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CATALINA ISLAND CONSERVANCY

8
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.
24
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27
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Case No. 26STCP00987

**REAL PARTY IN INTEREST CATALINA
ISLAND CONSERVANCY'S OPPOSITION
TO MOTION TO CONFORM FILING DATE**

(California Environmental Quality Act, Pub.
Resources Code, § 21168.5; Code of 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

1 **Introduction**

2 Petitioners concede that they filed their Petition after CEQA’s 35-day limitations period
3 had expired. Well-established authority, discussed below and in Respondent California
4 Department of Fish and Wildlife’s separate opposition brief, requires dismissal of late CEQA
5 petitions, regardless of the length of the delay or Petitioners’ reason for it. Petitioners, in
6 contrast, cite no authority that supports their motion. Instead, they rely on a local rule that
7 cannot override CEQA’s mandatory limitations period, and attempt to blame their e-filing
8 service for the delay. But Petitioners’ own declarations show that the Petition was late because
9 they waited until the last day to begin compiling it, and insisted on filing thousands of pages of
10 unnecessary exhibits. The Court should deny this Motion.

11 **Factual Background**

12 **I. The Catalina Island Restoration Project is critical to restoring the Island’s
13 irreplaceable ecosystem that has suffered decades of ecological damage.**

14 Catalina Island is home to at least sixty endemic species, including the federally
15 threatened Catalina Island fox, the federally threatened island rush-rose, and the federally
16 endangered Santa Catalina Island mountain-mahogany, a species with only six individuals
17 remaining in the wild. Verified First Amended Complaint & Petition for Writ of Mandate or
18 Other Appropriate Relief (“Pet.”) Ex. J §§ 1.1, 1.3.1, 2, 2.3.1.¹ The Island’s unique ecosystem
19 has been severely impacted by human development, climate change, and the proliferation of
20 invasive ungulates (hooved animals) and other invasive species (*id.* § 1.3.1; Pet. Ex. I § 2.1),
21 which have caused a loss of biodiversity, extirpation of native species, and other environmental
22 impacts. Pet. Ex. J § 1.2.

23 Real Party in Interest Catalina Island Conservancy (“Conservancy”) is a 501(c)(3)
24 nonprofit that owns and manages 88% of Catalina Island. The Conservancy’s staff includes
25 expert scientists who implement multiple conservation programs to protect Catalina’s unique

26 _____
27 ¹ The Conservancy cites to exhibits to the Petition that Petitioners filed separately. *See*
28 Declaration of Sean A. Brady In Support of Verified First Amended Complaint & Petition for
Writ of Mandate or Other Appropriate Relief (filed May 27, 2026).

1 and threatened ecosystem. Pet. Ex. J § 1.1. The Conservancy’s “Catalina Island Restoration
2 Project” is the culmination of decades of scientific research and planning, and will initiate an
3 Island-wide restoration effort that addresses the ecological threats posed by invasive plants,
4 growing wildfire risk, invasive mule deer, and climate change. Pet. Ex. H § 1; Pet. Ex. J § 1.2.
5 The Restoration Project reflects years of engagement with Island community members, tribal
6 leaders, business owners, hunters, and members of the local humane society. Pet. Ex. I § 1.3.
7 The Restoration Project has earned support from a broad coalition including the U.S. Fish &
8 Wildlife Service, the Center for Biological Diversity, four Gabrieleño-Tongva tribal
9 organizations, the California Invasive Plant Council, The Nature Conservancy, the American
10 Association of Wildlife Veterinarians, and numerous other organizations and expert scientists.
11 *Id.* § 3.3.3, Ex. D, Ltrs. In contrast, Petitioners are primarily hunting organizations that seek to
12 maintain the Island’s invasive mule deer population for recreational hunting. Pet. ¶¶ 7-12.

