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December 6, 2021

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Re: Case No. ENV-2020-1328-CE-1A
Project Address: 9101 West Pico Boulevard
Hearing Date: December 7, 2021
Council File No. 21-1025

Dear Honorable Members:

The undersigned represents Pacific Coast Energy Company, the project applicant and operator of the West Pico Drill Site (“Operator”), located at 9101 West Pico Boulevard. This letter is written in response to the CEQA appeal filed with the City Council on September 10, 2021, by Neighbors for a Safe Environment (“NASE”), represented by Amy Minter, Chatten-Brown, Carstens & Minter LLP (hereinafter “Appellant”), Case No. ENV-2020-1328-CE-1A.

I. INTRODUCTION

The Project involves a Plan Approval to review the effectiveness of, and the Operator’s compliance with, conditions imposed in Case Nos. BZA-2000-1697 and ZA-17683(PAD) for the existing 0.706 acre West Pico Oil Drill Site (hereinafter the “Project” or “Plan Approval”). NASE brings this appeal because it is displeased with the results of the Zoning Administrator’s Plan Approval determination, issued June 2, 2021, and the West Los Angeles Area Planning Commission’s (“WLAAPC”) subsequent decision, issued on August 26, 2021, which largely upheld the Zoning Administrator’s determination. Pursuant to Los Angeles Municipal Code (“LAMC”) Section 12.24-1.6(b), the WLAAPC’s action is not further appealable, and therefore NASE is attempting to use the current CEQA appeal process to have a second bite at the apple on arguments it previously raised to the WLAAPC which were rejected.

The Zoning Administrator's compliance review was conducted pursuant to Condition 78 of the current operating permit for the West Pico Oil Drill Site (Case Nos. BZA-2000-1697 and ZA-17683(PAD)), and Clause 4.b of the 2001 Settlement Agreement that resolved litigation brought by NASE concerning the operating permit. In its Plan Approval application, the Operator did not request any changes or modifications to the physical conditions existing at the drill site, or to any of the existing conditions of approval applicable to drill site operations. Fundamentally, however, NASE does not feel the Zoning Administrator went far enough complying with the terms of the 2001 Settlement Agreement when conducting its review of the effectiveness and the Operator's compliance with conditions imposed on the drill site. In NASE's opinion, had an adequate review been conducted, the Zoning Administrator would have found: (1) that Condition 72 is in direct contradiction with LAMC § 13.01.H and 13.01.I (requiring discretionary review of drilling operations within the City); (2) that illegal well activities have been occurring at the drill site under the authority of Condition 72 since 2000 when the current operating permit for the drill site (Case Nos. BZA-2000-1697 and ZA-17683(PAD)) was approved; and (3) that full discretionary review, including the preparation of an Environmental Impact Report ("EIR"), must occur in order to retroactively examine the potentially significant environmental effects of well activities that have been occurring at the site since 2000.

However, because the WLAAPC rejected these arguments, and the WLAAPC's determinations are not further appealable, NASE is forced to use the current CEQA appeal process in a misguided effort to have a re-hearing of arguments previously raised. In doing so, NASE misconstrues and mischaracterizes the scope of the Plan Approval, and seeks to disguise perceived inadequacies with the Zoning Administrator's Plan Approval determination as alleged CEQA violations. The City discretion, if any, is limited to the Project as defined, which involves the unmodified, continued operation of an existing drill site and related compliance review. Appellant seeks to fit a square peg in a round hole, and its arguments must fail.

II. BACKGROUND

A. The West Pico Oil Drill Site

The West Pico Oil Drill Site is a single "controlled drill site" comprised of two distinct portions, an oil and gas extraction (drilling) portion, and a production facility portion.

The subject Plan Approval compliance review applies to the oil and gas extraction (drilling) portion of the controlled drill site only, which was first approved on August 17, 1965, pursuant to Case No. ZA-17683, for Lots 883-888, and Lots 1035 and 1036, of Tract 6380. This portion is located on the north side of Pico Boulevard, between Doheny Drive and Oakhurst Drive, with a site address of 9101 West Pico Boulevard.

