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.)