AYES:    | SUPERVISORS | Leopold, McPherson, Caputo and Coonerty |
| NOES:    | SUPERVISORS | None                                    |
| ABSENT:  | SUPERVISORS | Friend                                  |
| ABSTAIN: | SUPERVISORS | None                                    |

NEAL COONERTY  
Chairperson of the Board of Supervisors

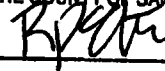
Attest: TESS FITZGERALD  
Clerk of the Board

APPROVED AS TO FORM:

  
County Counsel

Distribution: County Administrative Officer  
Planning Department

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IS CORRECT COPY OF THE ORIGINAL ON FILE IN THE OFFICE ATTEST MY HAND AND SEAL THIS 10th DAY OF September 20 13  
SUSAN A. MAURIELLO, COUNTY ADMINISTRATIVE OFFICER AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.

BY  DEPUTY

ORDINANCE NO. 5164

**INTERIM ORDINANCE OF THE COUNTY OF SANTA CRUZ  
EXTENDING A TEMPORARY MORATORIUM ON OIL AND GAS  
EXPLORATION AND DEVELOPMENT WITHIN THE  
UNINCORPORATED AREA OF SANTA CRUZ COUNTY AND  
DECLARING THE URGENCY THEREOF**

The Board of Supervisors of the County of Santa Cruz find as follows:

**WHEREAS**, great interest has been shown by the oil and gas industry in extracting oil and gas from the Monterey Shale Formation, and from other rocks containing accumulations of oil and gas resources; and

**WHEREAS**, the Monterey Shale Formation, and other rocks potentially containing oil and gas resources, underlies much of the County of Santa Cruz; and

**WHEREAS**, although no active production of oil or gas resource currently takes place with Santa Cruz County, technically feasible and economically viable approaches may be discovered by the oil industry to tap potential accumulations of oil and gas resources in the Monterey formation or other rocks containing oil and gas resources, and interest could turn from the developed resource areas in southern California to other parts of the State, including Santa Cruz County; and

**WHEREAS**, oil and gas exploration and development has raised the following public health, safety or welfare concerns: pollution of air, soil, surface water, and groundwater; depletion of water supplies; noise pollution; and seismic hazards; and

**WHEREAS**, greenhouse gas emissions resulting from oil and gas exploration and burning fossil fuel are warming the planet and causing climate change with potential public health, safety, welfare, economic, and social impacts in Santa Cruz County, including increased risk of flooding and inundation, extreme storm events, erosion, water shortages, heat waves, and wildfires; and

**WHEREAS**, on April 16, 2013 the Board of Supervisors directed the Planning Department to consider a prohibition on oil and gas development within Santa Cruz County; and

**WHEREAS**, the Board of Supervisors is currently considering a General Plan Amendment prohibiting oil and gas development within Santa Cruz County ; and

**WHEREAS**, the Board of Supervisors has referred the proposed General Plan Amendment to the Planning Commission for review and recommendation; and

**WHEREAS**, on September 10, 2013, the Board of Supervisors adopted Ordinance 5161 imposing a temporary 45-day moratorium on oil and gas exploration and development within the surface or subsurface of the unincorporated area of the County of Santa Cruz; and

**WHEREAS**, due to public noticing requirements staff will not be able to bring the proposed General Plan Amendment to the Planning Commission, as required, within the 45-day term of the temporary moratorium; and

**WHEREAS**, it is therefore appropriate to extend the moratorium on oil and gas exploration and development for an additional period of 10 months and 15 days consistent with the authority granted by Government Code Section 65858; and

**WHEREAS**, Article XI, Section 7 of the California Constitution permits a county to make and enforce all local police, sanitary and other ordinances and regulations not in conflict with general laws; and

**WHEREAS**, California Government Code Section 65858, subdivision (a), provides: that legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths (4/5) vote of the legislative body; that such measures shall be of no effect forty-five (45) days from the date of adoption, and may be extended a maximum of two times and have a maximum total duration of two (2) years; and

**WHEREAS**, California Government Code Section 65858, subdivision (c), provides: that legislative bodies may not adopt or extend such ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety or welfare; and

**WHEREAS**, the Board of Supervisors desires to amend the Santa Cruz County General Plan Policies regarding oil and gas exploration and development, prohibiting exploration and development of oil and gas resources from surface and subsurface locations within the unincorporated area of Santa Cruz County, and process a General Plan Amendment to add clarifying language to General Plan Policy 5.18.4 to make it clear that the prohibition on oil and gas development also applies to onshore oil and gas exploration and development not related to offshore development, and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) Guidelines, this Ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the County pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

(3) This Ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

**NOW, THEREFORE BE IT ORDAINED** by the Board of Supervisors of the County of Santa Cruz as follows:

#### SECTION I

**Incorporation of Recitals.** The Board of Supervisors finds that all of the above Recitals are true and correct and are incorporated herein by reference.

