

From: [Morris, Alexis](#)
To: [=yCouncil Members](#)
Cc: [=yDepartment Directors](#); [Hagen, Jennifer](#); [Nolthenius, Erik](#); [Wisinski, Katherine](#)
Subject: City Council Agenda Item B.6
Date: Tuesday, March 28, 2023 2:16:10 PM
Attachments: [image002.png](#)

Honorable Mayor, Vice Mayor and City Council,
 Good afternoon. Vice Mayor Meyer asked staff whether adding the removal of in-lieu fees for larger projects to the chart for B.6 would be appropriate and beneficial to showing HCD our efforts to expand affordable housing.

Table D of the Housing Element Annual Progress Report (APR), beginning on packet page 80, reports on the City's progress towards implementing the actions identified in the 5th Cycle Housing Element. Item 2a on packet page 81 (see below) briefly addresses the updates to the affordable housing ordinance made in 2022, but does not detail all of the changes made to the ordinance, including removing the option to pay a fee in-lieu of constructing affordable housing for larger projects. It would be appropriate to include this information in Table D as it provides additional detail about the amendments made to the ordinance.

2a: Compliance with Affordable Housing Ordinance	Annually track development of affordable housing units and adjust ordinance as needed.	On-going	In 2022, the City was successful in amending its affordable housing ordinance b increasing the percentage from 10% to 13% in order to create more affordable units. The City has available incentives to encourage the production of affordable
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Because the ordinance amendments were previously adopted by the City Council, staff will be able to add additional information about the change to in-lieu fees to Table D of the APR without Council direction. However, staff will be prepared to discuss the issue should this item be pulled from the consent calendar.

Thank you.



Alexis Morris | She/Her/Hers | [why pronouns?](#)
Director of Community Development
 Community Development
 150 City Park Way
 Brentwood, CA 94513-1164
 Phone: 925.516.5195
 Fax: 925.516.5407
amorris@brentwoodca.gov



From: [Antonio Xavier](#)
To: [=yCouncil Members](#)
Subject: Agenda item C.2 (Oil and gas moratorium)
Date: Sunday, March 26, 2023 10:20:56 PM

CAUTION – EXTERNAL SENDER

City Council,

Please vote to **EXTEND** the moratorium on new oil and gas development and work towards a permanent ban.

Vote for the health and safety of Brentwood residents.

Thank you

--Antonio Xavier
Brentwood Resident

From: [Dipendra Rai](#)
To: [=yCouncil Members](#)
Subject: No to oil and gas drilling
Date: Tuesday, March 21, 2023 3:44:05 PM

CAUTION – EXTERNAL SENDER

Dear Council members,

I am writing to add the voice of my family to strongly oppose any oil and gas drilling in Brentwood city limits and would like the city council to permanently ban drilling to protect public health and climate.

We all know the risks associated with oil and gas drilling and yet we have to keep coming back to this subject each year. We should once and for all ban oil and gas drilling so that we don't have to revisit this subject that we know only helps not just the Brentwood residents but our neighbouring cities.

CA is already moving towards using more renewable energy. Let's support businesses that work with nature and not against it.

Dipendra Rai and Family

From: [Hollin Kretzmann](#)
To: [=yCouncil Members](#)
Subject: Letter re Oil and Gas Moratorium
Date: Friday, March 24, 2023 11:03:41 AM
Attachments: [2023 Letter to City Council.pdf](#)

CAUTION – EXTERNAL SENDER

To the Brentwood City Council:

Please find attached a letter on behalf of the Center for Biological Diversity and its members in advance of the March 28, 2023 City Council Meeting, in support of Public Hearing Agenda Item # 2.

Sincerely,

Hollin Kretzmann (he/him)
[Center for Biological Diversity](#)
1212 Broadway, Suite 800
Oakland, CA 94612
(510) 844-7133



Via Electronic Mail

March 24, 2023

Brentwood City Council
150 City Park Way
Brentwood, CA 94513
citycouncil@brentwoodca.gov

Re: Oil and Gas Moratorium and Phase Out

To the Honorable Brentwood City Council:

I am an attorney writing on behalf of the Center for Biological Diversity and its members to encourage the City to (1) readopt the moratorium on new oil and gas activity for an additional year under Government Code section 65858 and (2) begin drafting a permanent ordinance banning oil and gas activity within Brentwood city limits.

