

**KERN COUNTY  
OIL AND GAS PERMITTING PROGRAM  
ANNUAL PROGRESS REPORT  
(December 1, 2017 to November 30, 2018)**



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## **1.0 Introduction**

On November 9, 2015, the Kern County Board of Supervisors approved revisions to the Kern County Zoning Ordinance – (2015C), focused on Oil and Gas Local Permitting and certified an Environmental Impact Report (SCH #2013081079). Staff was directed to provide an annual update to the Board regarding the process.

### **History of Oil and Gas Zoning Amendment**

On January 22, 2013, your Board directed Staff to proceed with identifying changes to the Zoning Ordinance that would provide streamlined permitting for oil and gas operations with full California Environmental Quality Act (CEQA) coverage and address surface owners concerns in split estate (surface and minerals owned by different entities) situations. The costs were directed to be fully funded by the oil industry, but as with other development applications, managed by Staff as an objective review and proposal that balanced the needs of business with critical environmental protection and quality of life issues for all of Kern County. The revisions to Title 19 of the Kern County Zoning Ordinance included updated procedures, implementation standards, and conditions for future oil and gas exploration, development, and production activities in unincorporated Kern County. The project required consideration of environmental impacts under the California Environmental Quality Act (CEQA) with an Environmental Impact Report (EIR), which was certified by your Board.

Specifically, the Zoning Ordinance revisions addressed oil and gas exploration and operation activities by:

- Establishing updated implementation standards, conditions and mitigation measures to address environmental impacts of pre-drilling exploration, well drilling, and the operation of wells and other oil and gas production-related equipment and facilities, including exploration, production, completion, stimulation, reworking, injection, monitoring, and plugging and abandonment; and by,
- Establishing new “Oil and Gas Conformity Review” and “Minor Activity Review” ministerial permit (7 day review time) procedures for future well drilling and operations to ensure compliance with the updated implementation standards, mitigation measures, and conditions and provide for ongoing tracking and compliance monitoring.
- Incorporating a 120 day pathway and additional notice and monitoring requirements for projects on split estate that do not have surface owner signature on the site plan application for Oil and Gas Conformity Review in some areas to encourage surface and mineral owner dialogue and resolution of issues.
- Implementing a Mitigation Measure Monitoring Program in compliance with the California Environmental Quality Act, which includes all mitigation measures included in a comprehensive Environmental Impact Report prepared for the project.

The unincorporated valley portion of Kern County was broken up into five Tiers. Tier 1 consisting of land primarily used for oil and gas exploration. Tier 2 consisting of property zoned for agricultural use. Tier 3 consisting of industrial zoned lands. Tier 4 consisting of residential and commercial zones and Tier 5 consisting of Special Planning Areas.

Two types of permits are now required for oil and gas exploration. An Oil and Gas Conformity Review is required for all new wells (exploration, production, observation and injection), re-works of existing wells, and SB4 – regulated activities. A Minor Activity Review is required for other new ground disturbing

activities such as: pipelines, tanks, and treatment facilities that are not associated with an Oil and Gas Conformity Review.

## **Departmental Structure**

On December 9, 2015, oil and gas companies began submitting applications for oil and gas permits. Your Board authorized Staff to develop a system for receiving and processing these permits under a new Departmental Division known as: Energy/Permitting. Currently, the Division is managed by one Division Chief (filled), and one Supervising Planner (filled), three Planners (2 vacant), three Permit Specialists (filled), one Oil Compliance Officer (vacant), and one Office Services Technician (vacant). As permitting levels were low at the beginning of the process Staff has held positions open to ensure adequate processing fees are collected prior to filling vacant positions. Staff has identified the need for a fiscal support position to manage aspects of the reconciliation required by the Auditor. Staff will continue to monitor permitting levels and processing times, as well as process improvement, prior to consultation with the CAO to request and fill vacant positions.

