

Ordinance No. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF BUTTE  
AMENDING CHAPTER 24, ENTITLED "ZONING,"  
TO PROHIBIT THE STORAGE OR DISPOSAL OF  
WELL STIMULATION ("FRACKING") BYPRODUCTS

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Findings. The Board finds and declares as follows:

(a) Well stimulation is a practice used in the oil and natural gas extraction process that involves treatment of a well to enhance oil and gas production by increasing the permeability of an underground geologic formation;

(b) Hydraulic fracturing, also known as "fracking," is a type of well stimulation treatment that involves the high-pressure injection of hydraulic fracturing fluids, which may include a mixture of water, sand or chemicals, into an underground geological formation to create fractures to increase flows to, and further the production of oil and gas from, a well;

(c) Acid well stimulation treatment, or "acidizing," is another type of well stimulation treatment that uses, in whole or in part, the application of one or more acids into a well or an underground geologic formation, at any pressure, to increase flows to, and further the production of oil and gas from, a well;

1 (d) Recent advances in drilling technology and  
2 hydraulic fracturing have made it economically feasible  
3 to extract oil and natural gas from shale and other  
4 impermeable rock formations in areas that were formerly  
5 economically infeasible;

6 (e) Well stimulation treatments and their byproducts  
7 have garnered increased nationwide attention over the  
8 past several years due to environmental concerns that  
9 the storage or disposal of well stimulation byproducts  
10 may contaminate groundwater supplies and increase  
11 seismic activity;

12 (f) Even though companies performing hydraulic  
13 fracturing have generally resisted the disclosure of the  
14 specific contents of the fluids used in hydraulic  
15 fracturing by claiming that the information is  
16 proprietary in nature, hydraulic fracturing fluids have  
17 been known to contain formaldehyde, benzene, toluene,  
18 and boric acids, among hundreds of other contaminants,  
19 and many of the chemicals contained in hydraulic  
20 fracturing fluids are listed under Proposition 65 and  
21 are known to cause cancer;

22 (g) It is common practice to inject well stimulation  
23 byproducts into underground wells for storage or  
24 disposal following well stimulation treatments and the  
25 chemicals and acids used in the well stimulation process  
26 have been known to leach or migrate into surrounding  
27 groundwater resulting in contamination and irreparable

1 harm to groundwater supplies;

2 (h) In July 2014, for example, the Division of Oil,  
3 Gas, and Geothermal Resources ("DOGGR") issued orders to  
4 seven oil production companies in Kern County to  
5 immediately cease use of 11 injection wells used to  
6 dispose of well stimulation byproducts to avoid  
7 potential harm to groundwater aquifers because DOGGR  
8 discovered that the injections appeared to intrude into  
9 areas of protected groundwater;

10 (i) In addition, a 2011 audit by the Environmental  
11 Protection Agency faulted DOGGR's review of injection  
12 wells used for the disposal of well stimulation  
13 byproducts within California on the grounds that DOGGR  
14 was too lenient regarding the type of water resources to  
15 be protected, how wide a radius well operators must  
16 study prior to injections, and how much pressure should  
17 be applied when injecting well stimulation byproducts  
18 into injection wells;

19 (j) The County of Butte has a history of groundwater  
20 contamination including the contamination of groundwater  
21 in the Chico Urban Area by nitrate, which has adversely  
22 affected approximately 30,000 residents on 10,000  
23 parcels and has been established as a direct threat to  
24 groundwater quality and public health; and the potential  
25 contamination of groundwater in the Oroville Urban Area  
26 by the Koppers Industries, Incorporated site, the  
27 Louisiana Pacific Corporation's Oroville facility, and

1 the Western Pacific Railroad Company's site, all located  
2 south of the City of Oroville;

3 (k) There are currently 32 gas wells with an active  
4 or idle status located in Butte County that could be  
5 utilized for the storage or disposal of well stimulation  
6 byproducts;

7 (l) The underground storage or disposal of well  
8 stimulation byproducts in injection wells within Butte  
9 County poses a threat to Butte County's surface water,  
10 groundwater and land due to potential leaching,  
11 migration and well failures as well as by increasing the  
12 risk of seismic activity;

13 (m) The groundwater resources of Butte County include  
14 vast aquifers that serve as a source of water for  
15 municipal, agricultural, industrial, commercial, and  
16 residential uses and the aquifers are vital to the  
17 future of Butte County;

18 (n) The protection of Butte County's vital natural  
19 resources cannot be compromised;

20 (o) Agriculture is the number one industry in Butte  
21 County with an estimated gross value of agricultural  
22 production in 2013 of over \$869 million and the  
23 protection of agriculture from the potentially adverse  
24 effects of well stimulation byproducts is of vital  
25 importance to the economy of Butte County and the  
26 livelihood of Butte County residents;

27 (p) The contamination of Butte County's water and

1 land by well stimulation byproducts has the potential to  
2 negatively impact property values within the county;

3 (q) The prosperity, health, safety, and general well-  
4 being of Butte County residents all depend on the  
5 availability of clean water and land free from  
6 contamination;

7 (r) The storage or disposal of well stimulation  
8 byproducts is a type of land use that is incompatible  
9 with other land uses in Butte County due to the  
10 potential risks to Butte County's land, water and  
11 residents associated with the storage or disposal of  
12 such byproducts; and

13 (s) The County of Butte has the authority, under both  
14 the California Constitution and state law, to enact land  
15 use regulations to preserve and protect the health,  
16 safety and welfare of its residents.