The City should end oil and gas development in Brentwood.

On April 12, 2022, the City adopted a 45-day moratorium on new oil and gas development, extending it for another ten months and 15 days at a subsequent meeting. The threats that oil and gas pose to human health, the environment and the climate must still be addressed urgently. We therefore urge the City to readopt its moratorium for an additional year. The City should use this interim period to draft and enact a permanent ordinance that would ban new oil and gas wells and phase out any existing wells in Brentwood to keep residents safe from harmful pollution.

These protections are needed now more than ever. Frontline communities across California have advocated for protections against oil industry pollution. In 2021, CalGEM proposed a 3,200-foot health and safety buffer between wells and homes, schools, and other sensitive receptors. CalGEM, however, has not completed its rulemaking. In 2022, the state legislature passed landmark legislation—Senate Bill 1137—that mandated a 3,200 foot buffer as of January 1, 2023 and prohibited the issuance of permits for new wells or rework permits for existing wells within this distance. Unfortunately, the oil industry poured tens of millions of dollars to qualify a referendum that puts the law on hold until November 2024.

In addition, operators have targeted the Brentwood oil field in recent years. In 2020, Powerdrive Oil and Gas Company sought approval from Contra Costa County for three new oil and gas wells, each requiring 450 hours of continuous drilling, along with ancillary facilities such as tanks and pipelines. The project would have occurred about 1,100 feet from the nearest homes in Brentwood. In 2021, Reabold California applied for a new wastewater injection project that would facilitate extended oil extraction. The project is on hold thanks to a court ruling that CalGEM violated the California Environmental Quality Act when it approved the project without full environmental review.¹ Beyond these two projects, operators could attempt to redrill wells within city limits that are currently plugged. The Brentwood oil

¹ *Sunflower Alliance v. Cal. Geologic Energy Management Div.* Case No. N22-1503 (Contra Costa County Superior Court, Dec. 22, 2022).

field could become the site of future oil and gas expansion if local governments do not act to stop projects before they begin.

The City has the authority to ban oil and gas.

Article XI, section 7 of the California Constitution states that “[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” And for over a century, California courts have upheld this “police power” when it involves deciding whether and where dangerous industrial activities take place.²

The oil industry frequently sends legal threat letters in an attempt to dissuade local governments from carrying out their important duties to protect their residents from oil and gas activities, asserting that local governments do not have the authority to restrict oil and gas, or that the governments would be financially liable for lost profits if they take action. While such threats may be strongly worded, they are typically not backed by solid legal authority, and we urge the City to carefully scrutinize the assertions in all such letters and refuse to be intimidated by unsupported claims.

For example, a law firm representing Sunset Exploration sent a letter on May 22, 2022, asserting incorrectly that the oil company has a legal vested right to continue oil and gas activities in Brentwood. Sunset Exploration has no vested rights to continued drilling. The letter misstates the law on vested rights. The City should not rely upon the faulty legal arguments contained in that letter.

The California Supreme Court stated a vested right exists only where (1) a property owner has performed substantial work on a project, (2) incurred substantial liabilities, and (3) relied in good faith upon a permit issued by the government.³ Sunset cannot meet these requirements because, as a threshold matter, it does not have the required discretionary permits from the City and from the state oil and gas regulator. The City requires a conditional use permit to conduct any “drilling of a new well or the reworking of an existing well.”⁴ And the California Geologic Energy Management Division (CalGEM) also requires approval before conducting drilling or maintenance activity. Sunset has no right to these future discretionary permits,⁵ and therefore no vested right.

A federal court recently ruled in favor of a county in a similar scenario. Alameda County denied a permit to an oil company, effectively ending the company’s oil operations in the county. Despite the company’s

² *Marblehead Land Co. v. City of Los Angeles* (9th Cir. 1931) 47 F.2d 528, 531 (authority to adopt local restrictions on oil and gas development under the city’s police power “cannot be doubted”); *Ex Parte Hadacheck* (1913) 165 Cal. 416 (upholding city-wide ordinance prohibiting establishment or operation of brickyards based on the general police power to regulate public health or morals).

