Katherine Douglas Appellant Comment Letter

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From: Jeremy Frankel <jfrankel@environmentaldefensecenter.org>
Sent: Friday, February 21, 2025 10:23 AM
To: sbcob
Cc: Linda Krop
Subject: EDC Comment for Sable 2/25 Appeal Hearing
Attachments: EDC Ltr to BOS re Sable Permit Transfer_2025_02_21.pdf

Good morning,

Attached please find Appellant Environmental Defense Center's comment letter opposing Sable Offshore Corp.'s requests for change of Owner, Operator, and Guarantor.

Please confirm receipt.

Thanks,

environmental DEFENSE CENTER

JEREMY FRANKEL (he/him/his)
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We recognize that EDC sits on occupied, unceded, stolen lands of the Chumash Peoples, on Shmuwich Territory, who have called this area home for time immemorial. We commit today to make space to elevate indigenous voices and support our local Chumash and indigenous communities in our work to protect our environment.

February 21, 2025

Ms. Laura Capps, Chair
County Board of Supervisors
123 East Anapamu Street
Santa Barbara, CA 93101
Via email: sbcob@countyofsb.org

Re: <u>Change of Owner, Operator, and Guarantor for the Santa Ynez Unit, POPCO Gas Plant, and Las Flores Pipeline System — OPPOSE</u>

Dear Chair Capps and Honorable Supervisors:

On behalf of Get Oil Out! ("GOO!"), Santa Barbara County Action Network ("SBCAN"), and the Environmental Defense Center ("EDC"),[1] we urge the Board to deny Sable Offshore Corp.'s ("Sable") applications for Change in Owner, Operator, and Guarantor of the Santa Ynez Unit (the "SYU") and related infrastructure.

These applications are part of Sable's broader effort to restart the SYU and the corroded onshore pipelines that caused the 2015 oil spill at Refugio State Beach Park (the "Refugio Oil Spill"). Our clients were involved in the immediate response to the spill, and they remain concerned about the risks of operating the SYU and its attendant infrastructure. As to Sable in particular, they have well-founded concerns that this speculative company will not be able to safely restart these facilities, responsibly operate them, or fulfill its remediation obligations when another spill occurs.

To approve Sable's applications, Chapter 25B of the County Code requires that the County consider, among other things, Sable's financial wherewithal, operational capacity, and compliance with existing permit conditions. At the core of this appeal is Staff's fundamental

[1] GOO! was formed in the wake of the 1969 Santa Barbara Oil Spill and continues to work to protect California from further oil and gas development and exploitation. SBCAN is a countywide grassroots organization that works to promote social and economic justice, to preserve our environmental and agricultural resources, and to create sustainable communities. EDC is a nonprofit public interest law firm that defends nature and advances environmental justice on California's Central Coast through advocacy and legal action. After filing this appeal, EDC also entered into retainer agreements with the Sierra Club, by and through the Santa Barbara-Ventura Chapter, and Santa Barbara Channelkeeper.

misunderstanding as to the purpose and scope of Chapter 25B, and the evidence necessary to make the findings required by the ordinance.

Chapter 25B was never intended to be the ministerial process that Staff paints it as, void of any County discretion. Rather, it was intended to preserve and expand on the County's historical practice of conducting an in-depth evaluation of a proposed owner/operator's financial and operational capacity, and to allow the County to exact financial guarantees as necessary. The attached letter from John Day — former Planning and Development staff and one of the authors of Chapter 25B — confirms as much.[2]

Staff incorrectly claim that Sable does not need to assure the County that it has the financial wherewithal to abandon the facilities or remediate a spill; instead, Staff suggest that an applicant satisfies Chapter 25B by merely submitting the financial responsibility documents contemplated in the permit(s) at issue. Staff's misguided interpretation undermines the entire purpose of the ordinance, violates basic principles of statutory interpretation, and, as thoroughly demonstrated by the legislative record, is plainly erroneous. Indeed, if there was any doubt about what is required under Chapter 25B, Staff resolved that at the time the ordinance was introduced:

> The ordinance *does* require new owners, operators and guarantors to demonstrate the financial wherewithal to cover the cost of timely and proper abandonment . . . and to cover natural resource damage.[3]

Yet Sable has, unequivocally, failed to do so. It is possible, if not likely, that Sable never restarts these facilities, forcing it into bankruptcy. Sable has not provided any assurances that it will be able to properly abandon its facilities in that scenario. Nor has Sable assured the County that, in the event it *is* able to restart, it has the financial wherewithal to remediate a spill from the facilities, particularly if one were to occur during or shortly after restart.

Compounding that concern is not only the likelihood of another spill occurring, but Sable's track record as an operator. In the short time since it acquired the SYU, Sable has repeatedly violated state law, willfully ignored directives from at least three state agencies, and demonstrated a lack of care and diligence necessary to operate the facilities. Such behavior is disqualifying for purposes of Chapter 25B.

Moreover, Sable is not in compliance with at least one of the permits that it is asking to be transferred, namely because its onshore pipelines lack effective protection from corrosion. Without such protection, a spill from the pipelines is *five times* as likely.

Accordingly, approval of Sable's applications would not only be inconsistent with Chapter 25B, but a grave dereliction of the County's duty to protect the public and ensure the responsible operation of the SYU. Thus, we urge the County to deny the transfers.

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[2] Letter from John Day to the County Board of Supervisors (Feb. 21, 2025), attached hereto as "Attachment 1."
[3] Memorandum from County Planning and Development Department to Planning Commission regarding Implementation of Chapter 25B, p. 2 (Sept. 7, 2001) (emphasis added) [hereinafter "2001 P&D Memo re Chapter 25B"], attached hereto as "Attachment 2."

I. Background

A. The Facilities and Permits at Issue

The SYU is a long-dormant oil and gas production unit located on the Gaviota Coast. It consists of three offshore platforms and an onshore oil processing facility in Las Flores Canyon.[4] The processing facility and related infrastructure is permitted under Final Development Plan ("FDP") Permit No. 87-DP-032cz (RV06) (the "SYU Permit").

Once processed, crude oil from the SYU travels from Las Flores Canyon inland through CA-324 and CA-325 (the "Las Flores Pipeline System"), two aged, corroded pipelines that traverse sensitive coastal lowlands, perennial streams, and other sensitive habitat.[5] The Las Flores Pipeline System is permitted under an FDP approved in 1986, and revised in 1988 and 2003 (the "LFP Permit").

Natural gas produced in the SYU is processed at the Pacific Offshore Pipeline Company ("POPCO") Gas Plant, which is also located in Las Flores Canyon.[6] The POPCO Gas Plant is permitted under FDP Permit No. 93-FDP-015 and 74-CP-11(RV1) (the "POPCO Permit," and together with the SYU and LFP Permits, the "Permits").

The Permits, which are subject to Chapter 25B of the County Code,[7] currently list ExxonMobil Corporation ("Exxon") as owner, operator, and guarantor. Per Chapter 25B, any owner, operator, or guarantor of the above-referenced facilities (the "Facilities") must be listed on the applicable facility permit.[8] The Permits are not transferable, and the owner, operator, or guarantor listed on the Permits cannot be changed, except in accordance with Chapter 25B.[9]

B. The Refugio Oil Spill and SYU Shut-In

On May 19, 2015, CA-324 ruptured at Refugio State Beach Park, releasing more than 120,000 gallons of heavy crude oil into the surrounding environment.[10] The spill devastated approximately 150 miles of the California coast.[11] Thousands of acres of shoreline and subtidal habitat were destroyed, and an untold number of animals — including marine mammals — were injured or killed.[12] The spill also forced the closure of fisheries and beaches, which jeopardized

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[4] *SYU, POPCO Gas Plant & Las Flores Pipelines Permit Transfer*, Santa Barbara County, https://www.countyofsb.org/4189/SYU-POPCO-Gas-Plant-Las-Flores-Pipelines (last visited Feb. 20, 2025).
[5] *See id.*
[6] *Id.*
[7] *See* Chapter 25B-2.
[8] *Id.* at 25B-4(a).
[9] *Id.* at 25B-4(c), (e)-(g).
[10] California Department of Fish and Wildlife et al., *Refugio Beach Oil Spill Final Damage Assessment and Restoration Plan/Environmental Assessment*, p. 4 (June 2021) [hereinafter "NRDA"], available at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=193144&inline.
[11] *Id.* at 18.
[12] *Id.* at 3-9.

local businesses and caused an estimated 140,000 lost recreational user days between Santa Barbara and Ventura Counties.[13]

Upon investigation, the Pipeline and Hazardous Materials Safety Administration ("PHMSA") determined that the rupture in CA-324 was a result of "progressive external corrosion," and that the pipeline's cathodic protection system — intended to prevent such corrosion — had failed.[14] Ultimately, PHMSA found pervasive metal loss throughout the entirety of the Las Flores Pipeline System, and it concluded that cathodic protection is ineffective in buried, insulated pipelines like CA-324 and CA-325.[15]

Following the spill, the Las Flores Pipeline System was emptied, purged, and idled, and it remains idle to date.[16] Due to the unavailability of the pipelines, the SYU was shut in, and production at the unit was suspended indefinitely. The SYU has not been operated for almost ten years.

C. Sable's Dubious Origins and Plans to Restart the SYU

Having failed in its attempts to restart the SYU, Exxon recently looked to cut its losses and offload its SYU assets. Enter Sable, an entity specifically formed to chance the regulatory hurdles preventing restart of these compromised facilities.

1. Sable's Origins

Sable began in 2020 as several special purpose entities, which were organized to evaluate and facilitate a potential acquisition of the SYU assets.[17] The corporations were formed by current Sable CEO Jim Flores — a figure with a checkered history in the oil and gas industry.[18]

Flores first became familiar with Exxon's operations in the early 2000s, when he was running an upstream affiliate of the company responsible for the Refugio Oil Spill.[19] In 2013, that affiliate was acquired by Freeport-McMoRan Copper & Gold, which retained Flores and

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[13] *Id.* at 3.
[14] Pipeline and Hazardous Materials Safety Administration, *Failure Investigation Report, Plains Pipeline, LP, Line 901, Crude Oil Release, May 19, 2015, Santa Barbara County, California*, pp. 3, 14 (May 2016) [hereinafter "PHMSA Report"], available at: https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/PHMSA_Failure_Investigation_Report_Plains_Pipeline_LP_Line_901_Public.pdf
[15] *Id.* at 14.
[16] *Id.* at 3, 9.
[17] Flame Acquisition Corp., *Securities and Exchange Commission Schedule 14A Proxy Statement*, pp. 36-37, 174 (January 31, 2024), available at: https://www.sec.gov/Archives/edgar/data/1831481/000119312524020916/d377586ddefm14a.htm#toc377586_5
[18] *Id.* at 174.
[19] *Id.*

appointed him co-chairman of its oil and gas division.[20] Freeport would part ways with Flores in just three years after suffering billions of dollars of losses under Flores' leadership.[21]

Shortly thereafter, Flores pivoted to Sable Permian Resources, which he and two private equity firms formed to acquire debt-laden oil and gas assets.[22] It bankrupted in three years.[23] As the company floundered, Flores unsuccessfully attempted to secure a high payout for himself.[24]

Flores has now cooked up Sable, setting his sights on yet another troubled oil and gas operation. And he has staffed his infant company with the same cast of executives that led Sable Permian to bankruptcy.[25]

2. Acquisition of the SYU and Sable's Financial Vulnerability

On February 14, 2024, Sable acquired the SYU from Exxon, including all its associated assets: the three offshore platforms, the subsea pipelines and infrastructure, the Las Flores Canyon processing facility, and the POPCO Gas Plant.[26] Sable also acquired Pacific Pipeline Co., and with it, the defunct Las Flores Pipeline System.[27]

However, Sable, being undercapitalized, lacked the financial resources to fund the $625 million deal with Exxon.[28] Thus, Sable was forced to secure a $622 million loan from Exxon — a whopping 99% of the purchase price — just to finance it.[29] In exchange, Sable agreed that the

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[20] *See id.*; Michael Erman and Julie Gordon, *Freeport makes $9 billion energy bet; Wall Street pans deal*, Reuters (December 5, 2012), https://www.reuters.com/article/idUSBRE8B40MY.
[21] Olivia Pushnelli, *Freeport-McMoRan Oil & Gas cuts jobs, eliminates executive positions*, Houston Business Journal (April 26, 2016), https://www.bizjournals.com/houston/news/2016/04/26/freeport-mcmoran-oil-gas-to-cutjobs-eliminates.html; Asjylyn Loder, *$6.5 Billion in Energy Writedowns and We're Just Getting Started*, Bloomberg (October 22, 2015), https://www.bloomberg.com/news/articles/2015-10-23/-6-5-billion-in-energy-writedowns-andwe-re-just-getting-started.
[22] *See* Permian Resources, LLC, *Permian Resources Announces Consensual And Transformational Restructuring Transaction*, PR Newswire (May 1, 2017), https://www.prnewswire.com/news-releases/permian-resources announces-consensual-and-transformational-restructuring-transaction-300449054.html.
[23] *Sable Permian Resources files for bankruptcy*, Reuters (June 26, 2020), https://www.reuters.com/article/% 20idUSL4N2E31TQ/.
[24] Peg Brickley, *Sable Permian Heads off Fight Over Executive Bonuses*, Wall Street Journal (December 10, 2020), https://www.wsj.com/articles/sable-permian-heads-off-fight-over-executive-bonuses-11607639171.
[25] *Executive Management*, Sable Offshore Corp., https://sableoffshore.com/governance/executive-management/default.aspx (last visited Oct. 18, 2024).
[26] Sable Offshore Corp., *Securities and Exchange Commission Form 8-K*, p. 2 (February 14, 2024), available at: https://www.sec.gov/ix?doc=/Archives/edgar/data/1831481/000119312524036506/d737623d8k.htm; Purchase and Sale Agreement between Exxon Mobil Corporation, Mobil Pacific Pipeline Company, and Sable Offshore Corp., § 2.2 [hereinafter "Purchase Sale Agreement"], available at: https://www.sec.gov/Archives/edgar/data/1831481/000119312524036506/d737623dex1027.htm.
[27] Purchase Sale Agreement, *supra* note 26, at § 2.2.
[28] *Id.* at § 3.1.
[29] Senior Secured Term Loan Agreement between Sable Offshore Corp. (f//k/a Flame Acquisition Corp.) as Borrower, Exxon Mobil Corporation as Lender, and Alter Domus Products Corp. as Administrative Agent, § 2.01, available at: https://www.sec.gov/Archives/edgar/data/1831481/000119312524036506/d737623dex101.htm.

SYU assets and their liabilities may, *at Exxon's option*, revert to Exxon if the SYU is not back online by early 2026.[30]

The SYU assets — which have not been operational for nearly ten years — remain Sable's only assets, leaving Sable without a reliable or predictable source of revenue.[31] Sable is operating at an astounding $682M deficit, and it will continue operating at a deficit until it restarts the SYU.[32] It is unknown when a restart will occur, if at all.

Notably, Sable reports that restarting the SYU "will require significant capital expenditures in excess of current operational cash flow," leaving it uniquely vulnerable to financial insolvency.[33] According to Sable itself, "substantial doubt exists about the Company's ability to continue," and it "may have insufficient funds available to operate its business prior to first production."[34]

Moreover, even if restart occurs, Sable must repay Exxon's loan before it can begin comfortably generating profits. Sable currently owes Exxon well over $800M on the loan, and the principal is rapidly accruing interest at 10 percent a year.[35] Significantly, the loan will mature just ninety days after the restart of the SYU, at which point the entire debt comes due.[36]

3. Sable's Dangerous Gambit to Restart the SYU

With the clock ticking on Sable's window to restart the SYU, Sable is, predictably, trying to cut any regulatory corners it can.

Being vulnerable to pervasive corrosion, few suspected that an operator would attempt to bring the Las Flores Pipeline System back online. In fact, Plains Pipeline L.P. ("Plains"), a previous owner, actually sought to replace the compromised pipelines, ostensibly due to their obvious safety defects.[37] However, as Plains' application to replace the pipelines was pending, Plains sold the Las Flores Pipeline System to Pacific Pipeline Co. ("PPC"), then a wholly-owned subsidiary of Exxon.[38] PPC later reneged on the plan to replace the pipelines, citing, in

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[30] Purchase Sale Agreement, *supra* note 26, at § 7.3(c).
[31] Sable Offshore Corp., *Securities and Exchange Commission Form 10-K*, p. 20 (March 28, 2024) ("Until we restart production of the SYU Assets, we will not generate any revenue or cash flows from operations."), available at: https://www.sec.gov/ix?doc=/Archives/edgar/data/1831481/000119312524080879/d11434d10k.htm.
[32] Sable Offshore Corp., *Securities and Exchange Commission Form 10-Q*, p. 1 (Nov. 14, 2024) [hereinafter "Q3 Report"], available at: https://d18rn0p25nwr6d.cloudfront.net/CIK-0001831481/1fbf2059-6dee-4234-b2cb-0bd7ff8f202f.pdf.
[33] *Id.* at 34.
[34] *Id.* at 6.
[35] *Id.* at 16-17.
[36] *Id.*; Senior Secured Term Loan Agreement, *supra* note 29, at 4.
[37] *See 901/903 Replacement Pipeline Project*, County of Santa Barbara, https://www.countyofsb.org/3801/901903-Replacement-Pipeline-Project (last visited Feb. 20, 2025).
[38] *See* Plains GP Holdings, L.P., *Securities and Exchange Commission Form 10-Q*, p. 27 (August 8, 2023), available at: https://www.sec.gov/Archives/edgar/data/1581990/000158199023000017/pagp-20230630.htm#i830e23a965c44a22b0562866c5a10bf5_139; s*ee also* Joshua Molina, *ExxonMobil Acquires Troubled Crude Oil Pipelines from Plains All American*, Noozhawk (October 17, 2022), https://www.noozhawk.com/exxonmobil_acquires_plains_all_american_crude_oil_pipelines/.

part, "a high degree of local permitting and business uncertainty . . . that has impacted investment commitment . . . ."[39]

Following in Exxon's footsteps, Sable plans on restarting, rather than replacing, the existing Las Flores Pipeline System. In fact, pursuant to a recent settlement agreement that Sable reached with affected landowners, it is prohibited from replacing the Las Flores Pipeline System with safer, upgraded pipelines.[40]

Equally troubling is the waiver that Sable has requested from the Office of the State Fire Marshal ("OSFM"), which assumed regulatory oversight of the Las Flores Pipeline System after the Refugio Oil Spill.[41] Instead of remediating the underlying cause of the Refugio Oil Spill, Sable requested a waiver "for the limited effectiveness of cathodic protection" on the pipelines.[42] According to a recent analysis commissioned by the County, operating the Las Flores Pipeline System without effective cathodic protection increases the likelihood of an oil spill by *five times*.[43]

Over strong public opposition, OSFM approved said State Waivers on December 17, 2024.[44] To date, OSFM has not made Sable's applications or the agency's analysis publicly available. Notably, OSFM did not conduct any environmental review or provide any opportunity for public comment prior to approving the waivers, despite calls from the public and state legislators to do so.

Should Sable proceed in this fashion, another spill is not a matter of if, but when. According to an analysis prepared for the County, restarting the Las Flores Pipeline System could result in a spill *every year*, and a rupture *every four years*.[45] The analysis estimates that

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[39] Withdrawal Letter from Pacific Pipeline Company to County Department of Planning and Development (October 24, 2023), available at: https://cosantabarbara.app.box.com/s/3gvdwbzta1l19ss9r7cpkuvinte1byuv/file/1343281220509.

[40] Stipulation and Agreement of Settlement at § 1.8, Grey Fox, LLC et al. v. Plains All American Pipeline, L.P. et al., No. CV 16-0317 (C.D. Cal April 9, 2024), available at: https://www.lasflorespipelinesystemsettlement.com/admin/api/connectedapps.cms.extensions/asset?id=a117f30d-1e80-46f4-b704-8cb47a4bddc3&languageId=1033&inline=true.

[41] *See* Memorandum of Understanding between PHMSA and OSFM (May 18, 2016), attached hereto as "Attachment A."

[42] *See* Consent Decree, at Appendix B, Art. 1, § 1(A), U.S. v. Plains All American Pipeline, Civil Action No. 2:20-cv-02415 (March 13, 2020) [hereinafter "Consent Decree"], available at https://www.epa.gov/sites/default/files/2020-03/documents/plainsallamericanpipelinelp.pdf.

[43] Santa Barbara County, Administrative Draft of Draft EIR for Plains Pipeline Replacement Project, Section 5.6, p. 78 [hereinafter "County Draft EIR"], an excerpt of which is attached hereto as "Attachment 3."

[44] *See* Letter of Decision on State Waiver for CA-324 from OSFM to Sable (December 17, 2024), available at: https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/pathways-to-restoring-pipeline-docs/state-waiver-sable-ca324-osfm-line-0015-lod.pdf?rev=be79b9ad20814e34a8d57e8c94f922e4&hash=A1A9FE56C8A57A646CF4524994C5C22F; Letter of Decision on State Waiver for CA-325 from OSFM to Sable (December 17, 2024), available at: https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/pathways-to-restoring-pipeline-docs/state-waiver-sable-ca325ab-osfm-line-0001-lod.pdf?rev=556af39b35804434b52e1272bb20b0ed&hash=251194D16C74105DCF520F69669072FC.

[45] County Draft EIR, *supra* note 43, at 79.

another spill in the coastal zone could be nearly twice the size of the 2015 spill — even with Sable's valve installations.[46]

So, in sum, Sable intends to restart the Las Flores Pipeline System — and the SYU — without correcting the issues that led to the Refugio Oil Spill, and indeed, seeking a waiver to operate the pipelines despite those issues. All the while, Sable is rushing to complete repairs, largely in sensitive coastal habitat, while violating state law and ignoring directives from at least three different agencies, as discussed further below.

Sable's dangerous restart scheme, however, ultimately hinges on the transfer of the Permits from Exxon to Sable.

II. Appeal Issues No. 1-4, 7, 10: The County Must Deny Sable's Applications because It Cannot Make the Requisite Financial Assurance Findings under Chapter 25B.

Sable is not the blue-chip company that Exxon is. It is a debt-laden, speculative company with no operational assets and no current revenue stream. It is severely undercapitalized, and its limited cash reserves will continue to diminish unless and until the SYU is restarted. In Sable's own words, "substantial doubt exists about the Company's ability to continue."[47]

As it relates to financial assurances required by Chapter 25B, Staff has a fundamental misunderstanding as to the purpose of the ordinance and how it is supposed to be applied. Chapter 25B was not intended to be the ministerial process that Staff paints it as, void of any County discretion. Rather, it requires that the County conduct a searching inquiry into a proposed owner/operator's finances, assuring, on a case-by-case basis, that the entity can safely operate major oil and gas facilities, remediate a spill (or any other type of accident), and abandon the facilities at issue.

As explained below, Staff's contrary interpretation — that an applicant does not need to prove financial capacity, but merely submit the financial responsibility documents contemplated by the permit(s) — is misguided, legally indefensible, and incorrect. As Staff clarified at the time Chapter 25B was introduced,

> The ordinance *does* require new owners, operators and guarantors to demonstrate the financial wherewithal to cover the cost of timely and proper abandonment . . . and to cover natural resource damage.[48]

Because Sable has not — and cannot — do so, the County cannot make the necessary findings for approval in Sections 25B-9(a)(2), 25B-9(e)(1), 25B-10(a)(2), or 25B-10(a)(9).

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[46] *Id.*
[47] Q3 Report, *supra* note 32, at 6.
[48] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 2 (emphasis added).

A. Staff is Incorrect: Chapter 25B Requires that Sable Demonstrate it has the Financial Wherewithal to Remediate an Accident and Abandon the Facilities.

1. The History and Purpose of Chapter 25B

A brief summary of Chapter 25B's history and purpose is helpful to understanding what is required under its financial assurance provisions.

In the decade leading up to Chapter 25B, there was a growing trend in which major companies operating in the County — e.g., Exxon — would divest themselves of maturing oil fields and offload their assets to new, speculative companies — e.g., Sable.[49] At the same time, there was "an evolution in business practices that effectively limit[ed] exposure or evade[d] liability," including by "opt[ing] for non-integrated, compartmentalized business structures, form[ing] limited liability companies, shelter[ing] assets overseas, minimize[ing] retained earnings to position the firm for bankruptcy, etc."[50]

For the County, these practices raised a very real concern as to whether these "second generation" operators — which tend to "lack the vast array of financial assets . . . of the first generation"[51] — would be capable of properly remediating an oil spill or decommissioning their facilities.[52]

Before Chapter 25B, the County would attempt to address this concern by processing, where allowable, owner/operator changes as permit revisions or substantial conformity determinations under the Zoning Ordinance.[53] "The Zoning Ordinance, however, d[id] not offer guidance regarding process or substantive findings for evaluating the transfer of permits from one owner or operator to another."[54] Thus, in practice, ""[t]he Energy Division [would] examine[] owner and operator changes on a case-by-case basis."[55] "The key issues that [were] considered in these evaluations [were] a) that new owners and operators accept the permit, b) that new operators have the experience and expertise needed for safe operations, and c) *that adequate financial guarantees for accidents and abandonment have been provided*."[56]

Importantly, what constituted "adequate" financial assurances was left to the discretion of the County and was evaluated by conducting a thorough review of the facilities at issue and the proposed owner/operator's financial capacity.[57] More specifically, the County's "practice . . .

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[49] Board Agenda Letter Recommending Adoption of Chapter 25B, p. 3 (March 5, 2002) [hereinafter "2002 Board Agenda Letter re Chapter 25B"], attached hereto as "Attachment 4."
[50] *Id.*
[51] *Id.*
[52] *Id.* at 2 ("When a covered facility changes hands, the possibility arises that a new owner or operator may be unable to pay the costs of an accident or oil spill, or that their assets are insufficient to comply with all permit conditions.)
[53] *Id.* at 2-3.
[54] *Id.* at 3.
[55] *Id.*
[56] *Id.* (emphasis added).
[57] *Id.*; *see also* Staff Report Recommending Adoption of Chapter 25B, p. 17 (July 19, 2001) (Staff described the process as a "case-by-case evaluation to determine, first, what is an adequate level of financial guarantees for the

consist[ed] of case by case evaluation to determine, first, what is an adequate level of financial guarantees for the facility, and second, what types of guarantee are acceptable."[58] And, where appropriate, "the Director of Planning and Development and the Planning Commission . . . [would] impose additional permit conditions . . . stipulating financial guarantees."[59]

While this approach allowed the County some amount of oversight over changes in owner/operator, there were a few issues with it. First, not all permits allowed the County to review changes in owner/operator under the Zoning Ordinance, namely "[o]lder permits, such as the one held by Venoco, Inc. for the Ellwood Marine Terminal."[60] Second, the permits that *did* allow the County to invoke the Zoning Ordinance tended to vary as to specific requirements or procedures for permitting new owners and operators.[61] And third, as noted, the Zoning Ordinance lacked specific guidance for permit transfers.[62] Thus, "[o]versight of handling such changes [was] spotty and the permit transfer process [was] inconsistent."[63]

So, the County was faced with a growing need to protect the public from potentially inexperienced and/or undercapitalized operators, but the available process to do so was "not well suited to the task."[64] Chapter 25B was introduced to address that issue.

Hence, the purpose of Chapter 25B was two-fold. First, it was intended to create a more predictable and uniform transfer process, largely for the benefit of the oil and gas industry.[65] But, more importantly, it was intended to codify the key components of the County's historical review process — including its broad examination of a proposed owner/operator's capability.[66] Indeed, in adopting Chapter 25B, the Board specifically cited the following as the impetus for the ordinance:

> The County stands to suffer significant adverse environmental impacts and substantial harm to public health, safety, and welfare unless all owners and operators are a) capable of operating oil refineries and onshore oil and gas facilities that support the recovery of offshore reserves in a safe manner and in full compliance with permit conditions and applicable law, b) financially capable of paying the cost of proper abandonment, including remediation of contaminated soils and waters, and c) financially capable of paying for all legally compensatory damages or injuries suffered by any property or person that result from or arise out of any oil spill or other accident.[67]

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facility, and second, what types of guarantee are acceptable.") [hereinafter "2001 Staff Report re Chapter 25B"], attached hereto as "Attachment 5."
[58] 2001 Staff Report re Chapter 25B, *supra* note 57, at 17.
[59] 2002 Board Agenda Letter re Chapter 25B, *supra* note 49, at 2.
[60] *Id.* at 2.
[61] *Id.* at 2.
[62] *Id.* at 3.
[63] *Id.* at 3.
[64] *Id.* at 3.
[65] *See id.* at 3.
[66] *Id.* at 3; 2001 Staff Report re Chapter 25B, *supra* note 57, at 17.
[67] Board of Supervisors' Findings of Fact for Adoption of Chapter 25B, attached hereto as "Attachment 6."

Thus, contrary to Staff's interpretation, Chapter 25B was never intended to be ministerial in nature. It was intended to preserve and expand on the County's historical practice by providing the County the necessary discretion to conduct a thorough review of a proposed owner/operator's financial capacity, make determinations on a case-by-case basis, and exact financial guarantees where necessary. The attached letter from John Day — former Planning and Development staff and one of the authors of Chapter 25B — confirms as much.[68]

2. Chapter 25B's Financial Assurance Provisions Require that Sable Demonstrate it has the Financial Wherewithal to Remediate a Spill or Other Accident and Abandon the Facilities

With the above in mind, we turn next to Chapter 25B's financial assurance findings, which are codified, in part, at 25B-9(a)(2), 25B-9(e)(1), and 25B-10(a)(2). These provisions require that

> All necessary insurance, bonds or other instruments or methods of financial responsibility approved by the county and necessary to comply with the permit and any county ordinance have been updated, if necessary, to reflect the new operator and will remain in full effect following the operator change.

Staff takes this to mean that, to satisfy Chapter 25B, (1) Sable only needs to provide specific financial responsibility documents contemplated in the various permits for the Facilities, and (2) accordingly, Sable only needs to provide a Certificate of Insurance for its offshore operations, as required by the SYU Permit. According to Staff, Sable does not need to demonstrate that it has the financial capability to abandon any of the Facilities or remediate an accident — despite the clear intent of Chapter 25B to ensure exactly that.

a. Intended Application of Chapter 25B's Financial Assurance Provisions

Unsurprisingly, the legislative record for Chapter 25B makes it abundantly clear that this is not how the financial assurance provisions are intended to be implemented. As Staff explicitly stated at the time Chapter 25B was introduced, "[t]he ordinance *does* require new owners, operators and guarantors to demonstrate the financial wherewithal to cover the cost of timely and proper abandonment . . . and to cover natural resource damage."[69]

Part of Staff's apparent confusion here can be attributed to the fact that Chapter 25B was never intended to be a standalone ordinance. Rather, it was intended to be the first in a sequence of ordinances that "together [would] provide a solid structure of financial responsibility regulations that apply to ongoing operations as well as to the special case of owner/operator change."[70] Most notably, Chapter 25B was to eventually be accompanied by a *Financial Responsibility Ordinance* ("FRO") — hence the reference in 25B-9(a)(2), 25B-9(e)(1), and 25B-

[68] Letter from John Day, *supra* note 1.
[69] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 2 (emphasis added).
[70] *Id.*

10(a)(2) to "other County ordinances."[71] Because the FRO would "separately . . . establish specific procedures for determining adequate financial assurances," Chapter 25B was intentionally left vague and "does not provide specific guidance for determining the amount of financial responsibility."[72]

Unfortunately, the FRO never came to fruition, presumably because of a lack of funding. However, Staff who introduced Chapter 25B explained how it is supposed to apply without the FRO on the books:

> **[Chapter 25B] will continue for the time being the present practice, which consists of case by case evaluation to determine, first, what is an adequate level of financial guarantees for the facility, and second, what types of guarantee are acceptable. . . .** *If,* in the future, an ordinance addressing financial responsibility for all facilities is adopted, then the specific detailed requirements will be codified at that time.[73]

Indeed, on a later occasion, Staff again clarified that, unless and until an FRO is adopted, ". . . the current case-by-case method for determining the amounts and methods of financial assurances would continue, utilizing the permit reopener provisions."[74] It bore repeating: ". . . the current practice of setting financial responsibility requirements, on a case-by-case basis, would continue until a financial responsibility ordinance is adopted."[75]

Accordingly, absent an FRO, Chapter 25B requires that the County "determine[] the amount of financial assurances on a case-by-case basis, as changes of operator or owner occur,"[76] with "[t]he main concern [being] to assure compensation for clean-up and damages for potential future accidents and oil spills."[77]

b. Staff's Interpretation Cannot Be Reconciled with Other Provisions of Chapter 25B.

It is no wonder that Staff's current interpretation cannot be reconciled with a number of other provisions in Chapter 25B. This tension — between Staff's interpretation and other parts of Chapter 25B — only underscores that Staff is misunderstanding and misapplying Chapter 25B.

Take Chapter 25B-10(b), for example, the "permit re-opener" provision. It allows the planning commission to

> impose additional conditions on the permit in order to ensure that any insurance or other financial guarantees that were submitted to and relied on by the planning

[71] *See, e.g.,* 2002 Board Agenda Letter re Chapter 25B, *supra* note 49, at 2.
[72] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 2.
[73] 2001 Staff Report re Chapter 25B, *supra* note 57, at 17 (emphasis added).
[74] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 17.
[75] *Id.*
[76] *Id.* at 16.
[77] 2001 Staff Report re Chapter 25B, *supra* note 57, at 16.

> commission as a basis to make any finding required by this chapter are maintained.[78]

In other words, the provision specifically contemplates that (1) financial assurance review under Chapter 25B involves more than a ministerial assessment of financial responsibility documents required in the permit(s) at issue, and (2) an applicant may be required to provide financial assurances above and beyond what is required in the permit(s). Indeed, as Staff explained at the time Chapter 25B was introduced,

> The intent of this re-opener is to augment financial assurances where a new owner or operator may not have the financial wherewithal to cover the costs of spills or abandonment. The augmentation may address either the type of assurances provided or the amount of assurances. The ability to reevaluate financial assurances would be especially important if an under-capitalized firm were to purchase a facility from one of the majors or large independents. . . . Therefore, the ordinance provides the decision maker with discretion to require another, more secure instrument of financial assurance . . . .[79]

Then there is Chapter 25B-6(f), which sets forth required application contents. Pursuant to Chapter 25B-6(f)(2)(d), in applying for a permit transfer under Chapter 25B, an applicant is required to submit "[f]inancial information on any owner, operator, or other guarantor needed for the director or planning commission to make the financial guarantees finding. *This information shall include the previous year's annual report, audited financial statements, and required SEC filings.*"[80] Obviously, such information would not be required unless Chapter 25B included a sweeping assessment of a proposed owner/operator's finances; if, as Staff incorrectly suggest, an applicant needed only present financial responsibility documents contemplated in the permits at issue, such information would not be necessary.

Staff's incorrect interpretation — that an applicant satisfies Chapter 25B by merely submitting the financial responsibility documents contemplated in the permit(s) at issue — simply cannot be reconciled with these provisions. It renders them superfluous, and Chapter 25B as a whole disharmonious. "[A]voiding interpretations which render [a] measure unreasonable, disharmonious, or superfluous in whole or in part" is one of the most basic tenets of statutory interpretation.[81]

In sum, Staff's interpretation undermines the entire purpose of Chapter 25B, runs counter to basic principles of statutory interpretation, and, as thoroughly demonstrated by the legislative record for Chapter 25B, is plainly erroneous. Again, if there was any doubt about the scope of financial assurances required under Chapter 25B, Staff resolved that at the time the ordinance was introduced:

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[78] Chapter 25B-10(b).
[79] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 18.
[80] 25B-6(f)(2)(d) (emphasis added).
[81] *Las Virgenes Educators Assn. v. Las Virgenes Unified School Dist.* (2001) 86 Cal.App.4th 1, 10.

> The ordinance *does* require new owners, operators and guarantors to demonstrate the financial wherewithal to cover the cost of timely and proper abandonment . . . and to cover natural resource damage.[82]

3. 25B-10(a)(9) Imposes Its Own Financial Requirements, which Separately Require that Sable Demonstrate it Can Remediate an Oil Spill and Abandon the Facilities.

In their limited discussion of Sable's financial assurances, Staff pay little attention to Chapter 25B-10(a)(9), dismissing it as a provision that solely concerns an operator's experience and expertise to safely operate. Yet the plain language of the provision indicates otherwise. It states, in relevant part,

> Operator Capability. The proposed operator has the skills, training, *and resources* necessary to operate the permitted facility in compliance with the permit and all applicable county codes and has demonstrated the ability to comply with compliance plans listed in section 25B-10.1.f.[83]

"Resources" means "[s]tocks or reserves of *money*, materials, people, or some other asset, which can be drawn on when necessary."[84] Accordingly, per the plain language of the provision, Chapter 25B-10(a)(9) requires that Sable demonstrate it has the resources — including money — to operate in compliance with the permit and County code.

As to accidents, SYU Permit Condition XI-2.w states that, in the event of an oil spill, the permittee "shall be responsible for the cleanup of all affected coastal and onshore resources, and for the successful restoration of all affected areas and resources to prespill conditions." However, all of the permits clarify that Sable would be held liable in the event of a spill or other accident from the Facilities.[85]

As to abandonment, each Permit contemplates that Sable will ultimately be responsible for the abandonment of the Facilities, with at least one permit — the POPCO Permit — expressly requiring that Sable post a performance bond for abandonment, as discussed further below.[86] Likewise, Chapter 25B-4(i) expressly states that "[t]he current owner or operator . . . shall be responsible for the proper abandonment of the facility." Section 35-170 of the County Code — "Abandonment of Certain Oil/Gas Land Uses" — further contemplates the prompt abandonment of the Facilities.[87]

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[82] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 2 (emphasis added).
[83] Chapter 25B-10(a)(9) (emphasis added).
[84] *Definition of Resources*, Oxford English Dictionary, https://www.oed.com/dictionary/resource_n?tab=meaning_and_use#25663862 (last visited Feb. 20, 2025).
[85] SYU Permit, Condition XI-2.w ; POPCO Permit, Condition A-12; Las Flores Pipeline Permit, Condition A-12.
[86] SYU Permit, Condition XIX-1; POPCO Permit, Condition Q-2; LFP Permit, Condition O-1.
[87] County Code, Section 35-170.

Accordingly, separate and apart from Chapter 25B-9(a)(2), 25B-9(e)(1), and 25B-10(a)(2), Chapter 25B-10(a)(9) requires that Sable demonstrate that it has the resources to remediate an oil spill from the Facilities and promptly abandon them. Sable fails to do so.

B. Sable Has Not Shown that It Has the Financial Wherewithal to Remediate an Accident — e.g., an Oil Spill — as Required by Chapter 25B.

As explained at length above, to approve the transfers, Sable must assure the County that it is financially capable of remediating an accident from its facilities.

As we know from the Refugio Oil Spill, responding to a spill could cost $870M, if not more. If a similar spill were to occur during Sable's restart of the Facilities, or in the months following, Sable would simply not have the financial resources to remediate the spill. In fact, in light of Sable's capitalization issues, a spill would all but guarantee insolvency for the company. The single Certificate of Insurance that Sable submitted — which is not a *policy* — does nothing to assuage those concerns.

Accordingly, the County cannot make the findings in Sections 25B-9(a)(2), 25B-9(e)(1), 25B-10(a)(2), or 25B-10(a)(9).

1. The $870M Cost to Respond to the Refugio Oil Spill Establishes a Baseline for Financial Assurances.

Unlike many facilities, the County has unequivocal evidence of the potential damage that an accident at Sable's facilities can cause. According to the California Department of Fish and Wildlife, when CA-324 ruptured in 2015, it released more than 120,000 gallons of crude oil into the surrounding environment.[88] Some estimates put the number as high as 450,000 gallons.[89]

Just six weeks after the spill, Plains estimated that it had already spent nearly $100M in clean-up costs.[90] In the years that followed, Plains would go on to spend hundreds of millions more dollars for further clean-up, natural resource damage assessments, civil penalties, and settlements with affected business and property owners.[91] As of September 30, 2024, Plains

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[88] NRDA, *supra* note 10, at 4.
[89] Expert Report of Igor Mezic, Ph.D., *Andrews v. Plains All American Pipeline, LP*, October 21, 2019, pp. 16-17.
[90] *Refugio oil spill cleanup costs near $100 million*, Pacific Coast Business Times (June 27, 2015), https://www.pacbiztimes.com/2015/06/27/refugio-oil-spill-cleanup-costs-near-100-million/
[91] *See, e.g.,* Settlement Agreement at Art. 3, Andrews et al. v. Plains All American Pipeline, L.P. et al., No. 2:15-cv-04113-PSG-JEM (C.D. Cal. May 12, 2022), available at: https://www.plainsoilspillsettlement.com/admin/api/connectedapps.cms.extensions/asset?id=028b30fd-95e1-4e64-a236-2d84bb1b6907&languageId=1033&inline=true; Consent Decree, *supra* note 42; Pipeline and Hazardous Materials Safety Administration, *Valuation of Crude Oil Spills in Transportation Incidents*, p. 78 (April 2023), available at: https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2023-10/PHMSA-OilSpillCosts-Report-Final.pdf

"estimate[d] that the aggregate total costs we have incurred or will incur with respect to the [Refugio Oil Spill] will be approximately $870 million."[92]

The Refugio Oil Spill gives us invaluable information about what a spill could look like at Sable's facilities, and the cost of restoring affected areas to pre-spill condition. But it is only one scenario. It is easy to see how a spill could be far more catastrophic, especially if a rupture were to occur in Sable's subsea pipelines. Even another spill from its onshore pipelines could be twice the size of the Refugio spill, says an analysis prepared for the County.[93]

Remember, too, that it is not only Sable's defective pipelines that could cause a spill. And, events outside of Sable's control can also contribute to a major disaster. Consider the 2021 Alisal Fire, for example. The Alisal Fire actually burned into Las Flores Canyon, surrounding the processing plants.[94] Just a few years before that, the Sherpa Fire did the same, coming exceedingly close to the Las Flores Canyon facilities.[95]

In short, having already seen firsthand the damage wrought by these Facilities, it would be irresponsible for the County, and inconsistent with Chapter 25B, not to ensure Sable is capable of responding to a disaster on par with the Refugio Oil Spill. Thus, the figures associated with the Refugio Oil Spill (totaling $870M) must represent the absolute floor for evaluating the financial resources necessary to respond to an accident.

2. Sable Lacks Sufficient Capital to Respond to a Spill or Other Accident

Sable is operating at *a $682M deficit*, and it will not have a revenue stream unless and until it restarts the SYU. Without any reliable income, Sable itself acknowledges that it could have little to no capital on hand at the time it resumes production, which would leave it incapable of remediating a spill or other accident.[96]

In its most recent quarterly report, Sable reported that, as of September 30, 2024, it had just $288M in available cash or cash equivalents.[97] And, more than likely, that figure has steadily decreased over the last few months, owing to general operating, maintenance, and administrative expenses, as well as legal fees.

Moreover, Sable estimates that its remaining start-up expenses — which are "expected to [be paid] from cash on hand" — amount to approximately $197M.[98] Per Sable, this estimate accounts for costs to "obtain[] the necessary regulatory approvals and complet[e] the pipeline

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[92] Plains All American Pipeline, L.P., *Securities and Exchange Commission Form 10-Q*, p. 29 (Nov. 8, 2024) [hereinafter "Plains 10-Q"], available at: https://www.annualreports.com/HostedData/AnnualReports/PDF/NYSE_PAA_2023.pdf.
[93] County Draft EIR, *supra* note 43, at 79.
[94] CIIMT, *Alisal Fire Burn Scar*, attached hereto as "Attachment 7."
[95] CIIMT, *Sherpa Fire Burn Scar*, attached hereto as "Attachment 8."
[96] *See* Q3 Report, *supra* note 32, at 6 ("[T]he Company may have insufficient funds available to operate its business prior to first production . . . .")
[97] *Id.* at 1.
[98] *Id.* at 34.

repairs and bring[] the shut-in assets back online."[99] But Sable neglects to account for additional financial burdens, such as ongoing litigation that may be an impediment to restart. Despite its recent settlement with the County, it is incurring attorneys' fees in litigation with private landowners,[100] litigation with the Coastal Commission,[101] and litigation regarding lease extensions for its offshore platforms.[102] It was also recently notified by CalGEM that it may have to post a bond for the decommissioning of some of its "production facilities."[103] Thus, Sable's $197M estimate for additional costs may be well undervalued.

And, even after restart, Sable would likely struggle to replenish its cash on hand in the face of its $800M+ debt to Exxon.[104] Sable will be incentivized to pay down its debt to Exxon as soon as possible to reduce the size of its interest payments, dramatically extending the period in which Sable is operating at a deficit. Not to mention, *the entire $800M+ debt comes due just ninety days after restart*.[105]

Of course, all of this begs the question: how much capital will Sable actually have on hand when it resumes operations and in the months following? Even Sable acknowledges the possibility that it will exhaust its remaining capital before it restarts the SYU.[106] Staff do not account for this scenario, which is a very real possibility for which the County must be prepared. Indeed, according to Sable itself, "*substantial doubt* exists about the Company's ability to continue."[107]

Consider what would happen if Sable diminishes its remaining cash — which Sable acknowledges is a possibility — and a catastrophic spill occurs during or shortly after Sable's restart of the SYU. The SYU would once again become a crippling economic burden, and Sable would not have the financial resources to clean up the spill, compensate affected property owners, or pay for natural resources damages and restoration. Even the $288M in cash that Sable previously had on hand would cover only a fraction of its financial obligations, which, as discussed, could start at around $870M. And that does not even account for Sable's $800M+ debt to Exxon, for which Sable would still be on the hook, and which raises its total possible liabilities to around $1.6B. In short, **such an incident would all but guarantee Sable's insolvency.**

Accordingly, Sable cannot assure the County that it will have sufficient capital to respond to a spill.

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[99] *Id.*
[100] *See* Complaint, Zaca Preserve, LLC v. Sable Offshore Corp. et al., Santa Barbara County Case No. 24CV05483.
[101] *See Complaint*, Sable Offshore Corp. et al. v. California Coastal Commission, Santa Barbara County Case No. 25CV00974.
[102] *See* Sable Offshore Corp.'s Motion to Intervene, Center for Biological Diversity et al. v. Debra Haaland et al., No. 2:15-cv-04113-PSG-JEM (C.D. Cal. May 12, 2022), Case No. 2:24-cv-05459, Central District, Motion to Intervene.
[103] *See* CalGEM Letter to Sable (Sept. 26, 2024), attached hereto as "Attachment 9."
[104] Q3 Report, *supra* note 32, at 16-17.
[105] Senior Secured Term Loan Agreement, *supra* note 29, at 4.
[106] Q3 Report, *supra* note 32, at 6.
[107] *Id.* (emphasis added).

3. Sable's One Certificate of Insurance is Insufficient to Assure the County it Can Remediate a Spill or Other Accident.

Nonetheless, Staff suggest that Sable's insurance coverage provides adequate financial assurances for purposes of Chapter 25B.[108] There are at least four glaring issues with Staff's position.

First, Staff have not actually evaluated any insurance policy. All that Sable submitted is a single Certificate of Insurance, which does little to clarify the scope of Sable's insurance coverage. For example, does the insurance only apply to "wells," which are specifically referenced, or does it extend to subsea pipeline ruptures? What about the onshore facilities? Does it cover negligent behavior, similar to what we saw with Plains? Without the actual policy, the County simply cannot assess the possible limitations on Sable's coverage, and thus the adequacy of its insurance.

Second, it is unlikely that Sable would be fully reimbursed for a claim. Indeed, Plains is *still* trying to claw money back from its insurers ten years after the Refugio Oil Spill, and only about half of its $500M policy was ever paid out.[109] And, there's the obvious question: what motivation would Sable have to go through a lengthy, expensive fight to get an insurance claim paid out if it is insolvent?

Third, let us assume, as Staff claim, that Sable is insured up to $401M — even though Sable's Certificates of Financial Responsibility ("CFRs"), discussed below, indicate the number is only $101M. Let us also assume that Sable's insurer promptly and fully approves a claim for that amount. Sable's insurance would still be insufficient to fully respond to an accident comparable to the 2015 disaster ($870M). As discussed above, it is distinctly possible that Sable has little to no capital on hand at the time it actually restarts the SYU; thus, even with insurance, Sable could still face a deficit of hundreds of millions of dollars. Indeed, that is exactly what happened with Plains, which recently reported that its "incurred costs for the [Refugio Oil Spill" have exceeded [its] insurance coverage limit . . . by $370 million."[110]

Remember, Chapter 25B requires the County to evaluate financial assurances on a case-by-case basis. While a similar policy may have been sufficient for Exxon, whose capitalization was never in question, it is patently not for Sable under the circumstances.

4. Sable's CFRs Merely Suggest that Sable Has $101M — Rather Than $401M — in Liability Insurance.

Likewise, Sable's CFRs, which state only that Sable has up to $101M in liability insurance, do not assuage the above concerns.

[108] Board Agenda Letter Recommending Approval of Sable's Applications of Chapter 25B, p. 6.
[109] Plains 10-Q, *supra* note 92, at 28-29.
[110] *Id.* at 29.

To operate its facilities, Sable must obtain CFRs from OSPR for its subsea pipelines and the Las Flores Pipeline System.[111] To do so, OSPR regulations require that Sable demonstrate it is financially capable of remediating a "reasonable worst-case spill" from these facilities.[112] The amount of financial assurances that Sable must provide is determined by calculating the reasonable worst-case spill volumes for each facility, and then plugging those figures into an equation set forth in OSPR regulations.[113]

Unfortunately, the equation that OSPR uses is limited in scope and does not accurately reflect the costs of a major disaster. For example, when calculating a "reasonable worst-case spill" volume, OSPR assumes an operator will immediately notice the spill, will immediately shut down the facility, and will not manually reactivate the facility despite signs of pressure loss — *all things that did not occur in the 2015 disaster*. The equation also uses a somewhat arbitrary number — $12,500 per barrel — to determine the costs of a spill, which has not been updated in at least fifteen years.

The shortcomings of OSPR's process are readily apparent in the CFRs that it issued to Sable. For CA-324, OSPR has only required that Sable show assurances for 1935 barrels, at an amount of $100M. Yet we *know* from 2015 that a spill from CA-324 can be at least 3,400 barrels. And, we know that the cost of the Refugio Spill to Plains ended up being around $255,000 per barrel — not even close to the $12,500 figure used by OSPR.[114] Thus, even at OSPR's conservative 1935 figure, a more realistic cost of another disaster is closer to $493M. Indeed, recall that Plains spent $100M *in just the first six weeks* after the Refugio Spill.

Moreover, OSPR's process simply does not account for the realities of the situation, namely that a spill from these facilities near restart would all but guarantee Sable's insolvency. There would be little to no motivation for Sable to vigorously pursue an insurance claim.

As to whether OSPR's process somehow precludes the County from independently assessing Sable's capability to remediate a spill, Staff answered that at the time Chapter 25B was passed:

> OSPR does not preclude the County from requiring financial assurances for coastal facilities, nor does it address financial assurances for onshore oil spills and other types of accidents at facilities covered under the proposed ordinance.[115]

Thus, while the County may certainly consider OSPR's independent review, it need not defer to it. Nor would it be appropriate to do so under the circumstances, where we have historical evidence of the cost to remediate a spill and a company at extreme risk of insolvency.

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[111] *See* 14 CCR § 791.7(h).
[112] *See id.*
[113] *See* 14 CCR § 791.7(h)(B).
[114] $870M divided by 3,400 barrels equals $255,882.35.
[115] 2002 Board Agenda Letter re Chapter 25B, *supra* note 49, at 3-4.

Ultimately, all that Sable's CFRs show is that it may have $101M in liability insurance — which, curiously, is a far cry from the $401M stated on the Certificate of Insurance that Sable submitted to the County. For the reasons discussed *supra* Part II.B.1-3, a $101M insurance policy — that the County has not even seen — is insufficient for purposes of Chapter 25B, especially considering Sable's capitalization issues.

In sum, the amount and adequacy of financial assurances required under Chapter 25B is to be assessed on a case-by-case basis. Having already seen firsthand the damage wrought by the Facilities, the County must assure that Sable is capable of responding to a disaster on par with the Refugio Oil Spill, the total cost of which could be upwards of $870M. Requiring anything less would be irresponsible and inconsistent with Chapter 25B.

Because Sable cannot assure the County that it will be able to bear that financial burden, the County cannot make the findings in Sections 25B-9(a)(2), 25B-9(e)(1), 25B-10(a)(2), or 25B-10(a)(9), and it must therefore deny Sable's applications.

C. Sable Has Not Shown that It Has the Financial Wherewithal to Abandon the Facilities, as Required by Chapter 25B, or Posted the Performance Bonds Required by the Permits.

Alongside spill remediation, the other key requirement of Chapter 25B is that Sable show it has the financial capability to abandon the Facilities — not at an indefinite point in the future, but starting the day the permits are transferred, and continuing until the project is winded down.

Again, at issue is a company whose only assets may never actually come online, and whose very viability is a "going concern." As Sable itself acknowledges, there is a distinct risk that the County transfers the Permits, Sable bankrupts before it ever restarts, and Sable has no resources to abandon the Facilities.[116]

Under the circumstances, the only way Sable can provide the necessary assurances required by Chapter 25B is by posting performance bonds, which, incidentally, is required by at least one of the Permits prior to transfer. Because Sable has failed to do so, the County cannot make the findings in Sections 25B-9(a)(2), 25B-9(e)(1), 25B-10(a)(2), or 25B-10(a)(9).

1. Sable May Never Restart and has not Provided Adequate Financial Assurances that it Can Properly Abandon the Facilities

One of the most concerning parts of Staff's review is that it entirely ignores the fact that Sable may never restart the Facilities — its only assets and source of revenue. In this *likely* scenario, Sable would go bankrupt, leaving it unable to properly abandon the Facilities and putting the burden on the County to clean up the mess.

[116] *See* Q3 Report, *supra* note 32, at 6 ("[T]he Company may have insufficient funds available to operate its business prior to first production . . . .").

Indeed, it has now been over a year since Sable acquired the Facilities, yet it is nowhere close to restarting them. Sable still has to clear a lengthy list of additional hurdles, including, but not limited to:

- Obtain a new easement from California Department of Parks and Recreation for the portion of the Las Flores Pipeline System that passes through Gaviota State Park, which may require environmental review;[117]

- Resolve litigation regarding an allegedly expired easement in *Zaca Preserve, LLC v. Sable Offshore Corp. et al.*, Santa Barbara County Case No. 24CV05483;

- Resolve litigation regarding federal lease renewals and permit modifications in *Center for Biological Diversity et al. v. Debra Haaland et al.*, Case No. 2:24-cv-05459;

- Lift the injunction on acid well stimulation treatments entered in *Environmental Defense Center et al. v. Bureau of Ocean Energy Management et al.*, Case No. 2:16-cv-08418-PSG-FFM. (Exxon averred, in a sworn declaration, that it anticipated acid well stimulation treatments would be required in order to restart production);[118]

- Obtain four State Lands Commission leases, currently held by Exxon, to operate infrastructure located in State waters;[119]

- Obtain an after-the-fact Coastal Development Permit ("CDP") from the California Coastal Commission ("CCC") for valve installations;[120]

- Obtain an after-the-fact CDP from CCC for repair work on the Las Flores Pipeline System;[121]

- Obtain, potentially, a new or modified CDP to restart the Las Flores Pipeline System;[122]

- Comply with the California Department of Fish and Wildlife's ("CDFW") December 20, 2024, Notice of Violation, presumably by obtaining a Stream Alteration Agreement;[123]

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[117] Letter from California Department of State Parks to Sable (Dec. 20, 2024), attached hereto as "Attachment 10."
[118] Declaration of Ken Down ISO Exxon's Motion to Intervene, Environmental Defense Center et al. v. Bureau of Ocean Energy Management et al., Case No. 2:16-cv-08418-PSG-FFM, attached hereto as "Attachment 11."
[119] *See* California State Lands Commission, *Determinations of Application Incompleteness*, attached hereto as "Attachment 12."
[120] Executive Director Cease and Desist Order No. ED-25-CD-01, attached hereto as "Attachment 13."
[121] *Id.*
[122] *See* Center for Biological Diversity's Appeal to Board of Supervisors.
[123] California Natural Resources Agency, *Summary of State Regulation of Crude Oil Pipelines in Santa Barbara County*, p. 4 (Jan. 13, 2025), available at https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Educational-Portal/Post--Summary-of-regulatory-oversight-over-Sable-oil-pipelines-011325.pdf.

- Obtain, potentially, an Incidental Take Permit under the Endangered Species Act, as directed by the United States Fish and Wildlife Service;[124]

- Obtain regulatory coverage for its discharge of waste into Waters of the State, as required by the Regional Water Quality Control Board ("RWQCB");[125]

- Obtain coverage under the National Pollutant Discharge Elimination System general permit for storm water discharges;[126]

- Post a bond with the California Department of Conservation, Geologic Energy Management Division ("CalGEM"), for the decommissioning of the Las Flores Canyon Processing Plant;[127]

- Complete repairs and deferred maintenance on CA-324, including in Gaviota State Park, where it lacks an easement;[128]

- Complete repairs and deferred maintenance on CA-325, including in Gaviota State Park, where it lacks an easement;[129]

- Complete a successful hydrotest of CA-324;[130]

- Complete a successful hydrotest of CA-325;[131]

- Obtain approval from OSFM for its proposed restart plan for CA-324;[132]

- Obtain approval from OSFM for its proposed restart plan for CA-325;[133] and

- Obtain approval from OSFM to restart the Las Flores Pipeline System.[134]

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[124] Letter from United States Fish and Wildlife Service to Sable (Nov. 26, 2024), attached hereto as "Attachment 14."
[125] Regional Water Quality Control Board Notice of Violation to Sable (Dec. 13, 2024), attached hereto as "Attachment 15."
[126] Regional Water Quality Control Board First Notice of Non-Compliance to Sable (Dec. 13, 2024), attached hereto as "Attachment 16"; Regional Water Quality Control Board Second Notice of Non-Compliance to Sable (Jan. 22, 2025), attached hereto as "Attachment 17."
[127] CalGEM Letter to Sable, *supra* note 103.
[128] *Pathways for Restarting Pipelines*, Office of the State Fire Marshal, https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/pathways-for-restarting-pipelines (last visited Feb. 20, 2025).
[129] *Id.*
[130] Letters of Decision on State Waivers for CA-324 and CA-325, *supra* note 44.
[131] *Id.*
[132] *Pathways for Restarting Pipelines*, Office of the State Fire Marshal, https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/pathways-for-restarting-pipelines (last visited Feb. 20, 2025).
[133] *Id.*
[134] Consent Decree, *supra* note 42, at Appendix D, pp. 1, 4.

Thus, it is distinctly possible — if not likely — that Sable never restarts, either because it fails to complete one or more of the above, or it exhausts its remaining capital before it is able to do so. As Sable itself says, "[d]ue to the remaining regulatory approvals necessary to restart production . . . substantial doubt exists about the Company's ability to continue," and it "may have insufficient funds available to operate its business prior to first production."[135]

Because the Facilities are Sable's only assets, if Sable fails to restart them, Sable will bankrupt. Yet Sable has simply not provided *any* assurances, by way of bond or otherwise, that it will be able to abandon the Facilities in that scenario.

Moreover, even if Sable were to restart, it still cannot assure the County it will have the financial wherewithal for proper abandonment. As discussed above, a spill during restart or shortly thereafter would all but guarantee Sable's insolvency. Thus, not only would Sable be unable to remediate a spill, it would also be unable to meet its burden to abandon the Facilities, incumbering the taxpayers with both responsibilities.

Unable to escape the obvious — that Sable does not have the financial wherewithal for abandonment — Staff point to Exxon instead, claiming that *Exxon* could potentially be liable under Chapter 25B-4. But the question before the Board is not whether some third-party can conceivably be held liable for abandonment. The question is whether Sable, who is applying to be the guarantor of the Facilities, can assure the County that it alone is capable of abandoning the Facilities.

