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SIERRA CLUB

11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF RIVERSIDE**

14 SIERRA CLUB,
15 Petitioner and Plaintiff,
16 v.

17 THE CITY OF MORENO VALLEY; the
18 CITY COUNCIL OF THE CITY OF
MORENO VALLEY; and DOES 1
19 through 10,
20 Respondents and Defendants.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY RELIEF**

California Environmental Quality Act,
("CEQA"), Pub. Res. Code § 21000 et
seq.; Code Civ. Proc. §§ 1060 and 1094.5
(alternatively § 1085)

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1 **INTRODUCTION**

2 1. This action challenges the June 15, 2021 decision of the City of Moreno
3 Valley and its City Council (collectively, “City” or “Respondents”) to approve the MoVal
4 2040 Project: the 2021 General Plan Update including a Housing Element Update, a
5 Climate Action Plan, and associated zoning amendments (“Project”), and certify an
6 Environmental Impact Report (“EIR”) for the Project. The Project envisions large
7 increases in industrial and commercial development within the City, some in close
8 proximity to residential areas and others sensitive receptors.

9 2. In approving the Project, the City violated the California Environmental
10 Quality Act (“CEQA”) and the CEQA Guidelines. For example, the EIR failed to utilize a
11 valid baseline against which to measure the Project’s foreseeable environmental and
12 public health impacts. The EIR’s invalid baseline prejudiced the City’s consideration of
13 the Project’s air quality, transportation, energy, and other impacts.

14 3. The EIR also failed to adequately disclose or mitigate the Project’s
15 potential to degrade air quality for City residents and throughout the South Coast Air
16 Basin. Even though the EIR discloses that the City is already burdened by air pollution,
17 and that the Project would only worsen pollution in the City, the EIR includes no
18 mitigation measures to address those foreseeable environmental impacts.

19 4. Similarly, the EIR discloses that the Project will increase annual greenhouse
20 gas emissions within the City by over 50% compared to existing conditions. Yet again, the
21 EIR fails to include any valid mitigation measures to reduce those environmental impacts.
22 Instead, the EIR papers over the problem by erroneously claiming that unenforceable and
23 unsubstantiated measures in the City’s new Climate Action Plan (“CAP”) will alleviate the
24 anticipated greenhouse gas impacts.

25 5. For these and the additional reasons described below, the City’s approval of
26 the Project and certification of the EIR constituted an abuse of discretion and must be
27 overturned.

PARTIES

1
2 6. Petitioner and Plaintiff Sierra Club is a national nonprofit organization of
3 approximately 799,000 members. Sierra Club is dedicated to exploring, enjoying, and
4 protecting the wild places of the earth; advocating for environmental justice; practicing and
5 promoting the responsible use of the earth’s ecosystems and resources; educating and
6 encouraging humanity to protect and restore the quality of the natural and human
7 environment; and using all lawful means to carry out these objectives. Sierra Club’s
8 particular interest in this case stems from the Sierra Club’s local San Gorgonio Chapter’s
9 interests in preserving the native, endangered, imperiled and sensitive species and wildlife
10 habitats; decreasing rather than increasing heavy-duty and medium-duty truck traffic in an
11 already highly overburdened air basin; and ensuring that good, livable, and healthy jobs
12 are brought to the area. The members of the San Gorgonio Chapter live, work, and recreate
13 in an around the areas that will be directly affected by the Project. Sierra Club submitted
14 extensive comments to the City throughout its environmental review process for the
15 Project, which are part of the City’s record of its decision to approve the Project and its
16 EIR.

17 7. The interests that Sierra Club seeks to further in this action are within the
18 goals and purposes of this organization. Sierra Club and its members have a direct and
19 beneficial interest in the City’s compliance with laws bearing on approval of the Project.
20 These interests will be directly and adversely affected by the Project, which violates the
21 law as set forth in this Petition, and which would cause substantial harm to Sierra Club’s
22 members, the natural environment, public health, and the quality of life in the surrounding
23 community. The maintenance and prosecution of this action will confer a substantial
24 benefit on the public by protecting the public from the environmental and other harms
25 alleged herein.

26 8. Respondent and Defendant City of Moreno Valley is a general law City,
27 incorporated, organized and existing under the laws of the state of California since the year
28 1984, with the capacity to sue and be sued. The City is responsible for regulating and

1 controlling land use within the City, including but not limited to implementing and
2 complying with the provisions of CEQA. The City is the “lead agency” for the purposes of
3 Public Resources Code section 21067, with principal responsibility for conducting
4 environmental review of proposed actions. The City has a duty to comply with CEQA and
5 state law. The City, acting through its City Council, approved the Project.

