

11/28/2023

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[NO FEE – Gov. Code § 6103]

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF SANTA BARBARA**

12 **Anacapa Division**

13 PEOPLE OF THE STATE OF CALIFORNIA,

14 Plaintiff,

15 vs.

16 SANTA BARBARA COUNTY
17 DEPARTMENT OF PUBLIC WORKS,
18 WATER RESOURCES DIVISION

19 Defendant.

Case No.: **23CV05236**

**COMPLAINT FOR CIVIL PENALTIES,
INJUNCTION, AND OTHER RELIEF**

(Govt. Code §§ 8670.66(a)(3),
8670.66(a)(4), 8670.64(c)(2)(C),
8670.64(c)(2)(D), 8670.25.5; Fish & Game
Code, §§ 1615, 5650.1; Health and Safety
Code §§ 25299(a)(1), 25299(a)(6) 25189(d),
25515(a), 25509(a), 25508(a);
Santa Barbara County Ordinance, §§ 18C-
41, 18C-43)

20 Plaintiff, The People of the State of California, allege the following based on
21 information and belief.

22 **PLAINTIFF**

23 1. The People bring this action by and through John T. Savrnoch, District Attorney
24 of Santa Barbara County, in the public interest in the name of the People of the State of
25 California (hereinafter “Plaintiff”), for the purpose of protecting the public health, safety, and
26 welfare.

27 2. Pursuant to Government Code sections 8670.57, 8670.58, and 8670.66, a District
28 Attorney may bring a civil action in the name of the People of the State of California for civil

1 penalties and injunctive relief for violations of Chapter 7.4 of Division 1 of Title 2 of the
2 Government Code (the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act).

3 3. Pursuant to Fish and Game Code sections 1615 and 5650.1, a District Attorney
4 may bring a civil action in the name of the People of the State of California for civil penalties
5 and injunctive relief for violations of Fish and Game Code sections 1602 and 5650,
6 respectively.

7 4. Pursuant to Health and Safety Code sections 25299, 25299.01, and 25299.02, a
8 District Attorney may bring a civil action in the name of the People of the State of California for
9 civil penalties and injunctive relief for violations of Chapter 6.7 of Division 20 of the Health
10 and Safety Code (Underground Storage of Hazardous Substances).

11 5. Pursuant to Health and Safety Code sections 25181, 25182, 25189, and 25189.2,
12 a District Attorney may bring a civil action in the name of the People of the State of California
13 for civil penalties and injunctive relief for violations of Chapter 6.5 of Division 20 of the Health
14 and Safety Code (Hazardous Waste Control).

15 6. Pursuant to Health and Safety Code sections 25515, 25515.6, and 25515.7, a
16 District Attorney may bring a civil action in the name of the People of the State of California for
17 civil penalties and injunctive relief for violations of Health and Safety Code sections 25504 to
18 25508.2, inclusive, and section 25511 (Hazardous Materials Release Response Plans and
19 Inventory, Business and Area Plans).

20 7. Pursuant to Santa Barbara County Ordinance sections 1-7, 18C-48, and 18C-49,
21 the District Attorney may apply to the Superior Court for orders enjoining practices in violation
22 of Article III of Chapter 18C of the County Ordinance and for civil penalties for these
23 violations.

24 8. By this action, Plaintiff seeks to enjoin Defendant from violating the laws and
25 regulations related to oil spill prevention and response, water pollution, stream alteration,
26 wildlife harm, hazardous waste control, underground storage of hazardous substances, and
27 handling of hazardous materials.

1 9. The actions of Defendant as set forth below are in violation of the laws and
2 public policies of the State of California, and as such are inimical to the health, safety, rights,
3 and interests of the general public.

4 10. Plaintiff brings this action without prejudice to any other action or claim which
5 Plaintiff may have based on separate, independent, and unrelated violations arising out of
6 matters or allegations that are not set forth in this complaint.

7 **JURISDICTION AND VENUE**

8 11. The activities and conditions constituting violations of state law alleged herein
9 occurred in the County of Santa Barbara.

10 12. This Court has jurisdiction pursuant to Article 6, section 10 of the California
11 Constitution, and sections 393 and 395.5 of the Code of Civil Procedure.

12 13. Venue is proper in this division of the Superior Court because the alleged
13 violations occurred in the unincorporated area of Toro Canyon, located between the
14 unincorporated town of Montecito and the City of Carpinteria.

15 **DEFENDANT**

16 14. Defendant Santa Barbara County Department of Public Works, Water Resources
17 Division (“Department of Public Works WRD”) is a Departmental Agency under the control of
18 Santa Barbara County, California (the “County”) acting at the direction of the Department of
19 Public Works. At all relevant times, the Department of Public Works WRD operated within
20 Santa Barbara County.

21 15. Whenever this Complaint references any act of the Defendant, such allegation
22 shall be deemed to mean that the Defendant and its officers, agents, employees, or
23 representatives, did or authorized acts while actively engaged in the management, direction, or
24 control of the affairs of the Defendant, and while acting within the course and scope of their
25 duties. When reference is made herein to any act or omission of the Defendant, such allegation
26 shall include the act or omission of the officers, directors, employees, agents, and
27 representatives of the Defendant, and each of them, engaged in said acts or omissions.
28

1 **GENERAL ALLEGATIONS**

2 **A. The County’s Operation of the Toro Canyon Oil Water Separator**

3 16. The Department of Public Works WRD operates the Toro Canyon Oil Water
4 Separator System (“Oil Water Separator System”) at the top of Toro Canyon Creek, a waterway
5 that begins in Toro Canyon and reaches the Pacific Ocean between Summerland and
6 Carpinteria. The Oil Water Separator System consists of an underground unit that collects and
7 separates crude oil and water from a seep near the beginning of Toro Canyon Creek. The
8 System allows the separated water to flow into Toro Canyon Creek, and directs the oil through a
9 pipeline that runs down Toro Canyon to an underground storage tank (“UST”). A diagram of
10 the System is attached as Exhibit 1.

