



# LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

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## LETTER OF DETERMINATION

**MAILING DATE: OCTOBER 4, 2023**

**Case No. ZA-2022-8997-ZAI-1A**

Council District: All

CEQA: N/A

Plan Area: Citywide

**Project Site:** Citywide

**Applicant:** City of Los Angeles

**Appellants:** Warren E&P, Inc.; Warren Resources of California, Inc.; and Warren Resources, Inc.

Representatives: Megan Sammut, Day Carter Murphy LLP

E&B Natural Resources Management Corporation

Representative: Nicki Carlsen, Alston & Bird LLP

Western States Petroleum Association (WSPA) and Native Oil Producers & Employees of California (NOPEC)

Representative: Sigrid Waggener, Manatt, Phelps & Phillips LLP

At its meeting of **September 14, 2023**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following interpretation:

A Zoning Administrator's Interpretation (ZAI) applicable to all oil/gas well operations in the City of Los Angeles, issued by the Chief Zoning Administrator, interpreting the meaning of "well maintenance" in the Los Angeles Municipal Code (LAMC), as activities triggering a "Rework Permit" from the California Geologic Energy Management Division or notification per South Coast Air Quality Management District Rule 1148.2 for "Well Rework" and/or "Injection" including one or more of the following activities: acidizing, hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing.

The issuance of this ZAI that defines "well maintenance" is not a "project" as that term is defined by CEQA Guidelines, Section 15378. Even if this ZAI is determined to be a project for purposes of CEQA, it was evaluated in the Initial Study prepared by the City to support the Mitigated Negative Declaration prepared for the Oil and Gas Drilling Ordinance (Ordinance No. 187,709).

1. **Granted** the appeal in part, as to Appeal Point No. 4; and **denied** as to all other appeal points;
2. **Adopted** the attached Modified Zoning Administrator's Interpretation of Well Maintenance dated October 4, 2023;
3. **Found** that the issuance of this ZAI that defines "well maintenance" is not a "project" as that term is defined by CEQA Guidelines, Section 15378. Even if this ZAI is determined to be a project for purposes of CEQA, it was evaluated in the Initial Study prepared by the City to support the Mitigated Negative Declaration prepared for the Oil and Gas Drilling Ordinance (Ordinance No. 187,709); and
4. **Determined** the following regarding the Zoning Administrator's Interpretation (ZAI):

**Scope of the ZAI:**

- Nearly all of the appeal points raised by Appellants are concerns directed at the Oil and Gas Drilling Ordinance (Ordinance No. 187,709), not the ZAI. The ZAI is the only subject of the City Planning Commission’s action.
- Additionally, many of the claims raised in the appeals are about the alleged consequences of the City’s Oil and Gas Drilling Ordinance adopted by City Council and ZA Memo 141 – which outlines the procedures for the acceptance and processing of applications for oil drilling approvals under the Health and Safety exception. The Oil and Gas Drilling Ordinance and ZA Memo 141 are outside the scope of this appeal.
- This ZAI does not establish new regulations; the ZAI interprets a zoning term in a regulation which is unclear.

**ZA Authority to Interpret:**

- The ZAI is a legitimate exercise of the Zoning Administrator’s authority pursuant to the City Charter and LAMC Section 12.21 A.2 to interpret zoning regulations, which states, in part, that
  - The Zoning Administrator shall also have authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.
  - The phrase “to maintain” and the term “maintenance”, respectively, were found in the LAMC both prior to and after the adoption of the Oil and Gas Drilling Ordinance.
  - As such, a ZAI to interpret what “well maintenance” meant in this context was necessary for implementation purposes and appropriate.

**Error and Abuse/Arbitrary and Capricious:**

- The Chief Zoning Administrator did not err or abuse her discretion in issuing the interpretation defining the terms “to maintain” in prior LAMC Section 13.01-H and I and “maintained” in LAMC Section 12.23-C,4, as amended by Ordinance No. 187,709.
- The ZAI drafted by the Chief Zoning Administrator, and as modified herein, is not an arbitrary or capricious action.
  - The interpretation is backed by rigorous, methodical, and extensive research and consultation with oil regulators and operators – including some of the appellants, as demonstrated in the whole of the administrative record.

