

To the Honorable Registrar of Voters of the County of Monterey: We, the undersigned, registered and qualified voters of the County of Monterey, hereby propose an initiative measure to amend the Monterey County General Plan, Monterey County Local Coastal Program, and Fort Ord Master Plan. We petition you to submit this measure to the Board of Supervisors of the County of Monterey for adoption of the measure outright, or for submission of the measure to the voters of the County of Monterey at the earliest special or general election for which it qualifies.

The measure provides as follows:

Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative

The people of the County of Monterey do hereby ordain as follows:

SECTION 1: PURPOSE, EFFECT, AND FINDINGS

- A. Purpose:** The purpose of this *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* (“Initiative”) is to protect Monterey County’s water, agricultural lands, air quality, scenic vistas, and quality of life by prohibiting the use of any land within the County’s unincorporated area for well stimulation treatments, including, for example, hydraulic fracturing treatments (also known as “fracking”) and acid well stimulation treatments. The Initiative also prohibits and phases out land uses in support of oil and gas wastewater (which the Initiative defines) disposal using injection wells or disposal ponds in the County’s unincorporated area. The Initiative also prohibits drilling new oil and gas wells in the County’s unincorporated area.
- B. Effect:** This Initiative amends Monterey County’s land use plans, including the Monterey County General Plan, to prohibit the use of any land within the County’s unincorporated area for hydraulic fracturing treatments, acid well stimulation treatments, and other types of well stimulation treatments, and tracks state law—SB 4 (Pavely 2013)—in defining those terms. The Initiative prohibits new, and phases out existing, land uses in support of oil and gas wastewater injection and oil and gas wastewater impoundment. The Initiative prohibits drilling new oil and gas wells in the County’s unincorporated area.

This Initiative does not prohibit oil and gas operations (other than well stimulation treatments) from using existing oil and gas wells in the County, which number over 1,500 at the time this Initiative was submitted, according to public records of the State Division of Oil, Gas & Geothermal Resources. This Initiative does not apply to offshore oil and gas operations. This Initiative includes reasonable provisions to protect property rights and any vested rights.

This Initiative does not confer any rights and does not prohibit the County from taking further action to prohibit, restrict, or otherwise regulate land uses or activities not prohibited by this Initiative.

- C. Findings:** The people of Monterey County find that this Initiative promotes and protects the health, safety, welfare, and quality of life of County residents, based upon the

following findings, any one of which would be sufficient to support adoption of this Initiative:

1. **Monterey County Does Not Have a Permitting Process and Regulations Specifically for Oil and Gas Production Operations.** Oil and gas production operations are different from other land uses. Yet, in contrast with other oil producing counties in California, Monterey County does not have a permitting scheme specifically designed to regulate these land uses. Instead, Monterey County for decades issued “blanket” use permits to oil and gas operators, allowing them to drill new wells without adequate County oversight or environmental review. This Initiative will provide Monterey County residents with needed protection from the land use impacts of hydraulic fracturing treatments (“fracking”), oil and gas wastewater disposal, and new oil and gas wells.
2. **Monterey County Supervisors Have Failed to Enact Needed Protections.** In 2014, over 1800 people petitioned Monterey County officials to protect their community from risky oil and gas production operations. In response, the Monterey Planning Commission recommended that the County adopt a moratorium on fracking and acid well stimulation, and also draft specific oil and gas regulations like those in neighboring counties. In 2015, the Monterey County Board of Supervisors rejected the recommendations of its Planning Commission, and failed to enact protections for the county's water, air and land. This Initiative would provide needed protections.
3. **Fracking Could Become Widespread in Monterey County.** Fracking and acid well stimulation treatments typically include high-pressure injections of solvents, acids, and other toxic and hazardous chemicals to fracture or dissolve underground formations. Oil and gas production operations using fracking and other well stimulation treatments threaten our limited water resources. New advances in fracking and well stimulation technologies can also enable oil and gas extraction in fields and formations that were previously uneconomical to produce. The Monterey Shale Formation underlies substantial portions of the County. Future innovations in well stimulation treatments to extract oil and gas from the Monterey Shale could lead to an increase in the number of active oil and gas wells in the County.

Fracking and acid well stimulation treatments have been used in south Monterey County in the past, and residents must act now to ensure that their use does not expand. The impacts and risks associated with fracking and other well stimulation treatments are too great for County residents to accept. In order to protect local resources and interests, residents want to stop this land use before it spreads throughout the County. This Initiative prohibits land uses in support of fracking and other well stimulation treatments in the unincorporated areas of the County.

4. **Oil and Gas Production Operations, Including Those Enabled by Fracking, Use Limited Water Supplies That Should Be Preserved for Agricultural and Municipal Uses.** Water is a valuable and limited commodity in Monterey County. According to studies prepared for the Monterey County Resource Management Agency, groundwater is currently the source of nearly all agricultural and municipal water demands in the Salinas Valley, and agricultural use represents approximately 90 percent of all water used

in the Basin. Currently, more water is being withdrawn from the Salinas River Groundwater Basin than is being replenished, resulting in saltwater intrusion.