The production facility portion of the controlled drill site is located immediately to the west of the extraction facility portion, situated between Oakhurst Drive and Cardiff Avenue, with a site address of 9151 West Pico Boulevard. The production side was authorized on July 28, 1967, pursuant to Case No. ZA-18893, for Lots 1037, 1038 and 1039, of Tract No. 6380.

B. The Zoning Administrator's 2000 Approval of the Modernization Project

In 1999, the Operator's predecessor in interest (Breitburn Energy Co.) applied to modernize the oil and gas extraction (drilling) portion of the controlled drill site. The project included among other things raising the perimeter wall, enclosing the drilling and workover rig in a soundproofed and architecturally treated structure, and the construction of an enclosed support building. The modernization project involved the extraction portion of the controlled drill site only, not the production side. Consequently, the EIR prepared for the modernization project evaluated only the changes that would occur to the extraction facility side of the drill site.

On April 5, 2000, the Zoning Administrator approved the modernization project as proposed, together with 78 conditions imposed on the approval (ZA-1989-17683-PAD). The conditions of approval were in part derived from mitigation measures set forth in the EIR. There were 27 conditions imposed related to construction activities. The remaining 51 conditions were operational and general conditions.

C. Condition 72 Regarding the Drilling, Operation and Maintenance of Wells

Condition No. 72 addressed limitations on future well operations. Condition 72, in pertinent part, reads as follows:

Without prior written approval from the Zoning Administrator, no more than the existing 69 wells may be drilled, operated or maintained at the site and these wells shall be located at their current surface locations. All wells will be drilled from existing well cellars using existing strings of pipe or surface conductor pipe. In the event that applicant redrills any of the existing wells, the applicant shall provide the Zoning Administrator's office with duplicate copies of all filings pertaining to such well filed with the California Division of Oil, Gas and Geothermal Resources. . ."

Condition 72 states that "without prior written approval from the Zoning Administrator, no more than the existing 69 wells may be drilled, operated or maintained at the site." Condition 72 was incorporated into the 2000 approval (Case Nos. BZA-2000-1697 and ZA-1989-17683-PAD) specifically in recognition of the operator's vested right to drill, re-drill and convert up to 69 previously approved wells at the West Pico Drill Site. The first of these approvals was issued on August 17, 1965, and the last on June 29, 1979. The Zoning Administrator's approval dated March 4, 1969 clarified the City was authorizing up to a maximum of 69 wells to be drilled,

operated, and maintained at the site, 20 of which were produced water injection wells. (ZA-17683, March 4, 1969, page 2.)

As part of the 2000 modernization project, the scope of approval granted by the Zoning Administrator (ZA-1989-17683-PAD) was described as follows: “*a modification of existing conditions and methods of operation for an existing oil/gas extraction site, with an existing approved maximum of 69 wells, and approved plans therefore, permitting a 129-foot in height electrically-powered derrick, on Lot Nos. 883-888 on property located in the C4-1VL-0.*” The Zoning Administrator’s “Findings of Fact” in ZA-1989-17683-PAD specifically referenced the prior proceedings under ZA Case No. 17683 which authorized up to a maximum of 69 wells on the site, including 20 produced water injection wells.

Condition No. 72 thus recognizes the operator has a vested right, pursuant to previously granted discretionary approvals, to drill and re-drill up to 69 wells, including 20 injection wells (as permitted by Case ZA-17683), without obtaining further written approval from the Zoning Administrator’s office. However, as with any new well, the operator must also obtain authorization from CalGEM, formerly the California Division of Oil, Gas and Geothermal Resources. As of 2000, the operator had drilled 59 wells and the condition authorized ten additional wells provided state authorization was obtained.

D. NASE’s Lawsuit and the Resulting 2001 Settlement Agreement

NASE appealed approval of the modernization project to the Board of Zoning Appeals (BZA), and subsequently to the City Council. A public hearing was held before the full City Council on October 25, 2000 (Council File No. 2000-1842). The City Council voted to certify the EIR and approve the modernization project together with all 78 conditions as approved by the Zoning Administrator and BZA, including Condition No. 72. (Case Nos. BZA-2000-1697 and ZA-17683(PAD).)