11 17. The current Oil Water Separator System was installed by the United States
12 Environmental Protection Agency (“EPA”) in the late 1990s. EPA managed the System for
13 approximately ten years until the County of Santa Barbara agreed to assume full responsibility
14 for it in 2008. After 2008, EPA had no involvement in or jurisdiction over the Oil Water
15 Separator System. In order to increase its control over the System, in 2009, the County
16 purchased a portion of the land on which the System sits.

17 18. Within the County, the Department of Public Works WRD is the entity
18 responsible for operating and managing the Oil Water Separator System. Before the EPA
19 transitioned the System to County officials, the EPA provided Department of Public Works
20 WRD employees with extensive training and information on how to properly manage the
21 System, including how to conduct all required maintenance and obtain required permits.

22 19. The oil collected at the Oil Water Separator System is classified as a hazardous
23 material. Therefore, the County’s Certified Unified Program Agency (“CUPA”), the agency
24 that regulates USTs and entities that handle hazardous materials, also offered assistance to the
25 Department of Public Works WRD.

26 20. In addition, the County received approximately \$100,000 in grant funding from
27 the California State Water Resources Control Board’s Cleanup and Abatement Account
28

1 (SWRCB) to operate and maintain the System for ten years. The EPA estimated that this would
2 cover about half of the cost to legally operate and maintain it.

3 21. The Department of Public Works WRD, however, failed to properly maintain the
4 Oil Water Separator System and did not obtain *any* of the permits required to operate it. For
5 example, although relevant regulations require periodic testing of the integrity of USTs by
6 trained professionals, the Department of Public Works WRD did not hire anyone who was
7 qualified to perform these inspections.

8 22. Email communications among the Department of Public Works WRD employees
9 show that those involved in managing the System were aware of the legal requirements but that
10 they avoided compliance because it was too costly and onerous. As a result, rather than
11 spending approximately \$20,000 per year on System operation and maintenance as the EPA had
12 estimated, by 2019, the County had only spent an average of approximately \$6,700 per year.

13 23. By the time of the Thomas Fire in December 2017, the Department of Public
14 Works WRD had been performing minimal maintenance on this System for nearly ten years.
15 Compounding matters, when the Thomas Fire burned through the area, it melted portions of the
16 underground pipeline that carried oil from the separator to the UST. Documents show that by
17 January 17, 2018, oil was leaking from multiple locations in the pipeline and was “visibly
18 contaminating the creek.”

19 24. Rather than report the leaks to CUPA, as the law requires, or hire a contractor to
20 replace the burned pipeline, the Department of Public Works WRD directed employees to
21 implement band-aid solutions, including repairing the pipeline with gorilla tape. These
22 temporary measures allowed oil to flow from the pipeline and into Toro Canyon Creek
23 intermittently for over a year. The Department of Public Works WRD only began repairing the
24 leaks in 2020 after obtaining an additional \$56,000 in grant funding from the SWRCB.

25 25. After the Department of Public Works spent nearly \$14,000 preparing public bid
26 documents, there was only enough SWRCB funding to partially repair the pipeline. As a result,
27 the pipeline was still leaking in the lower end of the Oil Water Separator System near the UST.
28

1 **B. 2020 Oil Spill and Response**

2 26. By August 3, 2020, the oil leaking in the lower area of the System became
3 visible aboveground. On that day, a Department of Public Works WRD employee noticed the
4 oil and reported it to the Director and Deputy Director of the Department of Public Works. No
5 one from within the Department of Public Works reported it to CUPA or to California’s Office
6 of Emergency Services (“CalOES”) until seventeen days later on August 20, 2023. The law
7 requires that oil spills of this nature be reported to both CUPA and CalOES *immediately*.

8 27. When the Department of Public Works finally did report the spill, CUPA
9 immediately visited the site to conduct an inspection. For the past eleven years, the Department
10 of Public Works WRD had operated the site without obtaining any of the required CUPA
11 permits. As a result, when CUPA received the spill report, CUPA officials were not even aware
12 the System was still operational.

13 28. CUPA’s inspection of the Oil Water Separator System revealed a significant
14 number of violations, including the failure to have a Hazardous Materials Business Plan
15 outlining how to handle spills. Additionally, CUPA noted serious deficiencies with the UST’s
16 integrity, and compounding those issues, the System’s leak-detection alarm no longer
17 functioned. The Department of Public Works was given three months, until December 9, 2020,
18 to correct these violations.

19 29. By December 9, 2020 the Department of Public Works WRD had not addressed
20 any of the violations, and it had taken very few steps to control the oil that was actively leaking
21 from the pipeline. Instead, the Department of Public Works WRD embarked on a months-long
22 process of applying for grant funding from the SWRCB. Meanwhile, oil continued saturating
23 the soil and began migrating toward Toro Canyon Creek. On December 3, 2020, a Department
24 of Public Works WRD employee wrote in an email: “Each day, more and more oil is leaking out
25 of that pipe and soaking into the ground and it worries me.”

26 30. In October, 2020, before oil ever reached the creek, the Department of Public
27 Works WRD obtained an estimate to fix the leak, remediate the soil, and protect the creek for
28 \$90,000. However, rather than address the situation, Department of Public Works management

1 decided to wait for grant funding, allowing oil to accumulate in the soil and eventually flow into
2 Toro Canyon Creek.

3 31. By January 21, 2021, Department of Public Works WRD employees noticed that
4 the oil was spilling into Toro Canyon Creek at an alarming rate.