#### SECTION II

**Moratorium Extended.** In accordance with the authority granted the County of Santa Cruz under Article XI, Section 7 of the California Constitution, California Government Code section 65858, and subdivision (d) of California Government Code section 25123, from and after the effective date of this Ordinance and

throughout the period that this Ordinance remains in effect, no person shall engage in oil and gas exploration and development within the surface or subsurface of the unincorporated area of the County of Santa Cruz. Oil and gas exploration and development is hereby expressly prohibited.

### SECTION III

**Authority; Urgency Statement.** This Ordinance is an interim ordinance adopted as an urgency measure pursuant to Government Code section 65858 and subdivision (d) of California Government Code section 25123, and is for the immediate preservation of the public welfare. The facts constituting an urgency and a current and immediate threat to the public health, safety and welfare are these: considerable uncertainty exists as to whether a commercial operation engaged in oil and gas exploration and development within the unincorporated area of the County of Santa Cruz is in conformance with the General Plan and whether it may be hazardous to the public health, safety and welfare. Until the General Plan is amended, this uncertainty will remain. The granting of land use entitlements for uses that are inconsistent with the General Plan is contrary to state law. Absent the adoption of this urgency Ordinance, this uncertainty will continue and negatively impact the public welfare, safety and health. As a result of this threat to the public welfare, safety and health, it is necessary to extend the temporary moratorium on the granting of any land use entitlement allowing the establishment of a commercial operation engaged in oil or gas exploration or development.

### SECTION IV

**Establishment of an Oil and Gas Drilling Business Declared Public Nuisance.** The establishment of a commercial operation engaged in oil or gas exploration or development within the unincorporated area of the County of Santa Cruz is declared to be a public nuisance. Violations of this Ordinance may be enforced by any applicable laws or ordinances.

### SECTION V

**Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that

anyone or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VI

Effective Date and Duration. This Ordinance shall become effective immediately upon adoption by at least four-fifths (4/5) vote of the Board of Supervisors and shall be in effect for 10 months and 15 days from October 22, 2013 unless extended by the County in accordance with California Government Code section 65858.

PASSED AND ADOPTED THIS 22nd day of October, 2013, by the Board of Supervisors of the County of Santa Cruz by the following vote:

|          |             |  |
|----------|-------------|--|
| AYES:    | SUPERVISORS | Leopold, McPherson, Friend, Caput & Coonerty |
| NOES:    | SUPERVISORS | None   |
| ABSENT:  | SUPERVISORS | None   |
| ABSTAIN: | SUPERVISORS | None   |

NEAL COONERTY

Chairperson of the Board of Supervisors

TESS FITZGERALD

Attest: Clerk of the Board

APPROVED AS TO FORM:

*[Signature]*  
County Counsel

Distribution: County Administrative Officer  
Planning Department

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE OFFICE ATTEST MY HAND AND SEAL THIS 22<sup>nd</sup> DAY OF October 2013

SUSAN M. JURELLO COUNTY ADMINISTRATIVE OFFICER AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, CALIFORNIA

BY *[Signature]* DEPUTY





# COUNTY OF SANTA CRUZ

## ATTACHMENT 7

### PLANNING DEPARTMENT

0983

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

March 25, 2014

Planning Commission  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**AGENDA DATE: April 9, 2014**

Agenda Item #: 6

Time: After 9:00 a.m.

### **CONSIDER AMENDING THE SANTA CRUZ COUNTY GENERAL PLAN TO CLARIFY EXISTING POLICY 5.18.4, WHICH PROHIBITS OIL AND GAS EXPLORATION AND DEVELOPMENT**

Members of the Commission:

The purpose of this item is to consider a proposed amendment to the General Plan to clarify that policy 5.18.4, which prohibits oil development, applies to onshore oil and gas exploration, development, and facilities within the unincorporated area of Santa Cruz County.

