

**CENTER FOR BIOLOGICAL DIVERSITY • CENTER ON RACE, POVERTY  
& THE ENVIRONMENT • NATURAL RESOURCES DEFENSE COUNCIL**

August 29, 2018

Emily Wimberger, Chief Economist  
California Air Resources Board  
1001 I Street  
Sacramento CA, 95814

*Re: Comments concerning GHG workshop – oil & gas drilling setbacks*

Dear Ms. Wimberger:

Thank you for the opportunity to comment on ARB's interesting and informative webinar held Monday August 20 regarding opportunities for additional GHG reductions from petroleum transportation fuels. We appreciate the brief extension of time to submit these comments.

We wanted to call to ARB's attention a supply-side measure that our groups and others have long advocated as an essential public health protection, as well as a means to direct California's ongoing oil production decline toward the most adversely impacted communities. We are referring to the imposition by ARB of regulatory setbacks of oil and gas operations from homes, schools, hospitals, and other community facilities. Unlike most oil and gas producing states, California currently has no statewide setback requirement; and the few requirements that exist at the local level are spotty and largely inadequate to protect public health.

There are likely multiple legal pathways by which California agencies could develop and impose the much-needed drilling setbacks. There are two in particular, however, that ARB has available to it, that we would encourage it to consider and to fast-track.

First, the Board could regulate setback distances under Health and Safety Code § 40001(b). That section provides that “district rules and regulations may, *and at the request of the state board shall*, provide for the prevention and abatement of air pollution episodes which, at intervals, cause discomfort or health risks to, or damage to the property of, a significant number of persons or class of persons.” H&S § 40001(b) (emphasis added). ARB thus could mandate that air districts adopt rules and regulations to prevent and abate “air pollution episodes” related to oil and gas facilities that, “at intervals,” cause discomfort or health risks to substantial numbers of people. Oil and gas drilling tends, on the whole, to cause frequent “episodes” of this nature in which operations cause air pollution levels to periodically spike. We note that the California Council on Science and Technology (CCST) 2014 report states that “modeling and preliminary studies have indicated that intermittent spikes in emissions to the atmosphere may pose increased risks to local human populations through air pollution concentrations at the regional scale (Brown et al., 2014; Colborn et al., 2014).” *Id.* at 410.

Second, the Board could impose setbacks via its Tanner Act authority to identify and regulate toxic air contaminants, which are well known to be associated with oil and gas drilling operations. Benzene, 1-3 butadiene, and formaldehyde are state-listed as toxic air contaminants (TACs), and ethylbenzene, toluene, and xylene are federally listed hazardous air pollutants (HAPs). ARB thus has authority to develop airborne toxic control measures (ATCMs) for these pollutants applicable to oil and gas drilling operations. Those measures can and should include setbacks from human populations. We note that there is precedent for a setback ATCM. The ATCM for chrome plating operations prohibits operation of new hexavalent chromium electroplating and chromic acid anodizing facilities unless they are “located outside of an area that is zoned for residential or mixed use and is located, as determined by the permitting agency, at least 1,000 feet from (A) the boundary of any area that is zoned for residential or mixed use, or (B) any school or school under construction.” 17 Cal. Code Regs. § 93102.4(d).

We are aware, and appreciate, that the Study of Neighborhood Air Near Petroleum Sources (SNAPS) process is collecting monitoring data that could eventually be used in a report in support of oil and gas ATCMs. But we do not believe the Tanner Act process requires that ARB wait the years necessary to complete and evaluate the SNAPS monitoring before developing setbacks for communities who need them now. Monitoring, while obviously useful, cannot by nature capture all emissions from all relevant sources at all relevant times in a single effort. For that reason, a more sound approach would rely upon the larger body of scientific investigation pertinent to setbacks, reflecting multiple assessments over time. There are currently more than two dozen published public health studies specifically addressing, in one way or another, public health impacts associated with proximity to oil and gas wells. These studies should be evaluated with reference to California-specific conditions to arrive at appropriate setback distances. At the very least, given the urgency of the public health threat, ARB should use this body of existing science to establish setbacks initially, and supplement and amend its conclusions later as necessary based on the SNAPS monitoring data.

Setbacks clearly have independent importance as a means to protect public health. Since California oil production levels are already in decline as discussed at the Workshop, setbacks will help ensure that the production most harmful to community health is on the leading edge of that ongoing decline.

Thank you for considering these comments. We would welcome the opportunity to meet with you to discuss them further.

Very truly yours,

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