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16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**  
18 **WESTERN DIVISION**

19 SABLE OFFSHORE CORP., et al.  
20  
21 Petitioners/Plaintiffs,  
22  
23 v.  
24 COUNTY OF SANTA BARBARA, et al.  
25  
26 Respondents/Defendants,  
27  
28 and  
29 ENVIRONMENTAL DEFENSE  
30 CENTER, et al.  
31  
32 Intervenor.

Case No.: 2:25-cv-04165-DMG-(AGRx)

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
INTERVENORS' MOTION TO  
DISMISS PURSUANT TO FEDERAL  
RULE OF CIVIL PROCEDURE 12(b)(6)**

Hon. Dolly M. Gee

Date: July 10, 2026

Time: 9:30 a.m.

Place: Courtroom 8C

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1 **I. INTRODUCTION**

2 In their Amended and Supplemental Verified Petition for Writ of Mandate and  
3 Complaint for Declaratory Relief and Damages (“Amended Complaint”), Petitioners and  
4 Plaintiffs Sable Offshore Corp. (“Sable Offshore”), Pacific Pipeline Company (“PPC”),  
5 and Pacific Offshore Pipeline Company (“POPCO”) (collectively, “Sable”) and  
6 Petitioners and Plaintiffs Exxon Mobil Corporation (“ExxonMobil”), Mobil Pacific  
7 Pipeline Company (“MPPC”), and ExxonMobil Pipeline Company (“EMPCo”)  
8 (collectively, “ExxonMobil affiliates”) (together with Sable, “Petitioners”) challenge a  
9 December 16, 2025 decision by the County of Santa Barbara (“County”) Board of  
10 Supervisors (“Board”) to deny Sable’s request to transfer County permits from  
11 ExxonMobil affiliates to Sable pursuant to Chapter 25B in the County Code of  
12 Ordinances (“County Code”).

13 Intervenors Environmental Defense Center (“EDC”), Get Oil Out! (“GOO!”),  
14 Santa Barbara County Action Network (“SBCAN”), Sierra Club, and Santa Barbara  
15 Channelkeeper (“SBCK”) (collectively, “Intervenors”) bring this motion to dismiss  
16 Petitioners’ Seventh Cause of Action (“COA”) for failure to allege sufficient facts to  
17 support claims for a declaratory judgment that Chapter 25B, as applied, is preempted by  
18 federal and state law, and for injunctive relief from further enforcement of Chapter 25B  
19 against Petitioners. The Seventh COA, while vague and conclusory, appears to claim that  
20 the Board’s application of Chapter 25B here is preempted under three theories: (1) the  
21 federal Hazardous Liquid Pipeline Safety Act of 1979 (PSA), 49 U.S.C. §§ 60101, *et*  
22 *seq.*, expressly preempts state and local authorities from imposing safety *standards*, (2)  
23 the Board’s denial conflicts with the March 13, 2026 order issued by the Secretary of  
24 Energy pursuant to the Defense Production Act (DPA) (hereinafter, “DPA Order”), and  
25 (3) the basis for the Board’s denial was in part financial concerns that are preempted by  
26 state law requiring proof of financial responsibility for a “worst-case scenario” spill. The  
27 bar for preemption is high, and Petitioners fail to meet it.

28 First, Petitioners fail to state a claim that the December Findings were based on

1 pipeline safety *standards* (as compared to incidental safety *concerns*) preempted by the  
2 PSA. Second, the allegations also fail to state a claim for express or conflict preemption  
3 as to the DPA Order. No allegations are offered to show the statute itself intends for the  
4 prioritization and allocation powers to have a sweeping preemptive effect. Moreover,  
5 since the DPA Order does not direct oil *production*, Petitioners fail to demonstrate how  
6 compliance with Chapter 25B is an obstacle to the purposes and objectives of the DPA.  
7 Finally, Petitioners’ allegations that state law preempts the Board’s decision fail to state a  
8 claim. No allegations are set forth showing that the Board made financial considerations  
9 in the December Findings and even if so, Petitioners general allegations do not cite state  
10 law that allegedly preempts the Board’s decision.

11 For these reasons, this Court should dismiss the Seventh COA in full for failure to  
12 state a claim.

## 13 **II. FACTUAL AND PROCEDURAL BACKGROUND**

14 The Las Flores Pipeline System (comprised of CA-324 and 325, collectively  
15 referred to as “the Pipelines”), the POPCO Gas Plant (“POPCO Facilities”), and the  
16 Santa Ynez Unit (“SYU”) (collectively, “Facilities”) are “County-permitted facilities  
17 located within unincorporated Santa Barbara County that process and treat crude oil and  
18 natural gas from offshore platforms.” Dkt. No. 64 at ¶ 38. Operation of the Facilities is  
19 authorized by discretionary County approvals known as Final Development Plans  
20 (“FDPs”). *Id.* at ¶ 39-41; County Code at §§ 35-174.1, *et seq.*, and 35.82.080. In February  
21 2024, Sable acquired the Facilities, including the Pipelines, which were classified as  
22 “intrastate pipelines” and regulated for pipeline safety by the California Office of the  
23 State Fire Marshal (“OSFM”) pursuant to the Elder California Pipeline Safety Act  
24 (“CPSA”). Dkt. No. 64 at ¶¶ 2, 42; *see* Cal. Gov’t Code § 51010.

