

BOARD OF SUPERVISORS

SUPERVISORS

Phillip Peters District 1
Zack Scrivner District 2
Jeff Flores District 3
David Couch District 4
Leticia Perez District 5



KATHLEEN KRAUSE
Clerk of the Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301
Telephone (661) 868-3585
TTY Relay (800) 735-2929

April 10, 2024

The Honorable Ash Kalra
Chair, Assembly Committee on Judiciary
1020 N Street, Room 104
Sacramento, CA 95814

Re: AB 3155 (Friedman), Civil liability for oil and gas well operations – OPPOSE

Dear Assembly Member Kalra,

I am writing on behalf of the Kern County Board of Supervisors, in lockstep with the California Chamber of Commerce and others, to express our strong opposition to AB 3155 (Friedman). This bill would, after January 1, 2025, presume that every case of cancer, pre-term birth or high-risk pregnancy, or respiratory ailment within 3,200 feet of a wellhead in California was caused by that wellhead, and make an operator or owner of an oil or gas production facility or well, jointly and severally liable for the condition.

AB 3155 sets a disturbing precedent for the business community – that you can be liable for health conditions that have no connection to your activities and be required to prove you were not the cause. This bill goes far beyond discouraging investment in California's infrastructure – we view it as a de facto ban by creating impossible liability for any owners, or operators related to oil wells.

Substantively, AB 3155 provides that any case of the following ailments is attributable to an oil well owner or operator if the individual resided within a 3,200-foot radius of a well for 24 months:

1. respiratory ailment in a senior or child.
2. pre-term birth or high-risk pregnancy suffered by a pregnant person; and
3. a person's cancer diagnoses.

The scale of AB 3155's presumption is hard to comprehend. Consider just the scope of the illnesses covered. Every case of cancer developed in a covered area – even types of cancer with no comprehensible connection to an oil well, such as skin cancer or bowel cancer or breast cancer - is presumed to be caused by the operator or owner. Every premature baby is presumed to be caused by the well operator or owner, even those born to older mothers or women using narcotics during their pregnancy. Every respiratory illness in minors or seniors – even if the individual smoked or vaped chronically – is presumed to be caused by the operator or owner.

This presumption means that any covered individual may sue any nearby operator (or their board member) for their entire medical damages without proving causation. Instead, AB 3155 places the burden entirely on the operator or owner to disprove causation. This means that, in each case, the operator or owner will need to pursue invasive and exhaustive discovery on every aspect of the individual's life to identify the true causes of their illness. These litigation costs will be in the hundreds of thousands – or millions – for each case, even if the operator is ultimately successful.

AB 3155 provides two methods of overcoming its presumption, but both are written to be impossible to meet – making it impossible to defend against. First, the operator can prove that it had the “best available technology and remediation efforts proven to prevent” respiratory ailments, pre-term births and high-risk pregnancies, and cancer, and that this technology operated “without interruption and at full capacity for the entire 2-year period the individual lived in the 3,200-foot zone.”

Notably, it is unclear what technology would even meet the compliance requirements of this bill. The bill does not specify the relevant technology beyond “the best available technology proven to prevent” the listed conditions. What technology is “proven” to prevent all types of cancer and prevent premature birth? In addition, even if such technology could be identified, if the well-owner is not constantly updating its equipment – or if those updates generate even a short pause in effectiveness – then liability is waived. Simply put, this is a vague and impossible standard to meet.

Second, an operator can demonstrate that the “oil or gas production facility or well with a wellhead was not, in whole or in part, the cause of the condition.” Here as well, the burden on the operator is impossible. How can someone prove that their conduct was not “in part” the cause of medical conditions which even doctors cannot precisely identify the cause of? For example, if a 30-year smoker was diagnosed with lung cancer, how could the operator disprove that its well contributed to any part of the cause of that condition? Health events, in general, rarely present with a simple cause and effect.

Our hope is that the Legislature and the public will see past the guise; that supposed defensible options are presented to operators. In reality, this bill places an impossible factual burden on the accused with the intent of targeting a single industry and saddling it with legal exposure and crippling liability to effectively force it out of business.

Like other bills dealing with the oil and gas industry in California, this legislation lacks the pragmatism to acknowledge that demand for fossil fuels in our state still exists and will continue to do so into the future. While California's climate policies work to push production out of the state, our demand is met by importing crude oil. California consumes roughly 1.8 million barrels of oil per day, yet it only produces around 463,000 barrels per day. The oil industry unleashed unprecedented economic growth and raised living standards in our state, to the point that California is now vying to become the 4th largest economy in the world. Materially decoupling energy production from GDP, as the state's climate policies aim to do, will not come without reductions in our economic output or significant financial impacts on average Californians.

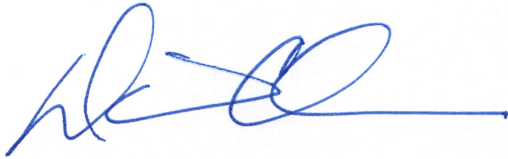
Saying we no longer produce oil and gas in California does not change the fact that our economy still relies heavily on the industry to keep moving forward. Furthermore, these policies push oil production onto other nations so that our demand can still be met, often with catastrophic environmental consequences to residents of those nations. California-produced oil is the only crude

in the world compliant with the state's climate regulations. Our oil producers must follow the state's greenhouse gas reduction programs and account for all emissions, but oil imports are entirely exempt from these regulations.

AB 3155 will undoubtedly stymie future investments in California's existing inventory of wells – including upgrading any legacy wells to more modern standards to ensure groundwater protection and air quality standards are met. Under this bill, owners and operators will face extreme liability without any proof of wrongful conduct.

For these reasons, the Kern County Board of Supervisors strongly opposes this legislation and respectfully requests that you vote **NO on AB 3155**.

Sincerely,



David Couch, Chairman
Kern County Board of Supervisors

Cc: Honorable Members, Assembly Committee on Judiciary
Honorable Members, Kern Legislative Delegation
California State Association of Counties
California Chamber of Commerce
Western States Petroleum Association
Shaw Yoder Antwih Schmelzer & Lange