#### **Background**

On September 10, 2013 the Board of Supervisors took action to approve an urgency ordinance (Exhibit F) establishing a temporary moratorium on onshore oil and gas exploration and development within the unincorporated area. The Board also reviewed a draft General Plan Amendment to permanently ban oil and gas exploration and development in Santa Cruz County, and referred the proposed Amendment to your Commission for public hearing and recommendation (Exhibits B and C).

On October 22, 2013 the Board extended the moratorium for 10 months and 15 days (Exhibit E), as allowed by State law. The moratorium will expire on September 6, 2014, if not renewed or replaced with a permanent ban.

The Board's actions followed a series of Board actions and reports in 2013, which are summarized below:

- **January 8:** The Board of Supervisors receives a preliminary report on proposed State legislation to regulate hydraulic fracturing, commonly known as "fracking," and directs staff to return with recommendations to submit to the State.
- **February 12:** The Board accepts and files a staff report on hydraulic fracturing, adopts a Resolution expressing concerns about the proposed State regulations for hydraulic fracturing (Exhibit H), directs the Chairperson to contact the State Division

of Oil, Gas, and Geothermal Resources (DOGGR) to express concern and request a local hearing, and directs staff to report back on the potential for hydraulic fracturing in Santa Cruz County and on County authority to regulate the activity. (Subsequently, DOGGR scheduled an additional workshop in Monterey, in April, 2013.)

- **April 16:** The Board accepts and files a detailed report describing oil and gas development potential in the Monterey Formation underlying Santa Cruz County (Exhibit G), reviews additional safeguards on hydraulic fracturing, and directs staff to return with a General Plan Amendment clarifying that existing General Plan prohibitions on support facilities for offshore oil drilling in Santa Cruz County also apply to onshore oil and gas exploration.

### **Oil and Gas Resources in Santa Cruz County**

While there is a substantial potential for hydraulic fracturing to occur as part of developing oil and gas resources in the Monterey Formation and other geologic formations in the southern part of the State, the potential for further oil exploration and development in Santa Cruz County is uncertain. It appears to be low at this time because the vast majority of the resource potential is in southern California, where the industry is making large capital investments in the oil and gas resources that have already been evaluated, essentially recovering the "low hanging fruit". There is no active production of oil and gas resources in Santa Cruz County. However, drilling, and the use of hydraulic fracturing well stimulation, in Santa Cruz County at some point in the future cannot be entirely ruled out. Technically feasible and economically viable approaches may be discovered by the oil industry to tap the shale oil potential in the Monterey Formation, and interest could turn from the developed resource areas in southern California to the Monterey Formation in other parts of the State, including in Santa Cruz County. Exhibit G provides further information regarding the potential for hydraulic fracturing in Santa Cruz County.

### **Potential adverse effects associated with oil and gas exploration and development**

Oil and gas exploration and development, including hydraulic fracturing and other well stimulation techniques, represent a potentially significant adverse effect on public health, safety and welfare and the natural environment. Oil and gas exploration and development has the potential to contaminate air, soil, surface water and groundwater resources, deplete water supplies, affect scenic viewsheds, create noise pollution and dust, and increase risk from seismic activity, explosion and fire. Fluids associated with drilling and well stimulation, including fracking fluids, must be disposed of, typically in deep injection wells. Among the hazardous substances used in fracking are at least 14 human carcinogens, including benzene, phthalates and formaldehyde, and more than 23 compounds listed as Hazardous Air Pollutants under the Clean Air Act or regulated under the federal Safe Drinking Water Act<sup>1</sup>. Oil and gas operations can adversely affect recreation and tourism, impact wildlife, interfere with neighboring agricultural activities, and increase greenhouse gas emissions.

### **Proposed General Plan Amendment**

According to the California Attorney General, and supported by a review of case law, cities and counties may prohibit oil and gas operations within their boundaries. The County of Santa Cruz has existing policies and regulations addressing oil development in the General Plan and County Code. The General Plan states that oil development is prohibited and that

<sup>1</sup> University of California, Berkeley, Center for Law, Energy and the Environment, "Regulation of Hydraulic Fracturing in California."

any General Plan Amendment that would allow oil development be approved by the vote of the people (General Plan Policy 5.18.4). The County Code states that a vote of the people is required for any onshore facility necessary for or intended to support offshore oil or gas exploration or development (County Code 16.55.020). Although General Plan Policy 5.18.4 prohibits on- and off-shore oil development, it could be interpreted as applying only to facilities supporting off shore operations as reflected in the ordinance. It would therefore be beneficial for the General Plan policy to be amended to clarify that the policy applies to onshore oil and gas exploration and development, and to state more specifically the types of facilities covered by the policy.

