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California State Senate

SENATOR
FRAN PAVLEY

TWENTY-SEVENTH SENATE DISTRICT

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ENVIRONMENTAL QUALITY
HEALTH
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September 12, 2013

Gregory Schmidt
Secretary of the Senate
State Capitol, room 400
Sacramento, CA 95814

Dear Mr. Schmidt,


I have authored Senate Bill 4 to provide regulatory accountability and public transparency to the use by the oil and gas industry of hydraulic fracturing, acidization and other practices to stimulate production from California's wells. I am submitting this letter to the Senate Journal to provide clarity to the intent of Senate Bill 4.

Senate Bill 4 provides comprehensive statutory direction to the Division of Oil, Gas and Geothermal Resources, working with other regulators, to promulgate rules and regulations governing well stimulation treatments of oil and gas wells. This is achieved in part through adding a discretionary permit requirement for all well stimulation activity under section 3160 to the Public Resources Code. It is my intent that existing standards of judicial review shall not be altered by section 3160(d)(2)(B). In accordance with the savings clause in section 3160(n), this subparagraph is also not intended to preempt existing laws, regulations, and orders that may require additional review or mitigation associated with well stimulation treatments, including, local government's authority over land use, the oil and gas supervisor's emergency powers under Section 3226 of the Public Resources Code, the Governor's constitutional and statutory powers to issue a moratorium or a ban (e.g. under the California Emergency Services Act), and the ability of any other state or local agencies, including local air districts, to exercise their authority within their respective jurisdictions, as delineated in the Assembly Floor analysis of September 9, 2013.

Likewise, the environmental review and other pre-conditions of stimulating existing wells under Section 3161, while regulations are being finalized, are also not intended to conflict with the savings clause in Section 3160(n), and any of the preserved authorities enumerated above. Moreover, it is not my intent that any well stimulations be allowed to proceed under this section, unless full compliance with the substantive requirements of this article (sections (b), (d) and (g)) are certified by the operator as having been met.

To the extent any clarification is necessary regarding the intent of these provisions, I will pursue legislation to clarify this matter at the earliest possible opportunity.

Sincerely,


Fran Pavley
SENATOR, 27th DISTRICT