S271869

IN THE SUPREME COURT OF CALIFORNIA

CHEVRON U.S.A., INC., et al.

Plaintiffs and Respondents,

vs.

COUNTY OF MONTEREY, et al.

Defendants;

PROTECT MONTEREY COUNTY and DR. LAURA SOLORIO

Intervenors and Appellants.

After a Decision by the Court of Appeal
Sixth Appellate District, Case No. H045791
Appeal from a Judgment Entered in Favor of Plaintiffs
Monterey County Superior Court
Case No. 16-CV-3978 and consolidated cases
Honorable Thomas W. Wills, Judge

REPLY TO JOINT ANSWER TO PETITION FOR REVIEW

Catherine Engberg (SBN 220376)
*Kevin P. Bundy (SBN 231686)
Aaron M. Stanton (SBN 312530
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, California 94102
Telephone: (415) 552-7272
Facsimile: (415) 552-5816
Engberg@smwlaw.com
Bundy@smwlaw.com
Stanton@smwlaw.com

*Deborah A. Sivas (SBN 135446)
Environmental Law Clinic
Mills Legal Clinic at Stanford
Law School
559 Nathan Abbott Way
Stanford, California 94305-8610
Telephone: (650) 723-0325
Facsimile: (650) 723-4426
Dsivas@stanford.edu

(Additional attorneys listed on next page)

*Hollin Kretzmann (SBN 290054)
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, California 94612
Telephone: (510) 844-7100
Facsimile: (510) 844-7150
Hkretzmann@biologicaldiversity.org

*Michael Geibelson (SBN 179970)
Robins Kaplan LLP
2049 Century Park East, #3400
Los Angeles, California 90067
Telephone: (310) 552-0130
Facsimile: (310) 229-5800
MGeibelson@RobinsKaplan.com

Attorneys for Intervenors and Appellants
PROTECT MONTEREY COUNTY and DR. LAURA SOLORIO

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INTRODUCTION

The Petition for Review filed by Intervenors Protect Monterey County and Dr. Laura Solorio ("Intervenors") demonstrated that review of the Court of Appeal's Opinion[1] is necessary for two reasons: (1) to secure uniformity of decision regarding the legal test for determining whether a general state law preempts a local enactment, and (2) to settle an important statewide question of law concerning local government authority to control oil and gas-related land uses. In their Joint Answer to Petition for Review ("Answer"), Plaintiffs Chevron U.S.A., Inc., et al. (collectively "Plaintiffs") fail to show review is unwarranted.

First, the Opinion establishes a novel test for preemption that conflicts with this Court's precedents. Plaintiffs label the Opinion a "straightforward application of statutory and decisional law." (Answer at p. 16.) Yet *they fail to cite a single case* supporting the Opinion's holding that a statute's purported "encouragement" of an activity, coupled with a state agency's non-exclusive, discretionary authority to permit that activity, preempts local regulation. This Court has established detailed tests for determining when a local enactment is preempted—for example, where the Legislature has occupied the field to the exclusion of local control, or where an ordinance contradicts state law by mandating what a statute prohibits or prohibiting what a

[1] *Chevron U.S.A., Inc., et al. v. County of Monterey, et al.* (2021) 70 Cal.App.5th 153. Citations to the "Opinion" are to the Court of Appeal's slip opinion attached as Exhibit A to the Petition for Review.

statute demands. (See, e.g., *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897-98, 904.) The Petition for Review demonstrated that Measure Z is not preempted under either of these tests. (Petition at pp. 34-38.) The Opinion's contrary conclusion jettisons this Court's precedent in favor of a novel approach that will leave lower courts, local governments, and litigants guessing as to what the law now is.

Second, review is necessary to settle an important question of law. The Opinion upends a decades-old understanding that local governments may prohibit some or all oil and gas activities, in some or all of their territory, so long as they do not dictate how specific technical practices are carried out. By redefining Measure Z's routine land use restrictions as regulations of oil production "methods and practices," the Opinion calls into question local governments' authority to implement zoning and permitting ordinances that until now were largely non-controversial. Plaintiffs highlight the Opinion's conclusory assertion that it does not undermine local oil and gas zoning or permitting, but the Opinion provides no way to reconcile this assertion with its actual reasoning. The Opinion thus creates immense uncertainty and risk for local governments.

These are not "feigned" concerns. (Answer at p. 27.) The Opinion took what had been a clear line between state and local authority and blurred it beyond recognition. The oil industry is already using this Opinion to threaten local governments with costly litigation. (See Petition at pp. 13-15.) As evidence of the harm caused by oil and gas extraction continues to grow,

communities across California are demanding that local officials do more, not less, to protect residents.[2] Local governments likewise have grave concerns about the uncertainty and risk the Opinion creates.[3]

Review is necessary here, not just because Intervenors disagree with the Opinion (which they do) or because the Court of Appeal erred (which it did), but because the Opinion threatens uniformity in preemption law and calls into question local governments' long-settled power to control oil and gas land uses. Plaintiffs protest that the issue presented for review is "fact-bound and specific." (Answer at p. 8.) Every judicial decision is framed by specific facts. Published opinions like this one, however, frame the law. Absent review, this Opinion will plunge settled local regulation of oil and gas activities into uncertainty and chaos. The mischief it works in California preemption law also could spread well beyond the oil and gas context.

