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Kern County Communities Win Reprieve with Court Ruling on Oil & Gas Permitting

Court rules that Kern County must stop oil and gas permitting activity until Court can assess compliance with prior rulings

Kern County, CA — The Kern County Superior Court [released its decision](#) yesterday ordering Kern County to stop issuing oil and gas permits until the Court determines that the County has fixed the [legal problems](#) in the County's 2015 oil and gas ordinance.

Local environmental groups and a local farmer [filed lawsuits](#) on the heels of the Kern County Board of Supervisors' approval of a second iteration of the Kern oil and gas ordinance earlier this year, under which the County began issuing oil and gas permits without first confirming with the Court that the County fully addressed its previous [violations of the state's foundational environmental law](#).

In February 2020, the Fifth District Court of Appeal [ruled](#) that the County must rescind its original 2015 oil and gas ordinance and cease issuing permits because the County failed to adequately analyze or mitigate significant impacts upon air quality, water supply, agricultural land conversion, and noise. The Court also faulted the County for providing the public with too little time to review a health risk assessment that was released a mere five business days before the 2015 ordinance was adopted. Following the Court of Appeal's decision, the Superior Court in June 2020 issued an order specifying that the County must refrain from reviewing and approving permits until and unless the oil and gas ordinance is readopted lawfully.

With the Superior Court's order still in place and two new lawsuits filed challenging the lawfulness of the County's readopted ordinance, lawyers for frontline community groups, environmental groups, and a local farmer argued that the County wrongly skipped the showing of legal compliance that is required before it renews permitting activity.

The Court agreed, ruling that the County "did not have authority to unilaterally determine" that its readopted ordinance complied with the law such that oil and gas permitting may resume. The

Court therefore ordered the County “to immediately suspend operation of the ordinance” and “to cease reviewing and approving oil and gas permits” under the ordinance until and unless the Court reviews the County’s actions and determines they meet the requirements of the California Environmental Quality Act. The Court’s ruling does not affect existing permits.

Below, Kern community members who are petitioners and the attorneys working on the case offer some statements regarding the court’s ruling:

“The ordinance was already struck down once because the County did not do enough to disclose, let alone reduce the harmful impacts of oil and gas development on our communities.” **said Estela Escoto, President of Committee for a Better Arvin.** “Given the consequences for our air, water, health, and quality of life, it makes perfect sense that the County must show that it corrected its mistakes before issuing permits.”

“We are heartened that the court stopped the County’s illegal permitting.” **stated Keith Gardiner, Manager of King and Gardiner Farms.** “The County was out of bounds to issue any drilling permits before the court decides if it has complied with CEQA.”

“The County never had any business issuing permits after the Court of Appeals clearly instructed them not to,” said **Ann Alexander, a senior attorney with NRDC (Natural Resources Defense Council).** “It shouldn’t have taken a judge’s decision to explain to the County that court orders need to be obeyed, and County officials aren’t above the law.”

“Kern County’s plan to fast track tens of thousands of new oil and gas wells would be a disaster for communities that are already overburdened by the worst air pollution in the country,” said **Mercedes Macias, Senior Organizer in Kern County for the Sierra Club.** “We’re glad to see the court hold the County accountable for its reckless and illegal issuance of these permits before the court has signed off, and now we urge Governor Newsom to take action to protect frontline communities by enacting setbacks and halting state-level permitting.”

“Now that the court has stopped Kern County from issuing permits in defiance of the court order, it’s up to Gov. Newsom to do his part and halt state approvals,” **said Hollin Kretzmann, an attorney at the Center for Biological Diversity’s Climate Law Institute.** “On the heels of the state’s most recent offshore oil spill disaster, it would be unconscionable to keep expanding California’s onshore oil drilling.”

BACKGROUND

- There are approximately 78,000 oil and gas wells in Kern County already, including more than 40,000 active wells that produce an estimated 80 percent of California’s onshore oil and gas. Nonetheless, the County adopted its 2015 oil and gas ordinance and the 2021 version with the goal of accelerating development for the coming two decades.

- The County’s own environmental review acknowledges that oil and gas drilling causes many harmful health and environmental impacts like exacerbating already poor air quality; exposing residents to toxic air contaminants; diminishing scarce water supplies; hastening the loss of agricultural land; burdening residents with disruptive noise; and imperiling wildlife.

- Drilling in Kern County also causes frequent oil spills. [Recent investigative reporting](#) exposed that in just the last few years, more than two dozen oil spills have occurred in Kern County, including a four-month spill of 1.2 million gallons.

- Public advocacy groups including representatives of frontline communities, along with a local farmer, challenged the County's 2015 oil and gas ordinance and environmental review. On February 25, 2020, the Fifth District Court of Appeal issued a 150-page decision finding that the County violated the California Environmental Quality Act (CEQA) because it did not adequately assess or mitigate the significant impacts of drilling and related activities on air quality, water supply, agricultural land conversion, and noise. The Court of Appeal also found that the County released a health risk assessment too late for meaningful public review and comment. As a consequence of these failures to follow the law, the County was ordered to rescind its 2015 ordinance and to cease issuing oil and gas permits.

- The County readopted a nearly identical oil and gas ordinance 2021 on March 8, 2021 [over significant opposition from local community members](#). Community and environmental groups have since challenged the 2021 version of the ordinance, as has King and Gardiner Farms, on the grounds that the County has not corrected the violations identified by the Court of Appeal.

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