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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF LOS ANGELES**

11 SAFARI CLUB INTERNATIONAL;  
CALIFORNIA RIFLE & PISTOL  
12 ASSOCIATION, INCORPORATED;  
CALIFORNIA BOWMEN  
13 HUNTERS/STATE ARCHERY  
ASSOCIATION; HOWL FOR  
14 WILDLIFE, INC.; CALIFORNIA DEER  
ASSOCIATION; and COALITION TO  
15 SAVE CATALINA ISLAND DEER,

16 Plaintiffs and Petitioners,

17 v.

18 CALIFORNIA DEPARTMENT OF FISH  
AND WILDLIFE; CALIFORNIA  
19 DEPARTMENT OF FISH AND  
WILDLIFE, SOUTH COAST REGION;  
20 and DOES 1-10,

21 Defendants and Respondents.

22 CATALINA ISLAND CONSERVANCY,

23 Real Party in Interest.  
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Case No. 26STCP00987

**REAL PARTY IN INTEREST CATALINA  
ISLAND CONSERVANCY'S NOTICE OF  
DEMURRER AND DEMURRER**

(California Environmental Quality Act, Pub.  
Resources Code, § 21168.5; Code Civ. Proc.  
§ 1085)

Assigned for All Purposes to:  
Honorable Curtis A. Kin, Dept. 836

Hearing Date: June 11, 2026  
Time: 1:30 p.m.

**CEQA CASE**

Filed Concurrently with Request for Judicial  
Notice; Declaration of Edward T. Schexnayder

1 **NOTICE OF DEMURRER AND DEMURRER**

2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that on June 11, 2026 at 1:30 p.m. in Department 836  
4 (formerly Department 86) of the Los Angeles County Superior Court, located at Stanley Mosk  
5 Courthouse at 111 N. Hill Street, Los Angeles, CA 90012, Real Party in Interest Catalina Island  
6 Conservancy (“Conservancy”) will and hereby does demur to the Verified Petition for Writ of  
7 Mandate or Other Appropriate Relief (“Petition”) of Petitioners Safari Club International, et al.  
8 in its entirety. The Demurrer is based on this Notice and Demurrer, the attached Memorandum  
9 of Points and Authorities, the Declaration of Edward T. Schexnayder in Support of the  
10 Conservancy’s Demurrer, all pleadings and papers on file in this action, and such arguments and  
11 evidence as may be presented to the Court at or before the hearing on this demurrer.


12 WHEREFORE, the Conservancy demurs to the Petition on the grounds that Petitioners’  
13 **First Cause of Action (Violation of CEQA – Invalid CEQA Exemption)** fails to state facts  
14 sufficient to constitute a cause of action (Code Civ. Proc. § 430.10(e)) and the Court lacks  
15 jurisdiction over the cause of action alleged in the pleading (*id.* § 430.10(a)) because the Petition  
16 was filed after the applicable limitations period had expired (14 Cal. Code Regs. § 15112(c);  
17 Pub. Resources Code § 21167(d)).

18 WHEREFORE, the Conservancy prays for relief as follows:

- 19 1. That the Court sustains the Conservancy’s Demurrer without leave to amend;  
20 2. That the Conservancy recovers its costs of suit and reasonable attorneys’ fees; and  
21 3. For such other relief as the Court deems just and proper.

22 DATED: May 15, 2026

SHUTE, MIHALY & WEINBERGER LLP

23  
24 By:   
25 \_\_\_\_\_  
26 EDWARD T. SCHEXNAYDER  
27 Attorneys for Real Party in Interest  
28 CATALINA ISLAND CONSERVANCY

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Catalina Island is one of the most biologically significant landscapes in California—a  
4 biodiversity hotspot home to at least sixty species found nowhere else on Earth. The Catalina  
5 Island Restoration Project (“Restoration Project”) is a comprehensive effort to reverse more than  
6 a century of ecological degradation that is threatening the Island’s irreplaceable ecosystem. The  
7 Restoration Project has earned broad support from state and federal agencies, tribal leaders,  
8 conservation organizations, and expert scientists.

