I. SUMMARY

This item is on the agenda at the request of Councilmember Gipson and Councilmember Davis-Holmes.

Presented for the Council’s consideration is a resolution calling upon the State of California, Department on Conservation, to prohibit a drilling practice commonly known as “fracking.”

II. RECOMMENDATION

CONSIDER and PROVIDE direction.

III. ALTERNATIVES

1. WAIVE further reading and ADOPT Resolution No. 12-078, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, URGING THE STATE OF CALIFORNIA, DEPARTMENT OF CONSERVATION, DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES (DOGGR) TO PLACE A BAN ON HYDRAULIC FRACTURING.”

2. TAKE no action on this item.

3. TAKE such other or additional action as is permitted by law.

IV. BACKGROUND

Advances in drilling technology and hydraulic fracturing, or “fracking,” have now made it economically feasible to extract oil and natural gas from shale and other impermeable rock formations. However, while such drilling and fracking has been a boon for the oil and gas industry in the United States, various environmental groups have characterized the technology as a “nightmare for Americans exposed to the pollution that accompanies shale development.”

“Fracking” involves the injection of millions of gallons of "frack fluid" into dense shale rock in order to crack the rock and release oil or natural gas. Frack fluid contains any combination of up to nearly 600 chemicals along with millions of gallons of water and sand. After frack fluid is injected into the earth, some of it
comes back out in the form of wastewater that cannot safely be treated in standard wastewater facilities.

Private oil and gas companies are providing capital for California shale development. Fracking has been implicated in the contamination of water supplies across the United States. *ProPublica* identified more than 1,000 cases of water contamination near drilling sites documented by courts, states and local governments around the country prior to 2009. Pennsylvania cited 451 Marcellus Shale gas wells for 1,544 violations in 2010 alone.

According to *Food & Water Watch.com*, fracking is causing the following adverse impacts in California (and nation wide):

1. Fracking chemicals are toxic and can contaminate water as a result of spills or accidents.
2. Fracking produces hazardous wastewater, which can contain radioactive substances as well as toxic chemicals, making disposal difficult and dangerous.
3. Fracking requires millions of gallons of water, which can deplete local water supplies.
4. Fracking can cause natural gas to migrate into drinking water sources, which can cause houses and wells to explode.

There have been more than 1,000 documented cases of water contamination near drilling sites around the country. People who live in areas where fracking occurs experience contaminated water, reduced property value, increased truck traffic, loud noise, explosions and even illness.

For the reasons set forth in the attached resolution, Councilmember Gipson requests favorable consideration of, and adoption by, the attached resolution.

V. **FISCAL IMPACT**

None directly impacting the City of Carson.

VI. **EXHIBITS**

Resolution No. 12-078. (pgs. 4-5)

Prepared by: William W. Wynder, City Attorney

TO:Rev03-08-12

Reviewed by:

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**Action taken by City Council**

Date: [ ]   Action: [ ]
RESOLUTION NO. 12-078

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, URGING THE STATE OF CALIFORNIA, DEPARTMENT OF CONSERVATION, DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES (DOGGR) TO PLACE A BAN ON HYDRAULIC FRACTURING

WHEREAS, currently, and over the next several years, hundreds of new oil wells will be drilled in the Inglewood Oil Field (the "Oil Field"), which spans across the jurisdictions of the City of Carson and unincorporated Los Angeles County and is located in a heavily populated urban area; and

WHEREAS, hydraulic fracturing, also known as "fracking," is generally a technique to increase oil and gas production by injecting fluids at pressures sufficient to create fractures in subsurface rock or other tight geological formations in order to release petroleum or natural gas for extraction; and

WHEREAS, the neighborhoods and communities surrounding the Oil Field, including Carson residents, have expressed alarm about the potential impacts of fracking on the public health and safety and the environment; and

WHEREAS, the California State Department of Conservation, Division of Oil, Gas & Geothermal Resources (DOGGR) is currently engaged in the process of studying potential regulations on fracking. As part of this effort, DOGGR has held several community meetings throughout the State seeking public comment relating to potential regulation of fracking; and

WHEREAS, On June 12, 2012, DOGGR held one such community meeting in the City of Carson, during which a significant number of people in the Los Angeles County Region, including Carson residents and the Carson City Council (the "City Council"), provided testimony regarding the potential risks of fracking, the concern that tracking is generally unregulated and that no further fracking should occur, at least until DOGGR has adopted fracking regulations that can ensure protection against the risks to air quality, water quality and ground movement; and

WHEREAS, at the community meeting, little or no evidence or testimony was offered that fracking was safe in the absence of such regulations while numerous members of the public offered considerable testimony that fracking posed a substantial risk to the community and the environment.

NOW, THEREFORE, the City Council of the City of Carson DOES HEREBY RESOLVE as follows:

1. The City of Carson urges Governor Jerry Brown and the California State Department of Conservation, Division of Oil, Gas & Geothermal Resources (DOGGR), to immediately place a ban on hydraulic fracturing and on the disposal of fracking wastewater by
injection wells until DOGGR takes all necessary and appropriate actions to adopt, implement and enforce comprehensive regulations concerning the practice of fracking that will ensure that public health and safety and the environment will be adequately protected.

2. The City Clerk is hereby directed to transmit a copy of this Resolution to Governor Jerry Brown and DOGGR.

PASSED, APPROVED and ADOPTED this ___ day of July, 2012.

__________________________
Mayor Jim Dear

ATTEST:

__________________________
City Clerk Donesia L. Gause, CMC

APPROVED AS TO FORM:

__________________________
City Attorney
2) bring back a report within 60 days what accomplished; and 3) identify printer in Carson and print publication on motion of Gipson, seconded by Dear and unanimously carried by the following vote:

Ayes: Mayor/Agency Chairman Dear, Mayor Pro Tem/Agency Vice Chairman Ruiz-Raber, Council/Agency Member Davis-Holmes, Council/Agency Member Gipson, and Council/Agency Member Santarina
Noes: None
Abstain: None
Absent: None

ITEM NO. (17) CONSIDER RESOLUTION NO. 12-078 CALLING UPON THE STATE OF CALIFORNIA, DEPARTMENT OF CONSERVATION, TO PLACE A BAN ON HYDRAULIC FRACTURING (CITY MANAGER)

Item No. 17 was heard after Item No. 15 at 3:48 A.M., on Wednesday, July 18, 2012.

