AN ORDINANCE OF THE COUNTY OF BUTTE

AMENDING CHAPTER 24, ENTITLED “ZONING,”

TO PROHIBIT THE STORAGE OR DISPOSAL OF

WELL STIMULATION (“FRACKING”) BYPRODUCTS

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Findings. The Board finds and declares as follows:

(a) Well stimulation is a practice used in the oil and natural gas extraction process that involves treatment of a well to enhance oil and gas production by increasing the permeability of an underground geologic formation;

(b) Hydraulic fracturing, also known as “fracking,” is a type of well stimulation treatment that involves the high-pressure injection of hydraulic fracturing fluids, which may include a mixture of water, sand or chemicals, into an underground geological formation to create fractures to increase flows to, and further the production of oil and gas from, a well;

(c) Acid well stimulation treatment, or “acidizing,” is another type of well stimulation treatment that uses, in whole or in part, the application of one or more acids into a well or an underground geologic formation, at any pressure, to increase flows to, and further the production of oil and gas from, a well;
(d) Recent advances in drilling technology and hydraulic fracturing have made it economically feasible to extract oil and natural gas from shale and other impermeable rock formations in areas that were formerly economically infeasible;

(e) Well stimulation treatments and their byproducts have garnered increased nationwide attention over the past several years due to environmental concerns that the storage or disposal of well stimulation byproducts may contaminate groundwater supplies and increase seismic activity;

(f) Even though companies performing hydraulic fracturing have generally resisted the disclosure of the specific contents of the fluids used in hydraulic fracturing by claiming that the information is proprietary in nature, hydraulic fracturing fluids have been known to contain formaldehyde, benzyne, toluene, and boric acids, among hundreds of other contaminants, and many of the chemicals contained in hydraulic fracturing fluids are listed under Proposition 65 and are known to cause cancer;

(g) It is common practice to inject well stimulation byproducts into underground wells for storage or disposal following well stimulation treatments and the chemicals and acids used in the well stimulation process have been known to leach or migrate into surrounding groundwater resulting in contamination and irreparable
harm to groundwater supplies;

(h) In July 2014, for example, the Division of Oil, Gas, and Geothermal Resources ("DOGGR") issued orders to seven oil production companies in Kern County to immediately cease use of 11 injection wells used to dispose of well stimulation byproducts to avoid potential harm to groundwater aquifers because DOGGR discovered that the injections appeared to intrude into areas of protected groundwater;

(i) In addition, a 2011 audit by the Environmental Protection Agency faulted DOGGR’s review of injection wells used for the disposal of well stimulation byproducts within California on the grounds that DOGGR was too lenient regarding the type of water resources to be protected, how wide a radius well operators must study prior to injections, and how much pressure should be applied when injecting well stimulation byproducts into injection wells;

(j) The County of Butte has a history of groundwater contamination including the contamination of groundwater in the Chico Urban Area by nitrate, which has adversely affected approximately 30,000 residents on 10,000 parcels and has been established as a direct threat to groundwater quality and public health; and the potential contamination of groundwater in the Oroville Urban Area by the Koppers Industries, Incorporated site, the Louisiana Pacific Corporation’s Oroville facility, and
the Western Pacific Railroad Company’s site, all located
south of the City of Oroville;
(k) There are currently 32 gas wells with an active
or idle status located in Butte County that could be
utilized for the storage or disposal of well stimulation
byproducts;
(l) The underground storage or disposal of well
stimulation byproducts in injection wells within Butte
County poses a threat to Butte County’s surface water,
groundwater and land due to potential leaching,
migration and well failures as well as by increasing the
risk of seismic activity;
(m) The groundwater resources of Butte County include
vast aquifers that serve as a source of water for
municipal, agricultural, industrial, commercial, and
residential uses and the aquifers are vital to the
future of Butte County;
(n) The protection of Butte County’s vital natural
resources cannot be compromised;
(o) Agriculture is the number one industry in Butte
County with an estimated gross value of agricultural
production in 2013 of over $869 million and the
protection of agriculture from the potentially adverse
effects of well stimulation byproducts is of vital
importance to the economy of Butte County and the
livelihood of Butte County residents;
(p) The contamination of Butte County’s water and
land by well stimulation byproducts has the potential to negatively impact property values within the county; (q) The prosperity, health, safety, and general well-being of Butte County residents all depend on the availability of clean water and land free from contamination; (r) The storage or disposal of well stimulation byproducts is a type of land use that is incompatible with other land uses in Butte County due to the potential risks to Butte County’s land, water and residents associated with the storage or disposal of such byproducts; and (s) The County of Butte has the authority, under both the California Constitution and state law, to enact land use regulations to preserve and protect the health, safety and welfare of its residents. (t) Pursuant to the California Environmental Quality Act (CEQA) Guidelines, this Ordinance is exempt from CEQA based upon the following: (1) This Ordinance is not a “project” within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in a physical change in the environment, either indirectly or directly; (2) This Ordinance is categorically exempt from CEQA under sections 15307 and 15308 of the CEQA Guidelines as a regulatory action taken by Butte
County to assure the maintenance, restoration, enhancement, or protection of its natural resources and environment; and

