

Communication from Public

Name: Karen Morgaine
Date Submitted: 10/05/2022 08:20 PM
Council File No: 17-0447-S2

Comments for Public Posting: I urge the Energy Committee to vote in favor of the full ordinance as-is and move it forward for consideration of the full City Council. The current draft meets the demands of communities who want to ensure that the strongest health and safety protections possible remain in place while oil drilling sites are phasing out their operations. This includes a ban on maintenance activities that threaten the health and safety of residents. Beyond today, I am asking this Committee to champion this issue: approving this ordinance today is an important first step, but frontline communities need your follow-through. After the ordinance passes, we need you to: Quickly complete the amortization studies, and shorten the phase out period accordingly – 20 years is too long. Create a plan with swift timelines and strong standards for oil and gas operators to plug and clean up wells once they stop operations.

Communication from Public

Name: Warren Resources, Inc.

Date Submitted: 10/05/2022 08:29 PM

Council File No: 17-0447-S2

Comments for Public Posting: Warren E&P, Inc.; Warren Resources of California, Inc.; Warren Resources, Inc.; Warren Management Corp.; and Warren Operating LLC (“Warren”) provides these comments in opposition to the amendment of the Los Angeles Municipal Code to prohibit new oil and gas drilling activities and make existing extraction a nonconforming use. Additional comments are provided in the attached letter. Warren also incorporates all other comments in the record. Warren notes that in contrast to its usual procedures, the City has gone forward with this process without waiting for the completion of the CEQA comment period on the MND. Thus, the Planning Commission and this Committee have been deprived of a full analysis of the impacts related to this action, and the public has effectively been deprived of its right to comment. The California Supreme Court has rejected public agencies completing its environmental review after making an approval or recommendation on a project. As the Court noted, “[i]f post approval environmental review were allowed, [CEQA documents] would likely become nothing more than post hoc rationalization to support action already taken. We have expressly condemned this.” *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 388, 394. Our initial review of the MND indicates that there are fundamental flaws in the document. The first is that the MND fails to analyze indirect impacts related to GHG. It is a fundamental requirement that both direct and indirect impacts be analyzed. Yet there is no analysis or even discussion of indirect impacts in the GHG section, such as what GHG emissions would result from the added importation of oil. Warren has also hired an expert to analyze the MND’s analysis of air impacts. This initial analysis already indicates that the air quality analysis is fundamentally flawed, primarily based on a drastic understatement of emissions associated with plugging and abandonment work, and that an accurate assessment would indicate that the work would result in a significant impact. For these reasons alone, the City is required to develop an EIR for the proposed amendment. The CEQA analysis is also fundamentally flawed in that the City is attempting to piecemeal the CEQA analysis. For example, the City has indicated that it will define “maintenance” in the proposed ordinance as a follow-up action. The City also inaccurately describes the impacts to mineral

resources in determining that the impacts related to the Ordinance Amendment are insignificant. While the City describes these resources as insignificant, a report by the US Geological Service dated February 2013 describes the Los Angeles Basin, which is partly encompassed by the City, as containing “one of the highest concentrations of crude oil in the world. Sixty-eight oil fields have been named . . . including 10 accumulations that each contain more than 1 billion barrels of oil. One of these, the Wilmington-Belmont, is the fourth largest oil field in the United States.” (USGS Fact Sheet 2012-3120.) The draft action and MND also assumes, without any analysis, that oil operations within the City will result in unacceptable health impacts. Warren’s consultant has reviewed the air emissions related to Warren’s operations. These emissions are regularly reported to the Air District and indicate that Warren’s emissions are insignificant, comparable to a supermarket with a fast-food restaurant or a fast-food restaurant with a drive through. The Planning Department staff report and MND are simply inaccurate and not supported by a rigorous analysis of the facts. The MND at page 23 cites to Council File No. 17-0447 – Feasibility of Amending Current City Land Use Codes at Drill Sites, July 29, 2019, Report from the Petroleum Administrator to the City Council as support for the conclusion that oil operations result in unhealthy impacts. In fact, the Report, based on an exhaustive review of government reports and studies, concluded that: “There is a lack of empirical evidence correlating oil and gas operations within the City of Los Angeles to widespread negative health impacts. The lack of evidence of public health impacts from oil and natural gas operations has been demonstrated locally in multiple studies by the Los Angeles County Department of Public Health, the Los Angeles County Oil & Gas Strike Team, the South Coast Air Quality Management District and the comprehensive Kern County Environmental Impact Report and Health Risk Assessment.” Accordingly, for the reasons described above, and is stated in the attached letter, the Committee should reject further consideration of the proposed ordinance until such time as it can make an accurate assessment based on an EIR.