6 9. Respondent and Defendant City Council of the City of Moreno Valley is the
7 elected legislative body for the City and is responsible for complying with the law,
8 including CEQA. The City Council approved the Project.

9 10. Sierra Club is unaware of the true names and capacities of Respondents and
10 Defendants Does 1 through 10 and sue such respondents and defendants by fictitious
11 names. Sierra Club is informed and believe, and on that basis alleges, the fictitiously
12 named respondents and defendants are also responsible for the actions described in this
13 Petition. When the true identities and capacities of these respondents and defendants have
14 been determined, Sierra Club will amend this petition, with leave of the Court if necessary,
15 to insert such identities and capacities.

16 **JURISDICTION AND VENUE**

17 11. Pursuant to Code of Civil Procedure sections 526, 527, 1085, 1087, and
18 1094.5, and Public Resources Code sections 21168, 21168.5 and 21168.9, Riverside
19 County Superior Court has initial jurisdiction to issue a writ of mandate to set aside
20 Respondents’ decision to certify the EIR and approve the Project.

21 12. Venue for this action properly lies in the Superior Court for the State of
22 California in and for the County of Riverside pursuant to Code of Civil Procedure section
23 394. The activities authorized by Respondents will occur in Riverside County.

24 13. The action is filed in the Riverside Historic Courthouse, 4050 Main Street,
25 Riverside, 92501, in accordance with the Administrative Order – Where to File Civil
26 Documents – dated January 12, 2021, which requires this CEQA petition for a writ of
27 mandate to be filed in this Courthouse.

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1 14. Sierra Club has performed any and all conditions precedent to filing this
2 action and has exhausted any and all available administrative remedies to the extent
3 possible and required by law. Sierra Club and its members submitted numerous objections
4 to approval of the Project based on inconsistencies with state law, and the City's
5 inadequate analysis and mitigation of the Project's environmental impacts and
6 consideration of alternatives in the EIR prepared for the Project.

7 15. Respondents have taken final agency actions with respect to adopting the
8 EIR and approving the Project. Respondents have a duty to comply with applicable state
9 laws, including but not limited to CEQA, prior to undertaking the discretionary approvals
10 at issue in this lawsuit.

11 16. On July 14, 2021, Sierra Club complied with Public Resources Code section
12 21167.5 by emailing and mailing to Respondents a letter stating that Sierra Club planned
13 to file a Petition for Writ of Mandate seeking to invalidate Respondents' approval of the
14 Project. Attached hereto as Exhibit A is the true and correct copy of this letter.

15 17. On July 15, 2021, Sierra Club will comply with Public Resources Code
16 section 21167.7 and Code of Civil Procedure section 388 by furnishing the Attorney
17 General of the State of California with a copy of the Petition. Attached hereto as Exhibit B
18 is the true and correct copy of the letter transmitting the Petition to the Attorney General.

19 18. Pursuant to Public Resources Code section 21167.6(b)(2), Sierra Club elects
20 to prepare the record of proceedings in this action. Concurrently with this Petition, Sierra
21 Club will file a notice of election to prepare the administrative record.

22 19. Sierra Club has no plain, speedy, or adequate remedy in the course of
23 ordinary law unless this Court grants the requested writ of mandate to require Respondents
24 to set aside their adoption of the EIR and approval of the Project. In the absence of such
25 remedies, Respondents' approvals will remain in effect in violation of State law, and Sierra
26 Club and its members will be irreparably harmed. No money damages or legal remedy
27 could adequately compensate Sierra Club and its members for that harm.

28 20. This petition and complaint is timely filed.

FACTUAL BACKGROUND

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2 21. The City of Moreno Valley, home to over 200,000 residents, suffers from
3 severe air pollution. The City sits within the South Coast Air Basin, which is designated as
4 in nonattainment of federal and state air quality standards, including ozone and particulate
5 matter. Because of this pollution burden and other environmental and socio-economic
6 disadvantages in the city, a large portion of Moreno Valley is designated by the California
7 EnviroScreen as a Disadvantaged Community.

8 22. The City last adopted a comprehensive General Plan Update in 2006.

9 23. Since that time, the City has approved a substantial number of new
10 warehouse projects, many of which required amendments to the 2006 General Plan. These
11 warehouse projects, including the more-than 40 million square foot World Logistics
12 Center, one of the largest industrial warehouse complexes in the United States, generate
13 substantial greenhouse gas emissions and diesel emissions in the City.

