

**SUMMONS
(CITACION JUDICIAL)**

CITY CLERK
MORENO VALLEY
RECEIVED

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

15 SEP 18 PM 3: 44

CITY OF MORENO VALLEY, a public entity, and
CITY COUNCIL OF MORENO VALLEY, a public entity

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SOCAL ENVIRONMENTAL JUSTICE ALLIANCE, a California
not-for-profit corporation

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la Información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): **Riverside County Superior Court**
4050 Main Street
Riverside, CA 92501

CASE NUMBER:
(Número del Caso):

RIC 1511195

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Craig M. Collins, Blum Collins LLP, 707 Wilshire Blvd., Suite 4880, Los Angeles 90017 213-572-0400

DATE:
(Fecha)

SEP 18 2015

Clerk, by
(Secretario)

M. PRECIADO

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)

4. other (specify): **Public entity**

5. by personal delivery on (date): **SEP 18 2015**

**CITY OF MORENO VALLEY, A
PUBLIC ENTITY**
SEP 18 2015
CCP 416.60

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Highland Fairview, 14225 Corporate Way, Moreno Valley, CA 92563

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SoCal Environmental Justice Alliance

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(El nombre y dirección de la corte es): **Riverside County Superior Court**
4050 Main Street
Riverside, CA 92501

CASE NUMBER:
(Número del Caso)
RIC1511195

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Craig M. Collins, Esq., Blum Collins LLP, 707 Wilshire Blvd., Suite 4880, Los Angeles CA 90017

DATE: **SEP 18 2015** Clerk, by **M. PRECIADO**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

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2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

SOCAL ENVIRONMENTAL JUSTICE ALLIANCE VS CITY OF MO

CASE NO. RIC1511195

The Status Conference is scheduled for:

DATE: 11/17/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/18/15

Court Executive Officer/Clerk

By:

M. PRECIADO
MARIA M PRECIADO, Deputy Clerk

ac:stch shw

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511195

vs

TO:

This case has been assigned to the HONORABLE Judge Craig G. Rierner in Department 05 for all purposes.

Department 5 is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

The filing party shall serve a copy of this notice on all parties.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

by: M. PRECIADO

MARIA M PRECIADO, Deputy Clerk

Date: 09/18/15

1 BLUM COLLINS, LLP
2 Craig M. Collins (Bar No. 151582)
3 Gary Ho (Bar No. 229995)
4 707 Wilshire Boulevard, Suite 4880
5 Los Angeles, California 90017-3501
6 Telephone: 213.572.0400
7 Facsimile: 213.572.0401

8 Attorneys for Petitioner
9 SoCal Environmental Justice Alliance

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

11 **SOCAL ENVIRONMENTAL JUSTICE**
12 **ALLIANCE, a California not for profit**
13 **corporation,**

13 **Petitioner,**

14 **v.**

15 **CITY OF MORENO VALLEY, a California**
16 **municipal corporation; CITY COUNCIL OF**
17 **MORENO VALLEY, a public entity,**

17 **Respondents,**

18 **HIGHLAND FAIRVIEW, an unknown entity**
19 **located in Moreno Valley, California**

20 **Real parties in interest.**

Case No. **RIC 1511195**

NOTICE TO THE ATTORNEY GENERAL
OF COMMENCEMENT OF ACTION
[Pub. Resources Code § 21167.7 and Code of
Civil Procedure § 388]

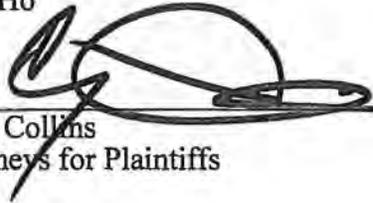
Case Designation: CEQA

1 TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

2 Pursuant to Pub. Resources Code § 21167.7 and Code of Civil Procedure § 388,
3 Petitioner Social Environmental Justice Alliance hereby notifies you that it is filing a Petition for
4 Writ of Mandate in the above-captioned action against the City of Moreno Valley and the City
5 Council of Moreno Valley alleging violations of the California Environmental Quality Act and
6 the State Planning and Zoning Law and Moreno Valley Municipal Code for violations of the
7 City's General Plan. A true and correct copy of that Petition is enclosed.

8 Dated: September 17, 2015

9 BLUM COLLINS, LLP
10 Craig M. Collins
11 Gary Ho

12 By 
13 Craig Collins
14 Attorneys for Plaintiffs

25
26
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1 BLUM COLLINS, LLP
2 Craig M. Collins (Bar No. 151582)
3 Gary Ho (Bar No. 229995)
4 707 Wilshire Boulevard, Suite 4880
5 Los Angeles, California 90017-3501
6 Telephone: 213.572.0400
7 Facsimile: 213.572.0401
8 Attorneys for Petitioner
9 SoCal Environmental Justice Alliance
10

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF RIVERSIDE**

11 **SOCAL ENVIRONMENTAL JUSTICE**
12 **ALLIANCE**, a California not for profit
13 corporation,

13 Petitioner,

14 v.

15 **CITY OF MORENO VALLEY**, a California
16 municipal corporation; **CITY COUNCIL OF**
17 **MORENO VALLEY**, a public entity,

17 Respondents,

18 **HIGHLAND FAIRVIEW**, an unknown entity
19 located in Moreno Valley, California

20 Real parties in interest.

Case No. **RIC 1511 195**

NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD
[Pub. Resources Code § 21167.6 et seq.]

Case Designation: CEQA

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Pursuant to Pub. Resources Code § 21167.6, Petitioner hereby notifies the City of
Moreno Valley and the City Council of Moreno Valley that it elects to prepare the administrative
record in the above-entitled action.

Dated: September 17, 2015

BLUM COLLINS, LLP
Craig M. Collins
Gary Ho

By 
Craig Collins
Attorneys for Plaintiffs

1 BLUM COLLINS, LLP
2 Craig M. Collins (Bar No. 151582)
3 Gary Ho (Bar No. 229995)
4 707 Wilshire Boulevard, Suite 4880
5 Los Angeles, California 90017-3501
6 Telephone: 213.572.0400
7 Facsimile: 213.572.0401
8 Attorneys for Petitioner
9 SoCal Environmental Justice Alliance
10

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE

11 SOCIAL ENVIRONMENTAL JUSTICE
12 ALLIANCE, a California not for profit
13 corporation,
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15 Petitioner,
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17 v.
18 CITY OF MORENO VALLEY, a California
19 municipal corporation; CITY COUNCIL OF
20 MORENO VALLEY, a public entity,
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22 Respondents,
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24 HIGHLAND FAIRVIEW, an unknown entity
25 located in Moreno Valley, California
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27 Real parties in interest.
28

RIC
Case No. 15111951

**PETITIONER'S NOTICE OF REQUEST
AND REQUEST FOR HEARING ON
PETITION FOR WRIT OF MANDATE
PURSUANT TO PUB. RESOURCES CODE
§ 21167.4(a) AND NOTICE TO PARTIES OF
REQUEST PURSUANT TO PUB.
RESOURCES CODE § 21167.4(b)**

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD**

2 **PLEASE TAKE NOTICE** that Pursuant to Pub. Resources Code § 21167.4, Petitioner
3 Social Environmental Justice Alliance (“Petitioner”) hereby requests a hearing on the ultimate
4 merits of the Petition for Writ of Mandate filed herewith, which alleges violation of the
5 California Environmental Quality Act, Pub. Resources Code § 21000 *et seq.* (“CEQA”), when
6 Respondent City of Moreno Valley approved the World Logistics Center Specific Plan.