25 Shortly thereafter, Sable applied, under Chapter 25B in the County Code, to  
26 transfer the Facilities’ FDPs from the existing operator, owner, and guarantor (i.e.,  
27 ExxonMobil affiliates) to a proposed new operator, owner, and guarantor (i.e., Sable).  
28 Dkt. No. 64 at § 98. Chapter 25B was adopted by the County in 2001, *id.* at ¶ 50, and

1 governs permit transfers for new owners, operators, and guarantors. *Id.* at ¶ 52. In  
2 accordance with Chapter 25B-4(c), County permits are not transferable without approval  
3 of a permit amendment. County Code § 25B-4(c). In recent years, Chapter 25B has been  
4 invoked twice with regards to the Pipelines. First, starting in 2022, PPC and EMPCo  
5 submitted applications pursuant to Chapter 25B for a change of owner, guarantor, and  
6 operator to the County for the Pipelines. Dkt. No. 64-5 at 2. The Board determined that  
7 the required findings had been satisfied and approved the transfer. *Id.* at ¶ 63.

8 Second, Sable applied to the County to transfer the Facilities’ FDPs in 2024. *Id.* at  
9 ¶ 67. The Planning Commission approval was appealed to the Board by two groups of  
10 environmental appellants, including Intervenors, in November 2024. *Id.* at ¶¶ 70, 73-74.  
11 The Board’s tie vote at the February 25, 2025 appeal hearing lead to the present  
12 litigation. *Id.* at ¶¶ 79, 84. On September 12, 2025, following a hearing on cross-motions  
13 for summary judgment, this Court issued a peremptory writ of mandate ordering the  
14 Board to hold a new appeal hearing, which the Board did on November 4, 2025. *Id.* at ¶¶  
15 88-89. At the conclusion of the November 4 hearing, the Board voted to continue the  
16 hearing with direction to County staff to prepare written findings to support denying the  
17 transfer of the permits. *Id.* at ¶ 94.

18 At the continued December 16, 2025 hearing, County staff presented findings for  
19 denial (“December Findings”) for the Board’s consideration and adoption. *Id.* at ¶ 95.  
20 During the December 2025 hearing, “several supervisors” identified their respective  
21 bases for denial. *Id.* at ¶ 99. The Board ultimately voted to approve the Appeals, deny the  
22 requests for the Change of Owner, Operator, and Guarantor for the Facilities’ FDPs, and  
23 adopt County staff’s proposed December Findings. *Id.* at ¶ 98.

24 Several developments related to the Facilities occurred *after* the Board’s decision  
25 on December 16 and were therefore not part of the record before the Board. For purposes  
26 of this Motion, two are relevant here. First, the Pipeline and Hazardous Materials Safety  
27 Administration (PHMSA) sent Sable Offshore a letter dated December 17, 2025 that  
28 asserts that the Pipelines are interstate pipelines and regulated by PHMSA. Dkt. No. 64-3

1 at 2-3. Second, on March 13, 2026, the Secretary of Energy issued an order pursuant to  
2 the DPA, Executive Order 13603, and Executive Order 14156. *Id.* at ¶ 115. That DPA  
3 Order directs Sable “to immediately prioritize and allocate pipeline transportation  
4 services for hydrocarbons,” and “to immediately commence performance under contracts  
5 or orders for services,...for hydrocarbon transportation capacity,” and states that such  
6 contracts for hydrocarbon transportation services “shall take priority over other non-  
7 SYPS hydrocarbon transportation contracts or orders....” Dkt. No. 64-11 at 3.

### 8 **III. LEGAL STANDARD**

9 Rule 12(b)(6) permits a defendant to move to dismiss a complaint for “failure to  
10 state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). A Rule 12(b)(6)  
11 dismissal may be warranted based on the lack of a cognizable legal theory or sufficient  
12 facts alleged under a cognizable legal theory. *Los Angeles Waterkeeper v. SSA Terminals,*  
13 *LLC*, 702 F. Supp. 3d 903, 917 (C.D. Cal. 2023). To withstand a Rule 12(b)(6) motion to  
14 dismiss, a complaint must allege “enough facts to state a claim to relief that is plausible  
15 on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). While “a complaint  
16 attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations,”  
17 a plaintiff must provide “more than labels and conclusions” and “a formulaic recitation of  
18 the elements of a cause of action” such that the factual allegations “raise a right to relief  
19 above the speculative level.” *Id.* at 555 (citations and internal quotation marks omitted).  
20 A court must not give deference to legal conclusions in a complaint in deciding a motion  
21 to dismiss; only factual allegations are entitled to such deference. *See Council v. Watt*,  
22 643 F.2d 618, 624 (9th Cir. 1981).

### 23 **IV. ARGUMENT**

24 There are two basic principles of preemption jurisprudence under the Supremacy  
25 Clause. First, “the purpose of Congress is the ultimate touchstone in every pre-emption  
26 case,” which must be based on the text and structure of the statute itself. *In re*  
27 *Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab. Litig.*, 959 F.3d 1201,  
28 1211 (9th Cir. 2020) (*quoting Wyeth v. Levine*, 555 U.S. 555, 565 (2009)). “Second, in

1 all pre-emption cases,...[a court will] start with the assumption that the historic police  
2 powers of the States’ are *not* preempted ‘unless that was the clear and manifest purpose  
3 of Congress.’” *Id.* at 1212 (*quoting Wyeth v. Levine*, 555 U.S. 555, 565 (2009)) (emphasis  
4 added).

5 State law<sup>1</sup> may be preempted under the Supremacy Clause, U.S. Const., Art. VI, cl.  
6 2, in three circumstances: express preemption, conflict preemption, and field preemption.  
7 *Id.* Allegations in the Seventh COA (albeit vague and conclusory) appear to fall under the  
8 first two categories. The PSA expressly preempts state and local law from imposing  
9 safety *standards* (versus safety *concerns*). 49 U.S.C. § 60104(c). While nothing in the  
10 DPA or DPA Order expressly authorizes a blanket preemption of local regulatory  
11 authority, Petitioners allege conflict preemption with regards to the DPA Order. Dkt. No.  
12 64 at ¶ 183.