13 Invasive mule deer have been particularly harmful to Catalina Island’s fragile ecosystem.
14 Deer were first introduced to Catalina Island in 1928 and rapidly multiplied from just ten
15 individuals to over 2,000. Pet. Ex. I § 2.2.1. Because the Island’s native plants evolved without
16 deer, they lack the natural protections that mainland species have against deer browsing. *Id.* §
17 3.1.1. Peer-reviewed studies and the Conservancy’s own scientists have thoroughly documented
18 the ongoing damage that deer cause these native species. *Id.* Decades of recreational hunting
19 have failed to meaningfully control the deer population even though Catalina Island has
20 historically had the longest annual hunting season in the State. *Id.* § 2.2.2. Scientists have
21 determined that it is impossible to restore the Island’s ecosystem without removing the invasive
22 deer population. *Id.* § 3.1.1.

23 Removing Catalina Island’s mule deer population will be the culmination of conservation
24 initiatives across the Channel Islands archipelago to remove damaging invasive ungulate
25 populations. Catalina Island’s deer are the last uncontrolled invasive ungulate species in the
26 entire archipelago. Invasive pigs, cattle, sheep, goats, deer and elk have been successfully
27 removed from Santa Rosa, San Clemente, and Santa Cruz Islands during the past four decades.
28

1 *Id.* § 3.3.1.1. On Catalina Island itself, sheep, cattle, pigs, and goats have already been removed.

2 *Id.* § 2.1.

3 **II. After thorough review, the Department approved a Restoration Management**
4 **Permit for the Restoration Project.**

5 To implement the Restoration Project, the Conservancy applied for a Restoration
6 Management Permit from the Department in September 2025. Pet. ¶ 23. After careful
7 consideration, the Department determined that the Restoration Project was exempt from CEQA
8 under the Statutory Exemption for Restoration Projects (“SERP”) on January 28, 2026. *Id.*; see
9 also Pub. Resources Code § 21080.56; Pet. Ex. E, Attachment 2. The Department specifically
10 found that the Project would enhance native habitat, facilitate the recovery of endemic and
11 endangered species, and improve Catalina Island’s climate resiliency. *Id.* The Department filed a
12 Notice of Exemption on January 28, 2026, as required by Public Resources Code section
13 21080.56(g). Pet. ¶ 47. The Department then approved a Restoration Management Permit for the
14 Restoration Project on January 30, 2026, and filed a second Notice of Exemption on February 2,
15 2026. Pet. ¶¶ 48-49.

16 **III. As Petitioners concede, they filed their Petition after CEQA’s limitations period had**
17 **expired.**

18 Any legal challenge to a project that is exempt from CEQA must be filed within 35 days
19 of a Notice of Exemption. 14 Cal. Code Regs. § 15112(c); Pub. Resources Code § 21167(d).
20 Thirty-five days after the first Notice of Exemption was March 4, 2026. Thirty-five days after
21 the second Notice of Exemption was March 9, 2026.

22 Petitioners filed their Petition on March 10, 2026. Petitioners’ Notice of Motion and
23 Motion to Conform Filing Date to Attempted Transmission Date or Other Appropriate Relief
24 (“Motion”), at 4. Petitioners concede that this filing was at least one day after CEQA’s 35-day
25 deadline (*id.*), but argue the Court should excuse this delay because they encountered computer
26 problems when they attempted to upload their Petition shortly before midnight on March 9,
27 2026. See Declaration of Sean A. Brady In Support of Petitioners’ Notice of Motion and Motion
28 (“Brady Decl.”).

1 On May 15, 2026, the Conservancy and the Department demurred to the Petition on the
2 grounds that the Petition was untimely filed. Rather than oppose the demurrers, Petitioners filed
3 an amended Complaint and Petition on May 27, 2026 that added three new non-CEQA causes of
4 action, but did not materially alter the original CEQA cause of action. The Conservancy
5 anticipates demurring to the Amended Complaint and Petition due to the untimeliness of the
6 CEQA cause of action.