The Opinion dramatically rewrites the statutory scheme to favor the oil industry at the expense of local land use authority—something the Legislature, in more than a century of lawmaking, has never seen fit to do. This Court should grant review and reverse.

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[2] See Communities for a Better Environment and Center on Race, Poverty & the Environment, Amicus Curiae Letter in Support of Petition for Review, No. S271869 (filed Dec. 13, 2021); Natural Resources Defense Council, Amicus Curiae Letter in Support of Petition for Review, No. S271869 (filed Dec. 10, 2021).

[3] Amici Curiae Brief, League of California Cities and California State Association of Counties, No. H045791.

ARGUMENT

I. The Joint Answer Mischaracterizes Both Section 3106 And Measure Z.

Plaintiffs assert that the Opinion finds a facial conflict between the "plain terms" of section 3106 and Measure Z (Answer at pp. 17-19); however, Plaintiffs mischaracterize the text of both the statute and the measure itself.

Plaintiffs selectively quote section 3106 in an attempt to manufacture a state policy "to allow an operator" to use wastewater injection and other enhanced recovery techniques. (Answer at pp. 18-19.) No such policy exists. Plaintiffs' selectively quoted portion of section 3106 merely guides *interpretation of leases between private parties.* Where oil and gas leases are silent about operators' ability to use enhanced recovery techniques, section 3106 expresses "a policy of this state" that leases be interpreted as allowing those techniques. (§ 3106, subd. (b).) This policy is narrow. Parties to oil and gas leases may contract around it. And section 3106 expressly disclaims any intent to mandate use of any particular technique: "nothing contained in this section imposes a legal duty . . . to conduct these operations." (*Ibid.*)

Plaintiffs also mischaracterize Measure Z as a ban on specific oil and gas "methods and practices." (Answer at p. 32.) Echoing the Opinion, Plaintiffs assert that Measure Z regulates "what and how" oil operations may proceed, rather than "where and whether" drilling occurs, because it "does not identify any locations where oil drilling may or may not occur." (Answer at pp.

26-27.) In fact, Measure Z is silent as to *how* oil and gas operations are conducted. (AR[1]127-29.) Instead, like any land use regulation, it identifies specific land uses—drilling new wells and wastewater injection—and where those activities may not occur—i.e., the unincorporated areas of the County. (*Id.*)

Plaintiffs' mischaracterizations mirror flaws in the Opinion. Traditional land use regulations like Measure Z that serve local concerns are afforded a strong presumption against preemption; Plaintiffs thus had the burden of identifying a clear legislative statement of preemptive intent. (See *T-Mobile West LLC v. City & County of San Francisco* (2019) 6 Cal.5th 1107, 1116 ("*T-Mobile*").) Plaintiffs' mischaracterization of Measure Z as something other than a land use measure led the Opinion to breeze past the presumption against preemption without meaningful analysis. (See Opinion at p. 16, fn. 15.) Section 3106, moreover, does not even create the "state policy" Plaintiffs find in it, much less provide any clear statement of preemptive intent. The Opinion erred in concluding otherwise.

II. Review Is Necessary to Secure Uniformity of Decision Regarding California Preemption Doctrine.

The Opinion's conclusion that Measure Z conflicts with section 3106 similarly misconstrues both the measure and the statute. The court found that wastewater injection and the drilling of new wells are "operational methods and practices" that the statute not only "encourages," but also "places the authority to permit . . . in the hands of the State." (Opinion at pp. 15-16, 18; see also *id.* at p. 19.) Both the Answer and the Opinion concede, however, that the state's permitting authority is shared with

local governments. (See Answer at pp. 27-28 [asserting that the Opinion "does not 'cast any doubt on the validity of local regulations requiring permits for oil drilling operations'"] [quoting Opinion at p. 19, fn. 16].) The Opinion also characterizes the state's permitting authority as discretionary; according to the Opinion, section 3106 "mandates" only that "the State be the entity *deciding whether to permit*" oil and gas methods and practices (Opinion at p. 19 (italics added)), not that the state *must* permit any method or practice proposed. Indeed, section 3106 charges the state supervisor with protecting "life, health, property, and natural resources"—not just maximizing extraction—and expressly requires the state to determine which methods and practices are "appropriate" in any given instance. (§ 3106, subds. (a), (b).)

Strikingly, neither the Opinion nor the Answer identifies a single case holding that a statute's mere "encouragement" of a practice, combined with its assignment to the state of non-exclusive and discretionary authority to permit that practice, is sufficient to preempt a local prohibition. Indeed, the Answer's assertion that the Opinion simply "relies on the plain language of both section 3106 and the provisions of Measure Z as the basis for its finding that the former preeempts the latter" (Answer at p. 17) implicitly concedes that the Opinion has no mooring in decisional law.