14 24. The City initiated the Project in October 2019. Between March 9 and April
15 9, 2020, the City circulated a notice of preparation (“NOP”) of a Draft Environmental
16 Impact Report for the Project.

17 25. On April 2, 2021, the City released its proposed General Plan Update, CAP,
18 and zoning amendment for public review. These documents envision significant new
19 growth in the City, including in areas immediately adjacent to existing residential
20 communities. For instance, the new “Business Flex” zone would allow new light industrial
21 or warehouse development to be interspersed among existing residences.

22 26. The proposed General Plan also included new land use designations that had
23 never been raised during the City’s public workshops on the General Plan, including
24 dramatically increasing residential density in the largely-rural northeast Morena Valley.
25 The proposed General Plan would exacerbate impacts in this part of the City by
26 redesignating nearby areas of for “highway/commercial” uses, which would further
27 increase traffic on residential connector streets and other impacts to this community.

1 27. The City also released its Draft EIR (“DEIR”) on April 2, 2021 for a 45-day
2 comment period.

3 28. According to the DEIR, the Project would increase particulate and ozone-
4 precursor emissions compared to existing conditions, even though the South Coast Air
5 Basin is already in non-attainment for these pollutants. The DEIR also stated that the
6 Project would increase annual greenhouse gas emissions in the City by over 50%, rising to
7 1,325,101 metric tons of carbon dioxide equivalent by 2040. Nevertheless, the DEIR
8 claimed that the Project’s operational air quality and greenhouse gas impacts were less
9 than significant and required no mitigation.

10 29. The DEIR’s analysis was deeply flawed. For instance, rather than compare
11 the Project’s impacts against an existing conditions baseline, the EIR compared the
12 Project’s impacts to assume buildout under the prior 2006 General Plan. In doing so, the
13 EIR understated the Project’s potential environmental impacts, and failed to adopt feasible
14 mitigation to reduce those impacts.

15 30. The EIR likewise failed to account for cumulative impacts from approved
16 and planned industrial warehouse projects in the City.

17 31. Sierra Club, agencies, individuals, and other groups commented on the
18 DEIR. For instance, the South Coast Air Quality Management District submitted
19 comments on the proposed Project’s potential to further degrade air quality in the South
20 Coast Air Basin and urged the City to adopt feasible mitigation measures to address those
21 impacts. The Southern California Association of Governments also submitted a letter
22 stating that the DEIR failed to evaluate the Project’s consistency with that agency’s most
23 recent Regional Transportation Plan/Sustainable Communities Strategy (“RTP/SCS”).
24 Other comments noted that the EIR failed to adequately disclose and mitigate noise, traffic
25 safety, and other public health impacts that the Project would create.

26 32. On May 17, 2021, Sierra Club submitted extensive comments on the DEIR.
27 These comments included that:

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1 a. The DEIR failed to utilize an existing conditions baseline to evaluate
2 the Project’s potential impacts as required by CEQA. Moreover, the City’s baseline failed
3 to account for the vast number of industrial warehouse projects approved in the City in the
4 last 10-15 years, including the City’s approval in August 2015 of the 40 million square
5 foot World Logistics Center project, and was not supported by substantial evidence.

6 b. The DEIR improperly deferred analysis of the General Plan’s
7 environmental impacts, including cumulative impacts, to future project-level EIRs.

8 c. The DEIR failed to adequately analyze, mitigate, and avoid direct,
9 indirect, and cumulative air quality impacts including impacts from the release of criteria
10 pollutants, and impacts to sensitive receptors. For example, the DEIR indicated that Project
11 buildout would exceed emission thresholds adopted by the South Coast Air Quality
12 Management District but failed to adopt any mitigation measures to reduce those
13 foreseeable operational impacts. The DEIR further failed to disclose the Project’s
14 foreseeable local air quality impacts from allowing new incompatible development to
15 occur immediately adjacent to existing residential communities.

16 d. The DEIR failed to adequately analyze, mitigate, and avoid climate
17 change impacts. For example, the DEIR failed to adopt enforceable mitigation measures to
18 reduce the Project’s projected significant greenhouse gas emissions. Instead, the DEIR
19 improperly relied on assumed reductions from General Plan standards and numerous CAP
20 measures that are vague, unenforceable, and devoid of evidence supporting any claimed
21 reduction in greenhouse gas emissions.