7 **Legal Standard**

8 Where “the relevant facts are not in dispute, the application of the statute of limitations
9 may be decided as a question of law.” *International Engine Parts, Inc. v. Feddersen & Co.*
10 (1995) 9 Cal.4th 606, 611-12. Petitioners concede they filed the Petition after the statute of
11 limitations period had run. The Motion thus presents a simple legal question: whether the Court
12 can grant relief from a late CEQA petition.

13 **Argument**

14 **I. A late CEQA petition must be dismissed regardless of the length of, or reason for, 15 the delay.²**

16 CEQA “provides unusually short statutes of limitations on filing court challenges to the
17 approval of projects under the act.” 14 Cal. Code Regs. § 15112(a). For projects that are exempt
18 from CEQA, Petitioners must file their challenge within 35 days following the posting of a
19 notice of exemption. *Id.* § 15112(c)(2); Pub. Resources Code § 21167(d). Here, as Petitioners
20 concede, they “had 35 days from February 2, 2026, to file a challenge, making the deadline
21 March 9, 2026.” Motion at 4.

22 CEQA does not authorize courts to grant relief from a late-filed petition. Consequently,
23 courts routinely uphold the dismissal of CEQA petitions for failure to comply with its
24 mandatory limitations periods. *E.g., Alliance for Protection of Auburn Community Environment*
25 *v. County of Placer* (2013) 215 Cal.App.4th 25, 28-29, 32-34 (“*Alliance*”); *Stockton Citizens for*

26
27 ² In addition to arguments contained herein, the Conservancy joins the arguments presented in
28 the Department’s separately filed opposition brief.

1 *Sensible Planning v. City of Stockton* (2010) 48 Cal.4th 481, 488-89, 498-516; *San Bernardino*
2 *Associated Governments v. Superior Court* (2006) 135 Cal.App.4th 1106, 1122-23.

3 In *Alliance*, for example, the petitioner missed CEQA’s 30-day deadline by a single court
4 day after its attorney service arrived too late to file the petition on time. 215 Cal.App.4th at 28,
5 30. The court held that CEQA did not authorize relief from the petitioner’s untimely filing. *Id.* at
6 30-33. The court emphasized that “statutes of limitation are, of necessity, adamant rather than
7 flexible in nature,” and, where the “Legislature desires to allow some flexibility,” it “expressly
8 provides for an extension of the limitations period.” *Id.* at 32. Because CEQA “makes no
9 provision for extending the limitations period,” the court lacked discretion to grant the
10 petitioner’s requested relief, regardless of its reason for the late filing. *Id.*

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

22 *Alliance* is also consistent with other courts’ dismissal of suits that miss a limitations
23 deadline by a single day. *See Dobarro v. Kim* (2025) 116 Cal.App.5th 158, 161; *Smith v. City*
24 *and County of San Francisco* (1977) 68 Cal.App.3d 227, 229-32; *Edington v. County of San*
25 *Diego* (1981) 118 Cal.App.3d 39, 41-47. Statutes of limitation “necessarily operate harshly and
26 arbitrarily with respect to individuals who fall just on the other side of them.” *U.S. v. Locke*
27 (1985) 471 U.S. 84, 101. “If 1-day late filings are acceptable, 10-day late filings might be
28

1 equally acceptable, and so on in a cascade of exceptions that would engulf the rule erected by
2 the filing deadline.” *Id.*

3 Nor do the unique circumstances that may arise with electronic filing justify relief from
4 an untimely CEQA petition. In *Anwar v. Johnson* (9th Cir. 2013) 720 F.3d 1183, 1186-89, the
5 Ninth Circuit held that a “strict” filing deadline could not be retroactively extended “based on
6 equitable considerations or a local rule.” The fact that the petitioner “missed the filing deadline
7 by less than an hour,” the asserted lack of prejudice to the other parties, and the fact the
8 “untimely filing stemmed from difficulty with an electronic filing system,” were all immaterial.
9 *Id.* at 1188.