³ *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 791.

⁴ Brentwood Municipal Code, tit. 17, art. IX, ch. 17.680.003.

⁵ *BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224 (plaintiff had no right to obtain conditional use permit where the city council had discretion to review, condition, and deny such permits); *Guinnane v. San Francisco City Planning Com.* (1989) 209 Cal.App.3d 732, 736 (compliance with zoning laws and building codes did not entitle plaintiff to building permit where municipal agency “was empowered to exercise discretionary review and to determine that the proposed . . . development was unsuitable for the indicated location”).

long history of extraction at the site, the court ruled it had no vested right for continued oil and gas operations.⁶

Sunset's claims that state and federal law "preempt" local law that would ban oil and gas activity are similarly flawed. California has long upheld local authority to ban oil and gas: "Enactment of a city ordinance prohibiting exploration for and production of oil, unless arbitrary, is a valid exercise of the municipal police power."⁷ The power is derived directly from the California Constitution, which states, "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."⁸ Los Angeles County and the City of Los Angeles have each moved forward with local ordinances banning new oil and gas activity and phasing out existing operations over time. There is no legal obstacle preventing Brentwood from doing the same. In support of its argument, Sunset cites a Sixth District Court of Appeal decision that is currently under review by the California Supreme Court and is unlikely to survive in its current form.⁹

Finally, Sunset claims a ban on oil and gas would result in an unconstitutional "taking" of private property. This claim is incorrect for many reasons that require facts and analysis entirely lacking from Sunset's letter. But one overarching point the City should bear in mind is that such takings claims are invalid where an activity is a nuisance.¹⁰ Given the well-documented harms to our health, our environment and our climate, oil and gas activities constitute a nuisance. Where a government "reasonably concludes that the health, safety, morals, or general welfare would be promoted by prohibiting particular contemplated uses of land," compensation is not necessary.¹¹

Sunset attempts to downplay the environmental harms of its oil and gas operations because it does not engage in hydraulic fracturing, or fracking. Oil and gas production causes harm to human health and the environment regardless of whether fracking or similar methods are used. Many of the chemicals involved in drilling, reworks, and production are the same ones used in fracking.¹²

Conclusion

We applaud the City's leadership in protecting Brentwood residents from the harms of oil and gas production. We urge the City to keep moving forward by renewing the moratorium and drafting a permanent ban on oil and gas and phasing out existing wells in Brentwood.

⁶ *E&B Natural Resources Management Corporation v. County of Alameda*, Case No. 18-cv-05857-YGR (N.D.Cal. filed Jun. 8, 2020) Order Denying Motion for Partial Summary Judgment.

⁷ *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal.App.4th 534, 555.

⁸ Cal. Const., art. XI, sec. 7.

⁹ *Chevron U.S.A., Inc. v. County of Monterey* (2021) 70 Cal. App. 5th 153, petition for review granted (Jan. 26, 2022, No. S271869) ___ Cal.5th ___ [2022 Cal. LEXIS 450].)

¹⁰ *Lucas v. S.C. Coastal Council*, 505 U.S. 1003 (1992).

¹¹ *Penn. Central Transportation Co. v. New York City*, 438 U.S. 104, 125 (1978) .

¹² Stringfellow, W. T., Camarillo, M. K., Domen, J. K., & Shonkoff, S. B. C. (2017). Comparison of chemical-use between hydraulic fracturing, acidizing, and routine oil and gas development. *PLoS one*, 12(4), available at <https://doi.org/10.1371/journal.pone.0175344>.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Hollin Kretzmann". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Hollin Kretzmann

Attorney, Center for Biological Diversity

From: [Kathy Ottosen](#)
To: [=yCouncil Members](#)
Subject: Oil drilling
Date: Thursday, March 23, 2023 1:38:17 AM

CAUTION – EXTERNAL SENDER

We are against any oil drilling within Brentwood city limits.

Thank you.
John & Kathleen Ottosen.