5 32. Ten days later, on February 1, 2021, the SWRCB approved approximately
6 \$140,000 in funding to address the situation. However, because the SWRCB attached a
7 condition that the County continue to properly operate and maintain the Oil Water Separator
8 System, the County did not initially accept the funding.

9 33. Meanwhile, oil continued flowing into Toro Canyon Creek, which became
10 increasingly saturated as representatives from the California Department of Fish and Wildlife
11 (CDFW), Santa Barbara County Fire, and CUPA all pushed for the Department of Public Works
12 WRD to take action. Exhibit 2 shows that much of Toro Canyon Creek was completely
13 saturated with oil by March 26, 2021. Like the agencies, homeowners in the area expressed
14 concern writing to one Department of Public Works WRD employee on April 17, 2021:
15 “substantial amounts of oil are flowing into the creek.”

16 34. On May 4, 2021, the County Board of Supervisors voted to accept SWRCB
17 funding. However, once again, rather than taking immediate action to address the oil that had
18 been continuously spilling into the creek for five months, the Department of Public Works
19 WRD took the next few weeks to draft public bidding documents. It was not until July 2021
20 that the Department of Public Works WRD had approved a contractor to begin fixing the
21 pipeline and remediating the oil in the creek. By that time, Toro Canyon Creek was completely
22 saturated with oil for the entire length that the creek flowed on the surface—which was more
23 than 250 feet downstream of the leak. Exhibits 3, 4, and 5 show the progression of oil
24 downstream in Toro Canyon Creek between May 27, 2021 and June 8, 2021.

25 35. When the Department of Public Works WRD finally began addressing the issue
26 in July, 2021, they started work without notifying any of the relevant regulatory agencies.
27 Although email communications show employees were aware that a CDFW permit was needed
28 to perform work inside the creek, they instructed contractors to begin vacuuming the creek with

1 hoses and vacuum trucks without notifying CDFW and without performing any of the required
2 environmental impact assessments.

3 36. When CDFW learned about the work being performed, CDFW ordered the
4 Department of Public Works WRD to conduct remediation under CDFW supervision. Over the
5 next several months, from July, 2021 to at least October, 2021, Department of Public Works
6 WRD contractors worked to clean the oil from Toro Canyon Creek and to fix the pipeline.

7 37. Ultimately, creek cleanup alone cost the County nearly \$700,000. In addition,
8 the County's lack of timely response and legally-required notification had a significant
9 environmental impact. Toro Canyon Creek is a major wildlife corridor that supports numerous
10 species of birds, mammals, and aquatic animals—including many species of special concern.
11 Toro Canyon Creek itself is home to many of these species, but larger animals such as bears and
12 mountain lions rely on the creek for its year-round water supply. Because of the oil, however,
13 area residents resorted to leaving water in their yards for the animals to drink.

14 38. Additionally, due to the extensiveness of the oil saturation in the creek, CDFW
15 had to call on the assistance of multiple animal rescue organizations, including UC Davis Oiled
16 Wildlife Care Network. In all, 14 mammals and 18 birds were found dead; 93 reptiles and
17 amphibians were covered in oil and had to be cleaned and released; and one amphibian died
18 before it could be released.

19 39. Despite these impacts, the Department of Public Works WRD did not even begin
20 to remedy the violations CUPA found until November, 2021. On November 22 and 23, 2021,
21 the Department of Public Works WRD finally submitted the required hazardous materials
22 business plans. Still, by September 30, 2022, the Department of Public Works WRD had not
23 addressed any of the deficiencies with the Oil Water Separator System's UST.

24 **C. 2023 Oil Spill**

25 40. On September 30, 2022, CUPA again inspected the Oil Water Separator
26 System's UST. During its inspection, CUPA noted that the same violations they had cited on
27 October 9, 2020 and September 28, 2021 had not been addressed.

1 41. In the September 30, 2022 inspection report CUPA found that the County had
2 failed to do any of the following with regard to the UST:

- 3 a. Obtain an operating permit;
- 4 b. Operate the UST in a way to prevent or minimize the risk of a hazardous
5 materials release;
- 6 c. Have proper leak-detection equipment;
- 7 d. Maintain tight secondary containment to ensure there were no leaks from the
8 tank;
- 9 e. Test secondary containment to ensure a leak could be prevented; and
- 10 f. Test overflow alarms and ensure such alarms properly functioned.

11 42. Because of these deficiencies, in the early morning hours of January 1, 2023,
12 during a rainstorm, the UST overflowed. Since the leak-detection alarm was not working, no
13 one learned of the spill until nine hours later when one of the neighbors saw oil flowing in Toro
14 Canyon Creek. Santa Barbara County Fire officials arrived on scene and attempted to notify
15 Department of Public Works WRD's emergency contact, but the phone number provided in
16 hazardous materials business plan was disconnected. By law, Department of Public Works
17 WRD was required to update its hazardous materials business plan with any changes to its
18 emergency contact information.

19 43. Eventually, CUPA and County Fire officials were able to reach Department of
20 Public Works WRD employees, who arrived to address the situation. CDFW officials
21 immediately arrived on scene to direct remediation. By the time Department of Public Works
22 WRD employees were able to control the situation, however hundreds of gallons of oil had
23 spilled from the UST and oil was flowing downstream for at least half a mile.

24 44. The issues with the Oil Water Separator System's UST still have not been fully
25 addressed, although the County has now invested in a project to replace the UST with an above-
26 ground tank.

1 **FIRST CAUSE OF ACTION**

2 **Intentional or Negligent Spill of Oil**

3 **Government Code section 8670.66, subdivision (a)(3)**

4 45. Plaintiff realleges paragraphs 1 to 44, inclusive.