City Manager/Executive Director Biggs summarized the staff report.

Public Comments

Ronald Shimokaji, 1502 E. Carson Street, No. 135, Carson, California 90745
Stated that he was opposed to a ban on hydraulic fracturing in the State of California based on data obtained from “oil shale” states.

Dave Quast, Glendale, California 91208, representing Independent Petroleum Association of America
Offered comments to let DOGGR do its job; suggested no local resolutions until the State has examined the best science.

RECOMMENDATION for the City Council:

1. CONSIDER and PROVIDE direction.

ACTION: It was moved to Waive further reading and Adopt Resolution No. 12-078, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, URGING THE STATE OF CALIFORNIA, DEPARTMENT OF CONSERVATION, DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES (DOGGR) TO PLACE A BAN ON HYDRAULIC FRACTURING” on motion of Dear, seconded by Davis-Holmes and unanimously carried by the following vote:

Ayes: Mayor/Agency Chairman Dear, Mayor Pro Tem/Agency Vice Chairman Ruiz-Raber, Council/Agency Member Davis-Holmes, Council/Agency Member Gipson, and Council/Agency Member Santarina
Noes: None
Abstain: None
Absent: None

ITEM NO. (18) CONSIDERATION OF A REPORT FOR THE FEDERAL EMERGENCY MANAGEMENT AGENCY’S NEW NATIONAL FLOOD INSURANCE REQUIREMENTS, AND LOS ANGELES COUNTY FLOOD CONTROL
I. SUMMARY

At the March 4, 2014, City Council meeting, Councilmember Robles stated that he would like the City to consider a moratorium on fracking. The City Council then took a non-binding advisory vote requesting this item to be placed on the agenda on March 18, 2014. Mayor Dear agrees that this item needs to be brought forward in an expedient manner and so has placed this item on the agenda tonight.

The Office of the City Attorney was directed to consider and, if legally appropriate, draft an interim urgency ordinance implementing a moratorium, similar to one proposed by the City of Los Angeles, on new oil and gas development within the City of Carson while city staff studies, and then reports back, to the City Council regarding the full scope of the potential municipal regulatory and/or land use authority over such activities.

For the reasons that will follow, we are of the considered opinion that the City Council has the legal authority to exercise its land use and police powers to adopt a moratorium on new oil and gas development in the City provided the City Council makes necessary findings to do so by a 4/5ths vote of the entire City Council.

II. RECOMMENDATION

CONSIDER and PROVIDE direction.

III. ALTERNATIVES

1. WAIVE further reading and ADOPT an Interim Urgency Ordinance No. 14-1534U, “AN INTERIM URGENCY ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, ESTABLISHING A 45-DAY TEMPORARY MORATORIUM ON THE DRILLING, REDRILLING OR DEEPENING OF ANY NEW OR EXISTING WELLS WITHIN THE JURISDICTION OF THE CITY OF CARSON THAT ARE ASSOCIATED WITH OIL AND/OR GAS OPERATIONS, AND DECLARING THE URGENCY THEREOF,” to ensure the public health, safety and welfare is protected for 45-day period by 4/5ths vote.
2. DIRECT, by minute order, City staff to stay all on-going or future negotiations of any possible Development Agreement No. 04-11 with OXY USA, Inc. ("OXY") until such time as the new owner of its California operations is in place and has presented appropriate financial and other appropriate bona fides to the City.

3. Take such other action as the City Council deems appropriate consistent with the requirements of law.

IV. BACKGROUND

Consistent with concerns raised by environmental groups and citizens around the State, concerns were also raised by the City Council and members of the community at the last City Council meeting regarding the use of “fracking” (or other well enhancement techniques) as a method of oil and gas development in the City. The Los Angeles City Council recently directed its City Attorney and staff to develop an ordinance to ban the use of “fracking” and/or well-enhancement techniques in the City of Los Angeles.

In response to the community concerns raised at the last City Council meeting, Councilmember Robles, with the concurrence of Mayor Dear, requested the Office of the City Attorney to consider whether the City of Carson could adopt a moratorium on the use of “fracking” or other well enhancement technologies pending the careful and comprehensive study of the City’s regulatory and/or land use authority over the same. This report addresses the factual, procedural, and legal background and issues involved in a proposed moratorium.

In particular, this report considers whether such a moratorium, if adopted by Council, could be implemented in connection with the OXY project currently under review by City Staff. In an e-mail from OXY’s legal counsel on March 10, 2014, OXY committed to not use any “well stimulation methods,” as defined by SB 4 (discussed below). This definition would include hydraulic fracturing (or “fracking”) and acid matrix stimulation, but the e-mail went further to contend that adoption of a moratorium as broad as that described in the Los Angeles City Council action would, in legal counsel’s opinion, be preempted by State law.

As will be discussed in detail hereinafter, we respectfully disagree.

A. Factual Background – “Fracking” and Other Well Stimulation Techniques

1. Defined
Well stimulation is a generalized term for any of several methods used to increase the production of a well and does not describe a particular method on its own. Well stimulation includes acidizing or fracturing. New recovery of oil and gas from underground reservoirs in California generally requires some form of well stimulation to flow. Methods to do this include creating new channels through which the oil and gas can flow. Some methods to do this are hydraulic fracturing (referred to as “fracking”) and acid stimulation methods.

*Fracking* involves injecting fluids into the reservoir at high enough pressure to cause breaks in the reservoir rocks (i.e., shale). The cracks or fractures allow oil and natural gas to flow more freely. According to the Department of Conservation website, hydraulic fracturing has been used in the State to stimulate oil and gas production for more than 30 years.

The fluids used in hydraulic fracturing are water-based and usually include a multitude of chemical additives (often toxic) that are used to thicken or thin the fluids, improve the flow of the fluid or kill bacteria that may reduce flow. Additionally, the fluid often contains materials referred to as “proppants” which are used to wedge into the fractures to keep them open. A common proppant is silica sand.

