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| Client: | Western States Petroleum Association |
| Industry: | Oil & Gas |
| Area of Law: | Environmental litigation |
| Venue: | Superior Court of California, Kern County |
| Result: | Sweeping validation of streamlined permitting ordinance |

New Oil and Gas Permitting Process Withstands Litigation Onslaught

After Kern County, California, adopted a streamlined permitting process (Ordinance) for oil and gas activities, environmental groups and farmers filed multiple lawsuits seeking to invalidate the Ordinance and enjoin the permitting of thousands of new wells. These lawsuits posed a major threat to California’s oil industry—the vast majority of the state’s oil is produced in Kern County. Pillsbury successfully defended the Ordinance and defeated all efforts to enjoin the permitting of new oil and gas wells.

With approximately 75 active oil and gas fields, and over 2,500 new wells drilled every year, Kern County is the top oil-producing county in the nation, and accounts for approximately 80 percent of oil and natural gas produced in California. Western States Petroleum Association (WSPA) and Pillsbury, in coordination with Kern County, helped develop the Ordinance to provide streamlined permitting and regulatory certainty for the petroleum industry. In exchange for a ministerial permitting process—to avoid the inevitable delay, expense and redundancy of separate environmental reviews for every new well or group of wells—WSPA and other industry groups supported the Ordinance’s notice and review procedures, scores of new upfront mitigation measures, and many environmentally protective development standards.

Three different groups of petitioners, including environmental organizations and agricultural interests, sued to challenge the Ordinance and underlying Environmental Impact Report (EIR). Petitioners claimed the EIR failed to adequately analyze and mitigate myriad impacts, including impacts to agriculture, water resources, air quality, greenhouse gas emissions, biological resources and noise. Some petitioners also attacked the ministerial nature of the Ordinance, seeking a declaration that each new permit applied for under the Ordinance is discretionary and requires separate environmental review. Another petitioner claimed the county should have adopted a conditional use permit alternative to the Ordinance.

On behalf of WSPA and other industry groups (who were sued as real parties in interest), Pillsbury defeated all these claims. The Superior Court upheld the Ordinance and affirmed the ministerial nature of the county’s permitting system.

Pillsbury is now defending the Superior Court’s judgment on appeal.