As shown in the Petition for Review, Measure Z is not preempted under any of this Court's established tests. (Petition at pp. 34-38; see *T-Mobile*, 6 Cal.5th at pp. 1121-22; *City of*

Riverside v. Inland Empire Patients Health & Wellness Center, Inc. (2013) 56 Cal.4th 729, 743 ("*Riverside*"); *Big Creek Lumber Co v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1157-58 ("*Big Creek*").) The Opinion's contrary conclusion—apparently based on some novel theory of preemption—thus creates a conflict in the case law necessitating this Court's review.

A. The Opinion Conflicts With This Court's Preemption Precedents.

1. Measure Z Is Not "Contradictory" or "Inimical" to Section 3106.

The Petition for Review established that Measure Z is neither "contradictory" nor "inimical" to section 3106 under this Court's precedent. (Petition at pp. 34-37.) Plaintiffs strain to distinguish this Court's decisions by asserting that none addresses a statute that both encourages, and grants the state "authority to permit," certain practices. (Answer at pp. 29-32.) But Plaintiffs fundamentally misread established precedent. In fact, many of the Court's decisions would have come out differently under the Opinion's flawed reasoning.

Big Creek is instructive. The state forestry laws at issue there *both* encourage "maximum sustained production of high-quality timber products" *and* expressly assign the California Department of Forestry authority to permit timber harvesting. (*Big Creek*, *supra*, 38 Cal.4th at pp. 1147 [discussing "site-specific timber harvesting plan that must be submitted to the [state forestry] department"], 1161 [noting statutory "encourage[ment]" of maximum sustained production].) Under the reasoning of the Opinion here, the zoning ordinances in *Big Creek*—which barred

timber operations and land support for helicopter logging in certain zones notwithstanding the Department of Forestry's statutory authority to approve those activities—would have been preempted. *Big Creek*, however, upheld the county's zoning ordinances "because it [was] reasonably possible for a timber operator to comply with both" the ordinances and state law. (*Id.* at p. 1161.) Here, too, an oil and gas operator could readily comply with both Measure Z and section 3106. The Opinion's conclusion that Measure Z is preempted because it somehow "forbids" the state from issuing discretionary oil and gas permits (Opinion at p. 19) thus directly conflicts with *Big Creek*.

Riverside is similarly on point. Plaintiffs claim the statutes at issue in *Riverside* "did not authorize or intend to promote" medical cannabis facilities. (Answer at p. 32.) Not so. The statutory scheme expressly declared that "seriously ill Californians have the right to obtain and use marijuana for medical purposes," encouraged "safe and affordable distribution" to patients, promoted "uniform and consistent application" by local governments, and sought to "enhance" patients' access to marijuana. (*Riverside*, *supra*, 56 Cal.4th at p. 744.) This Court nonetheless upheld the City of Riverside's complete, jurisdiction-wide prohibition of cannabis distribution facilities, finding the "operative steps" the state statute took toward acheiving its goals—namely, decriminalization of certain acts—were "modest" and "limited." (*Id.*, at pp. 744-45, 759-60.) Moreover, state law did not require anyone to operate a distribution facility. (*Id.*, at p. 755.) Accordingly, this Court found no "inimical" conflict because

"[p]ersons who refrain from operating medical marijuana facilities in Riverside" could comply with both state law and the local ban. (*Id.*, at pp. 754-55.) Section 3106, by comparison, gives far less explicit "encouragement" to oil and gas extraction. Moreover, its operative provisions are similarly modest; they merely authorize the state to permit certain practices where "appropriate" and adopt default rules for lease interpretation that expressly create no legal duty to carry out any particular practice. (§ 3106(b).) Because Measure Z does not prohibit oil and gas operators from doing anything section 3106 requires, operators can easily comply with both, and there is no "contradictory or inimical" conflict. The Opinion thus conflicts with *Riverside* as well.

Finally, in *T-Mobile*, this Court held that a statute requiring local governments to allow construction of telecommunications facilities in public rights-of-way did not preempt a city ordinance regulating the appearance of those facilities. (6 Cal.5th at pp. 1121-22.) Because the city's inherent land use authority included the power to regulate aesthetics, the statute's silence on aesthetic considerations did not implicitly divest the city of that authority. (See *id.* at pp. 1118, 1122.) Here, section 3106 says *nothing at all* about local regulatory authority. Accordingly, section 3106 cannot be read as divesting Monterey County of its inherent land use power. Under *T-Mobile*, therefore, there can be no inimical conflict.