Expanding oil and gas production operations in California, including those using fracking and other well stimulation treatments, will increase water consumption. According to a 2013 study by the University of California, Berkeley, fracking in California often requires hundreds of thousands of gallons per well. A study by the California Council on Science and Technology showed that approximately 90% of the water used in well stimulation operations could instead be used for irrigation or domestic use.

Forestalling water shortages in the County becomes especially challenging during drought conditions like those we are currently experiencing. Residents are already experiencing unprecedented increases in water rates and anticipate further rate increases. Monterey County voters want to ensure that our limited water supplies are preserved for local farmers and residents, not for fracking or expanded oil and gas production operations.

- 5. Oil and Gas Production Operations, Including Fracking, and Oil and Gas Wastewater Injection and Surface Disposal Present a Risk of Water Pollution and Soil Contamination That Monterey County Cannot Afford.** Many oil and gas production operations, including those using well stimulation treatments, mix, transport, or store toxic and hazardous chemicals such as those used in fracking or acidizing fluid.

Operators in the San Ardo oilfield in Monterey County have reported several spills or hazardous releases in recent years. The wastewater and chemicals from these operations threaten to contaminate Monterey County's water supply through improper storage or disposal, surface spills, or other means. These impacts have been experienced in other states. Water and soil contamination poses a health risk both to humans and to livestock and wildlife.

Surface spills and leaks can also occur at wastewater injection sites. And in 2015, California state regulators revealed that oil and gas producers in Monterey County had been using injection wells to dispose of oil and gas wastewater into aquifers protected under the Safe Drinking Water Act (42 U.S.C. § 300(f) et seq.).

Given the County's heavy reliance on groundwater, and the importance of the Salinas River watershed to the region, water contamination could have devastating impacts on agriculture, our local economy, and our water supplies. Monterey residents are unwilling to accept the increased risk of water pollution posed by fracking and other well stimulation treatments and wastewater injection and wastewater disposal ponds.

This Initiative will reduce these risks by prohibiting fracking and other well stimulation treatments, phasing out oil and gas wastewater injection and the use of wastewater disposal ponds, and prohibiting new oil and gas wells. Oil companies in Monterey County have already explored options to treat oil and gas wastewater, and have begun implementing them. For example, according to an industry publication, a wastewater treatment facility constructed in 2007 at the San Ardo oil field could treat approximately

one third of the wastewater produced in San Ardo, using reverse osmosis.

6. **Expanding Oil and Gas Production Operations and Continuing to Drill New Oil and Gas Wells Is Incompatible With Monterey County’s Vision for the Future.** Oil and gas development projects are industrial operations at odds with the qualities and values that make Monterey County unique and prosperous. Oil and gas production operations, including fracking, and wastewater disposal activities can have considerable land use and environmental effects, including impacts on water supply, water quality, air quality, earthquake risk, scenic and biological resources, and our rural and agricultural way of life. These impacts threaten the health, safety, welfare, and quality of life of Monterey County residents. For these reasons, oil and gas production operations in the County should be limited to existing wells. These wells number over 1,500, according to public records of the State Division of Oil, Gas & Geothermal Resources.

Allowing new wells to be drilled will expand oil and gas production operations in Monterey County and threatens to increase the environmental impacts from these activities. This Initiative prohibits the drilling of new oil and gas wells within the unincorporated areas of the County.

7. **Expanding Oil and Gas Production Operations in Monterey County Is Inconsistent With Our Agricultural Heritage and Rural Character.** Monterey County takes pride in its agricultural heritage, the reputation of its agricultural products, and its wineries. Residents choose to live in Monterey County over neighboring urban areas because of the County’s quiet, slower pace of life and its pastoral atmosphere.

According to the Monterey County General Plan Environmental Impact Report, the County’s agricultural economy is the third largest in California. As of 2006, there were more than 1.3 million acres of agricultural lands in the county, representing more than 60% of the total land area. As the County’s leading industry and one of its largest employers, agriculture is a vital part of our economy. According to a recent report cited in the Monterey County Legislative Program for 2015-2016, agriculture provides over 73,000 jobs in Monterey County. This is far more than local oil and gas production.

Monterey County’s General Plan has a policy of prohibiting land uses that would interfere with ongoing agricultural operations. Expanding oil and gas production operations, including by allowing fracking and acid well stimulation treatments, threatens our agriculture-based economy. It could also lead to the conversion of agricultural lands and rangelands to oil fields, and fragmentation of existing agricultural and rangeland operations.

8. **Wastewater Injection and Fracking Will Increase the Already High Risk of Earthquakes in Monterey County.** Seismic activity is a matter of particular concern in Monterey County. Major active geologic faults, including the San Andreas fault, run through the County and numerous other faults have been mapped in the region. The Monterey County General Plan recognizes that the southeast County is a particularly active earthquake area with a regular cycle of moderately large earthquakes. Five earthquakes of magnitude 6.0 or greater have occurred on that segment of the San

Andreas fault since 1901. Earthquake damage from these events has been significant.