13 Before even considering Petitioners’ preemption arguments, there are two  
14 threshold issues that render the Seventh COA defective. First, at the time of the Board’s  
15 decision, PHMSA had not asserted control over the Pipelines and the DPA Order had not  
16 been issued. *Id.* at ¶¶ 42, 98, 115. Thus, these legal developments were post-decisional  
17 and not part of the record before the Board.

18 Second, as threshold issues for their PSA preemption argument, Petitioners allege  
19 that the Pipelines are *interstate* facilities, as defined by the PSA, and thus subject to  
20 PHMSA’s *exclusive* jurisdiction. *Id.* at ¶ 42. However, the Consent Decree from 2020  
21 that remains binding on PHMSA, OSFM, and subsequent owners of the Pipelines  
22 unequivocally establishes *OSFM’s* jurisdiction over the Pipelines pertaining to restart.  
23 Request for Judicial Notice (RJN), Exh. 1<sup>2</sup> at 63, 96.

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24 <sup>1</sup> The Supreme Court has declared that “for the purposes of the Supremacy Clause, the  
25 constitutionality of local ordinances is analyzed in the same way as that of statewide  
26 laws.” *Hillsborough Cnty., Fla. v. Automated Med. Lab ’ys, Inc.*, 471 U.S. 707, 713  
(1985).

27 <sup>2</sup> See *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir.), *opinion amended*  
28 *on denial of reh’g*, 275 F.3d 1187 (9th Cir. 2001) (“...court need not [] accept as true  
allegations that contradict matters properly subject to judicial notice....”).

1 The Seventh COA must also be dismissed because Petitioners fail to state a  
2 cognizable theory of federal preemption under either the PSA or the DPA Order. The  
3 express preemption clause in the PSA is limited to safety *standards*, and nowhere in the  
4 December Findings does the Board purport to regulate pipeline safety in a manner  
5 preempted by the PSA. Also, the text of the DPA does not confer the power to preempt  
6 local and state law as Petitioners allege and Petitioners’ claim for conflict preemption  
7 related to the DPA Order faces a very “high threshold,” which they fail to satisfy.  
8 *Chamber of Com. v. Whiting*, 563 U.S. 582, 607 (2011). Critically, Petitioners have not  
9 alleged how the Board’s denial of the permit transfers frustrates the DPA’s prioritization  
10 and allocation purposes. They also do not allege any actual conflict between the objective  
11 of enabling Sable to prioritize/allocate one set of contractual obligations over another, on  
12 the one hand, and requiring it to comply with the ordinary operation of local land use  
13 authority on the other. *See, e.g.*, Dkt. No. 64 at ¶ 184.

14 Finally, Petitioners allege that state law requiring proof of financial responsibility  
15 for a “worst-case scenario” spill preempts the Board from considering financial concerns.  
16 *Id.* at 186-87. Petitioners’ allegations must be dismissed because the Board’s December  
17 Findings do not cite financial considerations as a basis for the decision and nothing in the  
18 language of the State statutes expressly declares, or even suggests, that authority over  
19 financial responsibility is reserved to the State.

20 For these reasons, and as discussed below, the Seventh COA must be dismissed.

21 **A. Petitioners Fail to State a Claim that the Board’s Decision Pursuant to**  
22 **Chapter 25B is Preempted by the PSA.**

23 “Pre-emption fundamentally is a question of congressional intent...” *English v.*  
24 *General Elec. Co.*, 496 U.S. 72, 78-79 (1990) (citing *Schneidewind v. ANR Pipeline Co.*,  
25 485 U.S. 293, 299 (1988)). To determine if the PSA preempts Chapter 25B, as applied by  
26 the County to the Facilities, one must begin with the statutory text of the Act. *See*  
27 *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022) (“...[T]he text of a law controls  
28 over purported legislative intentions unmoored from any statutory text.”).

1 The purpose of the PSA “is to provide adequate protection against risks to life and  
2 property posed by” interstate “pipeline transportation and pipeline facilities....” 49  
3 U.S.C. § 60102(a)(2). To achieve these goals, the PSA requires the Secretary of  
4 Transportation to “prescribe minimum safety standards for” interstate “pipeline  
5 transportation and for pipeline facilities.” Id. at § 60102(a)(2). The PSA prohibits a State  
6 from adopting “safety standards for interstate pipeline facilities or interstate pipeline  
7 transportation.” Id. at § 60104(c) (emphasis added).

8 Petitioners’ PSA preemption argument must be dismissed for three reasons. First,  
9 Petitioners cannot plausibly allege that PHMSA’s assertion of jurisdiction to regulate the  
10 Pipelines as interstate was part of the record before the Board. Second, Petitioners have  
11 not offered sufficient allegations to support their claim that PHMSA has exclusive  
12 jurisdiction given the binding Consent Decree. Finally, Petitioners allege insufficient  
13 facts to show that Chapter 25B, as applied, is preempted by the PSA because Chapter  
14 25B does not regulate pipeline safety standards and accordingly, the Board did not adopt  
15 any pipeline safety standards in its December Findings.

16 1. Petitioners Cannot Show That Events Occurring After the Board’s  
17 Decision Have Any Preemptive Effect at the Time of That Decision.

18 To the extent that Petitioners’ allegations in the Seventh COA assert that federal  
19 preemption issues arose under the PSA at the time of the Board’s December 16 decision,  
20 these allegations are facially implausible and cannot survive this Motion under Rule  
21 12(b)(6). *See Sprewell*, 266 F.3d at 988 (a court need not “accept as true allegations that  
22 are merely conclusory, unwarranted deductions of fact, or *unreasonable inferences*”)  
23 (emphasis added). Sable cannot dispute that at the time of the Board’s decision, the  
24 Pipelines were regulated as *intrastate* pipelines.