7 Pub. Resources Code section 21167.4(a) requires that the petitioner in a CEQA action
8 request a hearing date on the petition within ninety (90) days of the filing of the petition. Pub.
9 Resources Code section 21167.4(b) requires that the petitioner shall serve notice of the request at
10 the same time the request is filed. Petitioner is doing both with the filing of its Petition.

11 The request for hearing must be made in writing. *County of Sacramento v. Superior*
12 *Court* (2009) 180 Cal. App. 4th 943, 949. The hearing, once requested, need not be held within
13 the ninety day period, and the request for hearing is not required to include the setting of a
14 hearing date. *Leavitt v. County of Madera* (2004) 123 Cal. App. 4th 1502, 1521, 1513-1523,
15 *McCormick v. Board of Supervisors* (1988) 198 Cal. App. 3d 352, 357-358. Following the filing
16 of a notice and request for hearing, any party may apply to the court to establish a briefing
17 schedule and hearing date. *Torrey Hills Community Coalition v. City of San Diego* (2010) 186
18 Cal. App. 4th 429, 442, *citing Ass’n for Sensible Development at Northstar, Inc. v. Placer*
19 *County* (2004) 122 Cal. App. 4th 1289, 1294. The hearing date, time, and place, and the briefing
20 schedule for the hearing are to be established by the Court following such application by any
21 party. *Id.*

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Accordingly, as required pursuant to Public Resources Code sections 21167.4(a) and (b),
Petitioner hereby requests and notices its request for hearing on the Petition for Writ of Mandate.

Dated: September 17, 2015

BLUM COLLINS, LLP
Craig M. Collins
Gary Ho

By 

Craig Collins
Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address)</small> Craig M. Collins, Esq. (SBN 151582) Blum Collins LLP 707 Wilshire Blvd., Suite 4880 Los Angeles, CA 90017</p> <p>TELEPHONE NO: 213-572-0400 FAX NO. (Optional): 213-572-0401 E-MAIL ADDRESS (Optional): collins@blumcollins.com ATTORNEY FOR (Name): SoCal Environmental Justice Alliance</p>	<p><small>FOR COURT USE ONLY</small></p> <p style="font-size: 2em; font-weight: bold; opacity: 0.5;">FILED</p> <p style="font-size: 0.8em;">SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</p> <p style="font-size: 1.5em; font-weight: bold;">SEP 18 2015</p> <p style="font-size: 1.2em; font-weight: bold;">M. Preciado</p> <p>CASE NUMBER: 1511195</p> <p style="font-size: 1.5em; font-weight: bold; opacity: 0.5;">RIC</p>
<p align="center">PLAINTIFF/PETITIONER: SoCal Environmental Justice Alliance</p> <p align="center">DEFENDANT/RESPONDENT: City of Moreno Valley</p>	
<p>CERTIFICATE OF COUNSEL</p>	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

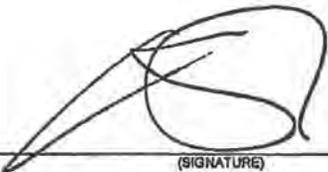
- The action arose in the zip code of: 92552
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

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

Date September 18, 2015

Craig M. Collins
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)



(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Craig M. Collins, Esq. (SBN 151582) Blum Collins, LLP 707 Wilshire Blvd., Suite 4880 Los Angeles, CA 90017 TELEPHONE NO.: 213-572-0400 FAX NO.: 213-572-0401 ATTORNEY FOR (Name): SoCal Environmental Justice Alliance	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: Historic Courthouse	
CASE NAME: SoCal Environmental Justice Alliance v. City of Moreno Valley (Highland)	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: RIC1511195 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/IPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/IPD/W/D (23) Non-P/IPD/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/IPD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 8
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:
 Craig M. Collins

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property
Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/
Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care
Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip
and fall)
Intentional Bodily Injury/PD/WD
(e.g., assault, vandalism)
Intentional Infliction of
Emotional Distress
Negligent Infliction of
Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business
Practice (07)
Civil Rights (e.g., discrimination,
false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel)
(13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice
(*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller
Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/
Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open
book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections
Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse
Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court
Case Matter
Writ—Other Limited Court Case
Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Anti-trust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims
(*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of
County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award
(*not unpaid taxes*)
Petition/Certification of Entry of
Judgment on Unpaid Taxes
Other Enforcement of Judgment
Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint
Case (*non-tort/non-complex*)
Other Civil Complaint
(*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate
Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult
Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late
Claim
Other Civil Petition

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF RIVERSIDE**

10
11 **SOCAL ENVIRONMENTAL JUSTICE**
12 **ALLIANCE**, a California not for profit
13 corporation,

14 **Petitioner,**

15 **v.**

16 **CITY OF MORENO VALLEY**, a California
17 municipal corporation; **CITY COUNCIL OF**
18 **MORENO VALLEY**, a public entity,

19 **Respondents,**

20 **HIGHLAND FAIRVIEW**, an unknown entity
21 located in Moreno Valley, California

22 **Real parties in interest.**

RIC
Case No. 1511195

**VERIFIED PETITION FOR WRIT OF
MANDATE PURSUANT TO THE
CALIFORNIA ENVIRONMENTAL
QUALITY ACT**
[Code of Civil Procedure §§ 1085, 1094.5;
Pub. Resources Code § 21000 *et seq.*]

Case Designation: CEQA

23 Pursuant to California Code of Civil Procedure sections 1085 and/or 1094.5 and
24 California Public Resources Code section 21000 *et seq.*, the SoCal Environmental Justice
25 Alliance (Petitioner) brings this action on its own behalf, on behalf of its members, and on behalf
26 of the general public to enforce the California Environmental Quality Act, the California
27 Planning and Zoning Law, and the Moreno Valley Municipal Code, and allege as follows:

28 **INTRODUCTION**

1. This action challenges the approval by the City Council of Moreno Valley of a

1 Development Agreement, a Specific Plan, and General Plan Amendments, with associated
2 California Environmental Quality Act ("CEQA") documents, for the approval of the massive
3 "World Logistics Center" project, to be located on 2,610 acres and encompassing 40.6 million
4 square feet of warehouse space.

5 2. Specifically, the SoCal Environmental Justice Alliance (SEJA) seeks to set aside
6 the following approvals:

7 a. Resolution No. 2015-56, certifying the final environmental impact report (p12-
8 016), adoption of the findings and statement of overriding considerations, and approving the
9 mitigation monitoring program for the World Logistics Center Project,

10 b. Resolution No. 2015-57, approving amendments to the City's General Plan,

11 c. Ordinance No. 900, approving PA12-0012 (change of zone), PA12-0013 (specific
12 plan) and PA12-0014 (prezoning/annexation), which include the proposed World Logistics
13 Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-
14 zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro
15 Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space
16 (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change
17 of zone to open space (OS) for those project areas outside and southerly of the proposed World
18 Logistics Center Specific Plan boundary.