NASE subsequently filed a petition for writ of mandate in the Superior Court of Los Angeles County, *Neighbors for a Safe Environment, et. v. City of Los Angeles, et. al.*, Case No. BC240760, seeking to set aside the EIR certification and the underlying permit approval related to the drill site modernization project. On June 8, 2001, the City, NASE, and Breitburn (the operator at the time) entered into an agreement whereby all parties mutually agreed to thirteen clauses in order to settle the litigation. The 2001 Settlement Agreement resolved all of NASE’s concerns related to the City’s 2000 approval of the modernization project. Pursuant to clause 4.b, the City and operator agreed to conduct 5-year recurring reviews of the effectiveness and the operator’s compliance with conditions. Notably, the Settlement Agreement did not modify, alter or address anything related to the drilling, re-drilling or maintenance of the 69 previously approved wells under Condition No. 72.

III. NASE'S ARGUMENTS REGARDING AVOIDANCE OF DISCRETIONARY REVIEW ARE UNTIMELY

At no point during the 2000 appeal process, the subsequent writ of mandate lawsuit, or in the 2001 Settlement Agreement, did NASE raise an argument or seek to address a concern that the 2000 approval of the modernization project (ZA-1989-17683-PAD) had the effect of illegally authorizing the drilling, operation and maintenance of wells without full discretionary review by the Zoning Administrator. This is a new argument that NASE raises now, over 20 years after the fact, in the context of the second Plan Approval process related to determining whether the operator has complied and is complying with the 78 conditions imposed on the 2000 approval.¹ As it stands, the Operator has a vested right to drill, operate, and maintain up to 69 previously approved wells at the site, without seeking further written approval from the City. If appellant had an issue with the manner in which this was addressed in the 2000 approval, the concern should have been raised during the prior appeal, litigation, and settlement process.

IV. SCOPE OF CURRENT PLAN APPROVAL

The current Plan Approval process began with a November 19, 2019 letter from the Chief Zoning Administrator notifying the Operator of the West Pico Oil Drill Site that it was required to file a Plan Approval for a review of compliance with the conditions imposed under Case No. ZA-17683(PAD), as required by Condition 78 and clause 4.b of the 2001 Settlement Agreement.

On February 28, 2020, the operator submitted an application to the Department of City Planning for a Plan Approval (Case No. ZA-1989-17683-PA2) to review compliance with the conditions of approval imposed under Case No. ZA-17683(PAD). The Operator did not request any changes or modifications to the drill site, or to any of the existing conditions of approval applicable to the drill site. There is no proposed expansion of any previously approved use. The Operator simply requested a review of the effectiveness of conditions, and its compliance with the conditions, imposed in Case Nos. BZA-2000-1697 and ZA-17683(PAD).

V. NASE'S ARGUMENTS REGARDING ILLEGAL DRILLING ACTIVITIES

NASE argues that Condition 72 unlawfully authorizes wells to be drilled, re-drilled and converted without any discretionary review by the City, which in turn is allowing environmental impacts to be swept under the rug. NASE argues the Class 1 and 21 exemptions are inappropriate for use with the current compliance review, because they are an attempt to legitimize years of

¹ The last condition review was completed March 13, 2006. The Zoning Administrator's 2006 determination concluded that the operator was in compliance with all relevant conditions of approval, including Condition 72. There was no appeal of the Zoning Administrator's 2006 compliance review determination.

illegal well drilling, re-drilling, and conversions, which is an expansion of use beyond what was approved or intended by the City when it adopted Condition 72.

What NASE refuses to accept is that all 69 wells referenced in Condition 72 previously underwent discretionary review and approval by the City Zoning Administrator. No further review or approval is required.

VI. CITY'S USE OF THE CLASS 1 AND 21 CATEGORICAL EXEMPTIONS

As an unmodified, continued operation of an existing drill site and related compliance review, the Proposed Project qualifies for exemption from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines, Article 19, Sections 15301 (Class 1) and 15321 (Class 21).