In short, the Opinion's conclusions cannot be reconciled with this Court's precedent on "contradictory and inimical"

preemption. Because the Opinion is published, this is not a matter of mere error correction. Indeed, the Opinion's conclusion that local land use control may be preempted wherever a statute "explicitly places the authority to permit" an activity "in the hands of the State" (Opinion at p. 16) could have far-reaching consequences. State permitting in connection with local land use projects is ubiquitous. The California Department of Fish and Wildlife, for example, has authority to issue streambed alteration permits and to permit the "take" of protected species incidental to otherwise lawful activity. (Fish & Game Code §§ 1602, subd. (a)(4)(B), 2081, subd. (a).) State and regional water boards likewise have primary responsibility for issuing "permits governing the discharge of waste" for construction and other activities affecting water quality. (See *California Bldg. Industry Assn. v. State Water Resources Control Bd.* (2018) 4 Cal.5th 1032, 1037.) If any local ordinance prohibiting or restricting a particular land use must now be read as impermissibly prohibiting the state from issuing permits incidental to that land use, the Opinion could dramatically extend the sweep of state preemption in California. Review is necessary to restore consistency in the law.

2. The Legislature Has Not Occupied the Field of Oil and Gas Regulation.

The Opinion's conclusions also cannot be justified on the ground that the Legislature has occupied the field of oil and gas regulation to the exclusion of local control. Indeed, the Opinion expressly declined to address Plaintiffs' field preemption arguments. (Opinion at p. 7, fn. 8.) Moreover, both the Answer

and the Opinion effectively concede that the Legislature has not occupied the field by asserting that local governments retain zoning and permitting power over oil and gas operations. (Answer at pp. 27-28; Opinion at p. 19, fn. 16.)

Field preemption does not apply where, as here, a statutory scheme recognizes and preserves local authority. (See, e.g., *IT Corp. v. Solano County Bd. of Supervisors* (1991) 1 Cal.4th 81, 94, fn. 10.) Plaintiffs misconstrue the significance of a century-old line of cases upholding local power to prohibit oil and gas drilling. (Answer at pp. 19-23.) Despite these cases, the Legislature has never once expressly limited that power. (Petition at pp. 25-27.) To the contrary, the Legislature has repeatedly recognized and preserved local authority, *including the power of cities to prospectively prohibit new oil and gas drilling*. (Petition at pp. 27-29; see § 3012.) Counties share the same inherent police power. (Cal. Const., art. XI, § 7; *Riverside*, *supra*, 56 Cal.4th at pp. 742, 754, fn. 8 [land use authority derives from Constitution, not statutory delegation].) The Legislature also expressly preserved counties' existing authority to regulate "the conduct and location of oil production activities" when it added a new chapter of code in 1971. (Petition at pp. 28-29; see § 3690.) And just this year, the Legislature added a requirement that operators "submit a copy of the local land use authorization that supports the installation of a well at the time an operator submits" an application to the state for permission to drill a new well. (Stats.2021, ch. 727, § 5 (Sen. Bill No. 406) [adding § 3203.5 to the Public Resources Code, effective January 1, 2022].) The Legislature has consistently and

repeatedly affirmed local land use authority over oil and gas operations. The Opinion thus finds no support in this Court's field preemption precedents.

3. The Opinion Implicitly Invokes an "Obstacle Preemption" Theory This Court Has Never Embraced.

The Opinion quotes *Great Western Shows, Inc. v. County of Los Angeles* (2002) 27 Cal.4th 853, 868 ("*Great Western*") for the proposition that a local regulation cannot completely ban an activity that a statute seeks to promote or otherwise frustrate a statute's purpose. (Opinion at pp. 19-20.) *Great Western* derived this proposition from federal cases interpreting the federal Resource Conservation and Recovery Act. (27 Cal.4th at pp. 867-68 (discussing *Blue Circle Cement, Inc. v. Bd. of County Commissioners* (10th Cir. 1994) 27 F.3d 1499, and similar cases).) These cases are grounded in "the developed federal conception of obstacle preemption." (*T-Mobile*, 6 Cal.5th at p. 1123.) But this Court has never explicitly incorporated obstacle preemption into California law. (*Ibid.*) Indeed, this Court has repeatedly rejected obstacle preemption arguments. (*Ibid.*; see also *Riverside*, 56 Cal.4th at pp. 760-61 (op. by Baxter, J.), 764-65 (concurring op. of Liu, J.); *Great Western*, 27 Cal.4th at pp. 868-69.)

Plaintiffs disingenuously imply that the Opinion's invocation of obstacle preemption is a "theory" invented by *Intervenors*. (See Answer at pp. 33-34). In fact, Chevron extensively briefed the theory below, even quoting the same language from *Great Western* ultimately cited in the Opinion. (Respondent's Brief by Chevron U.S.A. Inc. at pp. 29-34.)

Plaintiffs now claim the Opinion cited *Great Western* in support of its assertion that nothing in the Opinion casts doubt on local zoning or permitting authority. (Answer at pp. 33-34.) This is also disingenuous. Although a cursory footnote regarding local permitting and zoning appears in the same paragraph of the Opinion discussing *Great Western* (at p. 19, fn. 16), the Opinion clearly relies on *Great Western* for its description of obstacle preemption. (See Opinion at p. 20 [concluding that "section 3106's provisions placing the authority to permit certain oil and gas drilling operational methods and practices in the hands of the State would be entirely frustrated by Measure Z's ban on some of these methods and practices."].) Plaintiffs' attempt to back away from obstacle preemption in the Answer likely reflects their awareness that this Court has never embraced (and has repeatedly rejected) the theory. The Opinion's reliance on obstacle preemption, however inarticulate, further underscores the necessity of this Court's review.