October 5, 2022

VIA ONLINE PUBLIC COMMENT FORM: <https://cityclerk.lacity.org/publiccomment/>

Los Angeles City Council
Energy, Climate Change, Environmental Justice, and River Committee
200 N. Spring Street
Los Angeles, CA 90012

Re: **Agenda Item #2; Council File No. 17-0447-S2
Warren Comment Letter Opposing Ordinance Amendment and Approval of MND**

Dear Chairperson O’Farrell and Councilmembers Koretz, Cedillo, De Leon, and Krekorian:

This letter provides comments on behalf of Warren E&P, Inc.; Warren Resources of California, Inc.; Warren Resources, Inc.; Warren Management Corp.; and Warren Operating LLC (collectively “Warren”) opposing the ordinance amending Sections 12.03, 12.20, 12.23, 12.24, and 13.01 of the Los Angeles Municipal Code (LAMC) to prohibit new oil and gas drilling activities and make existing extraction a nonconforming use in all zones (the “Ordinance Amendment”). The comment period is still pending for the associated proposed Mitigated Negative Declaration ENV-2022-4865-MND (“MND”), and thus the Committee is being asked to consider the MND, and the Planning Commission has already recommended that the City Council approve the same, when all comments have not yet been submitted. Warren thus also objects to the process since the Committee does not, and the Planning Commission did not, have the benefit of all comments on the MND, which are not due until October 17, 2022. In addition to the comments in this letter, Warren incorporates its prior comments to the City Planning Commission, the comments of other industry organizations and companies that were submitted in connection with the August 30, 2022 Planning Staff Meeting and the September 22, 2022 Planning Commission meeting in opposition to the Ordinance Amendment, and any additional comments that are submitted by other industry organizations and companies in opposition to the Ordinance Amendment.

The Ordinance Amendment Effects an Unconstitutional Taking for Which Just Compensation Must Be Paid & Deprives Warren of Its Vested Rights

At the outset, please understand that the Ordinance Amendment, if adopted in its current form, will put Warren out of business in approximately three years, depriving Warren—and the royalty owners that it serves—of their real property rights. These rights are currently valued in excess of \$675MM, and the U.S. and California Constitutions require the City to compensate Warren and its mineral owners for these losses. The Ordinance Amendment, however, unlawfully makes no provision for such compensation.

The Ordinance Amendment will result in cessation of Warren’s existing production in approximately three years because it prohibits Warren from engaging in the customary operations necessary to maintain production from its existing wells. Warren’s only operations and its only mineral rights are located within the City of Los Angeles and new wells are prohibited. As a result, the Ordinance Amendment would unquestionably put Warren out of business after three years, leaving its employees jobless, their families

without necessary financial support and its royalty owners without income that they have relied on for decades.

To date, Warren has invested over \$400MM to develop its mineral estate in the City of Los Angeles through three well cellars at a consolidated drilling facility (the “Site”). The current LAMC allows for these operations as a *permitted right*. Warren’s investment of over \$400MM was incurred not merely for its existing production at the Site but also for additional operations on existing wells within the three well cellars, so that production can be maintained over the projected life of the wells, and for the drilling of new wells in the same three cellars. The Ordinance Amendment will affect a zoning change that deprives Warren of engaging in its business at the Site and its business as a whole, subjecting the City’s action to heightened scrutiny under the independent judgment standard. (*See e.g., Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1525.)

Warren and its royalty owners will be deprived of their reasonable investment-backed expectations and of the right to develop the remaining reserves, which are presently valued in excess of \$675MM. The Ordinance Amendment thus will result in a taking of Warren’s and its royalty owner’s real property rights under the U.S. and California Constitutions, thereby subjecting the City to damages for this lost value—a significant liability for the taxpayers of the City of Los Angeles. (*See e.g., Penn Cent. Transp. Co. v New York City* (1978) 438 U.S. 104; *Hansen Brothers Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 553-554 (holding that “absolute prohibition [on mining] . . . practically amounts to a taking of the property”).)

