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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA – ANACAPA DIVISION**

ENVIRONMENTAL DEFENSE CENTER, a
California non-profit corporation; GET OIL
OUT!, a California non-profit corporation;
SANTA BARBARA COUNTY ACTION
NETWORK, a California non-profit corporation;
SIERRA CLUB, a national non-profit
corporation; and SANTA BARBARA
CHANNELKEEPER, a California non-profit
corporation,

Petitioners and Plaintiffs,

vs.

CALIFORNIA DEPARTMENT OF
FORESTRY AND FIRE PROTECTION, an
agency of the State of California; OFFICE OF
THE STATE FIRE MARSHAL, an agency of
the State of California; DANIEL BERMANT, in
his official capacity as State Fire Marshal; and
DOES 1 to 10, inclusive,

Respondents and Defendants,

and

SABLE OFFSHORE CORP., a Delaware
corporation; and PACIFIC PIPELINE
COMPANY, a Delaware Corporation,

Real Parties in Interest.

Case No.: 25CV02247

**PETITIONERS' EX PARTE APPLICATION
FOR STAY OR ORDER TO SHOW CAUSE
AND TEMPORARY RESTRAINING ORDER;
MEMORANUDM OF POINTS AND
AUTHORITIES**

*[Filed concurrently with Declaration of Linda
Krop; Declaration of Richard B. Kuprewicz;
Request for Judicial Notice; and Proposed Orders]*

Date: June 3, 2025
Time: 8:30 a.m.
Dept.: 4
Judge: Honorable Donna D. Geck

Action Filed: April 15, 2025
Trial: None Set

1 **EX PARTE APPLICATION**

2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 On June 3, 2025, at 8:30 a.m. in Department 4 of the California Superior Court for the County of
4 Santa Barbara, Anacapa Division, located at 1100 Anacapa Street, Santa Barbara, CA 93121, Petitioners
5 and Plaintiffs ENVIRONMENTAL DEFENSE CENTER, GET OIL OUT!, SANTA BARBARA
6 COUNTY ACTION NETWORK, SIERRA CLUB, and SANTA BARBARA CHANNELKEEPER
7 (collectively, "Petitioners") will and hereby do bring this Ex Parte Application for a Stay or, in the
8 alternative, an Order to Show Cause (OSC) and Temporary Restraining Order (TRO) against (1)
9 Respondents and Defendants CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE
10 PROTECTION, OFFICE OF THE STATE FIRE MARSHAL, and DANIEL BERMANT (collectively,
11 "Respondents"); and (2) Real Parties in Interest SABLE OFFSHORE CORP. and PACIFIC PIPELINE
12 COMPANY (collectively, "Real Parties").

13 Specifically, Petitioners hereby apply for a stay of the operation of Respondents' approval of State
14 Waivers for CA-324 and CA-325A/B pending the judgment of the Court. In the alternative, Petitioners
15 apply for:

16 A TRO prohibiting (1) Respondents, their agents, employees, or anyone acting in concert with
17 them, and (2) Real Parties, their agents, employees, or anyone acting in concert with them, from causing
18 or permitting restart or operation of CA-324 and CA-325A/B, as contemplated by the Letters of Decision
19 on the State Waiver Requests for CA-324 and CA-325A/B, and challenged by the Verified Petition and
20 Complaint on file in this action.

21 An Order requiring Respondents, Real Parties, and anyone acting in concert with them to show
22 cause, if any they have, why they should not be enjoined as set forth above during the pendency of this
23 action.

24 This Ex Parte Application for Stay is made on the grounds that a stay is in the public's interest and
25 good cause exists to grant emergency relief. In the alternative, this Ex Parte Application for a TRO is
26 made on the grounds that great and irreparable injury will result before the matter can be heard on notice.

27 The Application is supported by this Ex Parte Application; the accompanying Memorandum of
28 Points and Authorities in support thereof; the accompanying Declarations of Linda Krop and Richard B.

Kuprewicz, and all exhibits attached thereto; the accompanying Request for Judicial Notice, and all exhibits attached thereto; the Verified Petition and Complaint on file in this action; and any other evidence and argument the Court may consider at the hearing. There have been no previous applications for ex parte relief in this matter.

Pursuant to Rule 3.1202(a) of the California Rules of Court, the known contact information for the parties in this matter are:

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In accordance with Rule 3.1203 of the California Rules of Court, Petitioners notified counsel for Respondents of this Ex Parte Application and hearing on June 2, 2025, by voicemail at approximately 9:15 a.m., and by email at approximately 9:40 a.m. (*See Declaration of Linda Krop in Support of Ex Parte Application, ¶ 2.*)

Petitioners notified counsel for Real Parties of this Ex Parte Application and hearing on June 2, 2025, by voicemail and email at approximately 9:30 a.m. (*See Declaration of Linda Krop in Support of Ex Parte Application, ¶ 3.*)

Dated: June 2, 2025

Respectfully submitted,

ENVIRONMENTAL DEFENSE CENTER



By: _____

LINDA KROP
JEREMY M. FRANKEL
TARA C. RENGIFO
Attorneys for Petitioners and Plaintiffs