In sum, the Opinion either relies on obstacle preemption under the guise of applying the "contradictory and inimical" test or creates a new preemption test out of whole cloth that conflicts with established precedent. In either case, review is necessary to restore uniformity to California preemption law.

B. The Opinion Conflicts with the Attorney General's Opinion.

As the Petition for Review demonstrated, Measure Z is consistent with a range of local ordinances regulating oil and gas that an influential Attorney General's opinion suggested were *not* preempted by section 3106. (Petition at pp. 29-33; 59

Ops.Cal.Atty.Gen. 461 (1976) ("AG Opinion" or "AG Op."). The Answer has no answer to this. Plaintiffs insist that Measure Z regulates technical "subsurface" activities, a field the AG Opinion found potentially occupied by state authority. (Answer at pp. 24-26.) But this is mere *ipse dixit*. Plaintiffs fail to address the actual distinction the AG Opinion made between ordinances like Measure Z that prohibit oil and gas operations (not preempted) and ordinances that attempt to dictate specific operational standards like casing strength and blowout prevention that are also subject to detailed state regulation (potentially preempted). (See Petition at pp. 30-31; AG Op. at pp. 467-68, 477-79.) Nor do Plaintiffs address the specific examples analyzed in the AG Opinion—examples that show Measure Z's provisions squarely align with the types of local regulations that the Attorney General found were not preempted. (Petition at pp. 30-31; AG Op. at pp. 480-83, 488-89, 491-92.)

The Opinion similarly fails to address these aspects of the AG Opinion; instead, it sidesteps them entirely. (Opinion at p. 16, fn. 14.) As a result, the Opinion conflicts with and undermines the primary existing authority on local preemption in the oil and gas context. This Court has given great weight to long-standing Attorney General opinions interpreting the scope of local authority. (See, e.g., *Big Creek*, 38 Cal.4th at p. 1160; *Great Western*, 27 Cal.4th at p. 872.) The AG Opinion here—and the Opinion's conflicting conclusions—similarly warrant careful consideration by this Court.

III. Review Is Necessary to Settle an Important Question of Law Regarding Local Authority to Regulate Oil and Gas.

Plaintiffs dismiss the Opinion's impact on local authority by inaccurately characterizing Measure Z as a "sweeping regulation of technical oil and gas production techniques" rather than the conventional locational land use regulation it is. (Ans. at pp. 17, 26-28.) By doing so, Plaintiffs fail to confront how deeply the Opinion unsettles local land use regulation.

While the Opinion purports to leave local zoning and permitting authority intact (Opinion at pp. 2, 19, fn. 16), its *reasoning* calls into question virtually all local oil and gas regulations, *including* those that permit oil and gas activities or restrict them to certain zones. (*See* Petition at pp. 32-34.) The Opinion finds Measure Z preempted based on its conclusions that (1) drilling a new well is a "method and practice" of oil development, and (2) section 3106 "lodges the authority to permit 'all methods and practices' firmly *in the State's hands*." (Opinion at p. 9 (italics in original).) By this logic, a local regulation prohibiting new oil and gas wells in residential zones, or in a "buffer zone" near homes or schools, now could be preempted.[4] A regulation requiring a discretionary conditional use permit for new wells could be similarly suspect. Both regulations lie well within local governments' traditional authority, but under the Opinion, they arguably would interfere with the State's authority

[4] Plaintiffs do not dispute that the oil industry is currently challenging a Ventura County "buffer zone" around residences and schools on preemption grounds. (See Petition at pp. 13-15.)

to permit the "method and practice" of "drilling." The Opinion offers no basis for distinguishing these or other common local oil and gas regulations from Measure Z.

The Answer and the Opinion both insist Measure Z departs from traditional locational zoning—i.e., regulation of "whether or where" operations may occur—because it prohibits new drilling in *the same locations* where it allows existing operations to continue. (Answer at p. 27; Opinion at p. 15.) If this were correct, *no* local government could prospectively prohibit new oil and gas development in any location where it had previously been allowed. Yet section 3012 expressly recognizes that local governments have this power. (§ 3012 [referring to cities in which "the drilling of oil wells . . . may hereafter be prohibited"].)

Plaintiffs also dismiss the risks the Opinion creates for local governments as a "feigned concern" of Intervenors. (Answer at p. 27.) For example, Plaintiffs assert that Monterey County's decision to abandon its appeal indicates the County's lack of concern about the Opinion. (Answer at p. 26). But Monterey County could have abandoned its appeal for any number of reasons, including to avoid additional litigation costs and attorneys' fees. Plaintiffs cite no evidence whatsoever that the County's actions reflect a determination that the impacts of a preemption decision are not "significant." (*Ibid.*). In fact, the California State Association of Counties—which represents all 58 counties, including Monterey—joined an amicus curiae brief in the Court of Appeal warning that upholding the trial court's rulings would unsettle established law. These amici stated that

such a holding "would call into question local governments' longstanding authority to regulate where oil and gas drilling can take place," even in jurisdictions that allow oil and gas development subject to local permits. (Amici Curiae Brief, League of California Cities and California State Association of Counties, No. H045791, at pp. 12, 28.) Review is necessary to settle this important question of law.