Even though it holds mineral rights in other residential areas of the City, Warren limited its operations to the Site and to the three well cellars at the City’s specific request. Also at the City’s specific request, Warren agreed to give up its right to redrill 560 wells located outside the Site and agreed to a phased process of plugging and abandoning wells in the nearby area in return for the City agreeing that Warren could drill 540 wells at the Site with up to 5 well cellars.¹² To date, Warren has plugged and abandoned 41 wells in the surrounding area and has plans to plug and abandon more wells as its business continues to operate in the City.

¹ Zoning Case ZA 20725-0 (PA1) dated July 20, 2006 and Zoning Case ZA 20725-0 (PA2) dated October 2, 2008 (the “Approvals”).

² Warren was not required under the LAMC relating to the Approvals to give up the redrill rights to 560 wells and conduct the plugging and abandonment of 56 wells in the residential areas outside the Site within a certain time period. Neither were these measures related to the mitigation of environmental impacts. Accordingly, there was no essential nexus and rough proportionality as would be required if the Approvals were interpreted solely as permits under *Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Accordingly, the Approvals constituted a contractual obligation and give rise to a vested property right for that and other reasons. (*See M. J. Brock & Sons, Inc. v. City of Davis*, 401 F.Supp. 354, 361 (1983); *Morrison Homes Corp. v. City of Pleasanton*. 58 Cal.App.3d 724 (1976).) The Ordinance Amendment thus would improperly deny Warren a vested property right in violation of due process of law.

If the Ordinance Amendment is adopted, Warren will not be allowed to complete its project under the terms agreed upon by the City since no new wells will be allowed (221 wells have been drilled to date) and existing production cannot be maintained. Warren, however, has a legally protected and vested property right to utilize the Site for these additional operations. (See e.g., *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal. 3d 785, 791.)

The *Avco* rule provides that when a property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon an entitlement issued by an agency, the party acquires a vested right to complete the construction of the project. This is particularly true for Warren in that not only did Warren obtain all necessary approvals from the City, but it also gave up its rights to redrill 560 wells in the Wilmington neighborhood outside the Site. Accordingly, Warren must be allowed to complete its project.

Warren's situation is similar to that presented in the case *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530. In that case, as in Warren's, the owner had an underlying right to use the property as a tavern. The owner subsequently obtained a conditional use permit to expand the business. When that permit expired, the City argued that the owner's rights had expired. However, the *Goat Hill Tavern* court held that "once [an approval] has been properly issued the power of a municipality to revoke it is limited . . . Where [an approval] has been properly obtained and in reliance thereon the [grantee] has incurred material expense, he acquires a vested property right to the protection of which he is entitled." (*Goat Hill Tavern*, 6 Cal.App.4th at 1530.)

Similar to *Goat Hill Tavern*, where the tavern owner had an underlying nonconforming use right, Warren also has a right to use the Site as an oil and gas well drilling site by virtue of the City's February 25, 1972 approval of a drilling and production site within the Nonurbanized Oil Drilling District No. 5 in the R4 and M2-1-O zones and by virtue of the Approvals. The *Goat Hill Tavern* court cited to multiple cases in which an agency action would ultimately force the company out of business, which as discussed above is what will happen here with Warren. (*Id.* at 1528-1529.) The court also emphasized that "interference with the right to continue an established business is far more serious than when an agency denies a request for a permit in the first instance." (*Id.* at 1529.) Once a permittee has acquired such a vested right it may be revoked only if the permittee "fails to comply with *reasonable* terms or conditions *expressed* in the permit granted." (*Id.* at 1530 (emphasis added).) Here, the Ordinance Amendment completely revokes Warren's vested rights despite its compliance with terms and conditions expressed in the 1972 approval of the "O" drilling district and in the Approvals, and thus Warren will be deprived of its vested real property rights.

