

**City of Culver City, California
Agenda Item Report**

Meeting Date: 3/24/2014		Item Number: <u>A-1</u>	
CITY COUNCIL AGENDA ITEM: Update on Recent Developments and Discussion of Options Regarding Hydraulic Fracturing and other Well Stimulation Operations in the Culver City portion of the Inglewood Oil Field.			
Contact Person/Dept.: Carol Schwab/City Attorney; Sherry Jordan/Community Development		Phone Number: 310-253-5660; 310-253-5710	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Meetings and Agendas – City Council (03/20/14); (E-mail) Freeport-McMoRan (03/20/14); Inglewood Oil Field Email List (03/20/14)			
Department Approval: Carol Schwab (03/20/14)		City Attorney Approval: Carol Schwab (03/20/14)	
Chief Financial Officer Approval: Jeff Muir (03/XX/14)		City Manager Approval: John Nachbar (03/XX/14)	
<u>RECOMMENDATION:</u> Staff recommends the City Council discuss the update on recent developments and options to address hydraulic fracturing and other well stimulation operations (“well stimulation”) in the Inglewood Oil Field (the “Oil Field”). <u>BACKGROUND:</u> At the March 10, 2014, City Council meeting, the Council directed staff to bring back an update on recent developments, including an overview of current and pending City regulations, and also give possible options for the Council’s consideration relating to prohibitions on hydraulic fracturing and well stimulation. The Council requested that the update also include a discussion of recent actions by the Los Angeles City Council. As part of the update, Staff will give a summary of the significant interest and actions taken by the City related to oil drilling issues over the past several years. The Inglewood Oil Field (the “Oil Field”), the largest urban oil field in the United States, is located within and adjacent to Culver City and the County of Los Angeles. Approximately 100 acres (10% of the entire Oil Field) are located in Culver City. Since at least 2005, the City has investigated activity in the Oil Field and actively pursued strong regulation of the oil operations occurring both in Culver City and the County. Culver City submitted requests to DOGGR, the County and the Oil Operator (then Plains Exploration and Production (PXP)) to obtain information about oil operations. The City Council and City residents were joined in pursuing			

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information and regulation by concerned neighborhood groups from Los Angeles County and environmental organizations.

In 2008, after substantial public input and concern, Los Angeles County adopted the Baldwin Hills Community Standards District ("CSD"), which regulates oil drilling operations in the County portion of the Oil Field. The CSD does not regulate hydraulic fracturing and other forms of well stimulation. During the County's consideration of its CSD, at the direction of the City Council, Culver City actively participated in public hearings and provided written comments throughout the process. Numerous Culver City residents also provided significant input.

The City challenged the adopted CSD under the provisions of the California Environmental Quality Act (CEQA), due to inadequacies in the Environmental Impact Report. The City and citizen groups reached a settlement agreement with the County and the Oil Field operator to ensure additional measures were put in place to protect the public health and safety and the environment. As part of the CSD regulations, the County established a Community Advisory Panel (CAP), on which the City has participated for the last five years. The current representatives to the CAP are Vice-Mayor Meghan Sahli-Wells and Council Member Andy Weissman. The CSD is currently undergoing a five-year review, and the City is preparing comments on the County Report.

In 2009, the City adopted its own moratorium on all new drilling, which was challenged by the Oil Field operator and successfully defended by the City. The court concluded that the Oil Field operator did not have a "vested" right to drill new wells, and that the City had the right to regulate expansion or intensification of the Oil Field operations.

In 2010, the City Council amended the Culver City Municipal Code (CCMC) to clarify and affirm that Council's consideration of drilling permits is a discretionary act. Therefore, any new applications for drilling (including the redrilling or deepening of any existing well hole) would be subject to discretionary approval and environmental review. The City took this step to ensure that adequate environmental review was conducted prior to new oil drilling operations taking place. In addition, the City established additional application submittal requirements for new drilling in the Oil Field, which must be completed before consideration of any permit requests. Using well stimulation techniques, such as hydraulic fracturing, to deepen or redrill a well would require a permit and subsequent environmental review.