The vote proceeded as follows:

Moved: Millman  
 Second: Noonan  
 Ayes: Gold, Lawshe, Zamora  
 Absent: Cabildo, Choe, Leung, Mack

**Vote: 5 – 0**

*Cecilia Lamas*

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Cecilia Lamas, Commission Executive Assistant II  
 Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

**Effective Date/Appeals:** The decision of the Los Angeles City Planning Commission is final and effective upon the mailing of this determination letter and not further appealable.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Zoning Administrator's Interpretation of Well Maintenance dated October 4, 2023

cc: Estineh Mailian, Chief Zoning Administrator  
Courtney Shum, Associate Zoning Administrator  
Edber Macedo, City Planning Associate

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October 4, 2023

Public Counters

Department of City Planning

Department of Building and Safety

All Interested Parties

CASE NO. ZA-2022-8997-ZAI-1A  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Well Maintenance

CITYWIDE

This Zoning Administrator's Interpretation (ZAI) interprets what drill site activities qualify as "well maintenance". This ZAI (ZA-2022-8997-ZAI-1A) replaces and supersedes previous ZAI (ZA-2022-8997-ZAI) interpreting "Well Maintenance", issued on January 17, 2023. As modified herein, **well maintenance** for oil and gas extraction sites shall be interpreted as any scope of work that meets either of the following two criteria:

1. A scope of work that requires a Notice of Intention "Rework Permit" to carry out a rework project on a well from the California Geologic Energy Management Division (CalGEM).<sup>1</sup>
2. A scope of work that requires notification per the South Coast Air Quality Management District's (SCAQMD) Rule 1148.2 - "Notification and Reporting Requirements for Oil and Gas Well and Chemical Suppliers" for "Well Rework" and/or "Injection" including one or more of the following activities: acidizing,

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<sup>1</sup> Permitting, Forms, and Compliance - Oil and Gas Requirements and Forms, Well Permit Information, Rework/Redrills. California Energy Geologic Management Division, 2022. <[https://www.conservation.ca.gov/calgem/for\\_operators](https://www.conservation.ca.gov/calgem/for_operators)>

hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing.<sup>2</sup>

## **AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

LAMC Section 12.21-A,2 provides, in pertinent part, as follows:

“2. **Other Use and Yard Determinations by the Zoning Administrator.** (Amended by Ord. No. 177,103, Eff. 12/18/05.) The Zoning Administrator shall have authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed.

The Zoning Administrator shall also have authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

This Section has been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

### **BACKGROUND**

The LAMC contains several Zoning Code provisions that regulate oil and gas drill sites. These sites are primarily regulated by LAMC Section 13.01. Previous LAMC Section 13.01-H stated that any person desiring to “drill, deepen, or **maintain an oil well...**” requires a determination from the Zoning Administrator. The Zoning Code does not specify what activities might constitute a desire to “maintain an oil well.”

In the past several decades the Zoning Administrator has reviewed and determined when a proposed scope of work at a drill site qualifies as a well maintenance project on a case by case basis.

Pertinent previous LAMC Section 13.01-H and Section 13.01-I, read as follows (underline added):

***H. “Drilling Site Requirements.** Any person desiring to drill, deepen or maintain an oil well in an oil drilling district that has been established by ordinance, or to drill or deepen and subsequently maintain an oil well in the M3 Zone within 500 feet of a more restrictive zone shall file an application in the*

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<sup>2</sup> Compliance - Oil and Gas Well Electronic Notification and Reporting (Rule 1148.2) - South Coast Air Quality Management District, 2022. <<https://www.aqmd.gov/home/rules-compliance/compliance/1148-2>>

*Department of City Planning on a form provided by the Department, requesting a determination of the conditions under which the operations may be conducted.”*

*I. “Permits. (Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.) No person shall drill, deepen or maintain an oil well or convert an oil well from one class to the other and no permits shall be issued for that use, until a determination has been made by the Zoning Administrator or Area Planning Commission pursuant to the procedure prescribed in Subsection H of this section.”*

Recently, on December 2, 2022, the City Council also approved Ordinance No. 187,709, which became effective on January 18, 2023, amending various parts of the LAMC relating to oil drilling. Among other changes, it eliminated LAMC Sections 13.01-H and 13.01-I and amended LAMC Section 12.23-C.4(a) to prohibit well maintenance, drilling, re-drilling, and deepening except to prevent or respond to a threat to public health, safety, or the environment, as determined by the Zoning Administrator.