9 The California Department of Fish and Wildlife approved a Restoration Management  
10 Permit for the Restoration Project after determining the Project qualifies for an exemption from  
11 the California Environmental Quality Act (“CEQA”). Petitioners—almost entirely hunting or  
12 gun advocacy groups—filed this suit to challenge the Department’s determination. Their  
13 opposition stems not from environmental concerns but from the prospective loss of recreational  
14 hunting following the removal of Catalina Island’s invasive mule deer population, which experts  
15 have concluded is a necessary prerequisite to restoring the Island’s ecosystem.

16 But Petitioners filed this suit too late. CEQA’s short statute of limitations required them  
17 to file within 35 days of the Department’s Notice of Exemption—by March 9, 2026. They  
18 instead filed on March 10. No authority allows the Court to excuse their untimely Petition—  
19 regardless of the length of the delay or Petitioners’ reason for it—nor can any amendment cure  
20 this defect. The Conservancy therefore requests that the Court sustain this Demurrer without  
21 leave to amend and dismiss the Petition in its entirety.

22 **FACTUAL BACKGROUND**

23 **I. Catalina Island faces an ecological crisis, and the Conservancy’s Restoration Project**  
24 **is essential to restoring the Island’s irreplaceable ecosystem.**

25 Catalina Island is home to at least sixty endemic species, including the federally  
26 threatened Catalina Island fox, the federally threatened island rush-rose, and the federally  
27 endangered Santa Catalina Island mountain-mahogany, a species with only six individuals  
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1 remaining in the wild. Pet. Ex. J §§ 1.1, 1.1.3, 2, 2.3.1.<sup>1</sup> The Island’s unique ecosystem has been  
2 severely impacted by human development, climate change, and the proliferation of invasive  
3 ungulates (i.e., hooved animals) and other invasive species (*id.* § 1.3.1.; Pet. Ex. I § 2.1), which  
4 have caused a loss of biodiversity, extirpation of native species, and other environmental  
5 impacts. Pet. Ex. J § 1.2.

6 Invasive mule deer have been particularly harmful to the Island’s fragile ecosystem. Deer  
7 were first introduced to Catalina Island in 1928 and rapidly multiplied from ten individuals to  
8 over 2,000. Pet. Ex. I § 2.2.1. Because Catalina Island’s native plants evolved without deer, they  
9 lack the natural protections that mainland species have against deer browsing. *Id.* § 3.1.1. Peer-  
10 reviewed studies and the Conservancy’s own scientists have thoroughly documented the  
11 ongoing damage that deer are causing to these species. *Id.* Decades of recreational hunting have  
12 failed to meaningfully control the deer population even though Catalina Island has historically  
13 had the longest annual hunting season in the State. *Id.* § 2.2.2. Scientists have determined that it  
14 is impossible to restore the Island’s ecosystem without removing the invasive deer population.  
15 *Id.* § 3.1.1.

16 The Catalina Island Conservancy is a 501(c)(3) nonprofit that owns and manages 88% of  
17 Catalina Island, and employs expert scientists who implement conservation programs that  
18 protect Catalina’s unique and threatened ecosystem. Pet. Ex. J § 1.1. The Conservancy’s  
19 Restoration Project, the culmination of decades of scientific research and planning, will initiate  
20 an Island-wide restoration effort that addresses the ecological threats posed by invasive plants,  
21 growing wildfire risk, invasive mule deer, and climate change. Pet. Ex. H at 1; Pet. Ex. J § 1.2.  
22 The Restoration Project reflects years of engagement with and input from Island community  
23 members, tribal leaders, business owners, hunters, and members of the local humane society.  
24 Pet. Ex. I § 1.3. The Restoration Project has earned support from a broad coalition including the  
25 U.S. Fish & Wildlife Service, the Center for Biological Diversity, four Gabrieleño-Tongva tribal  
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27 <sup>1</sup> The Conservancy cites to exhibits to the Petition that Petitioners filed separately. *See*  
28 Declaration of Sean A. Brady In Support of Petition for Writ of Mandate or Other Appropriate  
Relief (filed March 18, 2026).