TABLE OF CONTENTS

TABLE OF CONTENTS	4
TABLE OF AUTHORITIES.....	5
MEMORANDUM OF POINTS AND AUTHORITIES.....	7
I. INTRODUCTION	7
II. FACTUAL BACKGROUND.....	9
A. The 2015 Pipeline Oil Spill.....	9
B. Proposal to Construct a New Pipeline	9
C. State Waivers	10
D. Proposal for Imminent Restart	11
III. LEGAL STANDARD.....	12
IV. ARGUMENT	13
A. The Court Should Issue a Stay Pending Trial.	13
B. A TRO is Necessary to Prevent Great or Irreparable Harm.	14
C. Petitioners are Likely to Prevail on their Claim that Respondents’ Approval of the State Waivers Violates CEQA and Pipeline Safety Laws.	14
1. Petitioners are Likely to Prevail on the Merits because OSFM Failed to Comply with Pipeline Safety Laws Requiring a Public Review Process.	15
2. Petitioners are Likely to Prevail on the Merits Because OSFM Failed to Conduct Environmental Review as Required by CEQA.....	17
D. The Harm to Petitioners if Injunctive Relief is Denied Outweighs any Harm to Sable. ..	20
V. CONCLUSION.....	21

TABLE OF AUTHORITIES

Cases

Bd. of Med. Quality Assurance v. Superior Court (1980) 114 Cal.App.3d 272 12, 14

Canyon Crest Conservancy v. County of Los Angeles (2020) 46 Cal.App.5th 398 12

Common Cause v. Board of Supervisors (1989) 49 Cal.3d 432 21

Continental Baking Co. v. Katz (1968) 68 Cal.2d 512 14

County of Inyo v. Yorty (1973) 32 Cal.App.3d 795 18

Friends of Mammoth v. Board of Supervisors (1972) 8 Cal. 3d. 247 17

In Re MidAmerican Energy Co., 2002 WL 31155601 (2002) 16

Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal. 3d 376 18

Right Site Coalition v. Los Angeles Unified School Dist. (2008) 160 Cal.App. 4th 336 20, 21

Sterling v. Santa Monica Rent Control Bd. (1985) 168 Cal.App.3d 176 12

Tulare Lake Canal Co. v. Stratford Public Utility Dist. (2023) 92 Cal. App. 5th 380 12, 21

Statutes

49 U.S.C. § 60104(c) 15, 16

49 U.S.C. § 60105 15, 16

49 U.S.C. § 60105(a) 15

49 U.S.C. § 60118(c) 16

49 U.S.C. § 60118(c)(1) 15

49 U.S.C. § 60118(c)(1)(A) 16

49 U.S.C. § 60118(c)(1)(B) 16

49 U.S.C. § 60118(c)(3) 16

49 U.S.C. § 60118(d) 16

Code Civ. Proc. § 527(c)(1) 12

Code Civ. Proc., § 1094.5(g) 12

Gov. Code § 51010 15, 17

Gov. Code § 51011(b) 17

Gov. Code. § 51011(c) 15, 17

1	Pub. Res. Code § 21061	17
2	Pub. Res. Code § 21166.....	18
3	Pub. Res. Code, § 21002.1	17
4	Regulations	
5	14 C.C.R. § 15002.....	17
6	14 C.C.R. § 15002(f)(1).....	17
7	14 C.C.R. § 15003.....	17
8	14 C.C.R. § 15003(a);.....	18
9	14 C.C.R. § 15003(f).....	17
10	14 C.C.R. § 15126.....	17
11	14 C.C.R. § 15126.2.....	17
12	14 C.C.R. § 15126.4.....	18
13	14 C.C.R. § 15126.6.....	18
14	14 C.C.R. § 15162.....	18
15	14 C.C.R. § 15162(a)(1)	18
16	14 C.C.R. § 15162(a)(2)	19
17	14 C.C.R. § 15162(a)(3)	19
18	19 C.C.R. § 2000.....	15
19		
20		
21		
22		
23		
24		
25		
26		
27		
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Petitioners filed this action to enforce safety and environmental laws, and to require Respondents
4 to conduct formal public review before deciding whether to allow Sable Offshore Corp. (“Sable”) to restart
5 the very pipeline that ruptured in 2015, spilling more than 120,000 gallons of oil along more than a
6 hundred miles of California coast and killing hundreds of marine mammals and seabirds, closing public
7 beaches and fisheries, and devastating the local economy. Petitioners seek a stay to protect the public
8 interest and to allow the Court to consider this matter on the merits before imminent harm occurs.

9 In the alternative, Petitioners seek an order to show cause (OSC) and temporary restraining order
10 (TRO) prohibiting Respondents and Real Parties from restarting and operating the Las Flores Pipeline
11 System (the “Pipeline System”) in reliance on the State Waivers which are challenged by the Verified
12 Petition and Complaint on file in this action.

13 The Pipeline System, consisting of CA-324 and CA-325A/B, has been shut down since the 2015
14 oil spill. The pipeline rupture was caused by unmitigated corrosion, which in turn was caused by the failure
15 of the cathodic protection system installed on the pipeline. Corrosion is a pervasive problem that exists
16 throughout the 120-mile pipeline system. Although the owner at the time of the oil spill applied to build
17 a new pipeline with effective corrosion prevention design and technology, Sable seeks to restart the
18 existing pipeline despite the corrosion risks from failed cathodic protection.

19 Because the existing pipeline does not comply with pipeline safety regulatory requirements, the
20 company was required to apply for State Waivers from Respondent Office of the State Fire Marshal
21 (OSFM). Petitioners submitted reports from Richard B. Kuprewicz, a pipeline safety expert with over fifty
22 years of experience in the energy industry, explaining why the pipelines cannot be safely operated and
23 why the Waivers will not ensure the integrity and safety of the pipelines or prevent another oil spill.
24 Despite these concerns, however, Respondents failed to conduct any environmental or public review as
25 required by law and, instead, simply approved the Waivers.