In fact, at the time Chapter 25B was passed, Staff explicitly cautioned against relying on theories of third-party liability. In response to this exact point — "[if] the most recent operator is not financially solvent, the County can track down the previous operators" — Staff stated:

> Financial assurance rules have become a common tool to enforce liability law. While liability alone works in theory, financial assurances provide the necessary guarantees that a facility will be timely and properly abandoned even in the event of bankruptcies, corporate (or company or partnership) dissolution, or sheltering of assets overseas.
>
> Moreover, the County's own experience shows that efforts to hold previous oil operators financially responsible can be very costly to the County. The County expended over $300,000, for example, to get previous oil operators to clean up contaminated soils at Santa Barbara Shores. The County incurred these costs in conducting a site assessment, tracking down previous owners, negotiating dean-up responsibilities of contaminated sites with previous owners, paying for permitting costs associated with clean up that previous oil operators refused to pay, and paying for post-clean up restoration of the site. Financial ·assurance requirements can foster timely and relatively lost-cost public access to compensation or performance by reducing litigation and administrative costs.[136]

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[135] *See* Q3 Report, *supra* note 32, at 6
[136] 2001 P&D Memo re Chapter 25B, *supra* note 2, at 10.

Indeed, in reality, the County would end up in protracted litigation trying to collect from Exxon, with the best result likely being a settlement that splits costs between the parties.

In sum, in light of Sable's extreme risk of insolvency, the *only* way to assure the County that it can abandon the Facilities is by posting bonds for each facility at issue. Having failed to do so, the County cannot make the findings in Sections 25B-9(a)(2), 25B-9(e)(1), 25B-10(a)(2), or 25B-10(a)(9).

2. The Permits Themselves Likewise Demand that Sable Post Performance Bonds as a Condition of Transfer

Moreover, as Staff acknowledge, before the County can approve the proposed transfers, Chapter 25B requires that Sable secure/submit any financial guarantees enumerated in the Permits themselves.[137] That includes performance bonds for abandonment, which is *required* by the POPCO Permit, and may be required, at the County's option, for Sable's remaining facilities.

Thus, separate and apart from the above analysis regarding Sable's lack of assurances, the Permits further clarify that performance bonds are required as a condition of transfer.

a. The POPCO Permit Requires that Sable Post a Performance Bond for the Abandonment of the Facility.

Condition Q-2 of the POPCO Permit "requires the permittee to be responsible for the proper abandonment of the facility."[138] Specifically, Condition Q-2 provides as follows:

> Immediately following permanent shut down of the facilities permitted herein, [the permittee] shall abandon and restore all facility sites covered under this permit consistent with County policies on abandonment and restoration of said facilities in effect at that time. Absent any policies, [the permittee] shall remove any and all abandoned processing facilities and portions of the import pipeline, buried or unburied, constructed and/or operated under this permit, excavate any contaminated soil, re-contour all sites and revegetate all sites in accordance with a County approved abandonment and restoration plan within one year of permanent shut down. *[The permittee] shall post a performance bond*, or other security device acceptable to County Counsel, in an amount determined by the County.[139]

Despite the plain language of the condition, staff claim that Sable only needs to post a bond *after* the permanent shutdown of the facility, and thus bonding is currently required.[140] Staff are mistaken.

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[137] Chapter 25B-9(a)(2), 25B-9(e)(1), and 25B-10(a)(2).
[138] POPCO Permit, Condition Q-2.
[139] POPCO Permit, Condition Q-2 (emphasis added).
[140] Board Agenda Letter Recommending Approval of Sable's Applications of Chapter 25B, p. 5.

Staff appear to misread this condition as stating: "Immediately following permanent shut down . . . POPCO shall post a performance bond." That is not what the condition says. It says that *abandonment* should occur "immediately following" shutdown, which makes sense. But the bonding requirement is not so qualified.

Put differently, the condition imposes two requirements: (1) to abandon the facility "immediately following" shutdown, and separately, (2) to post a performance bond to ensure abandonment and restoration are completed. Staff have improperly applied the qualifying language in the first requirement — "immediately following" — to the second requirement, changing the intended meaning of the condition.

Not only does Staff's interpretation defy the plain language of the condition, it is nonsensical. The purpose of a bond is to guarantee that the operator will properly abandon the facility and restore the site after it is shut down. But there are any number of reasons why a facility may be shut down, including because an operator has gone bankrupt or does not have sufficient capital to continue operations. In that case, the operator would not be able to fund the abandonment of the facilities, leaving the County to pick up the pieces. Thus, the only way to ensure the proper abandonment of the facility is to require a bond when an operator acquires the facility, not after it has shut it down.

Accordingly, per the plain language of Condition Q-2, Sable is required to post a performance bond for the abandonment of the POPCO Gas Plant. If it fails to do so, the County cannot make the necessary findings in Section 25B-9(a)(2), 25B-9(e)(1), and 25B-10(a)(2) for the transfer of the POPCO Permit.

b. The County Can — and Should — Require that Sable Post Performance Bonds for the Abandonment of its Other Facilities.

Unlike the POPCO Permit, the SYU and Las Flores Canyon Pipeline Permits give the County an option to ensure compliance with abandonment procedures: either require that the permittee post a performance bond, or allow the permittee "to pay property taxes as assessed during project operation until site restoration is complete."[141] For obvious reasons, the County should elect the former.

As discussed at length above, Sable is steadily losing capital and will not be profitable until it restarts the SYU. Thus, it is a distinct possibility that Sable runs out of funds before it can restart production, which Sable itself acknowledges.[142] If that were to occur, absent a performance bond, the County would have to foot the bill for the abandonment of Sable's facilities.

Surprisingly, Staff nonetheless suggest that it would suffice for Sable to pay property taxes rather than post a bond.[143] In doing so, it cites Sable's cash or cash equivalents, which it

[141] SYU Permit, Condition XIX-1; LFP Permit, Condition O-1.
[142] Q3 Report, *supra* note 32, at 6, 34.
[143] Staff Report Recommending Approval of Sable's Applications, pp. 9, 31.

claims are "sufficient to cover the continued payment of property taxes."[144] But staff ignores that Sable (1) estimates it will spend an additional $197M in cash expenditures before restarting; (2) is operating at a $682M deficit and will continue to do so until restart; and (3) in light of its capital concerns, may bankrupt well before the abandonment process, either because it fails to restart its facilities, or because it cannot cover the costs of another disaster.

Moreover, paying property taxes in no way guarantees sufficient funds to pay for abandonment and decommissioning, as the County now knows given recent decommissioning projects on the Gaviota Coast.

Accordingly, the only way to ensure the public is not left responsible for abandonment costs is to require Sable to post performance bonds for each of its facilities. Thus, the County should exercise its discretion to do so.

III. Appeal Issue 5: The County Must Deny Sable's Applications because Exxon and Sable are Not in Compliance with All Existing Permit Conditions.

Section 25B-9(a)(5) and 25B-10(a)(5) prohibit the County from approving a change of owner or operator unless Exxon was in compliance with all requirements of the Permits as of July 30, 2024 — the date Sable's applications were deemed complete.[145] However, to date, Exxon and Sable are not in compliance with Condition A-7 of LFP Permit because the Las Flores Pipeline System lacks effective cathodic protection.

Condition A-7, entitled "Substantial Conformity," provides, in its entirety:

> The procedures, operating techniques, design, equipment and other descriptions (hereinafter procedures) described in 83-DP-25 cz, 83-CP-97 cz and in subsequent clarifications and additions to that application and the Final Development Plan are incorporated herein as permit conditions and shall be *required elements* of the project. *Since these procedures were part of the project description which received environmental analysis, a failure to include such procedures in the actual project could result in significant unanticipated environmental impacts*. Therefore, modifications of these procedures will not be permitted without a determination of substantial conformity or a new or modified permit. The use of the property and the size, shape, arrangement and location of buildings, structures, walkways, parking areas and landscaped areas shall be in substantial conformity with the approved Final Development Plan.[146]

Thus, the condition has two corollary requirements, each of which are critical to public safety and environmental integrity. First, it requires strict compliance with the pipelines' initial project proposal, which is the proposal that received environmental review and, based on that review, approval. Second, it requires that any deviations from that proposal — no matter how

[144] *Id.*
[145] Chapter 25B-9(a)(5) and 25B-10(a)(5).
[146] *Id.,* emphasis added.

slight — be reviewed and approved, lest such modifications lead to unforeseen impacts; absent either a substantial conformity determination or a new or modified permit, deviations "*will not be permitted*."

As relevant here, the 1985 joint Environmental Impact Report and Environmental Impact Statement for the pipelines (the "1985 EIR/EIS") included a comprehensive description of the proposed project, from design and construction of the pipeline through to operation and abandonment.[147] To our knowledge, it is the only surviving, publicly available document that contains a complete description of the project.

Of the design features detailed in the 1985 EIR/EIS, the most important was the proposed pipelines' cathodic protection system — the primary means by which the pipelines would be protected from corrosion.

While "[t]he first line of protection from pipeline corrosion is a good coating," "a pipe will corrode if steel is allowed to leave the pipe at bare spots . . . in the coating," which wears over time.[148] Cathodic protection is designed to counter that corrosion process.[149] In short, a cathodic protection system forces electricity toward the pipe at bare spots in the coating, which, when effective, protects the bare steel from corrosion.[150]

Federal regulations have long required that buried pipelines generally be retrofitted with cathodic protection.[151] Accordingly, consistent with those regulations, the project proposal specified that "[t]he *entire* pipeline would be protected from corrosion with cathodic protection systems consisting of groundbeds and rectifiers."[152] To ensure the cathodic protection system was functioning as intended, the system would be periodically inspected and maintained, and "[c]orrosion control test stations would be installed with which to test the integrity of the corrosion protection."[153]

The importance of the pipeline's proposed cathodic protection system, and its centrality to the project itself, cannot be overstated. As the pipeline's primary means of corrosion control, cathodic protection was foundational to the overall design of the pipeline and the ultimate success of the project. As the 1985 EIR/EIS acknowledged, "[p]rotection of a pipeline from corrosion is of *critical importance* to the environment as well as the pipeline operator"; without

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[147] California State Lands Commission et al., *Final Environmental Impact Report Environmental Impact Statement* (January 1985) [hereinafter "Final 1985 EIR/EIS"]. The Final EIR/EIS is a finalizing addendum to the 1984 Draft EIR/EIS. The preface of the Final EIR/EIS explains that it is intended to be read "in conjunction with, rather than in place of, the Draft EIR/EIS . . . ." Thus, collectively, the two documents and their appendices form the project EIR/EIS.
[148] PHMSA Report, *supra* note 14, at Appendix E, p. 1.
[149] *See id.*
[150] *Id.*
[151] *See* 49 C.F.R. §§ 192.455, 195.563; *see also* PHMSA Report, *supra* note 14, at Appendix E, p. 1.
[152] California State Lands Commission et al., *Draft Environmental Impact Report Environmental Impact Statement*, p. 2-5 (August 1984) (emphasis added) [hereinafter "Draft 1985 EIR/EIS"].
[153] *Id.* at 2-5, 2-32, 4-106.

such protection, the strength of the pipeline wall can deteriorate, leading to a break in the pipe and a possible oil spill.[154]

Relatedly, environmental review of the project was largely premised on an effective cathodic protection system. Indeed, in predicting the likelihood of an oil spill — the primary environmental impact considered — the 1985 EIR/EIS explicitly relied on cathodic protection as a design specification that "would reduce the probability of an event [oil spill] occurring," and would be "very effective" in doing so.[155]

Thus, cathodic protection was a foundational aspect of the project and its environmental review; as repeatedly alluded to throughout the 1985 EIR/EIS, such protection was an essential design element of the project, and the principal technology relied on to prevent a spill.[156] And, as we have seen firsthand, the risks of departing from that design are not merely hypothetical; a lack of effective cathodic protection was the *root cause* of the devastating 2015 spill.[157]

Accordingly, restarting the Las Flores Pipeline System without cathodic protection — as Sable has proposed — represents a substantial deviation of the project that was initially envisioned and approved, and thus a violation of Condition A-7.

True, the Las Flores Pipeline System is technically still retrofitted with a cathodic protection system, as Staff point out. But the original project design for the pipelines contemplated *effective* cathodic protection; the cathodic protection system was, quite obviously, not intended to be merely ornamental.[158] Thus, per Condition A-7, the LFP Permit likewise requires *effective* cathodic protection. To construe the permit otherwise would be plainly inconsistent with the initial project proposal that was reviewed and approved.

Nor will Sable's repair efforts somehow bring the pipelines into compliance, as Sable may contend.

As the County is aware, Sable has engaged in unpermitted repair work over the last several months to address severe anomalies in the pipeline system — i.e., areas where corrosion of the pipeline walls has exceeded 40%. It is our understanding that, in some areas, Sable has, or intends to, remove insulation on the pipelines and/or replace sections with new, uninsulated pipe.[159]

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[154] *Id.* at 4-106 (emphasis added).
[155] Final 1985 EIR/EIS, *supra* note 147, at 2-57, Appendix 4.3.
[156] *See, e.g., id.* at 2-57, 2-94, 2-106, 4-53, 4-54, 4-55, H-35; Draft 1985 EIR/EIS, *supra* note 152, at 2-5, 4-106, 4-117.
[157] PHMSA Report, *supra* note 14, at 14.
[158] *See* Draft 1985 EIR/EIS, *supra* note 152, at 2-5 ("The *entire pipeline* would be *protected* from corrosion with cathodic protection systems consisting of groundbeds and rectifiers." (emphasis added)).
[159] *See* October 30, 204 Santa Barbara County Planning Commission Hearing, Archived Video at 6:33:25-6:33:56 [hereinafter "Planning Commission Hearing"], available at https://www.youtube.com/watch?v=xN5pnbV9wss&list=PL8SyQGix1i-X3uejIPma0wl5NDdJSUiTW&index=4.

At the Planning Commission hearing, Sable appeared to suggest that these repairs — including the removal of insulation — would allow cathodic protection to properly function as intended on the pipelines.[160] Yet, in its filings to OSFM, Sable averred that "[r]epair or recoat won't address inadequate or ineffective CP" on either CA-324 or CA-325.[161] And, even assuming cathodic protection could be made effective by removal of insulation — which has not been determined — it would presumably only be effective in areas that have been stripped bare. Indeed, at the Planning Commission hearing, Sable confirmed that cathodic protection would still be ineffective on key portions of the pipeline, including almost the entirety of CA-324.[162]

Recall that the original project that was approved in the 1980's specified that "[t]he *entire* pipeline would be protected from corrosion with cathodic protection."[163] Yet, as Sable itself has acknowledged, critical portions of the pipeline system will remain unprotected by cathodic protection.[164] Thus, notwithstanding Sable's repair work, restarting the Las Flores Pipeline System as Sable intends would violate the LFP Permit.

Finding that Exxon, as the current owner and operator, is in compliance with the project description when the pipelines are not protected from external corrosion is simply nonsensical. The lack of an effective cathodic protection system leaves the project susceptible to the very environmental impacts that section Condition A-7 is designed to prevent. Therefore, the County cannot find that Exxon/Sable is in compliance with this permit condition.

IV. Appeal Issue 6: Necessary Oil Spill Contingency Plans.

Pursuant to Section 25B-10(a)(6) and (9), Sable must submit an updated Oil Spill Contingency Plan for its facilities, and it must demonstrate the ability to comply with the plan.

In the Integrated Contingency Plan that Sable submitted to the County, Sable claimed that a worst-case spill from the Las Flores Pipeline System would be 0 barrels, presumably because the pipelines are currently inactive.[165] Because Sable's plan only considered the pipelines in their *idle* state, it necessarily failed to address the scope of a possible spill and how Sable would contain a catastrophic spill. Thus, it was patently deficient for purposes of the LFP Permit, and for Chapter 25B.

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[160] *See id.* at 6:32:19-6:35:10.
[161] Sable Proposed Restart Plan for CA-324, p. 7, available at https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/pipeline-safety-and-cupa/line_324_restart_plan_072924_final.pdf?rev=69c112bad8ae4f1eb41821ece1a7fb05&hash=D84FEC61B8A4FD46F980994604C7C8F8; Sable Proposed Restart Plan for CA-325, p. 7, available at https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/pipeline-safety-and-cupa/line_325_restart_plan_072924_final.pdf?rev=9552d0b6a8ee48b994b7fa94d3935883&hash=EA2B3BA4DBC7B04CD9698DCA238780F3.
[162] Planning Commission Hearing, *supra* note 159, at 2:39:58-2:40:37, 6:36:10-6:37:17.
[163] Draft 1985 EIR/EIS, *supra* note 152, at 2-5 (emphasis added).
[164] Planning Commission Hearing, *supra* note 159, at 2:39:58-2:40:37, 6:36:10-6:37:17.
[165] Sable Offshore Corp., *Pacific Pipeline Company Integrated Contingency Plan*, p. 14-3 (April 2024).

Despite being approved by Staff, that initial ICP was rejected by OSPR — an agency with special expertise in contingency plans — in part for the reasons outlined above.[166] However, just recently, Sable finally submitted an acceptable plan, which OSPR approved.

Still, having an adequate contingency plan in place is one of the most fundamental responsibilities of an oil and gas operator. That it took Sable four tries and nearly seven months to submit an acceptable plan calls into question its operational capacity, as discussed further below.

V. Appeal Issue 8: Sable's Management Team has Repeatedly Violated State Law, Ignored Directives from Multiple State Agencies, and Lacks the Care and Diligence Necessary to Responsibly Operate the Facilities as Required by Chapter 25B.

Section 25B-10(a)(9) provides that the County shall only approve an application for a change of operator if the operator is found capable. Specifically, the proposed operator must have "the skills, training, and resources necessary to operate the permitted facility" and the operator's past behavior must not "reflect a record of non-compliant or unsafe operations systemic in nature for similar facilities to those being considered for operatorship."[167]

As to operational capacity, Staff have largely copied and pasted information that Sable provides on its website, painting a rosy picture of an entity that is staffed with experienced personnel. But Sable's actions to date tell a far different story. Sable's history, propensity to cut regulatory corners, and willful violation of multiple agency directives all indicate that Sable's management team cannot be relied on to follow the law or safely operate these facilities.

A. Recent Failures and Unsafe Practices in the Oil and Gas Space

While Sable intends to retain experienced staff from the prior operator, their management team leaves much to be desired. Sable is managed by their CEO, James C. Flores, and "a management team that have historically worked with Mr. Flores in the oil and gas exploration and production business."[168] While Staff tote this team's "more than thirty years" of experience,[169] they fail to disclose the fate of Flores' most recent endeavors. Flores' leadership roles at Freeport-McMoran and Sable Permian Resources, both of which suffered massive financial losses under his management, cast tremendous doubt on his team's capability to operate an oil project successfully and responsibly.[170]

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[166] Deficiency Letters from OSPR to Sable, attached hereto as "Attachment 18."
[167] Chapter 25B-10(a)(9).
[168] Sable Offshore Corp., *Application for Change of Owner, Operator and Guarantor of Oil and Gas Facilities: Santa Ynes Unit ("SYU") Project*, p. 4. (March 14, 2024), available at: https://cosantabarbara.app.box.com/s/urgblguikn7jlo1igrq5yz55zyiveo7k/file/1489580351768.
[169] Staff Report Recommending Approval of Sable's Applications, p. 20.
[170] *See* Daniel Sherwood, *Sable Offshore's Oil Restart May Be Pipe Dream*, Hunterbrook Media (April 17, 2024), https://hntrbrk.com/sable/.

While running Sable Permian, Flores and his team allegedly cut corners in pursuit of short-term profits, ultimately to the detriment of the company.[171] Tom Laughery, who worked on distressed credit analysis at Silverback Asset Management during Flores' time at Sable Permian, described Flores' management of Sable Permian in scathing terms:

> Sable Permian was poorly run. It was not a high-quality asset base to begin with and it was drilled horribly. Flores and his team drilled the wells way too densely. It was basically destroying the company for near term quarterly results. And that was back in the day when everyone thought no one would look at the data. It was very scammy.[172]

That disregard for safety already appears to be rearing its head. There has somehow already been a spill since Sable took over, and operations have not even begun.[173]

B. Ineptitude before Governing Bodies, Disregard for State Law, and Willful Violations of Agency Directives

Perhaps more concerning is Sable's pattern of incompetence and its propensity to cut regulatory corners. Recall that CA-324 ruptured in 2015 in part because Plains failed to diligently monitor, maintain, and repair the pipeline.[174] Sable's recent behavior indicates that it likely suffers from the same organizational disfunction that resulted in the dangerous corrosion of CA-324 going unnoticed.

The County need not look further than this very transfer process for an example of Sable's ineptitude. Despite incentives for Sable to promptly provide the County with all the information it needs to approve the transfers, Sable consistently failed to provide basic information in its applications.[175] The County was forced to issue Sable three incompleteness letters, requesting the same information multiple times.[176] If Sable needs four attempts just to complete a basic administrative task, how can the people of Santa Barbara County trust Sable to safely and responsibly own, operate, and guarantee the Facilities?

Sable had the same issue with the CSLC. Along with Exxon, it submitted applications to assign a number of state leases from Exxon to Sable that are needed to operate the SYU.[177] Those applications were initially submitted in March 2024.[178] Since then, Sable has received

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[171] *Id.*
[172] *Id.*
[173] Sable Offshore Corp., *Incident Report Form* (Sept. 13, 2024), attached hereto as "Attachment F."
[174] PHMSA Report, *supra* note 12, at 3, 14.
[175] *See* Santa Barbara County Planning Department Determinations of Application Incompleteness, available at https://cosantabarbara.app.box.com/s/urgblguikn7jlo1igrq5yz55zyiveo7k.
[176] *See id.*
[177] ExxonMobil Corporation, *Applications to Assign Leases 4977, 5515, 6371, 7163*, on file with the California State Lands Commission.
[178] *See id.*

multiple incompleteness determinations from CSLC and, to date, it is our understanding that the applications have still not been deemed complete, almost a year later.[179]

But it is not just Sable's ineptitude that is concerning. It has consistently shown a willingness to cut regulatory corners, violate state law, and ignore agency directives as it rushes to bring the SYU back online.

After suing the County to dissuade it from exercising its jurisdiction over certain aspects of the Las Flores Pipeline System, Sable began extensive excavations along the coast to repair the pipelines and install valves — all without any oversight.[180] When the CCC got wind of Sable's activities, it issued Sable a Notice of Violation ("NOV"), clarifying that Sable is required to obtain CDPs for both the valve installations and repair work.[181] Alarmingly, *Sable continued working despite the NOV*, prompting the CCC to send another NOV and, ultimately, a Cease-and-Desist Order, which directed Sable to apply for CDPs.[182]

Separately, Sable received two NOVs from the RWQCB, alerting it of violations of the Clean Water Act and California Water Code and directing it to apply for various permits.[183] It also received an NOV from CDFW for violating the Fish and Game Code.[184]

Nonetheless, on February 14, 2025, Sable resumed work on the Las Flores Pipeline System — willfully ignoring state law and the above NOVs. The CCC was forced to issue yet another Cease and Desist Order.[185] And the RWQCB and CDFW may very well follow suit.

Sable's flagrant disregard for state law and agency directives is disqualifying for any entity, yet alone a speculative company that is attempting to operate some of the riskiest and most highly regulated facilities in the state. The County cannot find that Sable is capable of operating the Facilities "in a safe manner and in *full compliance* with permit conditions and *applicable law*."[186]

In sum, Sable has already demonstrated a lack of necessary care and diligence, an aversion to regulatory compliance, and a propensity to willfully ignore agency directives, all of which weigh against entrusting Sable with the immense responsibility of operating the

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[179] *See* California State Lands Commission, *Determinations of Application Incompleteness*, *supra* note 119.
[180] Press Release, Santa Barbara County, *Conditional Settlement Reached in Litigation Regarding Safety Values on Los Flores Pipeline* (Sept. 5, 2024), available at: https://content.civicplus.com/api/assets/d3c647be-d1b9-4384-b21d-0635ccf199cc.
[181] California Coastal Commission First Notice of Violation to Sable (Sept. 27, 2024), attached hereto as "Attachment 19."
[182] California Coastal Commission Second Notice of Violation to Sable (Oct. 4, 2025), attached hereto as "Attachment 20."; Executive Director Cease-and-Desist Order ED-24-CD-02, attached hereto as "Attachment 21."
[183] Regional Water Quality Control Board Notices of Violation to Sable, *supra* notes 125 and 126.
[184] California Natural Resources Agency, *Summary of State Regulation of Crude Oil Pipelines in Santa Barbara County*, p. 4 (Jan. 13, 2025), available at https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Educational-Portal/Post--Summary-of-regulatory-oversight-over-Sable-oil-pipelines-011325.pdf.
[185] Executive Director Cease and Desist Order No. ED-25-CD-01, *supra* note 120.
[186] Board of Supervisors' Findings of Fact for Adoption of Chapter 25B, *supra* note 67 (emphasis added).

Facilities. Indeed, whether Sable will be able to safely operate the Facilities is questionable, if not unlikely. At the very least, the matter is imbued with too much uncertainty to make the finding required by Chapter 25B-10(a)(9).

VI. Appeal Issues No. 9, 11, 12, & 13: Other Appeal Issues.

EDC did not raise any of the issues identified by Staff as appeal issues, 9, 11, 12, and 13.

VII. Conclusion

The purpose of Chapter 25B is to "protect public health and safety, and safeguard the natural resources and environment of the county of Santa Barbara, by ensuring that safe operation, adequate financial responsibility, and compliance with all applicable county laws and permits are maintained during and after all changes of owner, operator or guarantor of certain oil and gas facilities."[187] For the reasons outlined above, approving the transfer of the Permits to Sable would be a grave dereliction of the County's duty to administer the ordinance.

Perhaps most disconcerting is Sable's obvious financial vulnerability. It is possible, if not likely, that Sable never restarts the Facilities, forcing it into bankruptcy. Yet Sable has not provided any assurances that it will be able to properly abandon the Facilities in that scenario. Nor has Sable assured the County that, in the event it *is* able to restart, it has the financial wherewithal to remediate a spill or other accident at the Facilities, particularly if one were to occur during or shortly after restart.

Thus, the County cannot find that Sable has provided the necessary financial assurances required by Chapter 25B — which, contrary to Staff's position, clearly requires that Sable shows it has the financial wherewithal to both abandon the Facilities and remediate an accident. And indeed, it would be grossly irresponsible to approve the transfers under these circumstances. In the likely event Sable fails — either because it never restarts, or another spill occurs — one can only imagine the economic toll on the County, and the possible impact to local businesses and landowners that cannot be made whole.

Equally fatal to Sable's applications is its noncompliance with the conditions of the Permits. Most notably, its onshore pipelines lack effective cathodic protection — a critical design feature incorporated as a condition in the LFP Permit. Operating without cathodic protection, as Sable intends, will increase the risk of a spill from the pipelines by *five times*.[188]

Lastly, we recognize that the executives running Sable are no strangers to the industry. But Sable as an entity has never actually operated an oil and gas facility. There is no empirical evidence indicating that Sable would — or even could — reliably operate the Facilities, comply with the Permits, or comply with important safety regulations. If anything, what we have seen so far from Sable suggests the contrary. Sable has already demonstrated a lack of necessary

[187] Chapter 25B-1.
[188] County Draft EIR, *supra* note 43, at 78.

diligence, a willingness to violate agency directives, and a general disregard for some of our state's most important environmental laws.

Accordingly, the County cannot make the necessary findings of approval required by Chapter 25B. *See Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514 -15 (the County "must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order" and the findings must be supported by substantial evidence). Specifically, the lack of evidence prevents the County from making the following findings of approval, as outlined in detail in the **Appendix** attached hereto:

- First, Sable has failed to provide necessary financial assurances that it can respond to an oil spill or other accident and abandon the Facilities, as required by Chapter 25B-9(a)(2), 25B-9(e)(1), 25B-10(a)(2), and 25B-10(a)(9).

- Second, Sable has not provided evidence that it is in compliance with the existing permit requirements, as required by Chapter 25B-9(a)(5) and 25B-10(a)(5); and

- Third, Sable has not provided evidence to demonstrate that the company possesses the necessary skills, training, and resources necessary to operate the Facilities in compliance with the permits, which is required to make a finding pursuant to Chapter 25B-10(a)(9).

In conclusion, Chapter 25B was intended to protect the public from this *exact* scenario. Sable has not demonstrated that it has the financial or operational capacity to be entrusted with the great weight of responsibility that comes with operating these facilities. Approving the transfers would simply pose an unacceptable risk to our community, our natural resources, and our local economy. Thus, we urge the County to deny Sable's applications.

Thank you for your consideration.

Sincerely,

Linda Krop,
Chief Counsel

Jeremy Frankel,
Staff Attorney

Attachments:

1. Letter from John Day, Former Planning and Development Staff, to Board

2. 2001 Memorandum from County Planning and Development Department to Planning Commission regarding Implementation of Chapter 25B

3. Excerpt of Santa Barbara County Administrative Draft of Draft EIR for Plains Pipeline Replacement Project

4. Board Agenda Letter Recommending Adoption of Chapter 25B

5. 2001 Staff Report Recommending Adoption of Chapter 25B

6. Board of Supervisors' Findings of Fact for Adoption of Chapter 25B

7. Image of Alisal Fire Burn Scar

8. Image of Sherpa Fire Burn Scar

9. September 26, 2024 Letter from CalGEM to Sable re Potential Bonding Requirement

10. December 20, 2024 Letter from California Department of State Parks to Sable re Requirement for New Easement

11. Exxon Declaration re Need for Acid Well Stimulation to Restart the SYU

12. California State Lands Commission Determinations of Application Incompleteness

13. Second Executive Director Cease and Desist Order to Sable, No. ED-25-CD-01

14. November 26, 2024 Letter from United States Fish and Wildlife Service to Sable re Compliance with the Endangered Species Act

15. Regional Water Quality Control Board Notice of Violation to Sable

16. Regional Water Quality Control Board First Notice of Non-Compliance to Sable

17. Regional Water Quality Control Board Second Notice of Non-Compliance to Sable

18. Office of Spill Prevention and Response Deficiency Letters to Sable

19. California Coastal Commission First Notice of Violation to Sable

20. California Coastal Commission Second Notice of Violation to Sable

21. First Executive Director Cease and Desist Order to Sable, No. ED-24-CD-02

APPENDIX:
FINDINGS THAT LACK SUBSTANTIAL EVIDENCE

SYU Permit: Application for Change of Owner, Operator, and Guarantor

Financial Assurances: Sections 25B-9(a)(2), 25B-9(e)(1), and 25B-10(a)(2) "All necessary instruments or methods of financial responsibility approved by the county and necessary to comply with the permit and any county ordinance have been updated, if necessary, to reflect the new owner(s) or operator and will remain in full effect following the ownership or operator change."	1. Sable has not demonstrated that it has the financial wherewithal to remediate a spill or other accident from these facilities. (S*ee* Part II.B.) 2. Sable has not demonstrated that it has the financial wherewithal to abandon these facilities. (*See* Part II.C.) 3. Sable has not posted a performance bond for the abandonment of these facilities, which can — and should — be required under Condition XIX-1. (*See* Part II.C.)
Operator Capability: Section 25B-10(a)(9) "The proposed operator has the skills, training, and resources necessary to operate the permitted facility in compliance with the permit and all applicable county codes and has demonstrated the ability to comply with compliance plans listed in section 25B-10.1.f."	1. Sable has not demonstrated that it has the resources necessary to remediate a spill from these facilities, as required by Condition XI.2.w. (*See* Part II.B.) 2. Sable has not demonstrated that it has the resources to timely and properly abandon these facilities, as contemplated by Condition XIX-1, Chapter 25B-4(i), and County Code Section 35-170. (*See* Part II.C.) 3. Sable has not shown that it can be trusted to reliably operate these facilities in compliance with the permit and all applicable county codes. (*See* Part V.)

POPCO Permit: Application for Change of Operator and Guarantor

Financial Assurances: Sections 25B-9(e)(1) and 25B-10(a)(2) "All necessary instruments or methods of financial responsibility approved by the county and necessary to comply with the	1. Sable has not demonstrated that it has the financial wherewithal to remediate an accident from this facility. (S*ee* Part II.B.)

permit and any county ordinance have been updated, if necessary, to reflect the new owner(s) or operator and will remain in full effect following the ownership or operator change."	2. Sable has not demonstrated that it has the financial wherewithal to abandon this facility. (*See* Part II.C.) 3. Sable has not posted a performance bond for the abandonment of this facility, as required by Condition Q-2. (*See* Part II.C.)
Operator Capability: Section 25B-10(a)(9) "The proposed operator has the skills, training, and resources necessary to operate the permitted facility in compliance with the permit and all applicable county codes and has demonstrated the ability to comply with compliance plans listed in section 25B-10.1.f."	1. Sable has not demonstrated that it has the resources necessary to operate this facility in compliance with the permit. (*See* Part II.B.) 2. Sable has not demonstrated that it has the resources to timely and properly abandon this facility, as contemplated by Condition Q-2, Chapter 25B-4(i), and County Code Section 35-170. (*See* Part II.C) 3. Sable has not shown that it can be trusted to reliably operate this facility in compliance with the permit and all applicable county codes. (*See* Part V.)

LFP Permit: Application for Change of Operator and Guarantor

Financial Assurances: Sections 25B-9(e)(1) and 25B-10(a)(2) "All necessary instruments or methods of financial responsibility approved by the county and necessary to comply with the permit and any county ordinance have been updated, if necessary, to reflect the new owner(s) or operator and will remain in full effect following the ownership or operator change."	1. Sable has not demonstrated that it has the financial wherewithal to remediate a spill or other accident from these facilities. (S*ee* Part II.B.) 2. Sable has not demonstrated that it has the financial wherewithal to abandon these facilities. (*See* Part II.C.) 3. Sable has not posted a performance bond for the abandonment of these facilities, which can — and should — be required under Condition O-1. (*See* Part II.C.)
Compliance with Existing Requirements: Section 25B-10(a)(5)	1. The current owner/operator is not in compliance with Condition A-7, as the Las Flores Pipeline System lacks effective cathodic protection. (*See* Part III.)

"As of the date that the application is deemed complete, the current operator is in compliance with all requirements of the permit . . . ."	
Operator Capability: Section 25B-10(a)(9) "The proposed operator has the skills, training, and resources necessary to operate the permitted facility in compliance with the permit and all applicable county codes and has demonstrated the ability to comply with compliance plans listed in section 25B-10.1.f."	1. Sable has not demonstrated that it has the resources necessary to operate these facilities in compliance with the permit. (*See* Part II.B.) 2. Sable has not demonstrated that it has the resources to timely and properly abandon this facility, as contemplated by Condition O-1, Chapter 25B-4(i), and County Code Section 35-170. (*See* Part II.C.) 3. Sable has not shown that it can be trusted to reliably operate these facilities in compliance with the permit and all applicable county codes.. (*See* Part V.)

ATTACHMENT 1

February 20, 2025

Santa Barbara County Board of Supervisors
c/o Clerk of the Board
105 East Anapamu Street, 4th Floor
Santa Barbara, CA, 9310

Sent via email to: sbcob@countyofsb.org

RE: Appeal of Sable Offshore SYU, POPCO Gas Plant, and Las Flores Pipelines Change of Owner, Operator, and Guarantor – Hearing February 25, 2025
OPPOSE APPROVAL

Dear Chair Capps and Honorable Supervisors:

Before my retirement, I was a planner in Planning & Development's Energy Division. I authored Chapter 25B under close supervision of Energy Specialist Doug Anthony, and with legal guidance from County Counsel Bill Dillon. The ordinance was carefully crafted to provide the necessary tools to screen new owners, guarantors and operators of covered facilities, to the degree allowable, without overstepping the legal rights and entitlements conferred by the existing permits. The process included many meetings and discussions with industry, state and federal regulators, as well as business and environmental organizations. Their feedback was instrumental in formulating a workable ordinance that could stand up in court.

Chapter 25B was initiated in response to the observed trend of the major offshore producers, possessed of enormous technical prowess and financial resources, to unload their projects onto smaller, less robust, and potentially less capable "second generation" companies. The transition from ExxonMobil to Sable is exactly the kind of case the County envisioned and was concerned about in 2001. The primary purposes of 25B from the get-go were: (1) To protect the public and safeguard the environment by ensuring that changes of owners and operators did not result in increased risk of accidents or spills or inadequate spill response; and (2) to help ensure that the responsible parties could pay the costs of cleanup and not leave the public holding the bag. If you glance through the 247-page 25B file in the Clerk of the Board's office, the intended purpose, application and function of 25B are perfectly clear.

The ordinance was written in rather general language and lacks rigid, quantitative standards. This approach was intentional and necessary, because the covered facilities and permits were diverse and the circumstances surrounding ownership changes were unpredictable. The decision makers had to be afforded some discretion to vet new owners, guarantors and operators case-by-case.

Because the language of 25B was developed within legal constraints, it does not give limitless discretion to the County to deny changes of owner or operator, or to shut down permitted projects, as many from the public would like it to. However, this does not mean that Chapter 25B is a toothless, empty, administrative exercise. It can be used as an effective tool to evaluate new players and potentially to deny their applications if the evidence warrants. It seems to me that the purpose and strength of 25B has faded from view over the past 25 years. To wit, at the Planning Commission hearing last October 30, both Energy division staff and the applicant misrepresented the purpose and application of 25B.

- Sable's attorney stated [6:44:17]: "What the purpose of 25B is, is to acknowledge the reality of a new owner and operator, who is here and present, and make sure that they are the ones who are in the relationship with the County and the Commission by changing them on the permit."
- In response to Chairman Martinez' concerns that the insurance may not be enough to cover a spill, P&D Deputy Director Errin Briggs said [6:58:54]: "So Chairman Martinez, the item before us today is 25B... and it changes the name on the permit."

Staffs' perception of 25B as a name change only must have affected the level of scrutiny and diligence that they applied to the case. What's more, staff's framing of 25B in this way at the hearing doubtless affected the Commissioners' understanding of the County's options, and may have influenced their votes. The message that these and other comments sent to the Planning Commissioners' and the public at the hearing was that the scope of review and potential action under 25B is limited to a name change only. But that is not the case.

For example, for a Change of Operator, the Planning Commission (and on appeal, your Board) has discretion under 25B-10(1)(i)* to deny a new operator, if the finding cannot be made that they have demonstrated their ability to operate in compliance with the existing permits and plans. In the case at hand, Sable Offshore Corp. has virtually no track record, and as a result, its record cannot provide sufficient assurance that the new operator can operate safely. However, Paragraph (i) does not limit the investigation of operator capability to past records. In the absence of a performance record, the applicant must nevertheless demonstrate its capability. I am impressed by Sable's testimony about their operational staffing approach, which hopefully, will result in a smooth transition and safe operation. Of course, Sable staff are obliged to paint the rosiest possible picture, so if there are deficiencies or weaknesses, one has to look elsewhere for the evidence. It isn't clear to me how Sable staff can demonstrate that Sable, as a brand new organization, will operate safely and in compliance.

Sable's failure to respond to the California Coastal Commission's (CCC) Notice of Violation (NOV) on Sept. 27, 2024, does not bode well for their ability or willingness to comply with regulations and permit conditions and operate within the regulatory framework. Their unresponsiveness prompted the CCC to issue an Executive Cease and Desist Order ("EDCDO") on Nov. 12, 2024, and second EDCDO on Feb. 18, 2025. This is not ancient history, it is right

now, at the same moment in time that their permit approval is being challenged before your Board. Will they be more responsible after their permits are secure? The California Dept. of Fish & Wildlife and the Regional Water Quality Control Board have also issued NOV's to Sable. Sable's inaccurate representations to shareholders in SEC filings (touched on below) should also raise concerns. The onus is on P&D staff to connect the dots, so that the decision makers can make the Operator Capability finding with confidence. I do not think that staff analysis probes deeply enough to make that finding, given Sable's NOV response, questions about the forthrightness of their representations, and lack of a substantial track record.

Of equal relevance and importance, under 25B-10(2)* the Planning Commission (or Board) "may impose additional conditions on the permit in order to ensure that any insurance or other financial guarantees that were submitted to and relied on by the Planning Commission as a basis to make any finding required by this chapter are maintained." The Planning Commission Staff Report [p. 25] and staff presentation give a rubber stamp to the financial guarantees and overlook the purpose and power of this provision. This is a serious oversight that could have untoward consequences.

The scope of Section 25B-10(2) is not limited to compliance with existing permit conditions relating to financial responsibility. It allows the Commission to impose permit conditions needed to ensure that "any insurance or other financial guarantees that were submitted to and relied on by the Planning Commission as a basis to make any finding required by this chapter are maintained." Sable submitted insurance certificates (but not the policies themselves), financial statements, SEC filings, and made many statements to the Commission regarding their financial strength and stability. These documents and representations were unarguably relied on by the Commission to make several of the findings required by 25B. Accordingly, the Planning Commission (or Board) may impose conditions to ensure that those representations are factual and lasting. Such conditions are not listed or limited by 25B-10(2), and bonds are one possible mechanism to allow the Commission to make required findings.

Sable is a new company, without the deep pockets of ExxonMobil. Sable proposes to operate major facilities in an inherently risky industry. Sable borrowed $622 million from ExxonMobil to buy SYU. It is not a given that Sable will be viable or successful, and that its financial guarantees will be maintained. In particular, it has not been demonstrated that Sable's insurance will actually pay for an accident or spill. The County needs to be provided with and to review the underlying insurance policies to determine whether the coverage (including any exclusions or conditions) is sufficient. It also needs to analyze the financial information that has been provided by Sable and was relied upon to make the findings required by Chapter 25B. At the Planning Commission hearing, Commissioner Parke expressed concern, correctly, that an adequate analysis had not been done. Staff's analysis appears to be superficial, reflecting the view that Chapter 25B only "changes the name on the permit." An outside consultant or qualified County staff should conduct a thorough analysis of Sable's insurance policies and financial assurances, including financial statements and SEC filings.

I have touched on a couple of points here. EDC's excellent comment letter to the Planning Commission raises many other valid points and concerns, and provides important documentation and details. I hope your Board has the time to read and digest the letter as thoroughly as it warrants. For example, Attachment G to the letter documents an email exchange between Jeremy Frankel (Staff Attorney at EDC) and Errin Briggs (P&D Deputy Director of Energy at P&D) last Oct. 11 that casts doubt about Sable's forthrightness in its communications with the County and other agencies. Jeremy wrote to Errin noting Sable's inaccurate claim in its in July 2024 SEC filings that it was currently installing new pump stations and constructing multiple new control facilities for lines 324 and 325. Errin responded (in part) as follows:

> *"I understand what Sable is representing to its investors. As with much of what they push out to investors, not everything they represent is accurate."*

This case is far too important and consequential to process in a casual, cursory way. Sable's submittals and representations cannot be taken at face value. They need to be fact-checked. Chapter 25B allows for whatever depth of review is appropriate and necessary, and in this case I believe that drilling deep is essential. Commissioner Parke appeared to me to be frustrated not only that the 25B review was superficial, but that there was far too little time for the Commission to review the insurance and financial information, and also EDC's letter. At the end of the day, Chapter 25B is not a rubber stamp, provided that the County applies it as intended, with due diligence.

I do not think your Board should be pushed to approve this project without a rigorous review, utilization of the available tools under 25B, and a meaningful debate. If it proves necessary to continue the hearing to ensure a fully informed decision, so be it. It would be a disservice to the public to push this case through too hastily. And just why are we in such a rush? Why is Sable in such a rush? Will corners be cut? Will there be unfortunate consequences? I do not know, but Sable's rush to restart production might be driven by the terms of sale between ExxonMobil and Sable. Sable's Form 8-K, Oct. 3, 2024, includes the following disclaimer:

> *"Non-Producing Assets*
> *The Santa Ynez Unit assets have not produced commercial quantities of hydrocarbons since such assets were shut in during May of 2015 when the only pipeline transporting hydrocarbons produced from such assets to market ceased operations. There can be no assurance that the necessary permits will be obtained that would allow the pipeline to recommence transportation and allow the assets to recommence production. If production is not recommenced by January 1, 2026, the terms of the asset acquisition with ExxonMobil Corporation would potentially result in the assets being reverted to ExxonMobil Corporation without any compensation to Sable therefore."*

Sable's foot-on-the-gas push to production may give your Board pause to wonder about Sable's highest priorities.

Sincerely yours,

John Day, PhD
Planner, P&D Energy Div. (retired)
Santa Barbara

* RE: 25B-10(1)(i) This paragraph is discussed under (9) Operator Capability on page 38 of the Planning Commission Staff Report. 25B-10(2) discussed under (b) on the same page.

  Note: Following the Board's approval of Chapter 25B, the section and chapter numbering was converted to the County's standard format by the Clerk's office. Some errors were introduced in the internal section referencing. Any ambiguity can be resolved by looking to the actual Board-approved version.

ATTACHMENT 2

COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Planning Commissioners

FROM: Doug Anthony, Energy Specialist, (805) 568-2046
John Day, Planner, (805) 568-2045

DATE: September 7, 2001

RE: Proposed Change of Owner, Operator, and Guarantor Ordinance – Summary of staff's responses to public testimony received on the proposed ordinance during the August 1st hearing

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Commissioner Beall suggested that staff provide a written version of its responses to public testimony received during the August 1st hearing of the proposed Change of Owner, Operator, Guarantor Ordinance. We are providing that written version as Attachment A to this memorandum.

Second, Commissioner Beall requested a matrix that compares the proposed ordinance to current regulatory practices of the Minerals Management Service for change of lessor, operator, and guarantor. We are providing that matrix as Attachment B, in which we also compare the proposed ordinance to past practices of the County to show how such practices vary according to a particular permit.

Third, Commissioner Valencia asked for a summary of outstanding issues with the ordinances that the oil industry raised during meetings with staff and at public workshops. We are providing that summary in Attachment C.

Fourth, Commissioner Oberdeck asked for a response to testimony from the Santa Barbara Region Chamber of Commerce, Goleta Valley Chamber of Commerce, Santa Maria Valley Chamber of Commerce, and Santa Maria Valley Economic Development Association. We are providing this response in Attachment D.

Fifth, Commissioners Beall and Farr raised some questions about the ordinance in the final minutes of the hearing. We are providing answers to those questions in Attachment E.

Finally, Attachment F is a revised draft of the proposed ordinance showing proposed changes in response to public comments.

Attachment A

Summary of Staff's Oral Responses to Public Comment
August 1st Planning Commission Hearing
Item No. 5: Proposed Change of Owner, Operator, Guarantor Ordinance

Comment No. 1: Several representatives of the oil industry and chambers of commerce questioned the lack of guidance provided in the ordinance for determining the appropriate amount of financial responsibility should a change of operator, owner, or guarantor take place.

Public testimony is accurate that, as currently drafted, the proposed ordinance does not provide specific guidance for determining the appropriate amount of financial responsibility. The ordinance does require new owners, operators and guarantors to demonstrate the financial wherewithal to cover the cost of timely and proper abandonment (including remediation of contaminated soils and waters) and to cover natural resource damage. The County is separately pursuing ordinances to establish specific procedures for determining adequate financial assurances for both types of liability. The Change of Owner ordinance is the first in the sequence of three ordinances that together will provide a solid structure of financial responsibility regulations that apply to ongoing operations as well as to the special case of owner/operator change.

Subsequent to the August 1st hearing, staff has revisited the question of how to specify financial responsibility requirements during the interim, until a financial responsibility ordinance is adopted. Our recommendations are given in Attachment C (Outstanding Issues), Issues 2 and 3.

Comment No. 2: One speaker questioned the lack of precise safety standards when assessing a proposed change of operator.

Summary of Staff's Response: First, standards are proposed. The standards are necessarily qualitative, but they are nonetheless definite:

> "The records demonstrate the proposed operator has the skills and training necessary to operate the permitted facility in compliance with all applicable law. The accident and compliance records shall be obtained from the agencies listed in Appendix A. If the proposed operator is a new company or lacks a seven year operational record, the operator has demonstrated to the County that the key personnel have sufficient experience and expertise to operate the facility safely." [§25B-10(2)(j)]

The County has the capability to review operator qualifications utilizing the expertise of the Office of Emergency Services, Building and Safety, and 3rd party technical consultants. These personnel routinely provide Energy staff with expert advice on facility safety and on compliance plans such as emergency response plans. Additionally, MMS and State Lands Commission have expressed willingness to discuss operator safety records, and are expected to be an useful source of information.

Let's examine what the proposed ordinance seeks with regard to oversight of safety upon a change of operator.

a) The ordinance asks for a transitional plan so that a new operator is sufficiently trained and familiar with the new facility and has working knowledge of emergency and safety plans prior to taking over. The ordinance recommends cross-training with the current operator prior to the change of operator where practical. The oil industry agrees that cross-training is valuable when changing operators and some companies have exercised this approach to changing operators in the past.
b) The ordinance asks for a test, one that requires the proposed new operator to pass a simulated emergency response drill. This test is similar in concept to practices of the Minerals Management Service (MMS) to ensure that the operator has a good working knowledge of the facility. Specifically, the MMS requires the new operator, standing side-by-side with the current operator, to bring the entire platform down and, then, to bring it back on line. Onshore, we ask for adequate performance on one or more simulated emergency response drills, the details of which are per the standards of the County's Office of Emergency Services.
c) The ordinance asks for an examination of the accident and compliance records of the proposed new operator for the previous seven years. The Minerals Management Service looks at such records for the last five years; environmental groups have requested the County look back 10 years. We chose the mid-point of seven years because that's equivalent to the normal period of time for which records are retained.

Staff has not proposed any quantitative standards upon which to implement the above requirements because such reviews require sufficient discretion to consider case-specific factors. For example, staff does not propose any specific threshold that would disqualify a new operator based on the number of accidents it has had at other facilities over the last seven years. Such a threshold would not provide the fair and objective basis for qualification that would be provided through a prudent evaluation of the case-specific facts. For the same reason, both MMS and State Lands Commission evaluate potential new operators by examining and weighing the case-specific facts. Quantitative standards would be unworkable. Consider, for instance, the following hypothetical examples that illustrate problems that could arise should we set a threshold of 10 accidents.

- Proposed pipeline operator A would automatically be disqualified with a record of 11 accidents, even if these accidents were very minor (or caused by third-party intrusion at no fault of the pipeline operator) and the cause of the accidents were corrected immediately. Proposed pipeline operator B would automatically qualify with a record of 4 accidents, even if deaths and injuries resulted from willful negligence on the part of the operator, and reflected no improvement by the operator over a period of seven years. These case-specific factors favor an opposite result than that prescribed by the hypothetical standard of 10 accidents; that is, qualification of operator A and disqualification of operator B.
- Proposed facility operator A shows a record of 11 accidents, but operates 100 such facilities nationwide, including major refineries. Proposed facility operator B shows a record of 8

accidents, and only operates two such facilities nationwide. Again, a prudent examination and sound judgment of the case-specific factors indicate an opposite conclusion than a pre-established threshold or standard. Operator A's record may be notably better than the industry average based on a per facility basis, whereas Operator B's record may be notably worse than the average.

Identification of quantitative standards up-front would not capture every potential variation and nuance that would become apparent in the case-specific examination of a proposed new operator. Instead, staff believes a prudent, discretionary review of case-specific factors, based upon the objective data obtained in the accident and compliance records referenced in the proposed ordinance, best serves the County's ability to render a fair and equitable review. Such a discretionary review has been successful in approving the change of operator for the Point Arguello and GTC oil terminal facilities. It has also been successful for determining if the level of key personnel is sufficient for new companies which do not have previous accident or compliance records.

Comment No. 3: Two members of the public stated that the proposed ordinance duplicates regulations currently administered by the Minerals Management Service, State Lands Commission, and California Public Utilities Commission, and California Department of Fish and Game (Division of Oil Spill Prevention and Response).

Summary of Staff's Response: The proposed ordinance does not duplicate these current regulations, but rather seeks to fill the gap by extending such regulatory practices to facilities not covered by current regulations. Section 25B-2 of the proposed ordinance is quite explicit about the applicability of the proposed ordinance as follows:

"Sec. 25-2 Applicability

(1) This Chapter shall apply to any person who owns, operates or guarantees performance for or who seeks to own, operate or guarantee performance for any of the following facilities **located in the unincorporated areas of the County of Santa Barbara**:
   a) any facility involved in exploration, production, processing, storage or transportation of oil or gas extracted from offshore reserves;
   b) any oil refinery;
   c) any pier, supply base, marine terminal or staging area within the County's jurisdiction that supports development of offshore oil and gas reserves.

(2) This Chapter shall not apply to:
   a) the change of owner, operator or guarantor of the following:
      i. **sales gas pipelines operated by a public utility and regulated by the California Public Utilities Commission**;
      ii. trucks, railroads;
      iii. **facilities located in state waters**;
      iv. a change of ownership consisting solely of a change in percentage ownership of a facility and which does not entail addition or removal of an owner or affect any financial guarantee for a permit." [emphasis added.]

Compare this to the regulatory jurisdiction of the Minerals Management Service (MMS), California State Lands Commission (SLC), California Public Utilities Commission (PUC), and California Department of Fish and Game (DFG).

- MMS regulates the change of lessee, operator, and other guarantor for leases and facilities on the Outer Continental Shelf (OCS). The OCS covers federal waters beginning 3 geographical miles seaward of the national coastline, including three miles seaward of the coastline of offshore islands. The proposed ordinance, on the other hand, applies to onshore facilities; however, borrows many of the tested regulatory practices that the MMS applies for change of lessor, operator, or guarantor.

- SLC regulates the change of lessee, operator, and other guarantor for oil and gas leases and facilities on the State Tidelands. The State Tidelands comprise an offshore zone three miles wide between the coast and the OCS. The proposed ordinance, on the other hand, applies to onshore facilities and explicitly excludes applicability to "... facilities located in state waters. However, the proposed ordinances borrows from the regulatory practices that the SLC applies for change of lessor, operator, or guarantor.

- PUC regulates the changes of owner or operator for public utilities. The proposed ordinance explicitly excludes applicability to the very onshore facilities that the CPUC regulates: "... sales gas pipelines operated by a public utility and regulated by the California Public Utilities Commission."

- DFG's Division of Oil Spill Prevention and Response (OSPR) requires financial assurances to cover liability relating to oil spills into marine waters, which are defined as tidally influenced waters. It does not preclude other financial assurances such as that applied by the County for marine terminals via Chapter 25A of the County Code (Evidence of Financial Responsibility to Clean Up Oil Spills), nor does it address financial assurances for terrestrial oil spills and other types of accidents that may occur from the operation of applicable facilities under the proposed ordinance.

Comment No. 4: One speaker testified that, among other things, timely and proper abandonment of an oil and gas site subject to this ordinance should not be of any concern. He noted that all facilities subject to this ordinance that currently have terminated operations either have undergone abandonment or are undergoing abandonment. Therefore, there is no historic record to suggest a need of financial assurances for abandonment.

Summary of Staff's Response: Last fall, the Planning Commission initiated amendments to the General Plan (Coastal Land Use Plan and Land Use Element) and to the County code to promote more timely and proper abandonment of the subject facilities. Your recommendations included:

- The revocation of discretionary land-use permits when, after thorough consideration of case-specific evidence, a facility will not be reactivated within a reasonable period of time.

- The imposition of monetary penalties if, after sufficient notification, an operator fails to remove abandoned facilities and restore the site.
- A refinement to the permitted uses of such facilities that precludes long-term salvage operations, recycling facilities, or junkyards.
- A requirement that operators post appropriate financial securities for the purpose of ensuring timely and proper abandonment.[1]

These recommendations were based, in part, on a historical record of notably disparate results with regard to timely abandonment. In one worse case, Texaco did not abandon its Gaviota processing facility until 25 years after it ceased operations permanently.[2] This facility was located in the Coastal Zone, in the view shed between Highway 101 and the ocean. The County would have had more leverage to require timely abandonment had it access to a performance-based financial guarantee. The following table provides an accurate historic overview for processing facilities and marine terminals.[3]

Timing for Abandonment of Downstream Facilities

Facility	Year Installed	Year Operations Ceased	Year Production Wells Plugged	Year Facility Abandoned	Years to Abandon after Ceasing Operations
Chevron's Gaviota Gas Facility	1962	1984	1986	1987	3
Shell's Hercules Gas Plant	1963	1989	1997	Ongoing,* commenced in 1994	>11
Phillips' Tajiguas Gas Facility	1964	1990	1997	1993	3
ARCO's Dos Pueblos Facility	1920s	1997	1997	Ongoing,** commenced in 1995	>3
ARCO's Alegria Facility	1962	1991	1997	Not commenced	>9
Unocal's Battles Gas Facility	1940s	1995	Not yet plugged	Ongoing,* commenced in 1995	>5
Texaco's Gaviota Processing Facility	1961	1973	1985	1998	25
Unocal's Gov't Pt. Processing Facility	1968	1993	1999	Not commenced	>7
Unocal's Cojo Bay Marine Terminal	Early 1960s	1993	1999	Not commenced	>7

* Facilities have been dismantled; however, remediation remains ongoing, often due to operator's resistance to prescribed clean-up of hydrocarbons (see Chapter 7).

[1] County of Santa Barbara, Planning and Development Department, Energy Division. *Abandonment of Oil and Gas Fields Offshore Santa Barbara County and Related Infrastructure.* October 25, 2000. Pages 89-93.
[2] *Ibid.* Page 87, Section 5.2.6.
[3] See Chapter 4 of the foregoing report for historic record for production facilities and Chapter 6 for pipelines.

** Facilities have been removed, except for offsite pipelines (see Chapter 6). Remediation has been delayed because development permit, which authorizes both remediation and development of a golf course, is under appeal to the Coastal Commission.

This is not to suggest that all operators have not or will not pursue timely abandonment. Several operators have been very efficient in abandoning their facilities upon terminating operations permanently. But we would like everyone to do that and believe we can facilitate that result with performance-based financial guarantees. Nationally, financial assurances are an increasingly common component of environmental regulation, guaranteeing that costs associated with a future performance or liability are borne by the responsible party rather than society, despite bankruptcy, prior corporate dissolution, sheltering of assets overseas, or resistance by the responsible party. California's Surface Mining and Reclamation Act, for instance, requires performance-based financial assurances of applicable mining operations.[4]

Comment No. 5: One speaker suggested that the proposed ordinance creates a lot of costly paperwork because it requires applications for transfer of permits when owners change (rather than just operators).

Summary of Staff's Response: The permits of the subject facilities have a condition that holds all owners and operators jointly and severally liable.

For non-managing owners where more than one entity owns the facility, the ordinance as proposed on August 1st simply requires acknowledgement that a new non-managing part-owner accepts that liability and that all owners are listed in the permit. The ordinance requires new non-managing owners to submit an application with a letter accepting the permit and its liability under the permit as an owner. It is in the County's interest to name all owners and operators on the permit, so as to leave no uncertainty about their joint and several liability and also to avoid having to track them down in the aftermath of a major accident. However, upon the advice of County Counsel, staff has determined that the requirement for a letter explicitly accepting the permit is unnecessary. This issue is discussed further in Appendix C, under Issue 1.

For change of full ownership or managing owners, there are more requirements for transferring the permit, including:

- Payment of all outstanding County-required fees and exactions due for the facility. Although most facility owners or operators pay such fees and exactions timely, the Energy Division does deal with delinquent payments periodically. In these cases, the proposed ordinance reduces costly paperwork for the County by bringing accounts up-to-date.

[4] Most oil producing states require some sort of financial guarantees for abandonment. At the federal level, financial assurances are required under the Oil Pollution Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Outer Continental Shelf Lands Act, the Federal Land Policy and Management Act, and the Surface Mining Control and Reclamation Act. However These applications do not address the facilities subject to the Change of Owner, Operator, Guarantor Ordinance.

- Provision of all required financial guarantees for future liability and performance of timely and proper abandonment. This requirement is moot should such guarantees already be in-place and not diminished in the transfer of ownership. However, the ordinance seeks to reduce social costs by ensuring coverage for future liability and performance. Studies have found that, in practice, financial guarantees are both available and affordable and more cost-effective to smaller companies than having to respond financially to a major oil spill, for example.[5]
- Requirement of acceptance of permit, similar to that for non-managing owners.
- Requirement of a safety audit to divulge the status and condition of the facility to the new owner. SIMQAP audits conducted within the last three years satisfy this requirement. Such disclosure, which is typical of real estate transactions, represents prudent business, and gives the new owner a clear understanding of financial expenditures to bring facilities into compliance with County and State requirements. Such a requirement addresses latent issues such as those encountered by Venoco after it acquired the Ellwood facilities from Mobil.
- Provision to comply with existing requirements. This simply serves to enforce requirements of the permit. There is no costly paperwork associated with this requirement provided that the owner has maintained the facility in compliance with the permit.
- Provision to update specific compliance plans, where applicable, to provide current emergency contact information pertaining to the new owner. Such changes are geared solely to reflect the change in ownership and identify new responsible parties that may need to be contacted in the event of an emergency or other safety situation.