CONCLUSION

The Opinion calls into question the power of local governments to regulate oil and gas at a time of grave and growing concern about the health and climate impacts of fossil fuel production. The Opinion also wreaks havoc on California preemption law by announcing a new test for preemption that conflicts with this Court's long-standing precedent. Intervenors therefore respectfully request that this Court grant review and reverse the judgment of the Court of Appeal.

DATED: December 17, 2021 SHUTE, MIHALY & WEINBERGER LLP

By: /s/ Kevin P. Bundy
CATHERINE C. ENGBERG
KEVIN P. BUNDY
AARON M. STANTON
Attorneys for Intervenors and Appellants
PROTECT MONTEREY COUNTY and DR. LAURA SOLORIO

CERTIFICATE OF WORD COUNT

In accordance with California Rules of Court Rule 8.504(d)(1), I certify that, exclusive of this certification and the other exclusions referenced in Rule of Court 8.204(c)(3), this **REPLY TO JOINT ANSWER TO PETITION FOR REVIEW** contains 4,163 words, including footnotes, as determined by the word count of the computer used to prepare this brief.

DATED: December 17, 2021 SHUTE, MIHALY & WEINBERGER LLP

By: /s/ Kevin P. Bundy
CATHERINE C. ENGBERG
KEVIN P. BUNDY
AARON M. STANTON
Attorneys for Intervenors and Appellants
PROTECT MONTEREY COUNTY and DR. LAURA SOLORIO

1449495.13

PROOF OF SERVICE

Chevron U.S.A., Inc., et al. v. County of Monterey, et al.
Case No. H045791
California Court of Appeal, Sixth District

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, CA 94102.

On December 17, 2021, I served true copies of the following document(s) described as:

REPLY TO JOINT ANSWER TO PETITION FOR REVIEW

on the parties in this action as follows:

Michael Geibelson
Robins Kaplan LLP
2049 Century Park East, #3400
Los Angeles, CA 90067
Telephone: (310) 552-0130
Facsimile: (310) 229-5800
E-mail:
mgeibelson@robinskaplan.com

Attorneys for Intervenors,
Appellants and
Cross-Respondents
PROTECT MONTEREY
COUNTY and DR. LAURA
SOLORIO

Deborah A. Sivas
Environmental Law Clinic
Mills Legal Clinic at
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305-8610
Telephone: (650) 723-0325
Facsimile: (650) 723-4426
E-mail: dsivas@stanford.edu

Attorneys for Intervenors,
Appellants and
Cross-Respondents
PROTECT MONTEREY
COUNTY and DR. LAURA
SOLORIO

Jeffrey D. Dintzer
Matthew C. Wickersham
Alston & Bird LLP
333 South Hope St., 16th Floor
Los Angeles, CA 90071-3004
Telephone: (213) 576-1063
Facsimile: (213) 576-1100
E-mail:
jeffrey.dintzer@alston.com
matt.wickersham@alston.com

Attorneys for Plaintiffs, Respondents and Cross-Appellants CHEVRON U.S.A. INC.; KEY ENERGY SERVICES, LLC; ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC.; MAUREEN WRUCK; GAZELLE TRANSPORTATION, LLC; PETER ORRADRE; MARTIN ORRADRE; JAMES ORRADRE; THOMAS ORRADRE; JOHN ORRADRE; STEPHEN MAURICE BOYUM; and SAN ARDO UNION ELEMENTARY SCHOOL DISTRICT

Theodore J. Boutrous, Jr.
Dionne Garlick
Dana L. Craig
Gibson, Dunn & Crutcher
333 So. Grand Ave., 54th Fl.
Los Angeles, CA 90071-3197
Telephone: (213) 229-7804
Facsimile: (213) 229-6804
E-mail:
tboutrous@gibsondunn.com
dgarlick@gibsondunn.com
dcraig@gibsondunn.com

Attorneys for Plaintiffs, Respondents and Cross-Appellants CHEVRON U.S.A. INC.; KEY ENERGY SERVICES, LLC; ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC.; MAUREEN WRUCK; GAZELLE TRANSPORTATION, LLC; PETER ORRADRE; MARTIN ORRADRE; JAMES ORRADRE; THOMAS ORRADRE; JOHN ORRADRE; STEPHEN MAURICE BOYUM; and SAN ARDO UNION ELEMENTARY SCHOOL DISTRICT

Todd W. Smith
Ragghianti | Freitas LLP
1101 5th Avenue, Suite 100
San Rafael, CA 94901
Telephone: (415) 453-9433
Facsimile: (415) 453-8269
E-mail: tsmith@rflawllp.com