5 46. In relevant part, Government Code section 8670.66(a)(3) states:

6 (a) Any person who intentionally or negligently does any of the
7 following acts shall be subject to a civil penalty for a spill of not less
8 than fifty thousand dollars (\$50,000) or more than one million
9 dollars (\$1,000,000), for each violation, and each day or partial day
10 that a violation occurs is a separate violation: ... (3) Is responsible
11 for a spill, unless the discharge is authorized by the United States,
12 the state, or other agency with appropriate jurisdiction.

13 47. “Spill” is defined as “a release of any amount of oil into waters of the state that is
14 not authorized by a federal, state, or local government entity.” (Gov. Code, § 8670.3,
15 subd. (ag).)

16 48. Defendant violated Government Code section 8670.66(a)(3) by intentionally or
17 negligently spilling crude oil into Toro Canyon Creek, a water of the state, without
18 authorization from the United States, the state of California, or any other agency with
19 appropriate jurisdiction.

20 49. Based on the above, the People request injunctive relief under Government Code
21 section 8670.57 and civil penalties under section 8670.66(a)(3).

22 **SECOND CAUSE OF ACTION**

23 **Intentional or Negligent Failure to Oil Begin Cleanup**

24 **Government Code section 8670.66, subdivision (a)(4)**

25 50. Plaintiff realleges paragraphs 1 to 44, inclusive.

26 51. In relevant part, Government Code section 8670.66(a)(4) states:

27 (a) Any person who intentionally or negligently does any of the following acts
28 shall be subject to a civil penalty for a spill of not less than fifty thousand dollars
(\$50,000) or more than one million dollars (\$1,000,000), for each violation, and
each day or partial day that a violation occurs is a separate violation: ... (4) Fails
to begin cleanup, abatement, or removal of oil as required in Section 8670.25.

1 52. Government Code section 8670.25 states:

2 (a) A person who, without regard to intent or negligence, causes or permits any
3 oil to be discharged in or on the waters of the state shall immediately contain,
4 clean up, and remove the oil in the most effective manner that minimizes
5 environmental damage and in accordance with the applicable contingency plans,
6 unless ordered otherwise by the Coast Guard or the administrator.

7 (b) If there is a spill, an owner or operator shall comply with the applicable oil
8 spill contingency plan approved by the administrator.

9 53. Defendant violated Government Code section 8670.66(a)(4) by failing to begin
10 cleanup, abatement, or removal of the oil Defendant caused or permitted to be discharged into
11 Toro Canyon Creek as required in Government Code section 8670.25. Defendant did not
12 immediately contain, clean up, or remove the oil in the most effective manner that minimized
13 environmental damage in accordance with any applicable contingency plan, and the Coast
14 Guard or administrator did not order Defendant otherwise. Defendant did not have an oil spill
15 contingency plan approved by the administrator and therefore could not comply with such a
16 plan.

17 54. Based on the above, the People request injunctive relief under Government Code
18 section 8670.57 and civil penalties under section 8670.66(a)(4).

19 **THIRD CAUSE OF ACTION**

20 **Intentional or Negligent Continuation of Operations Without Oil Spill Contingency Plan**

21 **Government Code section 8670.64, subdivision (c)(2)(C)**

22 55. Plaintiff realleges paragraphs 1 to 44, inclusive.

23 56. In relevant part, Government Code section 8670.66(b) states:

24 Except as provided in subdivision (a), any person who intentionally or
25 negligently violates any provision of this chapter ... or any permit, rule,
26 regulation, standard, or requirement issued or adopted pursuant to those
27 provisions, shall be liable for a civil penalty not to exceed two hundred fifty
28 thousand dollars (\$250,000) for each violation of a separate provision, or, for
continuing violations, for each day that violation continues.

57. Government Code section 8670.64(c)(2)(C) prohibits any person from
“[c]ontinuing operations for which an oil spill contingency plan is required without an oil spill
contingency plan approved pursuant to Article 5.”

1 58. Defendant violated Government Code section 8670.64(c)(2)(C) by intentionally
2 or negligently continuing operations for which an oil spill contingency plan was required
3 without having such a plan approved pursuant to Article 5.

4 59. Based on the above, the People request injunctive relief under Government Code
5 section 8670.57 and civil penalties under section 8670.66(b).

FOURTH CAUSE OF ACTION

Intentional or Negligent Failure to Follow Oil Spill Contingency Plan

Government Code section 8670.64, subdivision (c)(2)(D)

9 60. Plaintiff realleges paragraphs 1 to 44, inclusive.

10 61. In relevant part, Government Code section 8670.66(b) states:

11 Except as provided in subdivision (a), any person who intentionally or
12 negligently violates any provision of this chapter ... or any permit, rule,
13 regulation, standard, or requirement issued or adopted pursuant to those
14 provisions, shall be liable for a civil penalty not to exceed two hundred fifty
thousand dollars (\$250,000) for each violation of a separate provision, or, for
continuing violations, for each day that violation continues.

15 62. In relevant part, Government Code section 8670.64(c)(2)(D) prohibits any
16 person from “knowingly failing to follow the material provisions of an applicable oil spill
17 contingency plan.”

18 63. Defendant violated Government Code section 8670.64(c)(2)(D) by knowingly
19 failing to follow the material provisions of an applicable oil spill contingency plan, for the
20 reason that Defendant did not have an oil spill contingency plan in place.

21 64. Based on the above, the People request injunctive relief under Government Code
22 section 8670.57 and civil penalties under section 8670.66(b).

FIFTH CAUSE OF ACTION

Failure to Immediately Report Oil Spill

Government Code section 8670.25.5

26 65. Plaintiff realleges paragraphs 1 to 44, inclusive.