Staff believes that meeting such provisions are either minor or, in the case of financial assurance, are part of the cost of doing business, similar to other types of liability insurance such as automobile insurance.

Comment No. 6: One speaker asked how the County can determine a performance-based financial assurance for abandonment, specifically, remediation of contaminated soils and waters, absent a site assessment.

Summary of Staff's Response: Last fall, the Planning Commission initiated amendments to the General Plan (Coastal Land Use Plan and Land Use Element) and to the County code to promote more timely and proper abandonment of the subject facilities. These initiated amendments included the following recommendation:

"Recommendation 40: Structure the regulatory oversight of decontamination so it is treated routinely as an issue of operations rather than abandonment. The County should undertake the following actions to achieve this goal:

1. Amend appropriate codes to require, where appropriate, testing of soils and water under and around oil and gas facilities that were in operation before 1980. Testing should focus on areas and facilities suspected of having historic waste releases (areas may include those listed in

[5] See, for example, James Boyd. *Financial Assurance Rules and Natural Resource Damage Liability: A Working Marriage?* 2001. Resources for the Future, Washington, D.C. pages 34-39 for discussion of the cost-benefit of financial assurances, comparing the costs of such assurances versus the costs to society absent such assurances.

Table 7-1) and occur in accordance with procedures approved by PSD and RWQCB. Suspect areas, for example, would be under tanks and under pipelines that are not regularly tested to verify their structural integrity. Identifying and characterizing areas at sites that commenced operation with possible contamination as early as possible will allow the appropriate regulatory agency to respond more proactively to waste releases and subsequent migration. However, requirements for testing should consider locations that avoid or minimize risk due to testing in or near an operating facility.

2. Due to greater government-mandated safety requirements, sites that began operations after 1980 are expected to have much less soil and water contamination. Notwithstanding, sites that began operation after 1980 should also be monitored in areas where it is likely that an undetected release could occur.

3. Impose penalties, including fines and termination of operations, if soil and groundwater sampling is not conducted in a reasonable period of time."[6]

The Energy Division is currently processing these amendments through environmental review and will return to the Planning Commission with policy and ordinance language early next year. Staff recommends that the requirement of a site assessment continue to be handled in the foregoing manner. The approach to site assessments recommended above focuses our attention not just on sites with changes of operator or managing owner, but on those sites most likely to be contaminated. Staff plans to draft the requirement for site assessments in a manner that requires owners and operators to disclose any new information regarding site contamination both before and after the site assessment is performed. Accordingly, any new information found by a future, internal site assessment performed by a new or old owner as part of the real estate transaction would be required to be disclosed to the County.

Comment No. 7: One speaker asked for an amendment to the Planning Commission finding that requires a new operator to pass an emergency response plan drill. The amendment would require a follow-up drill to occur some period after the operator has taken control of the facility. This follow-up drill would be unannounced. Further, the Planning Commission's approval of a new operator would remain conditional until the follow-up drill occurs. Failure to pass the follow-up drill could constitute a basis to reverse approval of the new operator.

Summary of Staff's Response: Tom Haug, staff with the County's Office of Emergency Services, fielded this inquiry. He explained that his office shares the concerns for safety expressed by the speaker. He further explained that his office periodically conducts drills and would undertake such a follow-up drill under its current authority; therefore, he saw no need to specify a requirement for a follow-up drill in the ordinance. The new applicant (operator in this case) accepts the permit, and all it's responsibilities and conditions (i.e., drill requirements). He also explained that, in practice, no drill is completely unannounced, although several elements of the drill, such as the particular emergency scenario, may be unannounced. Most of the elements are

[6] County of Santa Barbara, *op. cit.*, 2000, page 140.

unknown to the facility operators. Some type of coordination goes into developing a realistic and effective drill. Drills conducted by OES are not only just a tool to evaluate the operator's knowledge of the Emergency Response Plan, but they are designed to be learning tools for the facility operators and the responding agencies. In some cases this can take numerous drills in a short timeframe. However, each of the participants and the public has benefited from this use of drills.

Comment No. 8: One speaker stated that the County need not worry about financial assurances for timely and proper abandonment, including remediation of contaminated soils and waters, because state law already covers liability. If the most recent operator is not financially solvent, the County can track down previous operators.

Summary of Staff's Response: Financial assurance rules have become a common tool to enforce liability law. While liability alone works in theory, financial assurances provide the necessary guarantees that a facility will be timely and properly abandoned even in the event of bankruptcies, corporate (or company or partnership) dissolution, or sheltering of assets overseas.[7]

Moreover, the County's own experience shows that efforts to hold previous oil operators financially responsible can be very costly to the County. The County expended over $300,000, for example, to get previous oil operators to clean up contaminated soils at Santa Barbara Shores. The County incurred these costs in conducting a site assessment, tracking down previous owners, negotiating clean-up responsibilities of contaminated sites with previous owners, paying for permitting costs associated with clean up that previous oil operators refused to pay, and paying for post-clean up restoration of the site. Financial assurance requirements can foster timely and relatively lost-cost public access to compensation or performance by reducing litigation and administrative costs.[8]

Comment No. 9: One speaker stated that, although the Minerals Management Service (MMS) and California State Lands Commission (SLC) require approval of operators and lessees, they do so as landowner, not regulator.

Summary of Staff's Response: These two agencies serve the dual role of landowner and regulator. Moreover, their role of landowner is one of stewardship of the land under the principles of the public-trust doctrine. Such stewardship, which includes ensuring environmental protection in accordance with applicable laws and regulations, necessarily melds with the role of regulator. Lastly, the MMS and SLC require the financial assurances, safety audits, and new operator testing in accordance with regulation and, therefore, do so as regulators.[9] However, these agencies do not regulate the onshore components of offshore oil and gas projects.

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[7] Boyd, *op. cit.*, page 1.
[8] *Ibid,* page 5.
[9] These regulations were developed to implement laws such as the federal Oil Pollution Act, the federal Outer Continental Shelf Land Act, the federal Clean Water Act, and the California Oil Spill Prevention and Response Act.

Staff is recommending the County follow the stewardship and regulatory example set by the MMS and SLC offshore in the context of applicable onshore oil and gas facilities when owner or operator change. The County certainly performs a regulatory role under its police powers and other statutes when permitting such facilities and enforcing compliance with laws and permit conditions. It also exercises stewardship of the environment in the County. Consequently, the relevance of the dual roles that the MMS and SLC meld together in their oversight of offshore oil and gas development – regulator and steward – is one that supports adoption of the proposed ordinance.

Comment No. 10: One speaker asked if the proposed ordinance seeks to nullify existing permits.

Summary of Staff's Response: The ordinance does not nullify existing permits, but rather provides a necessary tool, fashioned after the tested regulatory practices of the MMS and SLC offshore, to ensure continued financial assurances, safe operations, and compliance with applicable laws and permit conditions. However, the ordinance could lead to denial of a transfer of permit to a new operator if that operator is unqualified; it could lead to denial of a transfer to a new owner should the new owner not provide the required financial assurances, in which case the previous owner remains liable.

Comment No. 11: Some representatives of the oil industry objected to the component of the proposed ordinance that allowed additional conditioning of permits to ensure that the new operator, owner, or guarantor maintains adequate financial guarantees for operations and abandonment.

Summary of Staff's Response: The ability to add conditions to a permit is limited to maintenance of adequate financial guarantees for operations and abandonment. It mirrors the practices of both the Minerals Management Service and California State Lands Commission, which tailor financial guarantees based on the financial strength and operating records of lessees and operators. Additional requirements for financial guarantees are prudent if the new guarantor (including a new owner or operator) does not have the financial strength of the previous guarantor. The current amounts and mechanisms may not be sufficient or appropriate for a new guarantor if the previous guarantor had provided financial guarantees via self-insurance, for example. Therefore, staff recommends that the ability to amend the permit to ensure adequate financial guarantees remain in the ordinance. However, staff recommends clarifying the draft ordinance to limit such amendments to cases where there is a basis in the permit for doing so. [See Attachment C, Issue 3.]

Comment No. 12: Several speakers from the oil industry commented that smaller independent companies, including limited liability corporations or partnerships, are not necessarily less safe or financial weaker than majors.

Summary of Staff's Response: Staff recognizes that many independent oil companies have sufficient experience, assets, and safety records to operate facilities subject to the ordinance. Staff also recognizes, however, that there is no guarantee that any given operator, owner or guarantor automatically has the financial or technical requirements to operate such facilities.

Accordingly, we retain our recommendation for adoption of the proposed ordinance, and again note, this ordinance adapts regulatory processes already in-place for offshore oil and gas projects to apply to onshore components of those projects. Prospective operators with sound records and good experience should not find the ordinance troublesome, but rather should embrace the opportunity to demonstrate their sound qualifications to the community. Similarly, new owners and guarantors with strong financial balance sheets should take requirements of the ordinance in stride and embrace the opportunity to build confidence with the hosting county – items such as safety audits, financial assurances, and compliance with laws and permits are nothing new to their line of work.

Attachment B

Comparison of Proposed Change of Owner or Operator Ordinance Requirements with Practices of State and Federal Agencies and Handling of Recent Energy Division Cases

	Minerals Management	State Lands Comm.	Recent cases processed in Energy Division		Proposed Ordinance
			Point Arguello Project	Ellwood Facilities	
Change of Owner			Change of owner & operator. FDP revision. Denied by P/C. Approved 3/00 on appeal to Board.	Change of owner & operator. Done as ministerial change. Permit does not require SCD or FDP revision.	
Pre-sale facility audit	Yes	Yes	No	No	Yes. Audit within 3 years prior to sale.
Joint & several liability (owners)	Yes	Yes	Yes	Yes	Yes, based on pre-existing permit conditions
Non-managing partners	Approval required. Must be listed on lease. [1]	Approval required. Must be listed on lease.	Listed on permit.	No (N/A?)	Must accept permit. Must be listed on permit
Guarantor (approval of amount and method)	Yes	Yes	Yes	Marine Terminal only (under FROG [2]).	Yes
Change of Operator					
Pre-change facility audit	Yes	Required in some cases.	No	No	Yes. Audit within 3 years prior to sale.
Joint & several liability (operator)	Yes.	Yes	Yes	Yes	Yes
Cross training	Yes [3]	No [4]	Not required, but did occur.	Not required, but did occur.	Yes, where feasible
Pre-change emergency drills	Yes [3]	No [4]	Not required, but did occur.	No	Yes
Check safety & compliance records	Yes – 5 years	Yes – as available	Included in staff report	No	Yes – 7 years
Change of either Owner or Operator					
Applicability	OCS, state waters seaward of coastline & certain inland. Worst case spill >1000 bbl.	Marine waters of state (tidally influenced).	Point Arguello Project	Ellwood Marine Terminal, onshore processing facilities.	Onshore facilities in unincorporated S.B. 1. facilities supporting offshore oil/gas 2. refineries
Financial responsibility -- oil spill	Provided by lessee, operator, or 3rd party. Up to $150 million, depending on worst case spill potential.	Provided by lessee, operator, or 3rd party. OSPR administers. Up to $300 million, depending on worst case spill potential.	$260 million general liability insurance provided by operator.	$250 million for marine terminal required by FROG. No coverage for onshore processing facilities.	Yes, as required by permits or laws. May add permit conditions to assure adequate guarantees. [5]
Financial responsibility -- abandonment	Lessees provide "supplemental bonds." Amount discretionary, based on projected cost, operator safety & compliance track record, and financial soundness.	Lessees provide "structure bonds" & "performance bonds." Amount discretionary, based on projected cost, operator safety & compliance track record, and financial soundness.	Bond to be required immediately following permanent shut down of the facilities.	No bond required.	Yes, as required by permits or laws. [5]

1. Record title interest owners are jointly and severally liable and must be listed on the permit. Companies with an "operating right interest" in a lease and that are not jointly and severally liable are not necessarily listed on the lease.

2. S. B. County Code, Chapter 25A, *Evidence of Financial Responsibility to Clean Up Oil Spills* (Guidelines).

3. MMS requires facility inspections, cross training of new operator with departing operator, and rigorous drills prior to a change of operator. Drills include full facility shut down and restart to demonstrate operator competence.

4. SLC inspects facilities regularly and is on site monthly or more frequently monitoring operation. However, they have no special drills or cross training requirements in connection with change of operator.

5. Some permits contain conditions requiring financial responsibility or abandonment bonds. The proposed ordinance allows permit conditions to be added to ensure adequate financial responsibility. The proposed ordinance also looks forward to future adoption of financial responsibility and abandonment ordinances that will specify procedures and standards. In response to oil industry concerns that the financial assurance requirements are not specified in the Change of Owner/Operator ordinance, we will propose a separate interim ordinance specifying minimum requirements, to serve until financial responsibility and abandonment ordinances take effect.

Attachment C

Summary of Outstanding Issues

The draft ordinance went through many revisions in response to feedback from many sources, oil industry representatives in particular. In some cases, staff agreed outright with revisions recommended by the industry because we believe those revision made good sense and enhanced the draft ordinance. In other cases, staff believes the two parties reached a compromise. Staff has identified four substantive issues with the proposed ordinance that remain outstanding. These issues are summarized below, followed by a brief overview of earlier issues that have been resolved.

Unresolved issues

Staff understands the oil industry's principal outstanding concerns about the proposed ordinance have been reflected in the testimony presented during the August 1 Planning Commission hearing. These issues include:

- Operator of the facility versus owner or guarantor of the facility,
- Unknown financial responsibility definitions and procedures,
- Total permit condition re-opener provision, and
- Severe unnecessary penalties

Issue 1: Operator versus owner

SUMMARY OF ISSUE: One of WSPA's major contentions with the proposed ordinance rests with a requirement to obtain approval to transfer a permit when changes of owner or guarantor occur, rather than just the operator of the applicable facilities. WSPA's written testimony states that the operator is responsible both to the owners and to the County; therefore, the County should not be concerned about changes of owner or guarantor.[10] The critical issues identified in this proposed ordinance (safe operations, financial responsibility for oil spills and accidents, adequate financial responsibility for abandonment, and full compliance with County permits and law) can be addressed adequately through the operator of the facility, according to WPSA and Santa Barbara Region Chamber of Commerce.[11]

STAFF'S RESPONSE: First, the distinction between owners and operators is not as clear-cut as WSPA maintains. In some cases, the owner (or a subsidiary) is the operator. Where the owner is not the operator, a permit may be issued to either owner or operator, not necessarily to the operator. For example, Gaviota Terminal is owned by the partnership Gaviota Terminal Company (GTC), which is the permit holder. Equilon Pipeline Company, managing partner of GTC, is the operator. An application has been submitted for Arguello, Inc. to become operator, but the permit will remain with GTC. Furthermore, even where the permit is held by the operator

[10] Oral testimony of Mr. Frank Holmes, Coastal Coordinator for WSPA, is slightly inconsistent with his written testimony on this point. His oral testimony appears to clarify that, in most cases rather than all cases, the operator of the facility takes responsible on behalf of the owners to ensure compliance with permits and adequate financial responsibility. In a few cases, the owner provides the financial guarantees.

[11] In its written comments, the regional chamber opposes the ordinance for other reasons, but states that, should the County pursue such an ordinance, it should focus solely on the operator.

of record, the owner may actually be operating the facilities. An example is the Las Flores Canyon Gas Plant. The permit is in the name of POPCO, former owner and operator, which Exxon Mobil maintains is still operator. However, there is compelling evidence that the facility is now actually operated by ExxonMobil Pipeline Co. Another example of the blurring of the distinction between owner and operator example is Tosco's Unocap pipeline. Tosco owns Unocap as its parent company, and is the permit holder and actual operator of the pipeline, but the operator of record is Unocap. From these and other examples, it is apparent that if the County were to limit permits strictly to facility operators, the person that actually runs a facility would escape County oversight and enforcement under the permit in some cases.

Second, the owner and guarantor requirements under the proposed ordinance are not an attempt to control transfer of facility ownership. Consider the four provisions that pertain to change of owner or guarantor. The first three involve relatively minor changes handled by the Director.

a) For mergers and changes of form of business organization, the findings require that County fees are paid, that any required financial assurances are in place, and that the new owner agree to accept the permit. If the accounts with the County are up to date and the ownership change does not affect financial assurances, then the findings reduce to a single requirement, that is the owner agrees to accept the permit (and in doing so, agrees to joint and several liability under the permit). Thus, if financial assurances are provided by the operator (as WSPA indicates is appropriate) or a third party guarantor, then the change of owner process can be nearly ministerial, requiring a permit acceptance letter and listing of the new owner on the permit.
b) For change of guarantor, the only findings are to assure that financial assurances are in place. If the operator were to provide these assurances, the permit process reduces to listing the guarantor on the permit, attesting to the applicable guarantees.
c) For change of non-managing owner, the only finding is that a new part-owner accept the permit and be listed on the permit. If the modification to the ordinance recommended below is adopted, then new non-managing partners need only submit an application and be listed on the permit. (See p.16, top.)
d) For major changes in ownership or change of the managing partner of a partnership that owns the facility, under Planning Commission jurisdiction, three additional findings are required, beyond those required under (a) above. These findings relate to responsibilities of the managing owner for a facility (see 7/19/01 Staff Report, p. 20). The requirements in no sense discriminate against a new owner or obstruct a sale, and we have not heard any industry objections to these findings as presently worded.

One provision in the proposed ordinance that could potentially affect an ownership change is a clause that allows additional permit conditions to be added to assure adequate financial guarantees. This provision is discussed below in the staff response to WSPA's third issue.

Third, the County has a legitimate interest in requiring that all owners and operators of a facility be named on the permit. All owners, including part-owners, and operators are liable for oil spills and site contamination damages. Naming all parties may strengthen the County's hand in future pollution lawsuits. Should it be necessary to collect damages following a major accident, it is prudent for the County to have ready access to all owners, particularly since when it comes collection time some owners may be found without accessible assets. The requirement to submit an application and be listed on the permit should not discourage potential buyers, unless they

were previously unaware of their legal exposure as owners of an oil facility, or they believe their exposure is less if they are not named on the permit. Furthermore, because the distinction between owners and operators is blurry (the operator on the permit may not be the actual operator, as explained above), it is important to name all participants.

The above notwithstanding, staff appreciates industry's concern that the permit acceptance letter could place a burden, in the form of legal fees, on part-owners who have no direct involvement with a project, other than to have an ownership interest. Upon further consideration and advice from County Counsel, staff has determined that the requirement for a letter explicitly agreeing to the permit is not necessary to assure that a part-owner is jointly and severally liable under the permit. At this time, staff recommends modification of the ordinance, deleting the requirement for the permit acceptance letter. [See Attachment F, Sections 25B-4(2), 25B-6(6)(a)(3) and 25B-9(4).] This change would not affect the requirement that new part-owners must submit an application and be listed on the permit.

Fourth, although the role of the County is not identical with that of MMS and State Lands Commission, it is wrong to cast the roles as fundamentally different. MMS is a landowner, true, but as such it is charged with stewardship of the public lands. Part of MMS' role is to assure safe operation of platforms and protect the environment. Similarly, it is Santa Barbara County's charge to safeguard public safety and the environment. MMS names owners and part owners on leases, in part to make explicit their joint and several liability. Likewise, the proposed ordinance requires permit acceptance and listing. Under MMS and SLC rules, it is the lessees, not the operator, that are ultimately responsible for a facility and it's abandonment, although financial assurances may be provided by any qualified person, including lessee, operator, or third party guarantor. The proposed ordinance provides flexibility regarding who must provide assurances.

Finally, at core here is that by including owners on a permit the County is simply asking owners to understand and accept the very permit that allows them to conduct business in the County. Surely, public expectation is that oil companies doing business in the County based on County permits should at least be named on them as a matter of public record.

Issue 2: Unknown financial responsibility definitions and procedures

SUMMARY OF ISSUE: Another of WSPA's major contentions lies with undefined requirements for financial guarantees. WSPA notes that:

> *"... various oil and gas facilities have had operator changes over the past several years that have resulted in long and expensive County processes that revolved around the financial assurances. The current proposed ordinance does not remedy this core issue of how the level of financial assurance is determined and what financial assurance mechanisms are acceptable. ... If the County feels it necessary to have an ordinance with a stated purpose of assuring* "adequate financial responsibility," *then the ordinance should provide the clear mechanisms to comply with the requirement."*

STAFF'S RESPONSE: WSPA is correct in noting that determining the amount of financial assurances on a case-by-case basis, as changes of operator or owner occur, often results in prolonged negotiations between the County and the responsible parties. However, this difficulty

is by no means unique to Santa Barbara County. Relevant literature on the subject and current practices nationwide show the processes for determining financial guarantees in amounts adequate to cover the costs of clean-up and damages to natural resources to be contentious unless the amount of the liability itself is legislatively limited.[12] Experience also instructs us that the processes of clean-up of contamination and of assessing damage to natural resources are long and controversial (e.g., Exxon's Valdez incident, Casmalia Class I hazardous land fill, Torch's Point Pedernales oil spill). Such controversy holds true even after an event such as a major oil spill has occurred, let alone the task of projecting the costs of future liability from a potential event. It reflects a desire on part of owners to limit liability and a desire on part of government to ensure that financial responsibility for full clean-up and payment of damages falls to the owners and not the public.

As stated during the August 1st hearing, the County is currently seeking funds to draft a Financial Responsibility Ordinance that would address liability-based financial guarantees for potential damages to natural resources from events such as a major oil spill or chronic leakage of oil. Staff is also processing amendments to the Comprehensive Plan and related ordinances that, among other issues related to abandonment of oil and gas facilities, will recommend procedures for determining performance-based financial guarantees for abandonment, including remediation.

In the interim, staff had assumed the current case-by-case method for determining the amounts and methods of financial assurances would continue, utilizing the permit reopener provisions. The issue of unspecified financial responsibility had not been raised by industry in any of the meetings or public workshops. In fact, neither the Financial Guarantees nor the Abandonment findings [Sections 25B-9(1-3) and 25B-10(1-2)] impose any unspecified financial requirements. The findings simply require that financial responsibility and abandonment provisions in permits and ordinances are adhered to following changes of owner, operator, or guarantor. On the other hand, the reopener provisions [Sections 25B-9(5) and 25B-10(3)] do allow the Director or Planning Commission to add financial responsibility requirements. Industry has consistently opposed any permit reopener conditions. If the ordinance were adopted unchanged, the current practice of setting financial responsibility requirements, on a case by case basis, would continue until a financial responsibility ordinance is adopted.

If definite financial responsibility standards (or interim standards) were available, the permit reopener clause would be less crucial. Subsequent to the August 1st hearing, staff evaluated the possibility of drafting interim standards, patterned after the financial responsibility regulations of the State of Alaska. We concluded this approach would be inadvisable, because the time required to prepare the standards and conduct public hearings would result in excessive delays in adoption of the Change of Owner/Operator ordinance. The task of developing standards is complex, involving first, development of a method to evaluate the potential costs of onshore spills, and second, reevaluation of financial responsibility instruments to determine which are acceptable and realistically within the County's expertise to administer. Staff does not at present believe that the guidelines in Chapter 25A (financial responsibility for marine terminals) offer a model

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[12] See, for example, James Boyd. *Financial Assurance Rules and Natural Resource Damage Liability: A working Marriage?* (Washington, D.C.: Resources for the Future, 2001). Pages 30-32. The Minerals Management Service reports that negotiations with proposed new offshore operators about adequate amounts of financial assurances for decommissioning of offshore facilities can take as along as 18 months. The State of Alaska's financial assurances for the same types of facilities addressed in the proposed ordinance evolved over 3 decades that included litigation by the oil industry.

suitable for onshore facilities. Formulation of sound standards is best left for the financial responsibility and abandonment ordinances.

Issue 3: Permit Condition Re-opener

SUMMARY OF ISSUE: WSPA objects to a provision that allows the Director or Planning Commission to impose additional conditions on a permit in order to ensure that the new owner, operator, or other guarantor maintains adequate financial guarantees for operations and abandonment.[13]

STAFF'S RESPONSE: The intent of this re-opener is to augment financial assurances where a new owner or operator may not have the financial wherewithal to cover the costs of spills or abandonment. The augmentation may address either the type of assurances provided or the amount of assurances. The ability to reevaluate financial assurances would be especially important if an under-capitalized firm were to purchase a facility from one of the majors or large independents. For example, an existing permit may allow the current owner to provide financial assurances via self-insurance, since original owners most often were large, vertically integrated corporations. A new owner may not have sufficient net worth to cover its liability through self-insurance. Therefore, the ordinance provides the decision-maker with discretion to require another, more secure instrument of financial assurance, such as commercial insurance or bond.

Staff believes that the vagueness of the financial responsibility reopener needs to be addressed. As discussed in the previous section, staff does not recommend rushing to develop standards, in view of the complexities involved. Nor do we believe it is constructive to postpone going forward with this ordinance, since that approach would do nothing to address the acknowledged need for definite financial responsibility standards and would lead to further delays in processing pending applications.

An alternative course, and the one we recommend, is to clarify the wording of the reopener sections of the proposed ordinance so as to limit the imposition of permit conditions. [See Attachment F, Sections 25B-9(5), 25B-10(3).] Under the revised wording, permit conditions could be added to ensure that the new owner, operator, temporary operator, or other guarantor "maintains any insurance or other financial guarantees that were submitted to and relied on by the Director as a basis to make any finding required by this Chapter." This language would not open permits up for negotiation of financial responsibility, except in cases where a permit already contains the basis for doing so. Under present practice, conditions may be added to adjust financial assurance requirements in cases where there is a change in the underlying assumptions of the project resulting from an owner or operator change, provided there is a condition in the permit that allows additional conditioning for changes of project description. Most permits contain such a provision. With the revised language, the reopener capability would be limited to that which already exists in practice.

Staff also recommends addition of a new provision to help assure that financial responsibility for abandonment is maintained following changes of owner or operator. [See Attachment F, Section

[13] WSPA's testimony incorrectly characterized this provision as one that allows re-opening of all existing conditions of a permit; however, the provision is limited to imposing new conditions to ensure maintenance of adequate financial assurances (see sections 25B-9(5) and 25B-10(3) of the proposed ordinance)..

suitable for onshore facilities. Formulation of sound standards is best left for the financial responsibility and abandonment ordinances.

Issue 3: Permit Condition Re-opener

SUMMARY OF ISSUE: WSPA objects to a provision that allows the Director or Planning Commission to impose additional conditions on a permit in order to ensure that the new owner, operator, or other guarantor maintains adequate financial guarantees for operations and abandonment.[13]

STAFF'S RESPONSE: The intent of this re-opener is to augment financial assurances where a new owner or operator may not have the financial wherewithal to cover the costs of spills or abandonment. The augmentation may address either the type of assurances provided or the amount of assurances. The ability to reevaluate financial assurances would be especially important if an under-capitalized firm were to purchase a facility from one of the majors or large independents. For example, an existing permit may allow the current owner to provide financial assurances via self-insurance, since original owners most often were large, vertically integrated corporations. A new owner may not have sufficient net worth to cover its liability through self-insurance. Therefore, the ordinance provides the decision-maker with discretion to require another, more secure instrument of financial assurance, such as commercial insurance or bond.

Staff believes that the vagueness of the financial responsibility reopener needs to be addressed. As discussed in the previous section, staff does not recommend rushing to develop standards, in view of the complexities involved. Nor do we believe it is constructive to postpone going forward with this ordinance, since that approach would do nothing to address the acknowledged need for definite financial responsibility standards and would lead to further delays in processing pending applications.

An alternative course, and the one we recommend, is to clarify the wording of the reopener sections of the proposed ordinance so as to limit the imposition of permit conditions. [See Attachment F, Sections 25B-9(5), 25B-10(3).] Under the revised wording, permit conditions could be added to ensure that the new owner, operator, temporary operator, or other guarantor "maintains any insurance or other financial guarantees that were submitted to and relied on by the Director as a basis to make any finding required by this Chapter." This language would not open permits up for negotiation of financial responsibility, except in cases where a permit already contains the basis for doing so. Under present practice, conditions may be added to adjust financial assurance requirements in cases where there is a change in the underlying assumptions of the project resulting from an owner or operator change, provided there is a condition in the permit that allows additional conditioning for changes of project description. Most permits contain such a provision. With the revised language, the reopener capability would be limited to that which already exists in practice.

Staff also recommends addition of a new provision to help assure that financial responsibility for abandonment is maintained following changes of owner or operator. [See Attachment F, Section

[13] WSPA's testimony incorrectly characterized this provision as one that allows re-opening of all existing conditions of a permit; however, the provision is limited to imposing new conditions to ensure maintenance of adequate financial assurances (see sections 25B-9(5) and 25B-10(3) of the proposed ordinance)..

25B-4(9).] The provision requires that the previous owners and operators remain liable for proper abandonment of the facility if the new owner and operator do not have adequate financial resources. This requirement parallels a California law applying to onshore oil wells [Public Resource Code 3237(c)]. It also reflects the practice of MMS and State Lands Commission, which often require previous offshore operators to remain responsible for abandonment costs.

Issue 4: Severe and unnecessary penalties

SUMMARY OF ISSUE: WSPA contends that the civil, criminal, and injunctive penalties are too severe because, for instance, jail time and $25,000 per day in fines could be levied for a missed filing deadline. WSPA further contends that the mere requirement of County approval for any change of operator is sufficient to ensure compliance.

STAFF RESPONSE: Staff reiterates its recommendation that the ordinance provide a mechanism for enforcement, otherwise the County would have no defined recourse to address violations to the ordinance. For instance, what recourse would the County have without imposition of penalties if the operator of an applicable facility changed operators without receiving county approval? WSPA's explanation – that the mere requirement of obtaining County approval is sufficient –does not enforce compliance in itself. The penalties described in Section 25B-13 address cases of non-compliance just as traffic fines address cases of non-compliance with the California Vehicle Code. Section 25B-13 also provides an economic incentive for compliance with the ordinance.

Issues Resolved by Compromise

In a number of instances, staff believes we found a middle ground that partially answers industry's objections. For example:

a) In response to a comment that the application contents were vague, a section was added specifying the required application contents, but a provision was included to allow the Director to require supplementary information, if needed.
b) In response to industry's request that non-managing part-owners not be required to submit applications or be listed on the permit, we simplified the application requirements so that part-owners have only to agree to accept the permit, a process requiring but a single brief letter.
c) Industry expressed two concerns about the requirement for review of an incoming operator's safety and compliance records, namely, the absence of hard and fast standards of past operating performance, and how to qualify a new operator that lacks the requisite track record. In staff's opinion, based in part on discussions with Minerals Management Service and State Commission, a fair evaluation of operating records can only be done on a be case by case basis; evaluation of diverse records is not amenable to fixed standards, which preclude the use of judgement as well as consideration of all the relevant facts. However, we added to the ordinance a list of source agencies for operator records, in order to help ensure that operating record evaluation is based on objective source data. Also, we added a provision that enables a new operator that lacks a 7-year record to qualify. (This provision contrasts with the MMS rule requiring OCS platform operators to have 5 years of satisfactory operating record.)

Industry Suggestions Integrated as Points Well Taken

Many issues concerning specific wording or practical workability in previous drafts were rectified by means of clarifications of language, rethinking of procedures, and deletions of unnecessary or unworkable provisions. Some examples include:

a) deletion of the requirement for site contamination assessments, which we agreed was more appropriately addressed in the forthcoming Abandonment Ordinance;
b) clarification of the applicability section, limiting applicability of the ordinance to unincorporated areas of the County;
c) redesign of the application process, including addition of a requirement for the Director to determine application completeness within 30 days of receiving an application for change of owner; and
d) spelling out how the process prescribed in the ordinance interfaces with the permit process under the Zoning Ordinance.

Attachment D

Response to Comments from Chambers of Commerce

The Planning Commission received written testimony from the Santa Barbara Region Chamber of Commerce, and the Santa Maria Valley Chamber of Commerce & Visitor & Convention Bureau. It also received oral testimony from the Goleta Valley Chamber of Commerce (Mr. Bob Poole), and the Santa Maria Valley Economic Development Association (Mr. Bill Snow). At the request of Commissioner Oberdeck, staff has summarized the issues raised in this testimony and provided a response.

Of the six issues summarized below, the first four repeat the four issues raised by the Western States Petroleum Association (WSPA). The final two issues summarized below (5 & 6) appear to represent misunderstanding of the ordinance as proposed.

Comment 1: Operator of the facility versus the owner or guarantor of the facility

SUMMARY OF ISSUE: As noted in Attachment C, one of WSPA's major contentions with the proposed ordinance rests with a requirement to obtain approval to transfer a permit when changes of owner or guarantor occur, rather than just the operator of the applicable facilities. WSPA's written testimony states that the operator is responsible both to the owners and to the County; therefore, the County should not be concerned about changes of owner or guarantor.[14] The critical issues identified in this proposed ordinance (safe operations, financial responsibility for oil spills and accidents, adequate financial responsibility for abandonment, and full compliance with County permits and law) can be addressed adequately through the operator of the facility, according to WPSA and Santa Barbara Region Chamber of Commerce.[15]

STAFF'S RESPONSE: Please refer to the staff's response to Issue 1 on page 14.

Comment 2: Unknown Financial Responsibility Definitions and Procedures

SUMMARY OF ISSUE: Another of WSPA's major contentions lies with undefined requirements for financial guarantees. WSPA notes that:

> *"... various oil and gas facilities have had operator changes over the past several years that have resulted in long and expensive County processes that revolved around the financial assurances. The current proposed ordinance does not remedy this core issue of how the level of financial assurance is determined and what financial assurance mechanisms are acceptable. ... If the County feels it necessary to have an ordinance with a stated purpose of assuring* "adequate financial responsibility," *then the ordinance should provide the clear mechanisms to comply with the requirement."*

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[14] Oral testimony of Mr. Frank Holmes, Coastal Coordinator for WSPA, clarifies that, in most cases rather than all cases, the operator of the facility takes responsible on behalf of the owners to ensure compliance with permits and adequate financial responsibility. In a few cases, the owner provides the financial guarantees.

[15] In its written comments, the regional chamber opposes the ordinance for other reasons, but states that, should the County pursue such an ordinance, it should focus solely on the operator.

The Santa Barbara Region Chamber of Commerce, Goleta Valley Chamber of Commerce, and Santa Maria Valley Chamber of Commerce repeated this concern.

STAFF'S RESPONSE: Please refer to the staff's response to Issue 2 on page 16.

Comment 3: Permit Re-Opener

SUMMARY OF ISSUE: WSPA objects to a provision that allows the Director or Planning Commission to impose additional conditions on a permit in order to ensure that the new owner, operator, or other guarantor maintains adequate financial guarantees for operations and abandonment.[16] The Goleta Valley Chamber of Commerce and the Santa Maria Valley Economic Development Association repeated this objection.

STAFF'S RESPONSE: Please refer to staff's response to Issue 3 on page 18.

Comment 4: Severe and unnecessary penalties

SUMMARY OF ISSUE: WSPA contends that the civil, criminal, and injunctive penalties are too severe because, for instance, jail time and $25,000 per day in fines could be levied for a missed filing deadline. WSPA further contends that any penalty is unnecessary; the County simply needs to require its approval of a new operator via the ordinance. The Santa Maria Valley Chamber of Commerce appeared to repeat this contention, while the Santa Barbara Region Chamber of Commerce expressed concern that the penalties were not defined.

STAFF RESPONSE:

(a) Purpose of the enforcement provision. Staff reiterates its recommendation that the ordinance provide a mechanism for enforcement, otherwise the County would have no defined recourse to address violations to the ordinance. For instance, what recourse would the County have without imposition of penalties if the operator of an applicable facility changed operators without receiving county approval? WSPA's explanation – that the mere requirement of obtaining County approval is sufficient –does not enforce compliance in itself. The penalties described in Section 25B-13 address cases of non-compliance just as traffic fines address cases of non-compliance with the California Vehicle Code. Section 25B-13 also provides an economic incentive for compliance with the ordinance.

(b) Discretionary versus arbitrary penalties. The penalties proposed in Section 25B-13 mirror those found in the County's zoning ordinances.[17] In so doing, Section 25B-13 sets maximum civil and criminal penalties and leaves the setting of specific penalties to the discretion of the court, which would do so in an amount that is based on case-specific facts and extent of the

[16] WSPA's testimony mistakenly represented this provision as one that allows re-opening of all existing conditions of a permit; however, the provision is limited to imposing new conditions to ensure maintenance of adequate financial assurances (see sections 25B-9(5) and 25B-10(3) of the proposed ordinance)..

[17] See Sections 35-185.4 and 35-330.4 of Article II (Coastal Zoning Ordinance) and Article III (Inland Zoning) of the Santa Barbara County Code.

offense. Far from being arbitrary, such practice represents the common exercise of discretion in the legal system of the United States to allow for consideration of case-specific factors.

The example provided by WSPA, a $25,000 per day fine plus jail time for merely missing a filing deadline, is unrealistic. In this example, WSPA has chosen a minor violation and implied that a judge would impose the maximum penalty defined in the ordinance. This example does not reflect actual judicial practice.

The underlying issue here essentially, is whether the determination of penalties should be a fully ministerial process or a discretionary process with maximum limits prescribed in advance. A fully ministerial process is ideal for instances where the type and permutations of violations are straight-forward, regardless of case-specific factors. In applications such as ensuring compliance with the proposed ordinance, the importance of case-specific factors make a discretionary process with prescribed maximum limits more appropriate.

Comment 5: Double Regulation

SUMMARY OF ISSUE: The Santa Barbara Region Chamber of Commerce and the Santa Maria Valley Chamber of Commerce suggest that the ordinance is unnecessary because it establishes double regulations on a industry that is already heavily, and adequately, regulated.

STAFF RESPONSE: As noted in the staff report, the transfer of ownership, operator, or guarantor for the offshore components of oil and gas projects is regulated by the Minerals Management Service and State Lands Commission. The transfer of ownership, operator, or guarantor for the onshore components is currently regulated only through permit conditions, and only for facilities that have such conditions (compare, for example, the differences in change of operator/owner processes for the Point Arguello and Ellwood facilities as summarized in Attachment B). Moreover, these permit conditions vary considerably. Please see staff's response to comment number 3, which appears on page 3 of this memorandum.

We believe it is prudent to ensure that:

- new operators are capable of operating the facility safely and in compliance with those conditions,
- new owners understand all safety upgrades required of a facility they desire to purchase,
- new owners, operators, or guarantors understand and can assume their liability and required financial assurances for a facility,
- transfers of permits proceed only after all outstanding fees and exactions are paid,
- transfers of permits proceed with agreements to come into compliance with current laws and permit conditions, and
- new owners and operators accept the permit.

None of these items is duplicated by other laws or regulations. Moreover, Section 25B-5 of the ordinance explicitly establishes that the procedures of the proposed ordinance supercede other procedures in the zoning ordinances and specific permits to eliminate any procedural duplication or conflict.

Comment 6: Ownership of private business

SUMMARY OF ISSUE: Testimony from the Santa Barbara Region Chamber of Commerce and the Santa Maria Valley Economic Development Association raised concerns that the ordinance might be an attempt to regulate the ownership of private business.

STAFF RESPONSE: The ordinance seeks to ensure that the obligations of the discretionary permits that go with ownership of the subject facilities are fulfilled. The County issued these permits with the understanding that the subject facilities would be operated safely and in compliance with applicable law and permit conditions. These permits were also issued with the understanding that the County would monitor and enforce the permit requirements and applicable regulations. The proposed ordinance fills a gap by ensuring that any transfer of owner, operator, or guarantor meets the obligations of the very permits that allow the subject facilities to operate in the first place. New owners willing to fulfill such pre-existing obligations and operators with sufficient experience (supported by good safety and compliance records) to manage the day-to-day operations of subject facilities safely should not find or encounter any substantial burden in complying with the ordinance.

Attachment E

Clarifications of Proposed Ordinance for Change of Owner/Operator in Response to Planning Commission Questions

Comment 1: Rationale for bifurcation of cases between Director and Planning Commission

Staff's intention in creating two approval paths is to route the more substantive cases to the Planning Commission and less substantive, more administrative cases to the Director.

We anticipate a continuum of change of owner/operator cases, ranging from minor, administrative cases, such as a merger of a facility owner with another company, to a full facility sale involving changes of both owner and operator. In past practice, cases involving major changes of owner or operator have been brought before the Planning Commission, where the Zoning Ordinance and permits have allowed. This process is appropriate, because such changes potentially raise public safety and environmental concerns. These types of changes may also raise controversy, and should be presented in a public hearing. Examples include the Chevron's sale of its share of the Point Arguello Project to Plains/Arguello, Inc. and Unocal's sale of the Point Pedernales Project to Torch. On the other hand, in staff's view, cases that are routine and administrative in nature, involving relatively minor changes of ownership that are not likely to be controversial, would put an unnecessary burden on the Commission, and can be well handled at the Director level. Consider the recent merger of Exxon with Mobil to form Exxon Mobil Corp. This change of owner and operator will have no effect on operations, and will only increase the company's financial strength and ability to respond to accidents. Should such changes require a Planning Commission hearing? We believe not, particularly since a Director's decision is appealable to the Planning Commission.

In principle it makes good sense to partition change of owner/operator cases into administrative and substantive classes to guide case processing, but what criteria can be used for the bifurcation? Two underlying premises have steered us to recommend the criteria that appear in the proposed ordinance [Sec. 25B-8]. First, ownership changes that involve replacement of the existing owner with a new owner should be heard by the Planning Commission. In such cases, control and responsibility for a project passes to a new entity without continuity. Major changes in management and personnel are likely. The new owner's philosophy and culture may be different from the existing owner's, and this may affect permit compliance and influence operations for better or worse. Also, a change of owner is usually accompanied by a change of operator. Where a partnership owns the facility, replacement of the managing partner has similar potential effect as replacement of a facility owner. Second, a change of the operator who has day-to-day control of facility operations needs public airing at the Planning Commission level, due to potential concerns about the capability of the new operator to operate the facility safely. Thus, as the proposed ordinance is written, all cases where there is likelihood of discontinuity in ownership, managing partner, or operator are directed to the Planning Commission [Sec. 25B-8(2)].

Changes of owner or operator to be handled by the Director [Sec. 25B-8(1)] would rarely entail major disruption or discontinuity as described above. The merger of an owner or operator with another company implies a continuing involvement of the existing owner or operator. The company's culture and personnel can be expected to undergo much less change than would occur if a new owner or operator replaced a current one. In many cases, there will be no changes in management style or personnel. Similarly, conversion from a corporation to a limited liability company may involve no tangible changes. The County's primary concerns in all such cases are to assure continuing financial responsibility for operations, accidents and spills, and facility abandonment, and to ensure that the new parties agree to accept responsibility under the permit. Change of a guarantor requires only establishing that the new guarantor provides sound financial guarantees. Though these cases require analysis and discretionary judgement, they are relatively cut-and-dried compared to the cases the proposed ordinance routes to the Planning Commission. These cases listed in Sec. 25B-8(1) are unlikely to give rise to controversy and can reasonably be handled by the Director.

Comment 2: Rationale for Director-Approval of Temporary Operator

As discussed in the Staff Report (p.18), the provision for a Director-approved temporary operator is intended as a safety valve to be invoked under special circumstances to facilitate temporary replacement of a poor operator with an acceptable one. The provision was included because of staff's concern that the more demanding and potentially lengthy review required for change of operator [Sec. 25B-10(2)] might impede an owner from replacing an unsatisfactory operator even where both the owner and County agree that the operator should be replaced immediately. The provision gives the Director discretionary power to approve an operator for six months, during which the temporary operator (or another operator) would seek approval for permanent operator status.

One Commissioner asked if this discretion could be abused. Two protections are included in the approval of a temporary operator. First, to make the *Operator Capability* finding [Sec. 25B-9(3)(c)], the Director must have factual basis, albeit of an unspecified nature, that the proposed temporary operator has the necessary skills and training for safe operation. This includes "good working knowledge of the crucial compliance plans listed..." Second, the Director's decision may be appealed to the Planning Commission, and most likely would be appealed if the Director approved an operator with a poor safety record. In the judgement of staff, although the temporary operator provision carries some risk of abuse, the possible consequences of not including such a safety mechanism are more serious.

A question was raised as to how the process of approving a temporary operator would occur in practice. In determining a temporary operator's capability, the Director has latitude to work with the applicant, discuss and agree on how the change will take place, arrange for emergency drills, etc., as the circumstances may demand. After making the required findings [Sec. 25B-9(3)], the Director would approve the application, as stipulated under Processing [Sec. 25B-8(c)]. The process requires noticing, but no hearing, and is modeled after the process for a Director's Amendment (see County Code, Sec. 35-317.10(2)(c)).

Comment 3: Rationale for Approval of Non-Managing Partner

While replacement of the managing partner of a partnership that owns a facility would go to the Planning Commission under the bifurcation rules, addition or deletion of a non-managing partner or similar part-owner of a facility is included under the Director's path. Many oil and gas projects include multiple part-owners who play no active role in the project. Under the proposed ordinance, those part-owners who are not guarantors for a facility and are not managing partners need only agree to accept the permit and be listed on the permit. If the modification to the ordinance recommended under Issue 1 of Attachment C is adopted, then non-managing part-owners will only need to submit an application and be listed on the permit. Similarly, the Minerals Management Service and State Lands Commission require all part-owners to be listed on offshore leases. In view of the fact that these part-owners neither provide financial guarantees nor manage the partnership, staff believes a more burdensome process is not warranted. Industry may argue that even these minimal requirements are excessive, first, because all part-owners are already liable under state and federal laws, and second, because such a provision will impair the ability to sell an ownership interest. However, County Counsel maintains that if such part-owners are listed on the permit, the County's hand will be strengthened should a lawsuit arise over oil spills, abandonment, or site contamination. It is also in the public interest to assure that new owners are fully cognizant of the liability they assume in buying into an oil and gas project.

One possible concern about the abbreviated process for approving part-owners is the possibility that an owner could purchase a large percentage ownership share in a project and exercise control without being designated as managing partner. If a part-owner were in fact to assume management functions, that company would be considered a managing partner, and as such would be required to apply for a change of owner through the Planning Commission approval route. If they engaged surreptitiously in managing the project, that would constitute a violation of the ordinance, subject to its enforcement provisions. Staff believes there is little cause for concern in such cases, because all owners and part-owners are jointly and severally liable under the permit..

Comment 4: Changes in Percentage Ownership Among Existing Owners

If a part owner is added or deleted from a project, the Director handles the change, as discussed above. Under either a general partnership or joint operating agreement (which is a kind of quasi-partnership common in the oil and gas industry), ownership share of the partners may change. Such a change of percentage share in project ownership is exempted from the ordinance, except where the change entails addition or deletion of a part-owner or affects financial guarantees [Sec. 25B-2(2)(b)]. The reason is that nowhere in the ordinance does percentage ownership come into play. An owner is either on the permit or not, and whether they own 1% or 51% interest makes no difference. What does make a difference, in terms of the approval process, is whether an owner has management authority and whether they provide financial guarantees. Hence, if a part-owner buys part an additional interest and becomes 60% owner, the key question the Director would ask is "Have they become the managing partner?" If so, an application for change of owner/managing partner would be required, and the application would be under the Planning Commission approval path. If the percentage change were in some way to impact financial

responsibility guarantees, an application for change of guarantor would be required under the Director's approval path. Ongoing notification of any such changes is required, whether or not the change necessitates a change of owner application [Sec. 25B-4(4)]. The notification requirement is meant to ensure that the County is notified of and can review changes that might potentially require an application.

Attachment F

Draft Ordinance for Change of Owner, Operator, or Guarantor for Certain Oil and Gas Facilities

showing revisions proposed 9/7/01

Chapter 25B of Santa Barbara County Code (Proposed Ordinance, Revised 9/7/01)

CHANGE OF OWNER, OPERATOR OR GUARANTOR FOR CERTAIN OIL AND GAS FACILITIES

Sec. 25B-1. Purposes of Chapter.

The purposes of this Chapter are to protect public health and safety, and safeguard the natural resources and environment of the County of Santa Barbara, by ensuring that safe operation, adequate financial responsibility, and compliance with all applicable County laws and permits are maintained during and after all changes of owner, operator or guarantor of certain oil and gas facilities.

Sec. 25B-2. Applicability.

(1) This Chapter shall apply to any person who owns, operates or guarantees performance for or who seeks to own, operate or guarantee performance for any of the following facilities located in the unincorporated areas of the County of Santa Barbara:

a) any facility involved in exploration, production, processing, storage or transportation of oil or gas extracted from offshore reserves;

b) any oil refinery;

c) any pier, supply base, marine terminal or staging area within the County's jurisdiction that supports development of offshore oil and gas reserves.

(2) This Chapter shall not apply to:

a) the change of owner, operator or guarantor of the following:

i. sales gas pipelines operated by a public utility and regulated by the California Public Utilities Commission;

ii. trucks, railroads;

iii. facilities located in state waters;

b) a change of ownership consisting solely of a change in percentage ownership of a facility and which does not entail addition or removal of an owner or affect any financial guarantee for a permit.

Sec. 25B-3. Definitions. As used in this Chapter:

"Director" shall mean the Santa Barbara County Director of Planning and Development.

"Existing guarantor" shall mean a guarantor who has guaranteed performance for an existing owner or operator, on the date of adoption of this chapter, but shall not include any person who is required to but has not yet obtained an amendment to a permit that requires County approval prior to listing that guarantor on the permit.

"Existing owner or operator" shall mean any person who owns or operates a facility identified as subject to this chapter pursuant to Section 25B-2 on the date of adoption of this chapter, but shall not include any person who owns or operates such a facility and is required to but has not yet obtained an amendment to a permit that requires County approval prior to the transfer of the permit to that owner or operator.

"Guarantor" shall mean any person who guarantees performance for any County permit or ordinance requirement for a facility subject to this Chapter. For purposes of this Chapter, guarantor may include any owner, operator, or third party.

"Managing partner" of a partnership shall mean the partner formally designated and vested by the partnership with authority to make all ordinary business decisions for the partnership on behalf of all partners. ~~If no partner is so designated, then all partners shall be considered managing partners.~~

"Operator" shall mean any person having day-to-day control or management of operations of a facility, or a portion thereof, subject to this Chapter.

"Owner" shall mean any person that owns or leases a facility, or a portion thereof, subject to this Chapter.

"Pending owner or operator" shall mean any person who owns or operates a facility subject to this chapter and is required to but has not yet obtained an amendment to any necessary permit that requires County approval prior to the transfer of the permit to that owner or operator.

"Person" shall include, but is not limited to, any individual, proprietorship, firm, corporation, partner, partnership, limited partnership, limited liability company, joint venture, business trust, or other business entity, or an association, or other organization.

Sec. 25B-4. Requirements.

(1) Listing on Permit. Any person who owns or operates a facility that is subject to this Chapter pursuant to Section 25B-2 shall be listed as a permittee on the permit(s) issued for that facility, pursuant to Chapter 35 of the County Code, or Ordinances 661, 2919 or 3238. Any guarantor for such facility shall be listed on the applicable permit(s), identifying its responsibilities as guarantor. Should any owner, operator, or guarantor consist of a partnership, all partners shall be listed on the permit and~~, where applicable,~~ the managing partner shall be identified in this list.

(2) Acceptance of Permit. Prior to being listed on a permit, any owner or operator of a facility that is subject to this Chapter shall provide the County with a letter from a responsible official of the owner or operator formally accepting all conditions and requirements of the permit. This provision shall not apply to part owners that are not managing partners.

(3) Permits Not Transferable. Any permit issued or authorized pursuant to Chapter 35 of the County Code, or Ordinances 661, 2919 or 3238, for a facility that is subject to this Chapter shall not be transferable, whether by operation of law or otherwise, from any existing owner, operator, or guarantor to a new owner, operator, or guarantor, except in accordance with this Chapter.

(4) Ongoing Notification. All owners, operators, and guarantors shall, as an ongoing requirement, notify the Director in writing of any change in the information listed in 25B-6(1)(a-e) within thirty days of such change.

(5) Change of Owner. Any change of owner, merger of the owner with another company, or change of form of business organization, shall require application and approval as provided in this Chapter. Until a change of owner is approved pursuant to this chapter, the former owner(s) shall continue to be liable for compliance with all terms and conditions of the permit and any applicable County ordinances.

(6) Change of Operator. Any change of operator shall not occur until approved in accordance with this Chapter, except as follows. Any change of operator that consists solely of a merger or change of form of business organization, but does not entail any change to operations or personnel of the facility, shall require an application within 30 days of the change, as provided in Section 25B-6(3) for change of owner.

(7) Change of Guarantor. Any change of guarantor, including merger of the guarantor with another company or change of form of business organization, shall require application and approval as provided in this Chapter. Until a change of guarantor is approved pursuant to this chapter, the former guarantor(s) listed on the permit shall continue to be liable for compliance with all terms and conditions of the permit and any applicable County ordinance.

(8) Liability for Compliance with Permit Conditions. Any owner, operator or guarantor listed on a permit pursuant to this Chapter shall comply with all conditions of such permit, as applicable, to owners, operators and guarantors. Failure to comply with such permit conditions shall subject the owner, operator or guarantor to the applicable penalty and enforcement provisions of Chapter 35 or other applicable ordinance for such permits.

(9) Liability for Abandonment.

(a) The current owner or operator, as determined by the records of the Director, of a facility subject to this chapter shall be responsible for the proper abandonment of the facility. If the Director determines that the current owner or operator does not have the financial resources to fully cover the cost of abandoning the facility, the immediately preceding owner or operator shall be responsible for the cost of abandoning the facility.

(b) The Director may continue to look seriatim to previous owners or operators until an owner or operator is found that the Director determines has the financial resources to cover the cost of abandoning the facility. However, the supervisor may not hold an owner or operator responsible for abandonment under this chapter that made a valid transfer of ownership or operation of the facility prior to [adoption date of this ordinance].

Sec. 25B-5. Relation to permits and Zoning Ordinance.

(1) The provisions of this Chapter shall, for applicable facilities, supercede any provision of Chapter 35, Articles II and III, governing the transfer of permits for such facilities. The procedures of this Chapter shall also supercede any procedures specified in any permit governing the transfer of permits for such facilities, but shall not invalidate any substantive requirements of such permits.

(2) Permit amendments approved pursuant to this Chapter shall be entitled "25B Permit Amendments" and shall be enforceable as provided in this Chapter.

Sec. 25B-6. Applications.

(1) Existing Owners, Operators, and Guarantors. Within 30 days of the effective date of this Chapter, any existing owner, operator or guarantor, shall submit a certification to the Director, on a form approved by the Director, specifying the following information regarding the current owner(s), operator(s), and guarantor(s):

a) name and address;

b) role in ownership, operation and management of facility, or in guaranteeing performance for an owner or operator;

c) names and addresses of official company representatives authorized and designated to execute applications, agreements and permits with the County on behalf of the company;

d) description of the company business organization, including relation to parent companies, partnership composition, and other information needed to fully and accurately disclose who it is that owns, operates, or is otherwise responsible for the facility;

e) expiration date of any company described in §25B-6(1)(a-d), above.

(2) Pending Owners and Operators. Within 30 days of the effective date of this Chapter, any pending owner or operator shall submit an application to the Director requesting transfer of the applicable permit(s).

(3) New Owners or Deletion of Owners. Prior to any transfer of a permit to a new owner or deletion of an owner from a permit the current owner(s) and proposed owner shall submit an application to the Director requesting such change. The application shall be filed before the transfer of ownership, or if not practicable, in no event, later than 30 days after the change of ownership.

(4) New Operators. Prior to any transfer of permit to a new operator, the current permittee(s) and the proposed operator shall submit an application to the Director requesting such transfer.

(5) New Guarantors or Deletion of Guarantors. Prior to the listing of a new guarantor or the deletion of a guarantor on a permit, the permittee(s), the current guarantor, and, as appropriate, the proposed guarantor shall submit an application to the Director requesting

such transfer or deletion. The application shall be filed before the change of guarantor, or, in no event, later than 30 days after the change of guarantor.

(6) Application Contents. Applications submitted pursuant to this Chapter shall include the following information:

(a) Information Required for Applications for Change of Non-Managing Partners and Non-Operators Pursuant to Section 25B-8(1)(a)(v).

i. All information listed in Section 25B-6(1)(a-e) of this Chapter.

ii. A brief statement of the changes or proposed changes.

~~iii. A letter from the new owner accepting the permit(s).~~

(b) Information Required for All Applications, Except as Provided in Section 25B-6(6)(a):

i. All information listed in Section 25B-6(1)(a-e) of this Chapter.

ii. A detailed statement of the changes or proposed changes for which approval is sought.

iii. General background information on any proposed new permittee or guarantor, including business plan, if available.

iv. Financial information on any owner, operator, or other guarantor needed for the Director or Planning Commission to make the Financial Guarantees and Abandonment findings. This information shall include the previous year's annual report, audited financial statements, and required SEC filings.

v. Any required letter accepting the permit(s).

vi. Any other information that the Director or the Planning Commission may require to approve any change in owner, operator, or guarantor in accordance with this Chapter.

(c) Additional Information for Temporary Operator:

Evidence demonstrating that the proposed temporary operator has the necessary skills and training, as required by Section 25B-9(3)(c).

(d) Additional Information for Change of Owner Under Section 25B-8(2):

All documentation needed to make the findings required by this Chapter for Facility Safety Audit, Compliance With Existing Requirements, and Compliance Plans.

(e) Additional Information for Change of Operator Under Section 25B-8(2):

i. All documentation needed to make the findings required by this Chapter for Facility Safety Audit, Compliance With Existing Requirements, and Compliance Plans.

ii. Approved transitional plan.

iii. Evidence that operating personnel have been trained in and have good working knowledge of the crucial compliance plans.

iv. Evidence of satisfactory performance on emergency drills.

v. Documentation of safe operating record or adequate experience and expertise, as required by Section 25B-10(2)(j).

Sec. 25B-7. Listing of owners, operators, guarantors and temporary operators on permits.

(1) Existing Owners, Operators, and Guarantors. The Director shall list any existing owner, existing operator, or existing guarantor, as they are defined in Section 25B-3 of this Chapter, on the appropriate permit(s) upon finding that such person has submitted all information required in Section 25B-6(1) and has complied with Section 25B-4(2), if applicable.

(2) New Owners, Operators, Guarantors, and Temporary Operators. The Director shall list any new owner, operator, guarantor, or temporary operator on the appropriate permit(s), and remove any previous owner, operator, guarantor, or temporary operator that no longer serves such role, upon approval of the permit transfer, pursuant to Sections 25B-9 and 25B-10.

Sec. 25B-8. Processing.

(1) Applications Under Jurisdiction of the Director.

a) The Director shall approve or deny any application to transfer a permit for changes that consist solely of the following:

i. merger of a current owner or operator with another company;

ii. change in form of business organization of a current owner or operator, including change from corporation to limited partnership or limited liability company;

iii. change of a guarantor;

iv. substitution of a temporary operator;

v. addition or deletion of non-managing partner or non-operator under a joint operating agreement, where such person is not a guarantor;

vi. any other change of ownership not under the Planning Commission's jurisdiction.

b) Prior to approval of such application, the Director shall make all findings required by Section 25B-9(1),(2), (3), or (4), as applicable, and shall take all actions necessary under Section 25B-9(5).

c) A public hearing shall not be required for applications approved or denied by the Director. Notice shall be given, however, at least ten (10) days prior to the date of the Director's decision, as provided in Santa Barbara County Code, Chapter 35, Article II, Section 35-181.2 or Article III, Section 35-326.2, as appropriate.

(2) Applications Under Jurisdiction of the Planning Commission.

a) The Planning Commission shall approve or deny any application to transfer a permit for changes that consist of the following:

i. Full ownership change, that is, where there is a complete transfer of facility ownership to new owner(s);

ii. Operator change, except as specifically placed under the Director's jurisdiction in Section 25B-8(1)(a)(i, ii, or iv);

iii. Change of managing partner of an owner or any partner of an operator.

b) Prior to approval of an application for change of owner, the Planning Commission shall make all findings required by Section 25B-10(1) and shall take all actions necessary under Section 25B-10(3). Prior to approval of an application for change of operator, the Planning Commission shall make all findings required by Section 25B-10(2) and shall take all actions necessary under Section 25B-10(3).

c) A public hearing shall be required for applications approved or denied by the Planning Commission. Notice shall be given at least ten (10) days prior to the date of the hearing, as provided in Santa Barbara County Code, Chapter 35, Article II, Section 35-181.2 or Article III, Section 35-326.2, as appropriate.

(3) Combined Applications.