Another form of well stimulation is called *acid matrix stimulation* (or *matrix acidizing*). This method involves injecting hydrochloric or other acid into the well to create or enhance channels in the rock and/or to remove damage. In this method, the injection pressures are not high enough to fracture the rock. There is a form of acidizing that is done with pressure to fracture rock. This method is referred to as “*fracture acidizing*” or “*acid fracturing*.”

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2. [http://www.conservation.ca.gov/doc/general_information/Pages/HydraulicFracturing.aspx](http://www.conservation.ca.gov/doc/general_information/Pages/HydraulicFracturing.aspx)
3. Id.
4. SB 4, Senate Floor Analysis, found at, [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=7d558dd98d7c506ecbbf941c08f56](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=7d558dd98d7c506ecbbf941c08f56)
5. [http://petrowiki.org/Matrix_acidizing](http://petrowiki.org/Matrix_acidizing)
6. Id.
7. [http://petrowiki.org/Matrix_acidizing](http://petrowiki.org/Matrix_acidizing)
The February 28, 2014 Los Angeles City Council action also listed gravel packing as a well stimulation technique and identified the use of waste disposal injection wells. We will define those for purposes of clarification.

**Gravel-packing** is not defined as a well-stimulation method. It is a method to complete construction of a well, including conventional wells, in which a perforated or slotted liner is placed in a well and surrounded by gravel. The purpose of the gravel is to keep sand out of the well while allowing the flow of gas or oil.\(^8\)

As for **waste disposal injection wells**, these are wells that that are deep underground and are designed to hold the wastewater created by drilling many wells, which may be difficult if not impossible to safely treat. Well stimulation techniques, including hydraulic fracturing and acid matrix stimulation can produce several million gallons of wastewater. Some oil and gas producers use waste disposal injection wells to dispose of that wastewater.\(^9\)

2. Environmental Concerns

The use of “fracking,” acidizing, and waste disposal injection wells have been associated with environmental risks. According to a recent report from the U.S. Government Accountability Office (GAO), which is an independent, nonpartisan agency that works for Congress, “[d]eveloping oil and gas resources...poses inherent environmental and public health risks, but the extent of risks associated with shale oil and gas development is unknown, in part, because the studies we reviewed do not generally take into account potential long-term, cumulative effects.” The GAO’s report categorizes the environmental risks into the four major categories: air quality, water quality, water use, and the land and wildlife impacts. These issues were discussed in the SB 4 analysis as provided below.\(^10\)

**Air Quality**

With regard to air quality, the risks come from engine exhaust from increased truck traffic, emissions from diesel-powered pumps used to power equipment, intentional flaring or venting of gas for operational reasons, and unintentional emissions of pollutants from faulty equipment and accidents. Additionally, silica sand, used as a proppant in hydraulic fracturing, can cause air quality issues. silica sand, if not properly handled, can become airborne, lodge into a person’s lungs, and cause silicosis, which is an incurable lung disease. Impoundments (i.e.,


\(^10\) SB 4, Senate Floor Analysis, found at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=7d558dd98d7e506ebb941c08f36](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=7d558dd98d7e506ebb941c08f36)
ponds) containing fracturing fluids and produced waters (i.e., the water produced when oil and gas are extracted from the ground) pose a risk because the evaporation of the fluids has the potential to release contaminants into the atmosphere.

**Water Quality**

With regard to water quality, shale oil and gas development pose risks from contamination of surface water and ground water as a result of spills and releases of hydraulic fracturing chemicals, produced water, and drill cuttings. Spills and releases of these materials can occur as a result of tank ruptures, blowouts, equipment or impoundment failures, overfills, vandalism, accidents, ground fires, or operational errors.

The potential for the spill and release of chemicals involved in hydraulic fracturing has received a great amount of public attention. According to a recent congressional report, between 2005 and 2009, oil and gas companies throughout the U.S. used hydraulic fracturing products containing 29 chemicals that are known or possible human carcinogens; regulated under the SDWA for their risk to human health; or listed as hazardous air pollutants under the Clean Air Act. As for produced water, it can carry a range of contaminants, including hydraulic fracturing chemicals, salts, metals, oil, grease, dissolved organics, and naturally occurring radioactive materials. Drill cuttings (i.e., the broken bits of solid material removed from drilling) may contain naturally occurring radioactive materials, as well.

The potential for underground migration is also a potential risk to water quality. The GAO explains that “[u]nderground migration can occur as a result of improper casing and cementing of the wellbore as well as the intersection of induced fractures with natural fractures, faults, or improperly plugged dry or abandoned wells. There are also concerns that induced fractures can grow over time and intersect with drinking water aquifers.”

The oil and gas industry claims that hydraulic fracturing typically occurs thousands of feet below the earth’s surface and that the well casing for these wells extends below an impervious layer of rock “that would prevent any migration of fluids up into the drinking water supply.” However, there is still the problem with well casing failures. A 2000 Society of Petroleum Engineers article regarding an oil field in Kern County explained that “the well failure rate, although lower than that experienced in the 1980s, is still economically significant at 2 to 6% of active wells per year.” In Pennsylvania, poor cementing around a well casing allowed methane to contaminate the water wells of 19 families.
Moreover, little data exists on fracture growth in shale formations following multistage hydraulic fracturing over an extended time period; the frequency with which refracturing of horizontal wells may occur; the effect of refracturing on fracture growth over time; and the likelihood of adverse effects on drinking water aquifers from a large number of hydraulically fractured wells in close proximity to each other.\(^1\)

**Water Use**

With regard to water quantity, water is used for well drilling operations to make drilling mud as well as to cool and lubricate the drill bits. Water is also the primary component of hydraulic fracturing fluids. The amount of water used for shale gas development is small in comparison to other water uses in the State, such as agriculture and other industrial purposes. However, it still uses a great deal of water and may be cumulatively significant based on the State’s drought condition. The table below represents the amount of water used in well stimulation methods:

![Figure 3: Average Water Use Per Well by Type of Production](chart)

Source: Ceres analysis using PacWest FracDB from FracFocus data from wells drilled January 2011-May 2013


**Land and Wildlife Impacts**

The clearing of land to allow access to the resource and construction of roads, pipelines, storage tanks, and other infrastructure needed to extract and transport the resource can negatively impact habitats. Noise, the presence of new infrastructure, and spills of oil, gas, or other toxic chemicals are other risks that

\(^{1}\) SB 4, Senate Floor Analysis, found at, http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=7d558dd98d7e506ebbf941e08f36
can negatively affect the surrounding environment. Additionally, there is some evidence to support the argument that hydraulic fracturing and/or waste disposal injection wells are related to earthquakes.