26 Timing could not be more critical. Without a stay or TRO, Sable will likely restart the pipelines
27 before a hearing can be scheduled for a preliminary injunction. If that happens, there will be no opportunity
28 to prevent great and irreparable harm to the environment. According to Sable’s recent filings with the

1 Securities and Exchange Commission (SEC), the company restarted production from its offshore
2 platforms on May 15, 2025, completed its anomaly repairs on May 18, 2025, and concluded hydrotesting
3 the pipelines on May 27, 2025. Sable intends to fill its onshore storage facilities by the middle of June
4 2025.

5 This order is necessary to protect the public interest and maintain the status quo until the potential
6 impacts of the project can be evaluated and the public can participate as required by state and federal
7 pipeline safety laws and the California Environmental Quality Act (CEQA, Public Resources Code section
8 21000 *et seq.*).

9 Specifically, the federal Hazardous Liquid Pipeline Safety Act (the “Federal PSA,” 49 U.S.C.
10 section 60101 *et seq.*) and California’s Elder Pipeline Safety Act of 1981 (the “State PSA,” Government
11 Code section 51010 *et seq.*) require a public hearing before a waiver may be approved. In addition,
12 Respondents may not approve a waiver without providing a statement of decision and discussion of the
13 factors considered by OSFM in granting a waiver. Respondents must also prepare a Subsequent
14 Environmental Impact Report (EIR) pursuant to CEQA in this case, due to changes in the project and
15 circumstances since the original EIR was prepared, as well as new information that was not available at
16 the time. These changes and new information reveal significant new or increased impacts due to the faulty
17 design of the pipeline, the corrosion that developed over time, the lack of an effective cathodic protection
18 system through the Pipeline System, and the significant risk of another catastrophic oil spill.

19 A stay will protect the public interest in preventing another oil spill. This is not a speculative
20 concern; this pipeline already ruptured once, causing devastating harm to much of the California coast.
21 The State Waivers cannot take the place of an effective corrosion prevention system and are inadequate
22 to detect or prevent future corrosion.

23 In the alternative, a TRO is necessary to prevent great or irreparable harm to the environment and
24 public health. In addition, a preliminary injunction should be issued because Petitioners are likely to
25 succeed on the merits, and the harm to the environment and public far outweighs any temporary
26 inconvenience to Sable.

II. FACTUAL BACKGROUND

A. The 2015 Pipeline Oil Spill

On May 19, 2015, the Pipeline System ruptured near Refugio State Beach Park, releasing more than 120,000 gallons of heavy crude oil into the surrounding environment. (Request for Judicial Notice (RJN), Exhibit A.) The spill was one of the largest in California history, and the damage to the region's unparalleled resources was immeasurable. The spill devastated more than 100 miles of the California coast. (*Id.*, p. 17.) Thousands of acres of shoreline and subtidal habitat were destroyed, and hundreds of animals — including marine mammals — were injured or killed. (*Id.*, p. 3.) The spill also forced the closure of fisheries and beaches, which jeopardized local businesses and caused an estimated 140,000 lost recreational user days between Santa Barbara and Ventura Counties. (*Id.*)

The federal Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an investigation and determined that the rupture was the result of “progressive external corrosion,” and that the Pipeline System’s cathodic protection system — intended to prevent such corrosion — was ineffective. (RJN, Exhibit B.) As it turns out, the ineffectiveness of cathodic protection was a product of the Pipeline System’s flawed design. PHMSA concluded that, as a general matter, “[cathodic protection] is ineffective on buried insulated pipelines” like the Pipeline System. (*Id.*, Appendix E, p. 2.)

The Pipeline System has been shut down since the oil spill ten years ago.

B. Proposal to Construct a New Pipeline

Due to the extensive corrosion on the pipelines, Plains All American Pipeline Company - the owner of the Pipeline System at the time of the spill - applied in August of 2017 to build a new pipeline with improved technology to prevent corrosion. (RJN, Exhibit K.) The County of Santa Barbara initiated preparation of an EIR pursuant to CEQA. The EIR evaluated the potential restart of the existing pipeline as an alternative to the proposed project. Although the replacement pipeline project application was subsequently withdrawn, the County’s 2022 Administrative Draft EIR revealed that restarting the existing Pipeline System (even with installation of additional valves) would likely result in a spill every year, a rupture every four years, and a spill along the coast nearly twice the size of the 2015 spill. (Declaration of Linda Krop (“Krop Dec.”), Exhibit E, p. 5.6-79.)

1 **C. State Waivers**

2 Sable acquired the Pipeline System in early 2024. Rather than pursue development of a new, safer
3 pipeline, Sable opted to restart the existing pipelines. As such, Sable requested approval of State Waivers
4 from OSFM for the limited effectiveness of cathodic protection on CA-324 and CA-325A/B. (RJN,
5 Exhibits G, H.) Such Waivers may be approved by OSFM if the State follows the standards and procedures
6 set forth in the Federal PSA (*see* 49 U.S.C. section 60118(d)), which require “notice and opportunity for
7 a hearing” (*id.*, § 60118(c)), as well as issuance of a statement of reasons in support of a decision granting
8 a waiver (*id.*, § 60118(c)(3).) PHMSA’s guidance provides that waivers must not only be “consistent with
9 pipeline safety,” but in fact must “provide an equal or greater level of safety.” (RJN, Exhibit L, p. 1.) The
10 State PSA further requires that a waiver may only be granted if OSFM determines that “the risk to public
11 safety is slight and probability of injury or damage remote.” (Gov. Code § 51011(b).) If OSFM decides to
12 grant a waiver, it must “include a discussion of those factors that the State Fire Marshal considers
13 significant in granting of the exemption.” (*Id.*, § 51011(c).)