Applications that include a component under the Director's jurisdiction and another component under the Planning Commission's jurisdiction may, at the discretion of the Director, be processed with a combined application and decided by the Planning Commission. In such cases the findings required for approval of the component that falls under the Director's jurisdiction shall be those listed for a Director's Amendment (§25B-9(1), (2), or (4), as appropriate).

(4) Application Completeness

a) An application shall be deemed accepted unless the Director finds the application incomplete and notifies the applicant of incompleteness by mail within thirty calendar days of receipt of the application. Notice shall be deemed given when mailed.

b) The applicant shall provide any additional information required by the Director in an incompleteness letter within thirty calendar days of issuance of the letter.

Sec. 25B-9. Director Approval: findings.

(1) The Director shall approve an application to transfer a permit pursuant to Section 25B-8(1)(a)(i, ii, or vi) only if the Director makes the following findings:

a) Fees and Exactions. All outstanding County required fees and exactions due for the facility have been paid.

b) Financial Guarantees. The proposed owner, operator, or other guarantor has provided all necessary instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

c) Abandonment. The proposed owner, operator, or other guarantor has demonstrated the financial capability through financial guarantees to comply with all federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

d) Acceptance of Permit. The proposed owner or operator has provided a letter from a responsible official representing the proposed owner or operator formally accepting all conditions and requirements of the permit.

(2) The Director shall approve an application to transfer a permit pursuant to Section 25B-8(1)(a)(iii) for a change of guarantor only if the Director makes the following findings:

a) Financial Guarantees. The proposed guarantor has provided all necessary instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

b) Abandonment. Where applicable, the proposed guarantor has demonstrated the financial capability through financial guarantees to comply with all requirements of federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

(3) The Director may approve a qualified temporary operator pursuant to Section 25B-8(1)(a)(iv) where the owner demonstrates to the satisfaction of the Director that good cause

exists for an immediate change of operator. The temporary operator may operate the facility for a period of no longer than 6 months. In order to approve a temporary operator, the Director must make the following findings:

a) Financial Guarantees. The proposed temporary operator has provided all necessary instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

b) Acceptance of Permit. The proposed temporary operator has provided a letter from a responsible official representing the proposed temporary operator formally accepting all conditions and requirements of the permit.

c) Operator Capability. The proposed temporary operator has the skills and training necessary to operate the permitted facility in compliance with all applicable law and has a good working knowledge of the crucial compliance plans listed in Section 25B-10(2)(g).

(4) The Director shall approve an application to transfer a permit pursuant to Section 25B-8(1)(a)(v) for a change of non-managing partner or non-operator under a joint operating agreement, where such person is not a guarantor, upon submission of a complete application and payment of any required application fees.~~only if the Director makes the following finding~~:

a) ~~Acceptance of Permit. The proposed owner has provided a letter from a responsible official representing the proposed owner formally accepting all conditions and requirements of the permit.~~

(5) Upon making the findings listed in Section 25B-9(1), (2), (3), or (4), the Director shall approve the change of owner, operator, or guarantor, or approve the temporary operator. The Director may impose additional conditions on the permit, except for applications approved under Section 25B-9(4), in order to ensure that the new owner, operator, temporary operator, or other guarantor maintains any insurance or other financial guarantees that were submitted to and relied on by the Director as a basis to make any finding required by this Chapter. ~~adequate financial guarantees for operations and abandonment.~~

Sec. 25B-10. Planning Commission Approval: findings.

(1) The Planning Commission shall approve an application for a change of owner only if the Planning Commission makes the following findings:

a) Fees and Exactions. All outstanding County required fees and exactions due for the facility have been paid.

b) Financial Guarantees. The proposed owner or other guarantor has provided all necessary insurance, bonds and other instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

c) Abandonment. The proposed owner or other guarantor has demonstrated the financial capability through financial guarantees to comply with all federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

d) Acceptance of Permit. The proposed owner has provided a letter from a responsible official representing the proposed owner formally accepting all conditions and requirements of the permit. If the proposed owner is a partnership, all partners have provided such letters, or the managing partner has provided a letter on behalf of all partners and has agreed to resubmit such letter should any partners change in the future.

e) Facility Safety Audit. The County has completed a comprehensive safety audit for the physical facility within 3 years prior to submission of a complete application, and the current owner or operator has provided a copy of this audit, along with a description of the status of implementing its recommendations, to the proposed owner(s). A Safety Inspection Maintenance and Quality Assurance Program (SIMQAP) audit approved by the appropriate County official shall satisfy this requirement. This finding shall be waived if the application is for the current operator of a facility to become an owner.

f) Compliance With Existing Requirements. The current owner(s) are in compliance with all requirements of the permit, including any requirement of a County required safety audit, any Notice of Violation, and any County ordinance, or the current and proposed owner(s) have entered into a written agreement with the Director that specifies an enforceable schedule to come into compliance with such requirements.

g) Compliance Plans. The new owner or operator has updated any existing, approved Safety Inspection Maintenance and Quality Assurance Program, Emergency Response Plan, Fire Protection Plan, and Oil Spill Contingency Plan, or equivalent approved plans, with current emergency contact information pertaining to the new owner. If any of these plans did not previously exist or was not approved, the new owner or operator has prepared an acceptable plan and it has been approved by the appropriate County official. The new

owner and operator have agreed in writing to revise all plans required by the permit or any County ordinance, as necessary to reflect the change of owner, and to do so with sufficient diligence to obtain approval of the revised plans by the appropriate County official within six months after assuming ownership.

(2) The Planning Commission shall approve an application for change of operator only if the Planning Commission makes the following findings:

a) Fees and Exactions. All outstanding County required fees and exactions due for the facility have been paid.

b) Financial Guarantees. The current owner, proposed operator, or other guarantor has provided all necessary insurance, bonds and other instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

c) Abandonment. The proposed operator or other guarantor has demonstrated the financial capability through financial guarantees to comply with all federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

d) Acceptance of Permit. The proposed operator has provided a letter from a responsible official representing the proposed operator formally accepting all conditions and requirements of the permit. If the proposed operator is a partnership, all partners have provided such letters.

e) Facility Safety Audit. The County has completed a comprehensive safety audit for the physical facility within 3 years prior to submission of a complete application, and the current owner or operator has provided a copy of that audit, along with a description of the status of implementing its recommendations, to the proposed operator. A Safety Inspection Maintenance and Quality Assurance Plan (SIMQAP) audit approved by the appropriate County official shall satisfy this requirement. This finding shall be waived if a current owner of a facility becomes the operator.

f) Compliance With Existing Requirements. The current operator is in compliance with all requirements of the permit, including any requirements of a required safety audit, any Notice of Violation, and any County ordinance, or the owner and proposed operator have entered into a written agreement with the Director that specifies an enforceable schedule to come into compliance with such requirements.

g) Compliance Plans. The current owner and proposed operator have updated any existing, approved Safety Inspection Maintenance and Quality Assurance Program, Emergency Response Plan, Fire Protection Plan, and Oil Spill Contingency Plan, or equivalent approved plans, with current emergency contact information pertaining to the new operator. If any of these plans did not previously exist or was not approved, the current owner and proposed operator have prepared an acceptable plan and it has been approved by the appropriate County official. The current owner and proposed operator have agreed in writing to revise all plans required by the permit or any County ordinance, as necessary to reflect the change of operator, and to do so with sufficient diligence to obtain approval of the revised plans by the appropriate County official within six months after assuming operations.

h) Transitional Plan. The current owner or operator and proposed operator have submitted a transitional plan that will ensure the proposed operator shall receive adequate training, including by means of cross training by the current operator, where feasible, and shall have a good working knowledge of the crucial compliance plans listed in Section 25B-10(2)(g) before assuming control of operations. The plan has been approved by the Director. The Planning Commission may exempt the current owner and proposed operator from this requirement, or portions thereof, for good cause.

i) Emergency Response Plan Drills. The proposed operator has adequately performed one or more County approved emergency response plan drills necessary to respond to emergency episodes that may occur at the facility.

j) Operation Record. The owner and proposed operator have submitted a list of any other facilities the proposed operator owns or operates, and have submitted the proposed operator's accident and compliance records for the last 7 years for operating facilities, if any, that are similar in nature to the facility subject to the permit. The records demonstrate the proposed operator has the skills and training necessary to operate the permitted facility in compliance with all applicable law. The accident and compliance records shall be obtained from the agencies listed in Appendix A. If the proposed operator is a new company or lacks a seven year operational record, the operator has demonstrated to the County that the key personnel have sufficient experience and expertise to operate the facility safely.

(3) Upon making the findings listed in Section 25B-10(1) or (2), the Planning Commission shall approve the change of owner or operator. The Planning Commission may impose additional conditions on the permit in order to ensure that the new owner, operator, or other guarantor maintains any insurance or other financial guarantees that were submitted to and relied on by the Planning Commission as a basis to make any finding required by this Chapter. ~~adequate financial guarantees for operations and abandonment.~~

Sec. 25B-11 . Administration and Fees.

The Director shall administer the procedures established by this chapter. Any applicant shall be assessed fees in an amount necessary to recover costs incurred by the County for processing applications for change of owner, operator, or guarantor required by this chapter. No application to change owner, operator, or guarantor shall be processed unless the applicant has entered into an Agreement for Payment of Processing Fees with the County and has provided the required deposit to cover a portion of the case processing fees.

Sec. 25B-12. Appeals.

(1) Appeals to the Planning Commission.

a) The decision of the Director to approve or deny an application may be appealed to the Planning Commission by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and accompanying fee shall be filed with the Planning and Development Department within ten (10) calendar days following the date of the Director's decision.

b) The appellant shall state specifically in the appeal how 1) the Director's decision is inconsistent with the provisions or purposes of this Chapter or 2) there was an error or abuse of discretion by the Director.

c) Prior to the appeal hearing, the Planning and Development Department shall transmit to the Planning Commission copies of the application, including all attachments and related materials, and a statement setting forth the reasons for the Director's decision.

d) The Planning Commission hearing shall be *de novo* and the Commission shall affirm, reverse, or modify the Director's decision at a public hearing. Notice of the time and place of the hearing shall be given in accordance with Santa Barbara County Code, Section 35-

326.2 (Noticing) or Section 35-181.2, as appropriate. Notice shall also be mailed to the appellant.

(2) Appeals to the Board Of Supervisors.

a) The decision of the Planning Commission to approve or deny an application may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and accompanying fee shall be filed with the Clerk of the Board of Supervisors within ten (10) calendar days following the date of the Planning Commission's decision.

b) The appellant shall state specifically in the appeal how 1) the Planning Commission's decision is inconsistent with the provisions or purposes of this Chapter or 2) there was an error or abuse of discretion by the Planning Commission.

c) Prior to the appeal hearing, the Clerk of the Board of Supervisors shall notify the Planning Commission that an appeal has been filed. The Planning Commission shall then transmit to the Board of Supervisors copies of the application, including all attachments and related materials, and a statement of findings setting forth the reasons for the Planning Commission's decision.

d) The Board of Supervisors hearing shall be *de novo* and the Board shall affirm, reverse, or modify the Planning Commission's decision at a public hearing. Notice of the time and place of the hearing shall be given in accordance with Santa Barbara County Code, Section 35-326.2 (Noticing) or Section 35-181.2, as appropriate. Notice shall also be mailed to the appellant.

Sec. 25B-13. Enforcement

(1) Civil Penalties. Any owner, operator, guarantor, or permittee who fails to comply with the provisions of this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars per day of operation.

(2) Criminal Penalties. Any person, whether as principal, agent, employee or otherwise, violating any provisions of this chapter shall be guilty of an infraction, and upon conviction thereof, shall be punishable by a fine not exceeding five hundred dollars for each violation. An offense that would otherwise be an infraction may, at the discretion of the district attorney, be filed as a misdemeanor. Upon conviction of a misdemeanor, punishment shall be

a fine of not less than five hundred dollars nor more than twenty-five thousand dollars or imprisonment in the county jail for a period not to exceed six months or by both such fine and imprisonment. Each and every day during any portion of which any violation of this chapter is committed, continued or permitted by such person shall be deemed a separate and distinct offense.

(3) Injunction. Whenever, in the judgment of the Director, any person has engaged in, is engaged in, or is about to engage in any act(s) or practice(s) which constitute or will constitute a violation of the provisions of this chapter of the Santa Barbara County Code, or any rule, regulation, requirement, or other order issued, promulgated, or executed thereunder, the district attorney or county counsel may make application to the Superior Court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing that such person has engaged in or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued; or that the legal remedies are inadequate.

(4) Cumulative Remedies and Penalties. The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Sec. 25B-14. Severability.

If any provision of this chapter is determined to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Appendix A. Source Agencies for Operator Accident and Compliance Records.

Accident and compliance records shall be obtained from the following agencies, as applicable:

Federal Agencies

Environmental Protection Agency
D.O.T. Office of Pipeline Safety
Occupational Safety and Health

Minerals Management Service
Coast Guard
Army Corps of Engineers

California Agencies

State Fire Marshall
Cal OSHA
State Lands Commission
Division of Oil, Gas, & Geothermal Resources
Dept. of Fish and Game Office of Spill Prevention and Response
California Coastal Commission
Air Resources Board
Office of Environmental Health Hazard Assessment
Department of Toxic Substances Control
State Water Resources Control Board

Agencies in Other States

If the facilities for which the records are obtained are located outside California, records shall be obtained from agencies that serve similar functions to the above agencies, where possible.

Regional and Local Agencies

Fire Department
Water quality monitoring agency
Air quality monitoring agency
Agencies responsible for enforcing land use and zoning regulations
Agencies responsible for enforcing safety regulations
Agencies responsible for oversight of hazardous or toxic materials
Agencies responsible for monitoring environmental pollution or contamination

ATTACHMENT 3

Impacts related to Hazardous Materials and Risk of Upset would only be related to maintenance and construction activities and these maintenance activities would have a minor impact on risk due to the potential for localized spills of hydraulic or diesel oils. **Impact RISK.1, RISK.2, RISK.3** would not be applicable and mitigation measures RISK.2-1 through RISK.2-7 would not be applicable. Impacts would therefore be **insignificant**.

Construction activities related to valve stations, pump stations and some segments of the pipeline that could be abandoned could potentially produce an increased risk of wildfires during construction, and **RISK.4** would still be applicable and mitigation measures RISK.4-1 through RISK.4-4 would still be applicable. Impacts related to **Impact RISK.4** and wildfires would therefore be **significant but mitigable**.

No Project, Existing Pipeline Restart Alternative

Under this alternative, the existing pipeline would be utilized instead of a new pipeline being installed, and transportation of crude oil would occur through the existing pipeline. The existing pipeline would be brought into compliance with existing requirements related to AB 864 and CSFM best available technologies (BAT), including the installation of additional valves along the pipeline route. The Applicant would have to apply to the CSFM for a waiver to utilize the existing pipeline since the existing pipeline is subject to corrosion under insulation, which could affect the efficacy of cathodic protection systems. Generally, a pipeline is not allowed to operate with ineffective cathodic protection systems. There is uncertainty as to whether the Applicant could demonstrate to the CSFM that the pipeline could be operated safely, and therefore this variation and the variation above (no Project, No Pipeline Alternative) are both addressed.

Assuming that a CSFM waiver is granted, the Applicant would have to install additional valves along the pipeline in order to comply with AB 864 and BAT requirements, similar to the proposed Project pipeline design. The installation of these additional valves would require some construction activities and some limited clearing at multiple locations along the pipeline ROW.

The existing pipeline is insulated, and therefore there would be no need for heaters at the Sisquoc Pump Station or the installation of the gas pipeline.

The installation of valves would most likely be at locations similar to the proposed Project valve installations as the pipeline would follow a similar ROW and similar terrain.

Hazards are associated with risks to the public from a spill and subsequent fire, as well as impacts from a spill to the environment, impacts to schools and potential wildfire impacts. The existing pipeline is a larger diameter pipeline, and therefore the draindown spill volumes would be larger than the proposed Project. This results in potentially larger spills and larger fires, impacting more people, as well as larger spills to the environment. In addition, the frequency of a spill from the existing pipeline would be higher due to its age and the potential for the cathodic protection to be compromised by the insulation. These factors have been incorporated into the analysis presented below.

Risks to Public Safety

Impact RISK.1 describes the potential spill sizes and the estimated frequency of spills from the pipeline system and the potential for immediate (fires, etc.) health impacts on the public.

Crude Pipeline Spill Volumes

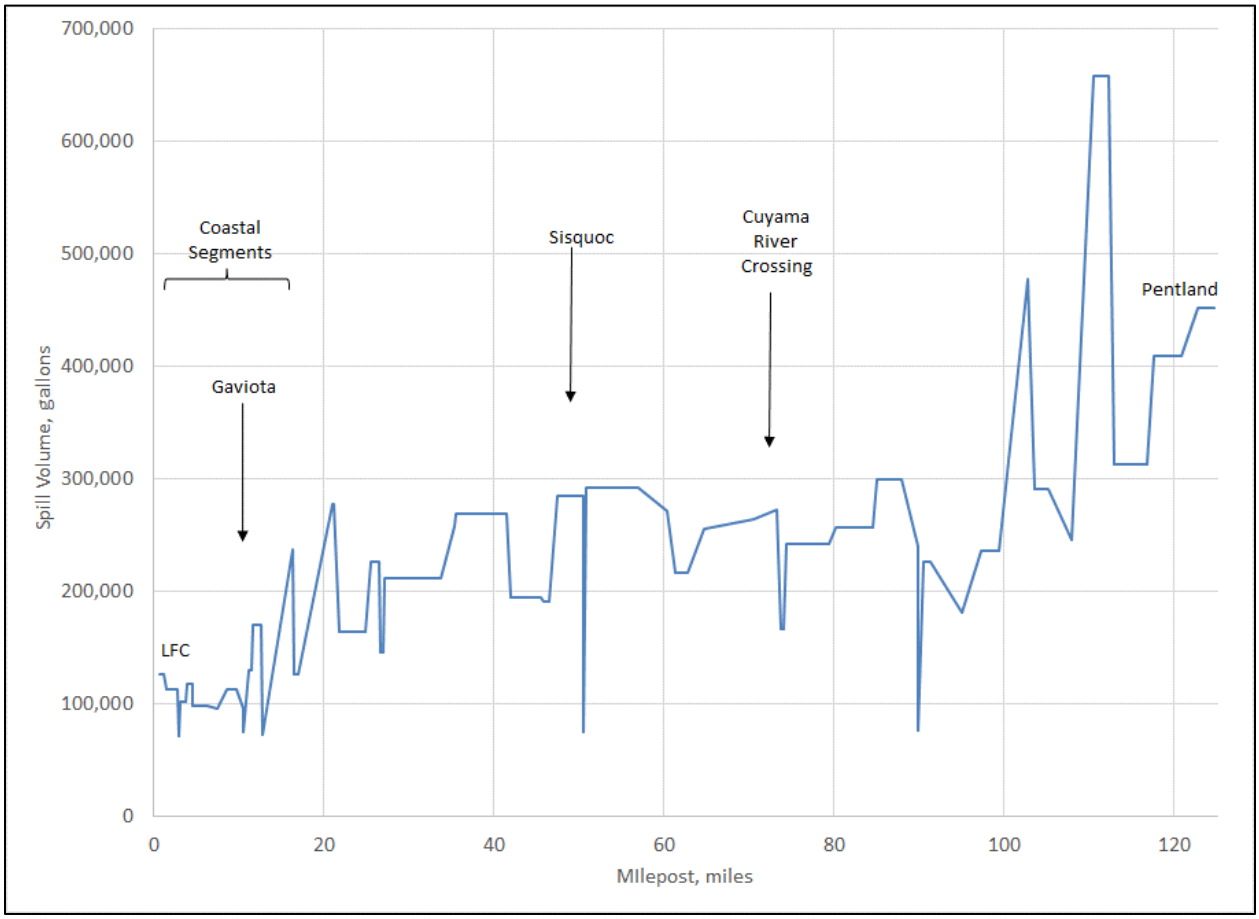
The spill volumes for this alternative were calculated based on the pipeline size, which would be larger than the proposed Project, and the associated terrain for different segments of the pipeline. The Applicant

provided a risk assessment for the proposed Project and this analysis was utilized to estimate the spill volumes associated with a larger pipeline size. Figure 5.6-11 shows the estimated spill volumes along the pipeline route for each segment as a worst case for that segment. The worst-case sized spill volume is shown in Table 5.6-16 for the different portions of the crude oil pipeline alternative.

Crude Pipeline Spill Frequencies

Spill frequencies from a crude pipeline are based on the PHMSA failure rates for the California pipeline database. The PHMSA base failure rate for crude oil pipelines is shown in Table 5.6-17. The spill frequencies are adjusted for the pipeline potential higher failure rate due to the compromised cathodic protection system and the potential for corrosion under the insulation issues. This correction is based on the CSFM report (CSFM 1993) indicating a five times increase in failure frequencies for pipelines that are not equipped with cathodic protection over the average failure rate. In addition, because the existing pipeline is older, it could experience a higher failure rate due to age. However, the CSFM study indicated a minimal increase in failure rate for pipelines that are less than 40 years old and the PHMSA database used to estimate the base failure rate includes many older pipelines. Therefore, only the five times factor was applied as an estimate of the increased failure rate for this pipeline.

Figure 5.6-11 No Project – Existing Pipeline Restart Alternative Spill Volume by Segment Milepost



Source: based on Applicant QRA and EFRD 2019, with adjustments for the size of the existing pipeline.

Table 5.6-16 No Project – Existing Pipeline Restart Alternative Crude Pipeline Worst Case Spill Volumes

Location	Proposed Project - Maximum Spill Volume, gallons	Alternative - Maximum Spill Volume, gallons
LFC – Gaviota Plant	84,000	126,000
Gaviota – Sisquoc	131,040	284,594
Sisquoc - Pentland	198,030	657,893
Coastal Segments	117,600	237,344

Source: based on Applicant QRA and EFRD 2019, with modification to address spill duration of 60 minutes. Coastal segments include up to valve station 2-500. Includes the installation of additional valve stations as per the proposed Project locations.

Table 5.6-17 No Project – Existing Pipeline Restart Alternative Crude Pipeline Spill Frequencies

Location	Spill Frequency	Return Period, years rupture/leak/total
PHMSA California Crude oil base rate	1.62 per 1,000-mile years	-
Adjustment due to Pipeline Condition	5.3 factor	-
PHMSA Adjusted Rate	8.56 per 1,000-mile years	-
Failure rate for L901R (49.2 miles)	0.43 failures per year	9/3/2 years
Failure Rate for L903R (74.1 miles)	0.63 failures per year	6/2/2 years
Failure Rate for L901R + L903R	1.07 failures per year	4/1/1 years

Source: based on Applicant QRA and EFRD 2019 with CSFM 1991 adjustment factor. PHMSA data since 2010. The return period is the anticipated period between releases. Includes leaks and ruptures.

Crude Pipeline Population Densities

The population densities along the route are based on estimates for remote, rural, low density and high-density areas with some additions for highways. The population densities are similar to those used for the proposed Project except for the area through the City of Buellton, since the existing pipeline would pass through the City of Buellton and the proposed Project would pass around the City of Buellton to the west.

Crude Pipeline Fires

In the event of a spill of oil and subsequent ignition resulting in a pool fire, the heat (i.e., thermal radiation) from the fire could result in a serious injury or fatality. The assumptions for impacts would be the same as for the proposed Project.

Gas Pipeline

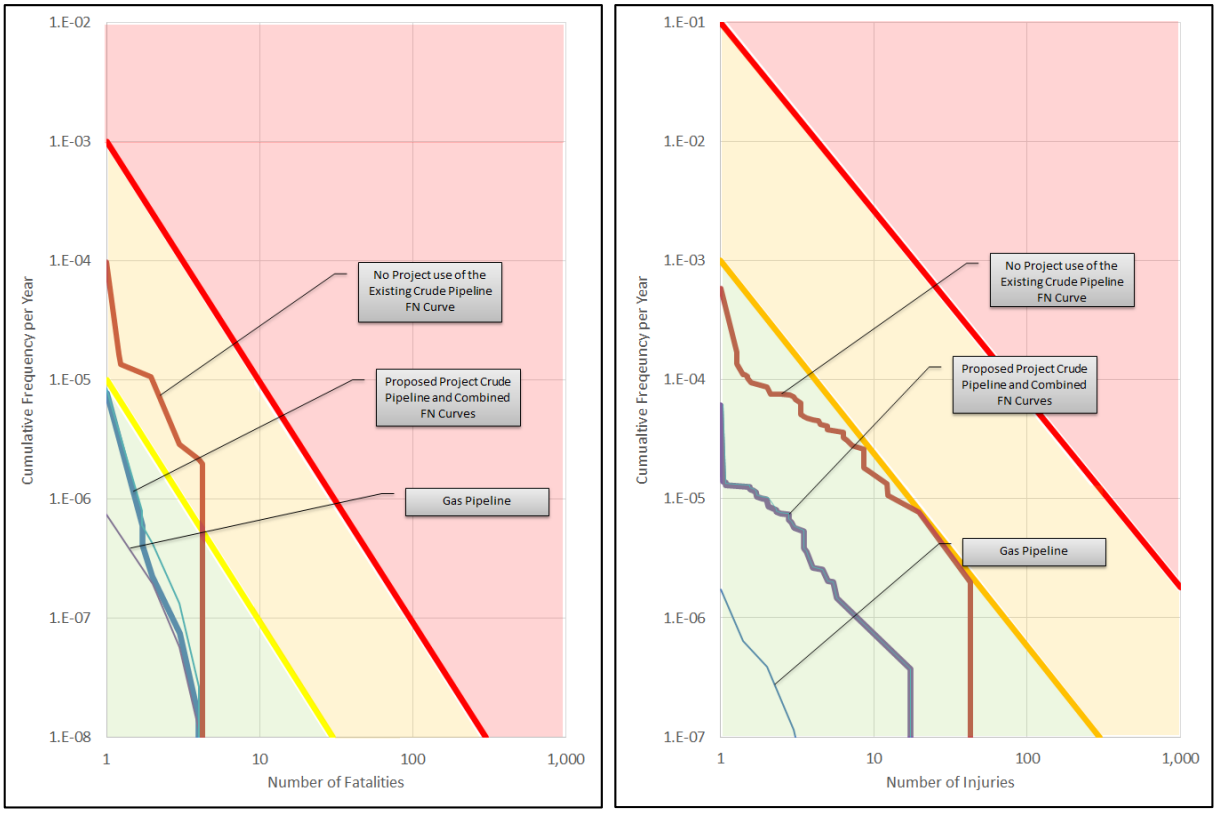
The proposed gas pipeline would not be installed as part of this alternative since heaters at Sisquoc would not be installed.

Alternative Pipeline: Public Safety Risk

The combination of scenario frequency and consequences is combined to estimate risk using FN curves. FN curves are depictions of the risk levels of a project and show the frequency (F) of scenarios that could produce a given fatality or injury level (N) or greater. These are presented for the proposed Project in **Impact RISK.1**. Santa Barbara County has established risk thresholds that use societal risk profiles (FN curves) to determine the significance of hazardous material releases. These FN curves address both injury and fatality. The Santa Barbara County's adopted thresholds are generally applicable to fixed facilities and pipelines. The risk FN curves are shown in Figure 5.6-12 and are based on the FN curves developed as part of the Plains 2019 QRA analysis, with adjustments for the existing pipeline (increased pipeline diameter

and failure frequency). The FN curves would be located within the amber region, and the impacts to public health due to pipeline releases would be **significant and unavoidable.**

Figure 5.6-12 No Project – Existing Pipeline Restart Alternative Pipeline Risk FN Curves



Source: Plains 2019 with modifications

Risks to the Environment

A spill of crude oil from the pipeline could impact resources in the vicinity of the pipeline ROW. See Section 5.2 Biological Resources, Section 5.4 Cultural Resources and Section 5.9 Hydrology and Water Quality for a discussion of the impacts of a crude oil spill on biological, hydrological and cultural resources along the crude oil pipeline ROW.

Crude Pipeline Spill Volumes

The spill volumes are discussed above under **Impact RISK.1**. For the public health assessment under **Impact RISK.1**, a worst-case spill shutdown time of 15 minutes was used due to the already conservative analysis for fires and impacts to the public used in the QRA. However, for spills that could affect the environment, a longer duration is used. As evidenced by the May 2015 Refugio spill, there is the potential for a pipeline shutdown to take longer than 15 minutes.

Crude Pipeline SCADA System

The SCADA system used for the alternative would be the same as that used for the proposed Project since the SCADA system would be required to be updated per CSFM and AB864 requirements.

Proposed Project Pipeline: Spills Affecting Marine Resources

Portions of the pipeline extend along the Santa Barbara County coastline. A crude oil spill could drain from the spill location through existing culverts or drainages and enter the marine environment. This is what occurred during the May 2015 Refugio Beach spill. An estimated 43 percent of the oil entered the ocean from the Refugio spill location, which was an estimated 750-foot pathway from the ocean shoreline. Because the proposed pipeline is located onshore at various distances from the shoreline, a rupture at different locations spilling the same amount of oil could allow for oil to enter the marine environment. Assuming a linear function of oil being trapped and adsorbed onshore with distance, the maximum amount of oil could enter the ocean where the pipeline is closest to the ocean and potential worst-case spill volumes are large. An estimated maximum amount of 71,621 gallons of crude oil could enter the ocean at the worst-case spill location. An estimated 11.8 miles of the 16.6-mile coastal portion (71 percent) of the pipeline would be vulnerable to spills entering the ocean if a spill were to occur along any of those segments and the adsorption rate were similar to that which occurred during the Refugio spill. This assumes that no rain event is occurring and that drainages are not flowing.

There are a number of variables affecting the amount of oil that could reach the ocean from an onshore spill, including the terrain, the location of drainages under the freeway and the railroad tracks, the soil type, and extent of rocky interfaces as well as the amount of moisture. During a rain event, when drainages and creeks are flowing, a spill into the waterways could follow the flow and enter the marine environment more readily. A spill under these conditions would also have more extensive terrestrial impacts and reach the marine environment more readily but would also be subjected to turbulence and mixing along the drainages.

For inland areas, the area with the largest potential impacts is along the Cuyama River. Based on the elevation profile and the spill volumes, the maximum spill volume along the Cuyama River segments of the pipeline (between proposed Project valve 3-800 and 5-400 nearest the Cuyama River) and using the absorption rate as seen in the Refugio spill, a spill along the Cuyama River portion of the pipeline could impact resources a distance as far as about 3,200 feet, which means that pipeline segments within about 3,200 feet of the Cuyama River could potentially impact the river in the event of a spill.

Potential Impacts

Depending on the location of the spill, the environmental conditions, and the biological resources present, Impact RISK.2 short and long-term effects to biological resources associated with a crude oil spill has the potential to be significant and unavoidable. Mitigation measures RISK.1-1 through RISK.1-7 would apply. Due to the increased size and frequency of spills, this significant and unavoidable impact would be a greater severity than that presented by the proposed Project.

Risks to Schools

For **Impact RISK.3** (schools), the pipeline construction activities for the existing pipeline would only affect areas near the proposed valve installations. The existing pipeline is located about 500 feet from the Oak Valley School in western Buellton. In order to address the risk levels to this school, the California Department of Education (CDE) school siting risk protocol was utilized to determine the risk levels.

The assessments demonstrated that the risk levels are acceptable under the CDE Risk Protocols with a Total Individual Risk/Individual Risk Criteria (TIR/IRC) ratio of 0.29, with a 1.0 TIR/IRC ratio being the CDE Protocol threshold. It is important to note that the CDE protocol examines the individual risk at the closest school and does not examine the risks cumulatively along the entire pipeline route. Because the CDE

ATTACHMENT 4

SANTA BARBARA COUNTY
BOARD AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:	
Prepared on:	3/5/02
Department Name:	Planning and Development
Department No.:	053
Agenda Date:	3/19/02
Placement:	Departmental
Estimate Time:	3-4 hours
Continued Item:	NO
If Yes, date from:	

TO:	Board of Supervisors
FROM:	John Patton, Director Planning and Development Department
STAFF CONTACT:	Doug Anthony, Energy Specialist, Energy Division, 568-2046 John Day, Planner, Energy Division, 568-2045
SUBJECT:	Proposed amendment to the Santa Barbara County Code, adding Chapter 25B, Change of Owner, Operator, or Guarantor for Certain Oil and Gas Facilities

Recommendations:

A. Conduct the first reading of recommended amendments to the Santa Barbara County Code as follows:
   1. Adopt a new Chapter 25B, titled *Change of Owner, Operator, or Guarantor for Certain Oil and Gas Facilities*, as recommended by the Planning Commission and subsequently revised by staff (Exhibit A) and, in doing so, make the findings included herein (Exhibit D);
   2. Adopt amendments to sections of existing Chapter 24A, titled *Administrative Fines and Penalties*, so that it is applicable to the new Chapter 25B (Exhibit B).

B. Continue this hearing to April 2, 2002, for purposes of conducting the second hearing for the foregoing actions.

Alignment with Board Strategic Plan: The recommendation primarily aligns with Goal No. 2. A Safe and Healthy Community in Which to Live, Work, and Visit.

Executive Summary and Discussion:

INTRODUCTION

The proposed ordinance, *Change of Owner, Operator or Guarantor for Certain Oil and Gas Facilities,* is the first of several policy projects under development by the Energy Division that are designed to keep pace with the changing status of oil and gas development within and offshore Santa Barbara County. The proposed ordinance establishes regulations and provides a roadmap for handling changes of owner, operator or guarantor. Over 22 such changes have occurred in the past 8 years or are currently pending. The need for well-defined guidelines that can be uniformly applied is apparent and is acknowledged by the oil industry.

Other forthcoming projects include: a) *Abandonment Policies and Ordinances*, which were initiated by the Planning Commission last fall and currently are undergoing environmental review, and b) *Financial Responsibility Ordinance*, development of which will commence this spring, with funding provided by outside grants and matching funds authorized by the Board of Supervisors. The *Abandonment* and *Financial Responsibility* ordinances will have broader scope than the proposed ordinance, as they pertain to all covered facilities, whether or not a change of owner, guarantor, or operator is in progress. These two ordinances will complement the proposed ordinance by setting out specific, substantive requirements for facility abandonment and for financial guarantees to cover natural resource damage from accidents and oil spills.

APPLICABILITY

The proposed ordinance applies to onshore oil and gas processing plants, tank storage, pipelines, and associated facilities in the County that support production from offshore oil and gas reserves. These facilities, currently numbering 13, handle approximately 95% of the total oil and gas production of the County, the remaining 5% being produced from onshore fields. The ordinance also applies to any oil refineries that process oil originating either onshore or offshore. The Santa Maria Asphalt Refinery is the only refinery currently operating in the County.

NEED

When a covered facility changes hands, the possibility arises that a new owner or operator may be unable to pay the costs of an accident or oil spill, or that their assets are insufficient to comply with all permit conditions. It is also possible that the new operator will not have the capability to operate the facility safely. Furthermore, the new owner or operator may not fully understand the permit conditions of the project or understand the current physical status of the facility, including requirements to upgrade resulting from safety audits. Due to the complexity of the covered facilities and the permits under which they operate, it is not a foregone conclusion that a new owner or operator can comply satisfactorily with the permit requirements.

Although there is currently no ordinance specifically designed to regulate owner/operator changes, permit transfers have been handled through the Zoning Ordinance, by utilizing conditions that exist in some permits. Where this is possible, the Director of Planning and Development and the Planning Commission have been able to oversee the owner and operator changes, and in some cases impose additional permit conditions, such as conditions stipulating financial guarantees. However, County review of owner and operator changes is not uniform, and not always possible, because permit conditions vary from permit to permit.

Some County permits and development plans for facilities covered under the proposed ordinance contain specific requirements or procedures for permitting of new owners and operators. Some permits include a provision that requires a permitting action if the project description changes. These provisions have formed the basis for permitting many changes of owner or operator. Older permits, such as the one held by Venoco, Inc. for the Ellwood Marine Terminal, do not contain such a provisions.

Where allowable under an existing permit, the Energy Division has processed owner/operator changes as permit revisions or substantial conformity determinations under the Zoning

Ordinance. The Zoning Ordinance, however, does not offer guidance regarding process or substantive findings for evaluating the transfer of permits from one owner or operator to another. The Energy Division has examined owner and operator changes on a case-by-case basis. The key issues that have been considered in these evaluations are a) that new owners and operators accept the permit, b) that new operators have the experience and expertise needed for safe operation, and c) that adequate financial guarantees for accidents and abandonment have been provided. These same issues are at the core of the proposed ordinance.

Thus, the currently available process and planning tools are not well suited to the task of transferring permits and vary from case to case. Oversight of handling such changes is spotty and the permit transfer process is inconsistent. The proposed ordinance aims to establish a fair and uniform process that applies to all covered facilities.

The past decade has witnessed changes in ownership of offshore-related oil and gas projects in Santa Barbara County. Offshore producers and related onshore facilities were, until recent years, owned and operated by major, vertically integrated oil companies, with substantial assets. A trend has emerged in which the major companies divest themselves of offshore leases, as the oil fields enter mature stages of development. The first generation of operators finds these mature fields, with their declining production, to be less profitable than investments elsewhere, though there may be potential for many more years of operation at reduced production rates. A second generation of operators views Santa Barbara offshore operations and their existing onshore support facilities as attractive investments. Second generation independents now operating in Santa Barbara include Nuevo Energy Company and Venoco, Inc. Some of the new companies lack the vast array of financial assets and may also lack the range of technical resources of the first generation. It would be a mistake to equate size and safety, as examples can be found of majors with poor safety records and of independents with good safety records.

There has been an evolution in business practices that effectively limit exposure or evade liability. Firms may opt for non-integrated, compartmentalized business structures, form limited liability companies, shelter assets overseas, minimize retained earnings to position the firm for bankruptcy, etc. The liabilities associated with oil spills and environmental contamination are large, and it is important to look closely at changes in owner or operator that could result in liability avoidance.

REGULATION BY OTHER AGENCIES

The proposed ordinance applies only to facilities within the County's jurisdiction, i.e., onshore facilities. Changes of owner, operator and guarantor for these facilities are not regulated by state or federal agencies. The proposed ordinance parallels, and does not duplicate, similar state and federal rules which apply to oil and gas facilities in state and federal waters.

The Minerals Management Service (MMS) regulates changes of lessees, operators, and guarantors for oil and gas facilities on leases in federal waters, beginning three miles offshore. The California State Lands Commission (SLC) plays a comparable role for facilities on State Tidelands, the zone between the shore and federal waters. SLC works in conjunction with the Department of Fish and Game's Office of Spill Prevention and Response (OSPR), which requires financial assurances to cover liability for oil spills into marine waters. OSPR does not

preclude the County from requiring financial assurances for coastal facilities, nor does it address financial assurances for onshore oil spills and other types of accidents at facilities covered under the proposed ordinance.

The following table shows the regulatory practices of MMS and SLC for offshore facilities, compared to the process framed in the proposed ordinance and also to the permit approval process for the Point Arguello and Ellwood facility sales. The two cases illustrate the lack of consistency in current practice, owing largely to differences in permits. For further background, see Sections 5.3-5.4 of the attached staff report (Exhibit I).

Comparison of Proposed Change of Owner or Operator Ordinance Requirements with Practices of State and Federal Agencies and Handling of Recent Energy Division Cases

	Minerals Management	State Lands Comm.	Recent cases processed in Energy Division		Proposed Ordinance
			Point Arguello Project	Ellwood Facilities	
Change of Owner/Lessee [1]			Change of owner & operator. FDP revision. Denied by P/C. Approved 3/00 on appeal to Board.	Change of owner & operator. Done as ministerial change. Permit does not require SCD or FDP revision.	
Pre-sale facility audit	Yes	Yes	No	No	Most recent SIMQAP audit results and status of implementation must be disclosed to new owner.
Joint & several liability (owners)	Yes	Yes	Yes	Yes	Yes, based on pre-existing permit conditions
Non-managing partners	Approval required. Must be listed on lease. [2]	Approval required. Must be listed on lease.	Listed on permit.	No (N/A?)	Must apply and be listed on permit
Guarantor (approval of amount and method)	Yes	Yes	Yes	Marine Terminal only (under FROG [3]).	Yes
Change of Operator					
Pre-change facility audit	Yes	Required in some cases.	No	No	Most recent SIMQAP audit results and status of implementation must be disclosed to new operator.
Joint & several liability (operator)	Yes.	Yes	Yes	Yes	Yes
Cross training	Yes [4]	No [5]	Not required, but did occur.	Not required, but did occur.	Yes, where feasible
Pre-change emergency drills	Yes [4]	No [5]	Not required, but did occur.	No	Yes
Check safety & compliance records	Yes – 5 years	Yes – as available	Included in staff report	No	Yes
Change of either Owner or Operator					
Applicability	OCS, state waters seaward of coastline & certain inland. Worst case spill >1000 bbl.	Marine waters of state (tidally influenced).	Point Arguello Project	Ellwood Marine Terminal, onshore processing facilities.	Onshore facilities in unincorporated S.B. 1. facilities that support offshore oil/gas industry 2. refineries
Financial responsibility -- oil spill	Provided by lessee, operator, or 3rd party. Up to $150 million, depending on worst case spill potential.	Provided by lessee, operator, or 3rd party. OSPR administers. Up to $300 million, depending on worst case spill potential.	$260 million general liability insurance provided by operator.	$250 million for marine terminal required by FROG. No coverage for onshore processing facilities.	Yes, as required by permits or laws. May add permit conditions to assure adequate guarantees. [6]
Financial responsibility -- abandonment	Lessees provide "supplemental bonds." Amount discretionary, based on projected cost, operator safety & compliance track record, and financial soundness.	Lessees provide "structure bonds" & "performance bonds." Amount discretionary, based on projected cost, operator safety & compliance track record, and financial soundness.	Bond to be required immediately following permanent shut down of the facilities.	No bond required.	Yes, as required by permits or laws. [6]

1. Note that sale of an offshore lease (i.e., full change of lessee) always involves a change of operator.
2. Record title interest owners are jointly and severally liable and must be listed on the permit. Companies with an "operating right interest" in a lease and that are not jointly and severally liable are not necessarily listed on the lease.
3. S. B. County Code, Chapter 25A, *Evidence of Financial Responsibility to Clean Up Oil Spills* (Guidelines).
4. MMS requires facility inspections, cross training of new operator with departing operator, and rigorous drills prior to a change of operator. Drills include full facility shut down and restart to demonstrate operator competence.
5. SLC inspects facilities regularly and is on site monthly or more frequently monitoring operation. However, they have no special drills or cross training requirements in connection with change of operator.
6. Some permits contain conditions requiring financial responsibility or abandonment bonds. The proposed ordinance allows permit conditions to be added in certain cases to ensure adequate financial responsibility. The proposed ordinance also looks forward to future adoption of financial responsibility and abandonment ordinances that will specify procedures and standards.

WHAT THE PROPOSED ORDINANCE ACCOMPLISHES

Change of Owner

The proposed ordinance provides a consistent process for review and approval of permit transfers for ownership changes. This process may take place either before or after a facility sale or other change of owner has occurred. The former owner remains responsible under the permit until the new owner is approved.

New owners must submit an application, be listed on the permit, and meet several, basic, ownership-related requirements, which vary for different classes of ownership change. Approval of a full change of owner or managing partner requires five findings, as follows [Appendix A, Sec. 25B-9.1]:

1. *Fees and Exactions*. All outstanding County fees and exactions have been paid.
2. *Financial Guarantees*. All insurance, bonds or guarantees required by the permit or ordinance will remain in effect following the ownership change.
3. *Acceptance of Permit*. The proposed owner has provided written acceptance of all conditions and requirements of the permit.
4. *Facility Safety Audit*. Results of the most recent safety audit, along with a description of the status of implementing its recommendations, have been disclosed to the new owner.
5. *Compliance With Existing Requirements*. As of the date of application completeness, the owner is in compliance with the permit and County ordinances, or the owner and proposed owner have agreed to a schedule to come into compliance.

For a merger or change of business organization, the first three findings are required. If an existing partner becomes managing partner, only *Acceptance of Permit* is required. For a change of non-managing partner (who is not a guarantor), only application and listing on the permit are required. [See Appendix A, Sec. 25B-9.1 to 9.4]

Change of Operator

The proposed ordinance requires approval of proposed new facility operators before they take over operations.

The ordinance requires update of required compliance plans, an approved operator transition plan, safety drills of the proposed new operator, and review of the proposed operator's skills, training, and demonstrated ability to comply with applicable law and permit obligations. The provisions provide a mechanism for screening out an unqualified new operator and are within the capabilities of the County to put into practice.

Change of Guarantor

A change of guarantor, like a change of owner, may be reviewed either before or after the change occurs. The former guarantor remains liable under the permit until the new guarantor is approved.

Consistent Process

The proposed ordinance is intended to establish a consistent process for review of changes of owner, operator, and guarantor. It gives objective criteria to determine whether a case will be reviewed by the Director or be heard by the Planning Commission and stipulates specific findings for approval of different categories of owner/operator change. It provides a road map to planners, decision-makers, permit holders and the public, resulting in a more clearly defined and predictable process than currently exists.

Financial Assurances for Accidents and Facility Abandonment

The proposed ordinance requires that financial guarantees be maintained as required by permit or any later enacted County ordinance. It does not give specific requirements for the guarantees, but rather, provides a framework that calls on other ordinances and permit conditions to spell out the detailed requirements. It will be complemented by the future *Financial Responsibility* and *Abandonment* ordinances. The proposed ordinance also holds former owners and operators liable for abandonment if the owner or operator is financially incapable to abandon a facility properly after final shut-down.

Facility Compliance and Disclosure

Pursuant to existing County requirements, all facilities covered under the proposed ordinance are subject to annual facility audits under the County's Safety, Inspection, Maintenance, Quality Assurance Program (SIMQAP). All facilities have received at least one SIMQAP audit. For approval of either a change of owner or operator, the results of the most recent audit must be disclosed to the new company. Any deficiencies or violations must have been corrected or an enforceable schedule to correct them has been agreed to. These provisions will help ensure that incoming owners and operators acknowledge and give high priority to remedying any preexisting physical facility problems.

WHAT THE PROPOSED ORDINANCE DOES NOT DO

- The proposed ordinance does not interfere with transfers of private property or control who may become an owner. A permit transfer can be denied only if the new owner (or managing partner of a partnership) refuses to accept the obligations of the permit or fails to meet a small number of well-defined criteria, which vary for different types of permit transfer. (See Change of Owner, above.)

- The ordinance does not duplicate regulations of the MMS, SLC, or other agencies. It applies to onshore facilities within the County's jurisdiction, paralleling MMS and SLC regulations for offshore facilities.

- The proposed ordinance does not establish new requirements for financial assurances. The proposed ordinance only requires conformance with existing permit requirements and ordinances. The development of specific standards and requirements in future *Abandonment* and *Financial Responsibility* ordinances will occur in a public process.

BRIEF OVERVIEW OF KEY PROVISIONS

The Planning Commission recommended by a 4-1 vote that the proposed ordinance go forward to the Board. However, because oil industry and business organizations expressed strong

opposition to several provisions, the Planning Commission encouraged staff to pursue further dialog with industry, aimed at finding ways to address its concerns. In late 2001, the Energy Division and County Counsel initiated discussions with a group of industry representatives assembled by Western States Petroleum Association. A series of five meetings followed. Several revisions have been made to the proposed ordinance, rendering it more workable in practice, while retaining its key substantive provisions. Staff also met with the Environmental Coalition prior to this Board hearing to review the revisions. The meeting resulted in further improvement and clarification to the proposed ordinance.

The following sections describe the key elements of the ordinance as currently proposed (Appendix A). The required findings of approval for different classes of permit transfer are summarized in a table on page 9.

General Requirements

The proposed ordinance requires County approval of all permit transfers for changes of owner, operator or guarantor of covered facilities. Cases involving changes of operator are directed to the Planning Commission, while changes of owner or guarantor are decided upon by the Director of the Department of Planning and Development.

New owners (except non-managing part-owners) and operators must provide written acceptance of the permit. All owners, operators and guarantors must be listed on the permit. For most changes of owner or operator, all outstanding fees and exactions owed to the County must be paid. Processing fees for permit transfers must be paid by the applicant. The proposed ordinance provides that if the owner or operator is financially unable to properly abandon a facility following shutdown, previous owners or operators may be held liable. The proposed ordinance supercedes the Zoning Ordinance with regard to permit transfers for covered facilities. Provisions for appeals and enforcement are similar to the Zoning Ordinance.

Under the proposed ordinance, an owner, operator, or a third party may serve as guarantor. New guarantors must demonstrate any financial guarantees (including financial capability for facility abandonment) that are required by any permit or ordinance. The detailed requirements for financial assurances remain to be spelled out in the forthcoming *Abandonment* and *Financial Responsibility* ordinances. Because the required financial guarantees may be provided by either an owner, operator or third-party guarantor, findings stating that adequate guarantees have been provided appear in several separate sections of the ordinance. Permit conditions may be added to ensure that financial guarantees are not weakened as a consequence of the permit transfer.

Change of Owner

An application to transfer the permit must be submitted within 30 days following a change of owner for a covered facility. The previous owner remains responsible for compliance with the permit until the new owner is approved. Beyond the general requirements described above, two additional provisions apply in cases of full change of owner or managing partner of a facility. These provisions relate to obligations associated with either ownership or operation of facilities, as follows:

a) The audit report of the most recent County-conducted safety audit of the physical facilities and the current status of remedying any deficiencies must be disclosed to the new owner.
b) The facility must either be in full compliance with permit requirements and ordinances, or the previous and new owners have an enforceable agreement with the County to achieve compliance.

These two provisions do not apply in the case of mergers or changes of business organization, because in such cases there is at least partial continuity of ownership. Expedited processing, with minimal requirements, is provided for change of a part-owner that is not a guarantor and for change of managing partner where there is no change of partnership composition.

Change of Guarantor

An application for change of guarantor must be submitted within 30 days following a change of guarantor. The previous guarantor remains responsible for financial guarantees until the new guarantor is approved. Only the general requirements described above apply.

Change of Operator

The proposed ordinance requires advance approval by the County prior to a change of operator. For operator approval, four safety-related requirements must be satisfied, in addition to the requirements for change of owner listed above. They are as follows:

a) County-approved, safety-related compliance plans must be updated with current emergency contact information prior to the operator change, and all compliance plans must be revised as needed to reflect the operator change within six months.

b) A transitional plan must be prepared to assure the proposed operator receives adequate training and has a good working knowledge of the emergency plans. In practice, the amount of detailed information contained in the transition plan will depend on the complexity of a facility. As for scope, the plan must encompass sufficient information and outline proposed training to adequately address regulatory compliance and operational procedures for the safe operation of the facility, including process review, mechanical description and operating conditions for start-up, operations, and operational deviations or upsets.

c) The proposed operator must have performed adequately on County emergency response drills. More than one drill may be required, if necessary to assure that the operator is prepared to respond to different types of emergency scenario, or to test training of different shifts. The drills should proceed in a timely fashion, insofar as feasible, so as not to delay unnecessarily the change of operator.

d) The proposed operator has the necessary skills and training to operate the facility in compliance with all laws and has demonstrated the ability to comply with the applicable safety-related compliance plans.

Summary of Findings Required for Approval of Permit Transfer for Different Types of Change

	Planning Commission's Jurisdiction	Director's Jurisdiction					
	Change of Operator	Change of Owner or Managing Partner	Merger or change of business organization (owner/ operator)	Managing Partner Interchange	Change of Non-Managing Partner (owner)	Change of Guarantor	Substitution of Temporary Operator
Written Permit Acceptance	✔	✔	✔	✔	not required		✔
Financial Guarantees	✔	✔	✔			✔	✔
Fees and Exactions	✔	✔	✔				
Safety Audit Disclosure	✔	✔					
Compliance with Existing Reqs.	✔	✔					
Compliance Plan Update	✔						
Transition Plan	✔						
Emergency Response Drills	✔						
Operator Capability	✔						✔

REVISIONS SINCE THE PLANNING COMMISSION HEARING SEPTEMBER 17, 2001

REVISIONS

The changes incorporated in the proposed ordinance (Exhibit A) are as follows.

1. Moved change of owner to the Director's jurisdiction. [25B-8, 25B-9, 25B-10]

   Beginning with early drafts of the proposed ordinance, full changes of ownership or managing partner, as well as changes of operator, were placed under the Planning Commission jurisdiction. A few types of ownership changes, including mergers, change of managing partner, and change of business organization, were placed under the Director's jurisdiction. The dividing line between Director-level and Planning Commission cases seemed rather awkward and arbitrary.

   As the ordinance evolved, it became apparent that the level of discretion required for approval of a change of owner is more suited for a Director-level decision, appealable to the Planning Commission. Findings required to approve changes of ownership, while discretionary, are fairly cut-and-dried. The five findings for a full change of owner or managing partner are as follows:

   1. Fees and exactions have been paid.
   2. Financial Guarantees are in place.
   3. New owner has agreed to accept the permit.
   4. Facility safety audit and status of its implementation have been disclosed to new owner.
   5. Owner is in compliance with ordinances and permits, or has agreed on a schedule to come into compliance.

   This is in contrast to changes of operator, for which the findings require greater discretion, and which warrant public hearings, due to public safety concerns.

   Hence, the ordinance sections relating to application processing, Director findings, and Planning Commission findings were reorganized in the present draft so that all ownership changes would be handled by the Director and all operator changes heard by the Planning Commission.

2. *Facility Safety Audit* finding changed. [25B-9.1.d, 25B-10.1.d]

   The previous draft ordinance required that the County complete a safety audit within three years prior to the application to change owner or operator, and that the audit results be disclosed to the new owner or operator, along with a disclosure of the status of implementation of audit recommendations. This put industry in the position of having to complete an audit, the timing of which is determined by the County, and over which the owner or operator has little control. Because the requirement was unworkable as written, the three year requirement was deleted in the proposed ordinance. The disclosure requirement was retained.

   At present, the Systems Safety and Reliability Review Committee (SSRRC) oversees audits over all covered facilities, and all have had at least one audit. It is incumbent on the County to continue holding regular audits.

3. *Compliance with Existing Requirements* finding changed. [25B-9.1.e, 25B-10.1.e]

   For both owner and operator changes, this finding requires the current owner or operator to be in compliance with all County ordinances and permit requirements, or to have signed an agreement with the new owner or operator and the Director for a schedule to come into compliance. Industry argues that the County has enforcement authority at all times, and can issue notices of violation at any time. Applications for changes of owner or operator typically occur after the purchaser has examined the state of the facilities and a facility sale is in progress or is complete. If, at that point in time, additional violations occur and the County makes the permit transfer contingent on their resolution, that may terminate or greatly complicate the sale.

   An alternative, suggested by industry, is to stop the clock at the time the application is submitted, so that violations occurring after that point need not be resolved as a condition for permit transfer. This in no way limits other enforcement options open to the County, which range from notices and fines to shut-down orders. However, this proposal does give industry some assurance that an application for change of owner or operator will not trigger new issues of non-compliance, potentially jeopardizing a sale.

   Staff partially agrees with this reasoning. The intent of this provision is to hold the owner and operator accountable for non-compliance of which they are, or should be aware based on information available to them. It is not the intent to use an application for change of owner or operator as a trigger to conduct a special, pre-sale audit for the specific purpose of compiling a new list of violations. Acknowledging industry's concerns over these issues, a clause was added to require compliance as of the date the application is found to be complete and ready for processing.

4. *Compliance Plans* finding deleted for change of owner. [25B-9.1]

   In the previous draft of the ordinance, compliance plan updates were required for approval of permit transfer for either owner or operator. Staff has concluded that the compliance plan requirement is appropriate for change of operator, but not change of owner. The purpose of requiring plan updates before permit approval is to make sure the emergency contact information for operators is current. Such an update is not needed for owner changes, because owners are not emergency respondents. In fact, if an owner were to appear as an emergency respondent on a compliance plan, that would be evidence that they were acting as operator, subject to operator permitting requirements. For these reasons, *Compliance Plans* was deleted from the change of owner findings.

5. *Compliance Plans* finding revised for change of operator. [25B-10.1.f]

   The previous draft required that if any of the four principal, safety-related compliance plans were not approved for a facility, that an acceptable plan must be prepared and approved prior to approval of a new operator. Examination by staff of existing compliance plans, and discussions with the Office of Emergency Services and industry, turned up difficulties with this provision. It is typical for many of the plans to be in a state of revision, often requiring many months of discussions with the County under the auspices of the Systems Safety and Reliability Review Committee (SSRRC). It is only the final, approved plans, those that are actually in use, that should be updated. More substantive plan revisions (or new plans, if needed) can be proposed by an operator or required by the County at any time, and approved through the established mechanisms of the SSRRC. But such revisions take time, and it would be a poor idea to force such revisions into the time-frame of an operator change. Therefore, the

requirements for new plans and approval have been deleted, leaving the requirements for plan updates intact.

6. *Operation Record* finding replaced with *Operator Capability* finding.
[25B-10.1.i, deleted Appendix A of the proposed ordinance]

The *Operation Record* finding of the previous draft required evaluation of the operator's accident and compliance record for the past seven years to establish that the operator has the skills and training necessary operate the facility. For a new company that lacks such a track record, the operator would have to demonstrate that key personnel have the experience and expertise to operate the facility safely. The intention of this provision has always been to provide a mechanism for the County to deny a permit transfer to an operator, if that operator presented a real, documented, substantial threat to the public or environment.

The language of the new *Operator Capability* finding in the proposed ordinance is broader than the previous *Operation Record* finding. The proposed operator must be found to have the skills, training, and resources necessary to operate the permitted facility in compliance with the permit and all applicable laws and have demonstrated the ability to comply with the compliance plans. To make this finding, the Director may require records of compliance and major incidents. Thus, the review of a proposed operator could consider track record, experience and expertise, criminal convictions, and any other information germane to assessing the capabilities of a proposed operator. The revised language is similar to that of the temporary operator provision [25B-9.6.c].

7. Enforcement section amended to provide for administrative fines and penalties. [25B-13]

Although the civil and criminal penalties of the proposed ordinance are essentially the same as those of the Zoning Ordinance, industry has expressed serious misgivings about them. Civil penalties of up to $25,000 per day are possible, though a judge would be unlikely to assess such high penalties except for the most egregious, repeat violations. A more likely scenario than the excessive, unreasonable fine scenario is that staff would be hesitant to bring relatively small violations to the District Attorney for prosecution. Consequently, there may effectively be no means to force compliance until a violation escalates into a major problem.

Under the Zoning Ordinance, an alternative means to assess fines for minor violations exists through application of Chapter 24A of the County Code, *Administrative Fines and Penalties.* This chapter allows the Director to assess fines of up to $500 per day for infractions. The ability to apply Chapter 24A under the proposed ordinance would provide an appropriate scale of fines for minor violations. Therefore, the enforcement section has been amended in the proposed ordinance to provide for utilization of *Administrative Fines and Penalties.*

Chapter 24A also must be amended to reference the proposed Change of Owner ordinance. The proposed revisions to Chapter 24A to accomplish this are included herewith in Attachment B.

CLARIFICATIONS; HOUSEKEEPING CHANGES

Several additional, comparatively minor changes were also made in the proposed ordinance, as follows:

Definition of Operator. [25B-3] The definition was augmented for greater clarity. The intention is that any company, including owners or third parties, that performs management functions for a facility must be

approved and listed as an operator. Thus, an owner that acts as an operator, as determined by the facts, would be required to seek approval as an operator.

Application Contents. [25B-6.6] Deleted the unnecessary requirement for an applicant to provide a business plan. Also made "housekeeping" changes for consistency with changes in other sections.

Abandonment finding. [25B-9, 25B-10] Deleted the abandonment findings throughout.
As was decided prior to the Planning Commission hearing, standards and regulations for facility abandonment are not included in the proposed ordinance, but will be established through the forthcoming abandonment policies and ordinance. The abandonment finding in the previous draft, as approved by the Planning Commission, required applicants to provide demonstration of any financial guarantees required by law or permit. However, this function is already served by the Financial Guarantees finding, which is written broadly enough to encompass abandonment guarantees, as well as financial assurances for oil spills and natural resource damages. Hence, the Abandonment finding was redundant and has been deleted.

Existing partner becomes managing partner. [25B-9.3] Added a special category of change of ownership. Staff agreed with industry that where an facility owner is a partnership, and the managing partner rotates from within the existing group of partners, then to require approval as a full change of ownership would be unnecessary. In the proposed ordinance, only an application and acceptance of permit are required in this special case. To prevent a company from entering a partnership as a non-managing partner (under the fast-track application for non-managing partners) and immediately thereafter becoming the managing partner (thereby circumventing a full change of owner application), this new provision may only be used if the applicant partner has been in the partnership at least one year.