27 66. In relevant part, Government Code section 8670.66(b) states:
28

1 Except as provided in subdivision (a), any person who intentionally or
2 negligently violates any provision of this chapter ... or any permit, rule,
3 regulation, standard, or requirement issued or adopted pursuant to those
4 provisions, shall be liable for a civil penalty not to exceed two hundred fifty
thousand dollars (\$250,000) for each violation of a separate provision, or, for
continuing violations, for each day that violation continues.

5 67. Government Code section 8670.25.5(a)(1) states: “[w]ithout regard to intent or
6 negligence, any party responsible for the discharge or threatened discharge of oil in waters of
7 the state shall report the discharge immediately to the Office of Emergency Services pursuant to
8 Section 25510 of the Health and Safety Code.”

9 68. Defendant violated Government Code section 8670.25.5 by failing to
10 immediately report the discharge of oil in Toro Canyon Creek to the Office of Emergency
11 Services.

12 69. Based on the above, the People request injunctive relief under Government Code
13 section 8670.57 and civil penalties under section 8670.66(b).

14 **SIXTH CAUSE OF ACTION**

15 **Unlawful Streambed Alteration**

16 **Fish and Game Code sections 1602, subdivision (a), and 1615, subdivision (a)**

17 70. Plaintiff realleges paragraphs 1 to 44, inclusive.

18 71. Fish and Game Code section 1615(a) states: “[a]n entity that violates this chapter
19 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each
20 violation.”

21 72. Fish and Game Code section 1615(e) authorizes injunctive relief in civil actions
22 brought pursuant to Chapter 6 of Division 2 of the Fish and Game Code.

23 73. Chapter 6 of Division 2 of the Fish and Game Code includes section 1602.

24 74. Fish and Game Code section 1602(a) provides, in pertinent part:

25 An entity shall not substantially divert or obstruct the natural flow of, or
26 substantially change or use any material from the bed, channel, or bank of, any
river, stream, or lake ... unless all of the following occur:

- 27 (1) The [D]epartment [of Fish and Wildlife (“Department”)] receives written
28 notification regarding the activity in the manner prescribed by the
[D]epartment ...

1 (2) The [D]epartment determines the notification is complete ...

2 (3) The entity pays the applicable fees ... [and]

3 (4) One of the following occurs:

4 (A)(i) The [D]epartment informs the entity, in writing, that the
5 activity will not substantially adversely affect an existing fish or
6 wildlife resource, and that the entity may commence the activity
without an agreement ...

7 (B) The [D]epartment determines that the activity may substantially
8 adversely affect an existing fish or wildlife resource and issues a final
9 agreement [called a Lake and Streambed Alteration Agreement, or
10 “LSA Agreement”] to the entity that includes reasonable measures
necessary to protect the resource, and the entity conducts the activity
in accordance with the agreement.

11 (C) A panel of arbitrators issues a final agreement to the entity in
12 accordance with subdivision (b) of Section 1603, and the entity
conducts the activity in accordance with the agreement. [or]

13 (D) The [D]epartment does not issue a draft agreement to the entity
14 within 60 days from the date notification is complete, and the entity
conducts the activity as described in the notification[.]

15 75. Defendant violated section 1602(a) by substantially diverting or obstructing the
16 natural flow of water from, or substantially changing or using a material from the bed, channel,
17 or bank of a stream without notifying the Department and without an LSA Agreement.

18 76. Based on the above, the People request injunctive relief under Fish and Game
19 Code section 1615(e) and civil penalties under section 1615(a).

20 **SEVENTH CAUSE OF ACTION**

21 **Water Pollution**

22 **Fish and Game Code sections 5650, subdivision (a)(1), and 5650.1**

23 77. Plaintiff realleges paragraphs 1 to 44, inclusive.

24 78. Fish and Game Code section 5650.1(e) authorizes injunctive relief in civil
25 actions brought under section 5650.1.

26 79. Fish and Game Code section 5650(a)(1) provides, in relevant part: “it is unlawful
27 to deposit in, permit to pass into, or place where it can pass into the waters of this state ... Any
28

1 petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of
2 petroleum, or carbonaceous material or substance.”

3 80. Defendant violated section 5650(a)(1) by depositing or permitting to pass into, or
4 placing where it can pass into the waters of this state, petroleum.

5 81. Based on the above, the People request injunctive relief under Fish and Game
6 Code section 5650.1(e).

7 **EIGHTH CAUSE OF ACTION**

8 **Operating an Underground Storage Tank Without a CUPA Permit**

9 **Health and Safety Code section 25299, subdivision (a)(1)**

10 82. Plaintiff realleges paragraphs 1 to 44, inclusive.

11 83. Health and Safety Code section 25299(a)(1) states:

12 An operator of an underground tank system is liable for a civil penalty of not less
13 than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) for
14 each underground storage tank, for each day of violation, for any of the
15 following violations: ... Operating an underground tank system that has not been
16 issued a permit, in violation of this chapter.

17 84. Defendant violated Health and Safety Code section 25299(a)(1) by operating an
18 UST system that had not been issued a permit by the Santa Barbara County Certified Unified
19 Program Agency, in violation of section 25284(a)(1).

20 85. Based on the above, the People request injunctive relief under Health and Safety
21 Code section 25299.01 and civil penalties under section 25299(a)(1).

22 **NINTH CAUSE OF ACTION**

23 **Underground Storage Tank Violations by Operator**

24 **Health and Safety Code section 25299, subdivision (a)(6)**

25 86. Plaintiff realleges paragraphs 1 to 44, inclusive.