25 The Amended Complaint sets forth a timeline of the Board’s hearings and  
26 decision, as well as the *subsequent* actions by the federal government. These subsequent  
27 actions could not, and did not, preempt the Board’s action on December 16. *See* Dkt. No.  
28 64 at ¶¶ 89, 94, 98, 115; Dkt. No. 64-3. Yet Petitioners make factually impossible

1 allegations to support the Seventh COA, e.g., “[t]he County’s reliance on the safety  
2 concerns it claims are embodied in Chapter 25B *as a reason to vote ‘no’* is federally  
3 preempted under the PSA with respect to the Facilities,” “[c]onsideration of these factors  
4 by Chair Capps and Supervisor Lee *as part of the basis for voting* against the denial of  
5 the Appeals under Chapter 25B violated the Supremacy Clause...and state law.” Dkt. No.  
6 64 at ¶¶ 182, 188 (emphasis added). It is undeniable that neither PHMSA’s jurisdiction  
7 under the PSA nor the DPA Order were part of the record before the Board at the  
8 November or December 2025 hearings and were certainly not considered by the Board in  
9 making its decision. Actions that post-date a challenged decision cannot be capable of  
10 preempting it at the time. To the extent Petitioners attempt to allege otherwise, the  
11 Seventh COA is unsupported and must be dismissed.

12 2. The Allegations are Insufficient to Show that PHMSA Has Exclusive  
13 Jurisdiction to Support a Claim for Federal PSA Preemption.

14 The Seventh COA suffers from another threshold defect: the Federal Consent  
15 Decree is legally binding and vests jurisdiction over the Pipelines with OSFM—not  
16 PHMSA. RJN, Exh. 1. Despite this fact, Petitioners’ federal preemption claim alleges  
17 that PHMSA has *exclusive* authority to regulate pipeline safety for all of the Facilities.<sup>3</sup>  
18 Dkt. No. 64 at ¶¶ 42, 180. This is a legal conclusion that this Court is not required to  
19 accept as true. *See W. Min. Council v. Watt*, 643 F.2d at 624. Petitioners acknowledge  
20 that OSFM previously regulated the Pipelines as *intrastate* but references a letter from  
21 PHMSA to Sable Offshore dated December 17, 2026, in which PHMSA adopted *Sable’s*  
22 determination that the Pipelines are *interstate* and declared the Pipelines under federal  
23 regulatory authority. *Id.* at ¶ 42, Dkt. No. 64-3. Petitioners’ assertion of federal  
24 jurisdiction under PHMSA, however, is precluded by the express terms of the Consent  
25

26 <sup>3</sup> Petitioners allege that “[t]he Pipeline, SYU, and the POPCO Facilities are all subject to  
27 regulation by PHMSA as pipeline facilities within the meaning of the PSA.” Dkt. No. 64  
28 at ¶ 180. The December 17 PHMSA letter to Sable Offshore is limited to the Pipelines,  
however. Dkt. No. 64-3. Petitioners do not make sufficient allegations to demonstrate that  
their claim for federal preemption under the PSA applies to *all* of the Facilities.

1 Decree (to which PHMSA is a signatory). RJN, Exh. 1 at 63.

2 Under the PSA, authority to regulate intrastate pipelines may transfer from  
3 PHMSA to a state if (1) the state obtains a certification from the Department of  
4 Transportation; and (2) the state standards are compatible with minimum federal  
5 standards. 49 U.S.C. § 60104(c). In fact, under the PSA, PHMSA is expressly *prohibited*  
6 from “prescrib[ing] or enforc[ing] safety standards and practices for an intrastate pipeline  
7 facility or intrastate pipeline transportation to the extent that the safety standards and  
8 practices are regulated by a State authority.” 49 U.S.C. § 60105(a). Congress thus  
9 preserved state jurisdiction over intrastate pipelines in the PSA.

10 In this case, PHMSA previously transferred authority of the Pipelines to OSFM,  
11 which was certified to oversee intrastate pipelines. RJN, Exh. 2 at 1; *see also* Cal. Gov’t  
12 Code § 51010. The 2020 Consent Decree specifies that the Pipelines are “subject to the  
13 sole regulatory oversight of the OSFM.” RJN, Exh. 1 at 96. The Consent Decree is the  
14 final order of a court and cannot be modified except through a motion made to this  
15 Court.<sup>4</sup> *Flores v. Rosen*, 984 F.3d 720, 740–41 (9th Cir. 2020) (*citing Rufo v. Inmates of*  
16 *Suffolk Cnty. Jail*, 502 U.S. 367, 393 (1992); *Zapon v. United States*, 53 F.3d 283, 285  
17 (9th Cir. 1995)). So long as the court-approved Consent Decree remains valid and  
18 effective, its terms control and are dispositive here: OSFM retains sole authority to  
19 regulate the Pipelines.<sup>5</sup> Yet the Amended Complaint is silent as to OSFM’s continuing

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21 <sup>4</sup> Recent determinations and approvals by PHMSA—all of which post-date the Board’s  
22 December 16 decision—are the subject of proceedings in the Ninth Circuit Court of  
23 Appeals. *State of Calif. v. PHMSA, et al.*, No 25-508, consolidated with *Env’tl Def. Ctr.*  
24 *v. PHMSA*, No. 25-8059 (9th Cir.) (challenging PHMSA’s assertion of jurisdiction and  
25 approval of an Emergency Special Permit and Restart). Additionally, in *United States of*  
26 *America and the People of the State of California, et al., v. Plains All American Pipeline,*  
*L.P., et al.* (Case No. 2:20-cv-02415-SVQ-SSCx), the California Plaintiffs seek an order  
vacating the DPA Order. Cal. Pl. Ex Parte Emergency Motion to Enforce Consent  
Decree, Dkt. No. 43.