Oil and gas production operations using fracking and other well stimulation treatments and associated wastewater injection wells have been shown to induce and/or exacerbate earthquakes. The risk of increased seismic activity in Monterey County from these activities threatens public health and safety and the built environment, including oil and gas infrastructure. County residents do not accept this heightened risk.

9. Expanding Oil and Gas Production Operations Will Further Degrade Our Air Quality. Studies suggest that oil and gas production operations using well stimulation treatments increase emissions of air pollutants linked to poor health outcomes and reduced agricultural yields. Air pollutants including benzene, toluene, ethylbenzene, xylene, radon, particulate matter, and others have been measured in elevated concentrations close to oil and gas production operations using well stimulation treatments. Ground-level ozone from emissions of nitrogen oxide, methane, and volatile organic compounds from oil and gas development have also been observed. Residents want to protect the air they breathe from these threats.

10. Expanding Oil and Gas Production Operations Could Degrade Our Scenic Vistas and Reputation as a Destination. The beautiful scenic qualities of Monterey County are a major attraction for both residents and visitors. Pinnacles National Park, Monterey Bay National Marine Sanctuary, Elkhorn Slough, Los Padres National Forest, Ventana Wilderness, Point Lobos, Jack’s Peak, Silver Peak Wilderness, and Big Sur are popular destinations. Views of mountains, undeveloped rangelands, large agricultural fields and croplands, natural ridgelines of the Santa Lucia and Coast Ranges, and annual grasslands provide some of the prominent elements of the County’s pastoral landscape. According to a recent report, tourism is the second largest industry in Monterey County, supporting 22,000 jobs—far more than local oil and gas production.

Failing to curtail the number of new oil and gas wells in Monterey County could increase the number of unsightly oil derricks in the County, along with conspicuous drill rigs, pumping units, and other surface equipment and facilities. Our rural roads could be increasingly used by heavy industrial trucks, which will degrade road conditions and heighten noise, traffic, and safety concerns. It could also negatively affect tourism in Monterey County.

11. Expanding Oil and Gas Production Operations Could Harm the County’s Biological Resources. Monterey County is one of the richest biological regions in North America. The County contains a variety of habitats including aquatic habitats, grasslands, wetlands, and oak woodlands. There are numerous federally listed endangered and threatened species and state designated special-status species in the County. More than 70,000 acres in the County are designated as critical habitat by the U.S. Fish and Wildlife Service. These habitat types provide high conservation value for the preservation of rare, threatened, and endangered plant and wildlife species, such as the California condor, San Joaquin kit fox, steelhead, and southern sea otter.

Expanding the footprint of oil and gas production operations, including those using well

stimulation treatments, threatens to harm valuable biological resources within the County. Industrial activity at well sites including well drilling, grading, surface pad and road construction, and the associated noise and air pollution, can degrade and destroy habitat. The potential for water contamination poses a further threat to wildlife.

12. **We Must Protect the Monterey Bay National Marine Sanctuary.** The Monterey Bay National Marine Sanctuary is one of the nation’s most prized marine areas, which is why it is already protected from off-shore oil and gas exploration. Oil and gas development poses unacceptable risks to these sensitive marine habitats, coastal species, fisheries, protected marine mammals, recreational activities, and scientific research. The Monterey Marine Sanctuary is intimately connected to the many watersheds that empty into it, including the Salinas River, and to the Salinas River Groundwater Basin. Any pollution of connected water drainage systems and the underlying aquifers could pollute the Bay and undermine its purpose as a protected Marine Sanctuary. This is a risk that Monterey residents cannot tolerate. This Initiative does not prohibit or regulate offshore oil and gas production operations, which are outside of the County’s jurisdiction.
13. **Reliance on Oil and Gas Extraction Is Not the Way to Grow a Healthy Economy in Monterey County.** Oil and gas production operations, including those using well stimulation treatments like fracking, do not adequately provide the long-term local job opportunities that are necessary to sustain a healthy local economy. Rapid development of oil resources can lead to “boom-and-bust” growth that is ultimately harmful to the local economy. It is debatable whether oil and gas production operations will create a significant number of new jobs in Monterey County in the long term—and they threaten the assets and resources upon which a prosperous future for the County depends.

The people of Monterey County wish to create 21st century job opportunities in tourism, renewable and clean energy, and green technology, which are compatible with our existing economic strengths and the quality of our communities. Residents want a robust tourism sector that leverages our existing agricultural, historical, and environmental assets. A healthy, sustainable economy requires developing a diversity of energy resources, such as wind and solar. The County plans to meet California greenhouse gas reduction targets and stimulate local businesses and the economy by supporting new renewable energy development. Oil and gas production operations, including those using fracking and other well stimulation treatments, are non-renewable, carbon emitting, and use extractive technologies that are incompatible with these goals and with preserving what makes Monterey County a desirable place to live and work.