1 organizations, the California Invasive Plant Council, The Nature Conservancy, the American  
2 Association of Wildlife Veterinarians, and numerous other organizations and expert scientists.  
3 *Id.* § 3.3.3, Ex. D, Ltrs.

4 **II. The Department approved the Restoration Project after thorough review, and**  
5 **Petitioners filed their challenge one day too late.**

6 To implement the Restoration Project, the Conservancy applied for a Restoration  
7 Management Permit (“RMP”) from the Department in September 2025. Pet. ¶ 23. After  
8 thorough review, the Department determined that the Restoration Project would result in “long-  
9 term net benefits to climate resiliency, biodiversity, and sensitive species recovery,” and was  
10 exempt from CEQA under the Statutory Exemption for Restoration Projects (“SERP”). *Id.*; see  
11 also Pub. Resources Code § 21080.56; Pet. Ex. E, Attachment 2 at 4. The Department filed a  
12 Notice of Exemption on January 28, 2026, as required by Public Resources Code section  
13 21080.56(g). Pet. ¶ 46. The Department approved the Restoration Project and issued the RMP  
14 on January 30, 2026, and filed a second Notice of Exemption on February 2, 2026. Pet. ¶¶ 47-  
15 48.

16 The Legislature has imposed strict deadlines for CEQA challenges. Any challenge to a  
17 project that is exempt from CEQA must be filed within 35 days of the issuance of a Notice of  
18 Exemption. 14 Cal. Code Regs. § 15112(c); Pub. Resources Code § 21167(d). Thirty-five days  
19 after the first Notice of Exemption was March 4, 2026. Thirty-five days after the second Notice  
20 of Exemption was March 9, 2026.

21 Petitioners filed their Petition on March 10, 2026.

22 **LEGAL STANDARD**

23 A demurrer is appropriate when a pleading does not state facts sufficient to constitute a  
24 cause of action. Code Civ. Proc. § 430.10(e). Courts sustain demurrers where a petitioner fails to  
25 file a petition for writ of mandate within the mandatory limitations period. *Coalition for Clean*  
26 *Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 419.

27 In ruling on a demurrer, a court assumes the truth of all properly pleaded, material facts  
28 and judicially noticeable matters, but not contentions, deductions, or conclusions of fact or law.

1 *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318. A court “may also look to exhibits attached to the  
2 complaint for operative facts.” *Nealy v. County of Orange* (2020) 54 Cal.App.5th 594, 596-97. If  
3 a court sustains a demurrer, it should deny leave to amend where the facts are undisputed and no  
4 liability exists. *Lawrence v. Bank of America* (1985) 163 Cal.App.3d 431, 436-37.

5 **ARGUMENT**

6 **I. Petitioners failed to file within CEQA’s mandatory limitations period.<sup>2</sup>**

7 CEQA “provides unusually short statutes of limitations on filing court challenges to the  
8 approval of projects under the act.” 14 Cal. Code Regs. § 15112(a). For projects that are exempt  
9 from CEQA, Petitioners must file their challenge within 35 days following the posting of a  
10 notice of exemption. *Id.* § 15112(c)(2). Here, CEQA required the Petition to be filed no later  
11 than March 9, 2026. Petitioners’ failure to meet that deadline requires dismissal of their suit.

12 Courts routinely uphold the dismissal of CEQA petitions for failure to comply with its  
13 mandatory limitations periods. *E.g.*, *Alliance for Protection of Auburn Community Environment*  
14 *v. County of Placer* (2013) 215 Cal.App.4th 25, 28-29, 32-34 (“*Alliance*”); *Stockton Citizens for*  
15 *Sensible Planning v. City of Stockton* (2010) 48 Cal.4th 481, 488-89, 498-516; *San Bernardino*  
16 *Associated Governments v. Superior Court* (2006) 135 Cal.App.4th 1106, 1122-23. This  
17 requirement cannot be overridden, whether on an ad hoc basis or pursuant to a local court rule.  
18 *See Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1352 (“local court rules or policies” are  
19 invalid to the extent they conflict with statutes or case law.); *Kalivas v. Barry Controls Corp.*  
20 (1996) 49 Cal.App.4th 1152, 1160 (a “courtroom local rule” that is inconsistent with state  
21 statute is invalid).