3. Demand for Increased Well Stimulation in Los Angeles Area

California has historically been one of the largest producers of oil in the country. According to a 1993 report prepared by the Department of Conservation, the most prolific oil province in the state and probably the world is located in the Los Angeles Basin.\(^{12}\) Recently, with new techniques, including using horizontal drilling along with hydraulic fracturing, the Country has experienced a boom in the production of shale oil and gas.

From 2007 to 2011, shale oil production increased more than fivefold and gas production increased fourfold.\(^ {13}\) This shale boom has important consequences for the State. According to a report by USC, California has perhaps the largest deep-shale reserve in the world. The Monterey Shale Formation and Santos Shale Formation, runs 1,750 miles through the center of the state and along the Southern California Coast, including Los Angeles, at depths between 6,000 and 15,000 feet, contains an estimated 15 billion barrels of oil, and accounts for more than 2/3 of the shale-oil reserve in the Country.\(^ {14}\)

According to an article in CNN Money, OXY holds a significant interest in the shale in California and has had “some success using a technology known as deep acid injection.” The process “involves injecting hydrofluoric or other acids deep

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\(^{12}\) Dept. of Conservation, *California Oil, Gas, and Geothermal Resources*, p. 25, found at  

\(^{13}\) SB 4, Senate Floor Analysis, found at  
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=7d558d98d7c506ebbb941e08f36

\(^{14}\) http://gen.usc.edu/assets/001/84955.pdf; http://www.bakersfieldcalifornian.com/business/oil/x65918320/Monterey-Shale-brightens-Kerns-oil-prospects
underground, where they eat away at the shale rock and allow the oil to flow. It’s cheaper than fracking.” And according to a representative of IHS Cambridge Energy Research Associates, is not as dangerous as fracking because the fluid volumes are done at a far less rate and involve less pressure.15

B. Procedural Background

a. OXY Proposal

In July 2011, OXY filed applications for a development agreement16, a specific plan amendment,17 and an environmental impact report (EIR). Under these applications, OXY proposes to construct a production facility (OXY Facility) located at 1450 -1480 Charles Willard Street, consisting of up to 202 wells (2 existing test wells and 200 new wells), an oil and gas processing facility, water treatment, water injection operations, slurry injection or disposal operations, an electrical connection, emergency flare, and shipping and pipeline facilities to produce and transport approximately 6,000 barrels per day of oil and three million standard cubic feet per day of natural gas.

Directional drilling techniques are proposed to be used in order to pinpoint oil reservoirs at depths of 4,000 to 13,500 feet. The Facility will be constructed within a 30-foot high walled 6.5 acre compound, with the drill rig mast enclosed.

Under the current specific plan and zoning designations, oil and gas drilling is allowed by right on the property subject.18 City staff were not supportive of the project moving forward without obtaining a new development agreement from OXY.19 Because OXY does not have any vesting rights to proceed with the development, it would be subject to any new zoning or land use restrictions adopted by the City prior to issuance of building permits. (Avco Community Developers, Inc. v. South Coast Regional Com. (1976) 17 Cal.3d 785, 791.)

Based on staffs’ position, OXY applied for a new development agreement and specific plan amendment (that requires a development agreement for development of oil and gas for the subject property). The Draft EIR for the OXY project was published on January 23, 2014. The 45-day review and comment period has been extended for an additional 15 days and now ends on March 25, 2014.

15 http://money.cnn.com/2013/01/14/news/economy/california-oil-boom/  
16 Development Agreement No. 4-11.  
17 Specific Plan 2-89 Amendment No. 3.  
18 The current zoning for the property is Specific Plan-2, Manufacturing Light (SP-2, ML). The General Plan designation is Light Industrial. The Dominguez Technology Center Specific Plan (SP-2) currently allows exploration, production, and transmission of gas products appropriately screened as a permitted-by-right use.  
19 A prior development agreement that covered the development of the Dominguez Technology Center expired in 2011.
On October 18, 2012, OXY sent a letter to the City’s Senior Planner committing that they would not be using “hydraulic fracturing” for the proposed project as “it would not work.” In a March 10, 2014, OXY’s legal counsel committed that OXY would be willing to commit to not using any well stimulation treatments as defined in SB 4 (discussed below).

On February 14, 2014, OXY, which is currently based in California, announced plans to move the company to Houston, Texas, and spin off a new business that will be based in California. According to news reports, the new company will have 8,000 employees in California and will focus on operations in oil and gas basins in Los Angeles, San Joaquin, Ventura and Sacramento.

The new company will be the State’s largest natural gas producer and largest holder of oil and gas mineral acreage in the State, with approximately 2.3 million acres. OXY is still determining the management and governance of the California business and is expected to announce the new California management team in the third quarter of this year and complete the separation by the end of this year or early 2015.

The new business would apparently be the developer for the OXY proposal.

b. Carson Resolution No. 12-078

In 2012, the City Council expressed its opposition to the use of hydraulic fracturing. On July 17, 2012, the City passed a resolution urging the State of California, Department of Conservation, Division of Oil, Gas & Geothermal Resources (DOGGR) to place a ban on hydraulic fracturing. Specifically, the City Council resolved as follows:

The City of Carson urges Governor Jerry Brown and the California State Department of Conservation, Division of Oil, Gas & Geothermal Resources (DOGGR), to immediately place a ban on hydraulic fracturing and on the disposal of fracking wastewater by injection wells until DOGGR takes all necessary and appropriate actions to adopt, implement and enforce comprehensive regulations concerning the practice of fracking that will ensure that public health and safety and the environment will be adequately protected.

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20 http://fuelfix.com/blog/2014/02/14/occidental-petroleum-to-split-move-to-houston/
21 http://www.caloilgas.com/occidental-petroleum-to-split-off-california-business/
22 Id.
c. City of Los Angeles February 28, 2014 Council Action

On February 28, 2014, the Los Angeles City Council approved a motion requesting the City Attorney to draft a moratorium on well enhancement techniques in the City, including hydraulic fracturing, gravel packing and acidizing, as well as the use of waste disposal injection wells. The motion specifically read as follows:

1. INSTRUCT the Department of City Planning (DCP), with the assistance of the City Attorney, to further review and develop regulatory controls over fracking in the City of Los Angeles.