The Class 1 and 21 categorical exemptions, at issue here, are the appropriate categorical exemptions for the unmodified, continued operation of an existing drill site and related compliance review. As detailed in the Zoning Administrator's Determination and the administrative record, the City has provided substantial evidence to support its determination that the review is exempt from CEQA pursuant to CEQA Guidelines, Section 15301 (Class 1) and Section 15321 (Class 21), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Pursuant to CEQA Guidelines Section 15301, a Class 1 exemption is for existing facilities and, "the key consideration is whether the project involves negligible or no expansion of use." Pursuant to CEQA Guidelines Section 15321, a Class 21 exemption is for enforcement actions by regulatory agencies and, "the adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective."

Both of these exemptions clearly apply. The proposed project is a required Plan Approval, pursuant to Clause 4b of the 2001 Settlement Agreement that mandates a periodic compliance review of conditions imposed on the continued operation of an existing drill site that was modernized. The Zoning Administrator's Determination, dated June 2, 2021, was provided in response to the Operator submitting documentation, as required by a Clause 4b of the 2001 Settlement Agreement. The 2001 Settlement Agreement does not obligate the City to perform de novo environmental review on the scope of the oil drilling operation as a part of the required condition review. Nor does the 2001 Settlement Agreement obligate the City to revise or impose new operating conditions on the drill site. The Operator did not propose any expansion of its previously permitted use, and the proposed Project will not result in a change to the number of wells at the site. The capacity of the oil and gas extraction facility will remain the same. The proposed Project will not result in a change to the physical environment, or in the baseline

conditions that existed at the time the Operator's Plan Approval application was submitted. The City's discretion, if any, is limited to the scope of the Project as defined.

VII. SUMMARY/CONCLUSION

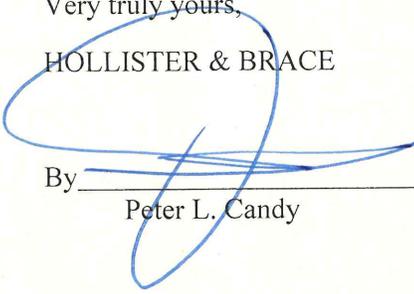
The proposed project is a narrow Plan Approval to review the effectiveness of and the Operator's compliance with conditions applicable to the current operating permit for the West Pico Drill Site (Case Nos. BZA-2000-1697 and ZA-17683(PAD)). Appellant however is displeased with the Zoning Administrator's decision on the Plan Approval and with the WLAAPC's subsequent Letter of Determination. In particular, Appellant is displeased with Condition 72, and wants it reopened, such that full discretionary review, including the preparation of an EIR, occurs in order to retroactively examine the potentially significant environmental effects of well-activities that have been occurring at the site since 2000.

Appellant's arguments are untimely. The Operator has a vest right to drill, redrill and maintain up to 69 approved wells at the site, including 20 water injection wells. These prior approvals underwent discretionary review by the City consistent with LAMC § 13.01.H and 13.01.I, and are specifically called out and recognized in the current operating permit for the West Pico Drill Site (Case Nos. BZA-2000-1697 and ZA-17683(PAD)). If Appellant had an issue with any of the 69 well approvals, or the manner in which Condition 72 was written, the issue should have been raised and litigated in the context of NASE's lawsuit challenging the EIR prepared for the 2000 drill site modernization project. The statute of limitations for bringing new claims arising out of the 2000 approval has long since passed.

Appellant's arguments are not only untimely, they are fundamentally misplaced in the context of the current CEQA appeal. The Zoning Administrator and WLAAPC rejected the substance of Appellant's argument regarding Condition 72, including arguments that illegal well activities are occurring at the site and have been since 2000. These decisions are not subject to further appeal. The scope of review now before your Committee is simply whether the Class 1 and 21 categorical exemptions relied upon by the Zoning Administrator and WLAAPC are appropriate for the unmodified, continued operation of an existing drill site and related compliance review. Appellant's efforts to mischaracterize the compliance review, and label it as a process to legitimize years of illegal oil drilling activities in violation of LAMC § 13.01.H and 13.01.I, is misguided. Appellant's arguments must be seen for what they are - - an inappropriate attempt to use the current CEQA appeal process as a vehicle to mischaracterize and re-argue otherwise non-appealable decisions made by the Zoning Administrator and WLAAPC.

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Very truly yours,
HOLLISTER & BRACE

By  _____
Peter L. Candy

PLC/cr