### **1.1 Reporting Period**

This report marks the third full year of Oil and Gas processing under the revisions to the Zoning Ordinance. The reporting Period began on December 1, 2017, the first day after last year's annual report, and goes through November 30, 2018.

During this reporting year, several parties filed lawsuits challenging the adequacy of the certified EIR, and the cases were consolidated before Judge Eric Bradshaw of the Kern County Superior Court (Vaquero Energy, Inc. et al. v. County of Kern et al., King 7 Gardiner Farms LLC v. County of Kern et al., and Committee for a Better Arvin et al. v. County of Kern et al., Kern County Superior Court Case No. BCV-15-101645, consolidated with Case Nos. BCV-15-101666 and BCV-15-101679). On April 20, 2018, the Court issued a judgment (Judgment) that upheld the EIR in its entirety except for requiring supplemental analysis under the California Environmental Quality Act (CEQA) for two (2) issues: (i) impacts to rangeland/grazing land, and (ii) impacts from road paving as a potential future means of mitigation to reduce designated air emissions. The Judgment did not vacate any portion of the Ordinance or the EIR. Pursuant to the Judgment, the Court issued a writ of mandate (Writ) to the County.

In response to the Court's ruling Staff prepared a Supplemental Environmental Impact Report (SEIR) and revisions to the Kern County Zoning Ordinance to address the potential impacts from oil and gas operations to rangeland/grazing land. The Kern County Planning Commission on November 8, 2018 considered and recommended the Board of Supervisors to certify the Supplemental Environmental Impact Report (SEIR) and adopt an ordinance amending various chapters of the Kern County Zoning Ordinance, relating to site development standards and permitting procedures for oil and gas exploration, extraction, operation, and production activities in unincorporated Kern County. The Kern County Board of Supervisors considered the SEIR and project on December 11, 2019 and approved the SEIR and related ordinance. The SEIR and approvals will be submitted back to the Superior Court for review in January, 2019. An appeal to the State of California Appeals Court is pending for consideration sometime in 2019 -2020.

### **1.2 Topics to be Discussed**

Staff has proposed the following topics to be discussed in this and each subsequent Report to your Board:

#### Accounting of Annual Permits

- Oil and Gas Conformity Review
- Minor Activity Review

#### Accounting of Annual CEQA Mitigation Fees Collected

- Roads Mitigation
- Fire equipment Mitigation
- Rural Crimes Task Force Mitigation
- Biological Habitat Replacement Mitigation
- Air Quality Emission Reduction Agreement Mitigation
- Agricultural Land Replacement Mitigation
- Paleontological Mitigation
- Notice of Exemption Clerk Posting Fee

#### County Produced Permit Assistance

- Accela Automation
- Oil and Gas Handbook
- Small Producers Handbook

#### Continued Coordination

- Online Permitting System
- Other County Departmental Reporting
- Emission Reduction Agreement Reporting
- Re-use of Produced Water

## 2.0 Accounting

This topic discusses the details of the permitting process in terms of permits processed and mitigation fees collected.

### 2.1 Annual Permits

During the reporting period, the Planning and Natural Resources Department received and processed the following number of permits:

Permit Type	Applied			Issued			Closed		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
Oil and Gas Conformity Review	1,202	1,943	1,114	1,122	1,891	1,055	125	252	42
Minor Reworks *	N/A	424	925	N/A	399	903	N/A	4	93
Minor Activity Review	77	118	159	72	105	151	20	38	26

\* Permitting initiated in May 2017

Source: Accela

In the third year of the program, County Staff has successfully reviewed 100% of applications within the mandated 7-business day and 3-business day review time frames. With an average 7-business day review being completed within 5-business days. Staff notes that the Division of Oil Gas and Geothermal Resources (DOGGR) will not issue the necessary permits unless the applicant has obtained a Kern County permit.

