



# Monterey County

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## Board Report

Legistar File Number: RES 18-034

April 03, 2018

Introduced: 3/22/2018

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

### **PLN160146 - PORTER ESTATE COMPANY BRADLEY RANCH LLC (TRIO PETROLEUM LLC)**

Public hearing to consider:

- a. An appeal by Trio Petroleum LLC from the January 31, 2018 decision of the Monterey County Planning Commission to deny the application (Trio Petroleum LLC/PLN160146) for a Use Permit to allow the temporary production testing for four test well sites in Hames Valley;
- b. Adoption of a Mitigated Negative Declaration; and
- c. Approval a Use Permit to allow the construction of four test wells for the temporary exploration for and removal of oil and gas in Hames Valley.

(Project location: Hames Valley in unincorporated Monterey County (Assessor's Parcel Numbers: 424-081-046-000, 424-081-050-000, 424-111-001-000, 424-081-084-000), near Bradley, South County Area Plan area.

#### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- 1) Grant the appeal by Trio Petroleum LLC from the January 31, 2018 decision of the Monterey County Planning Commission denying an application (Porter Estate Company Bradley Ranch (Trio Petroleum LLC)/PLN160146) for a use permit to allow the temporary production testing for oil and gas at four (4) sites in the Hames Valley;
- 2) Adopt the Mitigated Negative Declaration;
- 3) Approve a Use Permit to allow the construction of four (4) test wells for the temporary exploration for and removal of oil and gas in Hames Valley at the following sites: 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); and Hames Valley Exploration Well #4: 1 mile south of Jolon Road and ¼ mile west of Nacimiento Lake Drive, (Assessor's Parcel Number 424-081-084-000); and
- 4) Adopt the Mitigation Monitoring and Reporting Program.

The attached draft resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to 39 conditions of approval including 14 mitigation measures.

**PROJECT INFORMATION:**

**Agent:** Steven A. Rowlee, President

**Applicant:** Trio Petroleum LLC

**Property Owner:** Porter Estate Company Bradley Ranch LLC

**APNs:** 424-081-046-000, 424-081-050-000, 424-111-001-000, 424-081-084-000

**Zoning:** F/40 and PG [Farming 40 acres per unit and Permanent Grazing]

**Plan Area:** South County Area Plan

**Flagged and Staked:** No

**SUMMARY:**

On July 1, 2016, Trio Petroleum LLC filed an application for a Use Permit to allow temporary production testing for oil and gas at four (4) sites in Hames Valley (South County) on land owned by Porter Estate Company Bradley Ranch LLC. The proposed project is an exploratory effort to assist the applicant in determining whether oil is available in commercial quantities at the project location. Potential future production wells would be subject to additional environmental review and discretionary permitting.

The County, through RMA-Planning contracted with Rincon Consultants who prepared an Initial Study/proposed Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA). The Draft IS-MND was circulated for public review from August 8, 2017 to September 8, 2017. Upon completion of circulation, Planning Staff prepared a report to the Planning Commission recommending approval of the project.

On December 13, 2017, the Planning Commission conducted a duly noticed public hearing and passed a motion of intent by a vote of 6-1 with 2 absent to direct staff to return on January 31, 2018 with a resolution to deny the project based on the following reasons:

- The effects of oil exploration and production are detrimental to the health, safety and general welfare of the residents of Monterey County due to carbon emissions and potential for 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.
- The findings of Measure Z, which was passed by Monterey County voters in November 2016, reflect that a majority of County voters agree with Measure Z's findings regarding the oil and gas industry's impacts on health and safety, groundwater, climate change, and the local economy.
- There are no counterbalancing benefits of the proposed project to offset these detrimental effects.

