



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

May 7, 2024

Shante Sylvester
Senior Deputy County Counsel
Board Liaison Division
500 West Temple St
Los Angeles, CA 90012-2713

Re: Your Request for Advice
Our File No. A-24-027

Dear Ms. Sylvester:

This letter responds to your request for advice regarding Section 84308, the “pay-to-play” provision of the Political Reform Act (the “Act”).¹

Note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTIONS

Is the Los Angeles County Board of Supervisors’ (“Board”) decision regarding the amendment (“Amendment”) to the Baldwin Hills Community Standards District (“CSD”) concerning permitted uses and entitlements of use for oil and gas wells, a “proceeding for a license, permit or other entitlement for use” under Section 84308? If so, are the property owners, mineral rights owners, the oil field operator or the pipeline and facilities owners and operators in the CSD “parties” or “participants” to the proceeding?

CONCLUSIONS

No, the Baldwin Hills CSD Amendment is not a proceeding subject to Section 84308. The Board initiated the Amendment to include the Baldwin Hills CSD in its larger general policy determination and ordinance applied throughout the County’s unincorporated areas. The facts indicate that the interests impacted by the Amendment will be many and diverse. Furthermore, the Amendment was not applied for, nor has an entitlement for use been formally or informally requested by a party to date, and it does not involve a contract between the County and a party.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Section 84308 is, therefore, not applicable to the Amendment proceeding. Based on this conclusion, no further analysis of parties or participants is necessary.

FACTS AS PRESENTED BY REQUESTER

On October 24, 2008, the Los Angeles County Board of Supervisors (“Board”) adopted the Baldwin Hills CSD for the unincorporated portion of the Inglewood Oil Field, located in the Baldwin Hills Zoned District, by way of an ordinance. The ordinance was enacted as an exercise of the Los Angeles County’s (“County”) police powers under the California Constitution. The CSD area is approximately 900 acres and has approximately 820 oil wells. There are eight total property owners in the CSD. In the oil field, the mineral that is being extracted is crude oil; as it gets processed, the crude oil is separated into oil, natural gas (methane), and water. All references to mineral rights are to “oil rights.”

The CSD was established, as stated in the municipal code, to “provide a means of implementing regulations, safeguards, and controls for activities related to drilling for and production of oil and gas within the oil field located in the Baldwin Hills area of the County.” Its stated purpose is “to ensure that oil field operations are conducted in harmony with adjacent land uses, to minimize the potential adverse impacts of such operations, to regulate such operations so they are compatible with surrounding land uses, and to enhance the appearance of the site with landscaping and other property maintenance requirements.”

The County Department of Regional Planning (“Department”), through the CSD, is responsible for land use and zoning regulations for the unincorporated portion of the Inglewood Oil Field. In recent years, the County has made efforts to better regulate oil drilling operations and prioritize the public health and safety of its residents living near oil wells. This includes the creation of the Baldwin Hills CSD in 2008, noted above. However, despite the additional regulations, residents of neighboring communities, which are largely communities of color, continue to express serious concern about odors, noises, and the impacts of spills, the most recent of which occurred in April 2021.

On September 15, 2021, the Board directed the Department to draft a new oil well ordinance for the unincorporated areas of the County that would prohibit all new oil and gas extraction wells in all land use zones. The ordinance would also designate all existing oil and gas extraction activities as legal nonconforming uses in all zones. The Board stated in its motion in support of this action (provided with this request) that its purpose was to address the “tens of thousands of County residents” living in close proximity to approximately 1600 active and idle oil wells. The Board noted that these oil wells were developed in the County at a time when there was “little understanding of the health and environmental impacts and a low population density.” Over half of the wells are within the Inglewood Oil Field, the largest urban oil field in the nation, located in the Baldwin Hills community. The Board further directed the Department to update the CSD’s ordinance to be consistent with the unincorporated County oil well ordinance.

The Board adopted the unincorporated County oil well ordinance on January 23, 2023. The provisions of the unincorporated County oil well ordinance will apply to the CSD only if the CSD’s ordinance is amended. This year, the Board will consider at a public hearing the Amendment that will align the CSD ordinance with the unincorporated oil well ordinance.