27 <sup>5</sup> OSFM’s existing authority over the Pipelines was recently the subject of two State  
28 Court orders in *Center for Biological Diversity, et al., v. California Dept. of Forestry and*  
*Fire Protection, et al.* (Case No. 25CV02244). On February 27, 2026, Santa Barbara

1 jurisdiction over the Pipelines and importantly, how OSFM’s jurisdiction over the  
2 Pipelines (rather than PHMSA) affects Petitioners’ federal preemption claim. Instead, the  
3 grounds for declaratory and injunctive relief related to the PSA preemption claim in the  
4 Seventh COA hinge upon the threshold allegation that the Facilities are subject to  
5 PHMSA’s *exclusive* authority, as delegated by the PSA. Dkt. No. 64 at § 180. These  
6 allegations are legal conclusions that are refuted by the binding terms of the Consent  
7 Decree. Accordingly, Petitioners fail to state a cognizable legal theory of federal  
8 preemption under the PSA, and the Seventh COA should be dismissed.

9           3.     Petitioners Fail to State a Claim for PSA Preemption Because They  
10                    Have Not Shown that Chapter 25B, as Applied, Regulates Pipeline  
11                    Safety Standards.

12           As a threshold matter, as noted above, PHMSA had not even asserted control over  
13 the Pipelines at the time of the Board’s decision, and even afterwards, the Consent  
14 Decree confirmed that the Pipelines are regulated by State law and OSFM has authority.  
15 However, even if the express federal preemption clause in the PSA applies, the effect of  
16 that provision only goes as far as to preempt state or local pipeline safety *standards*;  
17 incidental safety concerns and local land use standards are not preempted by the PSA.  
18 *See, e.g., Washington Gas Light Co. v. Prince George’s County Council*, 711 F.3d 412,  
19 421-22 (4th Cir. 2013) (held the zoning scheme was primarily local land use regulation  
20 and not “safety regulations in disguise,” because any safety considerations were  
21 “incidental” to the overall purpose of the zoning restrictions); *Texas Midstream Gas*

22  
23 Superior Court Judge Donna D. Geck declined to dissolve a preliminary injunction  
24 enjoining Sable Offshore and PPC from restarting the Pipelines until certain conditions  
25 are satisfied. RJN, Exh. 3 at 8-9. The court rejected Sable Offshore and PPC’s argument  
26 that PHMSA has *exclusive* jurisdiction over the Pipelines that preempted the injunction.  
27 *Id.* The court was “not persuaded...that administrative actions taken by PHMSA  
28 necessarily eliminates OSFM participation in the restart process.” *Id.* at 9. Also, on April  
17, 2026, the court in that case denied Sable Offshore and PPC’s request to vacate the  
preliminary injunction and rejected their preemption theory based on PHMSA’s actions  
and the DPA Order. RJN, Exh. 4 at 6-11. The court determined that the Consent Decree  
is binding on the parties and OSFM has jurisdiction over the Pipeline. *Id.* at 7, 9.

1 *Services, LLC v. City of Grand Prairie*, 608 F.3d 200, 211 (5th Cir. 2010) (held a setback  
2 requirement was not a safety standard because the city’s “motivation...was to preserve  
3 neighborhood visual cohesion, avoiding eyesores or diminished property values,” and  
4 “[a] local rule may incidentally affect safety, so long as the effect is not ‘direct and  
5 substantial.’”); *Portland Pipe Line Corp. v. City of S. Portland*, 288 F. Supp. 3d 321, 429  
6 (D. Me. 2017) (held city ordinance, which prohibited loading oil onto tanker vessels in  
7 city harbor and building new structures for that purpose, was not a “safety standard”  
8 preempted by the PSA).

9 Recently, the Eighth Circuit in *Couser v. Shelby Cnty., Iowa* held in part that  
10 setback requirements in pipeline ordinances had a direct and substantial effect on safety  
11 that would undermine Congress’ express intent to preempt the states from regulating  
12 pipeline safety. 139 F.4th 664, 671 (8th Cir. 2025), *cert. denied sub nom. Shelby Cnty. v.*  
13 *Couser*, 223 L. Ed. 2d 509 (2026). However, it made clear that its holding would “not  
14 prohibit local governments from considering safety, nor prevent them from enacting all  
15 zoning ordinances,....” *Id.* at 671. The court also affirmed “the distinction between safety  
16 *standards*—which the PSA preempts—and safety *considerations*—which the PSA does  
17 not preempt.” *Id.*

18 Petitioners allege that “Chapter 25B, as applied by the County to the Facilities, is  
19 preempted by” the PSA. Dkt. No. 64 at ¶ 189. The issue is thus whether Chapter 25B is a  
20 “safety standard[] for interstate pipeline facilities or interstate pipeline transportation”  
21 (which it is not). 49 U.S.C. § 60104(c). To prevail on a theory that federal law displaces  
22 state or local enactments, it is never enough to simply point to an express preemption  
23 clause. *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76 (2008). Petitioners must identify “the  
24 substance and scope” of the clause to show why Congress intended to displace state or  
25 local enactments like those at issue here. *Id.* They have not done so.

26 Chapter 25B regulates the transfer of certain permits from an existing owner,  
27 operator, and/or guarantor to a new owner, operator, and/or guarantor for a limited subset  
28 of oil and gas facilities. *Id.* at 25B-2(1)-(3), 25B-4(c). The focus is not on pipeline safety

1 (e.g., design, construction, operation, maintenance, and spill response planning), but  
2 rather on the new owner, operator, and/or guarantor in terms of compliance and capacity  
3 to responsibly operate oil and gas facilities.