17 (t) Pursuant to the California Environmental Quality  
18 Act (CEQA) Guidelines, this Ordinance is exempt from  
19 CEQA based upon the following:

20 (1) This Ordinance is not a "project" within the  
21 meaning of section 15378 of the CEQA Guidelines  
22 because it has no potential for resulting in a  
23 physical change in the environment, either  
24 indirectly or directly;

25 (2) This Ordinance is categorically exempt from  
26 CEQA under sections 15307 and 15308 of the CEQA  
27 Guidelines as a regulatory action taken by Butte

County to assure the maintenance, restoration, enhancement, or protection of its natural resources and environment; and

(3) This Ordinance is also not subject to CEQA under the general rule that CEQA only applies to projects that have the potential to cause a significant effect on the environment. It can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 2. The "Natural Resource Uses" section of table 24-13-1 of section 24-13, entitled "Land Use Regulations for Agriculture Zones," of the Butte County Code is amended to read as follows:

	Zone		Applicable Regulations
	AG	AS	
Natural Resource Uses			
Forestry and Logging	P	-	
Mining and Surface Mining Operations	C	C	Chapter 13 Butte County Code
Oil and Gas Extraction, including reinjection wells for natural gas	C	C	
<u>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</u>	<u>-</u>	<u>-</u>	<u>Section 24-167.1</u>
Timber Processing	-	-	

Section 3. The "Natural Resource Uses" section of table 24-16-1 of section 24-16, entitled "Land Use Regulations for Natural Resource Zones," of the Butte County Code is amended to read as follows:

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	Zone			Applicable Regulations
	TM	TPZ	RC	
Natural Resource Uses				
Forestry and Logging	P	P	-	
Mining and Surface Mining Operations	C	C[4]	C	
Oil and Gas Extraction, including reinjection wells for natural gas	C	C[4]	-	
<u>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</u>	-	-	-	<u>Section 24-167.1</u>
Timber Processing	P	P	-	

Section 4. The "Natural Resource Uses" section of table 24-19-1 of section 24-19, entitled "Land Use Regulations for Residential Zones," of the Butte County Code is amended to read as shown on Exhibit A.

Section 5. The "Natural Resource Uses" section of table 24-22-1 of section 24-22, entitled "Land Use Regulations for Commercial and Mixed Use Zones," of the Butte County Code is amended to read as follows:

	Zone						Applicable Regulations
	GC	NC	CC	REC	SE	MU	
Natural Resource Uses							
Forestry and Logging	-	-	-	-	-	-	
Mining and Surface Mining Operations	-	-	-	-	-	-	
Oil and Gas Extraction, including reinjection wells for natural gas	-	-	-	-	-	-	
<u>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</u>	-	-	-	-	-	-	<u>Section 24-167.1</u>
Timber Processing	-	-	-	-	-	-	

Section 6. The "Natural Resource Uses" section of table 24-26-1 of section 24-26, entitled "Land Use Regulations for Industrial Zones," of the Butte County Code is amended to read as follows:

	Zone			Applicable Regulations
	LI	GI	HI	
Natural Resource Uses				
Forestry and Logging	-	-	-	
Mining and Surface Mining Operations	-	-	-	
Oil and Gas Extraction, including reinjection wells for natural gas	-	-	C	
<u>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>Section 24-167.1</u>
Timber Processing	-	C	P	

Section 7. The "Natural Resource Uses" section of table 24-29-1 of section 24-29, entitled "Land Use Regulations for Special Purpose Zones," of the Butte County Code is amended to read as follows:

	Zone			Applicable Regulations
	PB	AIR	RBP	
Natural Resource Uses				
Forestry and Logging	-	-	-	
Mining and Surface Mining Operations	-	-	-	
Oil and Gas Extraction, including reinjection wells for natural gas	-	-	-	
<u>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>Section 24-167.1</u>
Timber Processing	-	-	-	

Section 8. Section 24-167.1 is added to the Butte County Code to read as follows:

24-167.1 Oil and Gas Extraction - Storage or Disposal of Well Stimulation Byproducts Prohibited.



1 **A. Purpose.** It is the intent of this section to prohibit the  
2 storage or disposal of well stimulation byproducts within Butte  
3 County to protect the vital natural resources of the county,  
4 including but not limited to, Butte County's vast groundwater  
5 resources, and to protect the health, safety and welfare of the  
6 residents of Butte County.

