

Initiative Measure to be Submitted Directly to the Voters

The County Counsel has prepared the following title and summary of the chief purpose and points of the proposed measure:

An Initiative to Ban Hydraulic Fracturing “fracking”, Directional and Horizontal Drilling, and Waste Injection Wells in the County of Mendocino and to Invalidate Any and All Laws Contrary to this Purpose to the Extent They Effect the County of Mendocino.

The purpose of the initiative is to ban certain types of oil/gas extraction, which are called “unconventional extraction of Hydrocarbons” in the proposed ordinance. The ordinance defines “unconventional extraction of Hydrocarbons” as “hydraulic fracturing, “fracking”, directional and horizontal drilling, and waste injection wells.” The proposed ordinance creates strict liability for any damages to any person or property inside Mendocino County caused by “unconventional extraction” done by anyone inside or outside of the County of Mendocino.

The initiative would also declare null and void, within Mendocino County, any State, Federal or International law or other regulation that would violate the prohibitions contained within the proposed ordinance. The ordinance would also prohibit any corporations from asserting State, Federal or International preemptive laws to overturn this ordinance. The ordinance would also repeal all provisions of any ordinance, regulation or rules of any type, adopted by Mendocino County that are inconsistent with the provisions of the ordinance.

The printed name of the proponents are as follows: Karina McAbee Cotler, Steve Scalmanini, Kent Westwood, Jim Tarbell, and Marvin Trotter.

Each of the undersigned states for himself/herself that he or she is a registered and qualified elector of the County of Mendocino.

	1. Print Your Name	Residence Address Only	
	<i>Your Signature</i>	City	Zip
	2. Print Your Name	Residence Address Only	
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	<i>Your Signature</i>	City	Zip
	10. Print Your Name	Residence Address Only	
	<i>Your Signature</i>	City	Zip

AFFIDAVIT OF CIRCULATOR

(To be completed in circulator's own handwriting)

I, _____, solemnly swear (or affirm) that the signatures on this section of the petition were obtained between _____ and _____; that I circulated the petition and I saw the signatures on this section of the petition being written; and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be. My voting residence address is _____

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____ Date _____ Circulator's Signature
Examined and certified by me this _____ day of _____, 2014.

County Elections Official

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the County of Mendocino, California for the purpose of qualifying an initiative for the November 2014 general election ballot, proposing The Mendocino County Community Bill of Rights, to be voted on by the voters of Mendocino County California.

A statement of the reasons for the proposed action as contemplated in the petition is as follows:

The Mendocino County Community Bill of Rights Ordinance proposes to assert the right of residents of the County to local self-government in order to secure rights to clean water, air and soil, and freedom from chemical trespass. It would establish rights for natural communities and ecosystems, and empower community members and the County government with legal standing to enforce those rights, as stewards of their local environment.

To secure these rights, fracking and related activities would be prohibited within the County, with the exception of wells already established and in operation at the time of adoption of this Ordinance. In addition, corporations engaged in the unconventional extraction of hydrocarbons, or intending to do so in the County, could not avail themselves of certain legal rights and powers which would enable them to nullify the rights and prohibitions secured by this Ordinance.

We request that you prepare a ballot title and summary of the attached measure for the November 4, 2014 election. Proposed language for a ballot title and summary accompanies this letter, along with the complete text of the proposed ordinance.

Proponents:

- Karina McAbee Cotler - 1517 Casteel Dr., Willits, CA. 95490 707-459-9550
- Steve Scalmanini - 907 North Oak St. Ukiah, Ca 95482 707-391-5853
- Kent Westwood - 6000 Woodman Peak Rd/P.O. box 1284, Laytonville, Ca 95454
- Jim Tarbell - 15168 Caspar Rd, Box 14, Caspar, Ca 95420 707-964-1323
- Dr. Marvin Trotter - 1900 Foothill Dr., Redwood Valley, Ca 95470

Respectfully,

Karina McAbee Cotler

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The initiative would also declare null and void, within Mendocino County, any State, Federal or International law or other regulation that would violate the prohibitions contained within the proposed ordinance. The ordinance would also prohibit any corporations from asserting State, Federal or International preemptive laws to overturn this ordinance. The ordinance would also repeal all provisions of any ordinance, regulation or rules of any type, adopted by Mendocino County that are inconsistent with the provisions of the ordinance.