19 d. Resolution 2015-58, A Resolution Of The City Council Of The City Of Moreno
20 Valley, California, Approving PA12-0015 (Tentative Parcel Map No. 36457) For The Purposes
21 Of Establishing Twenty-Six (26) Parcels For Financing And Conveyance Purposes, Including An
22 85 Acre Parcel Of Land Currently Located In The County Of Riverside Adjacent To Gilman
23 Springs Road and Alessandro Boulevard And Which Is Included In The World Logistics Center
24 Specific Plan,

25 e. Ordinance No. 901, An Ordinance Of The City Council Of The City Of Moreno
26 Valley, California, Approving PA12-0011 (Development Agreement) For The World Logistics
27 Center Project Which Real Estate Highland Fairview Has Legal Or Equitable Interest In, On
28 Approximately 2,263 Acres, Within The World Logistics Specific Plan Area (2,610 Acres),

1 Intended To Be Developed As High Cube Logistics Warehouse And Related Ancillary Uses
2 Generally East Of Redlands Boulevard, South Of State Route 60, West Of Gilman Springs Road
3 And North Of The San Jacinto Wildlife Area.

4 f. Resolution 2015-59, A Resolution Of The City Council Of The City Of Moreno
5 Valley, California, Requesting The Riverside Local Agency Formation Commission To Initiate
6 Proceedings For The Expansion Of The City Boundary For Approximately 85 Acres Of Land
7 Located Along Gilman Springs Road And Alessandro Boulevard (Apn Nos. 422-130- 002 And
8 422-130-003).

9 g. Resolution CSD 2015-29, A Resolution Of The Moreno Valley Community
10 Services District Of The City Of Moreno Valley, California, To Request The Riverside Local
11 Agency Formation Commission To Initiate Proceedings For The Expansion Of The Community
12 Services District Boundary To Include Approximately 85 Acres Of Land Located Along Gilman
13 Springs Road And Alessandro Boulevard In Conjunction With A Related Annexation (Apn Nos.
14 422-130-002 And 422-130- 003).

15 3. A Notice of Determination for the Project was posted on August 26, 2015.

16 4. In approving the Project the City violated provisions of CEQA requiring that the
17 EIR adequately analyze impacts to aesthetics, air quality, biological resources, hydrology and
18 water quality, hazards and hazardous materials, land use and planning, noise, traffic, greenhouse
19 gas emissions, and cumulative impacts. The City further violated the requirement that it analyze
20 a reasonable range of alternatives, and that it adopt an environmentally superior alternative. The
21 City failed to adopt all feasible mitigation for project impacts, and the analysis of impacts and
22 the planned mitigation measures are uncertain and are unreasonably deferred. The City achieved
23 this result in part by adopting a "programmatic" EIR for what should have been project-level
24 analysis and a project level EIR. Whether the City chose a programmatic EIR or not, the level of
25 review should have been sufficient to allow decisionmakers to intelligently consider the
26 environmental consequences of the Project.

27 5. The City adopted changes to the project without revising and recirculating the
28 EIR to disclose changes and new information developed while the EIR was pending.

1 6. Finally, the City's Findings of Fact and Statement of Overriding Considerations
2 were not supported by substantial evidence in the record. The Statement of Overriding
3 Considerations was improperly adopted when feasible mitigation measures and alternatives
4 existed to lessen significant project impacts.

5 7. The City also violated the State Planning and Zoning Law and the Moreno Valley
6 Municipal Code by approving the project when it is inconsistent with the Moreno Valley General
7 Plan.

8 **JURISDICTION AND VENUE**

9 8. This Court has jurisdiction under Code of Civil Procedure sections 1085 and
10 1094.5 and for declaratory relief under Code of Civil Procedure section 1060. The Court has
11 jurisdiction of CEQA matters pursuant to Pub. Resources Code sections 21168, 21168.5, and
12 21168.9.

13 9. Venue is proper in this Court because the City is located in Riverside County and
14 the Project is located here as well, so the actions giving rise to the causes of action herein
15 transpired in Riverside County. *See* Code of Civil Procedure sections 393 and 394.

16 10. This action is timely filed within 30 days of the posting of the Notice of
17 Determination under CEQA on August 26, 2015.

18 11. Petitioner has exhausted its administrative remedies by commenting on the
19 Project prior to the close of the public hearing on the Project before the filing of the Notice of
20 Determination, in compliance with Public Resources Code section 21177(b).

21 12. Petitioner has complied with CEQA by filing and serving with this Petition for
22 Writ of Mandate a Notice of Intent to File pursuant to Pub. Resources Code section 21167.5, and
23 by complying with Pub. Resources Code section 21167.6 in notifying the City of Petitioner's
24 election to prepare the administrative record, and in notifying the Attorney General of the
25 commencement of this action pursuant to Pub. Resources Code section 21167.7 and Code of
26 Civil Procedure section 388.

27 **PARTIES**

28 13. Petitioner SoCal Environmental Justice Alliance ("SEJA") is an advocacy

1 organization devoted to the preservation of the environment as well as the promotion of safe and
2 healthy communities. Members of SEJA reside in Moreno Valley and would be irreparably
3 harmed by the Project's environmental impacts. Members of SEJA submitted comments on the
4 Project. Members of SEJA bring this action on behalf of the public and are acting as private
5 attorney generals conferring a significant benefit on the general public or a large class of persons
6 under Code of Civil Procedure section 1021.5.

7 14. Respondent City of Moreno Valley (hereafter "City") is a public entity located in
8 Riverside County and the lead agency for the Project under CEQA. City is the agency charged
9 with the authority of regulating and administering land use and development within its territory
10 in compliance with the provisions of its General Plan and zoning ordinances as well as
11 applicable provisions of state law including CEQA. As the lead agency for the Project, the City
12 of Moreno Valley is charged with the duty of ensuring compliance with these applicable laws.

13 15. Respondent City Council of Moreno Valley is the elected body within the City
14 and is responsible for making administrative decisions and hearing administrative appeals made
15 from City departments.

16 16. Real party in interest Highland Fairview is the Applicant named on Respondent
17 City's Notice of Determination, and is therefore served as Real Party in Interest pursuant to
18 Public Resources Code section 21167.6.5(a). On information and belief, Real Party in Interest
19 Highland Fairview represents a conglomeration of interests including HF PROPERTIES, a
20 California general partnership, SUNNYMEAD PROPERTIES, a Delaware general partnership,
21 THEODORE PROPERTIES PARTNERS, a Delaware general partnership, 13451 THEODORE,
22 LLC, a California limited liability company, and HL PROPERTY PARTNERS, a Delaware
23 general partnership (collectively "Highland Fairview" or "Applicant").

24 **STATEMENT OF FACTS AND COMMON ALLEGATIONS**

25 17. *The Project Site and Proposed Project.* The Project site encompasses 3,818 acres
26 of land located in Rancho Belago, the eastern portion of the City of Moreno Valley, and is
27 situated directly south of State Route 60 (SR-60) with the Badlands area to the east and
28 northeast, the Mount Russell Range to the southwest, and Mystic Lake and the San Jacinto

1 Wildlife Area to the southeast. The project site *evaluated* was 3,918 acres, in the same area, but
2 the applicant altered the proposed plan after environmental review with the public and local
3 agencies was completed.

4 18. Of the 3,818 acres, the applicant proposes to develop 40.6 million square feet of
5 buildings devoted to logistics (40.4 million square feet) and "light logistics" (200,000 square
6 feet) on a total of 2610 acres. A General Plan Amendment was approved covering 3,714 acres
7 which redesignates approximately 70 percent of the area for logistics warehousing and the
8 remaining 30 percent for permanent open space and public facilities. The General Plan
9 previously designated the bulk of the site for residential development.