22 e. The DEIR’s analysis of energy impacts ignored the inefficient and
23 wasteful use of gasoline, diesel fuel, and electricity that will occur under the Project.

24 f. The DEIR failed to adequately analyze, mitigate, and avoid the
25 Project’s transportation impacts.

26 g. The DEIR failed to adequately analyze, mitigate, and avoid the
27 Project’s growth inducing and indirect impacts.

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1 h. The DEIR’s analysis of alternatives showed that the Redistributed
2 Growth Alternative would reduce the Project’s impacts and was feasible. As such, CEQA
3 required the City to adopt the Redistributed Growth Alternative.

4 i. Finally, Sierra Club noted that given these significant flaws, CEQA
5 required the EIR to be recirculated for additional public comment.

6 33. In addition to these issues, commenters noted that the City’s proposed CAP
7 did not meet CEQA’s standards for streamlining. Most significantly, the CAP failed to
8 identify greenhouse gas reduction measures that would collectively reduce greenhouse gas
9 emissions levels to achieve the CAP’s and the State’s reduction goals.

10 34. On May 24, 2021—one week after the close of the DEIR comment period—
11 the City released the Final EIR (“FEIR”). Despite the numerous flaws identified in the
12 DEIR, the FEIR contained few substantive revisions and failed to meaningfully respond to
13 many of the DEIR comments submitted to the City. The Project’s key components
14 remained unchanged.

15 35. The City initially scheduled the Project for the Planning Commission’s
16 consideration on May 27, 2021. However, the City delayed the meeting until June 8
17 because a quorum of commissioners was unavailable for the meeting. Before the Planning
18 Commission met to consider the Project, the City scheduled the Project for hearing before
19 the City Council on June 15, 2021.

20 36. On June 8, 2021, four members of the Planning Commission considered the
21 Project while three remaining Planning Commission seats were vacant. The Planning
22 Commission ultimately voted to recommend approval of the Project. Sierra Club and other
23 concerned parties participated in the Planning Commission hearing.

24 37. One week later, on June 15, 2021, the City Council met to consider the
25 Project. At the time of the meeting, the City Council seat for District 2, which represents
26 over 25% of City residents, was vacant. Despite this lack of representation and the errors
27 identified by Sierra Club and others, the City Council voted 3-1 to approve the Project and
28 certify the EIR.

1 38. On June 17, 2021, the City filed a Notice of Determination for the Project.

2 **FIRST CAUSE OF ACTION**

3 **Violations of CEQA**

4 **(Public Resources Code § 21000 et seq; State CEQA Guidelines;**
5 **CCP §§ 1085, 1094.5)**

6 39. Sierra Club hereby realleges and incorporates by reference the preceding
7 paragraphs in their entirety.

8 40. CEQA requires the lead agency for a project with the potential to cause
9 significant environmental impacts to prepare an EIR that complies with the requirements
10 of the statute, including, but not limited to, the requirement to analyze the project's
11 potentially significant environmental impacts. The EIR must provide sufficient
12 environmental analysis such that the decisionmakers can intelligently consider
13 environmental consequences when acting on the proposed project. Such analysis must
14 include and rely upon thresholds of significance that are based on substantial evidence in
15 the record.

16 41. Additionally, the EIR must identify feasible mitigation measures to reduce or
17 avoid the project's significant environmental impacts, as well as analyze a reasonable
18 range of alternatives to the project. CEQA also mandates that the lead agency adopt all
19 feasible mitigation measures that would reduce or avoid any of the project's significant
20 environmental impacts. If any of the project's significant impacts cannot be mitigated to a
21 less-than-significant level, then CEQA bars the lead agency from approving a project if a
22 feasible alternative is available that would meet the project's objectives while avoiding or
23 reducing its significant environmental impacts.

24 42. CEQA further mandates that a lead agency may approve a project that would
25 have significant, unavoidable environmental impacts only if the agency finds that the
26 project's benefits would outweigh its unavoidable impacts.

27 43. Under CEQA, all the findings required for an agency's approval of a project
28 must be legally adequate and supported by substantial evidence in the administrative

1 record. State law further requires that an agency provide an explanation of how the
2 evidence in the record supports the conclusions the agency has reached.