Financial Guarantees finding. [25B-9.1.b, 25B-9.2.b, 25B-9.6.a, 25B-10.1.b]
Reworded the finding for clarity. Financial guarantees are provided by the guarantor(s), which may be an owner, operator, or third party. Any change of guarantor is processed under [25B-9.5], separate from any changes of owner or operator. The Financial Guarantees finding included in the sections on change of owner and operator provide an additional check, to make sure that all financial guarantees are reviewed and will remain valid following the owner or operator change. In the previous draft, the wording of the *Financial Guarantees* finding is the same in the sections on change of owner and operator as it is in the change of guarantor section. This has led to some confusion, as it appeared duplicate financial guarantees might be required for change of owner, operator, and guarantor. The revised wording makes clear that additional guarantees are not needed for change of owner or operator, providing that the guarantees supplied by the guarantor remain in force after the new owner or operator is approved.

Acceptance of Permit finding. [25B-9.1.c, 25B-9.2.c, 25B-10.1.c]
Reworded for internal consistency. It was agreed prior to the Planning Commission hearing on September 17 that part-interest owners who were not managing partners would not be required to submit written acceptance of the permit. The findings were reworded accordingly.

Mandates and Service Levels: The proposed ordinance is not a mandated program, but rather a response to federal and state laws and decisions to lease tracts offshore Santa Barbara County to the oil industry for the purpose of developing oil and gas reserves. Such leasing decisions have placed a legislative burden on adjacent local jurisdictions to adopt rules for processing and monitoring permits for the onshore infrastructure necessary to support offshore oil and gas development. The proposed ordinance codifies a cost

reimbursable process to handle transfers of such permits from one owner, operator, or guarantor to another in a consistent and comprehensive manner.

Fiscal and Facilities Impacts: Development of the proposed ordinance has been funded from outside grants, with $5,000 match provided by the County (program 5080, projects PCHG, PCH2, and PCH). The proposed ordinance establishes reimbursing mechanisms for costs incurred in implementing the ordinance. The ordinance does not affect any County facilities.

Special Instructions: Clerk of the Board will provide all required public noticing and posting.

Concurrence: County Counsel

Exhibits:
A. Proposed Ordinance Adding Chapter 25B to the County Code
B. Proposed Ordinance Revising Chapter 24A (Administrative Fines and Penalties)
C. Marked up copy of Proposed Chapter 25B, reflecting staff-recommended revisions to Planning Commission's recommended ordinance
D. Board of Supervisors' Findings for Adoption of Proposed Ordinance
E. Planning Commission Action Letters, dated August 6, 2001 and September 17, 2001
F. Written public testimony for Planning Commission Hearing, September 17, 2001
G. Memorandum to the Planning Commission, dated September 7, 2001
H. Written public testimony for Planning Commission Hearing, August 1, 2001
I. Staff Report to the Planning Commission, dated July 19, 2001

ATTACHMENT 5

SANTA BARBARA COUNTY PLANNING COMMISSION
Staff Report for Change of Owner, Operator or Guarantor for Certain Oil and Gas Facilities

Hearing Date: August 1, 2001
Staff Report Date: July 19, 2001
Case No.: 01-ORD-0000-00006
Environmental Document: exempt

Supervisorial District: All
Staff: John Day, Doug Anthony
Phone #: 568-2045, 568-2046

APPLICANT: Santa Barbara County

1.0 REQUEST

Conduct a public hearing on a proposed ordinance to recommend to the Board of Supervisors to establish uniform requirements and procedures to deal with changes of owner, operator or guarantor for onshore oil and gas facilities that support offshore oil and gas development and oil refineries.

2.0 RECOMMENDATION AND PROCEDURES:

Staff recommends that your Commission recommend to the Board of Supervisors that it adopt the proposed ordinance *Change of Owner, Operator or Guarantor for Certain Oil and Gas Facilities,* to set forth requirements, procedures and processes, and findings for the transfer of permits from one party to another for a specified class of development. Such transfers apply to changes in ownership, operator, or third-party guarantor.

Your Commission's motion should include the following:

(A) The Planning Commission has held a duly noticed public hearing on the proposed amendment to the Santa Barbara County Code, at which this amendments was explained and comments invited from the persons in attendance.
(B) In conclusion, the Santa Barbara County Planning Commission recommends that the Board of Supervisors amend the Santa Barbara County Code to add Chapter 25B, *Change of Owner, Operator or Guarantor for Certain Oil and Gas Facilities*, included herein as Attachment A and, in so doing, make the draft findings included herein as Attachment B.

The actions recommended today consist of Planning Commission recommendations to the Board of Supervisors to adopt a new chapter to the Santa Barbara County Code. Whichever action the Planning Commission decides to take on these recommendations will be transmitted to the Board of Supervisors and the Board will consider those recommendations in a duly noticed public hearing. In considering the Planning Commission's recommendations, the Board may adopt the new ordinance as submitted by the Planning Commission or a modified version thereof. Conversely, the Board may choose not to adopt the ordinance, either declining further

consideration at this time or deferring the ordinance back to the Planning Commission with specific direction for further consideration. If the Planning Commission declines to recommend adoption of the ordinance, the Board of Supervisors may uphold that recommendation, or reverse it by adopting the ordinance.

3.0 JURISDICTION

The California Constitution, Article XI, §7 confers on cities and counties the power to "make and enforce within [their] limits all local police, sanitary and other ordinances and regulation not in conflict with general laws. Regulation of land use is a manifestation of these local police powers.[1] The County's local zoning ordinances set forth land use regulations that include procedures, processes, required findings, and standards for approval or disapproval of discretionary and ministerial permits for development. This proposed ordinance sets forth requirements, procedures and processes, and required findings for the transfer of such discretionary and ministerial permits, from one party to another, that have previously received the County's approval for a specified class of development. Such transfers apply to changes in ownership, operator, or third-party guarantor.

The Planning Commission considers this proposed ordinance as part of the general authority delegated to it by the Board of Supervisors to conduct public hearings and make recommendations with regard to land-use policy and regulation, including consideration of new ordinances.

4.0 ISSUE SUMMARY

Santa Barbara County is a focus of oil and gas development. Among other things, it has permitted several facilities that support development of oil and gas reserves offshore.[2] Recent years have witnessed new trends in the ownership and operations of these facilities, as described in section 5.1.2. This ordinance is the first of three policy projects under development by the County that, in part, address these evolving trends. Those three policy projects include:

- Change of Owner, Operator, and Guarantor Ordinance, which is before the Planning Commission today.
- Abandonment Policies and Ordinances, which were initiated by the Planning Commission last fall and currently are undergoing environmental review.
- Financial Responsibility Ordinance, for which the Board of Supervisors has authorized funding with its development anticipated to commence next spring.

The oil and gas facilities covered by the proposed Change of Owner, Operator, and Guarantor Ordinance stand apart from most other permitted facilities in the County, in that they have the

[1] Curtin, Daniel. *Curtin's California Land Use and Planning Law.* 1999. Page 1.
[2] In 1999, for example, 84% of all oil and 90% of all gas produced from the Pacific Outer Continental Shelf Region was landed in Santa Barbara County for handling.

potential for serious accidents and oil spills that could endanger the public, property, and environment. Development plans and conditional use permits for these facilities are conditioned to require safe operation and mitigation of environmental impacts. However, subsequent owners and operators may in some cases be less technically and financially capable than the original operators, or unwilling to comply with permits and regulations. Therefore, the County must exercise sufficient regulatory oversight of permit transfers to ensure that risks do not increase and permit compliance does not deteriorate when facilities change hands.

The County currently has no ordinance specifically formulated to regulate owner/operator changes. Most but not all permits and development plans contain some provision that require a permitting action if the project description changes, and such provisions have been the basis for many change of owner/operator permit actions. The Energy Division has processed these changes as permit revisions or substantial conformity determinations within the generic procedural framework of the Zoning Ordinance. The Zoning Ordinance, however, does not give adequate or definite guidance for evaluating and permitting owner or operator changes. To fill the gap, the Energy Division has evolved some basic internal principles, based on the Division's experience over the past eight years. Current practice for owner/operator change includes the following minimum requirements:

a) written commitment from the applicant to accept the permit including all its conditions,
b) written commitment and financial assurance for proper facility abandonment and land restoration at project completion,
c) c) demonstration of adequate financial responsibility for operations, required mitigations, and clean-up costs for potential oil spills, and
d) d) evidence of operator experience and expertise.

These practices are codified in the proposed ordinance, and form its central core.

Some issues have not resolved into practice. One case in point involves the specific criteria for determining whether an owner/operator change should be handled by the Director or heard by the Planning Commission. Which approval path to take is currently a gray area, partly because the Zoning Ordinance provisions that cover permit revisions, amendments, and substantial conformity determinations do not specifically address the major concerns about owner/operator change, such as financial responsibility and the risks that may come with a new operator. The proposed ordinance gives clear guidance on which approval path to take for any owner/operator change. Several new requirements are instituted in the proposed ordinance. These include accurate and truthful identification and naming on the permit of all owners, operators, and guarantors for a facility, and disclosure of facility condition to new owners.

The proposed ordinance deals with the following major substantive issues relating to change of owner, operator, or third-party guarantor:

- Identification of all owners, operators, and guarantors, and listing on permit.
- Acceptance of permit by owners and operators.

- Responsibility for facility abandonment.
- Financial responsibility for accidents and oil spills.
- Facility safety audit status; disclosure of audit report to new owners.
- Compliance of facility with permit and ordinances.
- Updating of emergency plans.
- Transitional plan for change of operator.
- New operator's experience, safe operating record.
- New operator's knowledge of safety plans and emergency procedures.

5.0 PROJECT INFORMATION

5.1 Setting

5.1.1 Facilities

The proposed ordinance pertains to onshore oil and gas processing plants and pipelines in the County that support production from offshore reserves. These facilities currently produce about 95% of the total oil and gas production under the County's jurisdiction, the remaining 5% being produced by onshore wells.[3] Currently operating offshore-related onshore facilities include the following (together with any related pipelines, pump stations, and other associated facilities):

- Ellwood storage and processing facilities, including the marine terminal (Venoco)
- Ellwood Line 96 pipeline (Mobil Pacific Pipeline Co.)
- Las Flores Canyon oil processing and stripping gas treatment facility (Exxon Mobil Corp.)
- Las Flores Canyon gas processing plant (Pacific Offshore Pipeline Company)
- Molino Gas Project (Benton)
- Gaviota processing facility (Point Arguello partners)
- Gaviota Terminal (Gaviota Terminal Company)
- All American Pipeline
- Lompoc Oil and Gas Plant (Torch/Nuevo)
- Sisquoc and Unocap/Pedernales pipelines (Tosco)

The ordinance also pertains to any oil refineries that process oil originating either onshore or offshore . The Santa Maria Asphalt Refinery (Greka) is the only refinery currently operating in the County.

5.1.2 Ownership trends

The first generation of operators for oil and gas leases on the Outer Continental Shelf (OCS) and their related onshore facilities were major, vertically integrated oil companies (e.g., Exxon, Chevron, Texaco, and Unocal). Although company mergers, acquisitions and sales have featured prominently throughout the oil industry's history, Santa Barbara's offshore producers and related

[3] Based on data from 1999 Annual Report of the State Oil and Gas Supervisor

onshore facilities have until recent years remained in the hands of the majors. The large amounts of capital and technical expertise required to successfully develop offshore leases precluded participation by independents and small operators.
A trend has emerged recently in which the major companies seek to divest themselves of offshore leases and related onshore infrastructure, as the fields enter mature stages of development. Decreasing production yields and the need for secondary and tertiary means of enhanced oil recovery reduces profits below those achievable in other regions or in foreign countries.

A second generation of operators views Santa Barbara offshore operations and their existing onshore support facilities as profitable investments, though they appear relatively unprofitable to the majors. This second generation includes independent firms such as Nuevo Energy Company, Torch Operating Company, and Venoco, Inc. As noted in a recent study that addressed the industrial history of petroleum extraction in and offshore Santa Barbara County:

> *"The business goals of these firms fit with the supply conditions of the area. They aimed to acquire existing producing properties and develop them using advanced recovery methods such as horizontal drilling and steam-assisted gravity drainage processes (SAGDs) to pull more crude oil out of the fields in an environment of steady or rising demand. As exploration and production companies neither refining nor distributing their own crude, they were especially subject to fluctuations in prices. While exploratory drilling in the area ceased entirely in 1995 for the first time since World War II, development activity was vigorous. The intensely competitive nature of this side of the business placed a premium on lease acquisition and the capacity to exploit existing reserves."*[4]

These second generation companies are relatively young and lack the vast array of financial assets and technical resources of the first generation. The success of their investment in local fields and supporting facilities depends on their ability to produce, process, and transport oil and gas at lower costs. Nevertheless, it would be a mistake to equate size and safety; examples can be found of majors with poor safety records, and of independents with good safety records.

A second shift towards more complicated ownership structures and new forms of business organization is also taking place, which potentially shields owners from liability. Gaviota Terminal offers an example. Gaviota Terminal is owned by Gaviota Terminal Company (GTC), a partnership of five entities, that include subsidiaries of four corporations and one limited liability company (LLC). GTC leases the facility to Point Arguello Terminal Company (PATC), a partnership consisting of eight companies that have interests in the Point Arguello Project (or their subsidiaries). The facility is currently operated by Equilon Pipeline Company, LLC, the managing partner of GTC. Equilon Pipeline Company, LLC, is a subsidiary of Equilon Enterprises, LLC, which is a joint venture between Shell and Texaco. The County addressed this

[4] Nevarez, Leonard, *et. al. Petroleum Extraction in Santa Barbara County, California: An Industrial History.* (1998: Camarillo, CA, Minerals Management Service.) Page 3.2.42.

complex ownership by requiring all partners of GTC were required to be listed on the permit, demonstrate financial responsibility by means of insurance, and accept joint and several liability.

In other cases, ownership has changed hands, and while the new owner takes over the function of operator, the corporation of the former operator is retained as the permitted operator. An example is Pacific Offshore Pipeline Company (POPCO) that operated the gas processing plant at Las Flores Canyon. The facilities are now owned by Exxon Mobil Corp. and operated by ExxonMobil Production Company. The new owner has kept POPCO as a legally functioning corporation that remains permitted operator, though it no longer actually operates the facilities.

A third type of change involves the formation of limited liability companies and limited partnerships. Examples include All American Pipeline, L.P. and Equilon Pipeline Company, LLC. These forms of organization may provide greater protection of the owners' assets than is provided by setting up corporate subsidiaries, which are also widely utilized.

5.2 Project Description

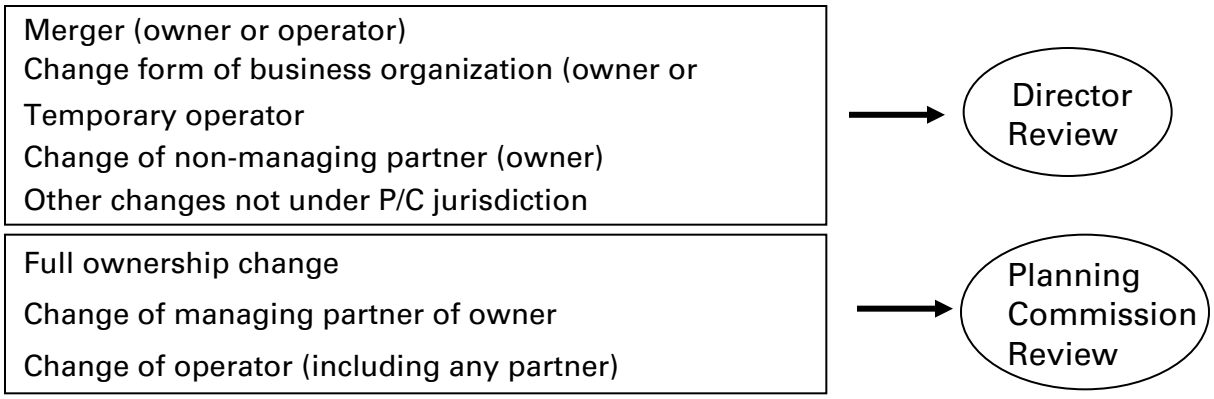
The purpose of this proposed ordinance is to establish requirements, processes, and findings for the transfer of permits when the owner, operator, or guarantor of the foregoing facilities changes. The proposed ordinance (Attachment A) is designed to fill a gap in existing regulations, providing a uniform mechanism for permit transfer that ensures the important issues are adequately addressed.

While the proposed ordinance has its roots in the Energy Division's experience, it also draws from the experience and practices of the Minerals Management Service (MMS) and State Lands Commission (SLC), which regulate offshore oil and gas operations. MMS and SLC face many of the same issues for change of owner/operator of offshore oil and gas projects that the County faces for the onshore facilities. Their proven practices, where relevant, have helped shape the proposed ordinance.

The functioning of the proposed ordinance is very straightforward: Any company that owns, operates, or provides financial guarantees for a facility must be named on the permit [§25B-4(1)]. Any change of the parties named on the permit requires a permit transfer, and transfer of a permit requires application and approval [§25B-4(3)]. Since a facility cannot legally operate without a permit, any change of an owner, operator, or guarantor requires a permit transfer, following the specified procedures.

All owners, operators, lessees, and guarantors are identified through a reporting requirement [§25B-6(1)]. Any changes require submission of an application [§25B-6(3-5)]. Owner/operator changes that can be handled by the Director of Planning and Development (Director) and those that must be heard by the Planning Commission follow separate approval paths [§25B-8]. The branching is accomplished by means of simple, objective criteria. The intention is to direct routine, generally administrative owner/operator changes to the Director, while bringing the more

substantive cases with potential for safety or environmental impacts or controversy to the Planning Commission for public hearing.



Applications handled by the Director may be approved, based on a short list of appropriate findings [§25B-9]. There are also separate lists of findings tailored for particular cases: change of guarantor, change of non-managing partner, and temporary operator.

Applications destined for the Planning Commission must satisfy one list of findings for owner change and a second list for operator change [§25B-10]. In all cases appeal may be made, following procedures patterned after the Zoning Ordinance. Enforcement of the Chapter is also fashioned after the Zoning Ordinance.

5.3 Owner/Operator Changes: Recent history and County practice

At least 22 changes of owner or operator have taken place since 1993 for the 12 facilities listed above (§5.1.1). Permit revisions for several of these changes are not yet settled, pending adoption of the proposed ordinance. The changes are a diverse assortment, involving sales or mergers that affect ownership, operator, partnership composition, parent companies, form of business organization, etc. (See Attachment B for a detailed outline of recent owner/operator changes.) For simplicity, the changes can be grouped into four categories: *facility sales*, *change of operator*, *change of parent company*, and *other change of ownership*.

5.3.1 Facility sales

The conceptually clearest type of owner/operator change is the sale of a facility from one company to another. In such cases, both the owner and operator are replaced, unambiguously, by new a new owner and operator. An example is the sale of the Ellwood facilities from Mobil to Venoco in 1997. Some facility sales involve a change of ownership control, but are not full ownership changes. An example is the sale of Chevron's share of the Point Arguello Project to Arguello, Inc. Since 1993, there have been 4 full facility sales and 5 major, but partial, ownership changes. (There have also been 4 sales that were presented to the County as changes of parent company, but are more accurately described as full facility sales. These cases will be discussed in

another section.) The Venoco and Arguello examples are described below to illustrate the range of issues that arise for facility sales.

The Ellwood case involved the sale of Platform Holly and the Ellwood onshore facilities from a major owner/operator to a small independent, both of which are corporations. The onshore facilities consist of the Marine Terminal, an oil and gas processing plant, storage tanks, and pipelines. These facilities had previously been permitted to Arco under County Ordinance 2919. Mobil purchased them in 1993 and sold them (except for the Line 96 onshore pipeline) to Venoco in 1997. The permit does not have any special provisions for approving a new owner or operator, or a mechanism to ensure the new owner has adequate financial resources or that the new operator is capable of operating safely. Therefore, neither the 1993 nor 1997 change of owner/operator required any permitting action. However, the Financial Responsibility Ordinance (FROG) (County Code, Chapter 25A) does require a demonstration of financial responsibility for the marine terminal portion of the facilities. Venoco satisfied the requirement with $250 million of insurance, obtained prior to the permit transfer. Permit transfer to Venoco was handled by as an administrative change by the Energy Division, without a public hearing.

Following Venoco's purchase of the facilities, a hydrogen sulfide release prompted closer monitoring by the County. Many safety issues were discovered, which may have predated the sale. Venoco has since corrected, at considerable expense, most of the facility deficiencies identified in County-conducted audits.

The Chevron to Arguello Inc. case illustrates a far more complex situation. The Point Arguello facilities were originally permitted to Chevron. Subsequent to approval of the CDP, the County learned that the project was owned by the Point Arguello Partners, for which Chevron was the managing partner. The ownership arrangement is complicated. The project is divided into three operating entities, each a partnership of eight partners and each with a partially differing partnership composition. Point Arguello Partners includes all the partners that constitute these three partnerships. Chevron applied to transfer the permit to Arguello, Inc., a subsidiary that was formed by Plains Resources (a large independent) expressly for the purpose of managing the Point Arguello Project. Plains/Arguello, Inc. applied to replace Chevron as permittee, with contract operating services to be provided by Torch Operating Company.

The Chevron to Arguello Inc. permit change was brought before the Planning Commission, based on a condition of the development plan (Condition A-7) requiring a substantial conformity determination (SCD) or a new or modified permit for any change of the project description, including changes of owner or operator. Conditions similar to this are found in some but not all development plans for oil and gas facilities. Based on the significance of the proposed changes, the development plan was taken before the Planning Commission. Operator safety, financial responsibility for potential oil spills, and future facility abandonment were all major concerns. The proposal of Torch as operator, was highly controversial in the aftermath of Torch's 1997 Point Pedernales oil spill. The Planning Commission denied the development plan revisions, due to financial responsibility and operator safety issues. The revisions were approved in 2000 on appeal to the Board of Supervisors, following the addition of several new conditions, including

the following: a) Plains/Arguello Inc. to demonstrate $260 million in liability insurance, b) all partners and operators to accept liability, c) explicit listing on the permit of all owners, managing partner, and operators, d) limitation of Torch role to non-management functions, e) Chevron to remain on permit for joint abandonment liability.

The Chevron sale consisted of a partial change of ownership and change of managing partner, in contrast to the Venoco sale, which involved a full ownership change. Such changes usually raise questions of financial responsibility, abandonment responsibility, liability, update of certain facility compliance plans, and owner acceptance of permits and plans. Where a change of operator accompanies the change of owner, as is typically the case, operator expertise and safety are matters of concern. Accurate characterization of facility ownership and operator may also be a significant issue, as it was for the Point Arguello Project. In current practice, full changes of ownership, changes of managing partner, and changes of operator are analyzed with respect to these issues and brought before the Planning Commission, except where permit conditions do not require a permit revision or SCD for changes of owner or operator.

5.3.2 Change of operator

As discussed above, a change of operator may occur in connection with a full or partial change in facility ownership. Two other kinds of operator change have recently occurred in the County: First is a change of operator without a change of owner. This has occurred twice since 1993. Second, is a de facto change of operator that takes place following the purchase of an owner/operator by a new parent company; this has occurred 4 times.

The pending application for change of operator of the Gaviota Terminal is an example of the first kind. Equilon Pipeline Company, LLC is managing partner for the Gaviota Terminal Company (GTC) partnership that owns the facility. Equilon Pipeline Company, LLC, and Equilon Enterprises, LLC, are listed on the permit as operator. Equilon plans to turn the operations over to Arguello, Inc., subsidiary of Plains Resources, with contract operating services to be provided by Torch. As Plains/Arguello, Inc. currently operates the Point Arguello facilities, which are interconnected with Gaviota Terminal facilities, the change makes good practical sense.

Many of the same issues that come up for facility sales also apply in this case, including financial responsibility, liability, updating of emergency plans, identification of all parties and naming them on the permit, and operator safety. New permit conditions addressing these issues have been under discussion for over a year. When the remaining issues are resolved, the permit revisions could be approved by the Director or brought before the Planning Commission.

Cases of de facto change of operator include Tosco's two pipelines, Greka's Santa Maria Asphalt Refinery (SMAR), and Pacific Offshore Pipeline Company (POPCO). The POPCO example shows how de facto change of operator can happen. POPCO, which operated the Las Flores Gas Plant, was bought by Exxon, owner of the adjacent LFC oil processing facilities. Shortly thereafter, Exxon merged with Mobil. POPCO remains an active, legal corporation, as a subsidiary of Exxon Mobil Corporation. Exxon Mobil maintains that POPCO continues to

operate the Gas Plant, but ExxonMobil Production Co. is the actual operator in fact, responsible for managing the operations and most business functions for POPCO.

This and the similar cases more closely resemble full changes of owner and operator than they do parent company changes. However, the permit does not reflect the change of operator, and the normal review process for operator change, including the new operator's acceptance of permit conditions, has been bypassed. At least part of the reason this is possible is that some permits lack clear language defining the operator and do not give explicit procedures for permit transfer. In such cases, identification of the actual operator is a basic issue for effective permitting and is the basis for establishing liability, financial responsibility, operator safety, permit enforcement and other issues.

5.3.3 Change of parent company

Changes of the parent company of an owner or operator may occur through sales or acquisitions of subsidiaries, mergers, or changes in the form of business organization. Two such cases have occurred since 1993. Permit action is not generally warranted, and is beyond the County's purview, in connection with changes of parent companies, providing that the owner and operator of the facility do not change, and guarantees for abandonment and financial responsibility are unaffected. For example, Goodyear Tire and Rubber Co. sold its subsidiary All American Pipeline Company to Plains Resources, Inc. No permitting action was required, since the pipeline owner and operator did not change.

5.3.4 Other ownership changes

A variety of other types of change of the facility owner or operator can and do occur, either alone or in combination with facility sales, operator change, or parent company change. At least 5 such cases have occurred recently. Examples include the following:

Exxon → Exxon Mobil Corp.	1999	merger of corporations
AAPL → AAPL, L.P.	1998	operator converted from corporation to limited partnership
GTC / Oryx + Kerr-McGee	1999	merger of a non-managing partner of owner
GTC → PATC lease	1997	GTC partnership leased the terminal to PATC partnership

This catch-all category includes mergers, changes in form of business organization, changes of non-managing partners, and miscellaneous other changes. Change of a financial guarantor also fits into this category. What these examples have in common is that they do not involve replacement of the operator or a discontinuity in ownership. In a sense they somewhat less substantive and more administrative than full ownership changes, changes of managing partners, or operator changes.

5.3.5 County practices

Of the owner and operator changes listed in Attachment C, in seven of the cases no permitting action was taken, such as a substantial conformity determination (SCD) or amendment. In two of these, the County was not informed of the change, and in the other five, there was no basis in the permit to require any action. Six cases are currently pending, and will most likely be processed under the proposed ordinance, if approved. Of the nine cases that have been resolved, eight were brought to the Planning Commission and one was handled as an SCD within the Energy Division.

Currently, the principal grounds for the County to require approval of owner or operator changes is a condition in most permits that requires an SCD in the event of a change of the project description, including any associated plans and environmental documents. An SCD is required because change of owner or operator constitutes a change of project description. In most cases, to approve an SCD, the Energy Division has required additional permit conditions aimed to assure that the new owner/operator provides adequate financial guarantees for potential accidents and spills and future facility abandonment, and that any new operator is capable of operating safely. Conditions specifically requiring approval of owner/operator changes have been added to several permits in recent years, but for most facilities the condition requiring approval of changes in project description remains the basis for the change of owner/operator approval process.

In all these cases, the same basic concerns come up repeatedly: acceptance of the permit by new parties, financial responsibility, abandonment responsibility, and operator safety. Other issues, such as identification and listing of non-managing partners on the permit, have arisen as secondary issues.

5.4 Regulatory Practices Elsewhere

5.4.1 Minerals Management Service practices for owner/operator change

The Minerals Management Service (MMS) has well defined procedures for change of owner/operator of offshore platforms in relation to both operational safety and financial responsibility.

The approval of a new operator is based on a system of ongoing audits, which include Focused Facility Inspections (FFI) in addition to annual inspections and unannounced partial inspections. The FFI is a new type of in-depth inspection by a multidisciplinary team. FFIs go beyond appraising maintenance, mechanical systems, etc., in that they study training, operating procedures, and examine whether the management style is conducive to safe operation. MMS indicates FFIs are useful in the context of change of operator, as they document what needs correction and also form a baseline against which to compare a new operator's performance and management approach. Prior to a change of operator, the current operator must remedy any identified facility deficiencies or agree to a schedule for correcting them.

The MMS procedure for approving a new operator is as follows:

a) companies submit a transition plan;
b) MMS audits facilities and requires repairs based on audit findings;

c) cross training between old and new crew for three weeks to three months, depending on facility complexity;
d) testing of new crew's competence, including emergency drills, oil spill response, fire shelter, and total emergency platform shutdown, followed by restart. Bringing a platform back up is a long, involved procedure that must be done gradually and carefully, and proper execution demonstrates full understanding of the system.

Before final approval, the new operator must certify that it belongs to an oil spill cooperative, and that it has the capability to respond to a worst case oil spill.

MMS requires three types of financial guarantee for offshore oil and gas development, all of which come up in connection with owner and operator changes. They are *general bonds* for fulfillment of lease terms, *supplemental bonds* to cover estimated costs of abandonment, and *oil spill financial responsibility* (OSFR) coverage of up to $150 million. A fifteen-step procedure is followed, that assures the following:

a) a single company provides acceptable guarantees of OSFR;
b) authorized signatories are designated;
c) general and supplemental bonds are received;
d) operator's financial condition is reviewed;
e) all companies involved in ownership and operation are jointly and severally liable for oil spill clean-up and damages.

In evaluating new operators, MMS employs a criterion of five years of demonstrated safe offshore operation. This means they have a good record, both financially and operationally. MMS increases the amount of security bonds for companies with poor records, because they represent high risks. New operators must show that they are sensitive to regulations and can operate in a heavily regulated environment. MMS has, on rare occasions, refused requests to change operator.

5.4.2 State Lands Commission practices

The State Lands Commission (SLC) considers both safety and financial responsibility in evaluating applications for change of owner/operator of oil and gas facilities in State waters.

SLC investigates the applicant's performance history, considering their track record of operations, safety, and financial responsibility. If the new lessee or operator is an unknown quantity, SLC reviews past experience outside of California, looking at such concerns as delinquencies on royalty payments, safety record, and reputation in the industry.
Safety audits were recently added to the lease transfer process. Prior to a transfer, SLC conducts a safety audit that is thorough, but does not involve safety drills. The assignor must correct any facility deficiencies, or, alternatively, the assignee may correct the deficiencies as a condition of the lease through agreement of all parties, including the SLC. The SLC also verifies that requisite contingency plans exist for the facility, including contingency plans for hydrogen sulfide release, oil spill, etc.

The SLC requires “structure bonds” to guarantee proper facility abandonment and performance bonds to assure payment of royalties. They do not require financial responsibility for oil spill clean-up and damage, as that is under the jurisdiction of the Department of Fish and Game’s Office of Oil Spill Prevention and Response (OSPR), which requires each facility owner and operator to obtain a Certificate of Financial Responsibility (CFR). OSPR requires proposed new responsible parties to qualify for and obtain a CFR. Principal financial responsibility resides with the lessees, not the operator. Assignment of the lease to a new lessee does not usually release the present lessee from liability, however, they may put up a bond to cover their responsibility.

Following investigation of the company’s finances, SLC evaluates the overall picture, including operating history and safety, and determines the amount of financial security required. The worse the record, the higher the bond. There are no formulas or explicit criteria for determining the amount.

6.0 PROJECT ANALYSIS

6.1 Applications and processing

The proposed ordinance is intended to cover all sales, mergers, changes of form of business organization, partnership composition, co-owners, operators, and guarantors. It is not intended to cover: a) changes in percentage share of ownership (providing they do not entail addition or removal of owners or affect financial guarantees), b) parent company changes (providing they are at arm’s length and do not involve changes in control of facility ownership or operator functions, or affect financial guarantees), and c) company name changes.

One important function of the proposed ordinance is to provide a roadmap for processing applications, for the benefit of County staff, the oil and gas industry, and the public. It does so by providing a clear framework for applications and timing [§25B-6] and specific criteria to determine how an application will be processed [§25B-8]. This process for change of owner/operator supercedes the provisions of the Zoning Ordinance previously utilized by the Energy Division for such cases [§25B-5].

In the proposed ordinance, applications for changes of owner or guarantor must be submitted within 30 days following a change, after which the County has 30 days to deem the application complete or to issue an incompleteness letter. Although it might seem desirable to require owners and guarantors to obtain County approval prior to a change, this is unworkable. Mergers and acquisitions can take place in corporate board rooms far away from Santa Barbara without prior approval from the County. The 30-day cycle of application and completeness determination is consistent with the County practice for CDP applications. The purpose of the 30 day cycle is to move the process along expeditiously. It is to the County's benefit, as well as the owner’s, for a new owner to be listed on the permit and to have formally accepted the permit conditions as soon as possible. The previous owner or guarantor remains liable under the permit until the new owner or guarantor is approved.

Changes of operator, on the other hand, must be approved prior to an operator taking the charge of the controls. This is important to ensure the prospective new operator has a good working knowledge of the facility safety plans and procedures, and that the County has reviewed its safety record and found it satisfactory. (Mergers or changes of business organization of the operator that do not affect facility personnel or operations have the same 30 day application period as for changes of owner.) For similar reasons the Minerals Management Service and the State Lands Commission require approval of applications for change of operator of offshore facilities prior to the change of operator. Approval by these agencies requires extensive reviews of operator competence, facility condition, and financial responsibility.

6.2 Identifying and listing owners and operators

The proposed ordinance requires all owners and operators to be listed on the permit as permitees; guarantors must be listed with their responsibilities as guarantor identified [§25B-4(1)]. Furthermore, all owners and operators are required to accept the permit conditions [§25B-4(2)]. This may represent a change for some facilities. In the past, some permits have been in the name of the owner and others in the name of the operator. In two recent cases, the County required all partners of the facility owner to be listed on the permit, in addition to the managing partner and operator. The purpose is to is to provide assurance that they can be held responsible in case financial guarantees fail or are inadequate, and the named owner and operator disappear or go bankrupt.

Under §25B-6, there are three classes of owners, operators, and guarantors: “Existing” denotes those accurately represented on the permit at the time of ordinance adoption; “pending” denotes those not accurately named on permit at time of ordinance adoption (regardless of whether they have submitted an application); and “new” applies to companies will undergo a change of owner, operator, or guarantor anytime after ordinance adoption. Existing companies will be required to supply the required information, and the permit will simply be updated if necessary. Pending cases will be processed according to the ordinance, with any submitted application taken as at least a partial application.

6.3 Approval route

The approval process in the proposed ordinance is structured around a two-way branching of cases, between the Director and the Planning Commission [§25B-8]. The intention is to divide the applications so that primarily administrative cases, such as partial ownership changes, mergers, financial responsibility, etc. are handled by the Director, while more substantive cases such as full change of ownership or operator are directed to the Planning Commission, as most such cases have been directed in the past. The criteria in the bifurcation are objective, in that they depend only on the type of change. This makes it possible to determine the approval route without the need for a prior in-depth analysis. We anticipate that most cases that involve substantial issues or that could raise public concerns will follow the Planning Commission route.

The findings required, as well as the approval route, are predetermined by the type of change. This approach provides clear guidance for handling applications. It will expedite permit transfers for minor ownership changes, while requiring owner/operator changes with potentially problematic issues to undergo much closer and more comprehensive examination and a public hearing.

6.4 Appeals and enforcement

The appeals section of the proposed ordinance is adapted directly from the County Zoning Ordinance, and the provisions are substantially the same. Decisions of the Director may be appealed to the Planning Commission by applicants or interested parties. Planning Commission decisions may be appealed to the Board.

The enforcement section is taken from the County Code, Chapter 25A (financial responsibility for marine terminals), and closely resembles the Zoning Ordinance enforcement section. The County's remedies include civil penalties, criminal penalties, and injunction. In preliminary workshops, industry representatives have objected to the inclusion of provisions for civil penalties up to $25,000 per day and possible criminal penalties, contending that these provisions are inappropriate for an ordinance that it views as largely administrative.

The answer is that minor infractions, such as forgetting to submit an information update, would not warrant the maximum penalty, and in many cases no penalty would be assessed. It has not been the Energy Division's practice to assess large penalties for minor violations under the Zoning Ordinance, nor would that be the practice here. However, there could be instances of violations of this ordinance that would demand progressively harsher civil penalties for serious violations that endanger public safety or threaten the environment. An example would be a transfer of operations to an unqualified operator without approval by the County. Even criminal penalties might be appropriate for flagrant, willful, repeat violations. Such penalties may only be sought by the District Attorney's Office. The enforcement authority in the ordinance is essentially the same as that under which changes of owner/operator are currently approved. This ordinance is not a departure from the current enforcement regulations or practice.

6.5 Rationale for findings; Director's findings

As shown in the table that follows, the proposed ordinance requires different sets of findings for different categories of application. Applications under the Director's jurisdiction do not involve full changes of ownership or operator (except temporary operator). Continuity of facility ownership and management persists during and following such changes. For instance, following a merger, some of the people, expertise, and culture of the former company carry over to the new entity. For this reason, the findings pertaining to facility condition and operator safety that are

required for the more substantive cases under Planning Commission jurisdiction are not required as Director's findings. The sets of findings for each category of application under the Director's jurisdiction are outlined below.

Findings required for change of owner or operator in proposed ordinance

Findings made by:	**Director**				**Planning Commission**	
Type of change: / **Finding**	change of non-managing partner	temporary operator	change of guarantor	change of owner	full change of owner or managing partner	change of operator
Acceptance of Permit						
Financial Guarantees						
Fees and Exactions						
Abandonment						
Facility Safety Audit						
Compliance With Existing Requirements						
Compliance Plans						
Transitional Plan						
Emergency Response Plan Drills						
Operation Record		operator capability				

Acceptance of Permit. All new owners and operators are required to certify that they accept the permit. This finding is the cornerstone of the approval process. It assures that owners and operators have read and agree to the permit(s), and it affirms their legal obligation to implement and abide by the permit conditions. It also serves to alert prospective new owners and operators to the County's safety and environmental requirements, which may differ from those they are familiar with in other regions.

Financial Guarantees. Owners, operators, and guarantors are required under the proposed ordinance to provide any financial guarantees required by any permits and current or future ordinances. Sections 25B-9(5) and 25B-10(3) allow for the addition of further permit conditions to adjust the amount of financial responsibility, should the current amount be inadequate under the circumstances at the time of the change of owner. The finding does not specify who must provide the financial guarantees, only that they must be provided.

Securing adequate guarantees of financial responsibility for permitted facilities has figured prominently in changes of ownership during the past decade. Several facilities provide insurance or bonds in excess of $100 million. The main concern is to assure compensation for clean-up and damages for potential future accidents and oil spills. Because onshore oil spills costing in the tens

of millions to over $100 million can and do happen, securing adequate and enforceable guarantees is a critical element of the proposed ordinance. The importance of securing sound guarantees is closely linked to the observed trends described above (§5.1.2), namely, the entrance of smaller independents into the field and the introduction of more sophisticated devices to shield oil company assets. Industry representatives have voiced no opposition to this finding in public workshops.

Financial responsibility is an issue that relates to all facilities, not just those that happen to go through a change owner or operator. Specific detailed requirements, standards, and guidelines for financial responsibility need to apply across-the-board. The proposed ordinance will continue for the time being the present practice, which consists of case by case evaluation to determine, first, what is an adequate level of financial guarantees for the facility, and second, what types of guarantee are acceptable. This process is informed by past practice in the Energy Division, the practices of the MMS and California's Office of Oil Spill Prevention and Response, and the recommendations of County Counsel and Risk Management. If, in the future, an ordinance addressing financial responsibility for all facilities is adopted, then the specific detailed requirements will be codified at that time.

Fees and Exactions. This finding simply requires that the facility's accounts with the County be square before an application is approved.

Abandonment. The abandonment finding does not address the detailed requirements for future facility abandonment or financial guarantees relating to abandonment. It only requires that the owners, operators, and guarantors demonstrate that they have demonstrated the financial capability, through financial guarantees, to comply with applicable permits, and federal, state, and local laws concerning abandonment.

Like financial responsibility, abandonment of facilities is an important issue for the County. There is a possibility that following closure of a facility the owners will be without adequate resources for complete abandonment, site decontamination, and restoration. However, like financial responsibility, abandonment is an issue that applies across-the-board to all facilities. For that reason the detailed requirements, standards, and procedures are not placed in this ordinance, but will be squarely addressed in the proposed abandonment ordinance, which is under development. There is a clear nexus between abandonment responsibility and change of owner, and also between assessment of site contamination and change of owner. However, the detailed requirements are more appropriately and strategically located in a separate ordinance, where they will apply to all facilities.

6.5.2 Change of guarantor

Approval of a guarantor that is not an owner or operator requires only two findings: financial responsibility and abandonment. The *permit acceptance* and *fees and exactions* findings are not needed for guarantors for the following reasons. Guarantors are tied to the permit by virtue of providing a guarantee to the owner or operator. Therefore, additional permit acceptance is unnecessary. Moreover, the particular performance being guaranteed by a third-party guarantor

could often apply only to one or a few conditions of the permit rather than the entire permit. Because it is in the County's best interest not to impede the maintenance of financial responsibility, even if an owner is in arrears, the *fees and exactio*ns finding is not required in the case of guarantors.

6.5.3 Temporary operator

Under the branching rule, changes of operator, except mergers and changes of form of business organization, go before the Planning Commission. One further exception is the approval of a temporary operator [§25B-9(3)]. A temporary operator may be permitted to take over operations for up to six months when an owner demonstrates there is an urgent need to replace an operator.

This provision is intended to be used rarely, if at all, and then only under extraordinary circumstances. The case envisioned is that an operator is highly unsatisfactory, and both the owner and County want them removed. If a qualified operator is available to take over, it would be counterproductive to lock an owner into a long permitting process in this case or to limit the Director's options to the change of operator process . Without the safety valve afforded by a temporary operator, an owner might be forced to retain a poor operator, rather than shut down for an extended period, while pursuing a permanent change-of-operator approval through the Planning Commission. The intention in such a case would be for the temporary operator, or possibly another operator, to apply for permanent status through the normal change of operator approval process as soon as possible, so that approval would be granted prior to the expiration of the temporary operator term. Extensions of the temporary operating period are neither provided for nor prohibited, but would rarely be appropriate except under extraordinary circumstances.

The findings are abbreviated in this case, in reliance on the Director's good judgement. The *permit acceptance* and *financial guarantees* findings are required. In addition, the Director must make a finding, signifying that the proposed temporary operator has the skills and training necessary to operate the permitted facility in compliance with the law and has a good working knowledge of the safety and emergency plans. This represents a less rigorous analysis of the operator than is required in the Planning Commission findings for change of operator. However, if this provision is applied as intended, to defuse a unsafe operating situation until a permanent operator is approved, the lesser standard may be justified.

6.5.4 Change of non-managing partner of owners

A single finding applies to facility co-owners and non-managing partners that are not guarantors. Unless a non-managing partner serves as guarantor, the *financial guarantee* and *abandonment* findings are unnecessary. Only the *permit acceptance* finding is required. The part-owners considered here are not operating the project, and existing financial guarantees are already in place to ensure permit compliance. If they were active in the facility management, then they would be considered managing partners; in that case the ordinance would require them to apply for a change managing partner, as change of owner under Planning Commission jurisdiction. In short, the companies included in this category are part owners, not required to provide financial

guarantees because such guarantees are already in place, not the managing partner of the project, and not involved in facility operations.

The main reason to require such companies to accept the permit is liability. These companies are legally responsible for the facilities under both state and federal law. This is as it should be, since these companies share the profits of the enterprise. It is in the County's interest, and the public interest, to make sure that in the event of a catastrophic accident or oil spill, all responsible parties can be held liable. This purpose is furthered by requiring all co-owners non-managing partners to be listed on the permit and to agree to its responsibilities under the permit, including joint and several liability, a condition found in all permits.

In public workshops, this provision raised strong objections from oil industry representatives. One argument made was that it is absurd to make a minor owner located outside California accept all the conditions of a permit, since most of them do not apply. Responsibility for the obligations of the facility, however, goes with being an owner, and does apply to all owners, even 5% partners with out of state addresses.

6.6 Rationale for findings; Planning Commission's findings

Full ownership changes, changes of managing partner, and operator changes are brought to the Planning Commission, under the branching rules [§25B-8]. These are major changes that amount to a "changing of the guard" for an owner or operator. New owners will take charge of the project and will bear responsibility for the facilities and their eventual abandonment. New operators will take over the controls and will play the critical role in safe operations.

The basic set of findings described above (§6.5.1) for change of owner are also required for the more substantial cases that follow the Planning Commission approval route. They are needed for the same reasons. A group of three additional findings is required for all Planning Commission destined cases. These findings relate to facility condition and update of emergency plans. A second triad of findings applies only to change of operator. These relate to the transition of operations, and emergency training and operating record of the prospective operator.

6.6.1 Change of owner (Planning Commission jurisdiction)

The following three findings apply to both owner and operator changes.

Facility Safety Audit.
The County's Systems Safety and Reliability Review Committee (SSRRC), comprising representatives from the Energy Division, Building and Safety, the Fire Department, and the Air Pollution Control District, oversees a program of safety audits for the facilities covered in this ordinance. Audits are based on a facility's Safety Inspection Maintenance and Quality Assurance Program (SIMQAP) and are called SIMQAP audits. The SIMQAP audits are conducted with assistance from qualified outside oil and gas specialists. Audits include physical facilities and

records, and procedures. Following an audit, a report is generated listing violations of County Code, permit conditions, and SIMQAP requirements. The permit holder is required to remedy violations, and a schedule of repairs and changes is agreed upon. At present, all facilities have had a SIMQAP audit or are scheduled for one in the near future. SSRRC's goal is for annual audits of all facilities. Audits held at such frequent intervals may be partial, as opposed to comprehensive.

The *facility safety audit* finding requires that a comprehensive physical facility audit be conducted within the three years preceding a change of owner or operator, and that the audit results be disclosed to the new owner or operator. The finding is waived if the current owner is applying to become the operator, or vice versa. The finding serves two purposes. It assures that hazards and deficiencies of the physical facilities are well documented near the time of sale. At least as importantly, it discloses facility problems to the new owner or operator, just as a home inspection discloses needed repairs to a prospective buyer. Disclosure is relevant to both new owners and operators, not only because of the financial burden of correcting deficiencies and because of their impacts on operations, but because both owners and operators are responsible for compliance with applicable laws and permits and are liable for the facility. Requiring facility audits prior to owner/operator changes echoes the practice of both the MMS and SLC for offshore facilities.

This finding will help avert situations such as that encountered by Venoco following their purchase of the Ellwood facilities. In that instance, many facility deficiencies, apparently inherited from the previous operator, came to light after Venoco began operating, and Venoco was required to make the necessary repairs and upgrades at very considerable expense.

Building and Safety advises that three years is a more appropriate time frame than one year, as significant physical deterioration of facilities does not take place in the shorter time frame.

<u>Compliance With Existing Requirements.</u>
This finding piggybacks on the safety audit finding by requiring that safety violations and other facility deficiencies are addressed at the time of owner or operator change. Violations must be corrected before approval is granted, or, alternatively, the departing and incoming parties sign an agreement with the County specifying a schedule for correcting the violations. Either party may assume responsibility for required work. This idea, borrowed from MMS and SLC, will establish accountability and keep the compliance issues in the forefront following owner or operator changes.

<u>Compliance Plans.</u>
This finding requires proposed new owners or operators to update the critical safety and emergency plans with basic emergency contact information prior to application approval. If the specified, approved plans do not exist, then they must be prepared. Other, less vital plans must be updated within six months.

The main purpose of this provision is to assure emergency response is effective as soon as a new operator takes control. The requirement also applies to owners to assure they can be rapidly contacted in case of an accident. The scope of the requirement is intentionally restricted, so that, at a minimum, new owners and operators will have a working plan with accurate contact information.

A full update of all the plans might be desirable in some cases, especially where a new owner/operator has a network of resources or an overall company response plan for many facilities. However, such revisions take many months, and should not be forced into the time scale of a change of owner/operator. A mechanism is already available through the SSRRC for revising plans and obtaining County approval. A proposed owner or operator has the opportunity to produce fully revised plans that suit their circumstances better than existing plans, and to seek approval either before or after their owner/operator change application is approved.

6.6.2 Additional findings for change of operator (Planning Commission jurisdiction)

The following three findings apply to change of operator only.

Transitional Plan.

The requirement of a transitional plan is adapted from MMS procedures for change of operator. The finding requires a transitional plan to be submitted to and approved by the County. The plan is to be prepared by the proposed new operator, together with the owner or previous operator, to ensure that the new operator receives adequate training before assuming control of operations. Training includes cross training by the current operator “where feasible” and training to obtain working knowledge of the critical safety and emergency plans. The finding, or portions of it, may be waived for good cause.

The purpose of this finding is to provide assurance that a transition to a new operator is safe. Cross training between the existing and new operator is a useful practice in most cases, and is part of the MMS protocol for operator change. It is an efficient way to learn operating procedures and the idiosyncrasies of a facility. However, cross training could be counterproductive where the departing operator is a poor example. It makes little sense to train a new operator in poor practices. Also, in some facility sales, the departing owner/operator may limit the extent of cross training that is possible. Because of these and other examples, cross training is not an absolute requirement, but only where feasible. The waiver from the finding provides for the case of a transition that has already occurred, such as when a temporary operator is applying to be the permanent operator.

At workshops, industry representatives have expressed concern that this requirement would be over-zealously enforced by the County, so that if the plan called for 20 employees, and Joe Smith did not show up, the transition would be brought to a halt. A transitional plan need not be written in such exhaustive detail as to give rise this scenario. The clear intention of this finding is simply to assure that adequate training is provided and the transition proceeds in an orderly, safe fashion.

Emergency Response Plan Drills.

This finding requires that new operators have performed one or more emergency response drills with passing grades. The purpose is to verify that the new owner is adequately trained in the emergency plans prior to taking over the controls.

Such drills are held routinely at oil and gas facilities by the Fire Department Office of Emergency Services (OES). Verification that emergency plans are effective and that operators are adequately trained under them is a major issue of public safety. Based on experience at a facility, OES may decide to hold either announced or unannounced drills. The finding leaves the details of the required drills up to OES' discretion. Drills do not normally involve actual spills or emergency conditions. Rather, they present "what if" scenarios. "What would you do if such and such happened?" The operator can demonstrate the appropriate response without actually touching any controls, and this provides OES with sufficient information to evaluate training.

The *emergency drills* finding is an imperative element of the ordinance. Because an accident may occur before an operator is fully familiar with a facility, training in safety and emergency response is essential. This finding is the one provision of the ordinance that allows the County to test a new operator before they take charge of a complex and potentially hazardous operation. MMS tests a new offshore platform operating crew's competence in emergency drills, oil spill response, fire shelter, and total emergency platform shutdown, followed by restart. In the MMS case, the facilities are far more complex and MMS has greater technical expertise at their disposal than the County, so a direct comparison is not justified. Nonetheless, the basic principal of testing a new operator in safety and emergency response before they take charge is valid.

At workshops, industry representatives have indicated that because of liability and insurance policy concerns, a proposed new operator may not be allowed to touch the controls. However, hands-on drills are not essential to evaluate safety plan training, as explained above.

<u>Operation Record.</u>
Under this finding the facility owner and proposed operator must have submitted evidence of an acceptable accident and compliance record for the last seven years for similar facilities. If they do not have the seven year track record, they must show that key personnel have sufficient experience and expertise to operate the facility safely. A list of sources for information on the operator's history is appended, which identifies the information they are required to supply.

Both MMS and SLC examine an operator's accident and compliance records, and it can hardly be argued that the County should not also do so. The alternative is to accept any operator, regardless of whether they have a flawless or an abysmal record or no experience. However, quantitative criteria for determining the acceptability of operators is an inappropriate substitute for determination of acceptability based on the facts of each particular case. The goal of this finding is not to prohibit conscientious operators with normal industry track records, but to create a mechanism by which an application can be denied if an operator is truly substandard or hazardous. Frequency and size of accidents alone are not necessarily good criteria, unless one factors in accident causes, operator response, type and age of facility, and many other variables. Of necessity, the finding allows latitude for the Planning Commission to exercise discretion.

Environmental groups have commented that they would like to see a ten year track record instead of the five years published in a previous draft of the ordinance. The seven year time frame is a compromise, chosen partly because it corresponds to some record retention requirements. The longer time has the additional advantage that it allows trends to be more accurately interpreted. A trend could highlight either an improvement or decline in operator performance.

6.7 Environmental Review

Enactment of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) for the following reasons.

The proposed ordinance is statutory exempted from CEQA because it does not qualify as a "project" as defined in CEQA and the CEQA Guidelines. Specifically, Public Resources Code § 21080(a) limits applicability of the act to "discretionary projects" and § 21065 defines a project as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment (also see CEQA Guidelines § 15061(b)(3)). CEQA Guidelines § 15378(b)(2) further clarifies that the continuing administrative and maintenance activities such as general policy and procedure making are not considered to be "projects" under CEQA unless they qualify under specific instances that are described in the statutory definition of a project.

The proposed ordinance constitutes general policy and procedure making limited to identifying requirements for the transfer of permits from one person to another where such permits have been previously issued by the County in full compliance with CEQA. The explicit purpose of the ordinance is to provide a procedure that governs the transfer of existing permits from one person to another to ensure continued safe operations, financial responsibility, and compliance with applicable law and permit requirements. As such, it causes neither a direct physical change in the environment nor a reasonably foreseeable indirect physical change in the environment. Any modifications to a facility that are requested by a new owner or operator require a finding of substantial conformity with the existing permit, a permit amendment, or a permit revision, all of which are governed by existing procedures found in Chapter 35 of the Santa Barbara County Code (Zoning Ordinances) and are subject to compliance with CEQA.

For this same reason, the proposed ordinance also qualifies under the categorical exemptions set forth in the CEQA Guidelines §§ 15307 and 15308, which exempt actions taken by a regulatory agency for the protection of natural resources and the environment, respectively. The explicit public purpose of the ordinance is to provide procedures that protect both natural resources and environment where an existing permit is transferred from one person to another. These procedures address continued safe operations, financial responsibility, and compliance with applicable law and permit requirements.

7.0 APPEALS PROCEDURE

The proposed ordinance is automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

8.0 ATTACHMENTS

A. Proposed Ordinance adding Chapter 25B to the County Code
B. Draft Board of Supervisors Findings for Adoption of Proposed Ordinance
C. Change of owner/operator summary

Attachment A

Proposed Ordinance Adding Chapter 25B to the County Code

Chapter 25B of Santa Barbara County Code (Proposed Ordinance)

CHANGE OF OWNER, OPERATOR OR GUARANTOR FOR CERTAIN OIL AND GAS FACILITIES

Sec. 25B-1. Purposes of Chapter.

The purposes of this Chapter are to protect public health and safety, and safeguard the natural resources and environment of the County of Santa Barbara, by ensuring that safe operation, adequate financial responsibility, and compliance with all applicable County laws and permits are maintained during and after all changes of owner, operator or guarantor of certain oil and gas facilities.

Sec. 25B-2. Applicability.

(1) This Chapter shall apply to any person who owns, operates or guarantees performance for or who seeks to own, operate or guarantee performance for any of the following facilities located in the unincorporated areas of the County of Santa Barbara:

a) any facility involved in exploration, production, processing, storage or transportation of oil or gas extracted from offshore reserves;

b) any oil refinery;

c) any pier, supply base, marine terminal or staging area within the County's jurisdiction that supports development of offshore oil and gas reserves.

(2) This Chapter shall not apply to:

a) the change of owner, operator or guarantor of the following:

i. sales gas pipelines operated by a public utility and regulated by the California Public Utilities Commission;

ii. trucks, railroads;

iii. facilities located in state waters;

b) a change of ownership consisting solely of a change in percentage ownership of a facility and which does not entail addition or removal of an owner or affect any financial guarantee for a permit.

Sec. 25B-3. Definitions. As used in this Chapter:

"Director" shall mean the Santa Barbara County Director of Planning and Development.

"Existing guarantor" shall mean a guarantor who has guaranteed performance for an existing owner or operator, on the date of adoption of this chapter, but shall not include any person who is required to but has not yet obtained an amendment to a permit that requires County approval prior to listing that guarantor on the permit.

"Existing owner or operator" shall mean any person who owns or operates a facility identified as subject to this chapter pursuant to Section 25B-2 on the date of adoption of this chapter, but shall not include any person who owns or operates such a facility and is required to but has not yet obtained an amendment to a permit that requires County approval prior to the transfer of the permit to that owner or operator.

"Guarantor" shall mean any person who guarantees performance for any County permit or ordinance requirement for a facility subject to this Chapter. For purposes of this Chapter, guarantor may include any owner, operator, or third party.

"Managing partner" of a partnership shall mean the partner formally designated and vested by the partnership with authority to make all ordinary business decisions for the partnership on behalf of all partners. If no partner is so designated, then all partners shall be considered managing partners.

"Operator" shall mean any person having day-to-day control or management of operations of a facility, or a portion thereof, subject to this Chapter.

"Owner" shall mean any person that owns or leases a facility, or a portion thereof, subject to this Chapter.

"Pending owner or operator" shall mean any person who owns or operates a facility subject to this chapter and is required to but has not yet obtained an amendment to any necessary

permit that requires County approval prior to the transfer of the permit to that owner or operator.

"Person" shall include, but is not limited to, any individual, proprietorship, firm, corporation, partner, partnership, limited partnership, limited liability company, joint venture, business trust, or other business entity, or an association, or other organization.

Sec. 25B-4. Requirements.

(1) Listing on Permit. Any person who owns or operates a facility that is subject to this Chapter pursuant to Section 25B-2 shall be listed as a permittee on the permit(s) issued for that facility, pursuant to Chapter 35 of the County Code, or Ordinances 661, 2919 or 3238. Any guarantor for such facility shall be listed on the applicable permit(s), identifying its responsibilities as guarantor. Should any owner, operator, or guarantor consist of a partnership, all partners shall be listed on the permit and, where applicable, the managing partner shall be identified in this list.

(2) Acceptance of Permit. Prior to being listed on a permit, any owner or operator of a facility that is subject to this Chapter shall provide the County with a letter from a responsible official of the owner or operator formally accepting all conditions and requirements of the permit.

(3) Permits Not Transferable. Any permit issued or authorized pursuant to Chapter 35 of the County Code, or Ordinances 661, 2919 or 3238, for a facility that is subject to this Chapter shall not be transferable, whether by operation of law or otherwise, from any existing owner, operator, or guarantor to a new owner, operator, or guarantor, except in accordance with this Chapter.

(4) Ongoing Notification. All owners, operators, and guarantors shall, as an ongoing requirement, notify the Director in writing of any change in the information listed in 25B-6(1)(a-e) within thirty days of such change.

(5) Change of Owner. Any change of owner, merger of the owner with another company, or change of form of business organization, shall require application and approval as provided in this Chapter. Until a change of owner is approved pursuant to this chapter, the former

owner(s) shall continue to be liable for compliance with all terms and conditions of the permit and any applicable County ordinances.

(6) Change of Operator. Any change of operator shall not occur until approved in accordance with this Chapter, except as follows. Any change of operator that consists solely of a merger or change of form of business organization, but does not entail any change to operations or personnel of the facility, shall require an application within 30 days of the change, as provided in Section 25B-6(3) for change of owner.

(7) Change of Guarantor. Any change of guarantor, including merger of the guarantor with another company or change of form of business organization, shall require application and approval as provided in this Chapter. Until a change of guarantor is approved pursuant to this chapter, the former guarantor(s) listed on the permit shall continue to be liable for compliance with all terms and conditions of the permit and any applicable County ordinance.

(8) Liability for Compliance with Permit Conditions. Any owner, operator or guarantor listed on a permit pursuant to this Chapter shall comply with all conditions of such permit, as applicable, to owners, operators and guarantors. Failure to comply with such permit conditions shall subject the owner, operator or guarantor to the applicable penalty and enforcement provisions of Chapter 35 or other applicable ordinance for such permits.

Sec. 25B-5. Relation to permits and Zoning Ordinance.