26 87. Health and Safety Code section 25299(a)(6) states:

27 An operator of an underground tank system is liable for a civil penalty of not less
28 than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) for
each underground storage tank, for each day of violation, for any of the
following violations: ... Violation of an applicable requirement of this chapter or
a regulation adopted by the board pursuant to Section 25299.3.

1 88. Defendant violated Health and Safety Code section 25299(a)(6) by violating the
2 following Health and Safety Code sections and applicable regulations:

- 3 a. Health and Safety Code section 25290.1(c)(1), by failing to construct,
4 operate, and maintain primary containment as product tight and compatible
5 with the stored product;
- 6 b. Health and Safety Code section 25290.1(c)(2), by failing to construct,
7 operate, and maintain secondary containment as product tight;
- 8 c. Health and Safety Code section 25291(b), by failing to have a UST system
9 “designed and constructed with a monitoring system capable of detecting the
10 entry of the hazardous substance stored in the primary containment into the
11 secondary containment”;
- 12 d. Health and Safety Code section 25292.1(a), by failing to operate a UST
13 system “to prevent unauthorized releases, including spills and overfills,
14 during the operating life of the tank, including during gauging, sampling, and
15 testing for the integrity of the tank”;
- 16 e. California Code of Regulations, title 23, section 2635(e)(8), by failing to
17 indicate “[t]he actual location and orientation of the tanks and appurtenant
18 piping systems ... on as-built drawings of the facility” and failing to submit
19 “[c]opies of all drawings, photographs, and plans ... to the local agency for
20 approval”;
- 21 f. California Code of Regulations, title 23, section 2637(a)(1)(A), by failing to
22 test the secondary containment system at least once every 36 months;
- 23 g. California Code of Regulations, title 23, section 2638(a), by failing to certify
24 all monitoring equipment “every 12 months for operability, proper operating
25 condition, and proper calibration”; and
- 26 h. California Code of Regulations, title 23, section 2716(a), by failing to “have
27 a visual inspection performed by a designated UST operator at least once
28 every 30 days in accordance with all subdivisions” of section 2716.

1 89. Based on the above, the People request injunctive relief under Health and Safety
2 Code section 25299.01 and civil penalties under section 25299(a)(6).

3 **TENTH CAUSE OF ACTION**

4 **Negligent Disposal of Hazardous Waste at Unauthorized Point**

5 **Health and Safety Code section 25189, subdivision (d)**

6 90. Plaintiff realleges paragraphs 1 to 44, inclusive.

7 91. In relevant part, Health and Safety Code section 25189(d) states:

8 A person who negligently disposes or causes the disposal of a hazardous or
9 extremely hazardous waste at a point that is not authorized according to the
10 provisions of this chapter shall be subject to a civil penalty of not more than
11 seventy thousand dollars (\$70,000) for each violation and may be ordered to
12 disclose the fact of this violation or these violations to those persons as the court
13 may direct. Each day on which the deposit remains and the person had
14 knowledge of the deposit is a separate additional violation[.]

15 92. Defendant violated Health and Safety Code section 25189(d) by negligently
16 disposing, or causing the disposal of, petroleum, and/or oil and water, at a point that was not
17 authorized according to Chapter 6.5 of Division 20 of the Health and Safety Code, including at,
18 but not limited to, Toro Canyon Creek.

19 93. Based on the above, the People request injunctive relief under Health and Safety
20 Code section 25181 and civil penalties under section 25189(d).

21 **ELEVENTH CAUSE OF ACTION**

22 **Hazardous Material Business Plan Violations**

23 **Health and Safety Code sections 25515, subd. (a), 25507, subd. (a), 25508, subd. (a)**

24 94. Plaintiff realleges paragraphs 1 to 44, inclusive.

25 95. In relevant part, Health and Safety Code section 25515(a) states: “[a] business
26 that violates Sections 25504 to 25508.2, inclusive, or Section 25511, shall be civilly liable to the
27 unified program agency in an amount of not more than two thousand dollars (\$2,000) for each
28 day in which the violation occurs.”

96. In relevant part, Health and Safety Code section 25515.7 states: “Every civil
action brought under this article or Article 2 (commencing with Section 25531) shall be brought

1 by the city attorney, district attorney, or Attorney General in the name of the people of the State
2 of California[.]”

3 97. Defendant violated Health and Safety Code section 25515(a) by violating the
4 following Health and Safety Code sections:

- 5 a. Section 25507(a)(1), by handling over 55 gallons of petroleum (and/or oil
6 and water) and failing to establish and implement a business plan;
- 7 b. Section 25508(a)(1), by failing to electronically submit its business plan to
8 the California Environmental Reporting system (CERS);
- 9 c. Section 25505(a)(3), by failing to establish and implement a business plan
10 containing emergency response plans and procedures in the event of a release
11 or threatened release of a hazardous material; and
- 12 d. Section 25505(a)(4), by failing to establish and implement a business plan
13 containing an adequate training program and provide annual training to all
14 employees.

15 98. Based on the above, the People request injunctive relief under Health and Safety
16 Code section 25515.6 and civil penalties under section 25515(a).

17 **TWELFTH CAUSE OF ACTION**

18 **Failure to Obtain County Permits**

19 **Santa Barbara County Ordinance sections 18C-41, 18C-43**

20 99. Plaintiff realleges paragraphs 1 to 44, inclusive.

21 100. Santa Barbara County Ordinance section 18C-41 states: “[t]he owner or operator
22 of a unified program facility located within the CUPA jurisdiction which is required to submit a
23 business plan as described in H&SC Chapter 6.95 must have a permit issued by the CUPA.”

24 101. Defendant violated section 18C-41 by operating the UST at Toro Canyon, which
25 required the submission of a business plan under Chapter 6.95 of Division 20 of the Health and
26 Safety Code, without having a permit issued by the CUPA.