14 Petitioners, other organizations, and members of the state legislature submitted letters to OSFM,
15 requesting environmental review and public hearings regarding Sable’s proposal to restart the Pipeline
16 System. (Krop Dec. ¶¶ 4, 5, Exhibits A – D.) Despite these requests, OSFM granted preliminary approval
17 and submitted the Waivers to PHMSA on December 18, 2024, without providing any formal opportunity
18 for, or consideration of, public input. (RJN, Exhibits G, H.) Despite the lack of public notice or opportunity
19 for comment, Petitioners submitted an expert report evaluating the condition of the Pipeline System and
20 proposed Waivers. (Declaration of Richard B. Kuprewicz (“Kuprewicz Dec.”), Exhibit B; Krop Dec. ¶ 6.)
21 The report explained the defects in the Pipeline System and the inadequacy of testing methods to detect
22 external corrosion – the very factor that caused the rupture in 2015. (Kuprewicz Dec.)

23 Specifically, the report explained why the cathodic protection system on the Pipeline System is
24 ineffective to prevent external corrosion, as required by state and federal law. (*Id.*) The report also pointed
25 out why current inline inspection (ILI) technologies cannot adequately assess all forms of external
26 corrosion that most likely exist on the pipelines. (*Id.*) To make matters worse, the high operating
27 temperatures required to transport the heavy crude oil significantly accelerate external corrosion; this
28 increased risk will not be mitigated given the ineffectiveness of the cathodic protection system. (*Id.*)

1 Finally, the report explained why corrosion-related cracking is such a high risk on the Pipeline System.
2 (*Id.*) Despite these significant concerns, OSFM did not respond to the report or address these concerns in
3 the conditions of approval. (Krop Dec., ¶ 7.)

4 On February 11, 2025, PHMSA notified OSFM that it would not object to the State Waivers,
5 rendering them final and effective. (RJN, Exhibits D, E.) Petitioners submitted a second expert report
6 evaluating the Waivers. (Krop Dec. ¶¶ 8, 9; Kuprewicz Dec., Exhibit C.) The report noted several
7 deficiencies and omissions in the Waivers that threaten the integrity and safety of the pipelines. For one,
8 the report noted that the proposed ILI technologies are not adequate to detect all potential types of
9 corrosion and may understate the degree of corrosion. (*Id.*) In addition, the report disclosed that the
10 proposed hydrotests are not adequate to identify crack forming potential or corrosion growth rates. (*Id.*)
11 In particular, the report pointed out that the spike test proposed for CA-324 is based on values that are too
12 low for corrosion cracking screening and evaluation, the testing parameters for CA-325A are missing
13 critical information so cannot be evaluated, and no hydrotests are required on CA-325B. (*Id.*) These
14 defects and omissions on CA-325A/B are especially concerning given the elevation changes. (*Id.*)

15 This report was submitted to OSFM on or about March 2, 2025, but again, no response was
16 provided by the agency. (Krop Dec. ¶ 9.) Not only did OSFM fail to provide public notice and a hearing,
17 but the agency did not issue a statement of reasons or discussion of the factors that led to the decision to
18 approve the Waivers.

19 **D. Proposal for Imminent Restart**

20 On May 19, 2025, Sable filed a Form 8-K report with the SEC with an attached press release and
21 presentation materials. (Krop Dec. ¶ 11, Exhibit F.) According to the press release, Sable had completed
22 its repairs on the Pipeline System. (*Id.*, Exhibit 99.1) In addition, Sable had initiated production on one of
23 the Santa Ynez Unit (SYU) platforms on May 15, 2025, and anticipated completing tests of wells on the
24 platform “over the course of the next several days.” (*Id.*) Of particular relevance here, Sable “expects to
25 fill the ~ 540,000 barrels of crude oil storage capacity at [Las Flores Canyon] by the middle of June.” (*Id.*)
26 On May 27, 2025, Sable filed another Form 8-K report, announcing the completion of hydrotesting on the
27 Pipeline System, thereby “satisfying the final operational condition to restart of the [Pipeline System].”
28 (Krop Dec. ¶ 12, Exhibit G.)

1 Now that Sable has allegedly completed its repairs and hydrotests, and is resuming production
2 from the offshore platforms, Petitioners are concerned that Respondents will authorize restart of the
3 onshore pipelines without necessary safety precautions and without addressing the very factors that caused
4 the massive oil spill in 2015.

5 **III. LEGAL STANDARD**

6 Courts “may stay the operation of [an] administrative order or decision pending the judgment of
7 the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for
8 filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court
9 is satisfied that it is against the public interest.” (Code Civ. Proc., § 1094.5(g).) This language
10 “unequivocally requires that the superior court weigh the public interest in each individual case.” (*Sterling*
11 *v. Santa Monica Rent Control Bd.* (1985) 168 Cal.App.3d 176, 187.) In fact, whether the stay would be
12 against the public interest is the *only* factor that must inform the Court’s discretion. (*Bd. of Med. Quality*
13 *Assurance v. Superior Court* (1980) 114 Cal.App.3d 272, 276 [“subdivision (g) of section 1094.5 requires
14 only that before the issuance of a stay order ‘the court [be] satisfied that it is [not] against the public
15 interest’”].) It does not require the court to consider the likelihood of success on the merits. (*See Canyon*
16 *Crest Conservancy v. County of Los Angeles* (2020) 46 Cal.App.5th 398, 407 (court “not required to make
17 any additional findings in order to grant the stay” in a CEQA case, aside from “finding that granting a stay
18 would not be against the public interest”).)