Section 19.98.100 of the Zoning Ordinance has provisions for the processing of an Oil and Gas Conformity Review when there is split mineral and surface ownership. When the applicant cannot obtain a signature from the surface owner, the 120 day permit process is activated. During this reporting period, the

Department has processed and approved three (3) permits under this pathway which include video surveillance, but none have yet to be finalized.

## 2.2 Annual CEQA Mitigation Fees Collected

The following CEQA mitigation fees were collected during the reporting period. The requirements for the expenditure of each collected amount is detailed in the individual mitigation measures and where appropriate, funds are managed by the County Administrative Office (CAO) to be expended by the responsible entity for specific uses.

Mitigation Measure	FEE CODE	AMOUNT		
		2016	2017	2018
4.16-1	POG050 - Roadway Maintenance/Improvements	\$388,700.00	\$1,444,500.00	\$2,805,000.00
4.14-1	POG051 - Firefighting Equipment	\$162,450.00	\$380,700.00	\$299,550.00
4.5-3	POG052 - Paleontological Resource	\$10,300.00	\$37,950.00	\$61,800.00
4.14-2	POG053 - Rural Crimes Unit	\$432,225.00	\$1,065,050.00	\$1,427,575.00
4.2-1	POG054 - Mitigation of Agricultural Land Replacement	\$30,996.00	\$20,817.00	\$66,247.67
4.3-8	POG055 - Air Quality Impacts	\$3,329,332.87	\$14,443,711.93	\$32,268,388.27
4.3-8	POG057 - SJVAPCD Fee	\$138,722.20	\$584,744.32	\$1,301,032.45
4.4-16	POG056 - Biological Resources Mitigation	\$60,502.50	\$349,985.29	\$431,815.40

Source: Accela

The Public Service Mitigation Measure (MM 4.14-1) established a total funding goal in the amount of \$850,000.00 for acquisition of industrial firefighting and rescue equipment. Each applicant for an Oil and Gas Conformity Review permit is required to contribute \$150.00 per each well for this Special Revenue Fund until the funding goal of \$850,000.00 has been met. As of the date of this report the balance of this account has reached \$846,925.00. The entire \$850,000.00 will be collected by the end of 2018. The Fire Department has ordered the construction of the Combination Walk in/Non-Walk-in Industrial Firefighting Vehicle which will take a year to build.

## 3.0 County Produced Permit Assistance

### 3.1 Accela Automation

Subsequent to when the project was approved by your Board, Staff began working to create a new automated permitting process. This process entailed the development of computer aided permitting software, designed to assist in meeting the review periods set out by the adoption of the revisions to the Zoning Ordinance. Accela Automation, the program currently used by the County for processing of grading and building permits by the Public Works Department was selected as the most compatible. Staff worked to design a module capable of handling oil and gas permits. The program was successfully launched at the start of the permitting process and has allowed Staff to input each oil and gas review permit into a database. Benefits of this program include: consistent processing times, accurate fee and mitigation estimates, and has allowed for reporting of permitting types for production of annual reports.

### 3.2 Oil and Gas Handbook

In January 2016, Staff released the Oil and Gas Handbook. This handbook was designed as an introduction to oil and gas permitting. The handbook can be utilized by oil and gas companies or by citizens in Kern County to help with understanding the rules and regulations of the local permitting process. A copy of the handbook can be found on the Kern County Website, located:

[https://psbweb.co.kern.ca.us/planning/pdfs/oil\\_gas/kern\\_oil\\_gas\\_permitting\\_handbook.pdf](https://psbweb.co.kern.ca.us/planning/pdfs/oil_gas/kern_oil_gas_permitting_handbook.pdf)

