

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

PORTER ESTATE COMPANY BRADLEY RANCH LLC (Trio Petroleum/PLN160146)

RESOLUTION NO. 18-008

Resolution by the Monterey County Planning
Commission:

- 1) Finding the project Statutorily Exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a); and
- 2) Denying the request for a Use Permit to allow temporary production testing for oil and gas at four (4) well sites in the Hames Valley.

[PLN160146, Porter Estate Company Bradley Ranch LLC, four sites in the Hames Valley, South County Area Plan (APNs: 424-081-046-000, 424-081-050-000, 424-111-001-000, 424-081-084-000)]

The Porter Estates application (Trio Petroleum/PLN160146) came on for public hearing before the Monterey County Planning Commission on December 13, 2017 and January 31, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

WHEREAS, on July 1, 2016, Trio Petroleum (“Applicant”) through its representative Steven Rowlee, submitted an application for site preparation, drilling, and production testing (exploration) for oil and gas at four (4) new well sites in Hames Valley. The project is an exploratory effort to assist the applicant in determining whether oil is available in commercial quantities at the project location.

WHEREAS, the properties are located at: Hames Valley Exploration Well #1: 5,000 feet west of Nacimiento Lake Drive, 1 mile south of Jolon Road (Assessor's Parcel Number 424-081-046-000). Hames Valley Exploration Well #2: 1,200 feet east of Nacimiento Lake Drive. (Assessor's Parcel Number 424-081-050-000). Hames Valley Exploration Well #3: 2 miles south of Jolon Road and 1 mile east of Nacimiento Lake Drive (Assessor's Parcel Number 424-111-001-000). Hames Valley Exploration Well #4: 1 mile south of Jolon Road and ¼ mile west of Nacimiento Lake Drive, Bradley (Assessor's Parcel Number 424-081-083-000). The properties consist of undeveloped agricultural land and non-native annual grassland.

WHEREAS, on July 20, 2016, the South County Land Use Advisory Committee (LUAC) reviewed plans for the proposed project. The LUAC voted 5-1-0-0 to recommend approval of the project. One member expressed concerns relative to approving petroleum projects instead of supporting renewable energy projects in the County.

WHEREAS, on December 13, 2017, the Planning Commission opened the public hearing, heard applicant testimony on the project and passed a motion of intent to direct staff to return on January 31, 2018 with a resolution to deny the project.

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 2010 Monterey County General Plan;
 - South County Area Plan; and
 - Monterey County Zoning Ordinance (Title 21).No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - b) The project site is designated Farmlands (HV #1, 2, and 4) and Permanent Grazing (HV #3) in the County's Land Use Plan for South County. The Farmlands land use designation permits a range of uses to conserve and enhance the use of the important farmlands in the County while providing opportunity to establish necessary support facilities for agricultural uses. The Permanent Grazing land use designation allows for a range of land uses to conserve and enhance the productive grazing lands in the County.
 - c) The site is zoned Farmlands (F/40) (HV #1, 2, and 4) and Permanent Grazing (PG) (HV #3) in the County's Zoning Code. The Farmlands zone allows for land uses that preserve and enhance productive and unique farmlands and the Permanent Grazing zone allows for land uses that preserve, protect, and enhance grazing lands. Under the County Code "The exploration for and the removal of oil and gas" is allowed on Permanent Grazing sites with a Use Permit (Monterey County Ordinance Code Chapter 21.34). In addition, "The exploration for and the removal of oil and gas" is also allowed on Farmlands with a Use Permit (Monterey County Ordinance Code Chapter 21.30). The exploratory wells are consistent with County zoning if a Use Permit is granted notwithstanding Measure Z's prohibition on drilling of new oil and gas wells because the effective date of Measure Z is currently stayed.
 - d) Monterey County General Plan, South County Area Plan, Zoning Ordinance (Title 21), project application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160146.
2. **FINDING:** **DETRIMENTAL TO HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**
- a) The Planning Commission finds that the effects of oil exploration and production are injurious to the general welfare of the residents of Monterey County in terms of carbon emissions and groundwater contamination. Monterey County is an agricultural county and having

clean air and water are very important to the economy. Having a stable climate is extremely important to the agricultural basis of the County's economy. Having clean water is important not only for domestic consumption but for the entire economic engine of the County. There are no counterbalancing benefits of the project to offset these detrimental effects.