19 In addition, Code of Civil Procedure section 527 provides for the granting of a temporary
20 restraining order or a preliminary injunction. A temporary restraining order is appropriate where “great or
21 irreparable injury will result to the applicant before the matter can be heard on notice.” (Code Civ. Proc.
22 § 527(c)(1)).

23 A preliminary injunction is proper upon a showing that (1) a plaintiff is likely to prevail on the
24 merits and (2) that the harm that the plaintiff is likely to sustain if the injunction is denied outweighs the
25 harm that the defendant is likely to suffer if the injunction is granted. (*Tulare Lake Canal Co. v. Stratford*
26 *Public Utility Dist.* (2023) 92 Cal. App. 5th 380, 396-97.) In CEQA cases, the public’s interest in
27 compliance with the law “must be considered in evaluating the relative balance of harms from granting or
28 denying a preliminary injunction.” (*Id.* at 408 – 16.)

1 **IV. ARGUMENT**

2 The Court should grant a stay because it is in the public interest to enforce pipeline safety and
3 environmental review laws by ensuring public and environmental review *before* the Pipeline System is
4 restarted. To deny the stay would clearly be against the public interest. The risks to the environment are
5 substantial, and state law is clear that the public is entitled to a hearing and opportunity to comment on
6 the potential environmental risks and impacts that may result if the Pipeline System is restarted without
7 an effective corrosion prevention system in place. To date, neither the OSFM nor any other agency has
8 conducted such review or allowed any public input.

9 In the alternative, the Court should issue a TRO to prevent great or irreparable harm. This matter
10 is urgent because Sable is likely to restart pipeline operations before the matter can be heard on notice.
11 An injunction is appropriate because Petitioners are likely to prevail on the merits, and the harm to
12 Petitioners far outweighs any potential harm to Sable. As explained below, OSFM's failure to conduct
13 environmental review or hold a public hearing before approving the Waivers clearly violates CEQA and
14 state and federal pipeline safety laws. The harm to Petitioners and the public if Sable is allowed to restart
15 the Pipeline System without environmental and public review outweighs any temporary economic harm
16 to Sable. Granting a TRO will maintain the status quo and prevent further (potentially irreparable) harm
17 for a few weeks until the court schedules a hearing on a preliminary injunction. A temporary delay for
18 Sable is also reasonable given that Sable still needs to obtain approvals from other agencies before it can
19 restart the Pipeline System.

20 **A. The Court Should Issue a Stay Pending Trial.**

21 Restart of the pipeline threatens the California coast with significant harm. The public's interest in
22 this matter is substantial, and yet the public has not been granted *any* opportunity to provide input to
23 OSFM as required by CEQA and other laws. The public's interest has been severely impaired by
24 Respondents' decision to deny the public a meaningful opportunity to submit information regarding the
25 State Waivers through a formal process that requires consideration and responsive explanation before
26 decision-making.

27 A stay is also necessary to ensure that OSFM considers the potential environmental impacts of
28 allowing restart *before* a decision is made, as required by CEQA. A stay would allow time for the Court

1 to consider Petitioners' claims and rule on the need for environmental review before Sable restarts the
2 Pipeline System without consideration of impacts and measures to avoid or reduce such impacts.

3 A stay will maintain the status quo and protect the public's interests pending a hearing on the
4 merits. (*Bd. of Med. Quality Assurance*, 114 Cal.App.3d at 277 (a stay pursuant to C.C.P. section 1094.5
5 is only in effect "temporarily, that is, the time period between the issuance of the stay order by the trial
6 court and the finality of the judgment in the mandamus proceeding in the trial court.").)

7 **B. A TRO is Necessary to Prevent Great or Irreparable Harm.**

8 In the alternative, a TRO should be granted here due to the great and irreparable harm that will
9 result if the pipeline is restarted. (*Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512, 528 (the purpose
10 of a TRO and preliminary injunction is preservation of the status quo until final determination of the
11 merits).) The restart and operation of the Pipeline System must be put on hold until Respondents conduct
12 environmental and public review. The public's right to provide input and assure informed decision-making
13 will be irreparably obstructed if a TRO is not issued.

14 A TRO is also necessary to prevent actual harm to the environment. As described herein, the
15 pipelines traverse through uniquely sensitive resources. The 2015 oil spill destroyed many of these
16 resources and was caused by external corrosion on the pipeline. (RJN, Exhibits A, B.) The State Waivers
17 approved by OSFM will not adequately prevent or detect such corrosion if the Pipeline System is restarted.
18 (Kuprewicz Dec.). Instead, the Waivers are likely to result in additional pipeline spills and ruptures,
19 potentially much larger than the 2015 spill. (Krop Dec., Exhibit E.)

20 If a TRO is not issued, it will likely be too late to prevent this harm. Accordingly, Petitioners do
21 not have the luxury of waiting for a noticed hearing. A TRO will maintain the status quo and prevent great
22 and irreparable harm pending a hearing on Petitioners' request for a preliminary injunction.