1 Health and Safety Code (Hazardous Materials Release Response Plans and
2 Inventory, Business and Area Plans);

3 2. Against Defendant, for each day of each violation of Government Code section
4 8670.66(a)(3), civil penalties under Government Code section 8670.66(a) in an amount of not
5 less than \$50,000 and not more than \$1,000,000, subject to proof;

6 3. Against Defendant, for each day of each violation of Government Code section
7 8670.66(a)(4), civil penalties under Government Code section 8670.66(a) in an amount of not
8 less than \$50,000 and not more than \$1,000,000, subject to proof;

9 4. Against Defendant, for each day of each violation of Government Code section
10 8670.64(c)(2)(C), civil penalties under Government Code section 8670.66(b) in an amount not
11 to exceed \$250,000, subject to proof;

12 5. Against Defendant, for each day of each violation of Government Code section
13 8670.64(c)(2)(D), civil penalties under Government Code section 8670.66(b) in an amount not
14 to exceed \$250,000, subject to proof;

15 6. Against Defendant, for each day of each violation of Government Code section
16 8670.25.5, civil penalties under Government Code section 8670.66(b) in an amount not to
17 exceed \$250,000, subject to proof;

18 7. Against Defendant, for each violation of Fish and Game Code section 1602, civil
19 penalties under Fish and Game Code section 1615(a) in an amount not to exceed \$25,000,
20 subject to proof;

21 8. Against Defendant, for each day of violation of Health and Safety Code section
22 25299(a)(1), civil penalties under Health and Safety Code section 25299(a) of not less than
23 \$500 or more than \$5,000, subject to proof;

24 9. Against Defendant, for each day of violation of Health and Safety Code section
25 25299(a)(6), civil penalties under Health and Safety Code section 25299(a) of not less than
26 \$500 or more than \$5,000, subject to proof;

1 10. Against Defendant, for each violation of Health and Safety Code section
2 25189(d), civil penalties under Health and Safety Code 25189(d) of not more than \$70,000,
3 subject to proof;

4 11. Against Defendant, for each day of violation of Health and Safety Code sections
5 25507(a)(1), 25508(a)(1), 25505(a)(3), or 25505(a)(4), civil penalties under Health and Safety
6 Code 25515(a) of not more than \$2,000, subject to proof;

7 12. Against Defendant, for each day of violation of Santa Barbara County Ordinance
8 section 18C-41, civil penalties under sections 1-7, 18C-48, and 18C-49 of not more than \$500;

9 13. Against Defendant, for each day of violation of Santa Barbara County Ordinance
10 section 18C-43, civil penalties under sections 1-7, 18C-48, and 18C-49 of not more than \$500;

11 14. For investigative, enforcement, and litigation costs incurred by Plaintiff and the
12 investigating agencies; and

13 15. For such other and further relief to Plaintiff and investigating agencies as the
14 nature of the case may require and that the Court deems proper to fully dissipate the effects of
15 the unlawful and unfair acts complained of herein.

16
17 Respectfully Submitted,
18 JOHN T. SAVRNOCH
19 District Attorney
County of Santa Barbara