On July 2, 2012, in response to numerous members of the public expressing their concerns and apprehension regarding the uncertain, additional impacts that may have occurred or may occur in the future, as a result of well stimulation, including hydraulic fracturing, the City Council adopted Resolution 2012-R057, urging the State to place a ban on hydraulic fracturing and on the disposal of hydraulic fracturing wastewater by injection wells, until DOGGR takes all necessary and appropriate actions to adopt, implement and enforce comprehensive regulations

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concerning the practice of hydraulic fracturing that will ensure that public health and safety and the environment will be adequately protected.

In 2013, the City issued its Discussion Draft Oil Drilling Regulations for the Culver City Portion of the Inglewood Oil Field, which will be considered by the City Council at upcoming meetings. Section 32 of those Draft Regulations repeats the intent of the Council expressed in Resolution 2012-R057, specifically: "Hydraulic Fracturing is prohibited until DOGGR or the State Legislature adopts comprehensive regulations that will adequately protect the public health and safety and the environment."

In September, 2013, SB4 was adopted by the Legislature, which requires a study on well stimulation, preparation of an environmental impact report and the implementation of a permit process to be administered by DOGGR. The City commented on SB4 prior to its passage. In November, 2013, DOGGR released draft Well Stimulation Regulations, which are currently being reviewed by the public. The City commented on those draft Regulations and the related Notice of Preparation of the Environmental Impact Report to evaluate impacts from existing and potential oil and gas well stimulation, in January, 2014. Since then, the California Department of Conservation has adopted Interim Well Stimulation Treatment Regulations, effective as of January 1, 2014. The Interim Regulations provide for a permit, monitoring notification and reporting process, pending completion of the SB4 studies.

On February 28, 2014, the City Council of the City of Los Angeles voted to request that their City Attorney prepare an ordinance to "change the (Los Angeles City) 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 certain measures are met as detailed in a Motion by Council Members Koretz and Bonin." A letter supporting this motion was sent to the Los Angeles City Council by Mayor Cooper on behalf of Culver City. (See Attachment 2, Letter dated February 27, 2014.) The supporting motion explained in more detail the types of activities proposed to be covered by the ban, including various well stimulation techniques. The ordinance is now being prepared by Los Angeles City Attorney Mike Feuer and has not been presented yet for adoption by the Los Angeles City Council.

During this period, in addition to the City's participation in the CAP, the City has expanded its regional cooperation and involvement in issues relating to the Oil Field, including, but not limited to, City Council Members' and City Staff's active involvement in reviewing and commenting on proposed regulations, including those of DOGGR, RWQCB and SCAQMD, as well as, proposed State legislation. City Council Members and Staff have attended conferences, given oral testimony at hearings of other Agencies and met with State Assembly Members, relating to oil drilling and well stimulation issues. During the past two weeks, City staff also had

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discussions with the cities of Los Angeles and Carson regarding their efforts to address impacts of oil drilling operations.

As discussed above, Culver City, with the direction and support of its City Council, has taken significant action to protect the public health and safety and the environment from impacts from oil drilling operations. See Attachment 1 “Culver City Actions related to Oil Drilling and Well Stimulation”. (Although the City Council and staff have actively participated in local, regional and state oil drilling issues for many years, Attachment 1 gives an overview of recent actions for the past two years, as there was an increase in available information on well stimulation issues, public meetings and proposed regulatory actions, during that time period.)