4 Trying to escape the problem that Chapter 25B does not have a “direct and  
5 substantial effect” on pipeline safety, Petitioners make the conclusory assertion that two  
6 of the five Supervisors “cited safety concerns as reasons for denying the Transfers.” Dkt.  
7 No. 64 at 181-82, 188. A few scattered Supervisor remarks do not change the conclusion  
8 that Chapter 25B does not regulate the kind of pipeline safety standards preempted by the  
9 PSA. The December Findings confirm as much. Dkt. No. 64 at 105. Petitioners barely  
10 reference the December Findings in their PSA preemption allegations—only citing to  
11 part of one sentence that is entirely insufficient to show that the permit transfer denial has  
12 a direct and substantial effect on pipeline safety standards. *Id.* (“The Operator Capability  
13 finding is wholly preempted at all three Facilities...the December Findings assert that  
14 Sable ‘reflects a record of *non-compliant or unsafe operations* systemic in nature for the  
15 Facilities.’”).<sup>6</sup> For these reasons, Petitioners fail to allege sufficient facts to support a  
16 PSA preemption claim and the Seventh COA must be dismissed.

17 **B. Petitioners Fail to State a Claim that the Board’s Decision is Preempted**  
18 **by the DPA Order.**

19 Petitioners fail to plead sufficient facts to make the requisite showing to support  
20 the Seventh COA as it pertains to the DPA Order for two reasons. First, the DPA Order  
21 was issued three months after the Board made its December 16 decision and therefore  
22 was not part of the record before the Board at the time of its decision. Second,  
23

24 <sup>6</sup> In fact, the Amended Complaint does not even call the ordinance’s requirements “safety  
25 standards,” but rather “safety concerns.” See, e.g., Dkt. No. 64 at ¶¶ 180-182 (emphasis  
26 added); see *Washington Gas Light Co.*, 711 F.3d at 421–22 (“Even assuming safety  
27 concerns played some part in the enactment of the County Zoning Plans, those concerns  
28 would have been merely incidental to the overall purpose of the County Zoning Plans.  
This is insufficient to justify a finding that the County Zoning Plans were, in fact, safety  
regulations.”).

1 Petitioners’ allegations are woefully insufficient to satisfy the high bar for conflict  
2 preemption related to the DPA Order.

3 1. It is Impossible for the Board to Have Used Chapter 25B to “Frustrate”  
4 Sable’s Compliance with the DPA Order Because the DPA Order was  
5 Issued after the Board’s Decision.

6 Petitioners claim that the Board “attempted” to “use Chapter 25B as a tool to  
7 frustrate Sable’s compliance with the DPA order.” Dkt. No. 64 at ¶ 183. But Petitioners’  
8 own pleadings refute that theory: the DPA Order was issued three months after the Board  
9 reached its decision. *Id.* at ¶¶ 98, 115. Since the DPA Order did not exist at the time of  
10 the Board’s decision, it is entirely implausible that during the December 16 hearing, the  
11 Board took any action in furtherance of or contrary to the DPA Order to support a claim  
12 for preemption. This defect cannot be cured based on any set of factual allegations given  
13 the timeline of relevant events.

14 2. Petitioners Fail to State a Claim that Chapter 25B, as Applied, is  
15 Preempted by the DPA Order.

16 In the absence of express preemption, Congress may also preempt state law  
17 implicitly. *In re Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab. Litig.*,  
18 959 F.3d at 1211. State law may be impliedly preempted “to the extent that it actually  
19 conflicts with federal law,” either because it is impossible to comply with<sup>7</sup> or because the  
20 state law stands as an obstacle to the accomplishment and execution of congressional  
21 intent. *English*, 496 U.S. at 79; *see also Nw. Cent. Pipeline Corp. v. State Corp. Comm’n*  
22 *of Kansas*, 489 U.S. 493, 493 (1989). To the extent Petitioners allege both express and  
23 implied preemption related to the DPA Order, none of these legal theories survive the  
24 Rule 12(b)(6) standard for the reasons set forth below.

25 //

26 //

27  
28 <sup>7</sup> Petitioners do not allege that it is impossible to comply with both Chapter 25B and the  
DPA Order.

1                   a.     *Petitioners’ Allegations Do Not Meet the High Threshold for*  
2   *Obstacle Preemption.*

3             The preemption theory known as “obstacle preemption” turns on a court’s  
4 conclusion that a state law “stands as an obstacle to the accomplishment” of the goals the  
5 court believes the law was pursuing and faces a very “high threshold.” *Chamber of Com.*,  
6 563 U.S. at 607; *see also Virginia Uranium, Inc. v. Warren*, 139 U.S. 1894, 1901 (2019)  
7 [lead opinion] (“Invoking some brooding federal interest or appealing to a judicial policy  
8 preference should never be enough to win preemption of a state law.”); *Oklahoma*, 597  
9 U.S. at 642; *accord Chamber of Com.*, 563 U.S. at 607 (“Implied preemption analysis  
10 does not justify a freewheeling judicial inquiry into whether a state statute is in tension  
11 with federal objectives; such an endeavor would undercut the principle that it is Congress  
12 rather than the courts that preempts state law.” (citation modified)). For this reason, “[t]he  
13 Supreme Court has found obstacle preemption in only a small number of cases.” *In re*  
14 *Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab. Litig.*, 959 F.3d at 1212.

