October 26, 2026

Submitted via email to the Clerk of the Board and the members of the Kern County Board of Supervisors

To: Chair Phillip Peters and members of the Kern County Board of Supervisors
From: National Association of Royalty Owners-California, Inc. (NARO-CA)

RE: SB 1137 & Notice to Oil & Gas Mineral & Royalty Owners

Attention: The County of Kern, California should try to avoid the possibility of being held responsible in the taking of oil and gas mineral and royalty rights by including certain provisions in their planning and permitting policies and procedures.

The implementation of California Senate Bill 1137 (SB 1137), the 3,200-foot oil and gas setback law, has created an unintentional constitutional issue that should be addressed prior to the issuing and/or approval of all building permits, occupancy permits, zoning changes, general plans, general plan amendments and general plan updates by the County of Kern (collectively a "Land Use Action"). We request that you develop and adopt a procedure for giving notice to all affected oil and gas mineral and royalty owners whose mineral rights and/or royalty interests will fall within a "Health Protection Zone", as defined in SB 1137, because of a Land Use Action. We believe failure to give notice of a potential Land Use Action may violate due process and equal protection under both the US Constitution and the California Constitution and could render any Land Use Action invalid. It also may represent an uncompensated taking of property owned by mineral and royalty owners.

The California Chapter of the National Association of Royalty Owners (NARO-CA) advocates for and defends the rights of the estimated 600,000 oil and gas royalty owners in California, and even more mineral owners, including those in the County of Kern.

Unfortunately, the actions of our state government have created conflict when none should exist. Effective June 28, 2024, the State of California began enforcement of SB 1137. SB 1137 establishes an arbitrary 3,200-foot "Health Protection Zone" (HPZ)

around “sensitive receptors” i.e. homes, schools, hospitals, and other locations where people live, work, and gather. Among other things, SB 1137 prohibits the development of any new oil or gas wells within 3,200 feet of any “sensitive receptor.” It also severely and negatively impacts both existing wells currently in an HPZ and those wells located in any additional HPZs that will be created by the future development of sensitive receptors. A 3,200-foot radius is a 6,400-foot diameter encompassing 738.5 acres, which is more acreage than contained in a one mile by one mile 640-acre section of land.

While SB 1137 protects the rights of surface owners to develop sensitive receptors within 3,200 feet of the property of mineral and royalty owners, it may not protect oil and gas mineral and royalty owners from an uncompensated taking of their property rights that could result from the development of such sensitive receptors. If the development or expansion of a sensitive receptor occurs such that it takes the mineral owner’s and/or royalty owner’s property rights, those mineral and royalty owners may be owed just compensation as guaranteed by the Fifth Amendment of the U.S. Constitution and by the California State Constitution.

In addition, SB 1137 does not provide for any notice to be given to oil and gas mineral and royalty owners that such development or expansion of, or additions to, sensitive receptors are planned. This is a clear violation of the right to equal protection and due process as guaranteed under both the California Constitution and the U.S. Constitution. ***See footnote ****

Due to the clear and egregious violations of both the U.S. Constitution and the California State Constitution created by the enactment of SB 1137, we hereby insist that a system be developed and implemented by the County of Kern so that all oil and gas mineral and royalty owners be given timely notice of any and all applications for Land Use Action that could result in the development or expansion of a sensitive receptor within 3,200 feet of their mineral rights and/or royalty rights estates. At their discretion, it will give the impacted mineral and royalty owners the opportunity to challenge such Land Use Action by opposing it through the planning and/or permitting processes, and/or CEQA processes, and/or by litigation.

**** “Engrained in the concept of due process is the requirement of notice. Notice is sometimes essential so that the citizen has the chance to defend charges. Notice is required before property interests are disturbed, before assessments are made, before penalties are assessed. Notice is required in a myriad of situations where a penalty or forfeiture might be suffered for mere failure to act. See Lambert v California 355 U.S. 225 (1957)”***

We further request that, effective immediately, ALL oil and gas mineral and royalty owners within the County of Kern that may be impacted by any Land Use Action be given at least a 60-day prior written notice of such Land Use Action via United States Postal Service.

We realize that this situation was created by our governor and our state legislature and not by the development community or by the state's municipalities and counties. Unfortunately, their actions have potentially exposed counties and municipalities to liability that they would not otherwise have. We regret that the enactment of SB 1137 by the State of California has made it necessary for us to send this letter.

At this time, we ask that the Board of Supervisors direct their staff to work with NARO-CA and its consultants to try to resolve the issues addressed in this letter.

Please advise us as soon as possible as to how you intend to comply with our requests.

Sincerely,

Edward S. Hazard
President