2. REQUEST the City Attorney, with the assistance of the DCP and other relevant departments, to prepare and present an ordinance to change the zoning code to prohibit all activity associated with well stimulation, including, but not limited to, hydraulic fracturing, gravel packing, and acidizing, or any combination thereof, and the use of waste disposal injection wells in the City of Los Angeles, with such a prohibition to remain effective until measures are met as detailed in Motion (Koretz - Bonin - et al).

3. CLARIFY that regulations for Motion (Koretz - Bonin - et al) concerning fracking are not to be confused with the maintenance of general underground storage facilities and the renewable energy projects that the City is pursuing.23

The supporting motion explained the activities sought to be banned as follows:

Hydraulic fracturing (also known as "fracking") is an oil and natural gas extraction process that involves the very high-

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23 A related motion was also passed on March 5, 2014 in substantially the same form except section 2 provides as follows:

2. INSTRUCT the DCP, with assistance from the City Attorney, Chief Legislative Analyst, Los Angeles Department of Water and Power, and other departments as needed, to report on establishing land use regulations and zoning laws, per Section 12.32 of the Los Angeles Planning and Zoning Code, that would ensure that public health and safety is protected from the negative impacts of fracking activities.

We called the L.A. City Clerk's Office but they were unable to tell us whether this subsequent motion was intended to amend the motion passed on February 28, 2014. As there is no language in this March 5, 2014 stating that it intended to override the other motion, it appears the February 28, 2014 motion is still effective.
pressurized injection of hydraulic fracturing fluids containing a mixture of water, sand and unreported amounts of unknown chemicals into underground geologic formations in order to fracture the rock, thereby increasing flows to and furthering the production of oil or gas from a well. Other unconventional highly-pressurized extraction processes called "acidizing" and "gravel packing" involve similar techniques.

In total, fracking, acidizing, gravel packing and other associated well-stimulation practices threaten to contaminate drinking water supplies, cost taxpayers in Los Angeles hundreds of millions of dollars, release potent and dangerous greenhouse gases into the atmosphere and cause earthquakes.

C. Legal Background – Regulation of Well Enhancement Techniques

a. Federal

Generally, regulations related to oil and gas drilling are left to the State. There is no federal regulation of hydraulic fracturing. Congress expressly exempted hydraulic fracturing from the Safe Drinking Water Act in 2005. Additionally, oil and gas operations and waste are exempt from the most important federal pollution laws, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (superfund cleanup law), Resource Conservation and Recovery Act (RCRA), the National Environmental Policy Act, the Clean Water Act and the Clean Air Act.

An effort to amend the Safe Drinking Water Act in 2011, which would have brought fracking under federal jurisdiction failed. The fact that the federal government has not regulated fracking does leave room for the state and/or local government to ban fracking without issues of federal preemption.

b. States

A number of states have passed laws regulating fracking. In 2012, Vermont banned fracking. In 2013, the State of New York extended its moratorium that it adopted in 2009 to continue studying the effects of fracking. In 2011, West Virginia enacted emergency rules to regulate horizontal gas drilling while it works

25 Id.
26 Id.
27 Land Use Planning and Development Regulation Law § 11:14 (3d ed. 2013.)
on long-term regulations. Specifically, West Virginia adopted standards for casing and cement standards for wells and also requires permits for horizontal fracking, erosion and sediment control plans, well safety plans, and planned management and disposition of wastewater from fracking operations.\(^{28}\) In 2011, the Governor of Maryland issued an executive order calling for a study of fracking and a three-year moratorium on gas drilling while studies are ongoing.\(^{29}\)

When states adopt regulations on fracking it can raise issue of preemption for local ordinances. In 2013, the State of California rejected a ban on fracking but did adopt SB 4 to study and regulate well stimulation methods in the State.

c. State of California

Consistent with a long and important history of being one of the most important oil producing states, the State of California does have rather extensive regulations on oil and gas drilling. (See Pub. Resources Code section 3000, et seq.) Recently, the State adopted interim regulations with SB 4, on well-enhancement techniques and directed the relevant State agencies to further study the safety of these methods and adopt appropriate regulations.

i. California DOGGR

Under State law, the California State Department of Conservation, Division of Oil, Gas & Geothermal Resources ("DOGGR") permits and regulates the installation, operation, and abandonment of wells (production and injection), requires notices, recordkeeping, and reporting during operation of the wells, and inspects operations of the oil and gas production facility. The Legislature appears to intend that DOGGR regulate oil and gas drilling and operations to the exclusion of other agencies, based on the following provision found in the Coastal Commission statutes:

\[
\text{Gas of the Department of Conservation is the principal state agency responsible for regulating the drilling, operation, maintenance, and abandonment of all oil, gas, and geothermal wells in the state. Neither the commission, local government, port governing body, nor special district shall establish or impose such regulatory controls that duplicate or exceed controls established by the Division of Oil and Gas pursuant to specific statutory requirements or authorization.}
\]

\(^{29}\) Id.
Although, as discussed below, it does not appear that land use and zoning regulations were intended to be included in that description of “regulatory controls.” Other facilities related to oil and gas that do not involve the well operations are regulated by other agencies.

ii. SENATE BILL 4 (2013)

Senate Bill 4 (SB 4) was adopted last year by the State Legislature and took effect in January. SB 4 established a regulatory framework for well stimulation treatment activities, including hydraulic fracturing and acidization. The principal elements of SB 4 are as follows:

**DOGGR to Study and Adopt New Regulations.**
Requires DOGGR to do all of the following:

- To adopt new rules and regulations for well enhancement techniques by January 1, 2015.
- To work in concern with other entities to complete a scientific study of well stimulation treatments by January 1, 2015.
- To complete an environmental impact report (EIR) that assesses the environmental impacts of oil and gas well stimulation treatments in the state by July 1, 2015.