10 19. In addition to the General Plan Amendments and Zoning changes, the Project
11 purported to include and the City Council approved a Tentative Parcel Map covering part of the
12 site. The City claimed that the Tentative Parcel Map was for financing purposes only and that it
13 "would not confer any development rights" on the applicant. Revised DEIR, Executive
14 Summary at 1-9. However, the City entered into a Development Agreement with the applicant
15 which clearly would confer development rights upon the owner. Ordinance No. 901, approving
16 the Development Agreement, was passed by the City and City Council at its August 19, 2015
17 session.

18 20. Because it conferred development rights, the DEIR should have been a project-
19 level document. However, the applicant deferred analysis and mitigation of impacts on a wide
20 range of issues by labeling the document a "programmatic EIR" and promising to do subsequent
21 CEQA analysis later. That promise was ephemeral, as a programmatic EIR only requires further
22 CEQA analysis if "[s]ubstantial changes are proposed in the project which will require *major*
23 *revisions* of the environmental impact report." Pub. Resources Code § 21166(a), CEQA
24 Guidelines § 15162(a)(1) (emphasis supplied). Accordingly, the DEIR and RDEIR deferred
25 analysis until later that should have been accomplished in the DEIR so the public could review it
26 before the City committed to the Project.

27 21. *Jurisdictional Waters*. Among the inadequacies of the DEIR (draft
28 Environmental Impact Report) were its failure to delineate wetlands within the jurisdiction of the

1 U.S. Army Corps of Engineers, the Regional Water Quality Control Board and the California
2 Department of Fish & Wildlife. The DEIR flatly stated that the Project site did not contain any
3 drainages subject to the jurisdiction of the U.S. Army Corps of Engineers and/or Regional Water
4 Quality Control Board, though this was changed in the revised Draft Environmental Impact
5 Report (RDEIR) (hereafter, the revised DEIR will be referred to as the RDEIR, though the Court
6 should not be thereby left with the impression that the RDEIR was recirculated, because it was
7 not). The RDEIR recognized that there are up to five acres of jurisdictional waters subject to the
8 control of the California Department of Fish & Wildlife and that there were two drainages that
9 were subject to the control of the Army Corps of Engineers as hydrologically connected to
10 downstream waters of the United States. The RDEIR *deletes* the conclusion that there are "less
11 than significant impacts" with respect to jurisdictional waters and wetlands. This is a significant
12 impact that was not disclosed in the DEIR and should have required recirculation, but there was
13 none. Including this critical information in the RDEIR which is not circulated for public
14 comment pursuant to CEQA violates the informational purposes of the statute.

15 22. Although the RDEIR contained several new mitigation measures which purport to
16 reduce the impacts to less than significant, both the impacts and their mitigation measures should
17 have been included in the original DEIR so that CEQA could have performed its critical role of
18 advising the public of the potential environmental impacts of the Project and allowing the public
19 to influence the City to change its course of action.

20 23. *The Determination of Biological Equivalent or Superior Preservation.*
21 Additionally, the Western Riverside Multi Species Habitat Conservation Plan ("MSHCP")
22 required the development of a Determination of Biological Equivalent or Superior Preservation
23 ("DBESP") by the Resource Conservation Agency. The applicant did not concede that this
24 analysis was required for the DEIR and it was not prepared until the non-circulated RDEIR was
25 issued. Even then it purported to conduct "program level" review. This represents a potentially
26 significant impact under CEQA that was not evaluated and subject to public comment, in
27 violation of CEQA.

28 24. *GHG Emissions.* The DEIR properly recognized that the greenhouse gas

1 (“GHG”) emissions from the Project would be extensive, significant, and unmitigable, at 37
2 times the significance threshold set by the South Coast Air Quality Management District
3 (“SCAQMD”). The RDEIR used a sleight of hand to conclude that the GHG emissions were
4 less than significant, noting that two negative declarations within the SCAQMD had separated
5 uncapped from capped emissions, and concluding that this was an appropriate methodology for
6 not counting 98% of the emissions from the Project. It is not. The SCAQMD has adopted an
7 Interim CEQA Greenhouse Gas Significance Threshold “that will ultimately contribute to
8 reducing GHG emissions to stabilize climate change” and which relies upon Executive Order S-
9 3-05, which sets a state goal of reducing GHG emissions 80% below 1990 levels by 2050.
10 Additionally, the City’s conclusion that it could rely on the cap in AB 32 to assume that the
11 Project’s emissions would be mitigated to less than significant levels is not based upon
12 substantial evidence because the AB 32 program is set to expire in 2020; when the Project
13 buildout is not projected for completion until 2030.

14 25. *Site Flooding and Stormwater Infrastructure.* Commenters mentioned that the
15 DEIR deferred analysis of the extensive network of stormwater infrastructure that would be
16 necessary to prevent flooding, an existing problem on the site that was likely to get worse with
17 the significant increase in impervious surfaces throughout the site as a result of the Project.
18 Appendix J-1 to the DEIR was significantly rehailed in response, but the document that was
19 circulated to the public was 49 megabytes as opposed to the 172 megabytes of data with the
20 RDEIR. The DEIR failed to describe the existing conditions on the site including the extent of
21 impervious surfaces, so it was impossible to determine whether postdevelopment velocities or
22 volumes would exceed predevelopment conditions as the DEIR claimed. The DEIR did not
23 disclose the existence or location of natural drainage features so it could not disclose significance
24 in compliance with the thresholds of significance it set out – substantial alteration of the existing
25 drainage pattern of the site or area. Further the DEIR’s analysis focused solely on whether post-
26 development stormwater flows would be greater, and it did not analyze impacts or the effect on
27 downstream resources such as the San Jacinto Wildlife Area. Though the RDEIR added
28 information on these issues it was not subject to formal public comment and review as CEQA

1 requires. Moreover, the RDEIR still defers storm water drainage requirements to “future grading
2 and drainage studies” which are expected to result in less than significant impacts – but there is
3 no guarantee of this, and mitigation is deferred to development of “each Plot Plan.” There has
4 simply been inadequate planning regarding flooding and stormwater impacts for the public to
5 review in the DEIR.

6 26. *Lack of a Water Quality Management Plan.* Additionally, the DEIR failed to
7 include a Water Quality Management Plan for the extensive stormwater runoff from the site.
8 The RDEIR purported to address this with a new mitigation measure calling for the development
9 of a Water Quality Management Plan *in the future*, and an Appendix was eventually generated
10 purporting to be a “template” for a Water Quality Management Plan, but it was not circulated.
11 This is contrary to CEQA’s mandate that the public should have the ability to review and
12 comment on the efficacy of proposed mitigation measures.

13 27. *Inadequate Construction Phasing.* Commenters worried that construction
14 phasing and infrastructure improvements were left undefined. The City’s response was to delay
15 the construction period from 10 to 15 years and to identify two phases for construction – but this
16 material should have been available in the DEIR that the public was allowed to comment upon.
17 Moreover the DEIR did not show how the Project drainage improvements would keep pace with
18 the development of construction. Phasing the applicant purported to add in the RDEIR was not
19 subject to public review as required by CEQA. This was a potential significant impact the City
20 ignored.

21 28. *Air Quality Impacts.* Commenters Center for Biological Diversity and the
22 Audubon Society noted that the DEIR needed to analyze the impacts of global warming on the
23 Project – specifically the impacts on air quality. The RDEIR noted that if temperatures reach the
24 mid-warming range there will be a 75% to 85% increase in ozone formation in the Project area,
25 and that this impact is significant and unavoidable. This information was not in the DEIR, which
26 did not analyze impacts of climate change on the Project.