- b) The project's operational air quality impact includes emissions generated during the production testing phase and future potential long term production. There would also be short-term emissions from the site preparation and drilling phases of the project.
- c) The proposed project would expand oil exploration and potentially production to a new geographic area within the County and contribute to greenhouse gas emissions and climate change. Climate Change poses serious risks, especially in a coastal county like Monterey, to the public's health and safety as well as natural resources. Without immediate action to slow Climate Change, such as reducing greenhouse gas intensive activities – like oil exploration and production, Monterey will face changes in temperature, precipitation patterns, and water availability, as well as rising sea levels. It is estimated that the proposed project would emit 3,734 metric tons (MT) of carbon dioxide per year during the product testing phase and 7,121 MT of carbon dioxide during potential future long-term production. Carbon dioxide is one of the gases that is a principle contributor to human-induced climate change.
- d) The proposed project would drill and test wells at a depth of 4,000 to 7,500 feet. Public water supply wells are typically drilled to depths of 200 to 650 feet, which is intended to approach the bottom of the groundwater basin. All four wells would be at depths lower than the groundwater table. Oils coming up from the wells from the productive underground geologic zone could escape the zone and migrate into other geologic zones that might contain fresh or usable water.
- e) Measure Z was passed by the majority of the Monterey County voters in the November 2016 election. Measure Z enumerated sixteen findings, adopted by the voters, that warned of the oil and gas industries impacts on health and safety, groundwater, climate change, and the local economy. Measure Z amended the Monterey County General Plan Land Use Element to add Policy LU-1.23, and other similar policies. Policy LU-1.23 provides, *“the drilling of new oil and gas wells is prohibited on all lands within the County's unincorporated areas. This Policy LU-1.23 does not affect oil and gas wells drilled prior to the Effective Date and which have not been abandoned.”* While a recent superior court's intended decision has determined that portions of Measure Z (including LU-1.23) are preempted by superior state or federal law, the voters' concerns and the potential health and safety risks associated with impacts from the oil and gas industries have not diminished. The superior court's intended decision has not yet been made final and the Measure Z supporters (Intervenors in the superior court case) have indicated their intent to appeal the superior court's decision, once it becomes final.

- f) The application, project plans, Initial Study/Mitigated Negative Declaration and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN160146.
3. **FINDING:** **CEQA (Exempt)** – The project is statutorily exempt from environmental review because the Planning Commission is denying the application. The Planning Commission did not adopt the Mitigated Negative Declaration prepared for the project.
- EVIDENCE:**
- a) Monterey County RMA-Planning prepared an Initial Study-Mitigated Negative Declaration (IS-MND) pursuant to CEQA. The IS-MND is on file in the offices of RMA-Planning and is hereby incorporated by reference (PLN160146).
 - b) The IS-MND analyzed environmental factors potentially affected by the project including aesthetics, agricultural and forest resources, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, tribal cultural resources, and utilities/services systems. The applicant has agreed to proposed mitigation measures relevant to air quality and biological resources that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. All other potentially significant effects identified in the IS-MND were determined to have a less than significant impact or no impact.
 - c) The Draft IS-MND for PLN160146 was prepared in accordance with CEQA and circulated for public review from August 8, 2017 to September 8, 2017 (SCH No. 2017081015).
 - d) Evidence that has been received and considered includes: the application, technical studies/reports, staff reports that reflect the County's independent judgement, and information and testimony presented during public hearings. These documents are on file in RMA-Planning (PLM160146) and are hereby incorporated herein by reference.
 - e) The County has considered the comments received during the public review period and they do not alter the conclusions in the IS-MND. The comments received from the Monterey Bay Air Resources District ask for application of the Air District's BMPs to reduce air quality and request consultation with the Air District Compliance Division on the matter of portable engines. Application of MBARD's BMPs and consultation with MBARD would not change the determination of the IS-MND, and impacts to air quality would remain less than significant following mitigation.
 - f) Projects which are disapproved by the lead agency are statutorily exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a).
 - g) Monterey County RMA-Planning, located at 1441 Schilling Place, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

4. **FINDING:** **PUBLIC HEARING** – The Planning Commission conducted a fair and impartial public hearing on the project.
- EVIDENCE:**
- a) On December 13, 2017 and January 31, 2018, the Planning Commission held a duly noticed public hearing where the applicant and members of the public were given the opportunity to be heard.
 - b) On November 30, 2017 notices of the December 13, 2017 Planning Commission hearing were mailed to property owners within 300 feet of the site.
 - c) A public hearing notice of the December 13, 2017 Planning Commission hearing was published in the Monterey County Coast Weekly newspaper on November 30, 2017.
 - d) On November 30, 2017, public hearing notices of the December 13, 2017 Planning Commission hearing were sent to those persons on the County's interested parties distribution list for this project.
 - e) At the hearing on December 13, 2017, the applicant and all members of the public wishing to be heard had an opportunity to testify orally and submit written testimony. Following the close of public comment, the Planning Commission adopted a motion of intent to deny the project and not adopt the Mitigated Negative Declaration and continued the hearing to January 31, 2018 to enable staff to bring back a resolution with findings.
5. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:**
- a) Section 21.80.010.D of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

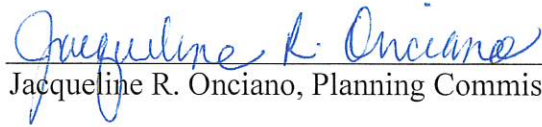
DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Find the project Statutorily Exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a); and
2. Deny the request for a Use Permit to allow temporary production testing for oil and gas at four (4) well sites in the Hames Valley.

PASSED AND ADOPTED this 31st day of January 2018 upon motion of Commission Ambriz, seconded by Commissioner Diehl, by the following vote:

AYES: Ambriz, Diehl, Mendez, Mendoza, Vandever, Wizard
NOES: Duflock, Getzelman, Roberts
ABSENT: None
ABSTAIN: Padilla


Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **FEB 05 2018**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

FEB 15 2018

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.