15             To evaluate a claim based on “obstacle preemption,” “a court must identify the  
16 ‘full purposes and objectives’ of the federal law from ‘the text and structure of the statute  
17 at issue.’” *In re Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab. Litig.*,  
18 959 F.3d at 1212 (*citing Kansas v. Garcia*, 589 U.S. 191, 207, 140 S. Ct. 791, 804, 206  
19 L. Ed. 2d 146 (2020)). The Ninth Circuit has established that “[t]he Supremacy Clause  
20 gives priority to ‘the Laws of the United States,’ not the priorities and preferences of  
21 federal officers, (citation omitted) or the ‘unenacted approvals, beliefs, and desires’ of  
22 Congress,....” *Id.* (*citing Kansas*, 589 U.S. at 207 and *P.R. Dep’t of Consumer Affairs v.*  
23 *Isla Petroleum Corp.*, 485 U.S. 495, 501 (1988)). Petitioners cannot deduce whatever  
24 federal objective they want from the DPA to support their allegations. Dkt. No. at ¶ 183;  
25 *see Virginia Uranium, Inc.*, 587 U.S. at 762 (*citing CSX Transp., Inc. v. Easterwood*, 507  
26 U. S. 658, 664 (1993) (“any ‘[e]vidence of pre-emptive purpose,’ whether express or  
27 implied, must be ‘sought in the [statute’s] text and structure.’”).  
28

1           Petitioners assert that “[t]he County’s attempted use of Chapter 25B as a tool to  
2 frustrate Sable’s compliance with the DPA Order stands as an obstacle to the  
3 accomplishment and execution of the full purposes and objectives of Congress and the  
4 Executive Branch, and is therefore preempted under the Supremacy Clause.” Dkt. No. 64  
5 at 183. Petitioners’ allegations are inadequate to support their theory of obstacle  
6 preemption.

7           In evaluating this claim, the Court must begin with the text and structure of the  
8 statute. Here, the Secretary issued the DPA Order pursuant to the prioritization and  
9 allocation authority in Section 101(a) and (c) of the DPA. *See* Dkt. No. 64-11 at 2. The  
10 purpose of this authority is to provide the President with the power to “prioritize” one set  
11 of contracts over another and the power to “allocate” resources under those contracts.  
12 50 U.S.C. § 4511(a). As observed by the Federal Circuit Court of Appeals in *Hercules*  
13 *Inc. v. United States*, “...section 101(a) does not mention either the specific nature of  
14 performance under a DPA contract, or the subsequent use of goods produced under such  
15 a contract.” 24 F.3d 188, 203 (Fed. Cir. 1994), *aff’d*, 516 U.S. 417 (1996). The objective  
16 of Section 101(c) is to empower the President to “require the allocation of, or the priority  
17 performance under contracts or orders (other than contracts of employment) relating to,  
18 materials, equipment, and services in order to maximize domestic energy supplies” (and,  
19 for that matter, only if certain specified findings are made). 50 U.S.C. at § 4511(c).

20           Petitioners fail to state a claim for obstacle preemption because no allegations are  
21 set forth to show the purposes embodied in the DPA Order flow from the purposes and  
22 objectives of the statute itself. As a result, Petitioners’ allegations do not reflect that the  
23 Board’s decision to deny the permit transfers frustrates the purpose and objectives of the  
24 *DPA*. Nor could they because the Board’s decision about whether to transfer County  
25 permits to a new owner, operator, and/or guarantor is not in tension with the *DPA*’s  
26 objective to allocate or require priority performance under contracts or orders.

27           Petitioners present their obstacle preemption argument by asserting that the  
28 Board’s purpose in denying the permit transfers was to “obstruct[] the operation of the

1 Facilities” and that purpose “directly conflicts with the federal objectives embodied in the  
2 DPA Order.” Dkt. No. 64 at 183. Even if this Court were to assume that the Board  
3 decision was intended to interfere with “*operation of the Facilities*” (which Intervenors  
4 wholly dispute), neither the DPA nor the DPA Order authorizes compelling a new  
5 resource into existence (i.e., the flow of oil).

6 Again, obstacle preemption is a high threshold, and courts must avoid “a  
7 ‘freewheeling judicial inquiry into whether a state statute is in tension with federal  
8 objectives,’” which “‘would undercut the principle that it is Congress rather than the  
9 courts that pre-empts state law.’” *Chamber of Com. of U.S.*, 563 U.S. at 607 (quoting  
10 *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 110–11 (1992) (Kennedy, J.,  
11 concurring in part and concurring in judgment)). Here, Petitioners fail to state a claim that  
12 Chapter 25B, as applied, presents an obstacle to the DPA.

13 *b. It is Possible for Sable to Comply with the DPA Order and*  
14 *Chapter 25B.*

15 To the extent Petitioners intend to invoke impossibility preemption, their theory is  
16 likewise flawed. Petitioners fail to allege an actual conflict between the objective of  
17 enabling Sable to prioritize/allocate one set of contractual obligations over another, on  
18 the one hand, and the ordinary operation of local regulatory authority on the other.  
19 Petitioners leave it to the other parties and this Court to speculate as to “*the extent that*  
20 [*Chapter 25B, as applied*] conflicts with...the DPA Order.” Dkt. No. 64 at ¶ 184  
21 (emphasis added). No allegations are made to show that Petitioners cannot comply with  
22 both Chapter 25B and the DPA Order. Sable has not pled facts showing how the  
23 County’s requirements prevent it from prioritizing and allocating services and contracts.  
24 The Seventh COA thus fails to support a theory of impossibility preemption.

25 *c. The DPA Order Does Not Expressly Preempt the County’s*  
26 *Jurisdiction.*

27 As discussed above in relation to the PSA, Congress may expressly preempt state  
28 law by enacting a clear statement to that effect. *In re Volkswagen “Clean Diesel” Mktg.*,

1 *Sales Pracs., & Prods. Liab. Litig.*, 959 F.3d at 1211. To discern Congressional  
2 preemptive intent in an express pre-emption clause, the court’s inquiry will focus on the  
3 plain language. *Id.* Nothing in the DPA Order expressly authorizes sweeping preemption  
4 of local regulatory authority (nor could it when the text of the DPA does not empower the  
5 Secretary to do so). It should be noted that even Petitioners do not assert that the DPA  
6 Order expressly preempts Chapter 25B.