27 29. *Traffic Impacts and Mitigation.* With regard to traffic, the DEIR and RDEIR both
28 concluded that the Project’s impacts would be significant and unavoidable. Yet the City

1 included in the RDEIR a Mitigation Measure that a Traffic Impact Analysis would have to be
2 developed for each Plot Plan to ensure mitigation to a level of “insignificance.” With regard to
3 improvements to traffic infrastructure outside of the City the mitigation measure merely required
4 the payment of traffic impact fees prior to issuance of a certificate of occupancy. The payment
5 of fees will not alone reduce traffic impacts to a level that is less than significant and the City’s
6 conclusion to the contrary was not based on substantial evidence. Moreover, the mitigation
7 measures improperly deferred analysis and mitigation until after Project approval, in violation of
8 CEQA.

9 30. *Land Use Impacts and General Plan Consistency.* The DEIR did not adequately
10 assess the Project’s land use impacts, failing to evaluate its consistency with the City’s General
11 Plan. Inconsistencies with a general plan or local plan designed to protect the environment are
12 significant impacts in and of themselves. The General Plan amendments were not provided in
13 the DEIR so it was impossible to determine their consistency with the remainder of the General
14 Plan, but from what was in the DEIR there were numerous inconsistencies with the General Plan
15 provisions. Moreover, though the DEIR purported to require future environmental review
16 pursuant to Guidelines 15162 and 15177, those provisions only require further review if there are
17 “substantial changes” requiring “major revisions” to an EIR.

18 31. The DEIR lacked fundamental information as to infrastructure, utilities and public
19 services though the General Plan requires that they should keep pace with development. For
20 example, the FEIR stated that a revised Circulation Element had been submitted to the City to
21 deal with traffic impacts, but the revised Circulation Element was not submitted to the public for
22 CEQA review.

23 32. The General Plan requires the City to locate manufacturing and industrial uses to
24 avoid impacts on surrounding land uses and to screen manufacturing and industrial uses where
25 necessary to avoid glare, noise, dust and vibration. General Plan Policies 2.5.2 and 2.5.3. The
26 Project would locate industrial uses next to existing residences and there is no attempt to mitigate
27 the impact to the residences. *See also* General Plan Policy 2.10.11.

28 33. General Plan Policy 6.2.3 requires the City to maximize pervious areas in the

1 City. Nearly 41 million square feet of development plus roads will significantly increase
2 impervious surfaces. Though the FEIR states that a significant portion of the Project will remain
3 pervious for landscaping, water quality treatment and flood detention, this does not mitigate the
4 impacts of the impervious development.

5 34. General Plan Policy 6.2.4 requires the City to design construct and maintain street
6 and storm drain flood control systems to accommodate 10- and 100-year storm flows
7 respectively. The Project is potentially inconsistent as there is no evidence that the storm drain
8 flood control systems will function adequately.

9 35. General Plan Objective 6.5 is to minimize noise impacts from significant noise
10 generators. The Project would be inconsistent as the DEIR recognizes that there would be
11 significant construction and operational noise impacts.

12 36. General Plan Policy 7.7.5 requires development along scenic roadways to be
13 visually attractive and to allow for scenic views of the surrounding mountains and Mystic Lake.
14 The development would be inconsistent: the Project would significantly impact viewsheds in the
15 area including views of the Mt. Russell range, the Badlands, and Mystic Lake. The DEIR claims
16 the buildings would be visually attractive "relative to warehouse space," and that the
17 maintenance of views of Mt. Russell must await specific development proposals that would
18 themselves be subject to future CEQA review. Again, this is deferral of analysis that should
19 have been present in *the DEIR*. Moreover, Mitigation Measure 4.1.6.3A requiring demonstration
20 of 2/3 of the vertical view of Mt. Russell from a height of 6 feet at the edge of the roadway
21 would not represent mitigation to a level of insignificance.

22 37. *Impacts Relating to Population, Housing and Employment.* The DEIR assumed
23 without any evidence to support it that the Project would not cause substantial population growth
24 and that most jobs would go to unemployed City residents. The DEIR omitted information
25 regarding the skills of the local labor force so it was impossible to evaluate whether City
26 residents could fill the new positions. Thus the DEIR lacked support for its conclusion that the
27 Project would improve the City's jobs/housing balance. The RDEIR was modified to correct
28 these assumptions and recognized that the jobs would be filled by those having the skills

1 matching them, likely from surrounding communities, perhaps coming to live in Moreno Valley
2 later. These fundamental assumptions were not addressed in the DEIR that was circulated to the
3 public, however. This violates CEQA.

4 38. *Offsite Improvements.* Commenters noted that the DEIR failed to analyze the
5 impacts of offsite improvements including three new reservoirs. The City responded “specific
6 details of the development, including specific details of the reservoirs and other offsite
7 improvements, cannot be provided at this time since they have not yet been designed.” The
8 DEIR, as potentially the only evaluation of this Project, should have analyzed the offsite
9 improvements, but it did not. The DEIR should have done its infrastructure planning in
10 connection with the DEIR to assure that the planning would succeed. The public was entitled to
11 an analysis of whether the infrastructure planning could accommodate the Project at the density
12 at which it was planned.

13 39. Additionally, geotechnical studies conducted by the applicant call into question
14 whether the reservoirs can effectively be built. Several landslides have been mapped and
15 observed during field review of offsite reservoir A. Appendix G refers to future studies. And
16 the DEIR doesn’t disclose (as does the Appendix) that a planned reservoir access road will go
17 through a mapped landslide as well as potentially unstable San Timoteo formation bedrock for
18 rupture. The DEIR similarly fails to note that water reservoir and access area B will go through
19 a landslide area and unstable bedrock. The Mitigation Measure imposed to “address” this issue
20 merely calls for the City to review and approve plans prior to construction of the offsite
21 improvements.

22 40. *Inadequacy as an Informational Document.* The DEIR failed its purpose as an
23 informational document because it had material “scattered throughout the Appendices,” in
24 violation of established precedent. The subjects on which the DEIR failed to adequately inform
25 the reader include hydrology and traffic. Though the RDEIR attempted to address these failures
26 to some degree, the RDEIR was not the document circulated to the public and its changes were
27 therefore meaningless.

28 41. *CEQA Baselines.* The DEIR also failed to establish proper “baselines” under

1 CEQA. First, with respect to stormwater the DEIR analyzed the Project's impacts against a
2 hypothetical future environment where planned infrastructure had been built. It was not until the
3 RDEIR that the City (1) identified existing hydrological conditions, (2) identified the Project's
4 impacts, and (3) attempted to propose stormwater control features and evaluate them. It was not
5 until the City provided responses to comments on the DEIR that it finally listed existing drainage
6 conditions and identified 6 sub-watersheds the Project would impact. The City still has not
7 identified the precise location of stormwater drains, bioretention areas, detention/infiltration
8 basins and spreading areas, and one of its Mitigation Measures is field investigations to
9 determine the infiltration rate of soils for the proposed basins.

10 42. Second, with respect to hazards and hazardous materials, the applicant did not
11 adequately sample the site for pesticides. The sampling that was conducted was only 52 sites
12 over the past ten years across 2710 acres. The Department of Toxic Substances Control
13 recommends sampling of sites over 50 acres in at least 60 locations, and so a site of this size
14 should have been sampled 60 times across every 50 acre portion. Additionally, the site should
15 have been sampled for DDT and DDE, pesticides that can persist on site for hundreds of years.
16 Though the developer contended that there was no evidence that DDT and DDE were used on
17 the site, there is also no evidence that they were not, and the purpose of testing is to identify and
18 limit hazards to humans and other species on the site and adjacent from a new development that
19 can disperse these dangerous chemicals.