TEXT OF PROPOSED INITIATIVE MEASURE

Whereas, We the People of Mendocino County declare that we have the right and the duty to safeguard our water both on and beneath the Earth’s surface, and in the process, come together as a community to insure that local water decisions are made by local people, for the preservation of human and natural communities, whose existence depends on clean, accessible, abundant water; and

Whereas, this Ordinance establishes a Community Bill of Rights which recognizes and secures certain civil and political rights for the people of Mendocino County; and

Whereas, this ordinance bans industrial activities associated with unconventional extraction of fossil fuels, (“fracking”), because these activities violate the civil and human rights of the people of the County by threatening the health, safety, and welfare of the people, environment and future generations of Mendocino County; and

Whereas, private corporations engaged in industrial activities that violate the rights of the people of the County are wrongly recognized by international, federal and state laws as having more “rights” than the people who live in our community, and thus, recognition of corporate rights” is a denial of the rights of the residents of Mendocino County; and

Whereas, such a denial violates the California Constitution, which declares in Article I, Section 1 that All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy;” and

Whereas, in addition to corporate “rights,” the state and federal government as well as international trade laws have been routinely used by those corporations to preempt local lawmaking, thus denying the people’s right to local self-government; and

Whereas, the Board of Supervisors adopted the Mendocino County Precautionary Policy Number 43 in June 2006 which states, "Every resident, present and future, of Mendocino County has an equal right to a healthy and safe environment . . . The duty to enhance, protect and preserve Mendocino County’s environment, community health, and quality of life rests on the shoulders of local government, residents, citizen groups, and businesses alike." and

Whereas, the use of hydraulic fracturing as an unconventional hydrocarbon extraction method has been shown to inflict damage, disease and toxic trespass upon people, flora and fauna, as well as water, air and soil; and

Whereas, the people have responsibilities to future generations to secure their right to local self-government, to protect the natural environment of this County, to preserve the local ecosystems' ability to

sustain agriculture, business, and tourism, as well as promote human health,

Therefore, We the People of Mendocino County hereby adopt this Community Bill of Rights Ordinance.

Section 1—Definitions

(a) “Corporations,” for purposes of this Ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, other business entity, public benefit corporation, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) “Ecosystem” shall include, but not be limited to, wetlands, creeks, aquifers, and other water systems, forests, and meadows, as well as naturally occurring habitats that sustain humans, wildlife, flora and fauna, and other organisms.

(c) “Extraction” shall include the digging or drilling of a well for the purposes of exploring for, developing, or producing hydrocarbons.

(d) “Hydraulic fracturing” shall mean an activity in which water, propane, diesel, chemicals and a solid proppant or any other agent are pumped into a wellbore at a rate sufficient to increase the pressure downhole to a value in excess of the fracture gradient of the formation rock, causing the formation to crack, thus allowing the fracturing fluid to enter and extend the crack farther into the formation, forming passages through which hydrocarbons can flow.

(e) “Hydrocarbons” shall mean any of numerous organic compounds, including but not limited to methane, benzene, propane, petroleum and oil.

(f) “Infrastructure” shall include, but not be limited to, pipelines or other vehicles of conveyance of hydrocarbons, and any ponds or other containments used for wastewater, “frack” water, or other materials used during, or resulting from, the process of unconventional hydrocarbon extraction.

(g) “Natural Community” shall mean wildlife, flora, fauna, soil and air-dwelling and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a diverse matrix of organisms, within a natural ecosystem.

(h) “Unconventional Extraction of Hydrocarbons” shall include, but not be limited to, hydraulic fracturing, “fracking,” directional and horizontal drilling, and waste injection wells. The term shall also include, but not be limited to, extraction of water from any surface or subsurface source for use in these activities; depositing, disposal, storing, transporting and processing of waste water, produced water, frack water, flow-back, brine or other materials, chemicals or by-products used in, or resulting from, these activities; the construction and siting of any new infrastructure to support these activities, as well as application for, or issuance of, permits for engaging in these activities.

Section 2—Statements of Law — A Local Bill of Rights

(a) Right to Community Self-Government. All residents of Mendocino County possess the right to a form of governance where they live which recognizes that all power is inherent in the people and that all free governments are founded on the people's consent. Use of the Mendocino County government by the sovereign people to make law and policy shall not be deemed, by any authority, to eliminate or reduce that self-governing authority.