From: [Jon Wilson](#)
To: [=yCouncil Members](#)
Subject: Oil and Gas Drilling moratorium
Date: Wednesday, March 22, 2023 4:37:23 PM

CAUTION – EXTERNAL SENDER

Hello,

I have heard that the moratorium on oil and gas drilling in Brentwood expires on 4/11. I would like to request that Brentwood renews this moratorium.


I live in the Brentwood Hills neighborhood which has been significantly impacted by previous oil drilling. Several houses in my neighborhood (including my own) have experienced significant settling due to being on top of old oil wells. I have interviewed people who have spent \$20-50k to have their homes re-leveled and I will have to pay this as well in the coming years.

Additionally, our neighborhood has many gas vents to allow the methane and other fumes from the oil wells to escape from the ground. Some homes even have vents going through their walls.

Considering the fact that the world is approaching peak oil and actively transitioning to renewable energy it would be very short-sighted to put short-term financial gains over long-term health and climate impacts.

Thank you,

Jon Wilson

 Dr, Brentwood, CA 94513

From: [REDACTED]
To: [webCityClerk](#)
Subject: Expiration of oil drilling moratorium
Date: Sunday, March 19, 2023 5:07:11 PM

CAUTION – EXTERNAL SENDER

I am submitting the attached on behalf of Brentwood Hills residents. A nearly unanimous opinion of my neighbors I have spoken to is represented by those whose names are listed.

Comments for the Brentwood City Council of March

My name is Ken Ervin and I am a scientist and resident of the north west region of Brentwood Hills. I and my 26 neighbors, whose names are listed at the bottom of this message, are extremely concerned about the effort to begin new drilling operations just 900 feet west of us. It's an established fact that people, especially children and pregnant women, living close to oil drilling sites are especially vulnerable to the health effects of the emissions associated with oil drilling. In addition, it is an established fact that oil drilling and fossil fuel burning have contributed to climate change and the erratic and catastrophic weather we have been experiencing for at least several decades. We need to begin now to move away from fossil fuels. That means no more new wells. Primarily for these two reasons, we are very concerned and adamant that oil drilling operations should not be allowed so close to neighborhoods where people are concentrated. This will be especially important as Brentwood is being asked to house thousands more people by the state. Given this, we hope you will continue to request a moratorium on drilling operations near Brentwood.

Ken Ervin
Linda Ervin
Arum Arora
Geeta Arora
Jim Marshal
Amber Marshal
Shanna Scott
Mike Scott
Lucy Fontana
Sebastian Fontana
Johnny Staton
Claudette Staton
Praveen Tyagi
Rinki Tyagi
Vansh Tyagi
Seema Abukishk
Shaker Abukishk
George Chinn
Adam Plota
Toyin Plota
Renata Gouveia
Bruna Gouveia
Tina Chendrawati
Amaraj Rai
Shova Rai
Norman Wong
Maureen Wong

Sent from my iPhone

From: [REDACTED]
To: [webCityClerk](#)
Subject: Are oil wells near the proposed Seeno development a potential liability for the city?
Date: Sunday, March 26, 2023 5:52:22 PM

CAUTION – EXTERNAL SENDER

Subsequent to my email of March 19, I have learned that there is a proposed development by Seeno west of Hwy 4 and north of Sand Creek Rd. This is an area where there are numerous capped oil wells and a short distance from proposed new oil wells on nearby county property.

Given what is known today about serious health effects of living near oil drilling activity, especially for children and pregnant women, have the city's attorneys considered potential liability by allowing developments near such activity?

In addition, when we learned about the new drilling effort, we subsequently became aware of a large number of methane vents in the area. Some of these were even in the walls of homes. Methane and its associated volatile organic compounds are recognized health and safety hazards. At that time, I and another individual obtained a methane detection device and drove through the neighborhood detecting significant levels of methane near two of these vents. That information was provided to the Contra Costa County Hazardous Materials committee. To my knowledge there is still no effort to monitor for methane and other VOCs (volatile organic compounds) near these vents.

At the very least, developers should be required to warn potential buyers up front instead of burying this very real hazard in the numerous pages of documents as was done in the Brentwood Hills area. Many home buyers here were unaware of the capped wells or methane vents in the walls of their homes until the recent campaign against drilling.