23 **C. Petitioners are Likely to Prevail on their Claim that Respondents' Approval of the**
24 **State Waivers Violates CEQA and Pipeline Safety Laws.**

25 Petitioners are also entitled to a preliminary injunction because they are likely to prevail on the
26 merits and because the harm to Petitioners and the environment far outweighs any temporary harm to
27 Sable.
28

1. Petitioners are Likely to Prevail on the Merits because OSFM Failed to Comply with Pipeline Safety Laws Requiring a Public Review Process.

As noted above, a state *may* waive compliance with a safety standard, but only if the waiver “is not inconsistent with pipeline safety” and “*only after notice and opportunity for a hearing.*” (49 U.S.C. § 60118(c)(1) (emphasis added).) Additionally, the state must provide a statement of reasons explaining its decision. (Gov. Code. § 51011(c).) OSFM failed to provide notice and opportunity for a hearing and failed to provide a statement of reasons and discussion of factors explaining its decision, thus violating state and federal mandates.

By way of background, it is helpful to understand the regulatory framework that applies to the Pipeline System. Pipeline safety is generally regulated by the federal government pursuant to the Federal PSA and administered by PHMSA. However, the extent of the federal government’s regulatory authority varies between interstate and intrastate pipelines. While PHMSA has exclusive jurisdiction over interstate pipelines (see 49 U.S.C. § 60104(c)), the agency’s authority over *intrastate* pipelines — like the Pipeline System — is merely provisional. Pursuant to 49 U.S.C. section 60105, states have the option to assume exclusive responsibility for regulating intrastate pipelines by submitting an annual certification to the Secretary of Transportation (“Certification”). Among other things, the Certification must affirm that the state has adopted the minimum federal pipeline safety standards, which are outlined in Title 49 of the Code of Federal Regulations, Part 195 (“Part 195”). (*Id.*) Once a state has submitted a valid Certification, exclusive regulatory and enforcement authority over intrastate pipelines passes to the state. (*See* 49 U.S.C. § 60105(a).) Indeed, PHMSA is prohibited from “prescrib[ing] or enforc[ing] safety standards and practices” on intrastate pipelines that are regulated under a certified program. (*Id.*)

California has and maintains such a Certification, giving it the authority to regulate its intrastate pipelines. That authority is delegated to OSFM, which administers the state’s pipeline safety laws and regulations under color of the Certification. (*See* Gov. Code § 51010.) OSFM also effectively administers the federal safety standards outlined in Part 195, which, as required for Certification, are incorporated by reference in California’s pipeline safety regulations. (*See* 19 C.C.R. § 2000.)

Where a state has a valid Certification, the Federal PSA grants state authorities the flexibility to depart from federal minimum safety standards. They are free, for example, to impose more stringent safety

standards than those required by federal law. (49 U.S.C. § 60104(c).) Or, they can excuse compliance with federal safety standards by issuing a “State Waiver.” (49 U.S.C. § 60118(d).)

Specifically, 49 U.S.C. section 60118(d) provides that, “[i]f a [Certification] . . . is in effect, the State authority *may*” — i.e., at its discretion — “waive compliance with a safety standard to which the [C]ertification . . . applies.” (*Id.* (emphasis added).) However, the statute imposes an important limitation on that authority: a State Waiver can only be issued “*in the same way and to the same extent that the Secretary [of Transportation] may waive compliance under subsection (c)*” of the statute. (*Id.* (emphasis added).) In other words, while a state authority has the discretion to grant a State Waiver, it can only do so by following the standards and procedures set forth in 49 U.S.C. section 60118(c). For “nonemergency waivers,” subsection (c) provides that the Secretary can issue a waiver “on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.” (49 U.S.C. § 60118(c)(1)(A).) In addition, subsection (c)(1)(B) explicitly states that “[t]he Secretary may act on a waiver . . . *only after notice and opportunity for a hearing.*” (49 U.S.C. § 60118(c)(1)(B) (emphasis added).) Finally, it directs that “[t]he Secretary *shall* state in an order issued under this subsection the reasons for granting the waiver.” (49 U.S.C. § 60118(c)(3) (emphasis added).)

These provisions are binding on states that are certified to regulate intrastate pipelines. (49 U.S.C. § 60105.) Thus, to grant a State Waiver, a state authority must (1) provide the public with notice and an opportunity for a hearing on the waiver application, (2) properly determine that the waiver would not be inconsistent with pipeline safety, and (3) provide a statement of reasons explaining its decision. (49 U.S.C. § 60118(c), (d).) (*See In Re MidAmerican Energy Co.*, 2002 WL 31155601 (2002) (when a certified state seeks a waiver pursuant to section 60118(d), the state agency must “give notice and opportunity for written comments and hearing before granting the waiver, unless the state agency finds that the notice is impractical, unnecessary, or not in the public interest.”).) Where a state authority fails to comply with one or more of these requirements, it violates the Federal PSA.

In addition to these federal requirements, California has its own pipeline safety law – the State PSA, Government Code § 51010 *et seq.* To the extent allowed by the Federal PSA, this law grants OSFM the “exclusive safety regulatory and enforcement authority over intrastate hazardous liquid pipelines” in

1 California, and it outlines a number of pipeline safety requirements above and beyond what is required by
2 federal minimum standards. (*See* Gov. Code § 51010.)

3 Like the Federal PSA, the State PSA allows for the waiver of certain safety requirements.
4 However, it imposes a higher standard for such “exemptions.” It states: “The State Fire Marshal may
5 exempt the application of regulations adopted pursuant to this section” — like Part 195’s federal minimum
6 safety standards — “to any pipeline, or portion thereof, when it is determined that the risk to public safety
7 is slight and the probability of injury or damage remote.” (Gov. Code § 51011(b).) Should the State Fire
8 Marshal grant an exemption, it must be in writing, and the notice of exemption “shall include a discussion
9 of those factors that the State Fire Marshal considers significant to the granting of the exemption.” (Gov.
10 Code. § 51011(c).)