The text of the proposed General Plan Amendment before your Commission, attached as Exhibit B, is unchanged from the Board meeting of September 10. The Amendment would prohibit development, construction, installation, or use of any facility necessary for or intended to support offshore and onshore oil or gas exploration or development. It specifies that subsurface facilities are subject to the prohibition. Existing language is retained to reflect the voter's intentions regarding onshore facilities to support offshore drilling, as expressed in Measure A, codified as County Code Chapter 16.55.

#### **CEQA**

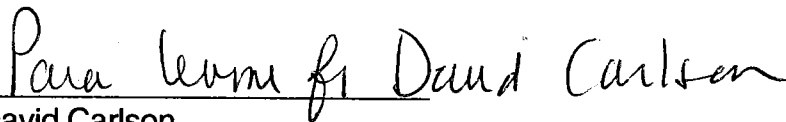
The proposed Amendment is an action by the County to assure the maintenance and protection of the environment. Therefore, the proposed Amendment is exempt from the California Environmental Quality Act under Class 8, "Actions by Regulatory Agencies to Protect the Environment". A Notice of Exemption is attached as Exhibit D.

#### **Recommendation**

It is therefore RECOMMENDED that your Commission take the following action:


1. Hold a public hearing on the proposed General Plan Amendment (Exhibit B)
2. Adopt the attached resolution (Exhibit A) recommending that the Board of Supervisors approve the CEQA Notice of Exemption (Exhibit D) and adopt the proposed Amendments (Exhibit B) prohibiting oil and gas exploration and development in Santa Cruz County.

Sincerely,



David Carlson  
Resource Planner

Reviewed by:



Paia Levine  
Principle Planner

Exhibits:

0986

- (A) Planning Commission Resolution
- (B) Proposed General Plan Amendment clean copy
- (C) Proposed General Plan Amendment underline strikeout
- (D) Notice of Exemption
- (E) Ordinance 5164, Extension of Interim Ordinance Establishing Temporary Moratorium on Oil and Gas Development
- (F) Ordinance 5161 Interim Ordinance Establishing Temporary Moratorium on Oil and Gas Development
- (G) Board of Supervisors Letter from Meeting of April 16, 2013
- (H) Resolution of the Board of Supervisors Expressing Concerns Regarding Proposed State Regulations for Hydraulic Fracturing
- (I) Chapter 16.55 of the County Code

cc: County Counsel

BEFORE THE PLANNING COMMISSION  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

0987

RESOLUTION NO. 2014-04

On the motion of Commissioner Garcia  
duly seconded by Commissioner Hemard  
the following is adopted:

**PLANNING COMMISSION RESOLUTION RECOMMENDING AMENDMENT OF  
THE SANTA CRUZ COUNTY GENERAL PLAN REGARDING PROHIBITION ON  
OIL AND GAS EXPLORATION AND DEVELOPMENT**

---

WHEREAS, great interest has been shown by the oil and gas industry in extracting oil and gas from the Monterey Shale Formation; and the Monterey Shale Formation underlies much of the County of Santa Cruz; and

WHEREAS, the County of Santa Cruz includes numerous areas of great environmental sensitivity subject to damage by poorly regulated extraction activities; and

WHEREAS, the County of Santa Cruz has limited supplies of surface and subsurface potable water; and

WHEREAS, the County of Santa Cruz is a seismically active area with several active earthquake faults; and

WHEREAS, hydraulic fracturing activities elsewhere have resulted in allegations of significant adverse impacts, including pollution of air and groundwater, exhaustion of local aquifers, noise pollution and alleged seismic problems; and

WHEREAS, the proposed General Plan Amendment is consistent with other parts of the adopted General Plan; and

WHEREAS, the proposed amendment is exempt from the California Environmental Quality Act under Class 8, Actions by Regulatory Agencies to Protect the Environment; and

WHEREAS, at its regular meeting on April 9, 2014 the Planning Commission conducted a duly noticed public hearing and considered the proposed General Plan Amendment, and considered all evidence and testimony received at the public hearing;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the Board of Supervisors approve the CEQA Notice of Exemption (Exhibit D, Planning Commission staff report) and adopt the proposed General Plan Amendment (Exhibit B, Planning Commission staff report) prohibiting oil and gas exploration and development in Santa Cruz County.