Attorneys for Plaintiffs, Respondents and Cross-Appellants
CHEVRON U.S.A. INC.; KEY ENERGY SERVICES, LLC; ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC.; MAUREEN WRUCK; GAZELLE TRANSPORTATION, LLC; and SAN ARDO UNION ELEMENTARY SCHOOL DISTRICT

Hollin N. Kretzmann
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
Telephone: (510) 844-7100
Facsimile: (510) 844-7150
E-mail:
hkretzmann@
biologicaldiversity.org

Attorneys for Intervenors, Appellants and Cross-Respondents
PROTECT MONTEREY COUNTY

Andrew A. Bassak
Christopher A. Rheinheimer
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94111
Telephone: (415) 777-3200
Facsimile: (415) 541-9366
E-mail:
abassak@hansonbridgett.com
crheinheimer@hansonbridgett.com

Attorneys for Plaintiff, Respondent and Cross-Appellant
AERA ENERGY, LLC

Donald C. Oldaker
Clifford & Brown
A Professional Corporation
Attorneys at Law
1430 Truxtun Avenue, #900
Bakersfield, CA 93301
Telephone: (661) 322-6023
Facsimile: (661) 322-3508
E-mail:
doldaker@
clifford-brownlaw.com

Attorneys for Plaintiff, Respondent and Cross-Appellant
EAGLE PETROLEUM, LLC

Matt Kline
O'Melveny & Myers LLP
1999 Avenue of the Stars, 8th Fl.
Los Angeles, CA 90067-6035
Telephone: (310) 246-6840
Facsimile: (310) 246-6779
E-mail: mkline@omm.com

Attorneys for Plaintiff,
Respondent and
Cross-Appellant
CALIFORNIA RESOURCES
CORPORATION

Barton H. Thompson
O'Melveny & Myers LLP
2765 Sand Hill Road
Menlo Park, CA 94025
Telephone: (650) 723-2518
E-mail: bthompson@omm.com

Attorneys for Plaintiff,
Respondent and
Cross-Appellant
CALIFORNIA RESOURCES
CORPORATION

Heather A. Welles
Dimitri D. Portnoi
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071
Telephone: (310) 246-6840
Facsimile: (310) 246-6779
E-mail: hwelles@omm.com
dportnoi@omm.com

Attorneys for Plaintiff,
Respondent and
Cross-Appellant
CALIFORNIA RESOURCES
CORPORATION

Jason Retterer
David Balch
JRG Attorneys at Law
318 Cayuga Street
Salinas, CA 93901
Telephone: (831) 754-2444
Facsimile: (831) 754-2011
E-mail:
Jason@jrgattorneys.com
David@jrgattomeys.com

Attorneys for Plaintiff,
Respondent and
Cross-Appellant
TRIO PETROLEUM, LLC

Gene Tanaka
Shawn Haggerty
Best Best & Krieger
2001 North Main St., Suite 390
Walnut Creek, CA 94596
Telephone: (925) 977-3300
Facsimile: (925) 977-1870
E-mail:
gene.tanaka@bbklaw.com

Attorneys for Defendant,
Appellant and
Cross-Respondent
COUNTY OF MONTEREY

Leslie J. Girard
County Counsel
County of Monterey
168 West Alisal St., 3rd Floor
Salinas, CA 93901-2439
Telephone: (831) 755-5045
E-mail:
girardlj@co.monterey.ca.us

Attorneys for Defendant and
Respondent
COUNTY OF MONTEREY

Edward S. Renwick
Hanna & Morton LLP
444 South Flower St., #2530
Los Angeles, CA 90071
Telephone: (213) 628-7131
Facsimile: (213) 623-3379
E-mail:
erenwick@hanmor.com

Attorneys for Plaintiffs and
Respondents
NATIONAL ASSOCIATION
OF ROYALTY OWNERS-
CALIFORNIA, INC., et al.

Jacqueline M. Zischke
A Professional Corporation
P.O. Box 1115
Salinas, CA 93902
Telephone: (831) 761-8714
Facsimile: (888) 385-9198
E-mail: jzischkelaw@charter.net

Attorneys for Plaintiffs and
Respondents
NATIONAL ASSOCIATION
OF ROYALTY OWNERS-
CALIFORNIA, INC., et al.