22 In *Alliance*, for example, a petitioner sought relief from CEQA’s 30-day deadline to  
23 challenge an environmental impact report, which the petitioner missed by a single court day. 215  
24 Cal.App.4th at 28, 30. The petitioner asserted that relief was warranted because it duly prepared  
25 the petition and directed its attorney service to file on the last day of the limitations period, but  
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28 <sup>2</sup> In addition to arguments contained herein, the Conservancy expressly joins the arguments  
presented in the Department’s separately filed demurrer.

1 the attorney service arrived too late and could not file until the next court day. *Id.* at 30. The  
2 *Alliance* court refused to excuse the petitioner’s untimely filing. *Id.* at 30-33. The court  
3 emphasized that “statutes of limitation are, of necessity, adamant rather than flexible in nature,”  
4 and, where the “Legislature desires to allow some flexibility,” it “expressly provides for an  
5 extension of the limitations period.” *Id.* at 32. Because CEQA “makes no provision for  
6 extending the limitations period,” the court lacked discretion to grant the petitioner’s requested  
7 relief, regardless of its reason for the late filing. *Id.*

8 CEQA is not unique in this respect. *Alliance* is consistent with other courts’ treatment of  
9 similarly short limitations periods for challenges to public agency decisions. *E.g., Pressler v.*  
10 *Donald L. Bren Co.* (1982) 32 Cal.3d 831, 834-35 (court lacks authority to grant relief from 10-  
11 day limitations period to challenge decision of Labor Commissioner, even where petitioner  
12 could show mistake, surprise, or excusable neglect); *Kupka v. Board of Administration* (1981)  
13 122 Cal.App.3d 791, 793-95 (court lacks authority to grant relief from 30-day limitations period  
14 to challenge decision of Public Employees’ Retirement System, even where failure to timely file  
15 was due to miscommunication between attorney and client); *Jackson & Perkins Co. v.*  
16 *Agricultural Labor Relations Bd.* (1978) 77 Cal.App.3d 830, 832-34 (court lacks authority to  
17 grant relief from 30-day limitations period challenging order of Agricultural Labor Relations  
18 Board).

19 *Alliance* is also consistent with other courts’ dismissal of suits that miss a limitations  
20 deadline by a single day. *See Dobarro v. Kim* (2025) 116 Cal.App.5th 158, 161; *Smith v. City*  
21 *and County of San Francisco* (1977) 68 Cal.App.3d 227, 229-32; *Eddington v. County of San*  
22 *Diego* (1981) 118 Cal.App.3d 39, 41-47. Federal courts, who implemented mandatory electronic  
23 filing well before California state courts, have similarly held that the unique issues associated  
24 with electronic filing do not provide grounds for relief from statutory deadlines, even where a  
25 deadline is missed by less than an hour. *E.g., Anwar v. Johnson* (9th Cir. 2013) 720 F.3d 1183,  
26 1184-88 (dismissing bankruptcy complaint filed twenty-six minutes after deadline); *Sanders v.*  
27 *Commissioner of Internal Revenue* (2023) 160 T.C. 563 (dismissing tax petition filed “11  
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1 seconds after midnight”); *In re Casey* (Bankr. S.D. Ohio2005) 329 B.R. 43 (dismissing  
2 complaint filed fourteen minutes after midnight).

3 Statutes of limitation “necessarily operate harshly and arbitrarily with respect to  
4 individuals who fall just on the other side of them.” *U.S. v. Locke* (1985) 471 U.S. 84, 101. “If  
5 1-day late filings are acceptable, 10-day late filings might be equally acceptable, and so on in a  
6 cascade of exceptions that would engulf the rule erected by the filing deadline.” *Id.* Here,  
7 Petitioners fell on the wrong side of CEQA’s limitations period, requiring dismissal of their  
8 case.