11 Despite these clear mandates, OSFM considered and approved Sable’s applications for State
12 Waivers without any public opportunity to submit comments or participate in a hearing. Nor did OSFM
13 provide a public statement of reasons or discussion of the factors it considered in granting the Waivers.
14 These omissions are consequential and prejudicial, as evidenced by the concerns raised by pipeline safety
15 expert Richard Kuprewicz.

16 2. Petitioners are Likely to Prevail on the Merits Because OSFM Failed to Conduct
17 Environmental Review as Required by CEQA.

18 Second, Petitioners are likely to prevail on the merits because OSFM’s decision to approve the
19 State Waivers without any environmental review violates CEQA. CEQA was enacted to ensure that
20 government agencies consider the environmental consequences of their actions before approving projects.
21 (CEQA Guidelines §§ 15002, 15003; *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d. 247,
22 254-56.) In enacting CEQA, the state legislature intended the law “to be interpreted in such a manner as
23 to afford the fullest possible protection to the environment” (CEQA Guidelines § 15003(f); *Friends*
24 *of Mammoth*, 8 Cal. 3d at 259.)

25 A critical requirement of CEQA is the need to prepare an EIR for projects that *may* result in a
26 significant effect on the environment. (CEQA Guidelines § 15002(f)(1).) The purpose of an EIR is to
27 consider the significant effects of a project, as well as alternatives and mitigation measures that can avoid
28 or mitigate such effects. (Pub. Res. Code §§ 21002.1, 21061; CEQA Guidelines §§ 15003, 15126,

1 15126.2, 15126.4, 15126.6.) The EIR requirement “is the heart of CEQA.” (CEQA Guidelines § 15003(a);
2 *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.) “The EIR process protects not only the
3 environment but also informed self-government.” (*Laurel Heights Improvement Assn. v. Regents of*
4 *University of California* (1988) 47 Cal. 3d 376, 392.)

5 Where a prior EIR has been prepared and a new discretionary decision is requested, an agency
6 must consider whether any factors exist to require subsequent environmental review. These factors
7 include: (1) whether substantial changes are proposed in the project which require major revisions of the
8 earlier EIR due to the involvement of new significant environmental effects or a substantial increase in
9 the severity of previously identified significant effects; (2) whether substantial changes occur with respect
10 to the circumstances under which the project is being undertaken which require major revisions to the EIR
11 due to new significant effects or a substantial increase in the severity of significant effects; or (3) whether
12 new information, which was not known and could not have been known at the time the EIR was certified,
13 becomes available and shows, *inter alia*, the existence of new significant effects or a substantial increase
14 in the severity of impacts. (Pub. Res. Code § 21166; CEQA Guidelines § 15162.)

15 In this case, an EIR was prepared in 1985 for the original pipeline project (“1985 EIR”). The EIR
16 stated that “protection of a pipeline from corrosion is of critical importance.” (RJN, Exhibit I, p. 4-106.)
17 In its analysis of the project, the EIR noted that the entire pipeline would be equipped with a corrosion
18 protection system which would be “very effective” at reducing impacts from oil spills. (RJN, Exhibit I,
19 pp. 2-5, 4-106, 4-117; RJN, Exhibit J, pp. 2-57, 2-94, Appendix 4.3, pp. 4-53 - 4-55.) However, the
20 corrosion protection system failed, and Sable now seeks waivers for the limited effectiveness of cathodic
21 protection.

22 When OSFM exercised its discretion to consider Sable’s request for the Waivers, the agency was
23 required to determine whether any of the factors necessitating subsequent environmental review applied
24 to the request. OSFM, however, failed to do so.

25 A subsequent EIR is required in this case for three reasons. First, operating the Pipeline System
26 without an effective cathodic protection system throughout the entire length of the pipeline constitutes a
27 change in the project that increases the risk and severity of impacts and requires major revisions to the
28 1985 EIR. (CEQA Guidelines § 15162(a)(1).) As noted by Mr. Kuprewicz, the State Waivers do not

1 provide the same protection against corrosion as an effective cathodic protection system. (Kuprewicz Dec.
2 ¶¶ 10, 11.) The increased probability of corrosion results in a substantial increase in the severity of
3 previously identified impacts from oil spills and requires preparation of a subsequent EIR.

4 Second, the failure of the Pipeline System's cathodic protection system and resulting corrosion
5 constitutes a change in circumstances that requires a subsequent EIR. The corroded condition of the
6 pipeline is a change in circumstance. In addition, without effective cathodic protection, the pipeline is
7 vulnerable to further pervasive, continuous, and progressive corrosion that was not accounted for in the
8 1985 EIR. This changed circumstance increases the risk and severity of potential oil spill-related impacts
9 and thus requires preparation of a subsequent EIR. (CEQA Guidelines § 15162(a)(2).)

10 Third, it was only after the 2015 spill that the Pipeline System was discovered to lack effective
11 cathodic protection. This new information, which shows that the risk of an oil spill is substantially more
12 severe than previously determined, could not have been known with the exercise of reasonable due
13 diligence when the 1985 EIR was certified thirty-one years earlier. As to buried, insulated lines more
14 generally, no formal report existed as to the ineffectiveness of cathodic protection prior to an industry
15 analysis published by NACE in 1992 — seven years after certification of the 1985 EIR. (RJN, Exhibit B,
16 p. 2.) Accordingly, that cathodic protection is ineffective on the Pipeline System constitutes new
17 information that was not known, and could not have been known, when the previous EIR was certified.
18 Thus, OSFM is required to prepare a subsequent EIR to ensure an adequate analysis of the potential
19 impacts of operating the Pipeline System without effective cathodic protection. (CEQA Guidelines, §
20 15162(a)(3).)