That the City's actions will extinguish Warren's business is readily ascertainable in that Warren must either continuously drill and maintain its wells, or go out of business. The California Supreme Court recognized in *Hansen Brothers Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533 that unlike other uses that operate within an existing structure or boundary, the use of land for mining and, in this instance, oil and gas drilling, anticipates the need to continuously expand the reach of the extraction activity. Warren must drill new wells and redrill and maintain old wells on the Site to maintain its current business. As stated by the California Supreme Court in *Hansen Brothers*, "this is not the usual case of a business conducted within buildings, nor is the land held merely as a site or location whereon the

enterprise can be conducted indefinitely with existing facilities. . . the land itself is a material resource. It constitutes a diminishing asset.” *Id.* at 553-554. Accordingly, “the ordinary concept of use must yield to the realities of the business in question and nature of its operations.” *Id.* Given Warren’s substantial economic investment, Warren’s drilling rights are a vested property right and if the City chooses to terminate these rights, Warren would be entitled to compensation under the California and United States constitutions.

The Planning Commission Unlawfully Took Action Prior to Completing its Review under CEQA

The Planning Commission unlawfully voted to recommend the Amended Ordinance prior to the City completing the CEQA process. In this situation, the proposed MND was only just circulated to the public on September 15, 2022, in conjunction with the issuance of the Staff Recommendation Report. The City states that the public comment period will extend through October 17, 2022, as is required by CEQA. Accordingly, the City has not yet received all comments from the public on the proposed MND and indeed, it would be a denial of due process and violation of CEQA to expect comments in such a short period of time. Impacts to the public’s general welfare including its health and safety are evaluated through the CEQA review, which process has not been completed and the comment period is still pending. Accordingly, the Planning Commission was required to complete the CEQA process, including completion of the public comment period, prior to taking action to recommend adoption of the MND and adoption of the Amended Ordinance by the City Council.

Even without these explicit requirements, the proposed action would violate CEQA. Amendments to ordinances are clearly a project under CEQA. The completion of the CEQA process, including the required comment period and the consideration of these comments, is necessary as to two fundamental purposes of CEQA, informed decision making *by the agency* and informed public participation. The case law is clear that the failure to satisfy these requirements is prejudicial error. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946.)

The California Supreme Court has explicitly rejected what the Planning Commission did here—took an action prior to the completion of the CEQA review process. In particular, in *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 388, 394 the Supreme Court stated that:

A fundamental purpose of [a CEQA document] is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If post approval environmental review were allowed, [CEQA documents] would likely become nothing more than post hoc rationalizations to support action already taken. We have expressly condemned this.

Accordingly, under not only its own requirements, but also under basic CEQA law, the Planning Commission unlawfully made a recommendation prior to completion of the CEQA process, thereby depriving the public of the right to participate in the process and preventing itself and your Committee from engaging in informed decision making.

**A Brief Review of the MND Indicates That the City Must
Prepare an EIR for the Proposed Project**

A brief review of the MND³ indicates that the Planning Department has understated the impacts that will result from this project. It is clear that, ultimately, the City will be required to prepare an EIR.

The MND's analysis of greenhouse gas emissions ("GHGs") is clearly deficient because it only analyzes the direct impacts related to curtailing oil and gas production in the City. It does not analyze any indirect impacts related to the termination of oil and gas production, which it is required to do under CEQA. (CEQA Guidelines Section 15064(d).) For example, the MND does not discuss that the termination of oil and gas extraction and production activities will result in additional imports of oil to the State and region, and that importation will result in additional GHGs through, for example, additional tanker emissions.

The MND severely underestimates the potential air quality and health risk impacts from the condensed schedule to plug and abandon wells and uses incorrect assumptions in calculating those impacts. For example, the horsepower rating of the main equipment item (the workover rig) is grossly underestimated. The MND's technical report shows that 33 bhp was used for the workover rig's power rating, whereas the normal range for a self-propelled mobile tractor-based workover rig is 450 bhp to 1,000 bhp. Warren will provide expert submissions prior to the October 17 comment deadline with more details on these issues. This analysis indicates that the ordinance will result in a significant impact to air quality.

The MND also is required to discuss the consistency of the Ordinance Amendment with City land use policies. The MND fails to address multiple policies that support the extraction and production of oil within the City (as discussed below).

Further, the MND glosses over the impacts to mineral resources in determining that the impacts related to the Ordinance Amendment are insignificant. As described above, the MND omits critical information from the General Plan related to the encouragement of extraction to reduce dependency on oil imports. The MND's remarks that the City "does not consider petroleum to be a mineral resource of local importance" is thus not supported by the City's own General Plan. Moreover, the CEQA Guidelines require the City to evaluate "the loss of availability of a known mineral resource that would be of value to the region and the residents of the state" not just the City. Accordingly, the analysis is flawed in that it addresses only impacts to the City, not the State as a whole.