The key provisions of the Amendment will:

- Prohibit the location of new oil wells and production facilities in the district by removing all provisions in the CSD ordinance that allow new oil wells and production facilities within the CSD boundary.
- Make existing, legally established oil wells and production facilities nonconforming due to use. (Nonconforming uses must be discontinued and removed from their sites within 20 years of becoming nonconforming.)
- Maintain regulations in the CSD for existing oil wells and production facilities, including, but not limited to, compliance logs, requirements for site maintenance, bonds for existing operation, and requirements for well-plugging, abandonment, and restoration.

In response to our request for additional information, you clarified that the Amendment itself will have the legal effect of removing oil wells as a permitted use in the CSD. No additional actions are required specific to each permitted use to accomplish this change.²

Within the CSD boundaries, the County is aware of the following groups of potentially interested persons in the decision: (1) property owners, (2) mineral rights (oil rights) owners, (3) the oil field operator, and (4) pipeline and facilities owners and operators. The property owners have surface rights to the land and, unless already severed from the property, can sell the subsurface mineral rights. The mineral rights owners have a real property interest in the subsurface minerals and the right to explore for and extract the minerals within a tract of land. Mineral rights interests may be transferred independently of surface rights. The oil field operator owns or holds the rights, through agreements with property and/or mineral rights owners, to use the surface of the land to extract oil and gas. Oil field operations are supported by pipelines and other facilities owned by the oil field operator and other entities. If the CSD ordinance is amended, property owners, mineral rights owners, and operators will not be permitted to locate new oil wells within the CSD. All potentially interested persons would be required to cease non-conforming uses within 20 years of the Amendment.

To the County's knowledge, the CSD has eight property owners and 103 distinct mineral rights owners. The County is aware of the identities of the property owners and mineral rights owners. To the County's knowledge, there is one oil field operator: Sentinel Peak Resources ("Sentinel Peak"). The eight property owners reflect all the property owners in the CSD area and include the oil field operator's leasehold, with the remaining seven (7) property owners of the parcels that the operator does not own. There is also a residence in the northern portion of the oil field that is owned by the Cone Fee Trust and is sometimes rented out for filming. In addition to its leasehold and oil field operator status, Sentinel Peak also owns pipelines or facilities in the oil field. There may be other pipelines or facilities in the oil field not owned by Sentinel Peak. The Department does not

² You note that to discontinue the land use the permit holder will need approval from the California Geologic Energy Management Division to abandon the oil wells and other regulatory agencies may be involved in the decommissioning or removal of the facilities on site.

know the current ownership of any of the pipelines or facilities in the oil field that are not owned by Sentinel Peak. It is the Department's understanding that to determine the current ownership of the other pipelines and facilities, the Department must request the information from Sentinel Peak because the ownerships of the other pipelines and facilities are likely the result of private agreements.

You provided additional clarification that the oil rights are owned by the 103 mineral rights owners. The eight property owners own the surface rights of the properties they own. The oil field operator (Sentinel Peak) leases the property and mineral rights they don't own in order to operate the oil field. In this case, Sentinel Peak owns a good portion of the properties that make up the Inglewood Oil Field, but you are unsure if this company owns any of the mineral rights.

In response to our request for additional information on the origins of the Amendment, you state that to the knowledge of the Department's planner, there was no formal or informal request from any interested stakeholder specifically for the Amendment. The motion by the Board for both the Countywide Oil Well Ordinance and the Baldwin Hills CSD Amendment were initiated by the Board in an effort to protect the public health, safety, and welfare of residents living near oil wells and begin the process of transitioning away from fossil fuels countywide. However, there had been discussions over the years, dating back to the early 2000s, with the Baldwin Hills Conservancy about potentially turning the oil field into a park/open space in the future once oil production ended. It was anticipated in 2002 that the oil and gas operations would remain as long as oil production was economically feasible, and the land would become available for park acquisition and development over time.³