(3) This Ordinance is also not subject to CEQA under the general rule that CEQA only applies to projects that have the potential to cause a significant effect on the environment. It can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 2. The “Natural Resource Uses” section of table 24-13-1 of section 24-13, entitled “Land Use Regulations for Agriculture Zones,” of the Butte County Code is amended to read as follows:

<table>
<thead>
<tr>
<th>Natural Resource Uses</th>
<th>Zone</th>
<th>AG</th>
<th>AS</th>
<th>Applicable Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forestry and Logging</td>
<td>P</td>
<td></td>
<td></td>
<td>Chapter 13 Butte County Code</td>
</tr>
<tr>
<td>Mining and Surface Mining Operations</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Oil and Gas Extraction, including reinjection wells for natural gas</td>
<td>C</td>
<td>C</td>
<td></td>
<td>Chapter 13 Butte County Code</td>
</tr>
<tr>
<td>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</td>
<td>-</td>
<td>-</td>
<td></td>
<td>Section 24-167.1</td>
</tr>
<tr>
<td>Timber Processing</td>
<td>-</td>
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<td></td>
</tr>
</tbody>
</table>

Section 3. The “Natural Resource Uses” section of table 24-16-1 of section 24-16, entitled “Land Use Regulations for Natural Resource Zones,” of the Butte County Code is amended to read as follows:

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### Natural Resource Uses

<table>
<thead>
<tr>
<th>Zone</th>
<th>Applicable Regulations</th>
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</thead>
<tbody>
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<td>TM</td>
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<tr>
<td>Forestry and Logging</td>
<td>P</td>
</tr>
<tr>
<td>Mining and Surface Mining Operations</td>
<td>C</td>
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<tr>
<td>Oil and Gas Extraction, including reinjection wells for natural gas</td>
<td>C</td>
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<tr>
<td>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</td>
<td>-</td>
</tr>
<tr>
<td>Timber Processing</td>
<td>P</td>
</tr>
</tbody>
</table>

**Section 4.** The “Natural Resource Uses” section of table 24-19-1 of section 24-19, entitled “Land Use Regulations for Residential Zones,” of the Butte County Code is amended to read as shown on Exhibit A.

**Section 5.** The “Natural Resource Uses” section of table 24-22-1 of section 24-22, entitled “Land Use Regulations for Commercial and Mixed Use Zones,” of the Butte County Code is amended to read as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Applicable Regulations</th>
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<tbody>
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<td></td>
<td>GC</td>
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<tr>
<td>Forestry and Logging</td>
<td>-</td>
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<tr>
<td>Mining and Surface Mining Operations</td>
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<tr>
<td>Oil and Gas Extraction, including reinjection wells for natural gas</td>
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<tr>
<td>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</td>
<td>-</td>
</tr>
<tr>
<td>Timber Processing</td>
<td>-</td>
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</tbody>
</table>
Section 6. The “Natural Resource Uses” section of table 24-26-1 of section 24-26, entitled “Land Use Regulations for Industrial Zones,” of the Butte County Code is amended to read as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Applicable Regulations</th>
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</thead>
<tbody>
<tr>
<td>LI</td>
<td>GI</td>
</tr>
<tr>
<td>Natural Resource Uses</td>
<td></td>
</tr>
<tr>
<td>Forestry and Logging</td>
<td>-</td>
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<tr>
<td>Mining and Surface Mining Operations</td>
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<tr>
<td>Oil and Gas Extraction, including reinjection wells for natural gas</td>
<td>-</td>
</tr>
<tr>
<td>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</td>
<td>-</td>
</tr>
</tbody>
</table>

Section 7. The “Natural Resource Uses” section of table 24-29-1 of section 24-29, entitled “Land Use Regulations for Special Purpose Zones,” of the Butte County Code is amended to read as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Applicable Regulations</th>
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</thead>
<tbody>
<tr>
<td>PB</td>
<td>AIR</td>
</tr>
<tr>
<td>Natural Resource Uses</td>
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<tr>
<td>Forestry and Logging</td>
<td>-</td>
</tr>
<tr>
<td>Mining and Surface Mining Operations</td>
<td>-</td>
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<td>-</td>
</tr>
<tr>
<td>Oil and Gas Extraction, storage or disposal of Well Stimulation Byproducts</td>
<td>-</td>
</tr>
</tbody>
</table>

Section 8. Section 24-167.1 is added to the Butte County Code to read as follows:

24-167.1 Oil and Gas Extraction – Storage or Disposal of Well Stimulation Byproducts Prohibited.
A. Purpose. It is the intent of this section to prohibit the storage or disposal of well stimulation byproducts within Butte County to protect the vital natural resources of the county, including but not limited to, Butte County’s vast groundwater resources, and to protect the health, safety and welfare of the residents of Butte County.