14. **Monterey County’s Oil Is Particularly Carbon-intensive.** The oil in Monterey County is particularly thick and viscous, and requires a significant amount of energy to extract and refine. Operators frequently use “enhanced” oil recovery techniques such as steam injection to heat the heavy oil deposits in order to bring them to the surface. These operations require more surface equipment, including combustion engines that burn fossil fuels and release air pollution and greenhouse gasses, therefore reducing the net energy gain from extracting the oil. Crude oil from Monterey’s San Ardo oilfield is the second most carbon-intensive in California, and some of the most carbon-intensive in the world, according to the California Air Resources Board.

- 15. Expanded Oil and Gas Production Operations Will Contribute to Climate Change.** Greenhouse gas emissions, both from the production and the combustion of oil and gas produced in Monterey County, will contribute to global climate change and its negative effects. Climate change poses serious risks to California’s natural resources, particularly in coastal counties like Monterey. These risks include changes in temperature, precipitation patterns, and water availability, as well as rising sea levels and altered coastal conditions. Monterey County residents wish to ensure that the County works to reduce greenhouse gas emissions and is a leader in the State’s efforts to meet greenhouse gas reduction targets.

SECTION 2: MONTEREY COUNTY GENERAL PLAN AMENDMENTS

- A.** This *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* (“Initiative”) hereby amends the Monterey County General Plan, as amended through February 23, 2016 (“submittal date”) (“General Plan”). Text to be inserted in the General Plan is indicated in **bold** type. The language adopted in the following amendments may be repealed or amended only by a vote of the people. The General Plan Land Use Element (which is a part of the General Plan) is hereby amended to add the following new Policies LU-1.21, LU-1.22, and LU-1.23:

LU-1.21 Land Uses in Support of Well Stimulation Treatments Are Prohibited.

- 1. Prohibited Land Uses: The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of well stimulation treatments is prohibited on all lands within the County’s unincorporated area.**

- 2. Definitions:**

“Well stimulation treatments” means any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments. Well stimulation treatments do not include steam flooding, water flooding, or cyclic steaming and do not include routine well cleanout work, routine well maintenance, routine removal of formation damage due to drilling, bottom hole pressure surveys, or routine activities that do not affect the integrity of the well or the formation.

“Hydraulic fracturing treatment” means a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.

“Acid well stimulation treatment” means a well stimulation treatment that uses, in whole or in part, the application of one or more acids to the well or underground geologic formation. The acid well stimulation treatment may be at any applied pressure and may be used in combination with hydraulic fracturing treatments or other well stimulation treatments. Acid well stimulation treatments include acid matrix stimulation treatments and acid fracturing treatments. Acid matrix stimulation treatments are acid treatments conducted at pressures lower than the applied pressure necessary to fracture the underground geologic formation.

- 3. This Policy LU-1.21 was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

LU-1.22 Land Uses in Support of Oil and Gas Wastewater Injection and Oil and Gas Wastewater Impoundment Are Prohibited.

- 1. Prohibited Land Uses: The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of oil and gas wastewater injection or oil and gas wastewater impoundment is prohibited on all lands within the County’s unincorporated area.**
- 2. Reasonable Amortization Period: In order to provide a reasonable amortization or “phase-out” period, all nonconforming land uses under this Policy LU-1.22 shall be discontinued within five years of the Effective Date. The five-year amortization period may be extended on a case-by-case basis if the Planning Commission determines that the applicant: (a) had, as of the Effective Date, a vested right under State law to conduct land uses in support of oil and gas wastewater injection and/or oil and gas wastewater impoundment; and (b) makes a showing, based on substantial evidence, that five years is not a reasonable amortization period pursuant to State law. Any such extension may be granted only for the minimum length of time necessary to provide a reasonable amortization period pursuant to State law, and shall not exceed 10 years (in addition to the initial five-year period for a total of 15 years).**

All Planning Commission determinations made under this Policy LU-1.22 must be made upon application by the property owner and after a duly noticed public hearing and may be appealed to the Board of Supervisors.

Nothing in this Policy LU-1.22 is intended to affect any existing County authority to terminate operations found to be a nuisance, or that are otherwise operating unlawfully.

- 3. Definitions:**

“Oil and gas wastewater injection” means the injection of oil and gas wastewater into a well for underground storage or disposal.

“Oil and gas wastewater impoundment” means the storage or disposal of oil and gas wastewater in depressions or basins in the ground, whether manmade or natural, lined or unlined, including percolation ponds and evaporation ponds.

“Oil and gas wastewater” means wastewater brought to the surface in connection with oil or natural gas production, including flowback fluid and produced water.

“Effective Date” means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.