We also requested additional information on any involvement by the identified operator in the Amendment process. You responded that both the operator at that time and property owners were involved in the process of establishing the Baldwin Hills CSD in 2008. However, the current Amendment was initiated as a motion from the Board. There was no formal or informal initial request from these stakeholders. The operator, property owners, and the mineral right owners were notified about the Amendment and were part of the outreach that was conducted before the Amendment was presented to the Regional Planning Commission. The only request Department staff received was for additional outreach to each of these stakeholder groups. In public comment submitted to the Regional Planning Commission, property owners and the oil field operator made various requests, such as asking the Department to meet with the landowners and operator, asking the Commission to direct staff to conduct an environmental review under CEQA, asking it to decline to recommend the Amendment to the Board, postpone consideration of the Amendment, and requests related to what should be considered when determining the amortization period. Per a Departmental report dated September 20, 2023, the Department had stakeholder meetings with property and mineral rights owners, and with the operator, where they discussed issues like outreach, amortization, royalties, CEQA, and permitted actions under non-conforming use status.

³ Baldwin Hills Park Master Plan May 2002, Introduction.

ANALYSIS

The Act's "pay to play" restrictions, contained in Section 84308, aim to ensure that officers of government agencies are not biased by contributors or potential contributors of significant campaign contributions who might appear before them in a proceeding involving a license, permit, or entitlement for use. Section 84308 is aimed not only at actual corruption or bias but also at the appearance of corruption or bias that may occur if a public officer were to solicit or accept contributions from a party, participant, or their respective agent while a proceeding is pending before the public officer's agency or has recently concluded.

Section 84308(b) provides:

While a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered in the proceeding, an officer of an agency shall not accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party or a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7.

Proceedings Subject to Section 84308

Section 84308's restrictions and requirements only apply in the context of a "proceeding involving a license, permit, or other entitlement for use." Section 84308 defines "[l]icense, permit, or other entitlement for use" to mean "all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises." Recently adopted Regulation 18438.2 further defines the phrase "proceeding involving a license, permit, or other entitlement for use" to mean:

any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use, that does not solely involve purely ministerial decisions and is:

- (1) Applied for by the party;
- (2) Formally or informally requested by the party; or
- (3) A contract between the agency and the party or a franchise granted by the agency to the party, other than a contract that is competitively bid, a labor contract, or a personal employment contract.

(Regulation 18438.2(a).)

Additionally, in *City of Agoura Hills v. Local Agency Formation Com.*(1988) 198 Cal.App. 3d 480, the California Court of Appeal explained, "[Section] 84308 does not cover proceedings in which general policy decisions or rules are made or where the interests affected are many and diverse." (*Id.* at pp. 497-498, citing *Fallon Advice Letter*, No. A-85-050.) Also, we note that we

have previously cautioned that the mere classification of an action as a “rulemaking proceeding” does not inherently indicate the proceeding will fall outside the scope of Section 84308. (See, e.g., *Bakker* Advice Letter, No. A-24-004; *Waldman* Advice Letter, No. I-08-005; *Dorsey* Advice Letter, No. I-06-128, citing *Quadri* Advice Letter, No. A-02-096.) In the *Quadri* letter, *supra*, we advised that a rulemaking procedure that impacted three cement plant businesses qualified as a proceeding involving a license, permit, or other entitlement for use for purposes of Section 84380, due to the particular circumstances where each business had substantially contributed to the shape of earlier amendments to the rule, and the proceeding’s impact on the three businesses was similar to a permit proceeding.

Under the facts presented and given the nature of the Amendment, we advise that the proceeding does not fall under the scope of Section 84308. The facts indicate that the Amendment was initiated by the County, rather than applied for or otherwise initiated by a party. It is not a contract between the County and any affected interest. Rather, the Amendment is part of a larger County action to make the activity a nonconforming use. The County’s purpose is to address the health and environmental impacts of the oil wells on County residents consistently throughout the unincorporated area. The Amendment would impact, at a minimum, one oil field operator, eight property owners, and 103 mineral rights owners—some of whom have generally opposed the Amendment. Given the broad nature and impact of the Amendment, the general nature of input and feedback (including general opposition) by some landowners and stakeholders in this instance does not transform the Amendment process into an entitlement for use proceeding. Further, it would be an overbroad application of the prohibitions in Section 84308 to prohibit contributions from all persons with an interest in this general restriction. Therefore, the Amendment does not fall within the scope of Section 84308 as a proceeding involving a license, permit, or other entitlement for use. Based on this conclusion, no further analysis of parties or participants is necessary.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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