B. Applicability. The standards in this section apply to all zones.

C. Prohibited Uses. No well stimulation byproducts of any form or of any nature may be stored in, or disposed of in, the boundaries of Butte County, including in any injection wells within Butte County. In addition, no fluid or fluids, wastewater, or wastewater solids may be stored in, or disposed of in, any injection wells within Butte County in violation of federal or state law.

Section 9. Section 24-304 of the Butte County Code is amended to add the following definition of “Acidizing.”

Acidizing. Any well stimulation treatment that uses, in whole or in part, the application of one or more acids, at any pressure, into a well or an underground geologic formation in order to cause or enhance, or with the intent to cause or enhance, the production of oil, gas or other hydrocarbon substances from a well. Acidizing may include, but is not limited to, processes known as acid fracturing and acid matrix stimulation. Acidizing does not include routine well cleanout work, routine well maintenance, routine activities that do not affect the integrity of a well or an underground geologic
formation, or treatments that do not penetrate into an
underground geologic formation more than 36 inches from the
wellbore.

Section 10. Section 24-304 of the Butte County Code is amended
to add the following definition of “Hydraulic Fracturing.”

Hydraulic Fracturing. Any well stimulation treatment that, in
whole or in part, includes the pressurized injection of
hydraulic fracturing fluid or fluids, which may include a
mixture of water, sand or chemicals, into an underground
geologic formation in order to fracture, or with the intent to
fracture, the formation, thereby causing or enhancing the
production of oil, gas or other hydrocarbon substances from a
well.

Section 11. Section 24-304 of the Butte County Code is amended
to add the following definition of “Injection Well.”

Injection Well. Any new or existing well used for the
underground storage or disposal of fluid or fluids, wastewater,
or wastewater solids.

Section 12. Section 24-304 of the Butte County Code is amended
to add the following definition of “Well Stimulation
Byproducts.”

Well Stimulation Byproducts. Any fluid or fluids, wastewater,
or wastewater solids resulting from well stimulation treatments.

Section 13. Section 24-304 of the Butte County Code is amended
to add the following definition of “Well Stimulation Treatment.”

Well Stimulation Treatment. Any treatment of a well designed to
enhance oil, gas or other hydrocarbon substance production or
recovery by increasing the permeability of an underground
geologic formation. Well stimulation treatments include, but
are not limited to, hydraulic fracturing and acidizing. Well
stimulation treatments do not include routine well cleanout
work, routine well maintenance, routine activities that do not
affect the integrity of a well or an underground geologic
formation, or treatments that do not penetrate into an
underground geologic formation more than 36 inches from the
wellbore.

Section 14. Violations; enforcement. Any violation of any
provision of this Ordinance shall constitute a misdemeanor
punishable pursuant to section 1-7 of this Code. The County of
Butte may also pursue any and all civil, criminal, and
administrative remedies available to ensure compliance with this
Ordinance.

Section 15. Applicability. Nothing in this Ordinance is
intended to limit or prohibit well stimulation treatments
otherwise permitted pursuant to this Code.

Section 16. Severability. If any provision of this Ordinance
or the application thereof to any person or circumstances is for
any reason held to be invalid by a court of competent
jurisdiction, such provision shall be deemed severable and the
invalidity thereof shall not affect the remaining provisions or
applications of the Ordinance which can be given effect without
the invalid provision or application thereof.

Section 17. Effective Date and Publication. This Ordinance
shall take effect 30 days after the date of its passage. The
Clerk of the Board of Supervisors is authorized and directed, before the expiration of 15 days after its passage, to publish this Ordinance once, with the names of the members of the Board of Supervisors voting for and against it, in the ____________, a newspaper published in the County of Butte, State of California.

PASSED AND ADOPTED by the Board of Supervisors of the County of Butte, State of California, on the ___ day of ____________, 2015, by the following vote:

AYES:
NOES:
ABSENT:
NOT VOTING:

DOUG TEETER, Chair of the Butte County Board of Supervisors

ATTEST:
PAUL HAHN, Chief Administrative Officer and Clerk of the Board

By_______________________________
Deputy