7 **B. Applicability.** The standards in this section apply to all  
8 zones.

9 **C. Prohibited Uses.** No well stimulation byproducts of any form  
10 or of any nature may be stored in, or disposed of in, the  
11 boundaries of Butte County, including in any injection wells  
12 within Butte County. In addition, no fluid or fluids,  
13 wastewater, or wastewater solids may be stored in, or disposed  
14 of in, any injection wells within Butte County in violation of  
15 federal or state law.

16 Section 9. Section 24-304 of the Butte County Code is amended  
17 to add the following definition of "Acidizing."

18 **Acidizing.** Any well stimulation treatment that uses, in whole  
19 or in part, the application of one or more acids, at any  
20 pressure, into a well or an underground geologic formation in  
21 order to cause or enhance, or with the intent to cause or  
22 enhance, the production of oil, gas or other hydrocarbon  
23 substances from a well. Acidizing may include, but is not  
24 limited to, processes known as acid fracturing and acid matrix  
25 stimulation. Acidizing does not include routine well cleanout  
26 work, routine well maintenance, routine activities that do not  
27 affect the integrity of a well or an underground geologic

1 formation, or treatments that do not penetrate into an  
2 underground geologic formation more than 36 inches from the  
3 wellbore.

4 Section 10. Section 24-304 of the Butte County Code is amended  
5 to add the following definition of "Hydraulic Fracturing."

6 Hydraulic Fracturing. Any well stimulation treatment that, in  
7 whole or in part, includes the pressurized injection of  
8 hydraulic fracturing fluid or fluids, which may include a  
9 mixture of water, sand or chemicals, into an underground  
10 geologic formation in order to fracture, or with the intent to  
11 fracture, the formation, thereby causing or enhancing the  
12 production of oil, gas or other hydrocarbon substances from a  
13 well.

14 Section 11. Section 24-304 of the Butte County Code is amended  
15 to add the following definition of "Injection Well."

16 Injection Well. Any new or existing well used for the  
17 underground storage or disposal of fluid or fluids, wastewater,  
18 or wastewater solids.

19 Section 12. Section 24-304 of the Butte County Code is amended  
20 to add the following definition of "Well Stimulation  
21 Byproducts."

22 Well Stimulation Byproducts. Any fluid or fluids, wastewater,  
23 or wastewater solids resulting from well stimulation treatments.

24 Section 13. Section 24-304 of the Butte County Code is amended  
25 to add the following definition of "Well Stimulation Treatment."

26 Well Stimulation Treatment. Any treatment of a well designed to  
27 enhance oil, gas or other hydrocarbon substance production or

1 recovery by increasing the permeability of an underground  
2 geologic formation. Well stimulation treatments include, but  
3 are not limited to, hydraulic fracturing and acidizing. Well  
4 stimulation treatments do not include routine well cleanout  
5 work, routine well maintenance, routine activities that do not  
6 affect the integrity of a well or an underground geologic  
7 formation, or treatments that do not penetrate into an  
8 underground geologic formation more than 36 inches from the  
9 wellbore.

10 Section 14. Violations; enforcement. Any violation of any  
11 provision of this Ordinance shall constitute a misdemeanor  
12 punishable pursuant to section 1-7 of this Code. The County of  
13 Butte may also pursue any and all civil, criminal, and  
14 administrative remedies available to ensure compliance with this  
15 Ordinance.

16 Section 15. Applicability. Nothing in this Ordinance is  
17 intended to limit or prohibit well stimulation treatments  
18 otherwise permitted pursuant to this Code.

19 Section 16. Severability. If any provision of this Ordinance  
20 or the application thereof to any person or circumstances is for  
21 any reason held to be invalid by a court of competent  
22 jurisdiction, such provision shall be deemed severable and the  
23 invalidity thereof shall not affect the remaining provisions or  
24 applications of the Ordinance which can be given effect without  
25 the invalid provision or application thereof.

26 Section 17. Effective Date and Publication. This Ordinance  
27 shall take effect 30 days after the date of its passage. The

1 Clerk of the Board of Supervisors is authorized and directed,  
2 before the expiration of 15 days after its passage, to publish  
3 this Ordinance once, with the names of the members of the Board  
4 of Supervisors voting for and against it, in the \_\_\_\_\_,  
5 a newspaper published in the County of Butte, State of  
6 California.

7 PASSED AND ADOPTED by the Board of Supervisors of the County of  
8 Butte, State of California, on the \_\_\_\_ day of \_\_\_\_\_,  
9 2015, by the following vote:

10 AYES:

11 NOES:

12 ABSENT:

13 NOT VOTING:

14

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\_\_\_\_\_  
DOUG TEETER, Chair of the  
Butte County Board of Supervisors

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ATTEST:  
PAUL HAHN, Chief Administrative  
Officer and Clerk of the Board

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21 By \_\_\_\_\_  
Deputy

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