**Notice and Publication Requirements.**
For well stimulation treatment activities before January 1, 2015 requires the following:

- Before commencing drilling, the owner or operator must apply for a permit and DOGGR has 10 days to deny the permit.
- Requires the following well stimulation notification:
  - DOGGR must provide a copy of a permit to RWQCB and local planning agency.
  - DOGGR to post permit on website.
  - Operator to post on internet well stimulation fluid composition and disposition information. (Trade secrets can be maintained under certain procedures.)

**New Penalties**
Authorizes civil penalties between $10,000 and $25,000.

**New Definitions**
Adopted several definitions including the following:
○ **Well Stimulation:**  
Any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments.

○ **Acid well stimulation treatment:**  
A well stimulation treatment that uses, in whole or in part, the application of one or more acids to the well or underground geologic formation. The acid well stimulation treatment may be at any applied pressure and may be used in combination with hydraulic fracturing treatments or other well stimulation treatments. Acid well stimulation treatments include acid matrix stimulation treatments and acid fracturing treatments. Acid matrix stimulation treatments are acid treatments conducted at pressures lower than the applied pressure necessary to fracture the underground geologic formation.

○ **Hydraulic fracturing:**  
a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing, for the purposes of this division, the production of oil or gas from a well.

○ **Well stimulation does not include:**  
steam flooding, water flooding, or cyclic steaming and do not include routine well cleanout work, routine well maintenance, routine removal of formation damage due to drilling, bottom hole pressure surveys, or routine activities that do not affect the integrity of the well or the formation.

d. **Local Regulations**

In correspondence to the City Attorney’s Office, OXY’s legal counsel has taken the position that the City would be preempted from adopting regulations, including a moratorium, related to the use of well stimulation techniques. Similar legal opinions were submitted to the Los Angeles City Council by attorneys representing owners of oil and gas interests in Los Angeles. Although the City of Los Angeles is the first city in California to take formal action to move towards
banning fracking (and other well stimulation techniques) other local governments around the country have regulated and/or banned fracking.30

In the case of In the Matter of Norse Energy Corporation USA v. Town of Dryden (2013) 108 A.D.3d 25, the court considered whether the Town of Dryden, New York, was preempted from adopting a zoning ordinance prohibiting oil and gas drilling in the town. The State of New York had a law that provided that a State statutory scheme dealing with mineral resources superseded all local laws relating to the regulation of oil, gas and solution mining industries.31 The New York appellate court held that while Dryden could not impose regulations on drilling operations, the town did retain power to dictate land uses, including prohibiting drilling in its town.32

Some states, such as Texas, that regulate oil drilling allow local zoning to regulate whether and where drilling occurs as a land use matter.33 Other states limit a local agencies ability to regulate drilling. Examples of these are in New York and Pennsylvania.34 For example, in Pennsylvania, in 2009, the State Supreme Court held that the state’s Oil and Gas Act preempted a local ordinance on gas drilling that regulated the permitting of drilling and site restoration, imposed bond requirements and imposed well-head and capping regulations.35

The court found it was preempted because the local ordinance tried to regulate many of the things the state Oil and Gas Act regulated. However, in a separate case, the court found that the Oil and Gas Law did not preempt a local agencies zoning on commercial and industrial development.36 In that case, the court found that the zoning ordinance served a different purpose than the Oil and Gas Act.

In another case, a court held that an ordinance adopted by Morgantown, West Virginia that banned fracking within one mile of the city was preempted by state law. The court held that the city did not have the authority to completely ban fracking because the industry is regulated solely by the West Virginia Department of Environmental Protection which had issued permits for the wells found to violate the city’s ordinance.

Dozens of cities in the East Coast that sit over the Marcellus Shale, in New York and Pennsylvania, such as Buffalo, Ithaca, and Geneva in New York and Pittsburgh, Cresson and Washington Township in Pennsylvania have banned

30 Id.
31 Id.
32 Id.
35 Id.
36 Id.
fracking. Additionally, the following counties have banned fracking on County land, including in New York and Mountain Lake Park, Maryland. Several of these bans are under legal challenge.

e. City of Carson Moratorium

Based on our review of the above described cases, the statutes empowering DOGGR (Cal. Pub. Resources Code sections 3000, et seq.), and the case law on State preemption of city land use regulations, we do not believe that the State statutes and regulations preempt the City from adopting zoning and land use regulations related to oil and gas drilling. At least one provision in the State’s oil and gas laws provides the following:

This chapter shall not be deemed a preemption by the state of any existing right of cities and counties to enact and enforce laws and regulations regulating the conduct and location of oil production activities, including, but not limited to, zoning, fire prevention, public safety, nuisance, appearance, noise, fencing, hours of operation, abandonment, and inspection.

(Pub. Resources Code section 3690.)

While there may be a legal argument that the City is preempted from mandating a type of drilling method or how to prepare, conduct or perform a drilling method or technique, it is our considered legal opinion that the City is not be barred from adopting an ordinance placing a moratorium on the issuance of new development permits for oil and gas uses in the City while the City considers the appropriateness of those land uses and their impacts to public health, safety and welfare to the City’s residents. Additionally, we note that development moratoriums have been routinely upheld by the courts for purposes of aesthetics and preserving a quality of life, as well as particular health or safety impacts.

D. Moratorium Procedures and Effect

a. Procedures

Government Code section 65858 (“Section 65858”) sets forth the statutory authority for cities to adopt moratoriums on development. Under that section, a moratorium may be imposed through the adoption of an “interim ordinance.” A city is limited to adopting a moratorium that prohibits uses that may be in conflict with a “contemplated general plan, specific plan or zoning proposal,” which the city intends, or plans, to study within a reasonable period of time.
In particular, Section 65858 provides the following:

- Section 65858 allows a city to adopt, as an urgency measure, an interim ordinance prohibiting for up to 45 days any uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal which a legislative body is intending to study within a reasonable time. The urgency measure must be approved by a four-fifths vote in order to be adopted. No notice or hearing is required for the first adoption. (Beck Dev. Co. v. Southern Pac. Transp. Co. (1996) 44 Cal.App.4th 1160.)

- Before adopting or extending an interim ordinance, the City Council must make the finding that there is a current and immediate threat to the public health, safety, or welfare, or that the approval of additional subdivisions, use permits, variances, building permits, or the like, would result in such a threat. The findings must be contained in the ordinance. The finding must be based upon specific articulable facts that are included in any urgency ordinance. (216 Sutter Bay Assocs. v. County of Sutter (1997) 58 Cal.App.4th 860.)

