

San Ardo is a tiny community which sleeps among the agricultural fields in the southern reaches of Monterey County, a place where both land owners and their employees, people who depend on each other, live virtually side-by-side. A place where the locals meet at the solitary eatery, the San Ardo Cafe, to talk things over. A place where pleasantries are exchanged when residents stop by the local Post Office to pick up their mail. This is the kind of place where a stranger passing through generates a wave and a sometimes curious look. San Ardo is the kind of place which, at least outwardly, doesn't seem to have changed much over the last seventy years or so. San Ardo is certainly an unlikely place to be the epicenter of a legal battle which, if lost, could mean the end of the onshore oil business in California.

Just a few freeway minutes south of the town lies the San Ardo oilfield, blessed with a unique geology which resulted in a large concentration of oil reserves which were first developed during the 1940's. It is California's seventh largest producing oilfield with some 1,420 wells currently operating. In 2016 these wells produced a total of 7.925 million barrels of oil. The San Ardo oilfield is the principal economic driver of the south county economy, providing substantial employment, income, and tax revenues to an otherwise rural economy. As just one example, the local school district derives a large portion of its revenues from property taxes generated by the San Ardo oilfield. Throughout its life, the San Ardo field has produced its oil safely and responsibly, using modern techniques to enhance its production and dispose of its waste with no evidence of undue pollution or environmental harm.

Several years ago things began to change for San Ardo, for Monterey County, and for all of oil-producing California, as environmental activists focused on shutting down oil and gas production. Teaming up with a San Francisco environmental law firm and outsiders like the Center for Biological Diversity, activist groups began to mount a series of ballot initiatives throughout California, initiatives which sought to use County land-use authority to ban oil production activities which they labelled "extreme", but which are, in reality, safe and reliable methods of enhancing the extraction of California's heavier crude, techniques such as cyclic steaming, water and steam flooding, and many other common well-maintenance techniques. Despite the fact that California's Public Resources Code specifically grants the Department of Oil, Gas, and Geothermal Resources (DOGGR) authority to regulate all down-hole activities involved in oil production, environmental groups attempt to circumvent the process by using County control of land-use policy to prevent activities in support of targeted downhole operations, in violation of the California Constitution. Chief among their targets was hydraulic fracturing, or, in the vernacular of the zealots, "fracking". Despite the fact that hydraulic fracturing is rarely used in the state; DOGGR's 2015 First Annual Report on Well Stimulation Treatment indicates use in only

3 counties with over 99% being in Kern County. None were performed in Monterey County. Modern production techniques then, are the actual targets in their Quixotic battle against "fracking". "Fracking" is simply the Trojan Horse which activists use to achieve their true goal, that being to end onshore oil production by eliminating those methods which make production economically viable.

While some early efforts provided largely symbolic victories in counties which lacked known oil reserves or production, such as Sonoma and other bay area counties, the first successful effort was in San Benito County, Monterey County's neighbor to the east, with modest reserves and only a handful of producing wells. After passage of the measure, the local operator and royalty owners made the determination that a legal challenge was not economically feasible.

Another such effort was mounted in Santa Barbara County, labelled as Measure P, which County voters faced on the November 2014 ballot. Santa Barbara County lies some 90 miles south of Monterey County and has substantial oil production located in the north portion of the county. Most opposition came from the southern, more urban parts of the County in and around Santa Barbara. NARO-California was a very active participant in the battle leading up to the election, along with an outstanding coalition of mineral interest owners, oil producers, labor unions, agricultural and industrial organizations, affected employees, public safety representatives from police and fire departments, and members of local government who depend on oil-generated property taxes for their financial solvency. Through the coalition's cohesive efforts the public got the message, looked beyond the false "fracking" rhetoric, and sent the measure down with a resounding 66% NO vote.

Monterey County voters were faced with their Measure Z in 2016. Measure Z, written by the same San Francisco law firm which had created Measure P, was a new revision of the measure attempted in Santa Barbara County with the addition of a much more onerous provision to ban the use of injection wells or storage of produced water, thereby representing an even greater threat to the San Ardo oilfield than measures previously seen in the state.

Measure Z was opposed vigorously by a broad coalition including producers, mineral interest owners, employees, agricultural and business organizations, and government officials, as well as NARO-California. The south-county voters and affected parties were outnumbered by the more populous and environmentally active voters of tourism-driven north county cities such as Monterey, Pacific Grove, and Carmel. Measure Z was approved in November 2016, garnering a 56% YES vote.

Almost immediately post-election, oil producers Chevron and Aera Energy filed for and obtained injunctive relief to halt implementation of the Measure, and they, along with San Ardo royalty owners initiated preparations to file suits to challenge Measure Z in California's courts. At this time Aera, Chevron, California Resources Corporation and NARO-CA joined with over 70 royalty owners, have filed suit against Monterey County. Lead Counsel in the *NARO-CA et al v. County of Monterey* case is NARO-CA Vice President Edward S. Renwick, Esq., of Hanna and Morton LLP, Los Angeles, CA, and his local co-counsel is Jacqueline M. Zischke, Esq., Salinas, CA. To view the *NARO-CA et al v. County of Monterey* complaint you may visit the NARO-CA webpage at: <http://www.naro-us.org/California>

Key to these cases will be a challenge of Monterey County's authority to regulate downhole activity in the face of California's Public Resources Code mandate that such authority has specifically been granted to the Department of Oil, Gas, and Geothermal Resources, thereby making Measure Z in violation of California's constitution. The second main element of the legal challenge is the issue of regulatory takings, that is, a finding under the United States and California Constitutions, that an uncompensated taking denies due process to citizens whose assets, or the ability to capitalize those assets, have been lost due to regulatory action.

The outcomes of these suits will be pivotal in the battle for California's petroleum producers and royalty owners to use their constitutionally-given freedoms to develop their resources, for they will provide the precedents on which the future of energy production in the state are balanced. And, for the balance of the nation's petroleum industry and royalty owners, it is only too true that what begins in the Golden State is most often predictive of the nation's future as a whole. NARO-California made the unprecedented decision to participate in this legal battle as this is a moment of great import for us all.