

Mendocino Measure S

Initiative Measure to be Submitted Directly to the Voters

The County Counsel has prepared the following title and summary of the chief purpose and points of the proposed measure:

An Initiative to Assert the Rights of Residents of Mendocino County in Order to Secure Clean Water, Air and Soil and Freedom From Chemical Trespass. The Proposed Ordinance Would Ban Hydraulic Fracturing "fracking", Directional and Horizontal Drilling, and Waste Injection Wells in the County of Mendocino and Invalidate Any and All Laws Contrary to this Purpose to the Extent They Effect the County of Mendocino.

The proposed ordinance would establish a "Community Bill of Rights". This Community Bill of Rights provides in part that "[a]ll residents, natural communities and ecosystems in Mendocino County possess the right to water, air and soil that is untainted by toxins, carcinogens, particulates, nucleotides, and hydrocarbons introduced into the environment through unconventional extraction of hydrocarbons."

The proposed ordinance would also ban certain types of oil/gas extraction, which are called "unconventional extraction of Hydrocarbons" in the proposed ordinance. The ordinance defines "unconventional extraction of Hydrocarbons" as "hydraulic fracturing, "fracking", directional and horizontal drilling, and waste injection wells". The proposed ordinance creates strict liability for any damages to any person or property inside Mendocino County caused by "unconventional extraction" done by anyone inside or outside of the County of Mendocino.

The initiative would also declare null and void, within Mendocino County, any State, Federal or International law or other regulation that would violate the prohibitions contained within the proposed ordinance. The ordinance would also prohibit any corporations from asserting State, Federal or International laws to overturn this ordinance. The ordinance would also repeal all provisions of any ordinance, regulation or rules of any type, adopted by Mendocino County that are inconsistent with the provisions of the ordinance.

The proposed Ordinance, if enacted, would mandate "one year in county jail and...a fine of \$10,000 for each violation". The proposed ordinance also states that "[e]ach time a pump is turned on, and each stroke of the pump shall be a separate violation...." Furthermore, the ordinance would make it a violation "[e]ach day that fracking infrastructure equipment is staged or located in Mendocino County for more than 8 hours, whether or not the equipment is actually used for fracking."

The proposed ordinance would also require the County to schedule community meetings focused on changes to County government that would secure the rights of the people to local self-government if any government, corporation or natural person uses the legislature or courts to overturn any provision of the proposed ordinance.

TEXT OF PROPOSED INITIATIVE MEASURE

Whereas, We the People of Mendocino County declare that we have the right and the duty to safeguard our water both on and beneath the Earth's surface, and in the process, come together as a community to insure that local water decisions are made by local people, for the preservation of human and natural communities, whose existence depends on clean, accessible, abundant water; and

Whereas, this Ordinance establishes a Community Bill of Rights which recognizes and secures certain civil and political rights for the people of Mendocino County; and

Whereas, this ordinance bans industrial activities associated with unconventional extraction of fossil fuels, ("fracking"), because these activities violate the civil and human rights of the people of the County by threatening the health, safety, and welfare of the people, environment and future generations of Mendocino County; and

Whereas, private corporations engaged in industrial activities that violate the rights of the people of the County are wrongly recognized by international, federal and state laws as having more "rights" than the people who live in our community, and thus, recognition of corporate rights" is a denial of the rights of the residents of Mendocino County; and

Whereas, such a denial violates the California Constitution, which declares in Article I, Section 1 that All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy;" and

Whereas, in addition to corporate "rights," the state and federal government as well as international trade laws have been routinely used by those corporations to preempt local lawmaking, thus denying the people's right to local self-government; and

Whereas, the Board of Supervisors adopted the Mendocino County Precautionary Policy Number 43 in June 2006 which states, "Every resident, present and future, of Mendocino County has an equal right to a healthy and safe environment . . . The duty to enhance, protect and preserve Mendocino County's environment, community

health, and quality of life rests on the shoulders of local government, residents, citizen groups, and businesses alike," and

Whereas, the use of hydraulic fracturing as an unconventional hydrocarbon extraction method has been shown to inflict damage, disease and toxic trespass upon people, flora and fauna, as well as water, air and soil; and

Whereas, the people have responsibilities to future generations to secure their right to local self-government, to protect the natural environment of this County, to preserve the local ecosystems' ability to sustain agriculture, business, and tourism, as well as promote human health,

Therefore, We the People of Mendocino County hereby adopt this Community Bill of Rights Ordinance.

Section 1—Definitions

(a) "Corporations," for purposes of this Ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, other business entity, public benefit corporation, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) "Ecosystem" shall include, but not be limited to, wetlands, creeks, aquifers, and other water systems, forests, and meadows, as well as naturally occurring habitats that sustain humans, wildlife, flora and fauna, and other organisms.

(c) "Extraction" shall include the digging or drilling of a well for the purposes of exploring for, developing, or producing hydrocarbons.

(d) "Hydraulic fracturing" shall mean an activity in which water, propane, diesel, chemicals and a solid proppant or any other agent are pumped into a wellbore at a rate sufficient to increase the pressure downhole to a value in excess of the fracture gradient of the formation rock, causing the formation to crack, thus allowing the fracturing fluid to enter and extend the crack farther into the formation, forming passages through which hydrocarbons can flow.

(e) "Hydrocarbons" shall mean any of numerous organic compounds, including but not limited to methane, benzene, propane, petroleum and oil.