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VENTURA COUNTY  
GRAND JURY

**EXHIBIT 1**

**FY 2015-2016 GRAND JURY FINAL REPORT**

**RESPONSES TO FINDINGS AND RECOMMENDATIONS**

Report Number (& Date)	Report Title	Respondents (With FI and R #)
<b>REPORT NO. 01 April 12, 2016</b>		
Title:	<b><u>Ventura County Crude Oil Pipelines</u></b>	
Required Respondent: (for approval)	<b>Board of Supervisors</b> (FI-01, FI-02, and FI-03, plus R-01)	

## Response to Grand Jury Report Form

Report Title: Ventura County Crude Oil Pipeline

Report Date: April 12, 2016

Response by: Alejandra Tellez                      County Executive Office  
                    Chris Stephens                      Director, Resource Management Agency

### FINDINGS

- I (we) agree with the findings numbered: FI-01, F1-03
- I (we) disagree wholly or partially with the findings numbered: F1-02

### RECOMMENDATIONS

- Recommendations numbered \_\_\_\_\_ have been implemented.  
*(Attach a summary describing the implemented actions.)*
- Recommendations numbered \_\_\_\_\_ have not yet been implemented, but will be implemented in the future.  
*(Attach a timeframe for the implementation.)*
- Recommendations numbered R-01 require further analysis.  
*(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)*
- Recommendations numbered \_\_\_\_\_ will not be implemented because they are not warranted or are not reasonable.  
*(Attach an explanation.)*

Date: 7/19/16 Signed: Linda Parks

Linda Parks – Chair, Board of Supervisors

Number of pages attached \_\_\_\_\_

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### **FINDINGS**

**FI-01.** No single government entity has complete regulatory oversight into the condition of the crude oil pipeline array within the County. The following Federal and State agencies have (collectively) the responsibility and authority to provide oversight of crude oil pipelines within the County and within areas where a spill will impact the County. Each agency has its own particular domain of authority and responsibility. Those regulatory agencies and their areas of responsibility are:

- United States Department of Interior, Bureau of Safety and Environment Enforcement – regulates and monitors pipelines from three miles seaward of the mean high tide line to 200 miles at sea.
- United State Department of Transportation, Petroleum and Hazardous Materials Safety Administration, Office of Pipeline Safety - sets minimum safety standards for all crude oil pipelines and may delegate its regulatory authority to State entities as negotiated with those entities.
- California Office of the State Fire Marshal - has accepted the responsibility to regulate and monitor intrastate crude oil transmission pipelines.
- California Department of Conservation, Division of Oil, Gas, and Geothermal Resources – regulates and monitors gathering pipelines.

Many entities are involved with the crude oil pipeline permitting process. The following is a partial list of those with permitting authority in areas in or near the County:

- California State Lands Commission - issues permits for tidal and submerged lands (from the mean high tide line to three miles out to sea)
- California Coastal Commission - issues permits for California Coastal Zone
- California Department of Transportation, Bureau of Design - issues permits for crude oil pipelines intruding into highway rights-of-way
- County - issues conditional use permits for new pipelines, revisions of existing pipelines in coastal and non-coastal zones, and for surveillance of abandoned pipelines in non-coastal zones of unincorporated areas of the County

### **RESPONSE:**

Note: This response back to the Grand Jury's April 12<sup>th</sup> report is the first of two reports on this topic being coordinated by the County Executive Office. This first report is comprised of the initial response back to the Grand Jury and was prepared by the Resource Management Agency and County Executive Office. The County Executive

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Office is coordinating a more detailed report to Board of Supervisors on the subject of an annual report on crude oil pipeline and the more hazardous gas pipelines, in response to direction received from the Board on May 3<sup>rd</sup> of this year.

With regard to finding FI-01, we agree with this finding – regulatory oversight of pipelines involves overlapping jurisdictions by a variety of Federal and State Agencies/Departments. However, in California, where the state “has accepted the responsibility to regulate and monitor intrastate crude oil transmission pipelines” (as noted in the finding), the authority over crude oil pipelines in Ventura County rests with two State agencies – the Office of the State Fire Marshall and the Division of Oil, Gas and Geothermal Resources (DOGGR). The County’s jurisdiction is based solely on its land use permitting authority over the pipelines and associated facilities. Thus, for example, when new pipelines are proposed as part of an oil facility permit application, the County evaluates the proposal to identify potential land/surface impacts and ensure they are properly mitigated. Once the County approves a land use permit, however, its regulatory authority over the inspection, testing, maintenance and removal of pipelines and facilities is largely preempted by the state and federal laws. The County is aware of the complex regulatory environment regarding crude oil pipelines, and primarily through its Resource Management Agency (RMA) Planning Division diligently communicates with the above mentioned entities to clarify responsibilities and authority. It is important to note that the finding neglected to also include the ten cities within the County, all of which have land use permitting authority over proposed pipelines and associated facilities within their jurisdictions.