3 44. Respondents failed to proceed in the manner required by law and violated
4 CEQA by certifying an EIR that is inadequate and fails to comply with the requirements of
5 CEQA, the CEQA Guidelines, and state law. The inadequacies in the City's analysis
6 include, but are not limited to, failure to adequately analyze and mitigate the following
7 impacts:

- 8 a. Climate change/greenhouse gases;
- 9 b. Air quality;
- 10 c. RTP/SCS consistency;
- 11 d. Energy consumption;
- 12 e. Transportation and public safety;
- 13 f. Noise; and
- 14 g. Indirect/Growth-inducing.

15 45. Respondents failed to proceed in the manner required by law and violated
16 CEQA by providing an inadequate and inaccurate baseline for analyzing the Project's
17 impacts.

18 46. Respondents failed to proceed in the manner required by law and violated
19 CEQA by providing an inadequate, inaccurate, and unstable description the Project.

20 47. Respondents failed to proceed in the manner required by law and violated
21 CEQA by certifying an EIR that fails to adequately consider the cumulative and growth-
22 inducing impacts of the Project.

23 48. Respondents failed to proceed in the manner required by law and violated
24 CEQA by rejecting feasible mitigation measures, and by relying on ineffective,
25 unenforceable, unproven, and/or improperly deferred mitigation measures to reduce
26 Project impacts, including mitigation for air quality impacts, energy impacts, greenhouse
27 gas impacts, and transportation impacts.

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1 49. Respondents violated CEQA by improperly rejecting feasible Project
2 alternatives that would have reduced significant impacts while still meeting Project
3 objectives. Similarly, Respondents violated CEQA by adopting overly narrow Project
4 objectives.

5 50. Respondents violated CEQA by adopting findings that are inadequate as a
6 matter of law in that they are not supported by substantial evidence in the record.

7 51. Respondents violated CEQA Guidelines section 15088(c) by failing to
8 adequately respond to public comments.

9 52. As a result of the foregoing defects, Respondents prejudicially abused their
10 discretion and failed to proceed in the manner required by law by certifying an EIR,
11 making findings, and taking related actions that do not comply with the requirements of
12 CEQA. As such, Respondents' certification of the EIR and approval of the Project must be
13 set aside.

14 **SECOND CAUSE OF ACTION**

15 **Declaratory Relief**

16 **(Code of Civil Procedure § 1060)**

17 53. Sierra Club hereby realleges and incorporates by reference the preceding
18 paragraphs in their entirety.

19 54. CEQA Guidelines section 15183.5(b) establishes standards that a climate
20 action plan must satisfy before an agency may use that plan to streamline its analysis of a
21 project's potential greenhouse gas impacts. To be eligible for streamlining, a climate action
22 plan must:

23 a. Quantify greenhouse gas emissions, both existing and projected over a
24 specified time period, resulting from activities within a defined geographic area;

25 b. Establish a level, based on substantial evidence, below which the
26 contribution to greenhouse gas emissions from activities covered by the plan would not be
27 cumulatively considerable;
28

- 1 c. Identify and analyze the greenhouse gas emissions resulting from
2 specific actions or categories of actions anticipated within the geographic area;
- 3 d. Specify measures or a group of measures, including performance
4 standards, that substantial evidence demonstrates, if implemented on a project-by-project
5 basis, would collectively achieve the specified emissions level;
- 6 e. Establish a mechanism to monitor the plan's progress toward
7 achieving the level and to require amendment if the plan is not achieving specified levels;
- 8 f. Be adopted in a public process following environmental review.

9 55. Respondents' CAP fails to satisfy many of these requirements. Most
10 significantly, the CAP failed to include measures that would collectively achieve required
11 levels of greenhouse gas reductions.

12 56. An actual controversy has arisen and now exists relating to the rights and
13 duties of the parties herein. Sierra Club contends that the CAP does not satisfy the
14 requirements of the CEQA Guidelines and that Respondents cannot rely on the CAP to
15 streamline its evaluation of future projects' greenhouse gas impacts. In contrast,
16 Respondents contend that the CAP satisfies CEQA's requirements and that the City may
17 rely on the CAP to streamline its analysis of future projects' greenhouse gas impacts.