The MND's conclusion that oil produced in the area "represents a small amount of the available Statewide resource" is also contradicted by readily available public information. For example, a report by the US Geological Service dated February 2013 describes the Los Angeles Basin, which is partly encompassed by the City, as containing "one of the highest concentrations of crude oil in the world. Sixty-eight oil fields have been named . . . including 10 accumulations that each contain more than 1 billion barrels of oil. One of these, the Wilmington-Belmont, is the fourth largest oil field in the United States." (USGS Fact Sheet 2012-3120.) Accordingly, based on this expert evidence it is undeniable, that the proposed

³ Warren will be submitting more fulsome comments to the MND prior to the October 17, 2022 deadline.

ordinance will have a significant impact on the availability of mineral resources. Based on this information alone, the City is required to develop an EIR.

CEQA requires that where there is substantial evidence supporting a fair argument that the project could have a significant non-mitigable effect the City must prepare an EIR. (CEQA Guidelines Section 15064(f)(1).) Even where there is “disagreement among expert opinion supported by the facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.” (CEQA Guidelines Section 15064(g).)

The City’s General Plan Review For Conformity is Incomplete and Thus Unlawful

As discussed in more detail below, Los Angeles Charter and Administrative Code Section 556 provides that the Planning Commission must find that proposed ordinance is in conformity with the General Plan. Such consistency is required by law. (*See e.g., City of Los Angeles v. State of California* (1982) 138 Cal.App.3d 526, 532.) This consistency is also required for charter cities pursuant to Government Code Section 65860. As discussed below, the ***Ordinance Amendment is not consistent with the City’s General Plan.***

The Staff Recommendation Report at Proposed Finding 1 leaves out critical elements in the General Plan in concluding that the Ordinance Amendment is in conformance with the purposes and intent of the General Plan. For example, in discussing the Conservation Element of the General Plan, Proposed Finding 1 sets out three policies. These policies generally describe a need for encouraging energy conservation, supporting the ban on offshore drilling and protecting neighborhoods from potential accidents and subsidence associated with drilling and production.

However, listed directly above these policies, and not stated in Finding 1, is the “Objective” that these policies support. In particular, the objective is to: “conserve petroleum resources and *enable appropriate, environmentally sensitive extraction . . . so as to protect the petroleum resources for the use of future generations and to reduce the city’s dependency on imported petroleum and petroleum products.*” (Emphasis added.) Accordingly, these policies may only be read in the context of allowing continued extraction. The fact that the Amended Ordinance would *ban extraction* rather than *enable extraction* clearly means that it is inconsistent with the General Plan.

Similarly, in the Health Wellness and Equity Element to the General Plan, Finding 3 indicates that Policy 5.4 is to protect communities’ health from noxious activities (which Finding 3 states includes, for example, oil and gas extraction). However, not included in the Staff Recommendation Report is that: “[t]his policy calls for the City to work with operators to ensure that they have the required permits in place, increase its regulatory role and encourage conditions of approval that mitigate land use inconsistencies and conflicts.” As a result, this section also assumes the continuance of extraction activities within the City.

Similarly, a brief review of the Land Use Element – Wilmington Harbor City Community Plan likewise indicates that the Amended Ordinance is inconsistent with the Wilmington Harbor City Community Plan. For example, Policies 3-5.1 and 3.5.3 clearly contemplate the continuance of extraction activities. Policy

3-5.4 provides for the consolidation of oil extraction operations to increase compatibility between oil activities and other land uses. Accordingly, nothing in these policies is consistent with a total ban on oil production like that proposed in the Ordinance Amendment. Finding 1 also does not discuss Objective 3-5, which the policies are drafted to support and which provides that the objective of the policies is “[t]o ensure the public health, safety and welfare *while providing for reasonable utilization* of the area's oil and gas resources.” (Emphasis added.) The Staff Recommendation Report also fails to note Policy 3-4.6, which encourages the *consolidation* of oil extraction activities rather than its *elimination*.

Accordingly, not only is the Ordinance Amendment inconsistent with the General Plan and thus unlawful, but the Staff Recommendation Report omits critical information necessary for the City and public review of the Ordinance Amendment.