10 The reasoning in *Alliance*, *Anwar*, and the myriad other authority applies with full force
11 here. CEQA required the Petition to be filed by March 9 at the latest. No authority relieves
12 Petitioners from their duty to file on time.

13 **II. A local rule cannot override clear authority requiring dismissal of the Petition.**

14 In contrast to this authority, Petitioners fail to cite a single statute, regulation, or case that
15 supports their request to backdate their Petition. Instead, they exclusively rely on Local Rule
16 3.4(g), which can provide relief from an untimely filing where there is “a transmission error that
17 is not the fault of the transmitter.” That rule, however, cannot be applied in a manner that
18 conflicts with the abundant authority requiring the dismissal of late-filed CEQA petitions,
19 regardless of the reason for the delay. *Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1352
20 (“local court rules or policies” are invalid to the extent they conflict with statutes or case law);
21 *Kalivas v. Barry Controls Corp.* (1996) 49 Cal.App.4th 1152, 1160 (same). Petitioners’ only
22 authority is therefore no authority at all.

23 **III. Petitioners’ untimely filing was due to their indefensible delay and inclusion of
24 extraneous exhibits.**

25 Even were the Court to inquire into the reason for their late filing, Petitioners do not
26 satisfy Local Rule 3.4(g)’s requirement that the “transmission error” not be “the fault of the
27 transmitter.” Instead, Petitioners’ declarations show that they were squarely at fault for the late
28 filing. Petitioners waited until the last possible day despite having ample time to prepare the

1 Petition, and then encountered predictable technical problems because they insisted on filing
2 thousands of pages of unnecessary exhibits.

3 Notably, Petitioners have actively opposed the Restoration Project since at least October
4 2023, including by submitting letters to the Department, meeting with Department officials, and
5 providing public comment against the Restoration Project. Pet. ¶¶ 35-40. They have been aware
6 of the need to prepare the Petition since at least January 28, 2026, when the Department issued
7 the first Notice of Exemption. Pet. ¶ 47. On February 11, 2026, some Petitioners submitted
8 lengthy written objections to the Department that mirror many of the allegations found in the
9 Petition. Pet. ¶ 20. And on March 4, Petitioners submitted a detailed notice of intent to sue letter
10 asserting the same CEQA arguments and seeking the same relief as the Petition. Pet. Ex. A.
11 Petitioners were well positioned to file before the deadline.

12 Their delay is particularly egregious given the potential that the 35-day limitations period
13 actually began on January 28, 2026, when the Department filed its first Notice of Exemption.
14 Although a notice of exemption filed before a project approval typically does not trigger the 35-
15 day limitations period (*Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408,
16 421-25), a SERP exemption is governed by a unique statute that requires a lead agency to issue a
17 notice of exemption “[w]ithin 48 hours of making a determination that a project is exempt,”
18 without regard for when the project is ultimately approved. Pub. Resources Code § 21080.56(g).
19 Thus, the Petition may have been due on March 4, 2026—five days before Petitioners’ counsel
20 even began compiling the Petition for filing.

21 Nevertheless, Petitioners’ counsel waited until March 9—the last possible day—to
22 instruct their staff to begin compiling the Petition. Brady Decl. ¶ 4; Declaration of Haydee
23 Villegas In Support of Petitioners’ Notice and Motion (“Villegas Decl.”) ¶ 4. Given the volume
24 of exhibits Petitioners chose to attach, this was a substantial task requiring “identifying,
25 assembling, and labeling the exhibits; identifying, assembling and inserting the verification
26 pages for the Petitioners; and combining all documents into a format suitable for uploading into
27 the court’s online filing system.” Villegas Decl. ¶ 7. The paralegal tasked with preparing the
28 Petition apparently did not come close to completing it by 3:30 p.m., when she could no longer

