



September 21, 2020

The Honorable Gavin Newsom  
Governor of California  
State Capitol Building  
Sacramento, California 95814

*Submitted via fax to (916) 558-3160*

Dear Governor Newsom:

For nearly two years we have pleaded with you to take the steps necessary to protect Californians from oil industry pollution: halt the issuance of permits for new oil and gas wells, immediately institute a health and safety buffer to protect communities, ban fracking, and commit to phase out California's existing oil and gas extraction with a just transition. We have urged you to halt the issuance of permits for new oil wells and fracking for two primary reasons: (1) the issuance of such permits causes unacceptable climate and health harm; and (2) state regulators are issuing the permits illegally, without conducting review required under the California Environmental Quality Act (CEQA).

We have written many letters and have had many conversations with your staff. On May 7, 2020, along with three other organizations, we sent a letter to DOC Chief Counsel, offering a detailed explanation of the ongoing legal violations and requesting that your regulators halt new permitting and begin CEQA compliance. We have received no substantive response regarding the serious, ongoing legal violations.

Accordingly, we plan to shortly file suit to halt the illegal permitting. We write in the hope that you will promptly direct your regulators to halt permitting and avoid the need for litigation.

On Friday, ProPublica and The Desert Sun published the results of an extensive investigation into your administration's failure to prevent or stop multiple oil spills around the state. It provides graphic details of the environmental devastation caused by the illegal permitting, ongoing steam fracking, and other regulatory failures.<sup>1</sup> This comes in addition to the extensive body of information already before your administration on the full suite of health, climate, and environmental harms from oil and gas activities. We urge you to read the piece in full. Highlights include the following:

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<sup>1</sup> ProPublica, Oil Companies Are Profiting From Illegal Spills. And California Lets Them.

<https://www.propublica.org/article/oil-companies-are-profiting-from-illegal-spills-and-california-lets-them> (last visited Sept. 20, 2020).

❖ **For years there have been many ongoing oil spills around the state, including a type of spill termed a “surface expression.” State regulators have not only failed to stop the spills, but have allowed oil companies to profit from them. Oil companies have spilled more than 20 million gallons of oil, and then have made millions of dollars selling what is recovered.**

- “Hundreds” of onshore spills have occurred in California. “Geysers of oil, rock and mud have shot skyward 100 feet, and slopes have collapsed under smoking waterfalls of crude and wastewater.”
- Regulators “routinely” allow oil companies to sell spilled oil, ignoring their own staff’s warnings about dangers to the environment and public safety.
- Regulators say it is “permissible” for oil companies to profit off their own spills. Regulators admit the obvious – that this may create a financial incentive to keep spilling.
- Many of the spills are linked to steam fracking. The moratorium you issued in November 2019 has been interpreted to limit steam fracking only in *new wells*, but “[c]ompanies with existing permits ... are free to keep steam fracking — and to scoop up any oil that cracks the surface.”
  - Chevron’s GS-5 spill started in 2003 and has so far spilled 16.8 million gallons of oil, more than the amount spilled by the Exxon Valdez.
  - “In the last three years alone, the crude collected from GS-5 has generated an estimated \$11.6 million.”
  - The regional water board was “unaware” of the GS-5 spill until journalists asked the agency about it for the investigation.
  - Chevron alone reported 64 spills between 1997 and 2010.
- Aera Energy spilled oil into the Sandy Creek streambed in 1998. The same spill continues 22 years later. In 2010, rains pushed the oil and toxic wastewater through 10 miles of streambed. A scientist from the California Department of Fish and Wildlife was “shocked” after seeing the destruction. Aera was never fined.
- Breitburn Energy spilled 4.8 million gallons in Santa Barbara County, selling the oil for an estimated \$7.3 million.
- “[M]ore than 160 containment structures have been built to corral spills since the late 1990s.”

❖ **Regulators respond to major spills with “parking tickets” for major oil companies.**

- Your regulators have only issued one fine so far (for a spill of over one million gallons) and Chevron has not paid a dime of it.
- CalGEM Supervisor Uduak-Joe Ntuk primarily issues “Notices of Violation,” which he compares to “parking tickets.”

❖ **Accidents and spills caused by steam injection are life threatening and have already caused one tragic fatality.**

- In 2011, Robert “Dave” Taylor died after falling into a sinkhole of hot oil and hydrogen sulfide that opened up underneath his feet. The operator, Chevron, was fined \$350.

- “Failed wellbores [in the Midway-Sunset field] were emitting up to 7,000 parts per million of hydrogen sulfide, more than three times the threshold for immediate death.”

❖ **California’s oil spills are devastating to public health, wildlife, and the environment.**

- Many steam injection spills occur in the Midway-Sunset oil field, which has “emitted more greenhouse gases than any oil field in the nation.”
- “Experts say oil constantly spilling to the surface also releases fresh volatile organic compounds that are building blocks for smog and other dangerous pollution linked to heart disease, asthma and other health problems. Two new studies of pregnant women living close to California oil fields show far higher rates of premature births and low-birth-weight babies.”
- “Studies of oil spill cleanup workers and nearby residents in six countries all showed they experienced higher rates of illness, ranging from sore throats to respiratory disease and cancer.”
- Wildlife that live in burrows near spills are “entombed” by the spilled crude oil. No one knows how many animals have died due to spills.
- Endangered species have been found dead near oil spills, and coastal live oaks have been destroyed as part of containment efforts. Records show “dozens of dead and decaying birds and small mammals around spill sites.”
- Local farmers complained: “The spills not only threatened the surface . . . but the water table — and the people and crops that rely on it.”

❖ **Your regulators affirmatively sanction “steam fracking” and large numbers of oil spills by classifying them as “low-energy expressions.”**

- In 2019, the state adopted regulations that exempted “low energy” spills, purporting to legalize scores of lucrative spills.
- “[O]ver the past 20 years, 14 of those sites have spilled a combined 20 million gallons of oil, worth more than \$19 million.”
- “The carveout appears to preserve a lucrative form of spill.”
- The 2019 regulations also allow “steam fracking” in which operators “inject[ ] steam down well bores at pressures high enough to crack brittle underground formations so oil could ooze upward.”

❖ **Administration officials and the oil industry openly brag about the oil industry’s ability to influence your office.**

- Anthony Williams, legislative affairs secretary at the time, told the oil industry earlier this year: “I talk to the governor every single day, and so when my voice rings in his ear, your voice rings in his ear.”
- “Cathy Reheis-Boyd, president of WSPA, said she and other oil executives speak regularly with Newsom and CalGEM. She said the industry supports Newsom’s ‘pragmatic’ approach to surface expressions, which includes the ongoing study of steam fracking.”

Despite the harms, your regulators have continued to ignore environmental review requirements. As detailed in our May 7, 2020 letter, subsequent to the Court's ruling in *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, regulators issued many permits unlawfully relying on the oil and gas ordinance and environmental impact report invalidated by that decision. More recently, regulators have issued a flood of permits, each accompanied by a CEQA Notice of Exemption claiming various exemptions from CEQA, none of which apply, and which are, in fact, facially absurd.

In addition to moving forward with each of the policy proposals advanced by the Last Chance Alliance, we urge you to direct your regulators to immediately stop issuing the illegal permits, hold the oil industry accountable for its damage and stop allowing oil companies to profit from their oil spills.

Sincerely,



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