18 57. There is an ongoing controversy between the parties regarding the legal
19 effect of the CAP. Sierra Club therefore seeks declarations that the CAP does not fully
20 comply with the standards set forth in the CEQA Guidelines, including Guidelines section
21 15183.5(b), and that the City may not use the CAP to streamline its analysis of future
22 projects' greenhouse gas impacts.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Petitioner and Plaintiff prays for judgment as follows:

- 25 1. Alternative and peremptory writs of mandate directing the City to vacate and
26 set aside its certification of the EIR and Project approvals;
- 27 2. Alternative and peremptory writs of mandate directing the City to comply
28 with the requirements of CEQA, and to take any other action as required by Public

1 Resources Code section 21168.9;

2 3. For a temporary stay, temporary restraining order, and preliminary and
3 permanent injunctions restraining the City and all others acting in concert with the City on
4 its behalf, from taking any action to implement the Project, pending full compliance with
5 the requirements of CEQA, the CEQA Guidelines, and State law;

6 4. For declarations that the CAP does not satisfy CEQA’s streamlining
7 requirements, and that the City may not rely on the CAP to streamline analysis of future
8 projects’ greenhouse gas emissions.

9 5. For costs of the suit;

10 6. For an order awarding Sierra Club its attorneys’ fees under Code of Civil
11 Procedure section 1021.5, Government Code section 800, and other applicable authority;
12 and

13 7. For such other and further relief as the Court deems just and proper.

14 DATED: July 15, 2021

SHUTE, MIHALY & WEINBERGER LLP

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16

By: 

17

EDWARD T. SCHEXNAYDER
MATTHEW S. McKERLEY

18

19

Attorneys for Petitioner and Plaintiff
SIERRA CLUB

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VERIFICATION

I, George Hague, declare as follows:

I am a member of the Sierra Club, San Gorgonio Chapter, and am authorized to execute this verification on Petitioner’s behalf. I have read the foregoing Petition for Writ of Mandate and am familiar with its contents. All facts alleged in the above Petition, and not otherwise supported by exhibits or other documents, are true of my own knowledge, except to matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the above is true and correct.

Executed this 13 day of July, 2021, in Moreno Valley, California.



George Hague

EXHIBIT A

SHUTE MIHALY
& WEINBERGER LLP

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EDWARD T. SCHEXNAYDER
Attorney
Schexnayder@smwlaw.com

July 14, 2021

Via E-Mail and U.S. Mail

Ms. Pat Jacquez-Nares
City Clerk
City of Moreno Valley
P.O. Box 88005
Moreno Valley, California 92552-0805
CityClerk@moval.org

Re: Notice of Commencement of CEQA Litigation

Dear Ms. Jacquez-Nares:

This letter is to notify you that Sierra Club will file suit against the City of Moreno Valley (“City”) and its City Council for failure to observe the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 et seq., and the CEQA Guidelines, California Code of Regulations section 15000 et seq. in the administrative process that culminated in the approval of the City’s 2021 General Plan Update, Climate Action Plan, associated zoning amendments, and environmental review (Resolutions Nos. 2021-46, 2021-47, & Ordinance No. 981). This notice is given pursuant to Public Resources Code section 21167.5.

Pursuant to Public Resources Code section 21167.6, the record of proceedings for City’s actions includes, among other items, all “internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA],” Because all e-mails and other internal communications related to the Project are part of the administrative record for the lawsuit to be filed by Sierra Club, the City may not destroy or delete such documents prior to preparation of the record in this case.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Edward T. Schexnayder

Ms. Pat Jacquez-Nares
July 14, 2021
Page 2

PROOF OF SERVICE

Sierra Club v. City of Moreno Valley et al.

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the City and County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, California 94102.

On July 14, 2021, I served true copies of the following document(s) described as:

NOTICE OF COMMENCEMENT OF CEQA LITIGATION

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly & Weinberger LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address Larkin@smwlaw.com to the person(s) at the e-mail address(es) listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 14, 2021, at San Francisco, California.



Patricia Larkin

Ms. Pat Jacquez-Nares
July 14, 2021
Page 3

SERVICE LIST

Sierra Club v. City of Moreno Valley et al.

Ms. Pat Jacquez-Nares
City Clerk
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Moreno Valley, California 92552-0805
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1393405.1

EXHIBIT B

SHUTE MIHALY
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EDWARD T. SCHEXNAYDER
Attorney
Schexnayder@smwlaw.com

July 15, 2021

Via U.S. Mail

Attorney General Rob Bonta
Office of the Attorney General
1300 "I" Street
Sacramento, California 95814

Re: Notice of Filing CEQA Litigation: Siera Club v. City of Moreno Valley et al.

Dear Attorney General Bonta:

Enclosed please find a copy of the Petition for Writ of Mandate and Complaint for Declaratory Relief ("Petition") in the above-captioned action. The Petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt in the enclosed prepaid, self-addressed envelope. Thank you.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Edward T. Schexnayder

Encl.

1393400.1