- 4. Nothing in this Policy LU-1.22 is intended to prevent a party who holds a permit issued by the California Division of Oil, Gas & Geothermal Resources from complying with requirements or conditions of that permit (for example, maintaining minimum hydrostatic pressure levels to prevent subsidence).**
- 5. This Policy LU-1.22 was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

LU-1.23 Land Uses in Support of Drilling New Oil and Gas Wells Are Prohibited

- 1. Prohibited Land Uses: The drilling of new oil and gas wells is prohibited on all lands within the County’s unincorporated area. This Policy LU-1.23 does not affect oil and gas wells drilled prior to the Effective Date and which have not been abandoned.**

- 2. Definitions:**

“Oil and gas wells” means wells drilled for the purpose of exploring for, recovering, or aiding in the recovery of, oil and gas.

“Effective Date” means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.

- 3. This Policy LU-1.23 was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

SECTION 3: LOCAL COASTAL PROGRAM AMENDMENTS

A. This Initiative hereby amends the North County Land Use Plan, Big Sur Coast Land Use Plan, Carmel Land Use Plan, and Del Monte Forest Land Use Plan, which Plans are part of the Monterey County Local Coastal Program, as amended through the submittal date. Text to be inserted in the Plans is indicated in **bold** type. The language adopted in the following amendments may only be repealed or amended only by a vote of the people. Amendments to the Local Coastal Program require certification by the Coastal Commission before they may take effect.

B. The North County Land Use Plan is hereby amended to add the following bold text as Land Use Plan and Development Specific Policy H on page 78, below existing Policy G; and

The Big Sur Coast Land Use Plan is hereby amended to add the following bold text as Land Use and Development Specific Policy P on page 100, below existing Policy O; and

The Carmel Area Land Use Plan is hereby amended to add the following bold text as Land Use and Development Specific Policy K on page 93, below existing Policy J; and

The Del Monte Forest Area Land Use Plan is hereby amended to add the following bold text as Land Use and Development Policy 97 on page 29, below existing Policy 96:

Land Uses in Support of Well Stimulation Treatments Are Prohibited.

1. **Prohibited Land Uses: The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of well stimulation treatments is prohibited on all lands within the County’s unincorporated area.**

2. **Definitions:**

“Well stimulation treatments” means any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments. Well stimulation treatments do not include steam flooding, water flooding, or cyclic steaming and do not include routine well cleanout work, routine well maintenance, routine removal of formation damage due to drilling, bottom hole pressure surveys, or routine activities that do not affect the integrity of the well or the formation.

“Hydraulic fracturing treatment” means a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.

“Acid well stimulation treatment” means a well stimulation treatment that

uses, in whole or in part, the application of one or more acids to the well or underground geologic formation. The acid well stimulation treatment may be at any applied pressure and may be used in combination with hydraulic fracturing treatments or other well stimulation treatments. Acid well stimulation treatments include acid matrix stimulation treatments and acid fracturing treatments. Acid matrix stimulation treatments are acid treatments conducted at pressures lower than the applied pressure necessary to fracture the underground geologic formation.

- 3. This Policy was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

C. The North County Land Use Plan is hereby amended to add the following bold text as Land Use Plan and Development Specific Policy I on page 78, below existing Policy G; and

The Big Sur Coast Land Use Plan is hereby amended to add the following bold text as Land Use and Development Specific Policy Q on page 100, below existing Policy O; and

The Carmel Area Land Use Plan is hereby amended to add the following bold text as Land Use and Development Specific Policy L on page 93, below existing Policy J; and

The Del Monte Forest Area Land Use Plan is hereby amended to add the following bold text as Land Use and Development Policy 98 on page 29, below existing Policy 96:

Land Uses in Support of Oil and Gas Wastewater Injection and Oil and Gas Wastewater Impoundment Are Prohibited.

- 1. Prohibited Land Uses: The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of oil and gas wastewater injection or oil and gas wastewater impoundment is prohibited on all lands within the County’s unincorporated area.**
- 2. Reasonable Amortization Period: In order to provide a reasonable amortization or “phase-out” period, all nonconforming land uses under this Policy shall be discontinued within five years of the Effective Date. The five-year amortization period may be extended on a case-by-case basis if the Planning Commission determines that the applicant: (a) had, as of the Effective Date, a vested right under State law to conduct land uses in support of oil and gas wastewater injection and/or oil and gas wastewater impoundment; and (b) makes a showing, based on substantial evidence, that five years is not a reasonable amortization period pursuant to State law. Any such extension may be granted only for the minimum length of time necessary to provide a reasonable amortization period pursuant to State law,**

and shall not exceed 10 years (in addition to the initial five-year period for a total of 15 years).

All Planning Commission determinations made under this Policy must be made upon application by the property owner and after a duly noticed public hearing and may be appealed to the Board of Supervisors.

Nothing in this Policy is intended to affect any existing County authority to terminate operations found to be a nuisance, or that are otherwise operating unlawfully.

3. Definitions:

“Oil and gas wastewater injection” means the injection of oil and gas wastewater into a well for underground storage or disposal.

“Oil and gas wastewater impoundment” means the storage or disposal of oil and gas wastewater in depressions or basins in the ground, whether manmade or natural, lined or unlined, including percolation ponds and evaporation ponds.