(1) The provisions of this Chapter shall, for applicable facilities, supercede any provision of Chapter 35, Articles II and III, governing the transfer of permits for such facilities. The procedures of this Chapter shall also supercede any procedures specified in any permit governing the transfer of permits for such facilities, but shall not invalidate any substantive requirements of such permits.

(2) Permit amendments approved pursuant to this Chapter shall be entitled “25B Permit Amendments” and shall be enforceable as provided in this Chapter.

Sec. 25B-6. Applications.

(1) Existing Owners, Operators, and Guarantors. Within 30 days of the effective date of this Chapter, any existing owner, operator or guarantor, shall submit a certification to the

Director, on a form approved by the Director, specifying the following information regarding the current owner(s), operator(s), and guarantor(s):

a) name and address;

b) role in ownership, operation and management of facility, or in guaranteeing performance for an owner or operator;

c) names and addresses of official company representatives authorized and designated to execute applications, agreements and permits with the County on behalf of the company;

d) description of the company business organization, including relation to parent companies, partnership composition, and other information needed to fully and accurately disclose who it is that owns, operates, or is otherwise responsible for the facility;

e) expiration date of any company described in §25B-6(1)(a-d), above.

(2) Pending Owners and Operators. Within 30 days of the effective date of this Chapter, any pending owner or operator shall submit an application to the Director requesting transfer of the applicable permit(s).

(3) New Owners or Deletion of Owners. Prior to any transfer of a permit to a new owner or deletion of an owner from a permit the current owner(s) and proposed owner shall submit an application to the Director requesting such change. The application shall be filed before the transfer of ownership, or if not practicable, in no event, later than 30 days after the change of ownership.

(4) New Operators. Prior to any transfer of permit to a new operator, the current permittee(s) and the proposed operator shall submit an application to the Director requesting such transfer.

(5) New Guarantors or Deletion of Guarantors. Prior to the listing of a new guarantor or the deletion of a guarantor on a permit, the permittee(s), the current guarantor, and, as appropriate, the proposed guarantor shall submit an application to the Director requesting such transfer or deletion. The application shall be filed before the change of guarantor, or, in no event, later than 30 days after the change of guarantor.

(6) Application Contents. Applications submitted pursuant to this Chapter shall include the following information:

(a) Information Required for Applications for Change of Non-Managing Partners and Non-Operators Pursuant to Section 25B-8(1)(a)(v).

i. All information listed in Section 25B-6(1)(a-e) of this Chapter.

ii. A brief statement of the changes or proposed changes.

iii. A letter from the new owner accepting the permit(s).

(b) Information Required for All Applications, Except as Provided in Section 25B-6(6)(a):

i. All information listed in Section 25B-6(1)(a-e) of this Chapter.

ii. A detailed statement of the changes or proposed changes for which approval is sought.

iii. General background information on any proposed new permittee or guarantor, including business plan, if available.

iv. Financial information on any owner, operator, or other guarantor needed for the Director or Planning Commission to make the Financial Guarantees and Abandonment findings. This information shall include the previous year's annual report, audited financial statements, and required SEC filings.

v. Any required letter accepting the permit(s).

vi. Any other information that the Director or the Planning Commission may require to approve any change in owner, operator, or guarantor in accordance with this Chapter.

(c) Additional Information for Temporary Operator:

Evidence demonstrating that the proposed temporary operator has the necessary skills and training, as required by Section 25B-9(3)(c).

(d) Additional Information for Change of Owner Under Section 25B-8(2):

All documentation needed to make the findings required by this Chapter for Facility Safety Audit, Compliance With Existing Requirements, and Compliance Plans.

(e) Additional Information for Change of Operator Under Section 25B-8(2):

i. All documentation needed to make the findings required by this Chapter for Facility Safety Audit, Compliance With Existing Requirements, and Compliance Plans.

ii. Approved transitional plan.

iii. Evidence that operating personnel have been trained in and have good working knowledge of the crucial compliance plans.

iv. Evidence of satisfactory performance on emergency drills.

v. Documentation of safe operating record or adequate experience and expertise, as required by Section 25B-10(2)(j).

Sec. 25B-7. Listing of owners, operators, guarantors and temporary operators on permits.

(1) Existing Owners, Operators, and Guarantors. The Director shall list any existing owner, existing operator, or existing guarantor, as they are defined in Section 25B-3 of this Chapter, on the appropriate permit(s) upon finding that such person has submitted all information required in Section 25B-6(1) and has complied with Section 25B-4(2), if applicable.

(2) New Owners, Operators, Guarantors, and Temporary Operators. The Director shall list any new owner, operator, guarantor, or temporary operator on the appropriate permit(s), and remove any previous owner, operator, guarantor, or temporary operator that no longer serves such role, upon approval of the permit transfer, pursuant to Sections 25B-9 and 25B-10.

Sec. 25B-8. Processing.

(1) Applications Under Jurisdiction of the Director.

a) The Director shall approve or deny any application to transfer a permit for changes that consist solely of the following:

i. merger of a current owner or operator with another company;

ii. change in form of business organization of a current owner or operator, including change from corporation to limited partnership or limited liability company;

iii. change of a guarantor;

iv. substitution of a temporary operator;

v. addition or deletion of non-managing partner or non-operator under a joint operating agreement, where such person is not a guarantor;

vi. any other change of ownership not under the Planning Commission's jurisdiction.

b) Prior to approval of such application, the Director shall make all findings required by Section 25B-9(1),(2), (3), or (4), as applicable, and shall take all actions necessary under Section 25B-9(5).

c) A public hearing shall not be required for applications approved or denied by the Director. Notice shall be given, however, at least ten (10) days prior to the date of the Director's decision, as provided in Santa Barbara County Code, Chapter 35, Article II, Section 35-181.2 or Article III, Section 35-326.2, as appropriate.

(2) Applications Under Jurisdiction of the Planning Commission.

a) The Planning Commission shall approve or deny any application to transfer a permit for changes that consist of the following:

i. Full ownership change, that is, where there is a complete transfer of facility ownership to new owner(s);

ii. Operator change, except as specifically placed under the Director's jurisdiction in Section 25B-8(1)(a)(i, ii, or iv);

iii. Change of managing partner of an owner or any partner of an operator.

b) Prior to approval of an application for change of owner, the Planning Commission shall make all findings required by Section 25B-10(1) and shall take all actions necessary under Section 25B-10(3). Prior to approval of an application for change of operator, the Planning Commission shall make all findings required by Section 25B-10(2) and shall take all actions necessary under Section 25B-10(3).

c) A public hearing shall be required for applications approved or denied by the Planning Commission. Notice shall be given at least ten (10) days prior to the date of the hearing, as provided in Santa Barbara County Code, Chapter 35, Article II, Section 35-181.2 or Article III, Section 35-326.2, as appropriate.

(3) Combined Applications.

Applications that include a component under the Director's jurisdiction and another component under the Planning Commission's jurisdiction may, at the discretion of the Director, be processed with a combined application and decided by the Planning Commission. In such cases the findings required for approval of the component that falls under the Director's jurisdiction shall be those listed for a Director's Amendment (§25B-9(1), (2), or (4), as appropriate).

(4) Application Completeness

a) An application shall be deemed accepted unless the Director finds the application incomplete and notifies the applicant of incompleteness by mail within thirty calendar days of receipt of the application.

b) The applicant shall provide any additional information required by the Director in an incompleteness letter within thirty calendar days of issuance of the letter.

Sec. 25B-9. Director Approval: findings.

(1) The Director shall approve an application to transfer a permit pursuant to Section 25B-8(1)(a)(i, ii, or vi) only if the Director makes the following findings:

a) Fees and Exactions. All outstanding County required fees and exactions due for the facility have been paid.

b) Financial Guarantees. The proposed owner, operator, or other guarantor has provided all necessary instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

c) Abandonment. The proposed owner, operator, or other guarantor has demonstrated the financial capability through financial guarantees to comply with all federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

d) Acceptance of Permit. The proposed owner or operator has provided a letter from a responsible official representing the proposed owner or operator formally accepting all conditions and requirements of the permit.

(2) The Director shall approve an application to transfer a permit pursuant to Section 25B-8(1)(a)(iii) for a change of guarantor only if the Director makes the following findings:

a) Financial Guarantees. The proposed guarantor has provided all necessary instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

b) Abandonment. Where applicable, the proposed guarantor has demonstrated the financial capability through financial guarantees to comply with all requirements of federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

(3) The Director may approve a qualified temporary operator pursuant to Section 25B-8(1)(a)(iv) where the owner demonstrates to the satisfaction of the Director that good cause exists for an immediate change of operator. The temporary operator may operate the facility for a period of no longer than 6 months. In order to approve a temporary operator, the Director must make the following findings:

a) Financial Guarantees. The proposed temporary operator has provided all necessary instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

b) Acceptance of Permit. The proposed temporary operator has provided a letter from a responsible official representing the proposed temporary operator formally accepting all conditions and requirements of the permit.

c) Operator Capability. The proposed temporary operator has the skills and training necessary to operate the permitted facility in compliance with all applicable law and has a good working knowledge of the crucial compliance plans listed in Section 25B-10(2)(g).

(4) The Director shall approve an application to transfer a permit pursuant to Section 25B-8(1)(a)(v) for a change of non-managing partner or non-operator under a joint operating agreement, where such person is not a guarantor, only if the Director makes the following finding:

a) Acceptance of Permit. The proposed owner has provided a letter from a responsible official representing the proposed owner formally accepting all conditions and requirements of the permit.

(5) Upon making the findings listed in Section 25B-9(1), (2), (3), or (4), the Director shall approve the change of owner, operator, or guarantor, or approve the temporary operator. The Director may impose additional conditions on the permit, except for applications approved under Section 25B-9(4), in order to ensure that the new owner, operator, temporary operator, or other guarantor maintains adequate financial guarantees for operations and abandonment.

Sec. 25B-10. Planning Commission Approval: findings.

(1) The Planning Commission shall approve an application for a change of owner only if the Planning Commission makes the following findings:

a) Fees and Exactions. All outstanding County required fees and exactions due for the facility have been paid.

b) Financial Guarantees. The proposed owner or other guarantor has provided all necessary insurance, bonds and other instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

c) Abandonment. The proposed owner or other guarantor has demonstrated the financial capability through financial guarantees to comply with all federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

d) Acceptance of Permit. The proposed owner has provided a letter from a responsible official representing the proposed owner formally accepting all conditions and requirements of the permit. If the proposed owner is a partnership, all partners have provided such letters, or the managing partner has provided a letter on behalf of all partners and has agreed to resubmit such letter should any partners change in the future.

e) Facility Safety Audit. The County has completed a comprehensive safety audit for the physical facility within 3 years prior to submission of a complete application, and the current owner or operator has provided a copy of this audit, along with a description of the status of implementing its recommendations, to the proposed owner(s). A Safety Inspection Maintenance and Quality Assurance Program (SIMQAP) audit approved by the appropriate County official shall satisfy this requirement. This finding shall be waived if the application is for the current operator of a facility to become an owner.

f) Compliance With Existing Requirements. The current owner(s) are in compliance with all requirements of the permit, including any requirement of a County required safety audit, any Notice of Violation, and any County ordinance, or the current and proposed owner(s) have entered into a written agreement with the Director that specifies an enforceable schedule to come into compliance with such requirements.

g) Compliance Plans. The new owner or operator has updated any existing, approved Safety Inspection Maintenance and Quality Assurance Program, Emergency Response Plan, Fire Protection Plan, and Oil Spill Contingency Plan, or equivalent approved plans, with current emergency contact information pertaining to the new owner. If any of these plans did not previously exist or was not approved, the new owner or operator has prepared an acceptable plan and it has been approved by the appropriate County official. The new owner and operator have agreed in writing to revise all plans required by the permit or any County ordinance, as necessary to reflect the change of owner, and to do so with sufficient

diligence to obtain approval of the revised plans by the appropriate County official within six months after assuming ownership.

(2) The Planning Commission shall approve an application for change of operator only if the Planning Commission makes the following findings:

a) Fees and Exactions. All outstanding County required fees and exactions due for the facility have been paid.

b) Financial Guarantees. The current owner, proposed operator, or other guarantor has provided all necessary insurance, bonds and other instruments or methods of financial responsibility approved by the County and necessary to comply with the permit and any County ordinance.

c) Abandonment. The proposed operator or other guarantor has demonstrated the financial capability through financial guarantees to comply with all federal, state and local law and permits regarding abandonment of the facility and remediation of contamination.

d) Acceptance of Permit. The proposed operator has provided a letter from a responsible official representing the proposed operator formally accepting all conditions and requirements of the permit. If the proposed operator is a partnership, all partners have provided such letters.

e) Facility Safety Audit. The County has completed a comprehensive safety audit for the physical facility within 3 years prior to submission of a complete application, and the current owner or operator has provided a copy of that audit, along with a description of the status of implementing its recommendations, to the proposed operator. A Safety Inspection Maintenance and Quality Assurance Plan (SIMQAP) audit approved by the appropriate County official shall satisfy this requirement. This finding shall be waived if a current owner of a facility becomes the operator.

f) Compliance With Existing Requirements. The current operator is in compliance with all requirements of the permit, including any requirements of a required safety audit, any Notice of Violation, and any County ordinance, or the owner and proposed operator have entered into a written agreement with the Director that specifies an enforceable schedule to come into compliance with such requirements.

g) Compliance Plans. The current owner and proposed operator have updated any existing, approved Safety Inspection Maintenance and Quality Assurance Program, Emergency Response Plan, Fire Protection Plan, and Oil Spill Contingency Plan, or equivalent approved plans, with current emergency contact information pertaining to the new operator. If any of these plans did not previously exist or was not approved, the current owner and proposed operator have prepared an acceptable plan and it has been approved by the appropriate County official. The current owner and proposed operator have agreed in writing to revise all plans required by the permit or any County ordinance, as necessary to reflect the change of operator, and to do so with sufficient diligence to obtain approval of the revised plans by the appropriate County official within six months after assuming operations.

h) Transitional Plan. The current owner or operator and proposed operator have submitted a transitional plan that will ensure the proposed operator shall receive adequate training, including by means of cross training by the current operator, where feasible, and shall have a good working knowledge of the crucial compliance plans listed in Section 25B-10(2)(g) before assuming control of operations. The plan has been approved by the Director. The Planning Commission may exempt the current owner and proposed operator from this requirement, or portions thereof, for good cause.

i) Emergency Response Plan Drills. The proposed operator has adequately performed one or more County approved emergency response plan drills necessary to respond to emergency episodes that may occur at the facility.

j) Operation Record. The owner and proposed operator have submitted a list of any other facilities the proposed operator owns or operates, and have submitted the proposed operator's accident and compliance records for the last 7 years for operating facilities, if any, that are similar in nature to the facility subject to the permit. The records demonstrate the proposed operator has the skills and training necessary to operate the permitted facility in compliance with all applicable law. The accident and compliance records shall be obtained from the agencies listed in Appendix A. If the proposed operator is a new company or lacks a seven year operational record, the operator has demonstrated to the

County that the key personnel have sufficient experience and expertise to operate the facility safely.

(3) Upon making the findings listed in Section 25B-10(1) or (2), the Planning Commission shall approve the change of owner or operator. The Planning Commission may impose additional conditions on the permit in order to ensure that the new owner, operator, or other guarantor maintains adequate financial guarantees for operations and abandonment.

Sec. 25B-11 . Administration and Fees.

The Director shall administer the procedures established by this chapter. Any applicant shall be assessed fees in an amount necessary to recover costs incurred by the County for processing applications for change of owner, operator, or guarantor required by this chapter. No application to change owner, operator, or guarantor shall be processed unless the applicant has entered into an Agreement for Payment of Processing Fees with the County and has provided the required deposit to cover a portion of the case processing fees.

Sec. 25B-12. Appeals.

(1) Appeals to the Planning Commission.

a) The decision of the Director to approve or deny an application may be appealed to the Planning Commission by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and accompanying fee shall be filed with the Planning and Development Department within ten (10) calendar days following the date of the Director's decision.

b) The appellant shall state specifically in the appeal how 1) the Director's decision is inconsistent with the provisions or purposes of this Chapter or 2) there was an error or abuse of discretion by the Director.

c) Prior to the appeal hearing, the Planning and Development Department shall transmit to the Planning Commission copies of the application, including all attachments and related materials, and a statement setting forth the reasons for the Director's decision.

d) The Planning Commission hearing shall be *de novo* and the Commission shall affirm, reverse, or modify the Director's decision at a public hearing. Notice of the time and place of the hearing shall be given in accordance with Santa Barbara County Code, Section 35-326.2 (Noticing) or Section 35-181.2, as appropriate. Notice shall also be mailed to the appellant.

(2) Appeals to the Board Of Supervisors.

a) The decision of the Planning Commission to approve or deny an application may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and accompanying fee shall be filed with the Clerk of the Board of Supervisors within ten (10) calendar days following the date of the Planning Commission's decision.

b) The appellant shall state specifically in the appeal how 1) the Planning Commission's decision is inconsistent with the provisions or purposes of this Chapter or 2) there was an error or abuse of discretion by the Planning Commission.

c) Prior to the appeal hearing, the Clerk of the Board of Supervisors shall notify the Planning Commission that an appeal has been filed. The Planning Commission shall then transmit to the Board of Supervisors copies of the application, including all attachments and related materials, and a statement of findings setting forth the reasons for the Planning Commission's decision.

d) The Board of Supervisors hearing shall be *de novo* and the Board shall affirm, reverse, or modify the Planning Commission's decision at a public hearing. Notice of the time and place of the hearing shall be given in accordance with Santa Barbara County Code, Section 35-326.2 (Noticing) or Section 35-181.2, as appropriate. Notice shall also be mailed to the appellant.

Sec. 25B-13. Enforcement.

(1) Civil Penalties. Any owner, operator, guarantor, or permittee who fails to comply with the provisions of this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars per day of operation.

(2) Criminal Penalties. Any person, whether as principal, agent, employee or otherwise, violating any provisions of this chapter shall be guilty of an infraction, and upon conviction thereof, shall be punishable by a fine not exceeding five hundred dollars for each violation. An offense that would otherwise be an infraction may, at the discretion of the district attorney, be filed as a misdemeanor. Upon conviction of a misdemeanor, punishment shall be a fine of not less than five hundred dollars nor more than twenty-five thousand dollars or imprisonment in the county jail for a period not to exceed six months or by both such fine and imprisonment. Each and every day during any portion of which any violation of this chapter is committed, continued or permitted by such person shall be deemed a separate and distinct offense.

(3) Injunction. Whenever, in the judgment of the Director, any person has engaged in, is engaged in, or is about to engage in any act(s) or practice(s) which constitute or will constitute a violation of the provisions of this chapter of the Santa Barbara County Code, or any rule, regulation, requirement, or other order issued, promulgated, or executed thereunder, the district attorney or county counsel may make application to the Superior Court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing that such person has engaged in or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued; or that the legal remedies are inadequate.

(4) Cumulative Remedies and Penalties. The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Sec. 25B-14. Severability.

If any provision of this chapter is determined to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Appendix A. Source Agencies for Operator Accident and Compliance Records.

Accident and compliance records shall be obtained from the following agencies, as applicable:

Federal Agencies
- Environmental Protection Agency
- D.O.T. Office of Pipeline Safety
- Occupational Safety and Health
- Minerals Management Service
- Coast Guard
- Army Corps of Engineers

California Agencies
- State Fire Marshall
- Cal OSHA
- State Lands Commission
- Division of Oil, Gas, & Geothermal Resources
- Dept. of Fish and Game Office of Spill Prevention and Response
- California Coastal Commission
- Air Resources Board
- Office of Environmental Health Hazard Assessment
- Department of Toxic Substances Control
- State Water Resources Control Board

Agencies in Other States
- If the facilities for which the records are obtained are located outside California, records shall be obtained from agencies that serve similar functions to the above agencies, where possible.

Regional and Local Agencies

Fire Department
- Water quality monitoring agency
- Air quality monitoring agency
- Agencies responsible for enforcing land use and zoning regulations
- Agencies responsible for enforcing safety regulations
- Agencies responsible for oversight of hazardous or toxic materials
- Agencies responsible for monitoring environmental pollution or contamination

Attachment B

Draft Board of Supervisors Findings For Adoption of Chapter 25B into The Santa Barbara County Code

Draft Findings of fact.

(1) As part of its authority to regulate land use within its jurisdiction, Santa Barbara County requires discretionary and ministerial permits for development of oil refineries and development of onshore oil and gas facilities that support recovery of reserves offshore the County. Such permits contain conditions designed to ensure safe operations, proper abandonment of such facilities when their use has terminated, and adequate guarantees of financial responsibility.

(2) All such permits were originally issued to major, vertically integrated oil companies (e.g., Exxon, Chevron, Texaco, ARCO, and Unocal), who have large amounts of capital and technical expertise required to successfully operate such facilities in full compliance with permit conditions and applicable law.

(3) A trend has emerged in which the major companies seek to divest themselves of offshore leases, related onshore infrastructure, and onshore oil refineries, selling their operations to independent firms who are relatively young and often lack the vast array of financial assets and technical resources of the major, vertically-integrated oil companies.

(4) A second trend towards more complicated structures of ownership and new forms of business organization has also emerged, which may obscure who is operationally and financially responsible for operations and abandonment of such facilities.

(5) In the unincorporated area of Santa Barbara County, at least 22 changes of owner or operator have taken place since 1993 for 12 facilities that either refine oil or provide onshore handling of oil and gas extracted from reserves offshore the County. Six of these cases are pending County approval and more cases are expected to come before the County in the future.

(6) The U.S. Department of the Interior's Minerals Management Service and the California State Lands Commission have well defined requirements and procedures that address operational safety and financial responsibility for change of owner, operator, or guarantor of facilities located on the Outer Continental Shelf or State Tidelands for purposes of recovering oil and gas.

(7) While some discretionary permits require County approval to transfer the permit from one owner(s) or operator(s) to another, not all do so, and those that do are not fully consistent with each other as regards requirements and processes for obtaining County approval of such transfers.

(8) The County stands to suffer significant adverse environmental impacts and substantial harm to public health, safety, and welfare unless all owners and operators are a) capable of operating oil refineries and onshore oil and gas facilities that support the recovery of offshore reserves in a safe manner and in full compliance with permit conditions and applicable law, b) financially capable of paying the cost of proper abandonment, including remediation of contaminated soils and waters, and c) financially capable of paying for all legally compensatory damages or injuries suffered by any property or person that result from or arise out of any oil spill or other accident.

Attachment C

Change of owner/operator summary

Available in hard copy only.

ATTACHMENT 6

Findings of Fact for Adoption of the Proposed Ordinance

(1) As part of its authority to regulate land use within its jurisdiction, Santa Barbara County requires discretionary and ministerial permits for development of oil refineries and development of onshore oil and gas facilities that support recovery of reserves offshore the County. Such permits contain conditions designed to ensure safe operations, proper abandonment of such facilities when their use has terminated, and adequate guarantees of financial responsibility.

(2) All such permits were originally issued to major, vertically integrated oil companies (e.g., Exxon, Chevron, Texaco, ARCO, and Unocal), who have large amounts of capital and technical expertise required to successfully operate such facilities in full compliance with permit conditions and applicable law.

(3) A trend has emerged in which the major companies seek to divest themselves of offshore leases, related onshore infrastructure, and onshore oil refineries, selling their operations to independent firms who are relatively young and may lack the vast array of financial assets and technical resources of the major, vertically-integrated oil companies.

(4) A second trend towards more complicated structures of ownership and new forms of business organization has also emerged, which may obscure who is operationally and financially responsible for operations and abandonment of such facilities.

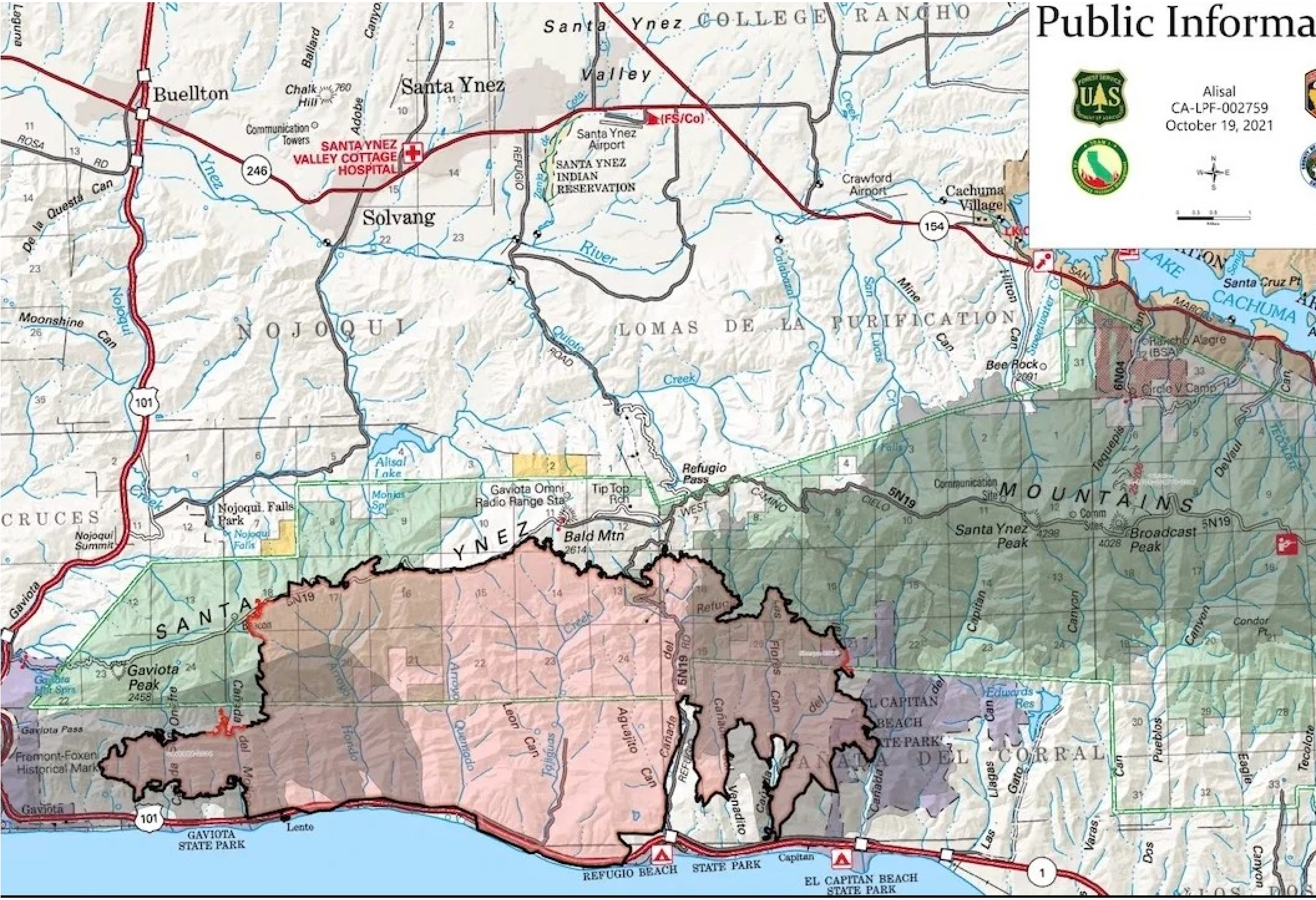
(5) In the unincorporated area of Santa Barbara County, at least 22 changes of owner or operator have taken place since 1993 for 13 facilities that either refine oil or provide onshore handling of oil and gas extracted from reserves offshore the County. Six of these cases are pending County approval and more cases are expected to come before the County in the future.

(6) The U.S. Department of the Interior's Minerals Management Service and the California State Lands Commission have well defined requirements and procedures that address operational safety and financial responsibility for change of owner, operator, or guarantor of facilities located on the Outer Continental Shelf or State Tidelands for purposes of recovering oil and gas.

(7) While some discretionary permits require County approval to transfer the permit from one owner(s) or operator(s) to another, not all do so, and those that do are not fully consistent with each other as regards requirements and processes for obtaining County approval of such transfers.

(8) The County stands to suffer significant adverse environmental impacts and substantial harm to public health, safety, and welfare unless all owners and operators are a) capable of operating oil refineries and onshore oil and gas facilities that support the recovery of offshore reserves in a safe manner and in full compliance with permit conditions and applicable law, b) financially capable of paying the cost of proper abandonment, including remediation of contaminated soils and waters, and c) financially capable of paying for all legally compensatory damages or injuries suffered by any property or person that result from or arise out of any oil spill or other accident.

ATTACHMENT 7


Public Informa
Alisal
CA-LPF-002759
October 19, 2021
Buellton
Santa Ynez
Solvang
Santa Ynez Valley
SANTA YNEZ VALLEY COTTAGE HOSPITAL
Santa Ynez Airport
SANTA YNEZ INDIAN RESERVATION
Crawford Airport
Cachuma Village
Communication Towers
Chalk Hill
NOJOQUI
LOMAS DE LA PURIFICATION
Moonshine Can
Alisal Lake
Refugio Pass
Nojoqui Falls Park
Nojoqui Summit
Gaviota Omni Radio Range Sta
Tip Top Rch
Bald Mtn
2614
SANTA YNEZ MOUNTAINS
Santa Ynez Peak
4298
Broadcast Peak
4028
Rancho Alegre (BSA)
Circle V Camp
Bee Rock
2091
Gaviota Peak
2458
Gaviota Pass
Fremont-Foxen Historical Mark
Gaviota
GAVIOTA STATE PARK
Lento
REFUGIO BEACH
STATE PARK
Capitan
EL CAPITAN BEACH STATE PARK
CAÑADA DEL CORRAL
Condor Pt
Santa Cruz Pt
CACHUMA
Edwards Res
CRUCES
5N19
6N04
101
246
154
1
(FS/Co)

ATTACHMENT 8

ATTACHMENT 9

September 26, 2024

Sent via electronic mail only to Michael.mills@stoel.com

Dear Mr. Mills:

I am reaching out regarding your client, Sable Offshore Corporation's (Sable)s, acquisition of the Las Flores Canyon Processing Facility (the Facility). Based upon publicly available information, it appears that equipment at the Facility meets the definition "production facility" found in Public Resources Code section 3010.

There are a handful of compliance issues CalGEM would like to discuss with Sable in more detail.

I. Equipment at the Facility appears to be equipment regulated by CalGEM.

CalGEM regulates production facilities, which includes "any equipment attendant to oil and gas production or injection operations, including but not limited to, tanks flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valve, compressors, injection equipment, and pipelines that are not under the jurisdiction of the State Fire Marshal pursuant to Section 51010 of the Government Code." Based upon publicly available information, the Facility includes equipment that meets the definition of "production facility," including at a minimum, pipelines not under the jurisdiction of the State Fire Marshal and tanks.

II. Bonding requirements under Public Resources Code section 3205.8.

The acquisition of the Facility appears to have occurred after January 1, 2024, thereby triggering the requirements of Public Resources Code section 3205.8, including the filing of a bond. Given the unique aspects of the Facility, and the newness of these requirements, Sable was probably unaware these bonding requirements apply to those production facilities attendant to oil and gas production.

CalGEM would like to develop a timeline for expeditiously getting Sable into compliance, which will require a determination of equipment attendant to oil and gas production at the Facility. CalGEM is requesting your cooperation in timely scheduling an inspection of the Facility. To facilitate a more productive inspection, in advance of that inspection, CalGEM requests that you provide a facility map which identifies the equipment on site, including pipelines, and point of sale information, as well as the contact information for your operations manager, so that CalGEM may contact them with questions in advance.

Please have Sable contact Michael Takamori (Michael.Takamori@conservation.ca.gov or (661) 434-8163) to schedule an inspection and provide the information described above no later than October 3, 2024.

III. Additional requirements for production facilities.

In addition to these important bonding requirements, there are a range of inspection, testing, and maintenance requirements that apply to production facilities, which you should be aware of, outlined below.

First and foremost, it appears that at least a portion of the production facilities at the facility fall within a health protection zone. **Effective June 27, 2024, subject to the exceptions outlined in the regulation, in advance of new construction or operation of a new production facility, an operator is required to submit a notice for CalGEM's approval before undergoing that work**. (Cal. Code of Regs., tit. 14, § 1765.5.) Additional requirements for health protections zones may be found in Article 2.5 of title 14 of the California Code of Regulations.

Additional production facility requirements include, but are not limited to the filing of spill contingency plan, filing of a pipeline management plan, and production facility containment, maintenance, and testing. (Cal. Code of Regs., tit. 14, §§ 1722, subd. (b); 1773.4; 1774.2; 1773-1773.4-1774.1.)

Sincerely,

Courtney Kasberg

Courtney Kasberg

ATTACHMENT 10

State of California • Natural Resources Agency — Gavin Newsom, *Governor*
DEPARTMENT OF PARKS AND RECREATION — Armando M. Quintero, *Director*
Legal Office • Post Office Box 924896 • Sacramento, CA 94296-000

December 20, 2024

Sent via Electronic Mail and USPS
lalcock@sableoffshore.com

Lee Alcock
Assistant General Counsel
Sable Offshore
845 Texas Avenue, Suite 2920
Houston, TX 77002

Re: Gaviota State Park – Sable Offshore Request for Easement

Dear Mr. Alcock:

This letter follows the recent discussions between California Department of Parks and Recreation ("State Parks") and Sable Offshore Corp. ("Sable"). Sable is requesting an easement for access necessary to restart pipeline 325 (formerly known as Line 903), located in State Parks' property at Gaviota State Park ("Gaviota SP"). State Parks holds the land in trust for all of California and takes its duty seriously to protect that land and its surrounding environment.

For context, pipeline 325 runs four miles through Gaviota SP, but has been offline since the May 2015 Refugio oil spill. As a result of the spill, various state and federal agencies entered into a Consent Decree with Sable's predecessor as a settlement to a lawsuit containing a variety of claims. State Parks, as resource trustee, is party to that Consent Decree which requires, among other things, that Sable comply with existing laws in its effort to restart its lines or shut them down.

Sable's 30-year easement for pipeline 325 expired in 2016. Since 2016, State Parks has issued successive year-long right of entry ("ROE") permits in order to permit Sable (or its predecessors) access to pipeline 325 for maintenance and monitoring. State Parks understood Sable would ultimately close and relocate pipeline 325 off State Park property, and thus limited the ROE to those actions and access needs necessary for closure of pipeline 325. The current ROE states in relevant part:

> "Whereas, Permittee [Sable] has applied to State for permission to access Gaviota S.P. for purposes of carrying out Permittee's pipeline maintenance and access for existing Line 325 (formerly known as Line 903) that is currently subject to closure orders (the Project). This Permit is needed because the original easement facilitating Permittee's access to Line 325 in Gaviota S.P. has expired. Activities related to any new or future projects, including restarting Line 325 or constructing a new pipeline, are not included in the Project and are not covered by this

> Right of Entry. Instead, the parties are negotiating separate agreements regarding Permittee's activities with respect to restarting Line 325."

During recent discussions with Sable, State Parks learned that Sable now intends to restart the existing pipeline 325, thereby necessitating a new easement. Given this change, Sable requested expedited review. State Parks requested and received information on new "anomaly digs". After reviewing this information, State Parks has discovered that while it is important, it is not sufficient for State Parks to evaluate Sable's easement request for pipeline 325's potential restart.

State Parks will need a complete project description of the repairs and maintenance Sable will need to undertake at Gaviota SP if the line is restarted, as well as any other proposed operational access needs or other encumbrances not currently taking place or permitted by the ROE so it can evaluate whether and to what extent environmental review of the proposed easement will be required. This should include the scope of work that would be permitted by the easement, the access points and locations of proposed activity, and the frequency of access with respect to operation, management, and maintenance of pipeline 325 by Sable, including any pertinent conditions imposed by other agencies. In addition, a complete project scope should further detail how emergency responses will be conducted, and how monitoring and other work will occur over the life of the easement, taking into account any requirements imposed by federal or state regulators, as well as the environment of the existing pipeline. Without a complete project description for the easement, State Parks cannot fully evaluate Sable's request.

Please note that once State Parks has this threshold information, it will be better to be able to articulate the process and cost to you of obtaining an easement, including the necessary indemnifications and fees required for any transactional work and environmental review associated with a final decision.

If you have further questions, you may contact me at emma.siverson@parks.ca.gov.

Sincerely,

DocuSigned by:
Tarra E Lynch
F610A257FA1247D...

FOR

Emma Siverson
Senior Staff Counsel

cc: Dena Bellman, District Superintendent II, Channel Coast District
Tara E. Lynch, Chief Counsel

ATTACHMENT 11

M. RANDALL OPPENHEIMER (S.B. #77649)
roppenheimer@omm.com
DAWN SESTITO (S.B. #214011)
dsestito@omm.com
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, California 90071-2899
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JONATHAN A. HUNTER (*Pro hac vice forthcoming*)
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swwiegand@liskow.com
CARSON M. HADDOW (*Pro hac vice forthcoming*)
chaddow@liskow.com
LISKOW & LEWIS
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New Orleans, Louisiana 70139
Telephone: (504) 581-7979
Facsimile: (504) 556-4108

Attorneys for Applicant for Intervention
EXXON MOBIL CORPORATION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ENVIRONMENTAL DEFENSE CENTER, a California non-profit corporation; SANTA BARBARA CHANNELKEEPER, a California non-profit corporation;

Plaintiffs,

vs.

BUREAU OF OCEAN ENERGY MANAGEMENT; RICHARD YARDE, Regional Supervisor, Office of Environment, Bureau of Ocean Energy Management; DAVID FISH, Bureau of Safety and Environmental Enforcement; ABIGAIL ROSS HOPPER, Director, Bureau of Ocean Energy Management; BRIAN SALERNO, Director, Bureau of Safety and Environmental Enforcement; BUREAU OF SAFETY AND

Case No. 2:16-cv-08418-PSG-FFMx

DECLARATION OF KEN DOWD IN SUPPORT OF EXXON MOBIL CORPORATION'S MOTION FOR LEAVE TO INTERVENE

Hearing Date: April 17, 2017
Hearing Time: 1:30 pm.
Location: Courtroom 6A
Judge: Hon. Philip S. Gutierrez

ENVIRONMENTAL ENFORCEMENT; JOAN BARMINSKI, Pacific Region Director, Bureau of Ocean Energy Management; MARK FESMIRE, Acting Pacific Region Director, Bureau of Safety and Environmental Enforcement; UNITED STATES DEPARTMENT OF THE INTERIOR; SALLY JEWELL, Secretary of the Interior,

Defendants.

I, Ken Dowd, depose and state as follows:

1. I am over 21 years of age and am competent to make this declaration. The facts set forth in this declaration are based on both my personal knowledge and information gathered in the course of my business activities.

2. I am currently employed by Exxon Mobil Corporation ("ExxonMobil"). I am the Production Manager of the U.S. Production ("USP") division of Exxon Mobil Production Company. Through my employment, I have acquired knowledge regarding ExxonMobil's operations and interests in oil and gas exploration and production in the Pacific Outer Continental Shelf ("OCS") Region.

3. ExxonMobil is a long-standing and active participant in oil and gas exploration and development activities in the Pacific OCS Region.

4. ExxonMobil operates the Santa Ynez Unit ("SYU") located in the Pacific OCS Region off the coast of California in the Santa Barbara Channel.

5. The SYU was formed in 1970 and currently contains 16 OCS leases: OCS-P-0180, OCS-P-0181, OCS-P-0182, OCS-P-0183, OCS-P-0187, OCS-P-0188, OCS-P-0189, OCS-P-0190, OCS-P-0191, OCS-P-0192, OCS-P-0193, OCS-P-0194, OCS-P-0195, OCS-P-0326, OCS-P-0329, OCS-P-0461. ExxonMobil owns 100% of the interest in each of those 16 leases.

6. Drilling and production operations in the SYU are conducted from three platforms, the Heritage Platform, the Harmony Platform, and the Hondo Platform, each of which is operated by ExxonMobil.

7. The Heritage Platform, which was installed in 1989, is located on Lease OCS-0182 approximately eight miles from shore.

8. The Harmony Platform, which was installed in 1989, is located on lease OCS-P-0190 approximately six miles from shore.

9. The Hondo Platform, which was installed in 1976, is located on Lease OCS-P-0188 approximately five miles from shore.

10. To date, ExxonMobil has made substantial investments in acquiring,

exploring, and developing the lease interests that make up the SYU and in installing and operating the Heritage, Harmony, and Hondo Platforms. ExxonMobil's capital expenditures and operating expenses for its SYU Unit operations totaled more than $413 million in 2014 alone.

11. ExxonMobil currently operates over 100 wells in the SYU. Between 1981 and 2014, the SYU produced over 663 million oil equivalent barrels (oil and gas). ExxonMobil's SYU produced an average of 27 million cubic feet of natural gas, and 30,000 barrels of oil and condensate per day (gross) in 2014.

12. ExxonMobil seeks approval from the Department of the Interior ("DOI") for its offshore oil and gas exploration plans and development and production plans. ExxonMobil also seeks approval from DOI's Bureau of Safety and Environmental Enforcement ("BSEE") for drilling and well stimulation activities under approved exploration or development plans. These approvals include an Application for Permit to Drill ("APD"), which must be obtained prior to drilling a well, and an Application for Permit to Modify ("APM"), which must be obtained in the event a drilling plan is revised.

13. Oil production at the Heritage, Harmony, and Hondo Platforms is currently suspended due to a third party's May 2015 pipeline rupture in Santa Barbara County, California. The ruptured pipeline currently serves as the transport route for oil produced at ExxonMobil's SYU Platforms. ExxonMobil continues to evaluate options for restoring production operations.

14. In order to re-start production, ExxonMobil anticipates that it will require the use of certain acid well stimulation treatments at one or more wells. Moreover, ExxonMobil will require acid well stimulation treatments to drill and complete new wells, and recomplete existing wells, at SYU.

15. Plaintiffs in the above-captioned litigation seek to "[e]njoin Defendants from issuing Permits (to Drill or to Modify) for well stimulation treatments, until and unless Defendants comply with" the National Environmental Policy Act and

the Endangered Species Act. Compl. For Declaratory & Injunction Relief, Prayer for Relief ¶¶ C, G, R. Doc. 1.

16. ExxonMobil has a significant and direct stake in the pending litigation. Were the Plaintiffs in this litigation to prevail and to obtain the injunctions they have requested, such injunctive relief would have a significant and direct effect on ExxonMobil's property, regulatory, and economic interests in its SYU leases and permits. In particular, the requested relief could restrict ExxonMobil's ability to restart oil production at the Heritage, Harmony, and Hondo Platforms. It would also severely restrict ExxonMobil's plans to further develop its existing Pacific OCS leases.

17. At a minimum, the requested injunction would substantially and indeterminately delay ExxonMobil's oil production activities. This would result in increased costs in producing crude oil from the SYU, which could potentially impede the development of the SYU and undermine ExxonMobil's lease interests.

18. Further, the requested injunction could result in significant sums in wasted investments and lost production opportunities.

19. In addition, ExxonMobil currently intends to continue to invest substantially in its SYU leases in the future. In the ordinary course of its operations, ExxonMobil will continue to evaluate and generate new opportunities to develop the SYU leases including but not limited to the drilling of new wells and stimulation of new and existing wells. These activities would require that ExxonMobil obtain additional APDs and APMs. Any legal action that would result in an injunction prohibiting the issuance of APDs and APMs would directly impact these activities.

/ / /

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/ / /

/ / /

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on February 7, 2017 in Spring, Texas.

Kenneth C. Dowd

Ken Dowd

ATTACHMENT 12

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Established in 1938

JENNIFER LUCCHESI, *Executive Officer*
916.574.1800
TTY CA Relay Service: **711** *or Phone* **800.735.2922**
from Voice Phone **800.735.2929**
or for Spanish **800.855.3000**

Contact Phone: (916) 574-1900

April 10, 2024

File Ref.: Leases 4977, 7163, 5515, 6371

Dylan Boyer (SENT VIA ELECTRONIC MAIL ONLY: dylan.w.boyer@exxonmobil.com)
Exxon Mobil Corporation

Subject: Applications for Assignment of Lease, Santa Ynez Unit Facilities, Santa Barabra County

Dear Mr. Boyer:

On March 13, 2024, Exxon Mobil Corporation (Exxon) submitted four applications to assign its lease interest in the referenced leases to Sable Offshore Corporation (Sable). Based on our review of the materials submitted with the applications, it has been determined that the applications are complete for purposes of the California Environmental Quality Act (CEQA) as of April 12, 2024. For the purpose of processing the applications, Exxon may be requested to clarify, amplify, correct, or otherwise supplement the information submitted on the applications.

While the applications are complete for purposes of CEQA, staff require additional information to continue processing the applications and prior to scheduling them for the Commission's consideration. Please provide the following information at your earliest convenience.

1. Describe who will staff, operate, and maintain the three offshore platforms, the Las Flores Canyon processing facility, lines 901/903, and other Santa Ynez Unit (SYU) facilities under Sable's ownership, including the authorized improvements under leases 4977, 7163, 5515, and 6371.
    - Organization chart and brief bios of staff's experience in operations of these assets or similarly situated offshore oil and gas production facilities.

2. Provide a copy of the final, executed purchase and sales agreement between Exxon and Sable.
3. Provide an organization chart and brief bios for the Sable senior management team. Include all relevant information related to the individual's experience in the offshore oil and gas industry, including oil and gas pipeline operation and maintenance, and when they last worked in the industry.
4. Provide staff with contingency plans that Sable will implement during periods of extended low oil prices, significant financial losses, and bankruptcy.
5. Provide staff with information addressing how Sable will address financing/operating the SYU if it remains shut-in longer than anticipated.
6. Provide copies of the bonds for Leases 5515 and 6371 and provide verification from the bond issuer that they are in good standing.
    - Lease 6371 requires a bond of $80,000, however, staff is only in receipt of a $25,000 bond (Bond No. 019051655) issued by Liberty Mutual Insurance Company in 2015.
    - Lease 5515 requires a $30 million bond.
7. Update the attached timeline chart previously provided to staff on January 25, 2023.
8. Provide an updated projected reserve and resource summary. The previous summary was provided to staff on February 28, 2023 (attached).
9. Provide Sable Pro Forma projected financial statements (Balance Sheet, Income Statement, and Statement of Cash Flows) for 2024 and any other future periods.
10. On February 28, 2023, Sable provided staff information related to plans for restarting production at the SYU facilities (see response #1). Please provide an update for each of the four primary workflows and the projected SYU restart date. Also provide a detailed summary of the process and timeline for restarting SYU operations.

11. Provide a detailed summary of the process and timeline for bringing lines 901/903 back into operation.

12. Information detailing the economic life of the SYU facilities under a reasonable range of oil price scenarios, taking into account per barrel price fluctuations over the past 10 years. Sable previously provided information to staff on February 28, 2023, under an assumed $50 flat Brent crude price. Please provide the estimated economic life at varying oil prices, specifically at $40, $80, and $100 per barrel.

13. List of financial securities for decommissioning the federal platforms (including plugging the wells and removing the associated oil infrastructure). Sable previously informed staff that the dollar amount of these securities had not been determined as of February 28, 2023.

14. Provide an independent third party estimate for cost of removal for the lease improvements for leases 4977 and 7163.

You will be advised as to the conduct and needs of this process as it progresses. Please contact me at (916) 574-2275 or at Drew.Simpkin@slc.ca.gov, if you have any questions concerning the applications.

Sincerely,

Drew Simpkin

Drew Simpkin
Public Land Management Specialist

Attachments

cc: Nathan Franka (nathan.p.franka@exxonmobil.com)
Steve Rusch (srusch@sableoffshore.com)
Chris Workman (CSLC)

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Contact Phone: (916) 574-1900

May 23, 2024

File Ref.: Leases 4977, 7163, 5515, 6371

Dylan Boyer (SENT VIA ELECTRONIC MAIL ONLY: dylan.w.boyer@exxonmobil.com)
Exxon Mobil Corporation

Subject: Applications for Assignment of Lease, Santa Ynez Unit Facilities, Santa Barabra County

Dear Mr. Boyer:

On April 30, 2024, Exxon provided written responses to Commission staff's request for additional information, dated April 10, 2024. After reviewing Exxon's responses, additional information is required to continue processing the applications and prior to scheduling the proposed assignments for the Commission's consideration. Please provide the following information at your earliest convenience.

Question/response #1:

- In accordance with Public Resources Code section 6804, subd. (b), which allows the commission to consider the experience and managerial control of the proposed assignee, we request an organizational chart of:
  - Sable's senior management team; and
  - Sable's staff who will operate and maintain the SYU assets, namely the pipelines leased by the Commission.

  This information is necessary to evaluate the qualifications and experience of key personnel who will be responsible for managing the leases, ensuring compliance with all terms and conditions.

Question/response #14

- Include the removal cost estimate for the three power cables under lease 7163 to the Petra cost estimate, dated April 24, 2024.

Additionally, Exxon must provide evidence of a legal relationship with Sable in order for Sable to operate the pipelines and other lease improvements. An agreement between Exxon and Sable is required stating that Sable is authorized (as a subcontractor, operator, agent, etc.) to operate the pipelines and lease improvements on behalf of Exxon and that Sable will be acting as Exxon's agent in the submission of required restart testing/inspections and other required lease submissions until such time as the Commission authorizes the assignments.

You will be advised as to the conduct and needs of this process as it progresses. Please contact me at (916) 574-2275 or at Drew.Simpkin@slc.ca.gov, if you have any questions concerning the applications.

Sincerely,

Drew Simpkin
Public Land Management Specialist

cc: Nathan Franka (nathan.p.franka@exxonmobil.com)
Steve Rusch (srusch@sableoffshore.com)
Chris Workman (CSLC)

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Contact Phone: (916) 574-1900

May 23, 2024

File Ref.: Leases 4977, 7163, 5515, 6371

Dylan Boyer (SENT VIA ELECTRONIC MAIL ONLY: dylan.w.boyer@exxonmobil.com)
Exxon Mobil Corporation

Subject: Applications for Assignment of Lease, Santa Ynez Unit Facilities, Santa Barabra County

Dear Mr. Boyer:

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  - Sable's senior management team; and
  - Sable's staff who will operate and maintain the SYU assets, namely the pipelines leased by the Commission.

  This information is necessary to evaluate the qualifications and experience of key personnel who will be responsible for managing the leases, ensuring compliance with all terms and conditions.

Question/response #14

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You will be advised as to the conduct and needs of this process as it progresses. Please contact me at (916) 574-2275 or at Drew.Simpkin@slc.ca.gov, if you have any questions concerning the applications.

Sincerely,

Drew Simpkin
Public Land Management Specialist

cc: Nathan Franka (nathan.p.franka@exxonmobil.com)
Steve Rusch (srusch@sableoffshore.com)
Chris Workman (CSLC)

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from Voice Phone **800.735.2929**
or for Spanish **800.855.3000**

Contact Phone: (916) 574-1900

August 16, 2024

File Ref.: Leases 4977,
7163, 5515, 6371

Dylan Boyer (SENT VIA ELECTRONIC MAIL ONLY) dylan.w.boyer@exxonmobil.com
Exxon Mobil Corporation

Subject: Applications for Assignment of Lease, Santa Ynez Unit Facilities, Santa Barabra County

Dear Mr. Boyer:

I am writing in acknowledgment of, and in response to, Exxon's July 3, 2024, letter. In that letter, Exxon granted consent "to Sable's direct engagement with CSLC in regards to the submission, review and approval of the SYU PRIP by Sable, provided that Exxon Mobil is fully informed of material updates in regard to same, including any approvals thereof."

In our earlier communication on May 23, 2024, Exxon was explicitly asked to provide clear evidence of a legal relationship with Sable that would authorize Sable to operate the pipelines and other lease improvements (please see the attached for reference). Staff appreciates Exxon's efforts; however, the response in your recent letter falls short of addressing the core issue. The Commission's engagement with Sable is not predicated on Exxon providing its consent.

For staff's review of the pending lease assignment applications, it is imperative that Exxon formalizes its relationship through a binding agreement with Sable regarding the use of the lease premises on state land. Importantly, while each lease requires Commission authorization for assignment or sublease, the leases also permit the existing lessee to allow employees, agents, servants, and invitees to occupy or use any portion of the lease premises without specific

Commission authorization.[1] This point is critical in light of Exxon's decision to transfer ownership of the SYU assets to Sable while retaining the leases on state land. Therefore, to facilitate staff's review of the pending applications, staff expect Exxon to submit a copy of a formal agreement with Sable that links Exxon's ongoing status as a lessee with Sable's authorization to operate on the lease premises as an agent or equivalent, as permitted under the leases.

Please contact me at (916) 574-2275 or at Drew.Simpkin@slc.ca.gov, if you have any questions concerning the applications.

Sincerely,

Drew Simpkin
Public Land Management Specialist

Attachment(s): CSLC Letter to Exxon dated May 23, 2024

cc: Nathan Franka (nathan.p.franka@exxonmobil.com)
Steve Rusch (srusch@sableoffshore.com)
Stephen Laperous (slaperouse@sableoffshore.com)
Chris Workman (CSLC)

[1] See e.g., Lease 5515, section 3 (General Provisions), paragraph 11(a). Each lease contains similarly phrased language for this allowance.

ATTACHMENT 13

CALIFORNIA COASTAL COMMISSION
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2421
VOICE (415) 904-5200
FAX (415) 904-5400

VIA CERTIFIED AND ELECTRONIC MAIL

February 18, 2025

Steve Rusch
Sable Offshore Corp.
12000 Calle Real
Goleta, CA 93117

DJ Moore
Latham & Watkins, LLP
355 South Grand Avenue, Suite 100
Los Angeles, California 90071

Subject:	**Executive Director Cease and Desist Order No. ED-25-CD-01 and Notice of Intent to Commence Proceedings for a Commission Cease and Desist Order, Restoration Order, and Administrative Penalty Order**
Date Issued:	02/18/2025
Expiration Date:	05/19/2025
Violation Nos.:	V-9-25-0013 and V-9-24-0152
Location:	The properties that are subject to this order are at various locations along the existing Las Flores Pipelines CA-324 and CA-325 within the Coastal Zone, between the Gaviota coast and the Las Padres National Forest, and areas surrounding the pipelines that are being or could be impacted by the development activities at issue here, in which the parties subject to this order are performing or intend to perform any of the activities described below, all within Santa Barbara County. The properties that are subject to the Notice of Intent to commence further enforcement proceedings are those same properties as well as areas previously impacted by similar work and offshore locations along the larger Santa Ynez Unit pipeline, in state waters, where the parties subject to this notice have undertaken unpermitted development in placing sand/cement bags

and pallets on the seafloor below and adjacent to Sable's out-of-service offshore oil and water pipelines as part of an effort to restart SYU oil production operations and bring the pipelines back into use.

Violation Description: Activities onshore including, but not limited to, excavation with heavy equipment; removal of major vegetation; grading and widening of roads; installation of metal plates over water courses; dewatering and discharge of water; pipeline removal, replacement, and reinforcement; installation of shutoff valves; and other development associated with the Las Flores Pipelines CA-324 and CA-325; as well as offshore development including, but not necessarily limited to, placing sand/cement bags and pallets on the seafloor below and adjacent to Sable's out-of-service offshore oil and water pipelines; all without the requisite Coastal Act authorization, as part of an effort to restart Santa Ynez Unit oil production operations and bring the pipelines back into use [1]

Dear Sirs,

This is in furtherance of our discussions regarding the recent activities of Sable. I want to note that we are not taking a position regarding the underlying merits of the pipeline and of Sable's recent activities here, but want to work with you to ensure that any actions taken here, in this iconic area, are done in a way that protects the fragile ecosystem, and the humans and animals in the area. We remain more than willing to work with you to ensure that any work contains any necessary protections and conforms with applicable laws. We again offer to work with you and the County on a consolidated permit to move forward in the most efficient and streamlined manner possible and are available to discuss options with you going forward.

I. Order

Pursuant to my authority under California Public Resources Code ("PRC") Section 30809, as the Executive Director of the California Coastal Commission ("Commission"), I hereby issue this Executive Director Cease and Desist Order ("EDCDO" or "this Order"), which orders you, Sable Offshore Corp. ("Sable"), as the owner and operator of Las Flores Pipelines CA-324 and CA-325 ("Pipeline"), to cease further work along the Pipeline and immediately surrounding areas unless and until authorized by a new, final coastal development permit ("CDP").[2]

[1] Please note that the description herein of the violations at issue is not necessarily a complete list of all unpermitted development on the properties in violation of the Coastal Act.
[2] A "final" coastal development permit as used here means one that is: (a) no longer subject to appeal, either within the County system or to the Commission, and whether because the time period for such appeals has elapsed or because all such appeals have been completed.

Compliance with the following terms is intended to ensure that all development described in Section E, below, remains halted, ensuring that further unnecessary damaging effects to coastal resources are avoided, while Sable obtains the legally necessary authorization for future, proposed development, and/or for any steps needed restore the site, as follows.

Pursuant to my authority under PRC Section 30809, I hereby order Sable:

1. To cease and desist from conducting any further development at the onshore locations described above unless you have submitted evidence, for my review and approval, demonstrating that you possess the necessary Coastal Act authorization for the work and have received my written approval to proceed.

2. If you decide you wish to proceed, either: (a) demonstrate, to my satisfaction, that Sable already possesses the necessary Coastal Act authorization for the work, which Sable has not yet demonstrated;[3] or (b) obtain a new, final, operative CDP or other valid Coastal Act authorization specifically covering the work at issue and comply with the terms of any final, validly issued CDPs.

A. ENTITITES SUBJECT TO THE ORDER

The parties whose actions or inactions are subject to this Order are Sable Offshore Corp; all employees, agents, and contractors of the foregoing; and any other person or entity acting in concert with the foregoing.

B. IDENTIFICATION OF THE PROPERTIES

The properties that are subject to this are various locations along the existing Las Flores Pipelines CA-324 and CA-325 within the Coastal Zone, between the Gaviota coast and the Las Padres National Forest, areas surrounding the Pipeline and impacted by the development activities at issue here, all within Santa Barbara County.

C. DESCRIPTION OF THE VIOLATIONS

The Coastal Act violations and threatened violations addressed by this Order involve development that has occurred in the Coastal Zone without the requisite Coastal act authorization, including, but not necessarily limited to, excavation with heavy equipment; removal of major vegetation; grading and widening of roads; installation of metal plates over water courses; placement of fill in wetlands and coastal waters; dewatering and discharge of water; pipeline removal, replacement, and reinforcement; any installation of shutoff valves; and other development associated with Pipeline.

D. COMMISSION AUTHORITY TO ACT

The Executive Director is issuing this Order pursuant to her authority under PRC Section 30809, including, but not necessarily limited to, subdivision (a)(2) thereof. The County has

[3] We offer this option as an accommodation and remain willing to review and consider any additional permit language Sable may provide at any time, including after issuance of this EDCDO.

indicated that it believes the work at issue is authorized by prior permits, and thus, it does not agree with Commission staff's conclusion that the recently completed, ongoing and threatened, future work constitutes a violation of the Coastal Act and LCP. Commission staff has explained its contrary position to the County on multiple occasions, most recently in a letter dated February 14, 2025. In addition, on February 17, 2025, after a representative of Sable responded to my request that Sable forestall further activities and instead indicated that "Sable intends to proceed,"[4] Commission staff specifically requested that the County either take enforcement action or confirm that they were, in fact, not willing to take action to address the alleged violations noted above, pursuant to PRC Section 30809(a)(2). Having received no response from the County by 12pm February 18, 2025, I am moving forward with issuing this EDCDO.

E. EXECUTIVE DIRECTOR'S FINDINGS

As the Executive Director of the Commission, I am issuing this Order pursuant to my authority under PRC Sections 30809(a) to prevent further significant damage to coastal resources that, without this order, would be likely to occur. As noted in our Notice, Sable's continued work on the Pipeline would be likely to contribute to environmental impacts that could have been avoided, including the destabilization of rain-soaked hillsides and habitat areas, discharge of mud and debris into watercourses and wetlands, disturbance to nesting birds that could lead to nest and habitat abandonment, and declines in breeding success. Further, the history of this site has made it clear that the utmost caution, and safety, must be taken to avoid catastrophic damage to coastal resources such as those seen after the 2015 pipeline failure and resulting Refugio Oil Spill.