20 43. Moreover, commenters pointed out that the sampling in the past did not cover 2-
21 4-D and 2-ethylhexylester. The applicant responded noting that 2-4-D was used in amounts of
22 almost 1,000 pounds on the site historically. Though the applicant contended that the pesticide
23 has a half-life of a few days to two weeks, testing should have been conducted for a pesticide
24 that was known to have been used so pervasively on the site so as to determine residual levels.

25 44. Additionally, even the limited testing that occurred in the past did not cover the
26 entire Project area. Though the "Phase I ESA" was supposedly amended to include parcels that
27 were ignored in the original ESAs, the letter that reflects the additional surveying is impossible
28 to find in the FEIR Appendices.

1 45. Third, the DEIR failed to establish an accurate baseline for Biological Resources
2 in a number of ways. One, the document failed to identify the value of the Project site to raptors,
3 which it failed to recognize as a significant impact. The RDEIR recognized this as a potentially
4 significant impact and provided as a new mitigation measure for the loss of foraging habitat for
5 the golden eagle and the white tailed kite the payment of an MSHCP fee and the creation of a
6 landscaped buffer area around the San Jacinto Wildlife Area. This did not necessarily address
7 raptors that were not covered by the MSHCP. Moreover, the failure to recognize the impact as
8 significant until after the DEIR was circulated violated CEQA. Two, the burrowing owl surveys
9 in the DEIR were incomplete and failed to adhere to survey protocols. While the RDEIR
10 included a survey that met protocol requirements, that survey disclosed a pair of burrowing owls
11 on the site. Though MSHCP guidance provides that a single pair of burrowing owls does not
12 require mitigation, this does not mean that the presence of the owls, a species of special concern,
13 was not a significant impact requiring mitigation that should have been evaluated in the DEIR
14 that was circulated to the public. Three, trapping surveys were not conducted for the Los
15 Angeles pocket mouse. Though the FEIR claims that surveys were conducted using the protocol
16 for the *Pacific* pocket mouse, this does not necessarily mean that the Los Angeles pocket mouse
17 was even looked for. Four, protocol level plant surveys were not conducted. Though the FEIR
18 claimed that such surveys were only required for areas designated for Narrow Endemic Plant
19 Survey Areas or Cell Criteria Plant Survey Areas, this does not satisfy the applicant's burden
20 under CEQA to search for special status plant species (which may or may not be covered by the
21 MSHCP) on the Project site. Five, the DEIR failed to account for all special status species on the
22 site. The DEIR claimed that the Northwestern San Diego Pocket Mouse had a "low potential" to
23 be on the site but seven were captured in the 2010 trapping surveys and seventeen during the
24 2013 surveys. The RDEIR conceded that "development of selected portions of the WLCSP
25 [World Logistics Center Specific Plan] will have an adverse effect on the San Diego Pocket
26 Mouse." This should have been included in the DEIR that was circulated to the public. The
27 DEIR also failed to mention the presence of the San Diego Desert Woodrat on the site though
28 eight were captured during trapping surveys in 2010. The RDEIR conceded this and that an

1 additional Woodrat was captured in 2013. The RDEIR conceded that "development of selected
2 portions of the WLCSP will have an adverse effect on the San Diego Desert Woodrat." It
3 claimed that the impact would be mitigated by the payment of an MSHCP conservation fee but
4 again, this was a significant impact that should have been disclosed in the DEIR circulated for
5 review by the public. Additionally, the DEIR did not adequately analyze or disclose the
6 potential presence of the American Badger, the Western Yellow Bat, the Bell's Sage Sparrow,
7 and the White Tailed Kite, the Ferruginous Hawk and the Merlin on the site, and adequate
8 surveys were not conducted. The RDEIR did not include sufficient mitigations for these species
9 and those mitigations should have been in the DEIR.

10 46. *Hazards and Hazardous Materials.* The DEIR assumes without analysis that
11 certain setbacks are sufficient from a natural gas compressor station located on the site. The
12 DEIR also failed to address concerns regarding pressurized natural gas lines crossing the site, or
13 concerns regarding a proposed LNG/compressed natural gas fueling station's safety mitigations.
14 In response to comments, the FEIR stated that future review would occur if there were
15 substantial changes under CEQA Guidelines sections 15162 and 15177, but, as noted above,
16 these Guidelines hardly provide assurance that future review will occur. The RDEIR imposes a
17 new Mitigation Measure providing for a risk assessment reports on the subjects of the gas
18 compressor station and the compressed natural gas/LNG fueling station. The risk assessment
19 reports should have been subject to review and analysis by the public with the DEIR. The DEIR
20 should have been recirculated to include it. Instead, they have yet to be developed.

21 47. *Geology and Soils Impacts.* The DEIR asserts that a detailed investigation was
22 performed for the site's faults. However, trenching along a portion of the Claremont segment of
23 the San Jacinto fault located a portion of it but the entire length of it was not trenched. The
24 DEIR finds this impact potentially significant yet it failed to identify the length of the fault *or*
25 *even to require its identification in the future.* The conclusion that impacts would be reduced to
26 a less than significant level is therefore baseless.

27 48. *Light Pollution.* Commenters addressed the level of light pollution the Project
28 would create, noting that it is immediately adjacent to a Wildlife conservation area. The light

1 pollution can cause harm to birds including migratory birds and it can cause predation to the
2 Stephen's Kangaroo Rat – a federally Endangered Species – living adjacent to the site. Yet the
3 responses to comments (known as the FEIR or Final EIR) asserted that these risks would be
4 mitigated to a level of insignificance by Ordinance 851, an ordinance limiting light for human
5 residential purposes. The combination of the Ordinance and the setbacks would *not* reduce the
6 impact of light pollution to various species to a level of insignificance.

7 49. *Failure to Evaluate Impacts in the Face of an Incompletely Functioning MSHCP.*

8 Commenters argued that the DEIR should address the lack of robustness of the MSHCP and
9 hence that the loss of habitat represented by the site may be significant due to the lack of suitable
10 habitat replacement. Additionally, the assumption that the payment of a mitigation fee to the
11 MSHCP would mitigate impacts to noncovered species is baseless. The DEIR and RDEIR failed
12 to analyze what would happen in light of the lack of strength of the MSHCP for covered species.
13 It conceded it failed to analyze impacts to noncovered species but claimed this would happen in
14 further CEQA review. However, as noted above, there is no assurance that further CEQA review
15 will occur.

16 50. *San Jacinto Wildlife Area as a Buffer.* Commenters contended that the DEIR

17 improperly treated the San Jacinto Wildlife Area as a buffer because though the document called
18 for a 400 foot setback there was only a 250 foot buffer which would still allow for water
19 detention basins and landscaping. There was no response on this issue.

20 51. *Hydrological Impacts.* Where a lead agency concludes that one or more

21 mitigation measures will bring an impact from a level of significance to less than that, there must
22 be substantial evidence in the record showing the mitigation measures to be feasible and
23 effective. Mitigation measures must be legally enforceable through permit conditions,
24 agreements or other legally binding instruments. The City failed to meet this standard with
25 respect to the Project's hydrological impacts, where Mitigation Measures 4.9.6.1A and B
26 required future field studies to determine the infiltration rate of soils. Mitigation Measure
27 4.9.6.1B purported to require maintenance of the new drainage systems but did not assign this
28 responsibility to anyone in particular. This is a violation of CEQA.