Thank you for your consideration of this important matter to Brentwood residents!


Ken Ervin

Sent from my iPhone

From: [Mike Ratkewicz](#)
To: [=yCouncil Members](#)
Subject: Ban oil and gas drilling
Date: Thursday, March 23, 2023 11:23:39 PM

CAUTION – EXTERNAL SENDER

Please vote for a permanent ban on gas and oil drilling in Brentwood. The health of our current residents will be greatly harmed if you vote to reopen drilling.

Michael Ratkewicz

Brentwood, CA 94513
Sent from my iPhone

From: [Shoshana Wechsler](#)
To: [=yCouncil Members](#); [webCityClerk](#)
Subject: Agenda Item C2, oil and Gas Drilling--for March 28th City Council Meeting
Date: Monday, March 27, 2023 8:28:52 AM
Attachments: [Brentwood CC 3.28.23 jpeg.docx](#)
[Smaller SFA.jpg](#)
[Brentwood Plugged and Abandoned wells - with 5 districts .png](#)

CAUTION – EXTERNAL SENDER

March 24, 2023

Re: Item C2: An urgency ordinance extending, for an additional period of one year, a moratorium on new oil and gas development in the City of Brentwood pending a study of the health and safety effects on such activities and the City’s long-term plan for regulation.

Dear Mayor, City Manager, and Members of the City Council of Brentwood,

I write on behalf of the Sunflower Alliance, an environmental and climate justice organization that has been working on fossil fuel issues in the county for well over a decade. We want to commend you for proposing an extension of the current moratorium on oil and gas drilling within city limits, and strongly urge you to prepare an ordinance instituting a permanent ban on fossil fuel extraction.

In March of last year, over three hundred people—most of them East County high school students—marched and rallied to call for an end to oil and gas drilling in Contra Costa. They were already veterans of several red sky days caused by the smoke from raging wildfires. The climate crisis no longer seemed so distant to them, and neither did its connection to fossil fuels.

An oil drilling site had suddenly started operation on Deer Valley Road in 2019 in the Old Brentwood Oil and Gas field, a mere half mile of Kaiser Antioch and Dozier-Libbey High School, and pending senior housing. The students wondered why this was allowed to happen fifty years after previous oil drilling had ended in the area. Did no one care about the connection between fossil fuel production and global warming? Or the many harmful impacts this posed to their health?

In 2020, the Powerdrive Oil and Gas Company proposed exploratory drilling on Brentwood’s western boundary, within 900-1100 feet of the nearest home. The County was ready to issue a “negative declaration” and rubberstamp the project, but extensive public opposition put the application on hold pending an environmental review. Sunflower Alliance worked closely with community members during this time, and continues to conduct a county-level effort to end new drilling and phase out existing infrastructure.

There are 278 plugged and abandoned oil and gas wells throughout East County, and the attached map shows the plugged wells within Brentwood city limits. All of these wells can be reactivated under current regulation. Moreover, plugged and abandoned wells can leak methane and other harmful gases both into groundwater and into the atmosphere. Neighborhoods including Shadow Lakes, Brentwood Hills, and the now high-

density area north of Streets of Brentwood are all built over plugged wells. Streetlights that look like old-fashioned lamp posts are actually methane vents from oil wells that were capped decades ago. There is no ongoing monitoring of the volatile organic compounds and raw methane that are potentially being vented directly into the neighborhood air, and into the atmosphere.

In other words, the last heyday of drilling in and around Brentwood has already left behind a harmful legacy.

So what can be done?

SB1173, referenced in the staff report, would have instituted 3,200' setbacks, or health-protective zones, around new and reworked oil and gas infrastructure starting on January 1st. However, a referendum initiated by the oil industry has put the regulation on hold pending the results of a November 2024 vote.