- To support a lawful moratorium, the Council must be able to state in good faith that it is suspending development in order to “consider a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.” That “good faith” needs specific facts to support the same. (Gov’t Code Section 65858(a).)

- Ten days prior to the expiration of the ordinance, the City Council must issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance. (Gov’t Code Section 65858(d).)

- If an interim ordinance is initially adopted without notice and a hearing, the ordinance is effective for 45 days. (Gov’t Code Section 65858.) The City Council may extend the interim ordinance once for 10 months and 15 days, and a second time for one additional year, both extensions would require notice and a hearing.

- Like the ordinance itself, any extension requires a four-fifths vote and requires findings justifying the same. These findings must also include specific articulable facts to support them. The maximum total time for the moratorium, as extended, to be in place in two years. (ld.)
b. Effect on Current Projects and Applications

A moratorium may be implemented during the pendency of proposed development projects that are under review. At least one court has found that an interim ordinance could cancel a development agreement after it was approved by the city council but before its effective date. (*216 Sutter Bay Assoc. v. County of Sutter (1997) 58 Cal.App.4th 860, 870-71.*)

c. Taking Issues

In their recent e-mail, OXY’s legal counsel also raised the issue that the adoption of a moratorium on oil and gas drilling in the City would amount to an unlawful taking. For OXY to successfully allege a takings claim, they have to pass many hurdles. First and foremost, they have to invalidate the City’s Moratorium. Next, while courts may award temporary takings damages for the loss of property value while a property owner is prevented from developing their property, the standards for a temporary taking are generally pretty high.

To demonstrate a temporary taking, OXY would need to show they have no other use they can make of their property and the court would have to invalidate the moratorium. Also, generally, moratoriums will not support a taking claim, as they are by there nature temporary. Should this City Council wish to discuss the “takings” legal issues in more detail that should be done in a closed session which is available on tonight’s agenda at the discretion of the City Council.

V. FISCAL IMPACT

There is no fiscal impact on the adoption of an interim urgency ordinance implementing a moratorium.

VI. EXHIBITS

Ordinance No. 14-1534U. (pgs. 20-24.)

Prepared by: William W. Wynder, City Attorney
City of Carson  Report to Mayor and City Council  
March 18, 2014

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ORDINANCE NO. 14-1534U

AN INTERIM URGENCY ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, ESTABLISHING A 45-DAY TEMPORARY MORATORIUM ON THE DRILLING, REDRILLING OR DEEPENING OF ANY WELLS WITHIN THE JURISDICTION OF THE CITY OF CARSON THAT ARE ASSOCIATED WITH OIL AND/OR GAS OPERATIONS, AND DECLARING THE URGENCY THEREOF

The City Council of the City of Carson does hereby ordain as follows:

SECTION 1—FINDINGS. The City Council of the City of Carson hereby finds, determines, and declares that:

A. This ordinance is being adopted in order to allow the City time to thoroughly review, study and revise the City’s laws, rules, procedures and fees related to oil and/or gas operations, to enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to develop oil and gas drilling and extraction facilities in the City, with the preservation of the health, safety and welfare of the communities surrounding the oil fields in Carson and the Region.

B. In adopting this Ordinance, the City Council finds:

1. Local neighborhoods in the City of Carson have been negatively impacted by the historical development and operation of oil and gas producers within the City, including some that may have been operated consistent with the laws of the State. For example, but without limitation, the Carousel Tract Homes development, which includes over 200 homes, is currently the subject of a RWQCB clean up and abatement order based on the discovery of contamination from a prior use of the property for oil and gas tank farms. In March of 2010, residents of the 285 Carousel Tract homes were told to not eat fruit and vegetables grown in their backyards by the RWQCB.

2. Oil and gas exploration and production is rapidly developing and evolving in the State of California, including the Los Angeles Metropolitan region, based on advances in technology, including the development of shale oil extraction using well stimulation techniques.

3. The State of California has recognized that not enough is known about the safety of the risks to the environment and the public from well stimulation methods. The recently enacted Senate Bill 4 (2013-2014), which went into effect in January of this year, called on the California Department of Gas and Geothermal Resources (“DOGGR”) to (1) study and develop new regulations for the use of well stimulation methods and (2) develop an environmental impact report (“EIR”) by January and July of 2015, respectively.

EXHIBIT NO. 01

01007-0001/162893.01
4. All oil and gas operations, whether conducted using conventional methods or well stimulation methods, have the potential for significant and immediate impacts on the health, safety, and welfare of the citizens of Carson through increased noise, odor, dust, traffic, and other disturbances, as well as the potential to significantly impact the City’s air, water, soil, biological quality, geology, water, stormwater and wastewater infrastructure, transportation, emergency response plans and other aesthetic values and community resources.

5. California DOGGR is empowered by the State Legislature (Public Resources Code Sections 3000, et seq.) to adopt statewide rules and regulations concerning the development and production of oil and gas resources and the DOGGR has done so.

6. California DOGGR’s statutory powers do not preempt the City’s zoning and land use powers related to oil and gas operations.

7. The State Planning and Zoning Law (Cal. Gov’t Code Sections 65000, et seq.) broadly empowers the City to plan for and regulate the use of land in order to provide for orderly development, the public health safety and welfare, and a balancing of property rights and the desires of the community and how its citizens envisions their city.

8. The City of Carson zoning and land use standards and regulations on oil and gas drilling have not been updated in several years, and have not been updated prior to various changes in oil and gas production practices and changes to state statutes and regulations, and therefore are ripe for review and merit review to determine whether amendments are necessary to reflect today’s industry, its practices, and impacts on land use, transportation, public health, and other environmental and natural resources, as well as to determine if amendments are necessary to coordinate with noticing requirements of SB 4.

9. The City staff have begun to analyze whether the existing zoning and other land use regulations pertaining to oil and gas activities are sufficient to protect the public health, safety and welfare.

10. The City is also aware of the immediate and future interest by several stakeholders to pursue drilling, redrilling and deepening of wells associated with oil and/or gas drilling and extraction operations in the City.