21 The requirement for subsequent environmental review is critical to OSFM's decision regarding
22 the requested Waivers. The serious risk of an oil spill from restarting the Pipeline System is evidenced by
23 the County's 2022 analysis, which predicted a spill every year and a rupture every four years. (Krop Dec.,
24 Exhibit E.) In addition, Mr. Kuprewicz explained in his report why the Waivers and associated testing
25 protocols will not sufficiently reduce the risk of corrosion and another oil spill. (Kuprewicz Dec.)

26 Not only is the risk of a spill greater than previously understood, but the consequences of a spill
27 will likely be greater. The 1985 EIR did not predict a spill as large as the 2015 spill, and the County's
28 2022 Administrative Draft EIR predicted an oil spill that could be even larger if the Pipeline System is

1 restarted. (Krop Dec., Exhibit E, p. 5.6-79.) The potentially devastating impacts of such a spill are borne
2 out by what happened in 2015. As noted above, that spill devastated more than 100 miles of the California
3 coast, as far south as Los Angeles County. (RJN, Exhibit A, p. 17.) Thousands of acres of shoreline and
4 subtidal habitat were destroyed, and an untold number of animals — including marine mammals — were
5 injured or killed. (*Id.*, p. 3.) The spill also forced the closure of fisheries and beaches, which jeopardized
6 local businesses and caused an estimated 140,000 lost recreational user days between Santa Barbara and
7 Ventura Counties. (*Id.*)

8 A recent report issued by the California Coastal Commission (CCC) identified the numerous
9 natural resources that occur within and near the Pipeline System. (RJN, Exhibit C.) As described by the
10 CCC, the Pipeline System is located within and near state-protected environmentally sensitive habitats,
11 including coastal scrub, chaparral, riparian and wetland habitat, woodlands, and annual and native
12 grasslands. (*Id.*, p. 5.) Not only are these areas protected under the California Coastal Act (Public
13 Resources Code section 30000 *et seq.*), but many are home to rare, threatened, and endangered species
14 such as southern California steelhead, California red-legged frog, southwestern pond turtle, and marine
15 mammals. (*Id.*, p. 6.)

16 The Central Coast Regional Water Quality Control Board (CCRWQCB) also identified significant
17 waterways along the Pipeline System. (RJN, Exhibit F.) These areas include Arroyo Quemada Creek,
18 several drainages, and tributaries to Cuyama River, Peterson Creek, Nojoqui Creek, and Foxen Canyon
19 (*Id.*, p. 4.)

20 Restarting the Pipeline System without effective cathodic protection poses significant risk and
21 impacts to these sensitive resources. In addition, an oil spill from the onshore pipeline can have a
22 devastating effect on marine resources. (RJN, Exhibit A.) Accordingly, Respondents must prepare a
23 subsequent EIR to analyze these new or increased impacts. Such review must occur *before* a decision is
24 made to allow restart of the pipelines.

25 **D. The Harm to Petitioners if Injunctive Relief is Denied Outweighs any Harm to Sable.**

26 If the court finds it likely that Petitioners will prevail on the merits, it may issue a preliminary
27 injunction regardless of the severity of the harm at issue. (*Right Site Coalition v. Los Angeles Unified*
28 *School Dist.* (2008) 160 Cal.App. 4th 336, 342 (quoting *King v. Meese* (1987) 43 Cal.3d 1217, 1227).)

1 “This is especially true when the requested injunction maintains, rather than alters, the status quo.” (*Id.*)
2 In fact, where a party makes a “sufficiently strong showing of likelihood of success on the merits, the trial
3 court has discretion to issue the injunction notwithstanding that party’s inability to show that the balance
4 of harms tips in his favor.” (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 447.)

5 In this case, Petitioners have made a strong showing on the merits, especially given the clear
6 mandate for a public hearing to be held prior to approving a waiver. (49 U.S.C. § 60118(d).) In addition,
7 Petitioners have demonstrated a clear violation of CEQA’s clear mandate for informed decision making
8 and public participation. (*Tulane Lake Canal Co.*, 92 Cal. App. 5th at 415.)

9 Regardless, an injunction is warranted here due to the significant harm to Petitioners and the public
10 — not only because of the great and irreparable harm to unique, irreplaceable natural resources, but also
11 because of Respondents’ failure to even consider the impacts of the project or allow for public input.
12 These harms outweigh any temporary delay for Sable. Not only would any delay be short-lived, but any
13 effects of delay are mitigated by the fact that Sable still needs approvals and must comply with
14 requirements imposed by several other agencies, including the CCC, CCRWQCB, Department of
15 Conservation, California Department of Fish and Wildlife, and California Department of Parks and
16 Recreation, before it can proceed with restart of the Pipeline System. (RJN, Exhibit M.)

17 **V. CONCLUSION**

18 For the reasons stated above, Petitioners request a stay or, in the alternative, a temporary restraining
19 order to prevent serious harm pending proper environmental and public review.

20
21 Dated: June 2, 2025

Respectfully submitted,

ENVIRONMENTAL DEFENSE CENTER



By: _____

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