### **3.3 Small Producers Handbook and Permitting Software**

County Staff released a Small Producers Handbook in November of 2016. This handbook differs from the Oil and Gas handbook, in that it provides a step-by-step tutorial for any company to begin the permitting process. Along with the handbook, Staff worked with a private consultant to create an online permitting tool. This wizard driven program can be used by any company wishing to create a detailed site plan and checklist for mitigation monitoring and reporting. The program, along with the handbook, allows companies to walk through each of the requirements of the Zoning Ordinance and produce a package that can be submitted to County Staff for review. A copy of the handbook can be found on the Kern County Website, located:

[https://psbweb.co.kern.ca.us/planning/pdfs/oil\\_gas/kern\\_oil\\_gas\\_small\\_producers\\_handbook.pdf](https://psbweb.co.kern.ca.us/planning/pdfs/oil_gas/kern_oil_gas_small_producers_handbook.pdf)

### **4.0 Continued Coordination**

The success of the permitting program continues to be based on close coordination with State agencies including: DOGGR (Division of Oil, Gas, and Geothermal Resources), State Water Board, RWQCB (Regional Water Quality Control Board), SJVAPCD (San Joaquin Valley Air Pollution control Board), CDFW (California Department of Fish and Wildlife). Every week, a CD with all permits issued and materials submitted are sent so that these agencies, who can then utilize Kern County's enforcement of the permit requirements and EIR as a basis for the issuance of their permits.

Working proactively with the private sector, Staff identified areas for support in the permit process.

- Five individual mitigation measures discuss the need for a Worker Environmental Awareness Program (WEAP) to be in place for each company, prior commencement of any work associated with the oil and gas ordinance. Two private companies (Association of Builders and Contractors and Bruce Hoyt Safety) have become certified as WEAP trainers. This allows any oil company to send their employees to a training class in lieu of developing their own company based WEAP training. For smaller companies, this can equate to a few thousand in savings.
- As part of the processing for an Oil and Gas Conformity Review in a Tier II area, on split estate, the operator must provide for monitoring of all construction activity. As part of the Ordinance, a video surveillance plan may be used in lieu of having an on-site monitor. During the reporting period, three permits have been issued but have not been finalized. The video surveillance plan established will setup cameras on-site and record data during the construction period. Each evening, the video data will be uploaded to the Department for review. This process will continue to allow Staff to quickly review the files and will not require the use of County Staff time to be present for 8-10 hours a day on the job sites. To-date, two of these type of permits have been issued and completed.
- In order to process large quantities of permits with some of the larger oil companies, Staff has worked with the industry to offer fund transfer accounts by establishing a

workorder. The Department holds on retainer a sum of money, deposited by individual companies, and bills against this deposit as permits are issued. This allows the more regular companies to submit permits without the need to issue a check for each one.

As noted above, Staff is continuing to work on the Online Permitting System for all applicants. The System was fully operational in the middle of 2017. The online system allows the public the ability to view permitting activity.

#### **4.1 Online Permit Submission**

In January of 2017 Staff completed development of a tool to allow for the online submission of oil and gas permits through the Accela Automation program, known as Citizen Access. Applicants now are able to submit an application package, including site plans, mitigation compliance, and fees completely from their office. They also have the ability to check the status of their permit and print the necessary permit documents, once a permit has been issued. This process has dramatically increased the efficiency of the permitting process and saved applicants time and money. Another feature of Citizen Access is the ability for any member of the public to view past and current permits online.

Along with the handbook(s), Staff worked with a private consultant to create an online permitting tool. This wizard driven program can be used by any company wishing to create a detailed site plan and checklist for mitigation monitoring and reporting. The program, along with the handbook, allows companies to walk through each of the requirements of the Zoning Ordinance and produce an electronic package that can be submitted to Staff for review. These four tools have allowed Staff to continue to meet all processing times, along with providing applicants with helpful ways to learn about the new process and create applications.

#### **4.2 Other County Departmental Reporting**

Two mitigation measures approved with the revisions to the Ordinance require other County Departments to file annual reports with your Board. These Mitigation Measures are MM 4.14-2 (Rural Crimes) and MM 4.16-1 (Roads).