“Oil and gas wastewater” means wastewater brought to the surface in connection with oil or natural gas production, including flowback fluid and produced water.

“Effective Date” means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.

4. Nothing in this Policy is intended to prevent a party who holds a permit issued by the California Division of Oil, Gas & Geothermal Resources from complying with requirements or conditions of that permit (for example, maintaining minimum hydrostatic pressure levels to prevent subsidence).
5. This Policy was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.

- D. The North County Land Use Plan is hereby amended to add the following bold text as Land Use Plan and Development Specific Policy J on page 78, below existing Policy G; and

The Big Sur Coast Land Use Plan is hereby amended to add the following bold text as Land Use and Development Specific Policy R on page 100, below existing Policy O; and

The Carmel Area Land Use Plan is hereby amended to add the following bold text as Land Use and Development Specific Policy M on page 93, below existing Policy J; and

The Del Monte Forest Area Land Use Plan is hereby amended to add the following bold text as Land Use and Development Policy 99 on page 29, below existing Policy 96:

Land Uses in Support of Drilling New Oil and Gas Wells Are Prohibited

1. **Prohibited Land Uses: The drilling of new oil and gas wells is prohibited on all lands within the County’s unincorporated area. This Policy does not affect oil and gas wells drilled prior to the Effective Date and which have not been abandoned.**
2. **Definitions:**

“Oil and gas wells” means wells drilled for the purpose of exploring for, recovering, or aiding in the recovery of, oil and gas.

“Effective Date” means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.
3. **This Policy was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

SECTION 4: FORT ORD MASTER PLAN AMENDMENTS

- A. This Initiative hereby amends the Fort Ord Master Plan, as amended through the submittal date. Amendments to the Fort Ord Master Plan must be submitted to the Fort Ord Reuse Authority for certification before they may take effect. Text to be inserted in the Plan is indicated in **bold** type. The language adopted in the following amendments may be repealed or amended only by a vote of the people. The Fort Ord Master Plan is hereby amended to add the following new section on page FO-25, below Institutional Land Use Program C-2.2, which new section will include General Land Use Policies A-1, A-2, and A-3:

General Land Use Policies and Programs

Objective A: Implement the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative*.

General Land Use Policy A-1: Land Uses in Support of Well Stimulation Treatments Are Prohibited.

1. **Prohibited Land Uses:** The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of well stimulation treatments is prohibited on all lands within the County's unincorporated area.

2. **Definitions:**

“Well stimulation treatments” means any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments. Well stimulation treatments do not include steam flooding, water flooding, or cyclic steaming and do not include routine well cleanout work, routine well maintenance, routine removal of formation damage due to drilling, bottom hole pressure surveys, or routine activities that do not affect the integrity of the well or the formation.

“Hydraulic fracturing treatment” means a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.

“Acid well stimulation treatment” means a well stimulation treatment that uses, in whole or in part, the application of one or more acids to the well or underground geologic formation. The acid well stimulation treatment may be at any applied pressure and may be used in combination with hydraulic fracturing treatments or other well stimulation treatments. Acid well stimulation treatments include acid matrix stimulation treatments and acid fracturing treatments. Acid matrix stimulation treatments are acid treatments conducted at pressures lower than the applied pressure necessary to fracture the underground geologic formation.

3. This Policy was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.

General Land Use Policy A-2: Land Uses in Support of Oil and Gas Wastewater Injection and Oil and Gas Wastewater Impoundment Are Prohibited.

1. **Prohibited Land Uses:** The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of oil and

gas wastewater injection or oil and gas wastewater impoundment is prohibited on all lands within the County's unincorporated area.

2. **Reasonable Amortization Period:** In order to provide a reasonable amortization or "phase-out" period, all nonconforming land uses under this Policy shall be discontinued within five years of the Effective Date. The five-year amortization period may be extended on a case-by-case basis if the Planning Commission determines that the applicant: (a) had, as of the Effective Date, a vested right under State law to conduct land uses in support of oil and gas wastewater injection and/or oil and gas wastewater impoundment; and (b) makes a showing, based on substantial evidence, that five years is not a reasonable amortization period pursuant to State law. Any such extension may be granted only for the minimum length of time necessary to provide a reasonable amortization period pursuant to State law, and shall not exceed 10 years (in addition to the initial five-year period for a total of 15 years).

All Planning Commission determinations made under this Policy must be made upon application by the property owner and after a duly noticed public hearing and may be appealed to the Board of Supervisors.

Nothing in this Policy is intended to affect any existing County authority to terminate operations found to be a nuisance, or that are otherwise operating unlawfully.

3. **Definitions:**

"Oil and gas wastewater injection" means the injection of oil and gas wastewater into a well for underground storage or disposal.

"Oil and gas wastewater impoundment" means the storage or disposal of oil and gas wastewater in depressions or basins in the ground, whether manmade or natural, lined or unlined, including percolation ponds and evaporation ponds.