11. There is a significant concern regarding the short- and long-term health impacts on the community from current and future oil and gas drilling and extraction operations, as well as the future impact on the Region’s evolving business community. There is further significant concern regarding the potential pollution that may impact the citizens of Carson and the Region.

12. Effective regulation should be adopted that allows oil drilling operations to co-exist safely with the communities surrounding the City and Region’s oil fields.

13. Provisions of the City’s current laws, rules, procedures and fees relating to oil drilling and extraction activities (the “Existing Regulations”), currently set forth in the Carson Municipal Code (“CMC”), and land use plans, need review, study and revisions in order to protect the health, safety and welfare of the communities surrounding the Region’s oil fields including in the City and Region.
14. The revisions described in Paragraph 13, above, and the nature of those activities and land uses will likely result in the City amending, repealing and adding provisions to the CMC, including the Zoning Code.

15. Without the imposition of a temporary moratorium on the drilling, redrilling and deepening of wells associated with oil and/or gas operations, the City may be required to process applications for such drilling activities despite the fact the Existing Regulations are in need of updating and studies should be done to provide recommendations or possible new standards for oil and/or gas operations.

16. A moratorium is necessary in order to protect the City and its residents, businesses and visitors from the potential health and safety impacts of oil and/or gas operations approved under the Existing Regulations, including air quality, noise, releases, spills and other impacts, and to preserve the quality of life and protect the health, safety and welfare of the communities surrounding the oil drilling and extraction operations in the City, including in the City and the Region.

17. A moratorium is immediately required to preserve the public health, safety and welfare and should be adopted immediately as an urgency ordinance, to make certain that permits for the drilling, redrilling or deepening of wells associated with oil and/or gas operations are issued only under adequate regulations. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of a comprehensive ordinance for the regulation of such activities. The absence of this Ordinance would create a serious threat to the orderly and effective implementation of any amendments to the CMC which may be adopted by the City Council as a result of studying this issue, in that the drilling, redrilling and deepening of wells associated with oil and/or gas operations under the Existing Regulations may be in conflict with or frustrate the contemplated updates and revisions to the CMC.

18. There is a current and immediate threat to the public health, safety and welfare of the City and its community, thereby necessitating the immediate enactment of this Ordinance, in that the approval of permits for the drilling, redrilling or deepening of wells associated with oil and/or gas operations, which would be required to be processed under the Existing Regulations, do not provide adequate protections for the communities surrounding oil and gas drilling and extraction operations in the City, including Carson and the Region. Moreover, the City is aware of new proposals for oil and gas drilling within the jurisdiction of the City, including an open application for a development agreement and specific plan amendment to develop over 200 new or redrilled wells.

19. A moratorium is also immediately required to allow the City time to follow and study SB 4. California DOGGR’s studies and adoption of new regulations will have an impact on the City’s updates to its regulation.

20. A moratorium is also immediately required to allow the City to conduct a comprehensive study on the creation a “oil zone” to address the potential health and safety issues arising from stimulated drilling.
SECTION 2 -- MORATORIUM. During the effective period of this ordinance, no application for permit shall be accepted. No consideration of any application for permit shall be made and no permit shall be issued by the City, for the drilling, redrilling or deepening of any well associated with oil and/or gas operations, or any other land use application requesting approval to conduct new or expanded oil and gas drilling or extraction activities within the City.

SECTION 3 -- REVIEW AND STUDY. During the period of this Ordinance, the Acting City Manager or her designees shall review, study and propose revisions as necessary to the City’s laws, rules, procedures and fees related to oil and/or gas operations, to enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to develop oil and gas drilling and extraction facilities in the City, with the preservation of the health, safety and welfare of the communities surrounding the oil and gas drilling and extraction facilities in the City, including Carson and the Region.

SECTION 4 -- EXCEPTION. The City Council finds the Moratorium shall be modified so that if the City Council, based on substantial evidence presented in writing to the City Council at a duly noticed public meeting held no less than 30 nor more than 90 City-working days after the City Clerk’s receipt of that evidence, determines the City’s receipt and consideration of an application for a permit to drill within the City’s jurisdiction is necessary for the preservation of the public’s health and safety, then such application may be filed and processed in accordance with the City’s then current regulations and authority, subject to any and all DOGGR regulations and requirements, California Environmental Quality Act (“CEQA”) and CEQA Guidelines and other applicable requirements.

SECTION 5 -- URGENCY MEASURE. It is hereby declared this Ordinance is necessary as an urgency measure for the preservation of the public health, safety and welfare. The City Council finds that the current zoning regulations and land use plans do not adequately protect the peace, health, safety and general welfare of the residents of the City or in communities around the City.

The City Council further finds the urgency measure is necessary in order to ensure adequate regulation of oil and/or gas operations is adopted prior to the issuance of any permits for the drilling, redrilling or deepening of any well associated with oil and/or gas operations, which regulations will serve to adequately and appropriately balance the rights of existing operators and future applicants who wish to develop oil and gas drilling and extraction facilities in the City, with the preservation of the public health, safety and welfare of the communities surrounding the oil and gas drilling and extraction facilities in the City, including Carson and the Region.

SECTION 6 -- AUTHORITY AND EFFECT. This interim urgency ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Carson by Government Code Section 65858 and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council as if, and to the same extent that, such ordinance had been adopted pursuant to each of the individual sections set forth hereinabove.
SECTION 7 -- SEVERABILITY. The City Council hereby declares, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.

SECTION 8 -- PUBLICATION. The City Clerk shall certify as to the passage and adoption of this Interim Urgency Ordinance and shall cause the same to be published in a manner prescribed by law.

SECTION 9 -- EFFECTIVENESS OF ORDINANCE. This Ordinance shall take effect immediately, pursuant to the authority conferred upon the City Council by Government Code Section 36937. This Ordinance shall be of no further force and effect forty-five (45) days following the date of its adoption unless extended in accordance with the provisions set forth in Government Code Section 65858. Not later than ten (10) days prior to the expiration of this interim urgency ordinance, the City Council shall issue a written report as required by applicable state law.

PASSED, APPROVED and ADOPTED as an URGENCY ORDINANCE this 18th day of March, 2014.

Jim Dear, Mayor

ATTEST:

Donesia L. Gause, City Clerk

APPROVED AS TO FORM:

City Attorney