1 52. *Cumulative Impacts.* The DEIR failed to properly address a variety of cumulative
2 impacts from the Project. First, with respect to stormwater, the DEIR never anticipates how
3 growth in the area predicted by the General Plan will affect various watersheds in the area. In
4 response to comments the FEIR stated that it was “reasonable to assume if each future
5 development must mitigate its own impacts to less than significant and this is monitored by
6 federal and state regulatory agencies, the cumulative impacts to hydrology and water quality will
7 similarly be less than significant.” This is precisely *not* what a cumulative impacts analysis is to
8 entail. Cumulative impacts are impacts that are by their nature individually insignificant but
9 cumulatively considerable.

10 53. Second, the City chose to use the “summary of projections” method rather than
11 the “list” method to evaluate cumulative impacts. The “summary of projections” method relies
12 upon projections in a General Plan or related planning document. Here the City relied upon its
13 2006 General Plan. This approach was not based upon substantial evidence because the City has
14 since amended its General Plan several times, including for this Project, to maximize space
15 available to large warehouse projects.

16 54. Third, the City failed to adequately analyze cumulative impacts to agricultural
17 resources. The City was required to analyze past, present and reasonably foreseeable future
18 projects the impacts of which might compound or interrelate with those of the project at hand,
19 Pub. Resources Code § 21083(b); CEQA Guidelines §§ 15130, 15355. The DEIR focused
20 instead only on past projects. And it failed to mitigate for those cumulative impacts. It claimed
21 those impacts were not significant based on a “revised LESA model,” but that conclusion is not
22 based on substantial evidence.

23 55. Fourth, the City failed to address cumulative air quality impacts. The DEIR
24 conceded that cancer risks and other acute risks come from Diesel Particulate Matter (“DPM”)
25 from the Project and from many other projects, including several major projects which were not
26 included in the City’s calculations. Though the RDEIR purported to recalculate those risks, it
27 did not assess risks from cumulative projects and it still found them present for at least three
28 residences within the Project area (and it did not mitigate for those impacts by providing for air

1 filtration for those residents).

2 56. *Alternatives Analysis.* CEQA requires that an EIR consider a “reasonable range
3 of alternatives,” Guidelines § 15126.6(a), and that the document must include a discussion of
4 alternatives even if to some degree they would limit accomplishment of the project’s objectives,
5 or would be more costly. Guidelines § 15126.6(b). The DEIR improperly limited the range of
6 alternatives the document could consider by artificially describing the Project Objectives as the
7 World Logistics Center Project itself. Because it did this, the document rejected alternative sites
8 even as large as 1700 acres. The City improperly rejected alternative sites by requiring a site of
9 2,635 acres for 41 million square feet of high-cube logistics warehouse uses.

10 57. The DEIR should have focused on the public’s purposes for the Project rather
11 than the developer’s narrow objectives.

12 58. The DEIR failed to identify alternatives that would avoid or substantially lessen
13 the Project’s impacts. Contrary to established precedent the DEIR authors chose alternatives that
14 failed to significantly lessen the Project’s impacts. The reduced density alternative could have
15 been selected with a lesser building footprint but the authors failed to make this obvious choice.

16 59. The alternatives analysis also failed in that the authors failed to recommend the
17 reduced density alternative to the Project. The City was required to select the environmentally
18 superior alternative unless it was an infeasible choice. *See* Pub. Resources Code § 21002,
19 Guidelines § 15126.6(e)(2).

20 **FIRST CAUSE OF ACTION**

21 **Recirculation of the DEIR**

22 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

23 60. Petitioner reincorporates and realleges paragraphs 1-59 as if set forth in full.

24 61. A DEIR must be recirculated if there is the addition of significant new
25 information after public notice is given or if the DEIR is so fundamentally and basically
26 inadequate that meaningful public review and comment were precluded. In this case, both
27 alternatives require recirculation.

28 62. Recirculation of an EIR requires notice pursuant to Guidelines section 15087 and

1 consultation pursuant to Guidelines section 15086. Notice under section 15087 means the
2 agency must provide for a new review period and include a list of significant effects anticipated
3 from the project. Consultation means that the agency must request comment from responsible
4 agencies and trustee agencies as well as any other state, federal or local agencies with
5 jurisdiction over any resource which may be impacted by the Project.

6 63. This, the City failed to do. There was significant new information in the RDEIR
7 on the issues of: air quality impacts (noting that with climate change there would be a 75-85%
8 increase in ozone formation in the Project area), jurisdictional waters (the City's determination of
9 impacts went from insignificant to significant, and a virtually new Appendix was prepared),
10 biological resources (pursuant to the MSHCP a "program level" Determination of Biological
11 Equivalent or Superior Preservation was prepared, but not circulated, and multiple other impacts
12 were identified, but not circulated), hazards and hazardous materials (the DEIR and RDEIR
13 deferred mitigation and assessment of risks from a natural gas compressor station and planned
14 LNG/compressed natural gas filling station) and stormwater (a virtually new appendix was
15 generated, but not circulated, and the applicant promised a yet-to-be-developed Stormwater
16 Pollution Prevention Plan which was not generated; the applicant developed a template for a
17 Water Quality Management Plan with the uncirculated RDEIR – both the SWPPP and the
18 WQMP should have been circulated), among other things.

19 64. The U.S. Fish & Wildlife Service, in commenting on the Project's impacts, said
20 that the document needed to be revised and recirculated to comply with CEQA's mandates. In
21 particular, the agency focused on the jurisdictional waters impacts, the impacts to the burrowing
22 owl, the impacts to the Los Angeles pocket mouse, the impacts to the MSHCP reserve assembly,
23 the impacts to the San Jacinto Wildlife Area, and the obligations of the City and the applicant
24 under the Migratory Bird Treaty Act.

25 **SECOND CAUSE OF ACTION**

26 **Failure to Analyze All Potentially Significant Impacts**

27 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

28 65. Petitioner reincorporates and realleges paragraphs 1 through 64 as if fully set

1 forth.

2 66. The DEIR failed to assess impacts to land use by failing to address the numerous
3 instances where the proposed Project conflicted with the General Plan. Conflicts with a general
4 plan or similar planning document are significant impacts under CEQA.

5 67. The DEIR failed to adequately address significant impacts to jurisdictional waters
6 simply by ignoring them, as noted above. The RDEIR noted that these impacts would be
7 significant, but the RDEIR is not the document circulated for public review.

8 68. The DEIR actually *properly* quantified the impacts of GHG emissions from the
9 Project, but the RDEIR purported to jettison that analysis, contending that the City only had to
10 count emissions uncapped by AB 32. As noted above, this finding was without substantial
11 evidence in the record.

12 69. The DEIR failed to adequately address site flooding and stormwater
13 infrastructure, because it failed to properly characterize existing conditions on the site. As noted
14 above, while the RDEIR added information on these issues, it was not the document subject to
15 public review. Moreover, the RDEIR still defers storm water drainage requirements to future
16 studies. Among other things, it fails to assign the responsibility for cleaning storm drain systems
17 to a particular individual or entity.

18 70. The DEIR improperly concluded that water quality from the storm water leaving
19 the site would be adequate in the absence of a Water Quality Management Plan. Though a
20 "template" plan was generated for the RDEIR, this document was not subject to public review,
21 and does not constitute substantial evidence.