(b) Right to Clean Water, Air and Soil. All residents, natural communities and ecosystems in Mendocino County possess the right to water, air and soil that is untainted by toxins, carcinogens, particulates, nucleotides, and hydrocarbons introduced into the environment through the unconventional extraction of hydrocarbons.

(c) Rights of Natural Communities and Ecosystems. Natural communities and ecosystems possess rights to exist and flourish within Mendocino County without harm resulting from the unconventional extraction of hydrocarbons.

(d) Right to be Free from Chemical Trespass. All residents, natural communities and ecosystems in Mendocino County possess the right to be free from chemical trespass resulting from the unconventional extraction of hydrocarbons.

(e) Rights as Self-Executing, Fundamental, and Unalienable. All rights delineated and secured by this Ordinance are inherent, fundamental, and unalienable; and shall be self-executing and enforceable against both private and public actors.

Section 3—Statements of Law — Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful for any government, corporation or natural person to engage in the unconventional extraction of hydrocarbons within Mendocino County.

(b) The prohibitions in section 3(a) of this Ordinance shall not apply to hydrocarbon extraction wells installed and operating in the County prior to the enactment of this Ordinance, only if the extraction process used for those wells prior to the enactment of this ordinance is not changed to a different extraction process after the enactment of this ordinance.

(c) Governments, corporations, and natural persons engaged in unconventional extraction of hydrocarbons, whether in Mendocino County or in a neighboring jurisdiction or offshore location; shall be strictly liable for all harms resulting from those activities caused to natural water sources, ecosystems, people and communities within Mendocino County.

(d) It shall be unlawful for any corporation, government or natural person to violate the rights recognized and secured by this Ordinance.

(e) No permit, license, privilege, charter, or other authority issued by any State, federal or international entity which would violate the prohibitions of this Ordinance or deprive any County resident of any rights secured by this Ordinance, the California Constitution, the United States Constitution, or other laws, shall be deemed valid within Mendocino County.

Section 4—Enforcement

(a) Any corporation, government or natural person that violates any prohibition of this Ordinance shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation. Each day or portion thereof, and violation of each section of this Ordinance shall count as a separate violation.

(b) The County, or any resident of the County, may enforce the rights and prohibitions of this Ordinance through an action brought in any court

possessing jurisdiction over activities occurring within the County. In such an action, the County or the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any action brought by either a resident of the County or by the County to enforce or defend the rights of ecosystems or natural communities secured by this Ordinance shall bring that action in the name of the ecosystem or natural community in a court possessing jurisdiction over activities occurring within the County. Damages shall be measured by the cost of restoring the ecosystem or natural community to its state before the injury, and shall be paid to the County to be used exclusively for the full and complete restoration of the ecosystem or natural community.

Section 5—Enforcement — People's Rights to Superior to Corporate Power

(a) Corporations which violate or seek to violate this Ordinance, or which are alleged to have violated this Ordinance, shall not be deemed to be "persons," nor possess any other legal rights, privileges, powers, or protections which would interfere with the rights or prohibitions enumerated by this Ordinance. "Rights, privileges, powers, or protections" shall include the power to assert state, federal or international preemptive laws in an attempt to overturn this Ordinance, and the power to assert that the people of this municipality lack the authority to adopt this Ordinance.

(b) All laws adopted by the legislature of the State of California, and rules adopted by any State agency, shall be the law of Mendocino County only to the extent that they do not violate the rights or prohibitions of this Ordinance.

Section 6—Effective Date and Existing Permit holders

This Ordinance shall be effective immediately on the date of its enactment, at which point the Ordinance shall apply to any and all actions that would violate this Ordinance regardless of the date of any applicable permit.

Section 7—People's Right to Self-Government

Use of the courts or the legislature by any government, corporation or natural person to attempt to overturn the provisions of this Ordinance shall require the County to schedule community meetings focused on changes to County government that would secure the rights of the people to local self-government.

Section 8—California and Federal Constitutional Changes

Through the adoption of this Ordinance, the people of the County call for amendment of the California Constitution and the federal Constitution to recognize the right to local self-government free from governmental preemption and or nullification by corporate "rights" when local laws expand and are more protective of the rights of individuals, the community and nature.

Section 9—Severability

The provisions of this Ordinance are severable. If any court decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance.

Section 10—Repealer

All inconsistent provisions of prior Ordinances, laws and rules adopted by Mendocino County are hereby repealed, but only to the extent necessary to remedy the inconsistency.