



NATURAL RESOURCES DEFENSE COUNCIL

Via Electronic Mail

April 29, 2014

Monterey County Planning Commission
168 W Alisal Street
Salinas, CA 93901

Email: Mike Novo, Planning Director, novom@co.monterey.ca.us

Re: Support for Monterey County Proposed Ordinance (REF130051) as a first step towards greater protection from the risks of well stimulation.

Dear Mike Novo and Monterey County Planning Commission members:

On behalf of the Natural Resources Defense Council (“NRDC”), I am writing to express our **support** for the resolution and proposed ordinance (REF130051) amending Title 21 (Non-coastal zoning ordinance) of the Monterey County Code. Oil drilling operations that involve well stimulation are being linked to public health and environmental problems in numerous locations across the country, and this ordinance is an important **first step** to address those concerns for the residents of Monterey County.

We are concerned, however, at the extremely short period of time that was provided for public review and comment. We request that the Planning Commission postpone its vote on the resolution and proposed ordinance to ensure meaningful public participation, with a total time for review of **no less than 45 days**.

The proposed ordinance would zone fracking and other well stimulation activities out of residential areas, but it does not offer any substantive protections to residents and landowners in the vast majority of the County. For this reason, we would also ask that in addition to the proposed ordinance, the Planning Commission **put an immediate moratorium on all fracking and other well stimulation activities on County land** that falls outside the protected residential zones.

Monterey County and the Planning Commission are right to begin looking for ways to more fully safeguard local residents from the effects of hydraulic fracturing and other well stimulation activities. Scientific studies have linked oil and gas development using

hydraulic fracturing and related activities to adverse impacts on human health (including burning eyes, headaches, respiratory problems, concerns about birth defects, and elevated cancer risk), induced earthquakes, damage to property, and groundwater contamination.

Hydraulic fracturing and acidizing involve injecting chemicals underground that can include toxics – like hydrofluoric acid, ethylene glycol, and formaldehyde – often through or adjacent to groundwater used for drinking and irrigation. Hydraulic fracturing also uses significant water resources, and any major ramping up of these operations would create another competing demand for California’s precious water supplies – a major cause for concern during this historic drought and, in particular, for Monterey County’s residents that depend on agriculture and ranching for their livelihoods. As I’ve heard again and again from local residents, you cannot ranch and you cannot farm without water.

Despite these risks, hydraulic fracturing enjoys dangerous exemptions from critical federal environmental laws, including the Safe Drinking Water Act, the Clean Water Act, and the National Environmental Policy Act. At the state level – while last year’s Senate Bill 4 imposed disclosure requirements and a permitting scheme for well stimulation activities for the first time – state laws and regulations remain woefully inadequate to protect Monterey County residents and their water from the risks involved. Although the claim is often made that California’s regulations are the strongest in the nation, that is untrue. I have attached a fact sheet that provides examples of states with stronger rules than California’s existing and proposed rules (Attachment 1). I have also attached NRDC’s January 14, 2014 comment letter submitted to the Department of Conservation on the proposed regulations, which details our various concerns with the state-level regulations (Attachment 2).

As the proposed ordinance points out, Monterey County is already home to thousands of oil and gas wells, many operating under outdated use permits from as far back as the 1940’s. We **support** conditional use permits for stimulation of existing wells, and we appreciate that this could trigger the possibility for greater County and environmental review of those well operations. However, greater opportunities for review are only helpful if the review process itself is strong and protects health and the environment in meaningful ways.

It is our understanding that the County Planning Department’s review process currently consists of a checklist, and that there are almost no restrictions on or mandatory safeguards related to the use of well stimulation in the County. The proposed ordinance states that it intends to: “provide a process to review projects that propose well stimulation treatments on any new or existing well in order to address land use and environmental impacts not covered under state law.” To make good on that intention to “address land use and environmental impacts not covered under state law,” the County must follow up this ordinance with stronger regulation of oil and gas in the County. Until such regulation can be put in place – that ensures protection of public health and the

environment – we would ask for a **County-wide moratorium** on well stimulation and related activities.

In particular, the following measures would greatly increase the safety and protection for County residents and environment:

- **No drilling in sensitive areas:** In addition to forbidding new well stimulation projects in residential areas, we would ask you to forbid oil and gas development, including well stimulation, in the Salinas Valley watershed. The Salinas Valley is the economic heart of this County and the salad bowl of America. It does not make sense to put the water and agriculture in the Valley at risk from fracking and fracking related accidents.
- **Setbacks:** Although this ordinance would forbid further oil and gas development in residential areas, there are no requirements for setbacks, or minimum separation distances, from those areas. Under the current proposed scheme, an oil or gas well could be drilled directly adjacent to a residential parcel. To fully protect residents' health and property, we believe there should be setbacks from residential areas. In addition, we would also like to see setbacks to protect water and the environment, including from: private drinking water wells; drinking water aquifers; public water supplies; streams, storm drains, lakes and ponds; wetlands; and floodplains.
- **Restrictions on water use and disposal:** In its January 13, 2013 letter to the Department of Conservation, Monterey County requested that local land use authority over traditional land use matters not be infringed, including over the use of water, the source of water, and wastewater disposal. We ask you to exercise that local authority to protect Monterey County's water. These additional protections might include: mandatory (not opt-in) water testing before and after well stimulation activities occur; prohibiting the use of sumps to contain waste water; requiring operators to develop water use and waste water management plans, including information about the source, quality, and quantity of water used for oil and gas production activities; and requiring a manifest system to track the transportation and disposal of all waste water.
- **Protections for local way of life:** We ask you to put limitations on fracking and other well stimulation-related impacts on the local way of life, including on traffic, aesthetics, and land use.
- **Financial protections:** We would ask you to require operators to take out insurance and bonds on well stimulation projects to help protect the County and its residents in the event of non-compliance or a spill, blowout, or other environmental and public health hazard.

Monterey County has a responsibility to protect its resources and citizens from uses and activities that may impact their livelihood and from environmental hazards. The potential risks of fracking are large and scientists and regulators are still grappling to fully understand them. Until we fully understand those risks and how to protect our communities from them, and until the County has put safeguards in place that guard against those risks, we need a moratorium on fracking and other well stimulation in Monterey County. The Salinas Valley is too important to local livelihoods to put at risk.

We depend on you to protect the residents of Monterey from the myriad of risks of the heavy industrial process of fracking. You must not only ensure that well stimulation permits be required, but that the permitting process itself includes safeguards that protect a unique and beloved land, way of life, environment, and community.

We hope that you will grant our request for additional time for public review of the proposed regulation. If no further time is granted, we urge you to vote in favor of the resolution. We also urge you to continue this important work of protecting Monterey County residents and our water from fracking and fracking-related activities. A moratorium on fracking and other well stimulation on all the areas of the County that fall outside the residential zone (where fracking would already be forbidden by the proposed ordinance) would be an important first step in ensuring such immediate protection.

Thank you in advance for considering our comments.

Very truly yours,



Giulia Good Stefani
Project Attorney
Natural Resources Defense Council

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