Commission enforcement staff informed Sable of the violations of the Coastal Act in an initial Notice of Violation letter sent to Sable on September 27, 2024, a follow-up letter sent October 4, 2024, and continued to discuss the violations in multiple virtual meetings over the course of the following weeks. On November 12, 2024, an EDCDO was issued directing Sable to immediately cease and desist from conducting any further unpermitted development along the Pipeline, submit an interim restoration plan to safely secure those sites where unpermitted development had occurred, and apply for a CDP for any proposed future work to be undertaken along the Pipeline, as well as for after-the-fact (ATF) authorization for unpermitted development that had already occurred. On February 11, 2025, Commission staff additionally issued a Notice of Violation letter for unpermitted development undertaken by Sable at locations offshore, in state waters. A more detailed recitation of the history is provided below.

With limited exceptions not applicable here, PRC Section 30600(a) states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

> *"'Development' means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or*

[4] February 17, 2025, letter from DJ Moore, of Latham & Watkins LLP, writing on behalf of Sable.

> *extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility…" (emphasis added)*

The Development described herein clearly constitutes "development" within the meaning of the above-quoted definition and therefore requires a CDP. Sable has not submitted an application for a CDP for any of its proposed future work at either onshore, or offshore locations, as described above, nor has Sable submitted any ATF application for work previously undertaken along the Pipeline and within the Coastal Zone.

On September 27, 2024, Commission staff sent a "Notice of Violation" letter informing Sable that the Commission had become aware of unpermitted development activities taking place within the Coastal Zone, including excavation with heavy machinery, grading, and other activities at various locations along the Pipeline, apparently in connection with a proposed restart of the Santa Ynez Unit, consisting of three offshore platforms, Las Flores Canyon processing facility, and associated electrical transmission and onshore and offshore oil and gas transport pipelines. Commission staff requested Sable immediately cease all unpermitted development within the Coastal Zone, including all activities associated with Lines 324 and 325, as well as any potential development activities taking place along the offshore platforms and Pipeline. Commission staff further detailed the need for Coastal Act authorization for any development in the Coastal Zone, which should be sought through the submittal of an application(s) for the required CDP(s).

On October 1, 2024, Sable met with Commission staff to discuss the above-mentioned Coastal Act violations. In this conversation, Commission staff conveyed to Sable that all unpermitted development activities, along the Pipeline, must cease immediately. Immediate cessation of all work would result in several open pit sites, where excavation activities had already begun. Because of this, Commission staff and Sable discussed steps necessary to ensure the open pit sites could be temporarily secured. However, my staff made it clear to Sable that all work must stop immediately. Nonetheless, Commission staff received an email from Sable on October 2, 2025, stating that work had been suspended, "subject to taking interim measures". Commission staff met with Sable on October 3, 2025, to reiterate that all work must fully cease, and including any such "interim measures" which still amounted to development requiring Coastal Act authorization.

Despite these conversations, Commission staff received notice that Sable had yet to cease all work. Thus, on October 4, 2024, Commission staff sent a letter to Sable providing formal notice of the Executive Director's intent to issue an order, if necessary, to halt the ongoing project work, and requested written assurances by 2:00 pm that day, that Sable had, in fact ceased work entirely. Though Sable did send an email to Commission staff before this deadline to state that all work, including the actions in which Sable characterized as interim work measures, had ceased, Commission staff continued to

receive messages that work had not ceased and therefore, again, requested Sable provide written assurances that all work had, in fact, ceased. In response, Sable, confirmed all work, including any such interim measures, had ceased.

In addition to the cessation of all work, the October 4, 2024 letter required Sable provide information as to work undertaken along the Pipeline, specific plans as to future, proposed work, and written confirmation of intent to apply for a CDP(s) for ATF authorization for any work that had already occurred in the Coastal Zone and prospective authorization for any proposed future work.

Because Sable did not satisfactorily provide, as required by PRC Section 30809, detailed information as requested in Commission staff's October 4 letter, and further, failed to provide written confirmation as to its commitment to apply for an ATF CDP for work previously undertaken within the Coastal Zone, I issued a EDCDO on November 12, 2024. In this EDCDO, I directed Sable to complete an Interim Restoration Plan to safely secure the sites in the interim period necessary for Sable to apply for both an ATF CDP for all work previously undertaken along the Pipeline as well as CDP for future, proposed work. As an accommodation, I granted 120 days from the issuance of the EDCDO for Sable to apply for requisite CDPs. On December 20, 2024, Sable successfully completed the Interim Restoration Plan. However, to date, Sable has not submitted any application for an ATF CDP for work previously undertaken, or for a CDP for any future, proposed work to be taken along the Pipeline. Commission staff had repeatedly asked for greater information, including any full-scale workplans, so as to better understand the overall project. Without detailed information as to these plans, it is difficult for Commission staff to fully understand the scope of the work Sable has undertaken, as well as any proposed future plans and it is further difficult for Commission staff to provide a fully analysis as to what, if any, work has been authorized under applicable law.

Instead, Sable shifted operations offshore and carried out additional development activities without the benefit of a CDP including, but not limited to, the deployment of an unspecified number of "tea-bag pallets," sand-to-concrete bags, and soft-concrete bags, as part of an effort to restart oil production operations and bring the Santa Ynez Unit pipeline back into use. Specifically, the project deployed a remotely operated vehicle ("ROV") to place concrete bags and pallets along more than 750 linear feet of the pipelines to create support piers along 14 identified spans of between 41 and 70 feet. These activities took place over three days from November 29, 2024, to December 1, 2024.

Sable also sought authorization for the onshore violations described in the EDCDO through the County's zoning clearance process. On November 22, 2024, and December 5, 2024, Sable submitted applications to the County requesting authorization for pipeline "anomaly repair work" conducted along the Las Flores Pipelines, CA-324 and CA-325.

On January 10, 2025, the Commission held a conference call with the Santa Barbabra County Planning and Development Department ("County") to discuss Sable's pending Zoning Clearance applications, as well as the potential for a consolidated coastal development permit covering both onshore and offshore development activities. During this conversation, the County agreed to follow up with information, including the citations

and provisions within existing County issued permit(s) that the County believed might have pre-authorized the recently completed and proposed Pipeline work, as well as any other evidence Sable provided that the County found to be compelling. The parties to the call further confirmed that they would have a follow-up discussion before any County approval of Sable's Zoning Clearance applications. Despite this, however, no such information was received, and the Commission, therefore, followed up on this conversation through email, on February 7, 2025, again requesting this information.

On February 12, 2025, Commission staff received a letter from the County, in response to the prior request made by Commission staff that the County agree to the Commission's review of a consolidated permit application, pursuant to California Public Resources Code section 30601.3(a)(2). In this letter, the County stated that it had concluded that the "anomaly repair work" addressed in Sable's zoning clearance applications "is authorized by existing permits" and therefore no further application to, or action by, the County is required. However, the County expressed its support for the Commission's review of a consolidated permit application, if submitted by Sable.

In addition to this letter, the County provided the Commission with copy of an additional letter, which the County sent to Sable, notifying Sable that work addressed in Sable's zoning clearance permits "is covered by prior permits," though neither letter provided any citation to or quotation of any language in any such permits to support this assertion.

In response to these two letters and a February 14 request from the Environmental Defense Center, on February 16, 2025, I issued a letter to the County initiating a review of the County's determination, pursuant to Section 13569 of the Commission's regulations, and requesting a complete copy of any coastal development permit applications submitted by Sable and/or its predecessor(s) for the shutoff valve installation work on the Pipeline and Sable's application for the zoning clearance(s) for the repair anomaly work along the Pipeline.

Additionally, on February 16, 2025, I provided Sable with notice of my intention to issue a new EDCDO to Sable. In this letter, I responded to arguments that Sable submitted on February 14, purporting to support the position the County had taken, and I explained why, despite those argument, based on the information I had received to date, I continued to believe that Sable's proposed activities lacked the necessary Coastal Act authorization. I therefore directed Sable to confirm in writing by February 17, 2025, that Sable would cease all development as described in, and subject of, that letter unless and until Sable either: (a) demonstrates, to my satisfaction, that it already possesses the necessary Coastal Act authorization for the work, which Sable has not yet demonstrated.[5] On February 17, 2025, I received a letter from Sable reiterating their position that Sable's work "does not constitute a violation of the Coastal Act or the County's LCP because it is authorized under the pipelines' existing CDPs and other approvals,".

As a jurisdictional requirement to issue this Order, I have determined that Sable is undertaking or is threatening to undertake development that may require a CDP, without

[5] We offer this option as an accommodation and remain willing to review and consider any additional permit language Sable may provide either before, or after, issuance of Coastal Act authorization.

first securing a CDP and further determined Santa Barbara County has declined to act in a timely manner regarding the coastal act violations as detailed in the EDCDO, and this failure to act will cause damage to coastal resources.

Thus, as of the issuance of this Order, I have concluded that Sable has yet to apply for any CDP, or other valid Coastal Act authorization, covering the work at issue, nor has Sable demonstrated that it possesses the necessary Coastal Act authorization for this work. As such, I am issuing this EDCDO pursuant to my authority under PRC Sections 30809(a)(2).

F. COMPLIANCE OBLIGATION

Respondent's strict compliance with this Consent Order is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained herein, unless the Executive Director grants an extension under Section I.5, above, will constitute a violation of this Consent Order and shall result in Respondent being liable for stipulated penalties in the amount of $1,000 per day per violation. Respondent shall pay stipulated penalties within 10 days of receipt of written demand by the Executive Director, regardless of whether Respondent subsequently complies. If Respondent violates this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821, 30821.6, and 30822, as a result of the lack of compliance with this Consent Order.

G. CHALLENGE

Pursuant to PRC Section 30803(b), any person or entity to whom this Consent Order is issued may file a petition with the Superior Court and seek a stay of this Consent Order. Also pursuant to PRC Section 30803(a), any person may maintain an action for declaratory and equitable relief to restrain any violation of this division, including of any orders issued pursuant to Section 30809, 30810 or 30811.

H. EFFECTIVE DATE

This Order shall be effective upon its issuance and shall expire 90 days from the date issued on 02/18/2025 unless extended consistent with the applicable regulations.

II. NOTICE OF INTENT TO COMMENCE A CEASE AND DESIST ORDER, RESTORATION ORDER, AND ADMINISTRATIVE CIVIL PENALTY PROCEEDINGS

While we hope that these matters can be addressed quickly via the EDCDO and that a Commission-issued order may not be necessary, I am also notifying you, as is provided for in Section 13187(B) and Section 13191(a) of the Commission's regulations (Title 14, Division 5.5 of the California Code of Regulations), of my intent to commence proceedings for issuance by the Commission of a Cease and Desist Restoration Order and Administrative Penalty Proceeding, which would include a direction to cease and desist from undertaking further unpermitted development, should such an order be required.

The EDCDO provides an interim solution to safeguard against damage to coastal resources immediately, and an interim period needed for Sable to obtain necessary CDPs. However, it does not address the work that has already been completed without the necessary authorization, including the additional work described below which will require a future order.

In addition to the above actions regarding Sable's unpermitted development activities undertaken onshore, Commission staff were additionally made aware of unpermitted activities undertaken offshore, at locations along the Santa Ynez Unit pipeline, and in state waters. On February 11, 2025, Commission staff provided a Notice of Violation letter to Sable regarding unpermitted development including, but not limited to, deploying sand/cement fill materials and pallets on the seafloor adjacent to and below Sable's out-of-service offshore oil and water pipelines as part of an effort to restart SYU oil production operations and bring the Pipeline back into use.

In an email sent on November 21, 2024, from Cassidy Teufel, Deputy Director of the Commission, to Steve Rusch of Sable, Mr. Teufel stated that it was his understanding, based on previous email correspondence, that Sable was not proceeding with any work associated with the offshore pipeline until Commission staff had an opportunity to discuss it and work through any authorizations that may be required. He noted that Mr. Rusch had indicated via email that a recent ROV survey had identified pipeline spans that Sable identified as needing to be addressed, and Mr. Teufel asked for clarification as to when this work was carried out, and for a description of its scope, including equipment and vessels used and the location, timing, and duration of that work. Mr. Teufel also reiterated that Sable needed to submit to the Commission a complete CDP application for the proposed span remediation work. Mr. Rusch never disputed or contested anything in this email from Mr. Teufel. Nevertheless, without having received any such application, circa mid-December 2024, the Commission received reports that span remediation work was underway.

On January 10, 2025, Mr. Teufel sent a follow up message informing Sable that the Commission had yet to receive the aforementioned permit application, and requesting a status update. The January email also asked Sable to clarify if Sable did in fact carry out activities and reemphasized the Coastal Act permitting requirements as previously explained.

In a letter dated January 15, 2025, from DJ Moore of Latham & Watkins, LLC (representing Sable) to Mr. Teufel, Mr. Moore acknowledged that the span remediation activities had occurred, specifically the placement of concrete fill material across 14 separate areas totaling over 750 linear feet adjacent to and below two seafloor pipelines, but claimed those activities did not require a new CDP or Consistency Certification ("CC") under the Coastal Act and the Coastal Zone Management Act, 16 U.S.C. §§ 1541 *et seq.* ("CZMA"), respectively. He asserted that these activities were already authorized by the existing Development and Production Plan ("DPP") previously authorized by the Department of the Interior's Minerals Management Service ("MMS"); the Coastal Commission-approved CDP No. E-88-1, which originally authorized the SYU pipeline in 1988; and the Coastal

Commission's concurrence in CC No. CC-64-87, all of which occurred more than 30 years ago and did not address the work undertaken in 2024-2025. Thus, on February 11, 2025, Commission staff issued a Notice of Violation letter directing Sable to immediately cease from performing any unpermitted development activities in state coastal waters (or elsewhere in the Coastal Zone) until and unless proper authorization is obtained.

Contrary to these claims, and as individually answered and described in greater detail in the Notice of Violation letter, the span remediation work conducted was not, and could not have been, pre-authorized by the permit in which the Commission issued for the original installation of the SYU Pipeline, nor was this work otherwise pre-authorized by the Commission. While the Commission has, on occasion in the past, specifically authorized future maintenance activities for certain projects it has approved, when it has done so, it is explicit about that, and it has not done so here. Further, Mr. Moore's claim that the DPP requires the pipeline to be in "good working condition" or that the Pipeline must meet federal standards has no bearing on the question as to whether pre-authorization of specific work was granted. The Pipeline in question is not currently in service, have been purged off all oil and does not pose a risk of oil spill if not addressed. Mr. Moore's letter additionally asserts that inclusion of Commission staff on an email, sent from Exxon to a third party, 13 years ago, evidences the Commission's agreement with Sable's position that no further coastal act authorization is needed for this work. Again, this bears no evidence to support that the Commission pre-authorized future work or span remediation activities on the site.

In order to resolve this violation, Sable must complete a CDP application seeking ATF authorization for the unpermitted span remediation activities that have already taken place in state coastal waters, and which addresses any necessary restoration, and payment of administrative penalties to resolve civil liability.

I am hopeful that Sable will work with my staff to reach a consensual resolution of the entirety of this matter through a future Consent Cease and Desist Order and Restoration Order and Consent Administrative Penalty ("Consent Agreement"), which would then be taken to the California Coastal Commission ("Commission") for its approval in a formal public hearing. We are available to assist you in this process.

Prior to bringing an order to the Commission, including a consent order, unless the requirement is waived, our regulations require notification of the initiation of formal proceedings. Therefore, in accordance with those regulations, this letter notifies you of my intent, as the Executive Director of the Commission, to commence formal enforcement proceedings to address the Coastal Act violations noted above by bringing to the Commission a recommendation for a Cease and Desist Order, Restoration Order, and assessment of an Administrative Penalty. The intent of this letter is not to discourage or supersede productive settlement discussions; rather it is to provide formal notice of our intent, consistent with our regulations, to resolve these issues through the order process, which in no way precludes a consensual resolution. However, please note that should we be unable to reach an amicable resolution in a timely manner this letter also lays the foundation for Commission staff to initiate a hearing before the Commission unilaterally, during which a proposed order or orders, including an assessment of administrative

penalties against you, would be presented for the Commission's consideration and possible adoption.

Again, if we are to settle this matter, such actions still must be addressed through this formal order process. This letter is intended to facilitate the resolution here, whether we address this matter through a consent or unilateral action, in providing you with the notice required under the Commission's Regulations; it in no way is intended to subvert the possibility of resolving this matter collaboratively.

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states, in part:

> **If the commission, after public hearing, determines that any person … has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person … to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:**
>
> **(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.**
>
> **(2) The commission requests and the local government or port governing body declines to act, or does not take action within a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.**

Section 30810(b) of the Coastal Act states that the cease and desist order may be subject to such terms and conditions that the Commission determines are necessary to ensure compliance with the Coastal Act, including removal of any items of unpermitted development.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the Coastal Zone must obtain a CDP through Section 35-169.2 of the County's certified LCP. As stated above, "Development" is defined by Section 30106 of the Coastal Act and Section 35-58 of the City's LCP.

The various instances of unpermitted development at issue here clearly constitute "development" within the meaning of the above-quoted definition and therefore are subject to the permit requirement of Section 30600(a) and Section 312-3.1.5 of the County's certified LCP. A CDP has not been issued to authorize the unpermitted development, thus

independent criteria for issuance of a cease and desist order under Section 30810(a) of the Coastal Act are thus satisfied.

In addition to the aforementioned items, any resolution of this matter via Consent Agreement would also include settlement of monetary claims associated with your civil liability under the Coastal Act for these violations. If a consensual resolution is not reached, resolution of penalties under Section 30821.3 of the Coastal Act would be addressed unilaterally via an Administrative Penalty Action, as described below.

Restoration Order

The Commission's authority to issue Restoration Orders is set forth in Section 30811 of the Coastal Act, which states, in part:

> **In addition to any other authority to order restoration, the commission…may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission…, the development is inconsistent with this division, and the development is causing continuing resource damage.**

Pursuant to Section 13191 of the Commission's regulations, I have determined that the activities specified in this letter meet the criteria of Section 30811 of the Coastal Act, based on the following:

1) "Development" as that term is defined by section 30106 of the Coastal Act, has occurred without a CDP from the Commission.

2) This unpermitted development is inconsistent with the resource protection policies of the Coastal Act including, but not necessarily limited to Coastal Act Section 30240 (protection of environmentally sensitive habitat areas), Section 30233 (protection of wetlands from filling), Section 30230 (protection of marine resources) and Section 30231 (protecting biological productivity).

3) The unpermitted development remains in place and/or unaddressed and therefore continues to cause resource damage, which is defined by Section 13190 of the Commission's regulations as: "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The unpermitted development continues to exist and therefore, it continues to cause damage to resources and prevent the Coastal Act resources that were displaced from re-establishing, and it continues to cause degradation and reduction in quality of surrounding resources as compared to their condition before the unpermitted development occurred.

For the reasons stated above, I am therefore issuing this "Notice of Intent" letter to commence proceedings for a Restoration Order before the Commission in order to require the restoration of the Property. The procedures for the issuance of Restoration Orders are

described in Sections 13190 through 13197 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

Under Section 30821.3 of the Coastal Act, in cases involving violations of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, as described above, there are multiple violations of the resource protection provisions of the Coastal Act; and therefore, the criteria of Section 30821.3 have been satisfied. The penalties imposed may be in an amount up to $11,250, for each violation, for each day each violation has persisted or is persisting, for up to five (5) years. In addition, the 60-day time period to correct a violation that is allowed under the statute does not apply to violations of a CDP. If a person fails to pay an administrative penalty imposed by the Commission, under 30821.3(e) the Commission may record a lien on that person's property in the amount of the assessed penalty. This lien shall be equal in force, effect, and priority to a judgment lien.

The Coastal Act also includes several other penalty provisions that may be applicable as well. Section 30820(a)(1) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed $30,000 and shall not be less than $500 for each instance of development that is in violation of the Coastal Act. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development. Civil liability under Section 30820(b) shall be imposed in an amount not less than $1,000 per day and not more than $15,000 per day, for each violation and for each day in which each violation persists. Section 30821.6 also provides that a violation of a Cease and Desist Order of the Commission can result in civil liabilities of up to $6,000 for each day in which each violation persists. Lastly, Section 30822 provides for additional exemplary damages for intentional and knowing violations of the Coastal Act or a Commission Cease and Desist Order.

Response Procedure

In accordance with Sections 13181(a) and 13191 of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order proceedings by completing the enclosed statement of defense ("SOD") form. The SOD form would be directed to the attention of Stephanie Cook, no later than March 10, 2025.

We remain hopeful that we can reach an agreeable solution and that a Consent Order will fully address this matter so that we will not have to resort to bringing a formal action before our Commission. This additional notice to commence Commission proceedings is to give us options for the possibility that Sable fails to comply with the Consent Order or that the actions required in the Consent Order do not completely resolve the violations. Therefore, should this matter be resolved via the Consent Order (or if we do have to proceed with a

Commission action and we are able to still resolve this matter via a Consent Commission Order), an SOD form would not be necessary. In any case and in the interim, staff would be happy to accept any information you wish to share regarding this matter and staff can extend deadlines for submittal of the SOD form to account for the goal of resolving this via this Consent Order and specifically allow additional time to discuss terms of Commission consent orders if that is necessary. If it is necessary, Commission staff would schedule the hearings for the Cease and Desist and Restoration Order for the Commission's April or May 2025 hearing. Again, we are hopeful that this matter can be fully resolved by compliance with this Consent Order and there will not be a need to commence a formal proceeding before the Commission.

For additional information you may contact Stephanie Cook at (415) 904-5220, Stephanie.Cook@Coastal.ca.gov, or at our Headquarters Enforcement Office at:

California Coastal Commission
Attn: Stephanie Cook
455 Market Street, Suite 300
San Francisco, CA 94105

Again, we remain willing and available to work with you to resolve these matters quickly and amicably and look forward to hearing from you.

Signed,

Kate Huckelbridge
Executive Director
California Coastal Commission

Enclosure: Notice of Intent to Issue an Executive Director's Cease and Desist Order, dated February 16, 2025
Statement of Defense Form

Cc:

Lauren Paull, Latham & Watkins, LLP
Cassidy Teufel, CCC, Deputy Director
Lisa Haage, CCC, Chief of Enforcement
Aaron McLendon, Deputy Chief of Enforcement
Alex Helperin, CCC, Deputy Chief Counsel
Sarah Esmaili, CCC, Senior Staff Attorney
Wesley Horn, CCC, Environmental Scientist
Stephanie Cook, CCC, Enforcement Counsel

ATTACHMENT 14

United States Department of the Interior
U.S. FISH AND WILDLIFE SERVICE
Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
2025-0023498

November 25, 2024

Stephen T. Laperouse
Vice President Land
Sable Offshore Corporation
845 Texas Avenue, Suite 2920
Houston, Texas 93117

Subject: Sable Offshore Pipeline 324/325 Valve Replacement and Maintenance Activities, Santa Barbara County, California

Dear Stephen T. Laperouse:

The U.S. Fish and Wildlife Service (Service) would like to call to your attention the potential presence of the federally endangered Santa Barbara distinct population segment of the California tiger salamander (*Ambystoma californiense*; DPS) along the alignment of subject pipeline in northwestern Santa Barbara County (Figure 1). The segment of pipeline that runs from Highway 246 to the Sisquoc River is within the known range of the DPS and is presumed to be occupied habitat for the California tiger salamander. Ground disturbing activities associated with valve replacement, pipeline maintenance, and other activities occurring within the range of the California tiger salamander could injure or kill this species.

The California tiger salamander is a large, terrestrial salamander that spends most of its life in underground burrows. California tiger salamanders inhabit low elevation vernal pools and seasonal ponds and associated grassland, oak savannah, and coastal scrub plant communities of the Santa Maria, Los Alamos, and Santa Rita Valleys in northwestern Santa Barbara County. Although adult California tiger salamanders spend most of their time in underground burrows in upland habitats, their reproduction and juvenile development is tied to aquatic habitat. Studies show that they can disperse over a mile from their breeding pond. Historically, this species bred primarily in natural vernal pools, but due to the loss of most of these habitats they now primarily breed in human-made stock ponds created for ranching and agricultural purposes. The primary cause of the decline of the Santa Barbara County population of the California tiger salamander is the loss, degradation, and fragmentation of habitat due to human activities. Currently, there are approximately 60 known breeding ponds in northern Santa Barbara County.

The Service is responsible for administering the Endangered Species Act of 1973 as amended (Act). Section 9 of the Act prohibits the taking of any federally listed endangered wildlife

species; by regulation, this prohibition also applies to certain wildlife species federally listed as threatened. “Take” as defined under the Act means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct.” “Harm” means an act which actually kills or injures wildlife, which may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. 50 C.F.R. 17.3. The Act provides for civil and criminal penalties for the unlawful taking of listed wildlife species. Take incidental to otherwise lawful actions may be authorized by the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7, or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

Pipeline valve replacement and maintenance activities along Sable’s pipeline has the potential to result in “take” as defined in Section 3(19) of the Act. Take resulting from valve replacements and maintenance has not been exempted nor permitted by the Service and may be in violation of Federal law. To be in compliance with Federal law and should take occur, Sable should either (a) obtain exemption from the prohibitions against take in section 9 of the Act pursuant to section 7 or (b) obtain take authorization pursuant to section 10(a)(1)(B) of the Act. Unless a Federal nexus exists that could cover the entire action area under an interagency consultation pursuant to section 7, we recommend that you initiate work with us immediately to seek an incidental take permit through the habitat conservation planning process, pursuant to section 10(a)(1)(B) of the Act.

On June 27, 2022, we issued the General Conservation Plan for Oil and Gas Activities (GCP), which can be found here: General conservation plan for oil and gas activities (fws.gov). The GCP is another option, not mentioned above, for an applicant to obtain an ITP. The GCP covers activities such as geophysical exploration (seismic), development, extraction, storage, transport, remediation, and/or distribution of crude oil, natural gas, and/or other petroleum products and construction, maintenance, operation, repair, and decommissioning of oil and gas pipelines and well field infrastructure. The segment of pipeline from Highwyay 246 to the Sisquouc River is within the GCP coverage area that generally encompasses the Santa Maria Valley, San Antonio Creek Watershed, Lompoc Valley, Santa Ynez Valley, and a portion of the Santa Barbara Coastline.

Additional information regarding HCPs and the GCP can be found at the following link: HABITAT CONSERVATION PLANS AND GENERAL CONSERVATION PLANS | FWS.gov. Using the GCP is relatively simple and expedient way to obtain an ITP and as such we encourage Sable Offshore Corporation to use this streamlined approach. If you have any questions or would like to schedule a meeting, please contact Joseph Brandt of my staff at (805) 677-3324.

Sincerely,

Stephen P. Henry
Field Supervisor

cc:
Manisa Kung, Office of Law Enforcement
Steve Gibson, California Department of Fish and Wildlife
Patrice Surmeier, Sable Offshore Corporation
Errin Briggs, County of Santa Barbara
David Wolff, David Wolff Environmental, LLC
Dr. Aaron Allen, Army Corp of Engineers
Jeff Starosta, Bureau of Land Manangement
Lisa Haage, California Coastal Commission
David Betz, U.S. Forest Service

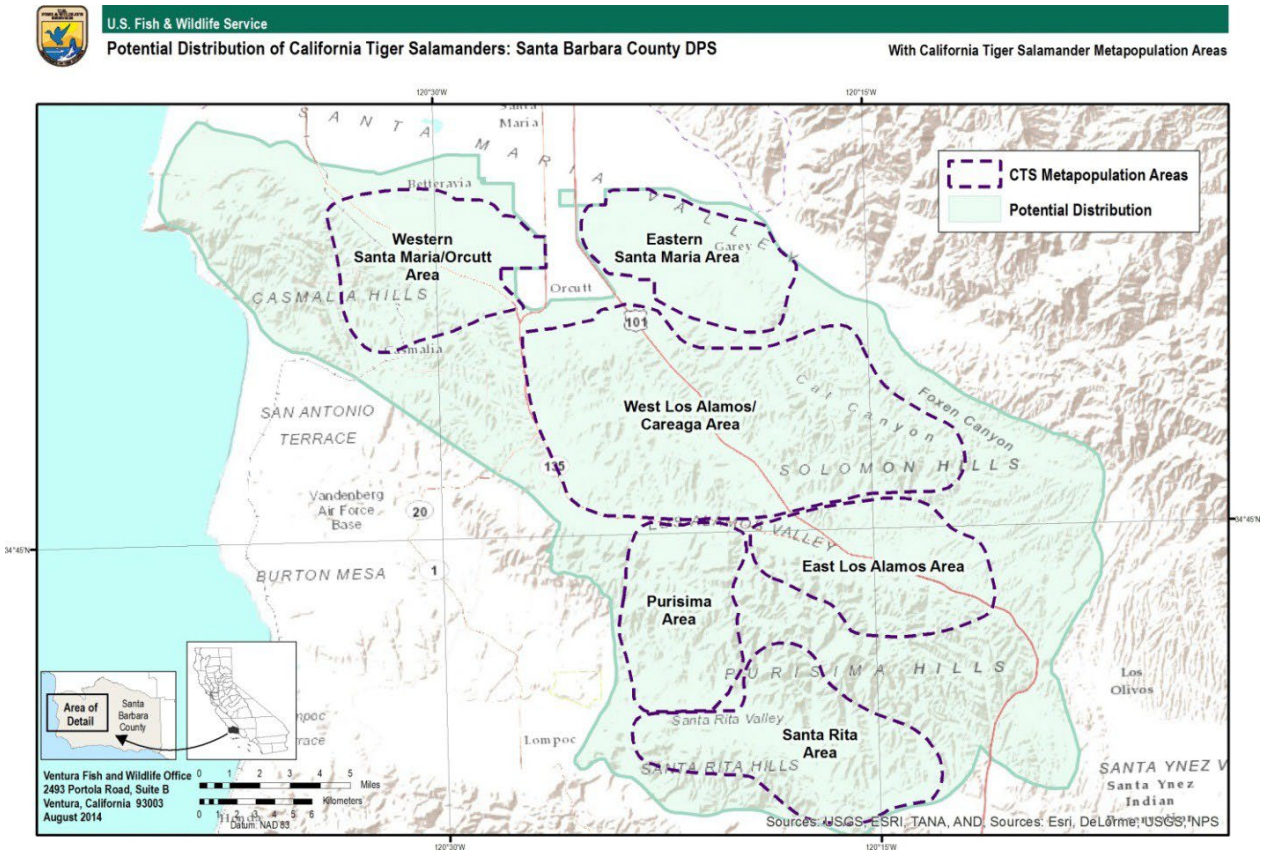

Figure 1. Distribution of Santa Barbara County California Tiger Salamanders. Metapopulation areas encompass the general area of current occurrences and associated habitat and outline the general areas where recovery actions will be focused. Potential Distribution includes the general area of suitable habitat within the range of the species that is currently occupied or has the potential to become occupied.

ATTACHMENT 15

Central Coast Regional Water Quality Control Board

December 13, 2024

Sable Offshore Corp
Steven Rusch, Vice President
845 Texas Avenue, Ste 2920
Houston, Texas 77002
Email: SRusch@sableoffshore.com

VIA CERTIFIED MAIL AND EMAIL
RETURN RECEIPT REQUESTED
7020 1810 0002 0768 8031

Sable Offshore Corp
Amanda Garcia
Agent for Service of Process
330 N Brand Blvd
Glendale, CA 91203

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7019 1640 0000 7902 2374

Dear Steven Rusch:

ENFORCEMENT PROGRAM: SABLE OFFSHORE CORP, SANTA BARBARA COUNTY - NOTICE OF VIOLATION FOR UNAUTHORIZED DISCHARGE OF WASTE TO WATERS OF THE STATE, SANTA BARBARA COUNTY

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Central Coast Water Board has authority to require submission of information, direct action, establish regulations, levy penalties, and bring legal action when necessary to protect water quality.

The Central Coast Water Board has evidence of unauthorized discharge of waste to waters of the state at an ephemeral stream in Santa Barbara County located at approximately 34° 28' 6.4" N, 120° 06' 22.5" W, upstream of Hwy 101 at postmile 39, just east of Baron Ranch Trailhead. The unauthorized discharge of waste is a potential violation of the California Water Code. This notice of violation describes the alleged violation, summarizes potential monetary liability, and provides direction on corrective actions.

Summary

In August 2024, Central Coast Water Board staff were made aware of pipeline remediation work along Sable Offshore Corp.'s (Sable) Line 324 (formerly Line 901) and Line 325 (formerly Line 903) along the Gaviota Coast in Santa Barbara County. At that time, Central Coast Water Board staff April Woods contacted Sable representative Steve Rusch to inquire about the potential for project impacts to waters of the state.

Central Coast Water Board staff informed Steve Rusch that intermittent and ephemeral streams are waters of the state. Mr. Rusch confirmed his knowledge of the regulatory requirements and confirmed Sable had surveyed all work locations and found no project impacts to waters of the state.

In early October 2024, the Central Coast Water Board received a citizen complaint of multiple land disturbances across what appeared to be waters of the state on the Gaviota Coast at various Sable pipeline remediation project sites. April Woods again contacted Mr. Rusch and requested access to the project site to conduct an inspection.

California Water Code section 13050 defines waters of the state as "any surface water or groundwater, including saline waters, within the boundaries of the state." Surface waters of the state include but are not limited to wetlands; perennial, intermittent, and ephemeral streams; rivers; lakes; bays; and coastal ocean waters. Ephemeral streams collect, contain, and transport water on the surface of the landscape and are therefore surface waters of the state. As an example, the Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction (General WDRs WQO 2004-0004) determines that headwaters, defined as intermittent and ephemeral drainages, constitute waters of the state.[1]

On November 4, 2024, Central Coast Water Board staff inspected various project work locations. During this inspection, Central Coast Water Board staff observed and documented the following evidence demonstrating the drainage feature located at approximately 34° 28' 6.4" N, 120° 06' 22.5" W is an ephemeral stream and a water of the state:

1. Fluvial geomorphological features, including a visibly identifiable bed and bank, were observed in the drainage feature. The bed was composed of stone and pebbles, while a bench of stone, cobble, and sediment distinguished the bank from the bed. The stone and cobble in the bed were deposited and distributed in a manner that results from hydrologic flows. These characteristics indicate the drainage feature regularly transports surface water, demonstrating it is an ephemeral stream and surface water of the state.
2. Scour and detritus were observed in the drainage feature. These conditions indicate repeated and regular flow and are characteristic of an ephemeral stream and surface water of the state.
3. Dry vegetation, concentrated in the channel and on the banks of the tributary, was in greater abundance than surrounding uplands. The reed grass *Arundo donax* was abundant on the banks and headwaters of the channel. While not an obligate wetland species, *Arundo donax* is a species that thrives in streams. Its distribution here, concentrated at the top of the ephemeral stream and within the channel, indicates regular saturation of the drainage feature, further

[1] https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

demonstrating the drainage feature is an ephemeral stream and surface water of the state.

In addition to field observations, Central Coast Water Board staff identified the following information indicating the drainage feature is an ephemeral stream and surface water of the state:

1. Historic aerial imagery confirms the presence of a sinuous channel bed path along the length of the drainage. In addition, the imagery shows diverse, robust, and green vegetation within the drainage feature when surrounding areas are dry and brown.
2. The drainage is identified as “Riverine Wetland” on the U.S. Fish and Wildlife Wetland Mapper.

During the site inspection, Central Coast Water Board staff observed and documented the following activities at the ephemeral stream located at approximately 34° 28' 6.4" N, 120° 06' 22.5" W:

1. A temporary access road had been constructed across the bed and bank of the ephemeral stream. The construction of the earthen road discharged sediment to the ephemeral stream. The discharge of sediment to the ephemeral stream constitutes a discharge of waste to waters of the state.
2. A pit had been excavated across the bed and bank of the ephemeral stream to access an underground pipeline. Excavation and grading appeared to have occurred on the ephemeral stream’s slopes and in the streambed. The excavation and grading discharged sediment to the ephemeral stream. The discharge of sediment to the ephemeral stream constitutes a discharge of waste to waters of the state.
3. Cut and fill from excavation was mounded in contoured slopes adjacent to the banks of the ephemeral stream without implementation of erosion or sediment controls. Uncontrolled sediment is a discharge of waste that could affect the quality of waters of the state.
4. Vegetation had been cleared from the bed and banks of the ephemeral stream without implementation of erosion or sediment controls. Areas of cleared vegetation have the potential to result in the discharge of waste that could affect the quality of waters of the state.

Alleged Violations

1. <u>Violation of California Water Code Section 13260</u>

   California Water Code section 13260 requires any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of waters of the state, to file with the appropriate regional board a report of the discharge. The conditions at the project represent a violation of California Water Code section 13260, because Sable cleared vegetation and excavated and

graded sediment in the unnamed tributary, constituting a discharge of waste to waters of the state, without having filed the required report of waste discharge.

2. Violation of California Water Code Section 13264

   California Water Code section 13264 states in part that no person shall initiate any new discharge of waste or make any material changes in any discharge prior to the filing of the report required by California Water Code section 13260. The conditions at the Site represent a violation of California Water Code section 13264, because Sable discharged waste that could affect the quality of waters of the state without obtaining waste discharge requirements from the Central Coast Water Board.

Required Corrective Actions

To address the alleged violations, Sable can obtain all required authorizations for work conducted and any corrective restoration and compensatory mitigation activities. Sable must take action to correct the alleged violations as soon as possible to avoid formal enforcement.

The Central Coast Water Board will be sending Sable a separate directive pursuant to California Water Code section 13260 requiring Sable to submit a report of waste discharge for the discharges of waste identified above. In addition, also under separate cover, the Central Coast Water Board will be sending Sable a directive pursuant to California Water Code section 13267 requiring Sable to submit a technical report describing the work Sable has conducted and/or is conducting for Line 324 (formerly Line 901) and Line 325 (formerly Line 903). The Central Coast Water Board also finds that Sable's work is likely subject to regulation under the *National Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order WQ 2022-0057-DWQ*[2] and expects to send Sable additional communication on that issue.

To avoid further unauthorized discharges during any restoration and compensatory mitigation implementation in waters of the state or waters of the United States, pursuant to California Water Code sections 13260 and 13376, Sable must apply for and obtain waste discharge requirements from the Central Coast Water Board prior to any material removal, new disturbance, or restoration activity.

Potential Enforcement Actions

The alleged violation cited above may subject Sable to enforcement by the Central Coast Water Board for every day the violations continue. Sable must correct the violation as soon as possible. Sable's receipt of this notice of violation does not

[2] https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html

preclude the Central Coast Water Board from taking further enforcement action for the alleged violations cited in this notice of violation, and the Central Coast Water Board reserves the right to take any enforcement action authorized by law. In making its determination of whether and how to proceed with further enforcement action, the Central Coast Water Board will consider the information submitted in response to this notice of violation, the time it takes to correct the identified violations, and the adequacy of the corrections and actions taken.

Central Coast Water Board staff's recommendations for further enforcement will depend on Sable's response to this notice of violation. The Central Coast Water Board may also require cleanup or abatement of the effects of the unauthorized activities pursuant to California Water Code section 13304, or that Sable immediately cease and desist from the activities pursuant to California Water Code section 13301. The Central Coast Water Board reserves the right to take any enforcement action authorized by law.

If you have questions about this letter, please contact April Woods at April.Woods@waterboards.ca.gov or Phil Hammer at Phillip.Hammer@waterboards.ca.gov.

Sincerely,

Thea S. Tryon
Assistant Executive Officer

cc:

Stephanie Cook, California Coastal Commission, Stephanie.Cook@coastal.ca.gov
Wesley Horn, California Coastal Commission, Wesley.Horn@coastal.ca.gov
Errin Briggs, Santa Barbara County Planning & Development, EBriggs@countyofsb.org
Jim Hosler, CAL FIRE, Jim.Hosler@fire.ca.gov
Julie Vance, California Department of Fish and Wildlife, Julie.Vance@wildlife.ca.gov
Linda Connolly, California Department of Fish and Wildlife, Linda.Connolly@wildlife.ca.gov
Naomi Rubin, State Water Resources Control Board, Naomi.Rubin@waterboards.ca.gov
Thea Tryon, Central Coast Water Board, Thea.Tryon@waterboards.ca.gov
Todd Stanley, Central Coast Water Board, Todd.Stanley@waterboards.ca.gov
Harvey Packard, Central Coast Water Board, Harvey.Packard@waterboards.ca.gov
Phil Hammer, Central Coast Water Board, Phillip.Hammer@waterboards.ca.gov
Tamara Anderson, Central Coast Water Board, Tamara.Anderson@waterboards.ca.gov
Leah Lemoine, Central Coast Water Board, Leah.Lemoine@Waterboards.ca.gov
April Woods, Central Coast Water Board, April.Woods@waterboards.ca.gov
Jesse Woodard, Central Coast Water Board, Jesse.Woodard@waterboards.ca.gov
Jacqueline Tkac, Central Coast Water Board, Jacqueline.Tkac@waterboards.ca.gov

File Path: R:\RB3\Shared\401\Enforcement Actions&Violations_Santa Barbara Co\Sable Offshore Corp\NOV\Sable Offshore Corp NOV_final.docx

ATTACHMENT 16

Central Coast Regional Water Quality Control Board

December 13, 2024

Sable Offshore Corp
Steven Rusch, Vice President
845 Texas Avenue, Ste 2920
Houston, Texas 77002
Email: SRusch@sableoffshore.com

VIA CERTIFIED MAIL AND EMAIL
RETURN RECEIPT REQUESTED
7020 1810 0002 0767 9923

Sable Offshore Corp
Amanda Garcia
Agent for Service of Process
330 N Brand Blvd
Glendale, CA 91203

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7020 1810 0002 0767 9954

Dear Steven Rusch:

SABLE OFFSHORE CORP, LAS FLORES PIPELINE SYSTEM, SANTA BARBARA, SAN LUIS OBISPO, AND KERN COUNTY - FIRST NOTICE OF NON-COMPLIANCE FOR FAILURE TO OBTAIN COVERAGE UNDER THE STATE WATER RESOURCES CONTROL BOARD'S GENERAL PERMIT FOR STORMWATER DISCHARGES

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Central Coast Water Board has authority to require submission of information, direct action, establish regulations, levy penalties, and bring legal action when necessary to protect water quality.

The construction activity associated with remediation of pipelines CA-324 and CA-325 (the "Las Flores Pipeline System") in Santa Barbara, San Luis Obispo, and Kern Counties along the approximately 123-mile-long pipeline has been identified by the Central Coast Water Board as activity required by federal law to have a stormwater permit. Without permit coverage, Sable Offshore Corp may be subject to penalties for discharging polluted stormwater. Sable Offshore Corp is required to enroll in the State Water Resources Control Board's Order WQ 2022-0057-DWQ, *NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*, (General Permit) by **January 13, 2025**, as described in further detail in this letter.

The General Permit applies to projects where one or more acres of soil are disturbed or projects where less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. More information on this permit can be found at this web link:
Construction Storm Water Program Information
(https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html)

IMMEDIATE ACTION IS REQUIRED

To comply with the stormwater regulations, you must enroll under the General Permit by electronically filing permit registration documents via the Storm Water Multiple Application and Report Tracking System (SMARTS). The documents must be certified by a legally responsible person or by their duly authorized representative (see section VI.H of the General Permit) by **January 13, 2025**. As an element of the permit registration documents, Sable Offshore Corp must also submit the appropriate application fee to the State Water Resources Control Board. SMARTS can be accessed at: SMARTS Website Link
(https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.xhtml).

The Central Coast Water Board's requirement to enroll in the General Permit is pursuant to California Water Code sections 13399.30 and 13376. Pursuant to California Water Code Section 13399.33, Sable Offshore Corp is subject to civil liability of no less than $5,000 per year of non-compliance for failure to obtain coverage under the General Permit. Pursuant to California Water Code section 13385, failure to obtain coverage may also subject Sable Offshore Corp to civil liability of up to $10,000 for each day of violation and $10 per gallon for unpermitted stormwater discharges.

If you require assistance in using SMARTS, please contact the SMARTS Help Desk at (866) 563-3107 or Stormwater@waterboards.ca.gov. If you have questions regarding this notification, please contact Jacqueline Tkac at Jacqueline.Tkac@waterboards.ca.gov or (805) 594-6163 or Leah Lemoine at Leah.Lemoine@waterboards.ca.gov.

Sincerely,

for Ryan E. Lodge
Executive Officer

cc.
Stephanie Cook, California Coastal Commission, Stephanie.Cook@coastal.ca.gov
Wesley Horn, California Coastal Commission, Wesley.Horn@coastal.ca.gov

Errin Briggs, Santa Barbara County Planning & Development, EBriggs@countyofsb.org
Ryan DiGuilio, County of Santa Barbara Fire Marshal; Rdiguilio@santabarbaraca.gov
Jim Hosler, CAL FIRE, Jim.Hosler@fire.ca.gov
Daniel Berlant, CAL FIRE, HQ.Executive@fire.ca.gov
Julie Vance, California Department of Fish and Wildlife, Julie.Vance@cdfw.ca.gov
Harvey Packard, Central Coast Water Board, Harvey.Packard@waterboards.ca.gov
Phil Hammer, Central Coast Water Board, Phillip.Hammer@waterboards.ca.gov
April Woods, Central Coast Water Board, April.Woods@waterboards.ca.gov
Jacqueline Tkac, Central Coast Water Board, Jacqueline.Tkac@waterboards.ca.gov
Leah Lemoine, Central Coast Water Board, Leah.Lemoine@waterboards.ca.gov
Todd Stanley, Central Coast Water Board, Todd.Stanley@waterboards.ca.gov
Tamara Anderson, Central Coast Water Board, Tamara.Anderson@waterboards.ca.gov
Thea Tryon, Central Coast Water Board, Thea.Tryon@waterboards.ca.gov
Jesse Woodard, Central Coast Water Board, Jesse.Woodard@waterboards.ca.gov
Naomi Rubin; State Water Board, Naomi.Rubin@waterboards.ca.gov

ATTACHMENT 17

Central Coast Regional Water Quality Control Board

January 22, 2025

Sable Offshore Corp.
Steven Rusch, Vice President
845 Texas Avenue, Ste 2920
Houston, Texas 77002
Email: SRusch@sableoffshore.com

VIA CERTIFIED MAIL AND EMAIL
RETURN RECEIPT REQUESTED
7020 1810 0002 0767 9374

Sable Offshore Corp.
Amanda Garcia
Agent for Service of Process
330 N Brand Blvd
Glendale, CA 91203

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7020 1810 0002 0767 9381

Dear Steven Rusch:

SABLE OFFSHORE CORP., LAS FLORES PIPELINE SYSTEM, SANTA BARBARA, SAN LUIS OBISPO, AND KERN COUNTY - SECOND AND FINAL NOTICE OF NON-COMPLIANCE FOR FAILURE TO OBTAIN COVERAGE UNDER THE STATE WATER RESOURCES CONTROL BOARD'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES ORDER WQ 2022-0057-DWQ, NPDES PERMIT NO. CAS000002

A Notice of Non-Compliance was issued via certified mail to Steven Rusch and Amanda Garcia for the construction site associated with remediation of pipelines CA-324 and CA-325 (the "Las Flores Pipeline System") in Santa Barbara, San Luis Obispo, and Kern Counties along the approximately 123-mile-long pipeline on December 13, 2024, requesting that Sable Offshore Corp obtain coverage under the State Water Resources Control Board's (State Water Board) NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order WQ 2022-0057-DWQ, NPDES Permit No. CAS000002 (General Permit) by January 13, 2025. California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) records show that to this date, permit coverage has not yet been obtained. More information on the General Permit can be found at this web link: Construction Storm Water Program Information (https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html)

The Central Coast Water Board is in receipt of Sable Offshore Corp.'s January 10, 2025 response to the Notice of Non-Compliance that was issued December 13, 2024. Despite the arguments contained in Sable Offshore Corp.'s response, Central Coast Water Board staff continue to find that Sable Offshore Corp.'s activities require General Permit coverage based on information currently available. Central Coast Water Board staff will be requesting information in a forthcoming investigative order to assess whether the claims made in Sable Offshore Corp.'s response have merit.

This letter represents Sable Offshore Corp.'s second and final notification to enroll under the General Permit by **February 21, 2025,** as described in the first notice. Pursuant to California Water Code Section 13399.33, failure to obtain coverage will result in a minimum mandatory penalty of $5,000. In addition, pursuant to California Water Code Section 13385, failure to obtain coverage may also subject Sable Offshore Corp. to civil liability of up to $10,000 for each day of violation and $10 per gallon for unpermitted storm water discharges. To avoid this liability, Sable Offshore Corp. must submit the requested information by the date provided above.

If you require assistance in using SMARTS, please contact the SMARTS Help Desk at (866) 563-3107. If you have questions regarding this notification, please contact please contact Jacqueline Tkac at Jacqueline.Tkac@waterboards.ca.gov or (805) 594-6163 or Leah Lemoine at Leah.Lemoine@waterboards.ca.gov.

Sincerely,

for Ryan E. Lodge
Executive Officer

cc.
Stephanie Cook, California Coastal Commission, Stephanie.Cook@coastal.ca.gov
Wesley Horn, California Coastal Commission, Wesley.Horn@coastal.ca.gov
Errin Briggs, Santa Barbara County Planning & Development, EBriggs@countyofsb.org
Ryan DiGuilio, County of Santa Barbara Fire Marshal; Rdiguilio@santabarbaraca.gov
Jim Hosler, CAL FIRE, Jim.Hosler@fire.ca.gov
Daniel Berlant, CAL FIRE, HQ.Executive@fire.ca.gov
Julie Vance, California Department of Fish and Wildlife, Julie.Vance@cdfw.ca.gov
Naomi Rubin; State Water Board, Naomi.Rubin@waterboards.ca.gov
Harvey Packard, Central Coast Water Board, Harvey.Packard@waterboards.ca.gov
Phil Hammer, Central Coast Water Board, Phillip.Hammer@waterboards.ca.gov
April Woods, Central Coast Water Board, April.Woods@waterboards.ca.gov
Jacqueline Tkac, Central Coast Water Board, Jacqueline.Tkac@waterboards.ca.gov
Leah Lemoine, Central Coast Water Board, Leah.Lemoine@waterboards.ca.gov
Todd Stanley, Central Coast Water Board, Todd.Stanley@waterboards.ca.gov

Tamara Anderson, Central Coast Water Board, Tamara.Anderson@waterboards.ca.gov
Thea Tryon, Central Coast Water Board, Thea.Tryon@waterboards.ca.gov
Jesse Woodard, Central Coast Water Board, Jesse.Woodard@waterboards.ca.gov

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ATTACHMENT 18

CA-00-7217 Sable Offshore Las Flores Canyon Plan Deficiencies

1.(D) a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan, who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holder's management structure who has the requisite training, knowledge, and experience. The certification shall be submitted according to the following format; "I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this contingency plan is true and correct and that the plan is both feasible and executable."
The Certification statement on PDF pg. 127 needs a date near the signature. Please include current date for this signature page.

2.(E) The California Certificate of Financial Responsibility (COFR) number for the marine facility shall be included in the front of the plan. If the COFR is not available when the plan is submitted because the marine facility is not yet operational, the COFR number must be provided as soon as it becomes available. The COFR number must be provided before the plan can be approved.
Plan needs to include approved certificates of financial responsibility on PDF pg. 129.

3.(4) Each plan shall identify and ensure by contract or other approved means a certified Spill Management Team, as described in subchapter 5 of this chapter. The certified spill management team shall be the appropriate tier classification pursuant to section 830.3 of subchapter 5.
Plan needs to identify the certified spill management team application number and provide the signed contract page with the external spill management team provider. Please include the SMT application number PH-00141 and the signed TRG contract page for their SMT coverage for Sable.

4.(A) Each marine facility shall conduct a Risk and Hazard Analysis to identify the hazards associated with the operation of the facility, including: operator error, the use of the facility by various types of vessels, equipment failure, and external events likely to cause an oil spill. The owner/operator may use one or more of the hazard evaluation methods identified by the American Institute of Chemical Engineers, or an equivalent method, including, but not limited to:
1. What-if analysis;
2. Checklist analysis;
3. Preliminary hazard analysis;
4. Hazard and operability study;
5. Failure mode and effect analysis; or
6. Fault tree analysis.

The Risk and Hazard Analysis in the plan does not explain how the analysis was conducted. The regulations state that the analysis needs to follow and identify certain guidelines and methods for

hazard evaluation. Please reference our regs for the full Risk and Hazard Analysis breakdown and it is found in 817.02(c).

5.(2) Off-Site Consequence Analysis For the significant hazards identified in the Risk and Hazard Analysis required under this section, the marine facility shall conduct a trajectory analysis to determine the Off-Site Consequences of an oil spill. This analysis shall assume pessimistic water and air dispersion and other adverse environmental conditions such that the worst possible dispersion of the oil into the air or onto the water will be considered. This analysis is intended to be used as the basis for determining the areas and shoreline types for which response strategies must be developed. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)). The analysis, which shall be summarized in the plan, shall include at least the following:

(B) for each probable shoreline that may be impacted, a discussion of the general toxicity effects and persistence of the discharge based on type of product; the effect of seasonal conditions on sensitivity of these areas; and an identification of which areas will be given priority attention if a spill occurs.
(3) Resources at Risk from Oil Spills Based on the trajectory of the spilled oil as determined in the Off-Site Consequence Analysis, each plan shall identify the environmentally, economically and culturally sensitive sites that may be impacted. Each plan shall identify and provide a map of the locations of these areas. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)).

The plan references river crossings and has pages with descriptions but their needs to be mapping for these river crossings to better depict sensitive sites near these crossings. Also, the maps included in the off-site consequence analysis section need to identify the criteria of the consequence analysis more clearly. Linking to ACP can satisfy part of this need, but the maps provided on PDF pg. 284-287 need to identify various data more explicitly. The lightly colored areas are very broad and hard to read on some maps when trying to identify specific criteria that needs to be met from the regs such as the presence of migratory and resident marine bird and mammal migration routes or the presence of federally-listed rare, threatened, or endangered species.

6.Plan needs to update ACP links to the correct locations. Use this link for LA/LB ACP and state in the plan that the strategies found in the ACP will be used:
https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=170564&inline

7.Plan needs to include signed OSRO contract for Patriot Environmental Services since they are listed as one of the OSRO's on PDF pg. 123.

From:	Wildlife OSPR Facility C-Plans
To:	Yearwood, Lance
Cc:	Fabian, Rachel@Wildlife
Subject:	CA-00-7217 Plan Review Corrections
Date:	Friday, August 30, 2024 1:12:34 PM
Attachments:	image001.png SOC Las Flores Canyon Review Notes.docx

Good morning Lance,

Thank you for the time on our meeting this morning and the update information regarding Sable's plans going forward. As we discussed, attached above is the document that explains my initial review's findings and the corrective actions needed to address the deficiencies. Regarding the Risk and Hazard Analysis section, I am able to meet with you if there is any clarification needed on what our department needs to see in order for that section to satisfy the 817.02 regs. The same goes for the comments I had on the offsite consequence analysis and mapping associated with that. I can certainly explain what we need to see again anytime you need me to. I'm sure we will be in communication throughout the process, but if any questions come up on your end please reach out anytime and we can work through them. Hope you have a great rest of the day and weekend sir.

Kind Regards,
Andrew Jebananthan
Internal Preparedness Coordinator
California Department of Fish & Wildlife
Office of Spill Prevention and Response
andrew.jebananthan@wildlife.ca.gov
Work Cell: 916-205-2533

California Department of
Fish and Wildlife

From: Wildlife OSPR Facility C-Plans
To: Yearwood, Lance
Cc: Fabian, Rachel@Wildlife
Subject: RE: CA-00-7217 Plan Review Corrections
Date: Tuesday, September 10, 2024 8:19:54 AM
Attachments: image001.png

Good morning Lance,

Hope you had a great weekend sir. Just wanted to follow up on this and ask if there is any additional information that you may need from me in order to resolve the plan deficiencies that I identified in the review notes that were provided after out last meeting over Teams. I also wanted to let you know that in accordance with our regulations, Sable has 30 calendar days from receipt of the deficiencies to address the corrections needed. Since I sent the deficiencies to you on 08/30/2024 our unit would expect the **corrections to be sent in by 09/30/2024**. Please let me or Rachel know if there are any issues or concerns with getting the corrections completed. Thank you for the cooperation and have a great day.

Kind Regards,
Andrew Jebananthan

From: Wildlife OSPR Facility C-Plans
Sent: Friday, August 30, 2024 1:12 PM
To: Yearwood, Lance <lyearwood@sableoffshore.com>
Cc: Fabian, Rachel@Wildlife <Rachel.Fabian@wildlife.ca.gov>
Subject: CA-00-7217 Plan Review Corrections

Good morning Lance,

Thank you for the time on our meeting this morning and the update information regarding Sable's plans going forward. As we discussed, attached above is the document that explains my initial review's findings and the corrective actions needed to address the deficiencies. Regarding the Risk and Hazard Analysis section, I am able to meet with you if there is any clarification needed on what our department needs to see in order for that section to satisfy the 817.02 regs. The same goes for the comments I had on the offsite consequence analysis and mapping associated with that. I can certainly explain what we need to see again anytime you need me to. I'm sure we will be in communication throughout the process, but if any questions come up on your end please reach out anytime and we can work through them. Hope you have a great rest of the day and weekend sir.

Kind Regards,
Andrew Jebananthan
Internal Preparedness Coordinator
California Department of Fish & Wildlife
Office of Spill Prevention and Response
andrew.jebananthan@wildlife.ca.gov
Work Cell: 916-205-2533

California Department of
Fish and Wildlife

State of California – Natural Resources Agency
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www.wildlife.ca.gov/ospr

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

October 24, 2024

Pacific Pipeline Company
Lance Yearwood
1200 Calle Real
Goleta, CA 93117

Dear Mr. Yearwood:

An oil spill contingency plan for Pacific Pipeline Company's Las Flores Canyon onshore pipeline was submitted to the Office of Spill Prevention and Response (OSPR) for review and approval on 04/09/2024. Per the acknowledgment letter sent on 04/16/2024, OSPR assigned the contingency plan number CA-00-7217.

OSPR conducted a full review of the contingency plan for compliance with Title 14, California Code of Regulations (14 CCR) § 817.02. The review identified deficiencies that were detailed in a letter sent to you on 08/30/24, and Pacific Pipeline Company was given a deadline of 09/30/24 to submit corrections. An updated contingency plan was submitted on 09/30/24. OSPR reviewed the modified contingency plan and identified additional deficiencies that must be corrected. In accordance with 14 CCR § 816.03 (a)(3), the additional deficiencies and required corrective actions are described in the attachment accompanying this letter. Questions concerning these deficiencies can be directed to Andrew Jebananthan at facilitycplans@wildlife.ca.gov.

This letter serves as a second notice of deficiency for plan CA-00-7217. In accordance with 14 CCR § 816.03 (f)(2), corrective action must be taken within 30 calendar days of the date of receipt of this letter, or by **11/23/24**.

If a new or modified contingency plan is not submitted by this date, the contingency plan may be denied or revoked, and OSPR may order operations to be discontinued in any location where operations could impact waters of the state. Continued operations without an approved contingency plan could subject Sable Offshore Corporation to criminal, civil, or administrative penalties, pursuant to California Government Code § 8670.64(c), 8670.66(b), or 8670.67(b).

Although deficiencies have been identified, Pacific Pipeline Company is expected to follow the current version of plan if there is a spill and as indicated in the acknowledgment letter must comply with exercise requirements pursuant to 14 CCR § 820.1.

When you are ready to submit an updated contingency plan that addresses all deficiencies described in the attachment, please contact facilitycplans@wildlife.ca.gov to arrange for submittal of the plan for further review and approval.

Sincerely,

Chief of Preparedness
Office of Spill Prevention and Response
Department of Fish and Wildlife

CC: RCPU Supervisor, FRT Supervisor

CA-00-7217 Review Deficiencies and Corrections Needed
Issued 10/24/2024

1. § 817.02(a)(1)(E) The California Certificate of Financial Responsibility (COFR) number for the marine facility shall be included in the front of the plan. If the COFR is not available when the plan is submitted because the marine facility is not yet operational, the COFR number must be provided as soon as it becomes available. The COFR number must be provided before the plan can be approved.

Sable/Pacific Pipeline Company has been issued revised COFRs, with details as follows:

COFR 2-2624-00-001
24" CA-324- Las Flores Pipeline (Las Flores Canyon to Gaviota)
RWCS: 1935 bbl

COFR 4-2624-00-001
Las Flores Pipeline System CA-325A/B- Las Flores Pipeline, Gaviota to Pentland
RWCS: 15,269 bbl

The reasonable worst-case spill (RWCS) volumes in the contingency plan must match the volumes on the COFRs. The volumes do not match, as the contingency plan lists a RWCS volume of 0 bbl. The contingency plan must include the RWCS parameters and calculations for each pipeline facility issued a COFR.