The Ordinance Amendment is Unconstitutionally Vague and Ambiguous

The Ordinance Amendment provides that “[no] existing well . . . shall be “*maintained*, drilled, re-drilled, or deepened, except to prevent or respond to a threat to public health, safety, or the environment, as determined by the Zoning Administrator.” (Emphasis added.) The Ordinance Amendment, however, provides no definition of the word “maintained” and it is thus unconstitutionally vague and ambiguous and violates the due process clause of the U.S. Constitution. The Staff Recommendation Report acknowledges that this is a problem and defers to a “Zoning Administrator’s Interpretation” that has not yet been published as to what this term means. (Staff Recommendation Report, P.3 (“Separately from this Ordinance, DCP’s Office of Zoning Administration is preparing a Zoning Administrator’s Interpretation on the types of oil-related activities that constitute maintenance . . . Once final, this guidance would immediately apply to all oil drilling activities. It would further clarify the types of maintenance activities prohibited under the Ordinance, with limited exceptions to prevent or respond to threats to public health, safety, or the environment.”))

Due process requires fair notice and an opportunity to be heard. In turn, the most basic due process concepts require that legally enforceable ordinances be defined with sufficient clarity such that those subjected to the laws understand what is permitted and what is prohibited, and such that the laws are not susceptible to arbitrary or discriminatory enforcement. (*Genis v. Bell* (C.D. Cal. July 2, 2013) 2013 U.S. Dist. LEXIS 93353, *14-15; *see also Castro v. Terhune*, 712 F.3d 1304, 1307 (9th Cir. 2013).) Here, the failure to unambiguously explain what is meant by the word “maintained” in the Ordinance Amendment itself would mean that Warren and others similarly situated would not know when, if at all, it is violating the Ordinance Amendment. As written without any definition, Warren is deprived of advance notice and opportunity to object to the meaning of the term “maintained” since it is left to later interpretation by the Zoning Administrator.

The 20-Year Amortization Period in the Ordinance Amendment is Unlawful

The Ordinance Amendment unlawfully imposes a 20-year amortization period for existing operations without any factual evidence to support that 20 years is a “reasonable amortization period commensurate with the investment involved,” as required by law. (*Metromedia, Inc. v. San Diego* (1980) 26 Cal.3d 848, 882.) The City Council directed the Planning Department to commission a study to be performed as to

an appropriate amortization period and that work has not yet even commenced, let alone been completed. It thus is premature and unlawful for the City to proceed with taking action on an amortization period when there is no study—and no evidence—to support such a period for Warren or other operators within the City.

Moreover, there is no law in California to support the use of amortization periods to eliminate a diminishing asset like mineral rights. While amortization may be appropriate under certain factual situations involving movable property like billboards or liquor stores, since those uses can be moved to other locations, the development of mineral rights is immovable and, as discussed above, protected under the diminishing asset doctrine. There is no way to equitably amortize Warren’s real property rights and its investments therein other than to allow Warren to produce until the commercially recoverable resources are depleted.

**There is No Evidence to Support that Warren’s Operations
Result in Negative Health Effects**

Warren not only complies with California’s stringent environmental regulations, but it also agreed with the City to use electric sources for its operations except for two combustion sources which produce minimal emissions and are not a significant impact for the City. The Staff Recommendation Report contains no specific evidence as to Warren’s operations or its emissions and also ignores the City’s prior report that failed to support any negative health impacts from oil and gas operations within the City.

In 2019, the City of Los Angeles Office of Petroleum and Natural Gas Administration and Safety conducted an exhaustive review of government reports and studies and concluded that:

There is a lack of empirical evidence correlating oil and gas operations within the City of Los Angeles to widespread negative health impacts. The lack of evidence of public health impacts from oil and natural gas operations has been demonstrated locally in multiple studies by the Los Angeles County Department of Public Health, the Los Angeles County Oil & Gas Strike Team, the South Coast Air Quality Management District and the comprehensive Kern County Environmental Impact Report and Health Risk Assessment.⁴

The City’s position now is contrary to that prior report and not supported by the evidence. Warren’s equipment and operations do not emit significant quantities of air pollutants and do not pose a significant health risk to the community residents or the public. Warren participates in annual emissions reporting to the SCAQMD, which includes mandatory reporting of air pollutants regulated by the Clean Air Act. Warren facility’s actual emissions are low and based on these reported emissions the facility has never been required to obtain a federal operating air permit as it remains below major source thresholds for all pollutants. Further, low emissions of regulated pollutants are evidenced by the fact that Warren does not participate in the SCAQMD’s RECLAIM program for large sources of oxides of nitrogen (NOx) and

⁴ https://clkrep.lacity.org/online/docs/2017/17-0447_rpt_BPW_07-29-2019.pdf at page 145.

sulfur (SO_x). Lastly, as a minor stationary source located in a heavily industrialized area of Wilmington, Warren has not permitted or installed new equipment or modified existing equipment in over 6 years.