Amended LAMC Section 12.23-C.4(a) reads as follows (underline added):

*“All oil wells (as defined pursuant to LAMC Section 13.01 B), including those operating pursuant to any discretionary permit in all zones, whether by ordinance or approval of a Zoning Administrator, and all oil wells in an M3 Zone, are nonconforming uses as of the effective date of the ordinance. No new well for the production of oil, gas or other hydrocarbon substances may be drilled in any zone. No existing well for the production of oil, gas or other hydrocarbon substances, which is a nonconforming use, shall be maintained, drilled, re-drilled, or deepened, except to prevent or respond to a threat to public health, safety, or the environment, as determined by the Zoning Administrator.”*

This ZAI interprets **well maintenance** as applicable in both the previous LAMC Sections 13.01-H and I, and the current LAMC Section 12.23-C.4(a). More specifically, this ZAI interprets the term “maintain” in the previous LAMC Sections 13.01-H and I; and the term “maintained” in the current LAMC Section 12.23-C.4(a).

The new ordinance, Ordinance No. 187,709, also amended existing oil drilling regulations and reviews required by the Zoning Administrator, which further raises the need for this interpretation. In the past, the Office of Zoning Administration (OZA) has been asked by operators, advocacy groups, and interested parties to interpret what constitutes well maintenance as it appears in the Zoning Code.

This ZAI formally interprets what the term, well maintenance, entails as needed for the land use regulation of drill sites.

### **Implementation per LAMC Section 13.01-H:**

ZA Memo 133, dated September 19, 2016, established a comprehensive set of procedures and policies for the acceptance and processing of oil drilling applications pursuant to previous LAMC Section 13.01-H. This Section required any person (or operator/applicant) seeking to “drill, deepen, or maintain an oil well ... [to] file an application in the Department of City Planning...”. ZA Memo 133 was the guiding document for operators (or applicants) seeking approvals pursuant to LAMC Section 13.01-H. Operators (or applicants) were required to submit an application for a discretionary review that includes a public hearing, mailing notice, and additional review standards. Since 2016, when ZA Memo 133 was released, the OZA has been engaged in reviewing and determining scopes of work that qualify as maintenance and warrant a discretionary review. This has mainly been done on a case by case basis, and at times by the request of the operator to the OZA. Other times, OZA staff have informed operators that a discretionary request would be required for well maintenance activities that were performed without consultation or review by the OZA.

### **Implementation per LAMC Section 12.23-C.4(a):**

This ZAI also applies to any requests from operators that wish to complete any scope(s) of work involving well maintenance activities pursuant to LAMC Section 12.23-C.4. The LAMC, pursuant to Ordinance 187,709, was recently amended to prohibit various well activities, including well maintenance, unless the operator can demonstrate that the work is to prevent or respond to a threat to public health, safety, and/or the environment. Operators shall follow the procedures referenced in ZA Memo 141 and complete all required materials.

The well maintenance activities listed in this Interpretation are permitted only when filed, reviewed, and approved, pursuant to both the applicable code section and appropriate procedures as established by the relevant ZA Memos.

### **DISCUSSION**

The OZA relied on specific sources to interpret the scopes of work for well maintenance that include, but are not limited to: federal regulatory agency standards, state regulatory agency standards, scientific articles, and engineering publications related to petroleum engineering and oil extraction. The OZA also consulted with the City’s Petroleum Administrator, Fire Department, SCAQMD, and CalGEM.

As a result of this research and consultation, the OZA had initially determined two qualifying criteria for which activities shall be considered as **well maintenance**:

1. A scope of work that requires a Notice of Intention "Rework Permit" to carry out a rework project on a well from CalGEM.
2. A scope of work that requires online notification per SCAQMD's Rule 1148.2 - "Notification and Reporting Requirements for Oil and Gas Well and Chemical Suppliers".

The OZA examined a growing body of research, including those of a scientific advisory panel's response (October 2021) to CalGEM regarding the effects of oil extraction and production on public health<sup>3</sup>, which illustrates the need to better regulate well maintenance activities. This scientific advisory panel, consisting of scientists, engineers, and public health analysts, determined that extraction activities may have negative external effects on the health and well-being of people within the vicinity of such operations. In another study published in April 2017, researchers examined the overlap of the type of chemicals and trade products used in hydraulic fracturing activities and routine maintenance acidizing projects. This 2017 study concluded that there is substantial overlap given the number of similar chemicals used during these activities.<sup>4</sup> This analysis was done specifically using SCAQMD data, which is particularly relevant as this agency also regulates oil drill sites for air emissions and odors. These aforementioned studies confirm the potential negative external effects on community public health and on the environment, and serve as further justification for formally establishing the procedures for a discretionary review for well maintenance activities.