1 work on it. Brady Decl. ¶ 5. It then took Ms. Villegas almost eight hours to finish compiling the
2 Petition. Brady Decl. ¶¶ 5, 8; Villegas Decl. ¶¶ 4, 8. One Legal’s “Statement of Fact” indicates
3 Ms. Villegas did not actually begin “adding documents to the filing transaction” until 11:32 p.m.
4 Declaration of Tiffany D. Chevront In Support of Petitioners’ Motion (“Chevront Decl.”), Ex.
5 E.³ One Legal then recorded a 17-minute long period of “no user activity” between 11:32 p.m.
6 and 11:49 p.m., followed by “navigation back to the One Legal homepage.” *Id.* Ms. Chevront
7 faults One Legal for not providing a “time-out warning,” or a file-size warning (*Id.* ¶¶ 16-20),
8 but ultimately reaches the same conclusion as her colleagues: the Petition’s voluminous exhibits
9 likely prevented the filing. *Id.* ¶ 20; *see also* Brady Decl. ¶ 9; Villegas Decl. ¶¶ 9-11.

10 Petitioners’ technical issues were entirely self-inflicted. Only two documents must be
11 filed with a verified petition: a proof of service of a notice of intent to commence a CEQA
12 action, and a request to prepare the administrative record. Pub. Resources Code §§ 21167.5,
13 21167.6(b). CEQA does not require the filing of any other documents. Instead, CEQA cases are
14 governed by an administrative record that must contain the documents delineated in Public
15 Resources Code section 21167.6(e). Whether a document is appended to the petition has no
16 bearing on whether it falls within the scope of Section 21167.6(e) and thus can be relied on in
17 litigation. Just as One Legal did not force Petitioners to wait until the last minute to file, it did
18 not force them to file thousands of pages of unnecessary exhibits. Petitioners’ attempt to offload
19 their errors on One Legal is belied by their own declarations.

20 The facts here are at least as egregious as those in *Anwar*. There, despite having months
21 of notice of the need to file a bankruptcy complaint, the petitioner waited until 9:00 p.m. on the
22 last day of the limitations period to “initiate the first step of the electronic filing process.” 720
23 F.3d at 1185. When the computer program “stopped responding,” requiring staff to “restart the

24 _____
25 ³ Ms. Chevront’s declaration is littered with inadmissible hearsay (Evid. Code §§ 1200 et seq.)
26 and is tainted by a lack of personal knowledge (*id.* § 702). The bulk of her declaration consists
27 of offering statements from the firm’s employees and One Legal. Chevront Decl. ¶¶ 7-17, 19-
28 22, Exhs. E-F. Moreover, she does not declare that she oversaw the filing of the Petition, yet
testifies to that process. Chevront Decl. ¶¶ 4, 11, 15, 20. The Conservancy objects to each of
the listed paragraphs and exhibits in this declaration.

1 computer numerous times,” the complaint was ultimately filed at 12:26 a.m. the next day. *Id.* at
2 1185-86, fn. 3. Similarly here, Petitioners’ counsel waited until the final day to begin *compiling*
3 the Petition, did not start uploading it until 11:32 p.m., and—by their own account—were
4 thwarted by the volume of unnecessary exhibits they included.


5 The “advent of mandatory electronic filing systems” does not excuse the late filing.
6 *Anwar*, 720 F.3d at 1188. “Paper filing systems present their own unique opportunities for
7 parties to miss their deadlines” and electronic filing typically makes it “easier for [] counsel to
8 timely file.” *Id.*; *see also* Chevront Decl. Ex. F, at 14 (electronic filing allows counsel to “file
9 right up to the court’s deadline” and thereby avoid “[h]ours of stressful printing, preparation,
10 and delivery.”). Here, the opportunity to electronically file greatly expanded the Petitioners’
11 filing window. They still missed it.

12 **Conclusion**

13 The Court should deny the Motion.

14 DATED: May 29, 2026

SHUTE, MIHALY & WEINBERGER LLP

15
16 By: 
17 _____
18 EDWARD T. SCHEXNAYDER
19 Attorneys for Real Party in Interest
20 CATALINA ISLAND CONSERVANCY

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