The Public Service Mitigation Measure (MM 4.14-2) established that each applicant for an Oil and Gas Conformity Review permit is required to contribute \$425.00 per each well for this Special Revenue Fund for the Sheriff's Rural Crime Unit to fund personnel. As of the date of this report the fees collected during this reporting period reached \$1,427,575.00. As part of this mitigation measure, the Sheriff's Department is charged with annually reporting to your Board on the expenditure of funds for the Rural Crimes Unit, including incident reports and response times.

The Public Service Mitigation Measure (MM 4.16-1) established that each applicant for an Oil and Gas Conformity Review permit is required to contribute \$1,500.00 per each well for this Special Revenue Fund to be expended by the Roads Commissioner for roadway maintenance and related improvements to address wear and tear on roads caused by oil and gas industry traffic. As of the date of this report the fees collected during this reporting period reached \$2,805,000.00. As part of this mitigation measure, the Kern County Public Works Department shall annually report to your Board on the expenditure of funds from the Oil and Gas Roadway Maintenance fee.

#### **4.3 Emission Reduction Agreement Reporting**

On August 18, 2016, the San Joaquin Air Pollution Control (APCD) Board approved the final Emission Reduction Agreement (ERA) between the APCD and the County for mitigation of air impacts as outlined

in the Final EIR. County Staff continues to work with the APCD on the coordinated review of projects to facilitate their consideration and the subsequent transfer of funds upon approval.

The Kern County Planning and Natural Resources Department is in receipt of the San Joaquin Valley Air Pollution Control District 2018 Annual Report for Indirect Source Review Program for July 1, 2017 to June 30, 2018 which can be reviewed at the following link:

<http://www.valleyair.org/ISR/Documents/2018-Annual-Report.pdf>

District Rule 9510 Indirect Source Review (ISR), was adopted by the District's Governing Board to reduce the impacts of growth in emissions resulting from new land development in the San Joaquin Valley. Developers of projects subject to Rule 9510 must reduce a portion of the emissions occurring during construction and operational phases through on-site measures, or pay off-site fees.

For 2019 the District has established the emission reductions cost effectiveness fee at \$9,090 per ton of emissions reduced. The Kern County Planning and Natural Resources Department Fee Well Emissions and Related Fee Schedule for the year 2019 to take effect January 1, 2019.

#### **4.4 Re-use of Produced Water**

Mitigation Measure 4.17-2 states the following:

Applicant shall increase the re-use of produced water, and reduce its use of municipal and industrial-quality ground or surface water use to the extent feasible. By the end of 2016, the Applicants shall work with the County to review water use data submitted to Division of Oil Gas and Geothermal Resources under Senate Bill 1281 and identify the five biggest oil industry users of municipal and industrial water by volume. The five biggest oil industry users of municipal and industrial water shall work together to develop and implement a plan identifying new measures to reduce municipal and industrial water use by 2020. The plan shall address the following activities, as appropriate: steam generation; drilling and completions (including hydraulic fracturing); dust control; compaction activities related to construction; and landscaping. Through the KernFLOWS initiative or other efforts (e.g., Groundwater Sustainability Agency), the five biggest oil industry users of municipal-and-industrial water shall also work with local agricultural producers and water districts to identify new opportunities to increase the use of produced water for agricultural irrigation and other activities, as appropriate. Any produced water treated and used for agricultural irrigation or other activities shall be tested and monitored to assure compliance with applicable standards for such agricultural irrigation or other uses.

Industry representatives have submitted a memorandum identifying the five biggest industry users of municipal and industrial water by volume. These companies are: Chevron, Freeport-McMoRan Oil & Gas, Aera Energy, LINN Energy, and California Resources Corporation. The estimated amount of combined M&I water injected was 8,000 acre-feet/year. The industry has committed to working together to identify new measures to reduce M&I water by 2020. Staff will continue to update the report as necessary.