In reviewing well maintenance projects, regulatory agencies such as CalGEM and SCAQMD have narrow purviews in what they can regulate. Therefore, the Zoning Administrator's authority under the local zoning code to review maintenance activities in a more comprehensive manner, can help further reduce, if necessary, any land use impacts. Specifically, as it relates to oil and gas extraction, CalGEM focuses on subsurface and near surface activities whereas SCAQMD regulates the effects on air quality, including emissions and pollutants. These agencies do not regulate other significant land use impacts for oil and gas extraction activities. Such land use impacts include, but are not limited to: traffic/transportation circulation, noise decibel levels, aesthetics, and noxious odors resulting from proposed activities conducted at drill sites.

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<sup>3</sup> "CalGEM Questions for the California Oil and Gas Public Health Rulemaking Scientific Advisory Panel", Physicians, Scientists, and Engineers for Healthy Energy; and Lawrence National Berkeley Laboratory; and UC Berkeley's Department of Environmental Science, Policy, and Management (commissioned by the CA Department of Conservation), Identifies the substantial amount of health risks (both physical and mental health) associated with many elements of oil and gas extraction activity and discusses a buffer as potential harm reduction method. October, 2021.

<sup>4</sup> "Comparison of chemical-use between hydraulic fracturing, acidizing, and routine oil and gas development", Physicians, Scientists, and Engineers for Healthy Energy (funded by UC Berkeley and U.S. Department of Energy grants), Analyzes the usage of chemicals from South Coast AQMD disclosure data and concludes that there is overlap between fracking chemicals and 'maintenance acidizing' chemicals. April, 2017.



Well maintenance activities, as described herein, may have negative land use impacts on surrounding communities such as elevated noise levels, frequent odor events, increased emissions exposure, spill incidents affecting the public right-of-way, truck traffic congestion on local streets, removal of on-street parking, traffic congestion on local streets, and lack of effective screening for drill site equipment. As such, the Zoning Administrator's review allows for a more comprehensive analysis of proposed well maintenance activities and ability to mitigate any potential impacts, if necessary.

The Zoning Administrator's Interpretation advances the City's goal to prioritize the safety and quality of livability for local residents while providing an opportunity for operators to keep wells functioning in a safe and compliant manner.

### **Overview of Oil and Gas Well Activities Considered as Well Maintenance**

Regulatory standards from agencies, primarily CalGEM and SCAQMD, helped shape the decision to define what activities qualify as well maintenance. Per state regulations, when operators propose to conduct specific well maintenance activities (such as maintenance acidizing or a well recasing), operators are required to apply for a permit and/or submit notification to various regulatory agencies such as SCAQMD or CalGEM.

For example, when an operator wishes to conduct maintenance acidizing on a well, the operator must disclose a chemical use list to SCAQMD and the agency sends an electronic notification of the proposed work. Members of the public can subscribe to receive these notifications when an operator plans to conduct the proposed maintenance acidizing project or any other project that requires notification pursuant to SCAQMD Rule 1148.2. In this example, under the previous authority of LAMC Section 13.01-H, and per this ZAI, the Zoning Administrator would review this request for maintenance acidizing because it requires online notification per SCAQMD's Rule 1148.2. As part of the discretionary review pursuant to former LAMC Section 13.01-H, the Zoning Administrator could include conditions to minimize land use impacts to the local vicinity.

In this same example, per this ZAI and upon the effectuation of Ordinance No. 187,709, which eliminates LAMC Section 13.01-H, a request for maintenance acidizing would still require online notification per SCAQMD's Rule 1148.2, and as such, be considered as well maintenance. Per LAMC Section 12.23-C.4(a), this well maintenance scope of work would be prohibited *except* as necessary to prevent or respond to any Health and Safety threats. ZA Memo 141 provides guidance pursuant to requests made to LAMC Section 12.23-C.4(a).

At the time the ZAI was released on January 17, 2023, the proposed SCAQMD rules that would trigger Rule 1148.2 notification, were in line with what was included in the

ZAI and included: hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing. However, shortly thereafter, the SCAQMD amendments were adopted on February 3, 2023, and the scope of activities requiring notification included the aforementioned activities, and was restructured and expanded to include maintenance acidizing for injection wells, chemical treatment activities, and oil/gas well activities that utilized a workover rig that did not use a Tier 4 Final low emission engine or non-combustion source.