Despite the controversial nature of setbacks for the petroleum industry, however, this distance actually offers a minimal zone of protection, and sets the floor, but not the ceiling, to limit exposure to criteria air pollutants and toxic air contaminants. The findings of the Public Health Scientific Advisory Panel appointed by the State of California Geologic Energy Management agency, upon which this regulation is based, reports that health-damaging air pollutants are most concentrated within 3200' of oil and gas development activities, but also cites "evidence of harm linked to OGD activity at distances greater than 1 km" (3,281'). Most compellingly, the Scientific Advisory Panel also states that "*the most health-protective approach is to stop drilling and developing new oil and gas wells, phase out existing OGD activities and associated infrastructure, and properly plug and remediate legacy wells.*"¹

In a 14-year analysis of air quality across the state of California, Stanford researchers actually observed higher levels of air pollutants within 2.5 miles of oil and gas wells, likely worsening negative health outcomes for nearby residents.² Emissions from oil and gas extraction include particulate matter (PM2.5), carbon monoxide, nitrous oxide, ozone and volatile organic compounds. These harm our respiratory and reproductive systems (lower birth weights), or cause cancer; have adverse effects on our hearts and brains, including neurodegenerative disease, and may lead to movement disorders such as Parkinson's, which has a negative impact on cognitive ability; increase the rate of dementia in the elderly, and may cause depression and anxiety.

In addition to emitting health-hazardous airborne pollutants, oil and gas extraction also releases methane, 86 times more potent a greenhouse gas than carbon dioxide over a twenty-year period. Methane is responsible for 25% of the warming felt today. It is no exaggeration to say that it jeopardizes the continued habitability of our planet and the future prospects of generations to come.

For these reasons, the City of Brentwood is to be commended for extending the time needed to prepare a city ordinance regulating oil and gas activity. We urge you to also consider taking the most health- and climate-protective measures possible by instituting a permanent ban on oil and gas drilling with city limits. Such a measure would have both practical and symbolic value. It would protect residents from toxic exposure, air, land and water from contamination, and send a strong message to other governmental entities, such as Contra Costa County, that enabling expansion of fossil fuel infrastructure at this point in time is completely

unacceptable.

Wildfires, sea-level rise, and all the other markers of climate change here in California remind us that the climate crisis is real. It threatens our physical and financial health, and the future of our youth and generations to come.

New fossil fuel infrastructure has no place in healthy, thriving communities. We thank you for your bold leadership on this crucial issue.

Very sincerely yours,

Shoshana Wechsler

Sunflower Alliance



1. [https://www.conservation.ca.gov/calgem/Documents/public-health/Public Health Panel Responses_FINAL ADA.pdf](https://www.conservation.ca.gov/calgem/Documents/public-health/Public%20Health%20Panel%20Responses_FINAL%20ADA.pdf) (14).

2. <https://news.stanford.edu/2021/10/12/living-near-oil-gas-wells-increases-air-pollution-exposure/>



March 24, 2023

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Advisory Panel appointed by the State of California Geologic Energy Management agency, upon which this regulation is based, reports that health-damaging air pollutants are most concentrated within 3200' of oil and gas development activities, but also cites "evidence of harm linked to OGD activity at distances greater than 1 km" (3,281'). Most compellingly, the Scientific Advisory Panel also states that "*the most health-protective approach is to stop drilling and developing new oil and gas wells, phase out existing OGD activities and associated infrastructure, and properly plug and remediate legacy wells.*"¹

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Wildfires, sea-level rise, and all the other markers of climate change here in California remind us that the climate crisis is real. It threatens our physical and financial health, and the future of our youth and generations to come.

New fossil fuel infrastructure has no place in healthy, thriving communities. We thank you for your bold leadership on this crucial issue.