Alison Hahm
Communities for a
Better Environment
6325 Pacific Boulevard
Huntington Park, CA 90255
Telephone: (323) 826-9771
Facsimile: (323) 588-7079
E-mail: ahahm@cbecal.org

Attorney for Amicus Curiae
COMMUNITIES FOR A
BETTER ENVIRONMENT

Daniel Ress
Center on Race, Poverty
& the Environment
1012 Jefferson Street
Delano, CA 93215
Telephone: (661) 720-9140
Facsimile: (661) 720-9483
E-mail: dress@crpe-ej.org

Attorney for Amicus Curiae
CENTER ON RACE,
POVERTY & THE
ENVIRONMENT

Julia K. Forgie
Damon Nagami
Natural Resources Defense
Council
1314 2nd Street
Santa Monica, CA 90401-1103
Telephone: (310) 434-2300
E-mail: jforgie@nrdc.org
dnagami@nrdc.org

Attorneys for Amicus Curiae
NATURAL RESOURCES
DEFENSE COUNCIL

Sean B. Hecht
UCLA School Of Law
385 Charles E. Young Dr. E
Los Angeles, CA 90095-1476
Telephone: (310) 794-5272
Facsimile: (310) 206-1234
E-mail:
hecht.elc@law.ucla.edu

Attorney for Amici Curiae
LEAGUE OF CALIFORNIA
CITIES and CALIFORNIA
STATE ASSOCIATION OF
COUNTIES

California Court of Appeal
Sixth Appellate District
333 W. Santa Clara St., #1060
San Jose, CA 95113

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Courtroom 8
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240 Church Street
Salinas, CA 93901

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 17, 2021, at Union City, California.

David Weibel

David Weibel

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

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Lower Court Case Number: **H045791**

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Bernice Conn Robins Kaplan LLP 161594	bconn@robinskaplan.com	e-Serve	12/17/2021 1:14:20 PM
Jeffrey Dintzer Alston & Bird LLP 139056	jeffrey.dintzer@alston.com	e-Serve	12/17/2021 1:14:20 PM
Dione Garlick Gibson, Dunn & Crutcher 293012	dgarlick@gibsondunn.com	e-Serve	12/17/2021 1:14:20 PM
Andrew Bassak Hanson Bridgett LLP 162440	abassak@hansonbridgett.com	e-Serve	12/17/2021 1:14:20 PM
Donald Oldaker Clifford and Brown 166230	doldaker@clifford-brownlaw.com	e-Serve	12/17/2021 1:14:20 PM
Kevin Bundy Center for Biological Diversity 231686	bundy@smwlaw.com	e-Serve	12/17/2021 1:14:20 PM
Leslie Girard Monterey County Counsel	girardlj@co.monterey.ca.us	e-Serve	12/17/2021 1:14:20 PM
Gene Tanaka Best Best & Krieger LLP 101423	gene.tanaka@bbklaw.com	e-Serve	12/17/2021 1:14:20 PM
Todd Smith Ragghianti Freitas LLP	tsmith@rflawllp.com	e-Serve	12/17/2021 1:14:20 PM

Deborah Sivas Stanford Law School 135446	dsivas@stanford.edu	e-Serve	12/17/2021 1:14:20 PM
Hollin Kretzmann Center For Biological Diversity 290054	hkretzmann@biologicaldiversity.org	e-Serve	12/17/2021 1:14:20 PM
Jacqueline Zischke Attorney at Law 171670	jzischkelaw@charter.net	e-Serve	12/17/2021 1:14:20 PM
Jason Retterer JRG Attorneys at Law 194651	jason@jrgattorneys.com	e-Serve	12/17/2021 1:14:20 PM
Edward Renwick Hanna and Morton LLP 29325	erenwick@hanmor.com	e-Serve	12/17/2021 1:14:20 PM
Barton Thompson Attorney at Law 72927	bthompson@omm.com	e-Serve	12/17/2021 1:14:20 PM
Alison Hahm Communities for a Better Environment 336969	ahahm@cbecal.org	e-Serve	12/17/2021 1:14:20 PM
Julia Forgie NRDC 304701	jforgie@nrdc.org	e-Serve	12/17/2021 1:14:20 PM
Matthew Kline O'Melveny & Myers LLP 211640	mkline@omm.com	e-Serve	12/17/2021 1:14:20 PM
Michael Geibelson 179970	mgeibelson@robinskaplan.com	e-Serve	12/17/2021 1:14:20 PM
Matthew Wickersham 241733	matt.wickersham@alston.com	e-Serve	12/17/2021 1:14:20 PM
Dana Craig	dcraig@gibsondunn.com	e-Serve	12/17/2021 1:14:20 PM
Christopher Rheinheimer 253890	crheinheimer@hansonbridgett.com	e-Serve	12/17/2021 1:14:20 PM
Heather Welles 302256	hwelles@omm.com	e-Serve	12/17/2021 1:14:20 PM
Dimitri Portnoi 282871	dportnoi@omm.com	e-Serve	12/17/2021 1:14:20 PM
David Balch 226519	david@jrgattorneys.com	e-Serve	12/17/2021 1:14:20 PM
Daniel Ress	dress@crpe-ej.org	e-Serve	12/17/2021 1:14:20 PM
Damon Nagami	dnagami@nrdc.org	e-Serve	12/17/2021 1:14:20 PM

Sean Hecht	hecht.elc@law.ucla.edu	e-Serve	12/17/2021 1:14:20 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

12/17/2021

Date

/s/David Weibel

Signature

Bundy, Kevin (231686)

Last Name, First Name (PNum)

Shute, Mihaly & Weinberger LLP

Law Firm