The Planning Commission continued the hearing to January 31, 2018 to and directed staff to prepare a resolution of denial with findings and evidence based on the Planning Commission motion. On January

31, 2018, the Planning Commission voted 6 to 3 with one abstention to find the project statutorily exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) and to deny the request for a Use Permit to allow temporary production testing for oil and gas at four test well sites. (**Exhibit H.**)

On February 13, 2018, Trio Petroleum LLC, represented by Jason Retterer of Johnson, Rovella, Retterer, Rosenthal & Gilles, timely filed an appeal (**Exhibit G**) of the Planning Commission denial. The contentions contained in the appeal are summarized in **Exhibit A** along with County responses.

Options for Board action following the public hearing include the following:

1. Grant the Appeal, Adopt the Mitigated Negative Declaration and Approve the Project: If the Board finds that the project has no significant environmental impact and desires to grant the appeal and approve the project, the Board of Supervisors could adopt the draft resolution (Exhibit C), prepared by staff and attached to this staff report, to grant the appeal, adopt the Mitigated Negative Declaration, approve the Use Permit, and adopt a Mitigation Monitoring and Reporting Program.
2. Direct Staff to Prepare an EIR - If the Board finds that there is fair argument based on substantial evidence that the project may have a significant effect on the environment, the Board could direct staff to prepare an EIR. The Board could remand the project to the Planning Commission for a decision based on the additional information contained in the EIR, or the Board could retain jurisdiction and hear the project application after completion of the EIR.
3. Direct Staff to Conduct Further Investigation of Potential Environmental Impacts -- If the Board has questions raised by the Initial Study and comments but is not ready to conclude there is a fair argument of an environmental impact, the Board could request additional information and investigation of potential environmental impacts, which could result in revision of the Initial Study/MND or preparation of an EIR, depending on the result of the additional investigation. As with the option 2 above, the Board could remand the project to the Planning Commission or retain jurisdiction and hear the project application after further study.
4. Continue Hearing and Pass Motion of Intent - If the Board desires to take a different action, the Board could adopt a motion of intent and continue the hearing to a date certain for staff to prepare a resolution with modified findings per the Board's direction.

DISCUSSION:

See **Exhibit A** for a detailed project description and discussion, including project analysis and responses to the Appellant's contentions.

OTHER AGENCY INVOLVEMENT:

The following agencies and departments reviewed this project:

Environmental Health Bureau  
RMA-Environmental Services

The proposed project was referred by the South County Land Use Advisory Committee (LUAC) on July 20, 2016. The LUAC voted 5-1-0-0 to recommend approval of the project (**Exhibit C**). One member expressed concerns relative to petroleum projects instead of supporting renewable energy projects in the County.

FINANCING:

Funding for staff time associated with this project is included in the FY2017-18 Adopted Budget within RMA-Planning's General Fund 001, Appropriation Unit RMA001.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

☐ Economic Development  
☒ Administration  
☐ Health & Human Services  
☐ Infrastructure  
☐ Public Safety

Prepared by: Bob Schubert, AICP, Senior Planner, x5183

Reviewed by: Brandon Swanson, RMA Services Manager

Approved by: Carl P. Holm, AICP, RMA Director

**The following attachments are on file with the Clerk of the Board:**

Exhibit A - Project Discussion

Exhibit B - Draft Board Resolution, including:

- Conditions of Approval and Mitigation Monitoring and Reporting Program
- Site Plans and Elevations

Exhibit C - LUAC Minutes

Exhibit D - Project Location

Exhibit E - Initial Study/Mitigated Negative Declaration

Exhibit F - Comments on Mitigated Negative Declaration

Exhibit G - Notice of Appeal (February 13, 2018)

Exhibit H - Planning Commission Resolution No. 18-008 (January 31, 2018)

Exhibit I - Public Correspondence submitted at Planning Commission Meetings

Exhibit J - Public Correspondence since January 31, 2018 Planning Commission Meeting

cc: Front Counter Copy; Cal Fire South County Fire Protection District; RMA-Public Works Department; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; Brandon Swanson, RMA Planning Manager; Porter Estate Company Bradley Ranch LLC, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; Project File PLN160146