In addition to regulated pollutants, Warren has consistently reported low emissions of air contaminants. The facility routinely reports emissions to the SCAQMD yet has never been required by the SCAQMD to prepare a Health Risk Assessment (HRA) because of low emissions. For example, Warren's reported emission of air pollutants and associated health risk impacts are on par with that of a supermarket with a fast-food restaurant or of a fast-food restaurant with a drive through.

Warren is in compliance with all regional, state, and federal rules and regulations and has obtained the appropriate air quality permits for all operating equipment. Restricting maintenance, testing, and repair of the existing equipment would not represent an emission reduction or result in any improved air quality for the area or the region.

Furthermore, and in violation of the Equal Protection Clause as applied through the Fourteenth Amendment to the U.S. Constitution, the City is unlawfully discriminating against one industry by prohibiting its operations within the City without taking similar actions against other industries or uses that provide similar or even more emissions than the oil and gas industry.

Consideration of the Amended Ordinance Now Violates the City's Own Procedural Requirements

The relevant City procedures for consideration of the Amended Ordinance are set out at Los Angeles Charter and Administrative Code ("LACAC") Sections 556 and 558. These requirements are further described in the Planning Staff Recommendation Report at Proposed Findings 1-3, at pages F-1 to F-6, which Findings the Planning Commission should have adopted to recommend adoption of the Amended Ordinance to the City Council.

LACAC Section 558(b)(2) describes the procedures for amending an ordinance. It provides that "[a]fter initiation, the proposed ordinance . . . shall be referred to the City Planning Commission for its report and recommendation regarding the relation of the proposed ordinance . . . to the General Plan and, in the case of proposed zoning regulations, whether adoption of the proposed ordinance . . . will be in conformity with public necessity, convenience, general welfare and good zoning practice."

LACAC Section 556 provides that: "when approving any matter listed in Section 558, the City Planning Commission and the Council shall make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan."

The Planning Commission's action is not a mere suggestion, but acts to set out how the City Council must proceed in potentially acting on the Ordinance Amendment and the MND. For example, since the Planning Commission recommended approval of the Ordinance Amendment and the MND, the City Council may approve it under a simple majority vote, whereas if the Planning Commission had recommended against the Ordinance Amendment and the MND, the City Council could only approve the change by a two-thirds vote. (LACAC § 558(b)(3).) Accordingly, the Planning Commission's action on

the Amended Ordinance were required to be in compliance with applicable laws and meet the standards of Sections 556 and 558 of the LACAC, but it failed to do so.

No Action Should Be Taken on the Ordinance Amendment and the MND

Warren respectfully requests that the Committee do everything within its power to avoid what will prove to be an expensive mistake and we urge you *not* to move forward with the Ordinance Amendment. The Ordinance Amendment will not result in the professed health benefits from shutting down Warren's operations and, instead, will subject the City to significant liability.

It is premature to consider the draft MND and the Ordinance Amendment at this time. Indeed, the comment period has not yet run on the draft MND so the rush to proceed should heed to the City's obligations to comply with the law and the City's ordinances.

Please understand that if the Ordinance Amendment is approved and the MND adopted, Warren will take all actions required to protect its rights, including seeking recovery from the City of in excess of \$675MM in damages for putting Warren out of business, along with recovery of Warren's legal expenses under Code of Civil Procedure Sections 1021.5 and 1036. The City will be forced to incur substantial legal fees for its own counsel and ultimately Warren's counsel too, all the while losing significant revenue from property taxes on future oil and gas operations without any change in health impacts from closing Warren's doors. Warren reserves all of its rights to pursue every available remedy if the City approves the Ordinance Amendment and adopts the draft MND.

Sincerely,

WARREN RESOURCES, INC.

/s/ James A. Watt
President & Chief Executive Officer