All corresponding details in the contingency plan, such as the Risk and Hazard and Offsite Consequence Analyses, and all response processes and details required by § 817.02, should be aligned with the RWCS volumes listed on the COFRs.

2. § 817.02(c)(1)(C) Each plan shall include a summary of the results of the risk and hazard analysis. The summary shall include the following:

   …

   3.an analysis of the potential oil discharges, including the size, frequency, cause, duration and location of all significant spills from the marine facility as a result of each major type of hazard identified;

   4.the control measures that will be used to mitigate or eliminate the hazards identified. The plan shall include timeframes for implementing any control measures that cannot be functional immediately; and

   5.a prediction of the potential oil spills that might still be expected to occur after any mitigating controls have been implemented.

This portion of the Risk and Hazard Analysis must be addressed in more depth and detail in section 15 of the plan. The above items must be clearly addressed with respect to the pipeline and potential spills related to the hazards identified in the “what-if” analysis based on a spill of the RWCS volume. Currently the Risk and Hazard Analysis and identified hazards are found throughout section 2 and section 15 of the plan. Please create a summary section that includes the results listed above in section 15 so that the information is located in one Risk and Hazard analysis section.

3. § 817.02(c)(2) Off-Site Consequence Analysis
   For the significant hazards identified in the Risk and Hazard Analysis required under this section, the marine facility shall conduct a trajectory analysis to determine the Off-Site Consequences of an oil spill. This analysis shall assume pessimistic water and air dispersion and other adverse environmental conditions such that the worst possible dispersion of the oil into the air or onto the water will be considered. This analysis is intended to be used as the basis for determining the areas and shoreline types for

which response strategies must be developed. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)). The analysis, which shall be summarized in the plan, shall include at least the following:

(A) a trajectory, or series of trajectories (for pipelines, etc.), to determine the potential direction, rate of flow and time of travel of the reasonable worst case oil spill from the facility to marine waters and to the shorelines, including shallow-water environments, that may be impacted. For purposes of this requirement, a trajectory or trajectories (projected for a minimum of 72 hours) that determine the outer perimeter of a spill, based on regional extremes of climate, tides, currents and wind with consideration to seasonal differences, shall be sufficient.

(B) for each probable shoreline that may be impacted, a discussion of the general toxicity effects and persistence of the discharge based on type of product; the effect of seasonal conditions on sensitivity of these areas; and an identification of which areas will be given priority attention if a spill occurs.

(3) Resources at Risk from Oil Spills

Based on the trajectory of the spilled oil as determined in the Off-Site Consequence Analysis, each plan shall identify the environmentally, economically and culturally sensitive sites that may be impacted. Each plan shall identify and provide a map of the locations of these areas. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)).

The inland trajectory for line CA-325B (PDF pg. 220) must be updated to correspond to the RWCS volume calculated in the plan and listed on the COFR. The subsequent Offsite Consequence and Risk Hazard Analyses and Resources at Risk must reflect the trajectory corresponding to the correct RWCS volume. Additionally, line CA-324 poses a risk to marine waters, but the plan does not include a trajectory for line CA-324. The plan must include a trajectory and corresponding Offsite Consequence and Risk Hazard Analyses and Resources for the CA-324 RWCS volume consistent with the volume calculated in the plan and listed on the COFR.

4. § 817.02(e)(4) Shoreline Clean-Up:

(A) Utilizing the equipment that must be under contract, each plan shall describe the methods that will be used to contain spilled oil and remove it from the environment. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate for use on the type of oil identified. The description shall include:

1. all shoreline clean-up procedures and oil diversion and pooling procedures for the close-to-shore environment. These procedures shall include, where appropriate, methods for carrying out response operations and clean-up strategies in shallow-water environments, as identified in the trajectory analysis conducted as part of the Off-site Consequence Analysis;
2. 2. methods for shoreside cleanup, including containment and removal of surface oil, subsurface oil and oiled debris and vegetation from all applicable shorelines, adjacent land and beach types.
3. 3. measures to be taken to minimize damage to the environment from land operations during a spill response, such as impacts to sensitive shoreline

habitat caused by heavy machinery or foot traffic.

The plan does not adequately describe the above items. The plan should include a link to the NOAA shoreline cleanup assessment manual in Section 5 where this topic is discussed (PDF pg. 77, 223-228). The plan must clearly state that this document will be referenced when planning for shoreline cleanup.
https://response.restoration.noaa.gov/sites/default/files/manual_shore_assess_aug2013.pdf

State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

November 22, 2024

Sable Offshore Corporation
Patrice Surmeier
12000 Calle Real
Goleta, CA 93117

Dear Patrice Surmeier:

On 09/27/2024, the Office of Spill Prevention and Response (OSPR) issued a deficiency letter regarding contingency plan CA-00-7239. An updated oil spill contingency plan for Sable Offshore Corporation's Pacific Region Oil Spill Response Plan was submitted to OSPR for review and approval on 10/24/2024.

OSPR has conducted a full review of the contingency plan for compliance with Title 14, California Code of Regulations (14 CCR) § 817.02. The review identified deficiencies that must be corrected before a final approval can be issued. In accordance with 14 CCR § 816.03 (a)(3), the deficiencies and required corrective actions are described in the attachment accompanying this letter. Questions concerning these deficiencies can be directed to Andrew Jebananthan at facilitycplans@wildlife.ca.gov.

This letter serves as a notice of deficiency for plan CA-00-7239. In accordance with 14 CCR § 816.03 (a)(4), a revised plan addressing the deficiencies must be submitted within 30 calendar days of the date of receipt of this letter, or by December 22, 2024.

If a new or revised contingency plan is not submitted by this date, the contingency plan may be denied or revoked. Sable Offshore Corporation cannot conduct operations that pose a risk of an oil spill into state waters without an approved contingency plan. If a revised plan is not timely submitted for review, OSPR may impose daily administrative penalties for continued operations or order cessation of operations in any location where operations could impact waters of the state, pursuant to California Government Code § 8670.67(b) and 8670.69.4. Continued operations without an approved contingency plan could also subject Sable Offshore Corporation to civil or criminal enforcement actions, pursuant to Government Code § 8670.64(c) and 8670.66(b).

Operators must maintain a level of readiness that will allow effective implementation of applicable contingency plans (Government Code § 8670.28.5). Although deficiencies have been identified, Sable Offshore Corporation is expected to follow the current version of plan if there is a spill and, as indicated in the acknowledgment letter, must comply with exercise requirements pursuant to 14 CCR § 820.1.

When you are ready to submit a revised contingency plan that addresses all deficiencies described in the attachment, please contact facilitycplans@wildlife.ca.gov to arrange for submittal of the plan for further review and approval.

Sincerely,

David Reinhard
Chief of Preparedness
Office of Spill Prevention and Response
Department of Fish and Wildlife

CA-00-7239 Second Review Deficiencies

1. *Risk and Hazard Analysis*

   § 817.02 (c)(1)(C) Each plan shall include a summary of the results of the risk and hazard analysis. The summary shall include the following:

   …

   3. an analysis of the potential oil discharges, including the size, frequency, cause, duration and location of all significant spills from the marine facility as a result of each major type of hazard identified.

   …

   5. a prediction of the potential oil spills that might still be expected to occur after any mitigating controls have been implemented.

The plan describes the risk and hazard analysis on PDF pg. 603-604. The table on PDF pg. 604 identifies the potential size of oil discharges from the various hazards, but it must also identify the frequency, duration, and location of these potential oil discharges in greater detail. Additionally, the plan must include an explanation of any other predicted potential oil spills that might occur after mitigating controls have been implemented. Please provide some verbiage in this section that fulfills this requirement.

State of California – Natural Resources Agency
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Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov/ospr

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

December 17, 2024

Pacific Pipeline Company
Lance Yearwood
1200 Calle Real
Goleta, CA 93117

Dear Mr. Yearwood:

A revised oil spill contingency plan for Pacific Pipeline Company's Las Flores Canyon onshore pipeline was submitted to the Office of Spill Prevention and Response (OSPR) under the plan number CA-00-7217 on 11/21/2024 for review and approval.

Previously, OSPR conducted a full review of the contingency plan that was submitted on 04/09/24 for compliance with Title 14, California Code of Regulations (14 CCR) § 817.02. The review identified deficiencies that were detailed in a letter sent to you on 10/24/24, and Pacific Pipeline Company was given a deadline of 11/23/24 to submit corrections. An updated contingency plan was submitted on 11/21/24. OSPR reviewed the modified contingency plan and identified remaining deficiencies that must be corrected. In accordance with 14 CCR § 816.03 (a)(3), the deficiencies and required corrective actions are described in the attachment accompanying this letter. Questions concerning these deficiencies can be directed to Andrew Jebananthan at facilitycplans@wildlife.ca.gov.

This letter serves as a third notice of deficiency for plan CA-00-7217. In accordance with 14 CCR § 816.03 (f)(2), corrective action must be taken within 30 calendar days of the date of receipt of this letter, or by **01/16/2025**.

If a new or modified contingency plan is not submitted by this date, the contingency plan may be denied or revoked, and OSPR may order operations to be discontinued in any location where operations could impact waters of the state. Continued operations without an approved contingency plan could subject Pacific Pipeline Company to criminal, civil, or administrative penalties, pursuant to California Government Code § 8670.64(c), 8670.66(b), or 8670.67(b).

Although deficiencies have been identified, Pacific Pipeline Company is expected to follow the current version of plan if there is a spill and as indicated in the acknowledgment letter must comply with exercise requirements pursuant to 14 CCR § 820.1.

When you are ready to submit an updated contingency plan that addresses all deficiencies described in the attachment, please contact facilitycplans@wildlife.ca.gov to arrange for submittal of the plan for further review and approval.

Sincerely,

David Reinhard
Chief of Preparedness
Office of Spill Prevention and Response
Department of Fish and Wildlife

CA-00-7217 Review Deficiencies and Corrections Needed
Issued 12/17/2024

1. *Risk and Hazard Analysis*

§ 817.02(c)(1)(C) Each plan shall include a summary of the results of the risk and hazard analysis. The summary shall include the following:

… 2. an inventory of the hazards identified, including the hazards that resulted in the historical spills;

3.an analysis of the potential oil discharges, including the size, frequency, cause, duration and location of all significant spills from the marine facility as a result of each major type of hazard identified;

4.the control measures that will be used to mitigate or eliminate the hazards identified. The plan shall include timeframes for implementing any control measures that cannot be functional immediately; and

5.a prediction of the potential oil spills that might still be expected to occur after any mitigating controls have been implemented.

This portion of the risk and hazard analysis must clearly address the above provisions in more depth and detail. The current risk and hazard analysis is related to a pipeline replacement project. However, the analysis must identify hazards associated with normal pipeline operations and discuss potential spills caused by the hazards identified in the analysis, including hazards resulting in historical spills. Currently, the risk and hazard analysis and identified hazards are found throughout section 2 and section 15 of the plan. Please create a summary section that includes the results listed above in section 15 so that the information is located in one risk and hazard analysis section that is appropriate to normal pipeline operations and adequately addresses the provisions listed above. Note that this deficiency was included in a previous deficiency letter dated 10/24/24. Revisions were made in response to the deficiency, but the revisions were not sufficient.

2. *Off-Site Consequence Analysis*

§ 817.02(c)(2)…For the significant hazards identified in the Risk and Hazard Analysis required under this section, the marine facility shall conduct a trajectory analysis to determine the Off-Site Consequences of an oil spill. This analysis shall assume pessimistic water and air dispersion and other adverse environmental conditions such that the worst possible dispersion of the oil into the air or onto the water will be considered. This analysis is intended to be used as the basis for determining the areas and shoreline types for which response strategies must be developed. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)). The analysis, which shall be summarized in the plan, shall include at least the following:

(A) a trajectory, or series of trajectories (for pipelines, etc.), to determine the potential direction, rate of flow and time of travel of the reasonable worst case oil spill from the facility to marine waters and to the shorelines, including shallow-water environments, that may be impacted. For purposes of this requirement, a trajectory or trajectories (projected for a minimum of 72 hours) that determine the outer perimeter of a spill, based on regional extremes of climate, tides, currents and wind with consideration to seasonal differences, shall be sufficient.

(B) for each probable shoreline that may be impacted, a discussion of the general toxicity effects and persistence of the discharge based on type of product; the effect of seasonal conditions on sensitivity of these areas; and an identification of

which areas will be given priority attention if a spill occurs.

(3) Resources at Risk from Oil Spills

Based on the trajectory of the spilled oil as determined in the Off-Site Consequence Analysis, each plan shall identify the environmentally, economically and culturally sensitive sites that may be impacted. Each plan shall identify and provide a map of the locations of these areas. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)).

The inland trajectory for line CA-325B (PDF pg. 220) must be updated to correspond to the RWCS volume calculated in the plan and listed on the COFR. The subsequent Offsite Consequence and Risk Hazard Analyses and Resources at Risk must reflect the trajectory corresponding to the correct RWCS volume. Additionally, line CA-324 poses a risk to marine waters, but the plan does not include a trajectory for line CA-324. The plan must include a trajectory and corresponding Offsite Consequence and Risk Hazard Analyses and Resources for the CA-324 RWCS volume consistent with the volume calculated in the plan and listed on the COFR. Please note that this deficiency was included in a previous deficiency letter dated 10/24/24, but this deficiency went unaddressed in the subsequent submission.

State of California – Natural Resources Agency
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Telephone: (916) 327-9943
www.wildlife.ca.gov/ospr

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

September 27, 2024

Sable Offshore Corporation
Patrice Surmeier
1200 Calle Real
Goleta, CA 93117

Dear Ms. Surmeier:

An oil spill contingency plan for Sable Offshore Corporation's Pacific Region was submitted to the Office of Spill Prevention and Response (OSPR) for review and approval on 06/24/2024. Per the acknowledgment letter sent on 06/07/2024, OSPR assigned the contingency plan number CA-00-7239.

OSPR has conducted a full review of the contingency plan for compliance with Title 14, California Code of Regulations (14 CCR) § 817.02. The review identified deficiencies that must be corrected before a final approval can be issued. In accordance with 14 CCR § 816.03 (a)(3), the deficiencies and required corrective actions are described in the attachment accompanying this letter. Questions concerning these deficiencies can be directed to Andrew Jebananthan at facilitycplans@wildlife.ca.gov.

This letter serves as a notice of deficiency for plan CA-00-7239. In accordance with 14 CCR § 816.03 (f)(2), corrective action must be taken within 30 calendar days of the date of receipt of this letter, or by **10/27/2024**.

If a new or modified contingency plan is not submitted by this date, the contingency plan may be denied or revoked, and OSPR may order operations to be discontinued in any location where operations could impact waters of the state. Continued operations without an approved contingency plan could subject Sable Offshore Corporation to criminal, civil, or administrative penalties, pursuant to California Government Code § 8670.64(c), 8670.66(b), or 8670.67(b).

Although deficiencies have been identified, Sable Offshore Corporation is expected to follow the current version of plan if there is a spill and as indicated in the acknowledgment letter must comply with exercise requirements pursuant to 14 CCR § 820.1.

When you are ready to submit an updated contingency plan that addresses all deficiencies described in the attachment, please contact facilitycplans@wildlife.ca.gov to arrange for submittal of the plan for further review and approval.

Sincerely,

Chief of Preparedness
Office of Spill Prevention and Response
Department of Fish and Wildlife

CC: D. Reinhard, RCPU Supervisor, FRT Supervisor

CA-00-7239 Review Deficiencies and Corrections Needed

Need to correct the links in the plan to the LA/LB ACP. Also, include links to the Annex C of the ACP.
LA/LB ACP: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=225127&inline
Annex C: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=222498&inline

1. (E) The California Certificate of Financial Responsibility (COFR) number for the marine facility shall be included in the front of the plan. If the COFR is not available when the plan is submitted because the marine facility is not yet operational, the COFR number must be provided as soon as it becomes available. The COFR number must be provided before the plan can be approved.

Please include the approved COFR's associated with this plan in the Cal-OSPR appendix. The COFR's are 4-2623-00-001 and 2-2623-00-001. Please include these or the appropriate COFR's that the plan has obtained from the COFR unit.

2. (4) Each plan shall identify and ensure by contract or other approved means a certified Spill Management Team, as described in subchapter 5 of this chapter. The certified spill management team shall be the appropriate tier classification pursuant to section 830.3 of subchapter 5.

Please include the SMT application number that was provided to Sable on the SMT application. That number is PH00141 and can be included near the TRG SMT contract on PDF pg. 406 or in the Cal-OSPR appendix on PDF pg. 530. The inclusion of the SMT application with the PH00141 number would satisfy the regulation.

3. (2) Each plan shall describe the marine facility site and surrounding area, including, where appropriate, the following information (note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)):
(C) seasonal hydrographic and climatic conditions including wind speed and direction, air and water temperature, local tides, prevailing currents, and any local visibility problems

The Cal-OSPR appendix states that Appendix H has information on seasonal hydrographic and climatic conditions. I was not able to locate that information in Appendix H or it wasn't stated clearly. Please label this information more explicitly or include this information in alignment with the above criteria listed above.

4. (b) Marine Facility Description
   (1) Each plan shall describe the marine facility's design and operations with specific attention to those areas from which an oil spill could occur. This description shall include, at a minimum, the following information:
      (A) a piping and instrumentation diagram, and a tank diagram including the location of pumps, valves, vents and lines; the number, and oil storage capacity of each structure covered under the plan and its age, design, construction and general condition; the range of oil products normally stored in each structure; the presence or absence of containment structures and equipment; and the location of mooring areas, oil transfer locations, control stations, safety equipment, drip pans and the drainage for drip pans;

      PDF pg. 383 has a large-scale overview map of the platforms and the pipeline. In accordance with the regulation, there needs to be a more detailed piping diagram that shows any block valves, pumps, or potentially any remote operated valves along the pipeline in greater detail. This may be able to look like a line diagram that shows these figures drawn with representations of valves, and other equipment shown by symbols and a legend.

5. (1) Risk and Hazard Analysis

(B) The chosen hazard evaluation method must be conducted in accordance with the

guidelines established by the American Institute of Chemical Engineers as published in the "Guidelines for Hazard Evaluation Procedures", second edition, copyright 1992, prepared for The Center For Chemical Process Safety.
2. The plan must include information that demonstrates to the Administrator that the analysis is appropriate to the marine facility and adequate according to the published procedures referenced in (B) above.
The Risk and Hazard Analysis will need to be updated to reflect the actual risk associated with the facility and the reasonable worst case spill. The table on PDF pg. 558 will need to be updated with the actual potential amounts of oil spilled. Also, the analysis as a whole will need to be amended when the risk increases due to the RWCS volume being increased. When this analysis changes, this will require change to the offsite consequence analysis and the trajectory mapping as well.

6. (4) Required Prevention Measures Each marine facility shall take all prevention measures to reduce or mitigate the potential hazards identified in the Risk and Hazard Analysis, and the potential impact those hazards pose to the resources at risk. Each plan shall include the following:

(A) schedules, methods and procedures for testing, maintaining and inspecting pipelines and other structures within or appurtenant to the marine facility that contain or handle oil which may impact marine waters if a failure occurs. Any information developed in compliance with Title 30 CFR, Part 250.153; Title 33 CFR, Part 154; Title 49 CFR, Part 195; and/or Title 5, Division 1, Part 1, Chapter 5.5, Sections 51010 through 51019.1 of the Government Code may be substituted for all or part of any comparable prevention measures required by this subsection.
This section needs to be more detailed and provide more explicit schedules, methods, and procedures for testing, maintenance, and inspections on pipelines. Section 6 does not provide any clear timelines regarding the criteria listed in the regulation. PDF pg. 146 states the emulsion pipeline system is monitored continuously, but are there any scheduled maintenance programs in place for the pipeline or associated detection systems?

7. (B) methods to reduce spills during transfer and storage operations, including overfill prevention measures and immediate spill containment provisions. Any information developed in compliance with Title 2, CCR, Division 3, Chapter 1, Article 5, Sections 2300-2407; Title 30 CFR, Part 250.154; and/or Title 33 CFR, Parts 154 and 156 may be substituted for all or part of any comparable prevention measures required by this subsection.

The plan mentions the SCADA system and high/low pressure alarms on the pipeline, but is there any spill containment near shore where the pipeline goes from subsea to onshore and in the processing facility on land?

8. (E) For offshore pipelines, the largest volume in barrels of the following calculation:

1. The pipeline system leak detection time, plus the shutdown response time, multiplied by the highest measured oil flow rate over the preceding 12-month period. For new pipelines, use the predicted oil flow rate. Add to this calculation the total volume of oil that would leak from the pipeline after it is shut in. This volume should be calculated by taking into account the effects of hydrostatic pressure, gravity, frictional wall forces, length of pipeline segment, tie-ins with other pipelines, and other factors.
Please make note of this section needing to change when the RWCS volume is increased to its real number. Specify loss during shutdown and the total volume that would leak after shut in. Table on PDF pg. 433 would be the number we are looking for regarding the column titled "Harmony". This would also need to change the page of calculations where the persistence and emulsification factors are located near PDF pg. 561.

9. (4) Each plan shall describe how the plan holder will provide emergency services before the arrival of local, state or federal authorities on the scene, including:

(B) procedures for emergency medical treatment and first aid;

Plan needs to describe how medical treatment or first aid will be provided before local EMS arrives. PDF pg. 34 has Santa Barbara County EMS listed but no procedures for medical treatment before they are notified.

10. (D) procedures to manage access to the spill response site and the designation of exclusion, decontamination and safe zones;

Plan needs to explain a procedure for setting up the various zones and managing access to the spill site. Decontamination is mentioned on PDF pg. 345 and on PDF pg. 503, but it doesn't outline any sort of procedure for setting those zones.

11. (7) Each plan shall describe the procedures to manage access to the spill response site, the designation of exclusion, decontamination and safe zones, and the decontamination of equipment and personnel during and after oil spill response operations, as required by the California Occupational Safety and Health Administration.

Same note as correction above, plan needs to explain procedure for setting up these zones and managing access to spill site.

12. (8) Prior to beginning spill response operations and/or clean up activities, a Site Safety Plan must be completed. Each site safety plan shall include information as required pursuant to Title 8, Section 5192(b)(4)(B) of the California Code of Regulations including, but not limited to, a written respiratory protection program, written personal protective equipment program, written health and safety training program, written confined space program and permit forms, direct reading instrument calibration logs, and written exposure monitoring program.

Please include verbiage to the section of the plan located on PDF pg. 5 that addresses the needed verbiage above regarding what a site safety plan shall include in accordance with the CA code of regulations.

13. (g) Notification Procedures
    (2) Immediate Notification Nothing in this section shall be construed as requiring notification before response.

    Please include this statement above that would satisfy this requirement.

Scientific Review Corrections

1. (c) Prevention Measures. Each plan shall address prevention measures in order to reduce the possibility of an oil spill occurring as a result of the operation of the marine facility. The prevention measures must eliminate or mitigate all the hazards identified in the Risk and Hazard Analysis.

(2)(A) a trajectory, or series of trajectories (for pipelines, etc.), to determine the potential direction, rate of flow and time of travel of the reasonable worst case oil spill from the facility to marine waters and to the shorelines, including shallow-water environments, that may be impacted. For purposes of this requirement, a trajectory or trajectories (projected for a minimum of 72 hours) that determine the outer perimeter of a spill, based on regional extremes of climate, tides, currents and wind with consideration to seasonal differences, shall be sufficient;

The map on PDF pg. 443 is mapped by probability but there is no indication that this is based on RWCS volume. The plan needs a trajectory accounting for the spill volume and for that volume to be indicated on the provided trajectory. We will need to see information included in the consequence analysis for any shoreline impact more closely associated with the pipeline in state waters as well.

2. (c)(3)(A) The map of environmentally sensitive sites shall include:
    1. shoreline types and associated marine resources
    2. the presence of migratory and resident marine bird and mammal migration routes, and breeding, nursery, stopover, haul-out, and population concentration areas by season;
    3. the presence of aquatic resources including marine fish, invertebrates, and plants including important spawning, migratory, nursery and foraging areas;
    4. the presence of natural terrestrial animal and plant resources in marine-associated environments;
    5. the presence of state or federally-listed rare, threatened or endangered species;
    6. the presence of commercial and recreational fisheries including aquaculture sites, kelp leases and other harvest areas.

    The plan needs to include a map that depicts the criteria listed above. With the pipeline in state waters that are coastal, there would presumably be mapping to show all of the environmentally sensitive sites to that area. Part of this requirement can be satisfied with the link to the ACP, but nowhere in the plan is there a map that shows any locations of these sites. The ACP links in the plan are also not functioning correctly so I have provided them at the top of this document. Please also include the link for the ACP Annex C that will help satisfy part of this regulation as well.
3. (c)(3)(B) The map of the locations of economically and culturally sensitive sites shall include:
    1. public beaches, parks, marinas, boat ramps and diving areas;
    2. industrial and drinking water intakes, power plants, salt pond intakes, and other similarly situated underwater structures;
    3. known historical and archaeological sites. If a plan holder has access to any confidential archaeological information, it must be submitted as a separate item and will be handled as confidential information as described in section 790.3 of chapter 1.
    4. areas of cultural or economic significance to Native Americans

    Need to include a map that specifically shows the criteria of this section more in relation to state waters and impacted resources. The above criteria should be identified and mapped for any areas that could be impacted by a spill from the pipeline. These criteria could be included in one of the maps already in the plan but would need added symbols to indicate each item. Also, the contact for the Native American Heritage Commission should be include in relation to items #3 and #4 above. This contact information could be placed somewhere in relation to a section that talks about risks such as section 11.

ATTACHMENT 19

CALIFORNIA COASTAL COMMISSION
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2421
VOICE (415) 904-5200
FAX (415) 904-5400

NOTICE OF VIOLATION

Sent by Electronic Mail

September 27, 2024

Steve Rusch
VP Environmental & Regulatory Affairs
Sable Offshore Corp.
srusch@sableoffshore.com

Violation File No.: **V-9-24-0152** (Sable Offshore Corporation)

Location: At various locations along the existing Las Flores Pipelines CA-324 and CA-325 (previously known as Lines 901 and 903), which are part of the pipeline system originally constructed by Plains All American in 1988, spanning from the Gaviota coast to the Los Padres National Forest within Santa Barbara County, on 16 different properties.

Violation[1] description: Unpermitted development in the Coastal Zone, including, but not necessarily limited to, excavation with heavy equipment and other activities associated with the Line 324 and 325.

Dear Mr. Rusch:

As you have recently discussed with Cassidy Teufel and Wesley Horn of our staff, it has come to our attention that unpermitted activities are currently taking place in the Coastal Zone, including excavation and other activities at various locations along the existing Lines 324/325 (formerly known as Lines 901/903) now owned by Sable Offshore Corp. ("Sable")

[1] Please note that the description herein of the violation at issue is not necessarily a complete list of all unpermitted development on the subject property that is in violation of the Coastal Act and the Santa Barbara County LCP. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other unpermitted development on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development. Please further note that the term "violation" as used throughout this letter refers to alleged violations of the Coastal Act/County LCP.

associated with a proposed restart of the Santa Ynez Unit. These activities constitute violations of the Coastal Act[2] and Santa Barbara County's Local Coastal Program ("LCP").

As you may know, the California Coastal Act was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,250-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore sensitive habitats; protect natural landforms; protect scenic landscapes and views of the sea; protect the marine environment and its inhabitants; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea. The Commission plans and regulates development and natural resource use in the coastal zone in keeping with the requirements of the Coastal Act.

Violations

It has been confirmed that Sable is currently performing various unpermitted construction activities in the Coastal Zone associated with upgrades to Lines 324/325 in connection with Sable's proposed restart of that pipeline.[3] As part of that proposed restart, Sable is currently undertaking work including a pipeline upgrade project to address pipeline corrosion in locations within the Coastal Zone and to install new safety valves in portions of the pipeline in the Coastal Zone. These activities constitute development and are not exempt from coastal development permit ("CDP") requirements.

Pursuant to Section 30106 of the Coastal Act and Section 35-58 the Santa Barbara County Local Coastal Program ("LCP"):

> *"Development" means, on land,* ***in or under water****,* ***the placement or erection of any solid material or structure****;* discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste*;* ***grading, removing, dredging, mining, or extraction of any materials;*** *change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act...change in the intensity of use of water, or of access thereto;* ***construction, reconstruction, demolition, or alteration of the size of any structure****…* (emphasis added)

[2] The Coastal Act is codified in the California Public Resources Code, sections 30000 to 30900. Unless otherwise indicated, references to section numbers in this letter are to that code, and thus, to the Coastal Act.

[3] The California Office of the State Fire Marshall has not reviewed or approved the proposed restart of the pipeline, which includes a review of a proposed State Waiver and a final Restart Plan, among other required materials. The Commission's investigation of this matter is continuing, and it reserves its right to review the proposed restart and other associated activities or other matters concerning the pipeline.

Under this definition, the unpermitted development activities, as described above, constitute "development" under the Coastal Act and the County's LCP. Coastal Act Section 30600(a), and Section 35-58 of the Santa Barbara County LCP, require Sable to obtain authorization under the Coastal Act and/or the LCP prior to performing or undertaking any development activity in the Coastal Zone, in addition to obtaining any other permit required by law. Any non-exempt development activity conducted in the Coastal Zone without such authorization constitutes a violation of the Coastal Act/LCP. Thus, the unpermitted development activities described above constitute Coastal Act and LCP violations.

In addition, the upgrade project does not qualify as CDP-exempt repair and maintenance work. Activities that "result in addition to, or enlargement or expansion of, the object" of the activities require a CDP under the Coastal Act and the LCP. (Public Resources Code § 30610(d); Coastal Zoning Ordinance § 35-169.2; Appendix C, Section I.) At a minimum, because the project involves the installation of safety valves, this is an addition to the pipeline that does not qualify as "repair and maintenance." Even if the project could be considered repair and maintenance (which it cannot), Section 30610(d) of the Coastal Act and the Appendix C, Section III of the LCP nonetheless require a CDP for categories of repair and maintenance activities that are designated as presenting a "risk of substantial adverse environmental impact." These include the following:

> (3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include: . . .
>
> (B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

Title 14, California Code of Regulations § 13252(a)(3); Coastal Zoning Ordinance § 35-169.2; Appendix C, Section III(a)(3).)

Furthermore, although Sable appears to have taken the position that the upgrade project involves work for which the Coastal Act requirement for a CDP is entirely preempted, this is incorrect. Although the California Office of the State Fire Marshall has authority over certain aspects of pipeline safety under the federal Pipeline Safety Act (49 U.S.C § 60101 *et seq.*), any resulting preemption is limited in scope. Other state agencies, as well as local governments, may review and impose requirements related to other issues. Thus, the Commission and the County have jurisdiction to review and impose requirements relating to consistency with the Coastal Act and the LCP that do not pertain directly to pipeline safety. For example, a CDP review for construction impacts to environmentally sensitive habitat areas, cultural resources, water quality, or public access (to name a few) are not preempted. Finally, the 1988 settlement between the County and Celeron Pipeline Company does not affect the preemption analysis because the settlement cannot contractually limit the County's duties under the law or the applicability of the law. Thus, a CDP is required for the upgrade project.

Resolution

To begin resolution of the Coastal Act/LCP violations, please cease Immediately any unpermitted activities/development in the Coastal Zone associated with Lines 324/325.[4] At this time, we have no information that any development activities are currently taking place related to the three offshore platforms and offshore pipelines owned by Sable. However, if any such activities are taking place, please cease those as well. These are all activities that require a CDP and/or federal consistency review from the Commission.

Please note that in certain cases when unpermitted development takes place, but Commission staff believe that some version of the work could have been found to be consistent with the applicable standard of review and authorized accordingly, staff recommends that the party undertaking the development submit a CDP application to the regulating authority (in this case, Santa Barbara County), seeking after-the-fact ("ATF") authorization for the previously undertaken unpermitted development within the County's LCP jurisdiction. In other cases, when staff has determined that the unpermitted development is not something for which staff would recommend approval due its inconsistency with the Coastal Act/certified LCP, staff advises the alleged violator to seek resolution through removal, mitigation, restoration, and/or payment of penalties, etc., and not to seek a CDP to authorize such development.

In this case, we are uncertain at this time whether Santa Barbara County would be able to approve a CDP application from Sable that was seeking ATF authorization for the unpermitted construction activities that have already taken place, as well as authorization going forward for continued construction or other development activities related to the pipeline, such as the installation of safety valves. More information regarding the project would be necessary to come to any such conclusion at this time; however, since such an application might be found approvable by the County, we recommend that you submit a CDP application to the County as soon as possible. Please note that should the County grant approval of such a CDP application, those portions of the project that are located within the Coastal Commission's appeals jurisdiction would be appealable to the Commission and those portions of the project, if any, that are located within the Commission's original jurisdiction would require a CDP from the Commission.

To help us evaluate the project, it would be helpful if you could submit to us a complete description of all development activities currently taking place, as well as those activities that are being contemplated (e.g., installation of safety valves; any work to the platforms or offshore pipeline) prior to the anticipated restart of the pipeline, including scope of the project; exact locations of where the development activities are taking place/will take place; project schedule, etc.

Enforcement Remedies

[4] Please note that interim measures to stabilize the site may also be necessary to avoid damages to coastal resources, and any such measures should be coordinated with Commission and County staff to avoid additional harm and to ensure consistency with Coastal Act/LCP requirements.

Santa Barbara County has declined to enforce the above-noted Coastal Act/LCP violations, and thus, pursuant to Section 30810 of the Coastal Act, the Coastal Commission is pursuing enforcement regarding the Coastal Act/LCP violations described above.

Please note that the recent Settlement Agreement between Sable and the County does not preempt the Coastal Act or the LCP, and does not obviate the need for Sable to seek authorization for development activities in the Coastal Zone.

Whenever possible, Commission enforcement staff prefers to work cooperatively with alleged violators to resolve Coastal Act violations administratively. We are hopeful that we can resolve this matter without resorting to formal action. However, should we be unable to resolve this matter through this process, please be advised that the Coastal Act has a number of potential remedies to address violations of the Coastal Act, including the following:

Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. Section 30811 also provides the Coastal Commission the authority to issue a restoration order to address violations at a site. A violation of a cease and desist order or restoration order can result in civil fines of up to $6,000 for each day in which each violation persists.

Additionally, Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed $30,000 and shall not be less than $500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who “knowingly and intentionally” performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1,000 nor more than $15,000 per violation for each day in which each violation persists.

Finally, as of January 1, 2022, the Commission’s administrative penalty authority was expanded, allowing the Commission to administratively impose penalties for all violations of the Coastal Act. Section 30821 and Section 30821.3 collectively authorize the Commission to impose administrative civil penalties in an amount of up to $11,250 per day for each violation.

Failure to resolve the violations noted above could result in formal action under the Coastal Act. Said formal action could include a civil lawsuit, the issuance of an Executive Director

Cease and Desist Order or Commission Cease and Desist and/or Restoration Order, and/or imposition of monetary penalties, as described above, including imposition of administrative penalties.

We understand that you will be meeting soon with our staff to discuss the pipeline situation. Please contact me by telephone at **415-904-5269** or by email at jo.ginsberg@coastal.ca.gov within a week of that meeting, or by October 21, 2024, whichever is earlier, to discuss how you intend to resolve the Coastal Act/LCP violations associated with the pipeline. Also, you may contact Wesley Horn at Wesley.Horn@coastal.ca.gov to discuss any permitting or planning issues associated with the pipeline.

Failure to meet the deadline noted above may result in formal action by the Commission to resolve this Coastal Act violation, including initiation of the enforcement remedies discussed above.

Thank you for your cooperation and prompt attention to this matter. I look forward to speaking with you soon.

Sincerely,

Jo Ginsberg

Jo Ginsberg,
Enforcement Analyst

cc: Kate Huckelbridge, CCC, Executive Director
Cassidy Teufel, CCC, Deputy Director
Lisa Haage, CCC, Chief of Enforcement
Sarah Esmaili, CCC, Senior Attorney
Pat Veesart, CCC, Enforcement Supervisor
Aaron McLendon, CCC, Deputy Chief of Enforcement
Alex Helperin, CCC, Assistant Chief Counsel
Joseph Street, CCC, EORFC Program Manager
Jonathan Bishop, CCC, Oil Spill Program Coordinator
Wesley Horn, CCC, Environmental Scientist
Jim Hossler, CA State Fire Marshal, Jim.Hosler@fire.ca.gov
Errin Briggs, Deputy Director, Santa Barbara County Planning & Development, ebriggs@countyofsb.org

ATTACHMENT 20

CALIFORNIA COASTAL COMMISSION
455 MARKET STREET
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904- 5200
FAX (415) 904-5400
TDD (415) 597-5885
WWW.COASTAL.CA.GOV

VIA CERTIFIED AND ELECTRONIC MAIL

10/04/2024

Carolyn Bertrand, Deputy General Counsel
Lee Alcock, Assistant General Counsel
Cbertrand@Sableoffshore.com
Lalcock@Sableoffshore.com

Sable Offshore Corporation
12000 Calle Real
Goleta, CA 93117

Subject: Confirmation of Suspension of Current Operations

Dear Ms. Bertrand and Mr. Alcock,

This letter is a follow-up to your video conference with California Coastal Commission ("Commission") staff on October 1, 2024, to memorialize both your discussions regarding unpermitted activities taking place within the Coastal Zone, associated with existing Las Flores Pipelines CA-324/325 (formerly known as Lines 901/903), and your follow-up email message the next day. It also lays the groundwork for an order, just in case that proves to be necessary, by providing formal notice of that possibility, as is explained on page three. As stated in the "Notice of Violation" letter sent to you on September 27, 2024 (the "NOV"), and as discussed in the October 1 video conference, because the prerequisite Coastal Act authorization was not granted, the activities you've been discussing with my staff (which include, but are not limited to, the placement of solid material, excavation/grading/earth movement work, and the alteration of the size of a structure, all of which qualify as "development" under the Coastal Act) constitute violations of the Coastal Act and Santa Barbara County's Local Coastal Program ("LCP").

I appreciate your willingness to meet with my staff to discuss the issues detailed in the NOV and steps forward, and your stated commitment to working collaboratively and maintaining open dialogue with the Commission. I also thank you for the email message you sent to Commission staff on October 2, 2024, responding to the request made in the NOV and during the October 1 meeting that development immediately cease. This letter confirms that my staff received that email message, providing your assurances that development along Pipelines CA-324 and CA 325 has ceased.

However, Commission staff subsequently received a report that Sable Offshore Corp. ("Sable") has restarted development along the pipelines, which would be unfortunate

and would materially alter our discussions regarding next steps. I am therefore requesting your assurances that this is not the case and ask that you confirm this by email or telephone **by 2:00pm today (October 4, 2024).**

I recognize that in your October 2, 2024 email to Commission staff, you stated that Sable will be taking "interim measures necessary to stabilize the sites...." Commission staff acknowledged in the NOV that some measures may be necessary to address the site conditions and prevent harms to coastal resources, wildlife, and/or the public, and requested, during your discussion with Commission staff on both October 1, 2024, and October 3, 2024, that you coordinate with Wes Horn of the Commission's Energy Division on any such measures, including regarding what actions are to be taken, where they will be taken, and the timing of such measures. I appreciate that you began collaboration during an October 1 in a meeting with Mr. Horn and others, but my understanding is that in that meeting, Mr. Horn emphasized the need for additional information before you commence any site stabilization measures. Commission staff remain available to answer questions you may have, and I hope that we can continue to coordinate in advance of any such work to avoid any misunderstandings or inadvertent additional violations.

In addition, I would like to reiterate the request in the NOV and in subsequent conversations with Commission staff that you confirm that the unpermitted development activities have fully ceased, and that any further measures are conducted safely, effectively, and in a manner that prevents further resource damage. Specifically, I ask that you provide clarification as to: 1) what specific activities constitute "interim measures"; 2) the specific development along the pipeline that was undertaken prior to your cessation of activities; 3) identification of the location of each of these activities; 4) identification of which activities have ceased; 5) identification of proposed steps to be taken to secure the sites; 6) a timeline as to when such "interim measures," assuming we approve them, will be initiated and fully completed; and 7) any available full-size project plans, including site plan(s) and other applicable plans. If possible, please provide photos of each category so we can more easily understand the current site conditions and work performed, and coordinate steps to resolve the current situation. Please send this information directly to Wesley Horn at Welsey.Horn@coastal.ca.gov, with a copy to Stephanie Cook at Stephanie.Cook@coastal.ca.gov, **no later than 5:00 pm on October 7, 2024.**

Additionally, I reiterate that generally any development that has been undertaken along Pipelines CA-324 and CA-325, within the Coastal Zone, requires a coastal development permit ("CDP"). As Commission staff communicated to you on October 1, any current or future development along Pipelines CA-324 or CA-325 requires authorization by the regulating authority under the Coastal Act. If you intend to continue to undertake development activities along the pipelines, including "interim measures", we recommend that you submit CDP applications for that work as soon as possible. We also ask that you provide Commission staff with written confirmation of your commitment to apply for a CDP from Santa Barbara County (or the Commission, for any work in the

Commission's jurisdiction) seeking after the fact ("ATF") authorization for work that has already occurred.

As indicated in the NOV, the Commission has several administrative and judicial remedies available to it to respond to unpermitted development, including the ability to issue administrative orders (both cease-and-desist orders and restoration orders), and violations of either the Coastal Act or those orders can result in significant administrative and judicial fines.

Finally, in order to ensure that we are in a position to be able to act quickly in case there is any misunderstanding, this letter also serves as a notice of the Executive Director's intent to issue an Executive Director Cease and Desist Order ("EDCDO") if you fail to provide, in a satisfactory manner, the information and assurances requested above regarding both clarification of operations and commitment to apply for required CDPs. Your willingness to cooperate with the Commission and prompt email regarding suspension of operations would provide assurances that we would not need to issue such an order, and I hope we can continue working with you collaboratively. However, please also be aware that if you fail to comply with the NOV or, if unpermitted development along the pipelines recommences without Coastal Act authorization, you will be in direct violation of the Coastal Act, and I may issue an EDCDO directing you to take cease work immediately and correct the all violations. Such violations may subject Sable to additional fines, and/or action by the Commission itself.

Again, I appreciate your attention and coordination with us in this matter. Please respond to this letter to provide written assurances regarding the cessation of unpermitted development activities **no later than 2:00pm today (October 4, 2024) and** follow up with the aforementioned written clarifying information **no later than 5:00 pm October 7, 2024**.

If you have any questions regarding enforcement actions detailed in this letter, please direct them to Stephanie Cook at (415) 904-5273 or Stephanie.Cook@Coastal.ca.gov. Additionally, you may send any inquiries or requisite information to:

California Coastal Commission
Attn: Stephanie Cook
455 Market Street, Suite 300
San Francisco, CA 94105

Sincerely,

Kate Huckelbridge
Executive Director

cc: Cassidy Teufel, CCC, Deputy Director
Lisa Haage, CCC, Chief of Enforcement
Sarah Esmaili, CCC, Senior Attorney
Aaron McLendon, CCC, Deputy Chief of Enforcement
Stephanie Cook, CCC Enforcement Attorney
Alex Helperin, CCC, Assistant Chief Counsel
Wesley Horn, CCC, Environmental Scientist

ATTACHMENT 21

CALIFORNIA COASTAL COMMISSION
455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105-2219
FAX (415) 904-5400
TDD (415) 597-5885

SENT VIA REGULAR, CERTIFIED, AND ELECTRONIC MAIL

11/12/2024

Sable Offshore Corp.
12000 Calle Real
Goleta, CA 93117

Subject:	**Executive Director Cease and Desist Order No. ED-24-CD-02**
Date Issued:	11/12/2024
Expiration Date:	02/10/2024
Violation File No:	V-9-24-0152
Property Location:	Various open pit locations located along the existing Las Flores Pipelines CA-324 and CA-325[1] (previously known as Lines 901 and 903), where portions of the pipeline have been exposed, within the Coastal Zone between the Gaviota coast and the Las Padres National Forest, in Santa Barbara County, as well as areas surrounding those open pit locations, and any other areas impacted by the development activities at issue here.
Violations:	Unpermitted development in the Coastal Zone including, but not necessarily limited to, excavation with heavy equipment; removal of major vegetation; grading and widening of roads; installation of metal plates over water courses; dewatering and discharge or water; pipeline removal, replacement, and reinforcement; installation of safety valves; and other development associated with Las Flores Pipelines CA-324 and CA-325 [2]

[1] The Las Flores Pipeline spans multiple properties, including those designated with the following Assessor's Parcel Numbers, all of which have open pits with exposed pipe in them: 081-230-021; 081-150-006; 081-150-007; 081-150-032; 081-150-033; 081-150-002; 081-150-028; 081-140-019; 081-140-025.

[2] Please note that the description herein of the violations at issue is not necessarily a complete list of all unpermitted development on the properties in violation of the Coastal Act.

I. ORDER

Pursuant to my authority under California Public Resources Code ("PRC") Section 30809, as the Executive Director of the California Coastal Commission ("Commission"), I hereby issue this Executive Director Cease and Desist Order ("EDCDO" or "this Order"), which orders you, Sable Offshore Corp. ("Sable"), as the owner and operator of Las Flores Pipelines CA-324 and CA-325, to cease and desist from undertaking any further unpermitted development and immediately undertake steps necessary to avoid irreparable injury to the properties at issue in this order until formal Commission action can occur. Those steps include, among other things, safely securing and stabilizing open pits ("Open Sites") along the existing Las Flores Pipelines CA-324 and CA-325 within the Coastal Zone ("Pipelines") and the immediately surrounding areas so as to prevent potentially significant damage to coastal resources until you have received a final coastal development permit[3] for further development or the Commission issues an order to restore the site or otherwise takes action to bring the site into a state that is safe and consistent with the law.

Compliance with the following terms is intended to ensure that all unpermitted development described in Section IV, below, remains halted, ensuring that further damaging effects to coastal resources are avoided, while Sable secures the sites and seeks authorization from the Commission for past and future (proposed) development, and/or for any steps needed restore the site. A future Commission action will likely be needed on a longer-term enforceable document addressing any remaining unpermitted development, any further or longer term remedial steps needed to be taken along the Pipelines, and potentially addressing other enforcement-related matters such as penalties, but this Order provides a more immediate and enforceable mechanism and framework for ensuring the Open Sites are safely secured in the interim.[4]

In addition, and more specifically, I hereby order you to comply with the following terms and conditions to avoid irreparable injury to the Open Sites and surrounding areas, pending any possible action by the Commission under PRC Sections 30810 and 30811 of the Coastal Act[5]:

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[3] A "final" coastal development permit as used here means one that is: (a) no longer subject to appeal, either within the County system or to the Commission, and whether because the time period for such appeals has elapsed or because all such appeals have been completed; and also (b) no longer subject to judicial review, again whether because the statute of limitations for such a challenge has elapsed or because all such challenges have proceeded to completion.

[4] Please note that the description herein of the violation at issue is not necessarily a complete list of all development on the subject property that is in violation of the Coastal Act that may be of concern to the Commission. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development. Please further note that the term "violation," as used throughout this letter, refers to alleged violations of the Coastal Act.

[5] The Coastal Act is codified in PRC sections 30,000 *et seq.*

1. Cease and desist from conducting any further unpermitted development at the Open Sites with the exception of conducting remedial measures, to ensure intermediate securing of the Open Sites, as authorized and required by this Order.

2. Within 3 days of the effective date of this EDCDO, submit an Interim Restoration Plan ("Interim Plan") for the review and approval of the Executive Director of the Commission (the "Executive Director"), that will provide for steps for the interim securing of the Open Sites, including backfilling of the Open Sites, pending the securing of Coastal Act authorization for further development. Implement to completion, and consistent with its terms, the approved version of the Interim Plan, which shall include the following components, and a schedule for setting forth the time frame for commencing and completing each of the following:

    a. Interim Erosion Control Plan

        i. Within 3 days of the Effective Date of this EDCDO, Sable shall submit an Interim Erosion Control Plan.

            1. The Interim Erosion Control Plan shall be prepared by a qualified Restoration Specialist to address ground disturbance and prevent erosion during and after activities undertaken to safely secure the Pipelines under this Interim Plan, and shall include: 1) a narrative report describing all temporary run- off and erosion control measures to be used including replacement and/or recompaction of any excavated materials, and restorative grading to be done during and after removal/restoration activities; and 2) a site plan identifying and delineating the locations of all temporary erosion control measures that will be installed pursuant to this plan, including seeding of location-appropriate plant species to assist in erosion control.

            2. The Interim Erosion Control Plan will include a proposal that will provide a detailed work plan as to the steps to be taken to secure Open Sites, including backfilling the Open Sites with native soil from their respective excavations and compacting the soil, as needed, to achieve a level grade.

            3. The Interim Erosion Control Plan shall indicate that all erosion control measures are required to be installed and fully functional in the area impacted by the unpermitted development prior to, or concurrent with, the initial activities required by this EDCDO and maintained at all times throughout the term of the EDCDO, to minimize erosion across the site.

4. The Interim Erosion Control Plan shall demonstrate that Sable will strategically place and maintain security fencing to ensure that the Open Sites are safely secured, thereby preventing any potential access to the sites, and further disturbance to biological and coastal resources as well as to protect against adverse impacts to humans, wildlife and other animals.

5. The Interim Erosion Control Plan shall also include installation of appropriate erosion control BMPs in, and around, areas where vegetation was mowed or removed, and applying a hydroseed mix comprised of appropriate native plant species.

6. The Interim Control Erosion Plan shall include the following deadlines:

    a. Implement and complete the approved version of the Interim Plan within 7 days of its approval by the Executive Director

    b. Submit, within 5 days from completion of the work required under the Interim Plan, a report, including photographic evidence, documenting the completion of the work authorized by this EDCDO. If, after reviewing the report required by this EDCDO, the Executive Director determines that the work required by this EDCDO failed in whole or in part, Sable shall undertake any work that is required to ensure compliance with the approved plans or the requirements of this EDCDO.

3. Use of Equipment

    a. The Interim Plan shall include a detailed description of all equipment to be used. It is understood that mechanized equipment will likely need to be used to complete the activities required to implement the Interim Plan. The Interim Plan shall prohibit mechanized equipment that adversely impacts coastal resources, including wetlands and ESHA, protected under the Coastal Act. The Interim Plan shall include limitations on the hours of operations for all equipment.

    b. The Interim Plan shall provide for BMPs to govern the work required in the plan and include a contingency plan that addresses, at a minimum: 1)

impacts from equipment use; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and responses thereto; 3) impacts from equipment and worksite lighting, 4) impacts from equipment sound; and 5) all water quality concerns. The Interim Plan shall designate areas for staging of any construction equipment and materials including receptacles and temporary stockpiles of materials. All stockpiles and construction materials shall be covered, enclosed on all sides, located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.

c. The Interim Plan shall specify that no demolition or construction materials, debris, or waste shall be placed or stored where they may enter sensitive habitat including wetlands, receiving waters, or a storm drain, or be subject to wind or runoff erosion and dispersion.

4. Within 120 days from effective date of this EDCDO, apply for a CDP for any proposed future work to be undertaken along the Pipelines, as well as for after-the-fact ("ATF") authorization for unpermitted development that has already occurred, by submitting a complete CDP application to Santa Barbara County for any development in its Coastal Act permitting jurisdiction and to the California Coastal Commission for any development in its retained permitting jurisdiction, or by submitting a consolidated permit application to the California Coastal Commission for all such development, if consistent with PRC section 30601.3. The CDP application(s) must include, at minimum, detailed site plans, information on the amount of grading (cut, fill, export) involved, Best Management Practices ("BMPs") to govern the work, wetland and environmentally sensitive habitat area ("ESHA") delineations for any wetlands or ESHA within 100 feet of any of the work, and results of both biological and cultural resource surveys of all areas potentially affected by the unpermitted and proposed development activities.

5. Any submittal to be provided to the Executive Director pursuant to this Order shall be provided by mail to the attention of Stephanie Cook at 455 Market Street, Suite 300, San Francisco CA 94107, with a copy sent via email to Stephanie Cook at Stephanie.Cook@Coastal.ca.gov and Wesley Horn at Wesley.Horn@Coastal.Ca.gov.

II. ENTITIES SUBJECT TO THE ORDER

The parties whose actions or inactions are subject to this Order are Sable Offshore Corp; all employees, agents, and contractors of the foregoing; and any other person or entity acting in concert with the foregoing.

III. IDENTIFICATION OF THE PROPERTIES

The properties[6] that are the subject of this Order, including the various Open Sites, areas surrounded by the Open Sites, and any other areas impacted by the development activities at issue here, are located along the Coastal Zone portion of existing Las Flores Pipeline CA-324 and CA-325 (previously known as Lines 901 and 903), which extends from the Gaviota coast to the Las Padres National Forest within Santa Barbara County.

IV. DESCRIPTION OF THE VIOLATIONS

The Coastal Act violations addressed by this Order[7] involve development that has occurred in the Coastal Zone without the requisite Coastal act authorization, including, but not necessarily limited to, excavation with heavy equipment; removal of major vegetation; grading and widening of roads; installation of metal plates over water courses; dewatering and discharge of water; pipeline removal, replacement, and reinforcement; installation of safety valves; and other development associated with the Las Flores Pipelines CA-324 and CA-325.

V. COMMISSION AUTHORITY TO ACT

The Executive Director is issuing this Order pursuant to her authority under PRC Section 30809, including, but not necessarily limited to, subdivision (a)(2) thereof.

VI. EXECUTIVE DIRECTOR'S FINDINGS

As the Executive Director of the Commission, I am issuing this Order pursuant to my authority under PRC Sections 30809(a) to prevent further significant damage to coastal resources that, without this order, would be likely to occur as a result of the current state of the Open Sites, and likely to be exacerbated by the upcoming rainy season. As such, this order requires Sable to take immediate steps to secure the Open Sites and submit a complete CDP application seeking Coastal Act authorization for all proposed future development along the Pipelines, as well as ATF authorization for any work that has already occurred.

Commission enforcement staff informed Sable of the violations of the Coastal Act in an initial Notice of Violation letter sent to Sable on September 27, 2024, in a follow-up letter sent October 4, 2024, and in multiple virtual meetings over the course of the following weeks. A more detailed recitation of the history is provided below.

With limited exceptions not applicable here, PRC Section 30600(a) states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

[6] See footnote 1

[7] See footnote 2.

> *"'Development' means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility…" (emphasis added)*

The Development described herein clearly constitutes "development" within the meaning of the above-quoted definition and therefore requires a CDP. Sable has not submitted an application for a CDP for any proposed future work, nor has Sable submitted any ATF application for work previously undertaken along the Pipelines and within the Coastal Zone. Because of the potential for significant damage to coastal resources, and inherent danger in leaving the Open Sites in their current state, particularly in light of the upcoming rainy season, this Order is necessary to ensure the Open Sites are quickly and safely secured.

As a jurisdictional requirement to issue this Order, I have determined that Sable has undertaken or is threatening to undertake development that may require a CDP, without first securing a CDP.

On October 4, 2024, I notified Sable of my intent to issue an Executive Director CDO pursuant to PRC section 30809 if certain information and assurances were not provided in a satisfactory manner. More specifically, in that letter, I requested detailed information as to the work that Sable has undertaken at the site, as well as proposed measures to temporarily secure the site, specific project plans, and written confirmation of their commitment to apply for an ATF CDP. Sable has failed to satisfactorily provide the information requested and has further failed to provide written confirmation of such intent.

On September 27, 2024, Commission staff sent a "Notice of Violation" letter informing Sable that the Commission had become aware of unpermitted activities taking place within the Coastal Zone, including excavation with heavy machinery, grading, and other activities at various locations along the Pipelines, apparently in connection with a proposed restart of the Santa Ynez Unit, consisting of three offshore platforms, Las Flores Canyon processing facility, and associated electrical transmission and onshore and offshore oil and gas transport pipelines. Commission staff requested Sable immediately cease all unpermitted development within the Coastal Zone, including all activities associated with Lines 324 and 325, as well as any potential development activities taking place along the offshore platforms and pipelines. Commission staff

further detailed the need for Coastal Act authorization for any development in the Coastal Zone, which should be sought through the submittal of an application(s) for the required CDP(s). On October 1, 2024, Sable met with Commission staff to further discuss the Coastal Act violations, and steps necessary to secure the Open Sites. In this conversation, Commission staff emphasized the need for additional information before any further work, including interim steps to secure the site, could be taken, and that legal authorization was needed. Nonetheless, on October 2, 2024, Sable emailed Commission staff and said work on Pipelines CA-324 and CA-325 within the Coastal Zone had been suspended, “subject to taking interim measures” they characterized as “necessary to stabilize the sites”. In response, Commission staff met with Sable, on October 3, 2024, to, again, discuss the Open Sites and reiterate that whatever they apparently were calling interim measures was also development needing Coastal Act authorization, and that work must stop entirely, pending some legal authorization and offered to work with Sable to reach such agreement on interim authorization. On October 4, 2024, Commission staff sent a letter to Sable providing formal notice of the Executive Director’s intent to issue an order, if necessary, to halt the ongoing project work and also to provide for a plan for site stabilization, and requested written assurances, by 2:00 pm that day, that Sable had, in fact ceased work entirely. Before this deadline, Sable emailed Commission staff confirming that all work, including what they were calling interim measures, had ceased. Unfortunately, Commission staff were subsequently informed that work along the Pipelines had not ceased. In response, Commission staff sent an additional email at 3pm on October 4, 2024, informing Sable that staff continued to receive reports stating that work was ongoing and asked that Sable confirm that work had fully stopped to which Sable responded to say they had “confirmed with field that all work has stopped.”

Our October 4, 2024, letter additionally requested that information relating to the work being conducted along the Pipelines be submitted by 5:00 pm on October 7, 2024, and further requested that Sable provide written confirmation of intent to apply for a CDP(s) seeking ATF authorization for any work that had already occurred in the Coastal Zone and prospective authorization for any proposed future work. On October 7, 2024, Commission staff received an email from Sable providing a spreadsheet detailing the location of current open pit sites, but that stated that a full response to the information request could not be completed and that more time was needed. On October 8, 2024, Sable sent Commission staff a follow-up document which provided additional information as to work that had been undertaken at the Open Sites and steps required to fully complete the work at each site. However, no information was provided as to potential steps that could be taken to secure the sites temporarily but, instead, only information as to steps necessary to fully complete the project were given. In this document, Sable provided that project plans were in process, however Commission staff have yet to receive any full-scale work plans.

In the following weeks, Commission staff have had multiple virtual meetings and phone calls with Sable and their representatives to discuss the additional requested information, the existing state of the Open Sites, and potential paths forward. Much of these conversations have focused on the current state of the Open Sites and potential

interim steps to be taken to mitigate further damage to the coastal zone during the period of time needed for Sable to apply for CDPs, as detailed above. However, Sable has yet to satisfactorily provide, as required by PRC Section 30809, detailed information as requested in our October 4 letter, and remains unwilling to provide written confirmation as to commitment to apply for an ATF CDP for work previously undertaken within the Coastal Zone. During these conversations, Commission staff discussed with Sable a potential path forward, to ensure the sites could be safely, and legally, secured during the period of time needed for Sable to apply for CDPs as detailed above, through issuance of a Consent Cease and Desist Order. Unfortunately, Commission staff and Sable were unable to reach mutually agreeable terms.

VII. COMPLIANCE OBLIGATION

Strict compliance by the parties subject to this Order is required. Failure to comply with any term or condition of this Order, including any deadline contained herein will constitute a violation of this Order and subject the parties to exposure for penalties under section 30821.6. However, pursuant to PRC Section 30803(b), any person or entity to whom this Order is issued may file a petition with the Superior Court and seek a stay of this Order.

VIII. EFFECTIVE DATE

This Order shall be effective upon its issuance and shall expire 90 days from the date issued on 11/12/2024 unless extended consistent with the applicable regulations.

Should you have any questions regarding this matter, please contact Stephanie Cook at Stephanie.Cook@Coastal.ca.gov or Wesley Horn at Wesley.Horn@Coastal.ca.gov.

Signed,

Kate Huckelbridge
Executive Director
California Coastal Commission

Date: 11/12/2024

Enclosure:

Cc: Lisa Haage, Chief of Enforcement
Aaron McLendon, Deputy Chief of Enforcement

Alex Helperin, Deputy Chief Counsel
Wesley Horn, Environmental Scientist
Stephanie Cook, Enforcement Counsel