7         Instead, Petitioners cite the DPA’s liability shield, which provides that no person  
8 may be “held liable for damages or penalties for any act or failure to act resulting directly  
9 or indirectly from compliance with a rule, regulation, or order issued pursuant to this  
10 chapter.” 50 U.S.C. § 4557. Petitioners reference this provision in relation to their  
11 allegation that the Board’s decision to deny the Permit Transfers is “preempted to the  
12 extent that it conflicts with Sable’s federal obligation to comply with the DPA Order.”  
13 Dkt. No. 64 at ¶ 184.

14         Petitioners’ theory is legally incorrect. Nothing in the DPA or DPA Order  
15 demonstrates that Congress intended every prioritization and allocation order to confer  
16 immunity for *any* actions a recipient might take thereunder. To the contrary, courts have  
17 consistently held that while the priority provision in the DPA may provide immunity if a  
18 party must break existing *contracts*, it does not absolve the party from complying with  
19 safety or *environmental protection laws*. See *Hercules Inc. v. United States*, 24 F.3d at  
20 203-04; *U.S. v. Vertac Chemical Corp.*, 46 F.3d 803, 811-12 (8th Cir. 1995).<sup>8</sup> Congress  
21 knows how to draft expansive preemption clauses if it wishes. When it focuses a liability

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22 <sup>8</sup> This discussion is also consistent with the order in *Center for Biological Diversity, et*  
23 *al., v. California Dept. of Forestry and Fire Protection, et al.* (Case No. 25CV02244).  
24 RJN, Exh. 4. The State Court was the first to evaluate Sable Offshore and PPC’s  
25 preemption argument pertaining to the DPA Order. In dicta, the court reasoned that  
26 “Nothing in section 4551 or, by implication, in section 4557, permits a party subject to a  
27 DPA Order to violate other laws, especially including applicable other federal law.  
28 Moreover, the reasoning of *Hercules [Inc. v. U.S., 24 F.3d 188 (Fed. Cir. 1994)]* and  
[*U.S. v. Vertac Chemical Corp., 46 F.3d 803 (8th Cir. 1995)*] strongly implies that the  
DPA order, by itself, does not permit the violation of applicable state regulatory law...”  
RJN, Exh. 4 at 11.

1 shield on a much narrower field, the inference is that Congress extended that shield only  
2 as far as it intended.

3 For the foregoing reasons, the Seventh COA must be dismissed.

4 **C. Petitioners Fail to State a Claim that the Board’s Decision is Preempted**  
5 **by State Law.**

6 Finally, Petitioners contend that the California Department of Fish and Wildlife,  
7 Office of Spill Prevention and Response (“OSPR”) “has the exclusive authority to require  
8 that owners and operators have the financial wherewithal to cover costs associate with a  
9 worst-case-scenario incident, and sets specific requirements.” Dkt. No. 64 at ¶ 186.

10 Petitioners’ allegations are general, vague, and fail to specify what State requirements  
11 allegedly preempt the County’s authority.

12 Both the general authorization for a local entity’s policy power and State law  
13 preemption emanates from Article XI, Section 7, of the California Constitution: “[a]  
14 county or city may make and enforce within its limits all local, police, sanitary, and other  
15 ordinances and regulations not in conflict with general laws.” Cal. Const. art. XI, § 7.  
16 Thus, the County may enact and enforce policies and ordinances, such as Chapter 25B,  
17 related to its police power so long as they do not conflict with state laws.

18 Petitioners allege that the County is preempted from requiring additional financial  
19 assurances for a spill not authorized by OSPR or the FDPs.<sup>9</sup> Dkt. No. 64 at ¶ 186. But  
20 the Financial Guarantees finding (County Code § 25B-10(a)(2)) was not even a basis for  
21 the Board’s December Findings. Since Petitioners have not made any showing that the  
22 Board required financial assurances in its December Findings, the facts do not support a  
23 cognizable legal theory of preemption by state law. Dkt. No. 64 at ¶ 102.

24 Furthermore, no legal authority is cited to support Petitioners’ allegations.  
25 California Government Code sections 8670.37.51, *et seq.*, generally govern OSPR’s  
26 Certificates of Financial Responsibility (“COFRs”). Nothing in the language of these

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27 <sup>9</sup> Notably, this argument only applies to financial assurances for an oil spill or accident; it  
28 does not encompass the other requirements in Chapter 25B to provide adequate  
assurances (e.g., for proper abandonment).

1 statutes expressly states, or even suggests, that authority over financial responsibility is  
2 reserved to OSPR, exclusive of local governments.

3 Moreover, the purpose of Chapter 25B’s financial assurance requirements and  
4 OSPR’s COFRs scheme differ in purpose; while the former is primarily intended to  
5 assure an entity is capable of complying with all permit conditions and County  
6 ordinances, the latter is focusing on liability for oil spill response See County Code §§  
7 25B-9(a)(2),10(a)(2) (requiring a finding that a proposed operator demonstrate the  
8 financial responsibility “to comply with the permit and any county ordinance”); Cal. Gov.  
9 Code § 8670.37.52 (the effect of a certificate is to provide “conclusive evidence that the  
10 person or entity holding the certificate is the party responsible...for purposes of  
11 determining liability pursuant to this chapter.”).

12 Thus, Petitioners fail to state a cognizable legal theory of preemption by state law,  
13 warranting dismissal.

14 **V. CONCLUSION**

15 For these reasons, this Court should dismiss the Seventh COA.

16  
17 Dated: April 30, 2026

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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Environmental Defense Center, Get Oil Out!, Santa Barbara County Action Network, Sierra Club, and Santa Barbara Channelkeeper, certifies that this brief contains 6,714 words, which complies with the word limit of L.R. 11-6.1.

Dated: April 30, 2026

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