**FI-02.** The County does not have a thorough understanding of the state of the total crude oil pipeline array within the County. This would include knowing the validity of testing, the condition and age of the pipelines, the degree of conformance to the regulations/laws/standards, and the risks assessed by regulatory authorities.

### **RESPONSE:**

We agree in part with this finding as it is applied to the overall crude oil pipeline system within the County unincorporated area. However, we disagree with this finding as it relates to individual crude oil pipelines and their operation in compliance with County regulations. County RMA maintains a map and database of crude oil pipelines based on information from County permit files as well as information from state and federal agencies responsible for regulating those pipelines. In addition, RMA staff has access to the Federal Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) mapping system. Though the majority of the pipelines that pass through the county unincorporated area are not under direct County jurisdiction,

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County staff maintains contact with state and federal agencies, as well as pipeline operators to ensure access to either pipeline safety monitoring data and/or pipeline operational data when needed.

This finding does not recognize the fact that the County has little or no authority to directly regulate, monitor or enforce the state and federal laws and regulations applicable to most of the oil pipelines located in the County unincorporated area. As stated above, the County regulatory authority over pipelines and associated facilities is largely preempted by state and federal laws. The County must therefore rely upon other agencies for information related to the validity of testing, the condition of pipelines, and risk assessments.

Federal statutes provide for exclusive Federal authority to regulate interstate pipelines. This federal authority is exercised by the Pipeline and Hazardous Materials Safety Administration (PHMSA), which is part of the Department of Transportation. PHMSA is responsible for regulating and ensuring the safe and secure movement of hazardous materials to industry and consumers by all modes of transportation, including pipelines. As part of the PHMSA, the Office of Pipeline Safety (OPS) ensures safety in the design, construction, operation and maintenance, and spill response planning of America's 2.6 million miles of natural gas and hazardous liquid transportation pipelines (including crude oil pipelines).

California statutes, established in 1981 through the Hazardous Liquid Pipeline Safety Act, direct that the Office of the State Fire Marshal (OSFM) exercise exclusive safety regulatory and enforcement authority over intrastate hazardous liquid pipelines (which includes crude oil pipelines). Therefore, the OSFM, through its Pipeline Safety Division, currently regulates the safety of approximately 4,500 miles of intrastate hazardous liquid transportation pipelines. The Division is also responsible for the investigation of all spills, ruptures, fires, or pipeline incidents for cause and determination of probable violations. Legislation passed last year, SB 295 and AB 864, directs the OSFM to develop regulations for (1) annual inspections of pipelines and operators and (2) use of best available technologies for pipelines located near environmentally and ecologically sensitive areas. The OSFM is in the initial stages of developing regulations; the draft language for those regulations has not yet been made available to the public. Approximately 370 miles of oil transmission pipelines regulated by the OSFM are located within Ventura County and its ten cities.

Pursuant to Section 3106 of the Public Resources Code, the State Department of Conservation, Division of Oil and Gas and Geothermal Resources (DOGGR) regulates the various oil and gas exploration and production activities that occur within the oil fields of California. In addition to the regulation of oil wells, DOGGR regulates the operation, maintenance and removal of facilities that are attendant to oil and gas production, including the local pipelines that connect the oil fields with the transmission pipelines regulated by the OSFM. Under this authority, DOGGR conducts periodic inspections of all operating oil and gas facilities (including oil field pipelines) in the State.

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**FI-03.** The County's emphasis (other than the permitting process) is on rapid and appropriate response to emergencies, including pipeline failures. The County has a capable infrastructure for responding to a crude oil pipeline spill. That infrastructure is augmented by Federal, State, and private entities as driven by the severity and/or location of the spill. Failures of these pipelines could directly impact County residents, first responders, and the environment.

### **RESPONSE:**

We agree with this finding. The County, through the Office of Emergency Services, the Environmental Health Division, and the Fire Protection District, maintain a highly successful and well-respected emergency response team that has and will continue to provide immediate and effective response to pipeline failures and other emergencies which threaten County residents and the environment.

### **RECOMMENDATIONS**

**R-01.** The Grand Jury recommends that the Board of Supervisors require the production of an annual report summarizing the state of the crude oil pipelines within the County. This report will be a valuable asset to all entities potentially impacted by a spill. The County entities that are major stakeholders in the event of a pipeline spill, such as the Resource Management Agency/Environmental Health Division, the Sheriff's Department, the Office of Emergency Services, and the County Fire Department, should be involved in the generation of the report.