"Oil and gas wastewater" means wastewater brought to the surface in connection with oil or natural gas production, including flowback fluid and produced water.

"Effective Date" means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.

4. Nothing in this Policy is intended to prevent a party who holds a permit issued by the California Division of Oil, Gas & Geothermal Resources from complying with requirements or conditions of that permit (for example, maintaining minimum hydrostatic pressure levels to prevent subsidence).

5. **This Policy was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

General Land Use Policy A-3: Land Uses in Support of Drilling New Oil and Gas Wells Are Prohibited

1. **Prohibited Land Uses: The drilling of new oil and gas wells is prohibited on all lands within the County’s unincorporated area. This Policy does not affect oil and gas wells drilled prior to the Effective Date and which have not been abandoned.**
2. **Definitions:**

“Oil and gas wells” means wells drilled for the purpose of exploring for, recovering, or aiding in the recovery of, oil and gas.

“Effective Date” means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.
3. **This Policy was adopted by the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* and may not be amended or repealed except by a vote of the people.**

SECTION 5: CONFORMING AMENDMENTS

- A. In order to promote internal consistency among the various sections of the documents amended by this Initiative, the Initiative makes the following conforming amendments. Text to be inserted in the relevant document is indicated in **bold** type. Non-bolded text currently appears in the relevant document and is not changed or readopted by this Initiative. The language adopted in the following amendments may be further amended as appropriate without a vote of the people, during the course of further updates and revisions to the documents amended by this Initiative.
- B. The South County Area Plan (which is a part of the General Plan) is hereby amended to add the following new language to Policy SC-3.1, on page SC-1:

SC-3.1: Co-generation facilities may be allowed in conjunction with other industrial uses and oil and gas removal, as a means of energy conservation, on lands designated for industrial use, subject to a use permit in each case, **provided, however, that drilling new oil and gas wells and land uses in support of well stimulation treatments and oil and gas wastewater injection or impoundment are prohibited on these and all other designations, in accordance with General Plan Policies LU-1.21, LU-1.22, and LU-1.23.**
- C. The Big Sur Coast Land Use Plan is hereby further amended to add the following new Mineral Resources General Policy 6, on page 49, after Policy 5:

6. In all cases, mineral resources development shall be consistent with Land Use and Development Specific Policies P, Q, and R, which prohibit the drilling of new oil and gas wells and land uses in support of well stimulation treatments and oil and gas wastewater injection or impoundment.

- D. The Fort Ord Master Plan is hereby further amended to add the following language to Soils and Geology Objective B on page FO-35:

Objective B: Provide for mineral extraction and reclamation activities that are consistent with the surrounding natural landscape, proposed future land uses, and soil conservation practices, **provided, however, that drilling new oil and gas wells and land uses in support of well stimulation treatments and oil and gas wastewater injection or impoundment are prohibited in all land use designations in accordance with General Land Use Policies A-1, A-2, and A-3.**

SECTION 6: EXEMPTIONS FOR CERTAIN PROJECTS

- A. Nothing in this Initiative shall apply to prohibit any person or entity from exercising a vested right, obtained pursuant to State law, as of the Effective Date of this Initiative. Notwithstanding the foregoing, the Initiative provides a reasonable amortization period intended to phase out, consistent with state vested rights law, land uses in support of oil and gas wastewater injection and oil and gas wastewater impoundment.
- B. The provisions of this Initiative shall not apply to the extent, but only to the extent, that they would violate the constitution or laws of the United States or the State of California.
- C. In the event a property owner contends that application of this Initiative effects an unconstitutional taking of property, the Board of Supervisors may grant, upon request of the affected property owner, an exception to application of any provision of this Initiative if the Board of Supervisors finds, based on substantial evidence, that both (1) the application of that provision of this Initiative would constitute an unconstitutional taking of property, and (2) the exception will allow additional or continued land uses only to the minimum extent necessary to avoid such a taking.

SECTION 7: IMPLEMENTATION

- A. **Effective Date:** “Effective Date” means the date that the *Protect Our Water: Ban Fracking and Limit Risky Oil Operations Initiative* became effective pursuant to State law.
- B. **Monterey County General Plan:** Upon the Effective Date of this Initiative, the provisions of Section 2 of the Initiative are hereby inserted into the Monterey County General Plan, as an amendment thereof; except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year have already been used in the year in which the Initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the Monterey County General Plan on January 1 of the following year. Upon the Effective Date of this Initiative, any provisions of the County Code or any other Monterey County ordinance or

resolution that are inconsistent with the provisions adopted by this Initiative shall not be enforced in a manner inconsistent with this Initiative.