DISCUSSION:

As directed by the Council on March 10th, tonight the Council is presented with an update on recent developments, information on what protections already exist in Culver City laws and regulations, as well as some potential options for the Council’s consideration relating to impacts of hydraulic fracturing and other well stimulation techniques. This is an opportunity for Council to discuss these issues and then direct Staff to bring back further, more detailed information or provide other direction as Council deems appropriate. Information and options include the following:

1) Current State of Culver City Protections/Regulations and Process for New Regulations:

a. Current Provisions:

As described above, the CCMC provides that a permit must be obtained for the drilling, redrilling or deepening of any well. As affirmed by the City Council in 2010, this is a discretionary action. In addition, prior to consideration of a drilling permit application, submittal requirements must be met and environmental review must be conducted. Using well stimulation techniques, such as hydraulic fracturing, as described above, would be subject to this permitting process.

b. Oil Drilling Regulations for the City of Culver City (Discussion Draft):

The City has put forth a Discussion Draft of Oil Drilling Regulations, which will be proposed to be processed and considered in the form of a Specific Plan. Culver City is ahead of many jurisdictions, in that it already has prepared draft Oil Drilling Regulations for processing, which, if adopted, will provide a comprehensive regulatory scheme of oil operations that occur in the City. As a result, under this option, Council would direct staff to continue the process of updating the existing regulations, including incorporating public comments and conducting the related environmental review in compliance with CEQA.

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The initiation of the Specific Plan is tentatively scheduled to be presented for City Council consideration in May.

c. Additional Actions:

Council could consider directing staff to do some or all of the following:

- Continue to analyze actions of other municipalities and counties (i.e. the City of Los Angeles) concerning well stimulation and related issues, and respond to such actions with letters of support and resolutions, when they meet the policy direction of the Council. .
- Continue to monitor and participate in proceedings of other Agencies, when they consider well stimulation issues, including attending hearings, submitting comments and giving testimony.
- Continue to vigorously monitor activities in the Inglewood Oil Field, both in the County and Culver City and report to Council immediately regarding any issues of concern.
- Continue developing expertise in various city departments relating to well stimulation techniques and their impacts.
- If litigation is brought against another governmental entity challenging a prohibition or regulation of well stimulation operations, the Council could consider whether to participate as an “Amicus Curiae” (“friend of the court”: someone who is not a party to a case but offers information relevant to the case) supporting that entity’s position.

2) Moratorium on Well Stimulation:

The Council could consider adopting a moratorium which would prohibit well stimulation activities on an interim basis, pursuant to Government Code Section 65858. The City of Carson adopted a moratorium on new drilling in Carson on March 18, 2014. Environmental groups and citizens supported the right of Carson to adopt such a moratorium, while legal objections were presented by counsel for oil industry representatives.

3) Ordinance Banning Well Stimulation:

The Council could consider directing the preparation of an ordinance similar to the City of Los Angeles, which would consider well stimulation activities. While environmental groups submitted documents describing a legal basis for adopting a prohibition, legal counsel for the CPIA, an oil industry stakeholder advocacy group, took the position with the City of Los Angeles that the City would be preempted from adopting regulations, including a moratorium on oil extraction techniques, including well stimulation/fracking, as well as asserting takings arguments. The City of Carson had support from environmental organizations and also received letters from OXY (Occidental Petroleum Corporation), an

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applicant proposing new wells in Carson, challenging the City's right to enact prohibitions.

There are many issues for the City Council to consider when reviewing possible options, particularly since new information and developments are occurring rapidly in this area. The issues related to hydraulic fracturing and well stimulation are extremely complex, with opinions and concerns expressed by the public and environmental organizations, as well as oil operators (and their legal counsel) and land or leasehold owners. In addition, there is significant technical information which is currently being evaluated and considered. Overall, the City is in a unique position because Culver City already has protections in place and is in the process of revising its Oil Drilling Ordinance and Regulations, with the goal of providing a comprehensive regulatory scheme of oil operations occurring in Culver City.

FISCAL ANALYSIS:

The discussion of this item has no fiscal impact.

ATTACHMENT:

1. Culver City's Actions related to Oil Drilling and Well Stimulation
2. Letter dated February 27, 2014 from Mayor Cooper to Los Angeles Mayor and City Councilmembers

MOTION:

That the City Council:

Receive update on recent developments and discuss options regarding hydraulic fracturing and other well stimulation operations in the Culver City portion of the Inglewood Oil Field and, if desired, direct Staff to bring back further information concerning any of those options.