The report shall, at the least, characterize the inventory of crude oil pipelines in the County, including:

- identifying current ownership and operators including contact information
- highlighting pipelines with outdated tests
- identifying pipelines with tests not independently verified
- identifying pipelines that do not conform to current regulations
- identifying pipelines deemed by regulators to have spill/anomaly risks

It shall also describe the spill events in the County since the previous report. These summary reports can be based on the reports/records available from the multiple regulatory entities identified in Finding 1. This would remove the need for the County to make its own assessments or do independent analysis and thereby minimize cost.

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**Response:**

This recommendation requires further analysis. As previously noted, on May 3, 2016, the Board of Supervisors took action to direct the County Executive Office to return with an analysis of preparing an annual report regarding crude oil pipelines and the more hazardous gas pipelines within the county. It is anticipated that this analysis will be presented to the Board in the September/October timeframe of this year.

The purpose of the analysis is to determine whether the annual report is the appropriate way to address the issues presented in the Grand Jury report. Since that time, County staff has been contacting the state and federal agencies responsible for pipeline oversight, as well as pipeline operators in the unincorporated area of Ventura County, to collect information regarding their pipeline monitoring and safety programs. That effort is on-going. The CEO's Office will return to the Board with its analysis once the oversight authorities have responded to the County's data requests.

Since the Grand Jury report was prepared, new state legislation has been passed which addresses some of the issues associated with crude oil pipeline oversight. For example, AB 864 and SB 295 direct the Office of the State Fire Marshal (OSFM) to develop regulations governing annual inspections of pipelines and the use of best available technologies for pipelines located near environmentally and ecologically sensitive areas. These regulations have not yet been released for public comment. Once these are available County staff will review them and make comments as needed to ensure they address the County's concerns regarding oil pipeline maintenance and monitoring.

In addition, the state recently enacted AB 1420, which establishes a formal role for local government with regard to certain pipeline leaks. This new responsibility, in Ventura County, will be carried out by RMA's Environmental Health Division. AB 1420 states that if the local health officer is notified of a leak in an active gas pipeline that is within the jurisdiction of the Division of Oil, Gas, and Geothermal Resources (DOGGR) and within a sensitive area and the local health officer determines that the leak poses a risk to public health or safety and the response to the leak was inadequate to protect public health and safety, the local health officer shall, in collaboration with DOGGR and the owner/operator of the pipeline, do both of the following:

(1) Direct the responsible party to test, to the satisfaction of the agency overseeing the testing, the soil, air, and water in the affected area for contamination caused by the leak and disclose the results of the tests to the public.

(2) Make a determination, based on the result of the tests, on whether the leak poses a serious threat to the public health and safety of residents affected by the leak, and

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require the responsible party to provide assistance, including temporary relocation, to those residents if the local health officer or his or her designee so determines.

The specific language added to the Health & Safety Code through AB 1420 is provided in Attachment A. The County intends to work closely with DOGGR and other state and federal agencies to implement these new laws and regulations as well as others that may be enacted at the federal, state and local level.



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### Attachment A

**SEC. 2. Section 101042 is added to the Health and Safety Code, to read:**

*101042. (a) If the local health officer or his or her designee is notified of a leak in an active gas pipeline, that is within the jurisdiction of the Division of Oil, Gas, and Geothermal Resources and within a sensitive area, pursuant to Section 3270.6 of the Public Resources Code and the local health officer or his or her designee determines that the leak poses a risk to public health or safety and that the response to the leak has been inadequate to protect the public health or safety, the local health officer or his or her designee shall, working collaboratively with the division and the owner or operator of the pipeline, do both of the following:*

*(1) Direct the responsible party to test, to the satisfaction of the agency overseeing the testing, the soil, air, and water in the affected area for contamination caused by the leak and disclose the results of the tests to the public.*

*(2) Make a determination, based on the result of the tests, on whether the leak poses a serious threat to the public health and safety of residents affected by the leak, and require the responsible party to provide assistance, including temporary relocation, to those residents if the local health officer or his or her designee so determines.*

*(b) If the local health officer or his or her designee determines, based on the results of the test, that the leak poses a serious threat to public health and safety, the local health officer or his or her designee shall direct the responsible party to notify all residents affected by the leak.*

*(c) The responsible party shall be liable for the costs incurred by the local health officer or his or her designee pursuant to this section.*

*(d) Providing resident assistance and reimbursement for local health officer expenses shall not relieve a responsible party from liability for damages, and a responsible party shall not condition assistance or request a waiver of liability from the recipient of the assistance.*