9 **II. Petitioners’ untimely filing was due entirely to their indefensible delay.**

10 Statutes of limitation “are upheld and enforced regardless of personal hardship.” *Kupka*,  
11 122 Cal.App.3d at 794. Should the Court nonetheless inquire into why the Petition was untimely  
12 filed, the Court need look no further than the Petition, which establishes Petitioners had  
13 significant advance notice of the Restoration Project and the Notice of Exemption, yet  
14 inexplicably waited until the very last minute to file.

15 By their own account, Petitioners have actively opposed the Restoration Project since at  
16 least October 2023, including submitting letters to the Department, meeting with Department  
17 officials, and providing public comment at Avalon City Council meetings. Pet. ¶¶ 35-39.  
18 Petitioners were on notice of the specific, urgent need to prepare the Petition since at least  
19 January 28, 2026, when the Department issued the first Notice of Exemption. Pet. ¶ 46. On  
20 February 11, 2026, some of the Petitioners submitted lengthy written objections to the  
21 Department that mirror many of the allegations found in the Petition. Pet. ¶ 20. On March 4,  
22 Petitioners submitted a detailed notice of intent to sue letter that laid out their substantive legal  
23 arguments and the exact relief the Petition seeks. Pet. ¶ 19. Petitioners were well positioned to  
24 file in advance of March 9, 2026.

25 Petitioners’ delay is particularly egregious given the potential that the 35-day limitations  
26 period did not begin on February 2, 2026, but began on January 28, 2026, when the Department  
27 filed its first Notice of Exemption. Although a notice of exemption filed before a project  
28 approval typically does not trigger the 35-day limitations period (*Coalition for Clean Air*, 209

1 Cal.App.4th at 421-25), the Department’s SERP exemption is governed by a unique statute that  
2 expressly directs a lead agency to issue a notice of exemption “[w]ithin 48 hours of making a  
3 determination that a project is exempt” from CEQA, without regard for when the project is  
4 ultimately approved. Pub. Resources Code § 21080.56(g). This legislative direction indicates the  
5 35-day limitations period may have started when the first Notice of Exemption was filed, which  
6 would have required the Petition to be filed by March 4, 2026.<sup>3</sup> That possibility alone should  
7 have compelled Petitioners to file well before March 9.

8 “When parties wait until the last minute to comply with a deadline, they are playing with  
9 fire.” *Spears v. City of Indianapolis* (7th Cir. 1996) 74 F.3d 153, 157. Despite having ample  
10 opportunity to file the Petition in advance of March 9, 2026, Petitioners chose to delay until the  
11 last minute. They are stuck with the consequences of that decision.

12 **III. Amendment cannot save the Petition.**

13 Petitioners are not entitled to leave to amend. Leave to amend is only warranted where  
14 “there is a reasonable possibility the plaintiff could cure the defect with an amendment.”  
15 *Alliance*, 215 Cal.App.4th at 29. A missed deadline is missed. No amendment can resurrect  
16 Petitioners’ untimely filing. It is therefore appropriate to sustain the demurrer to Petitioners’  
17 late-filed CEQA petition without leave to amend. *See id.* at 34.

18 **CONCLUSION**


19 The Conservancy respectfully requests the Court sustain the demurrer without leave to  
20 amend.

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26 <sup>3</sup> Whether the Department’s first Notice of Exemption established an earlier limitations deadline  
27 presents an issue of first impression that the Court need not resolve to sustain this Demurrer.  
28 The Petition is untimely under either the first or second Notice of Exemption. Nonetheless, the  
Conservancy expressly reserves its right to challenge the Petition as untimely based on  
Petitioners’ failure to file within 35 days of the Department’s first Notice of Exemption.

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DATED: May 15, 2026

SHUTE, MIHALY & WEINBERGER LLP

By:   
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