- C. **Monterey County Local Coastal Program and Coastal Commission Certification:** Following the Effective Date of this Initiative, the County of Monterey is hereby authorized and directed to submit the Initiative’s amendments to the Coastal Land Use Plans, along with any necessary supporting documents, to the California Coastal Commission for certification as an amendment to the Monterey County Local Coastal Program. If the three amendments to the Monterey County Local Coastal Program permitted by State law for any given calendar year have already been used in the year in which the Initiative becomes effective, this amendment to the Monterey County Local Coastal Program shall be the first amendment submitted to the California Coastal Commission for certification on January 1 of the following year. The voters further intend that the Initiative’s amendment to the Local Coastal Program will take effect automatically upon the California Coastal Commission’s approval.
- D. **Fort Ord Reuse Authority Certification:** Following the Effective Date of this Initiative, Monterey County is hereby authorized and directed to submit the Initiative’s amendments to the Fort Ord Master Plan, along with any necessary supporting documents, to the Fort Ord Reuse Authority for certification as consistent with the Fort Ord Reuse Plan. The voters further intend that the Initiative’s amendment to the Fort Ord Master Plan will take effect automatically upon the Fort Ord Reuse Authority’s certification of the amendments to the Fort Ord Master Plan as consistent with the Fort Ord Reuse Plan.
- E. **Interim Amendments:** The date that the notice of intention to circulate this Initiative was submitted to the elections official of the County of Monterey is referenced herein as the “submittal date.” The Monterey County General Plan in effect on the submittal date as amended by this Initiative comprises an integrated, internally consistent, and compatible statement of policies for the County of Monterey. In order to ensure that nothing in this Initiative measure would prevent the General Plan from being an integrated, internally consistent, and compatible statement of the policies of the County, as required by State law, and to ensure that the actions of the voters in enacting this Initiative are given effect, any amendment or update to the General Plan that is adopted between the submittal date and the date that the General Plan is amended by this Initiative measure shall, to the extent that such interim-enacted provision is inconsistent with the General Plan provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the General Plan.
- F. **Other County Plans, Ordinances, and Policies:** The County of Monterey is hereby authorized and directed to amend the Monterey County General Plan, all Area Plans, the Coastal Land Use Plans, the Fort Ord Master Plan, the County Code including the Inland Zoning Ordinance and the Coastal Zoning Ordinance, and other ordinances and policies affected by this Initiative as soon as possible and periodically thereafter as necessary to ensure consistency between the provisions adopted in this Initiative and other sections of the General Plan, Area Plans, the Coastal Land Use Plans, the Fort Ord Master Plan, the

County Code including the Inland Zoning Ordinance and the Coastal Zoning Ordinance, and other County plans, ordinances, and policies.

- G. **Reorganization:** The General Plan, Local Coastal Program, and Fort Ord Master Plan may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan, Local Coastal Program, Fort Ord Master Plan, and County Code, provided that the provisions of Sections 2, 3, and 4 of this Initiative shall remain in the General Plan, Local Coastal Program, and Fort Ord Master Plan, respectively, unless earlier repealed or amended by vote of the people of the County.
- H. **Implementing Ordinances:** The Board of Supervisors is authorized, after a duly noticed public hearing, to adopt implementing ordinances, guidelines, rules, and/or regulations, as necessary, to further the purposes of this Initiative.
- I. **Enforcement and Defense of Initiative:** The Board of Supervisors shall take all steps reasonably necessary to enforce this Initiative and to defend it against any challenge to its validity.
- J. **Project Approvals:** Upon the Effective Date of this Initiative, the County and its departments, boards, commissions, officers, and employees shall not grant, or by inaction allow to be approved by operation of law, any general plan amendment, rezoning, specific plan, subdivision map, use permit, development plan, exploration plan, production plan, coastal development permit, building permit, development agreement, or any other discretionary entitlement which is inconsistent with this Initiative.

SECTION 8: EFFECT OF COMPETING OR ALTERNATIVE MEASURE ON THE SAME BALLOT

This Initiative adopts a comprehensive scheme prohibiting land uses in support of well stimulation treatments and oil and gas wastewater injection or impoundment and the drilling of new oil and gas wells within the County's unincorporated areas. By voting for this Initiative, the voters expressly declare their intent that any other measure which appears on the same ballot as this Initiative and addresses land uses in support of well stimulation treatments and oil and gas wastewater injection or impoundment and the drilling of new oil and gas wells within the County's unincorporated areas, or conflicts with any provision of this Initiative, shall be deemed to conflict with the entire cohesive scheme adopted by this Initiative. Because of this conflict, if this Initiative and any such other Monterey County measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail and no provision of the other measure shall take effect. For the purposes of this Section 8, any other measure that appears on the same ballot as this Initiative and purports to amend any provision of this Initiative shall be deemed to directly conflict with this entire Initiative.

SECTION 9: SEVERABILITY AND INTERPRETATION

This Initiative shall be broadly construed in order to achieve its purpose.

This Initiative shall be interpreted so as to be consistent with all applicable Federal, State, and County laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions were declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application.

Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this Initiative.

SECTION 10: AMENDMENT OR REPEAL

Except as otherwise provided herein, this Initiative may be amended or repealed only by the voters of the County.

748862.10