To respond to the amendments of the SCAQMD notification requirements post the release of the ZAI, this modification of the original ZAI further clarifies that any Rule 1148.2 Notification for a Well Activity categorized as “Well Rework” or “Injection” as defined by SCAQMD, and that will perform any of the following activities, will be considered “well maintenance” pursuant to the LAMC: acidizing, hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing. In summary, these modifications to the ZAI affirm the Chief Zoning Administrator’s original intent to include SCAQMD activities, while further clarifying under which circumstances the currently expanded list of SCAQMD activities will be considered “maintenance” for this purpose. With these modifications to the “well maintenance” interpretation criteria incorporated, the ZAI is a straightforward interpretation for operators to understand and follow as part of their oil/gas well operations.

Similarly to SCAQMD’s oversight on oil and gas wells, CalGEM requires a Notice of Intention application for projects that will “rework” an existing well<sup>5</sup>; rework on a well can often entail a permanent modification to the well casing. Based on CalGEM’s procedures, rework activities can include projects such as liner replacement in the well casing or converting an injection well to a producer well. This ZAI interprets that such proposed rework project would be considered as maintenance activity and as such, subject to review by the Zoning Administrator.

Operators may apply for multiple well maintenance projects, under one application, for a single drill site. Such batched submittals, under one application and at the same time, will allow the Zoning Administrator to assess the entirety of the scope and do a more comprehensive review. Surrounding neighbors and interested parties will also get a better overview of the proposed maintenance activities, with more transparency and predictability. In turn, the operator will have a more timely review and not have to submit multiple applications. Operators shall file applications per the appropriate procedures and applicable code section (e.g. LAMC Section 13.01-H or LAMC Section 12.23-C.4).

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<sup>5</sup> Well Permit Information portal, California Geologic Energy Management Division online website, July 2022, [https://www.conservation.ca.gov/calgem/for\\_operators](https://www.conservation.ca.gov/calgem/for_operators)

## **DETERMINATION**

For the reasons set forth above, “**well maintenance**” is interpreted to include any scope of work that meets any of the following criteria:

1. A scope of work that requires a Notice of Intention “Rework Permit” to carry out a rework project on a well from CalGEM.
2. A scope of work that requires notification per the South Coast Air Quality Management District’s (SCAQMD) Rule 1148.2 - “Notification and Reporting Requirements for Oil and Gas Well and Chemical Suppliers” for “Well Rework” and/or “Injection” including one or more of the following activities: acidizing, hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing.<sup>6</sup>

**Well Servicing.** Repair and servicing work may be carried out on existing wells if the scope of work does not meet the criteria for well maintenance, as described in this ZAI. Work activities conducted on the wells that do not meet the criteria for well maintenance shall be considered well servicing. Examples of well servicing can include projects such as well pump replacement or maintenance of underground and/or aboveground storage tanks that service the oil well operations.

This interpretation shall be published pursuant to the LAMC and administrative practice of the OZA.

## **CEQA FINDINGS**

The issuance of this Zoning Administrator Interpretation (“ZAI”) that defines “well maintenance” is not a “project” as that term is defined by CEQA Guidelines, Section 15378 as it constitutes an administrative activity to assist in the implementation of the Oil and Gas Drilling Ordinance (Ordinance No. 187,709) adopted by the City Council on December 2, 2022 and which became effective on January 18, 2023. However, even if this ZAI is determined to be a project for purposes of CEQA; its impacts, if any, were evaluated in the Initial Study prepared by the City to support the Mitigated Negative Declaration (Case No. ENV-2022-4865-MND) prepared for the Oil and Gas Drilling Ordinance.

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<sup>6</sup> Compliance - Oil and Gas Well Electronic Notification and Reporting (Rule 1148.2) - South Coast Air Quality Management District, 2022. <<https://www.aqmd.gov/home/rules-compliance/compliance/1148-2>>

**EFFECTIVE DATE**

The decision of the City Planning Commission on September 14, 2023, to adopt this Zoning Administrator's determination is final upon the date of this letter, and is not further appealable pursuant to LAMC Section 12.21-A.2.

**Notice:** If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90<sup>th</sup> day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

ESTINEH MAILIAN

Chief Zoning Administrator



EM:CS:ecm