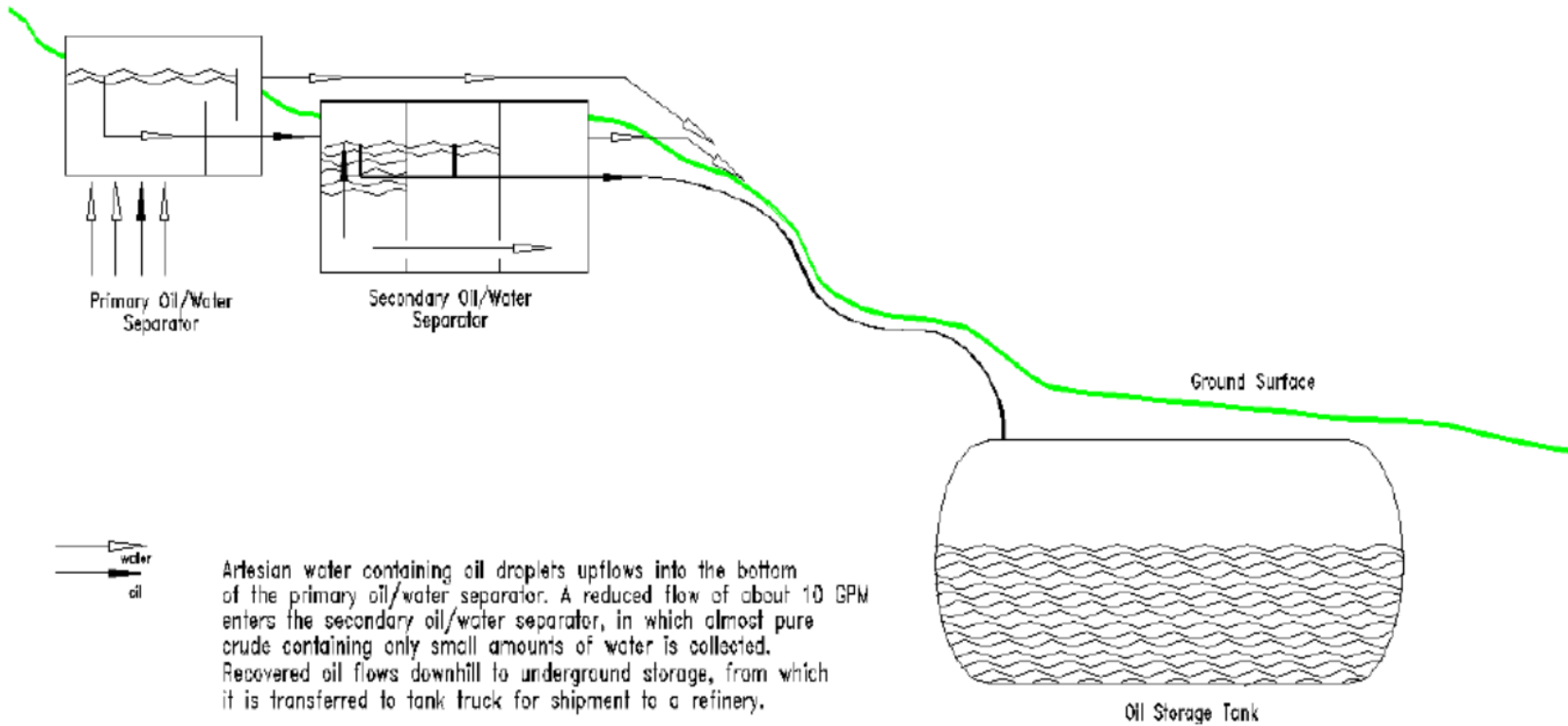
20
21 DATED: Nov. 28, 2023

22 By:  _____

23 MORGAN S. LUCAS
24 Deputy District Attorney

25 Attorneys for Plaintiff, People of the State of
26 California
27
28

Exhibit 1



Artesian water containing oil droplets upflows into the bottom of the primary oil/water separator. A reduced flow of about 10 GPM enters the secondary oil/water separator, in which almost pure crude containing only small amounts of water is collected. Recovered oil flows downhill to underground storage, from which it is transferred to tank truck for shipment to a refinery.

Exhibit 2

Oil Saturating Creek: Photograph taken on March 26, 2021



Exhibit 3

Oil Saturation as of June 8, 2021

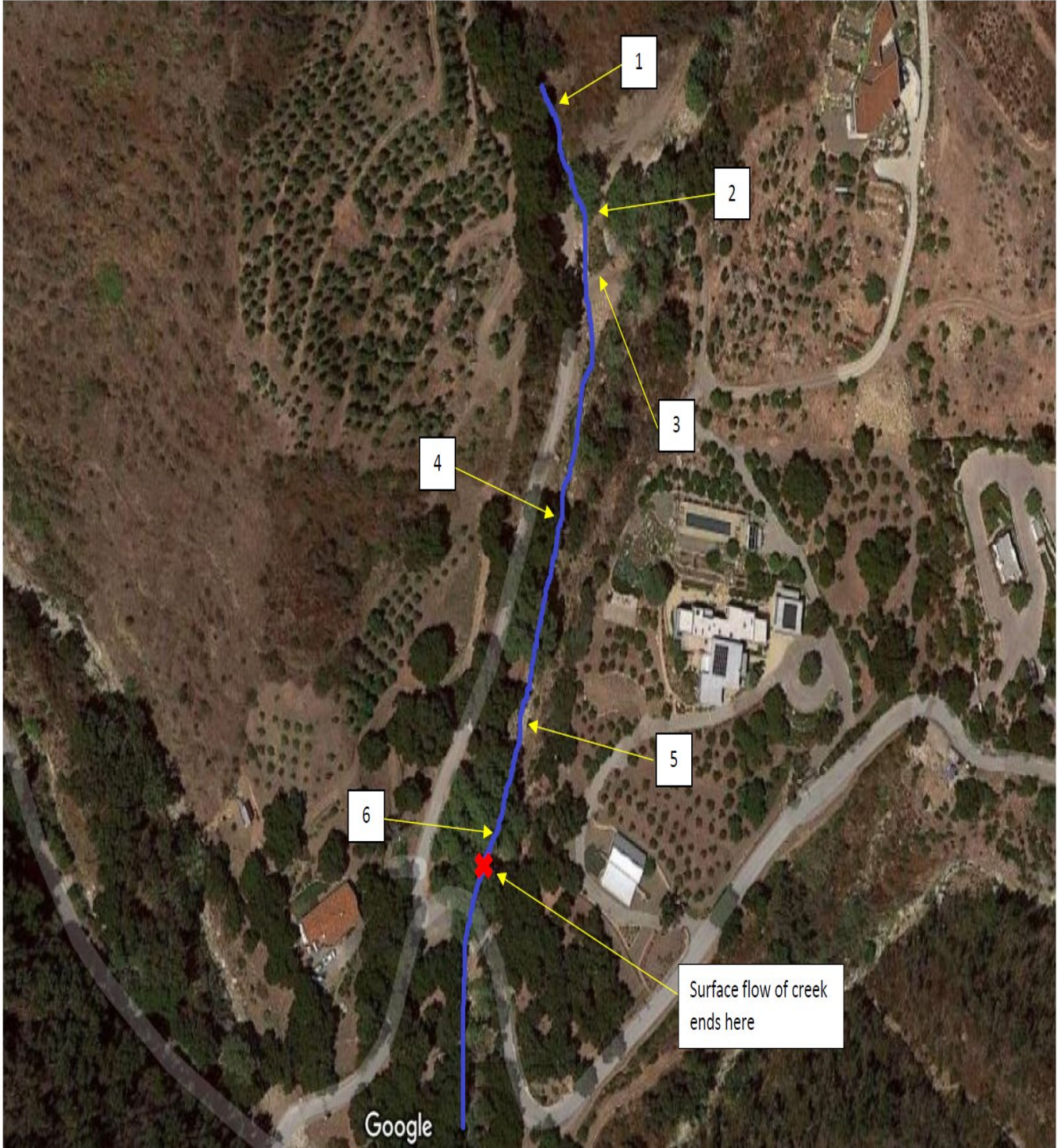


Exhibit 4



Exhibit 5