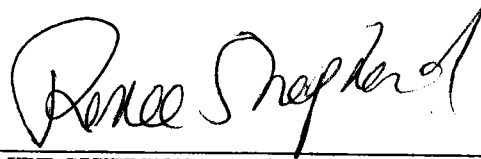
PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this 9<sup>th</sup> day of April, 2014 by the following vote:

AYES: COMMISSIONERS Guth, Hemard, Shpherd, Garcia and Dann

NOES: COMMISSIONERS None

ABSENT: COMMISSIONERS None

ABSTAIN: COMMISSIONERS None



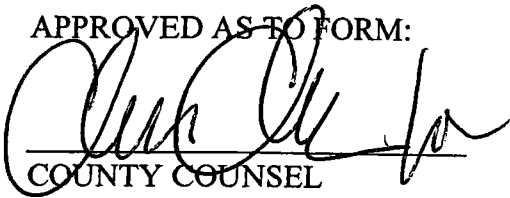
RENEE SHEPHERD, Chairperson

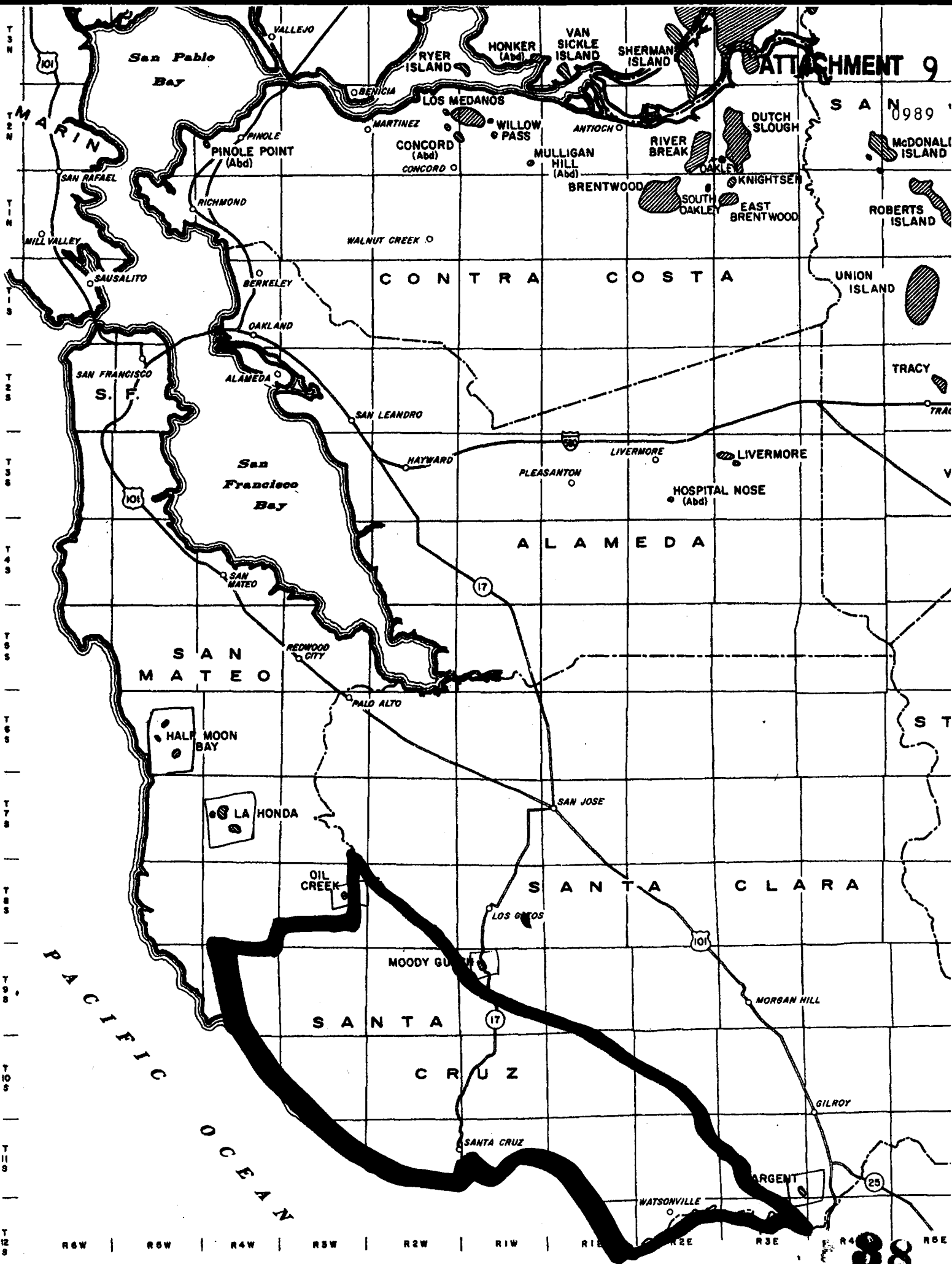
ATTEST:



Ken Hart, Secretary

APPROVED AS TO FORM:

  
COUNTY COUNSEL



100 N. Rodeo Gulch Rd. #198  
Soquel, CA 95073  
May 8, 2014

Chairperson Zach Friend  
Santa Cruz County Board of Supervisors  
701 Ocean St.  
Santa Cruz, CA 95060

Dear Chairperson Friend:

I am writing to you and the Board of Supervisors to express my support and encouragement of your efforts to amend the language in the General Plan so that a moratorium on "fracking" can continue in our county.

We are fortunate to be able to enjoy a natural richness in our county's biodiversity and resources that make this a special place to live. We are, however, constantly reminded nowadays of the changes in our climate and their ensuing consequences. With this recent drought, we face a greater risk of fire danger in an earthquake prone area. As you well know, we are also facing soil erosion, salt-water intrusion, unpredictable weather patterns, and sea levels rising, just to name some of our challenges.

Taking "fracking" off our table of worrisome inevitabilities will free us up to constructively address the other issues at hand. The benefit of knowing that our Board of Supervisors and County government support a healthy citizenry and safe environment for our children and us is greatly reassuring and truly appreciated.

Thank for all your efforts in this regard.

Sincerely yours,



Lynda Francis

cc: Supervisor Leopold, Supervisor Coonerty, Supervisor McPherson, and Supervisor Caput.



**Alicia Murillo**

---

**From:** cdbosmail@co.santa-cruz.ca.us  
**Sent:** Sunday, May 18, 2014 6:06 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

---

**Meeting Date :** 5/20/2014

**Item Number :** 38

**Name :** Joanne Brown

**Email :** [joannevbrown@gmail.com](mailto:joannevbrown@gmail.com)

**Address :** 10830 Creekwood Drive  
Felton, CA 95018

**Phone :** 831-335-7628

**Comments :**  
ATTACHMENT

I strongly support the ban oil and gas exploration, including hydraulic fracking, in Santa Cruz County. Many thanks to John Leopold and the Board of Supervisors for supporting a far reaching policy to protect our coastal environment. May it serve as a model for other counties throughout our state and beyond.

**Alicia Murillo**

---

**From:** cbdbosmail@co.santa-cruz.ca.us  
**Sent:** Monday, May 19, 2014 10:55 AM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

---

**Meeting Date :** 5/20/2014

**Item Number :** 38

**Name :** Dianne Dryer

**Email :** Not Supplied

**Address :** Thurber Lane  
Santa Cruz

**Phone :** Not Supplied

**Comments :**

I urge you to approve the General Plan amendment to prohibit oil and gas exploration and development, including hydraulic fracturing. It is time for local governments to take a strong stand against such dangerous practices that seriously harm the environment and worsen the climate crisis.

Dianne Dryer



**Alicia Murillo**

---

**From:** cdbosmail@co.santa-cruz.ca.us  
**Sent:** Monday, May 19, 2014 10:18 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

---

**Meeting Date :** 5/20/2014

**Item Number :** 38

**Name :** Michael Berube

**Email :** [michaelberube@yahoo.com](mailto:michaelberube@yahoo.com)

**Address :** P.O. Box 356  
Carmel Valley, CA 93924

**Phone :** 831-624-2024

**Comments :**

How will fracking affect the long term water supply in Santa Cruz County? Will "Big Oil" take responsibility for any/all negative impact on the environment resulting from fracking? Will "Big Oil" be given "Too Big to Fail" and "Too Big to Jail" status similar to that now celebrated by the largest banks? Or will Big Oil simply earmark a small percentage of the obscene bottomline profits for an army of high paid attorneys to overtake Santa Cruz County by exhausting its precious limited financial resources with abusive and bullying litigation tactics?

Santa Cruz County and its' constituents are environmentally conscious for the most part. Be the example and lead by example less conscious neighboring Counties and those throughout the State of California. BAN FRACKING NOW, PLEASE!