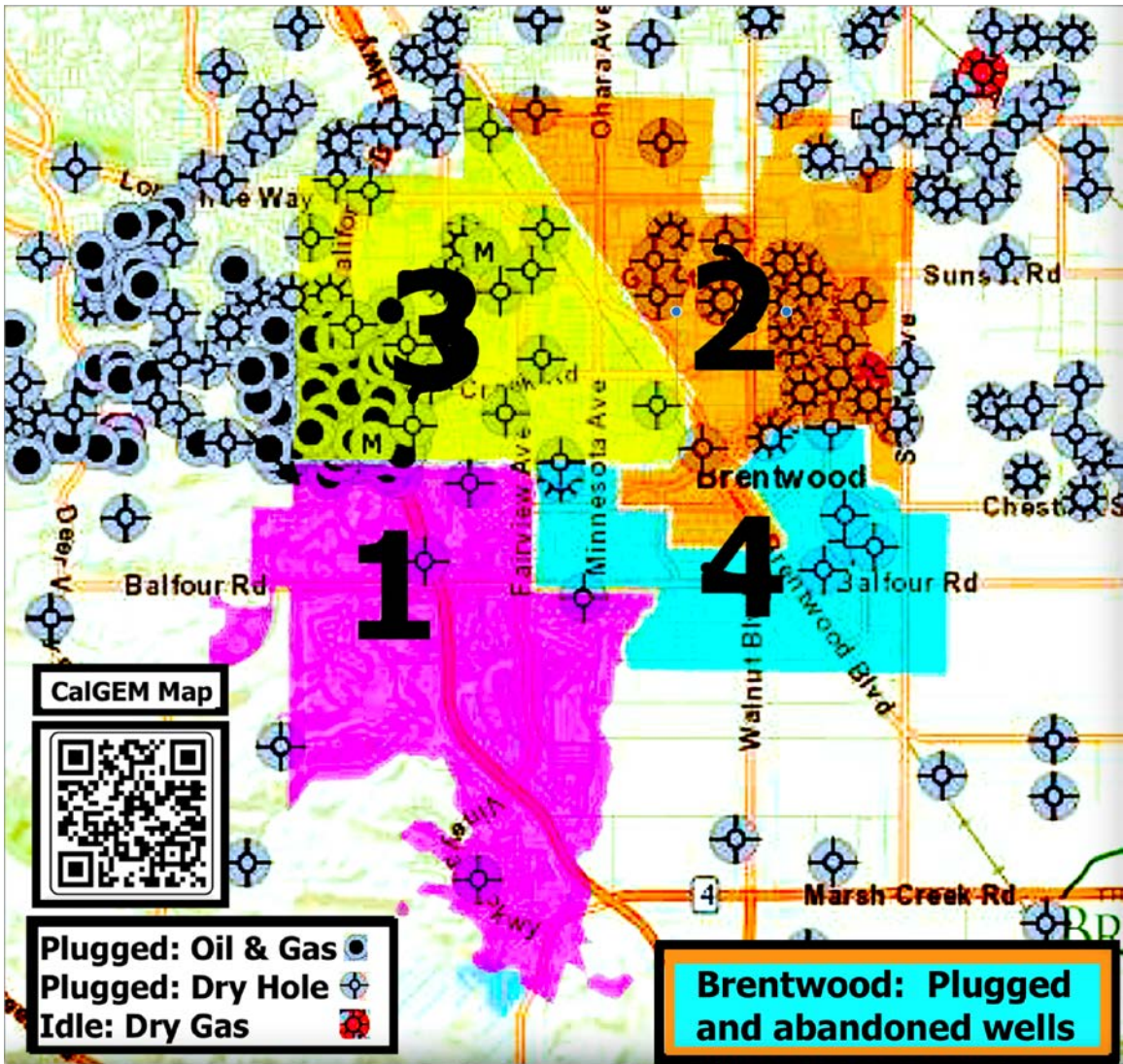
Very sincerely yours,

Shoshana Wechsler
Sunflower Alliance



1. [https://www.conservation.ca.gov/calgem/Documents/public-health/Public Health Panel Responses FINAL ADA.pdf](https://www.conservation.ca.gov/calgem/Documents/public-health/Public%20Health%20Panel%20Responses%20FINAL%20ADA.pdf) (14).

2. <https://news.stanford.edu/2021/10/12/living-near-oil-gas-wells-increases-air-pollution-exposure/>



From: [susanharper](#)
To: [=yCouncil Members](#)
Subject: Ban oil drilling in Brentwood!
Date: Tuesday, March 28, 2023 8:23:13 AM

CAUTION – EXTERNAL SENDER

I am opposed.to oil drilling in Brentwood. It is bad for the health of our community and am in support of less oil, more.sustainability and clean responsible behavior.

We are working hard to be responsible. This is not!
Sue Harper 