22 71. The DEIR and RDEIR both concluded in the absence of substantial evidence that
23 impacts from lack of infrastructure development would be less than significant. Specifically, as
24 noted above, neither document supported the conclusion that project improvements would keep
25 up with development.

26 72. The City's finding in the RDEIR that it could reduce traffic impacts to a less than
27 significant level were not based on substantial evidence in the record.

28 73. The DEIR failed to quantify significant impacts from indirect source air pollution

1 – specifically, the truck trips that the Project would generate day in and day out. Though the
2 FEIR claimed that the RDEIR quantified these impacts for both a regional and local perspective,
3 the regional analysis was revised and the local analysis was completely redone in the RDEIR.

4 74. The DEIR failed to adequately quantify impacts to biological resources through
5 its lack of adequate baselines as discussed above. It also failed to evaluate impacts to species not
6 covered in the MSHCP, including cumulative impacts to such species. This program-level
7 document should have addressed these impacts.

8 75. The DEIR failed to properly address the jobs/housing imbalance in the City,
9 baselessly assuming that the jobs the Project generated would go to City residents, and that there
10 would be no new housing demand. The RDEIR corrected these assumptions, but this was too
11 late for the public to adequately comment on the Project.

12 76. The DEIR failed to properly address the impacts of offsite improvements
13 including three new reservoirs, as noted above. The DEIR failed to address whether those
14 reservoirs could be effectively built given geotechnical constraints.

15 77. The DEIR failed to establish proper baselines for conducting its review for, *inter*
16 *alia*, (1) stormwater, (2) pesticides on the site, (3) and biological resources, as outlined above.

17 78. The DEIR improperly concluded that the risks to workers and others present on
18 the site from an existing natural gas compressor station and a planned LNG/compressed natural
19 gas filling station would be reduced to less than significant levels by conducting a future risk
20 assessment with regard to each of them. This conclusion was not based on substantial evidence.

21 79. The DEIR concluded that impacts from geology and soils – specifically,
22 earthquakes – would be reduced to a less than significant level even though the applicant failed
23 to trench the length of a known Alquist/Priolo fault. Its conclusion that impacts would be
24 reduced to a less than significant level is thus not based on substantial evidence.

25 **THIRD CAUSE OF ACTION**

26 **Failure to Include All Critical Information in the DEIR**

27 **[CEQA, Pub. Res. Code § 21000 *et seq.*]**

28 80. Petitioner reincorporates and realleges paragraphs 1 through 79 as if fully set

1 forth.

2 81. The DEIR failed to include critical information in the DEIR itself, burying key
3 elements in Appendices in violation of established precedent, in violation of CEQA.

4 **FOURTH CAUSE OF ACTION**

5 **Failure to Adequately Mitigate All Potentially Significant Impacts**

6 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

7 82. Petitioner reincorporates and realleges paragraphs 1 through 81 as if fully set
8 forth.

9 83. CEQA requires an agency to adopt feasible mitigation measures that will
10 substantially lessen or avoid the project's potentially significant impacts and to describe those
11 mitigation measures in the DEIR. Pub. Res. Code §§ 21002, 21081(a), 21100(b)(3); Guidelines
12 § 15126.4. A lead agency may not conclude that an impact is significant and unavoidable
13 without requiring the imposition of all feasible mitigation measures to reduce impacts to less
14 than significant levels. Guidelines §§ 15126.4, 15091.

15 84. The DEIR failed to adequately mitigate for the loss of farmland. The RDEIR
16 provided a new mitigation measure for the loss of "Unique Farmland," but this was only 25 acres
17 of well over 2,000 lost. The majority of the site is designated as "farmland of local importance,"
18 for which there is no mitigation. Even with respect to the 25 acres there are questions as the land
19 that is the subject of the Conservation Easement has apparently not been identified and the form
20 and content of this Easement is to be reviewed by someone identified in the RDEIR only as "the
21 Planning Official."

22 85. The DEIR failed to adequately mitigate for localized construction and operational
23 impacts to the extent feasible. The FEIR considered but failed to incorporate the installation of
24 air filtration systems in the homes of adjacent residents. Though the RDEIR concluded that
25 cancer risks were lower than those originally calculated in the DEIR, the document failed to
26 account for acute risks from exposure such as exacerbated respiratory illnesses and death.
27 Additionally it recognized that (even with its truncated and limited analyses) cancer risks
28 remained for three residences within the Project area yet it failed to provide air filtration for

1 those residents.

2 86. The DEIR failed to adequately mitigate for indirect source air pollution. A
3 commenter raised that the City could have considered the same mitigations as are required under
4 San Joaquin Valley Air Pollution Control District's Rule 9510 regarding indirect sources. The
5 City responded without citation or support that it did not have the same resources with respect to
6 offsite emissions reduction projects.

7 87. The DEIR failed to mitigate adequately for impacts associated with proposed
8 relocation of biological resources. Translocated animals may not survive due to predation.
9 Sensitive plant species don't tend to survive. The burrowing owl require a detailed plan to
10 describe the risks of relocation to a particular area and monitoring. The FEIR dismissed
11 comments on these points, arguing that sensitive plant species were not present on the Project
12 site (even though surveys for them were not adequate), and contending with regard to the
13 burrowing owl that there was enough habitat within the 250 foot buffer area for relocation.
14 These mitigations were not all that was feasible or required to reduce these impacts to a level of
15 insignificance.

16 88. The DEIR failed to mitigate by not providing an adequate buffer of 1,000 feet for
17 sensitive biological receptors. The DEIR stated that a 250 foot setback was adequate even
18 though the California Air Resources Board ("CARB") and the South Coast Air Quality
19 Management District ("SCAQMD") recommend a 1,000 foot setback for humans. This was not
20 changed in the RDEIR. Additionally, the mitigation monitoring plan did not propose to evaluate
21 the buffer to see if the setbacks were adequate.

22 89. The DEIR failed to adequately mitigate for impacts to sensitive plant species.
23 Coulter's goldfields, smooth tarplant and thread-leaved brodiaea have the potential to occur on
24 the Project site and they are required to be avoided 90% under the MSHCP until it is
25 demonstrated that conservation goals for the species are being met. The FEIR responded to this
26 comment by merely dismissing the potential for the species to occur on the site. Other special
27 status species may occur on the site but the DEIR did not contain adequate surveys for them.
28 Salvage and relocation of plants only works 15% of the time. The FEIR promised future CEQA

1 review at the project level for sensitive plant species but it referred to mitigation measure related
2 instead to drainage. It conceded that the Plummer's mariposa lily and the Parry's spineflower
3 would require 90% avoidance but did not indicate how the Project would accomplish this.

4 90. The DEIR and FEIR failed to adequately mitigate for the burrowing owl. In
5 addition to the translocation concerns addressed above, the DEIR only provided for a single
6 preconstruction survey 30 days prior to ground disturbance. CDFW guidance calls for a
7 preconstruction survey 14 days prior and then 24 hours prior to ground disturbance. The FEIR
8 rejected this comment, claiming that the MSHCP only requires the single survey 30 days prior.
9 The state has the authority to impose additional conditions and the City should have imposed
10 them to mitigate impacts to the owl to less than significant levels.

11 91. Additionally, exclusion of burrowing owl is not permitted unless and until the
12 applicant (1) develops a burrowing owl exclusion plan approved by CDFW, (2) secures offsite
13 habitat and constructs artificial burrows within 100 meters of the eviction sites, (3) mitigates the
14 impacts of exclusion according to CDFW methods, (4) conducts site monitoring of the exclusion
15 sites, and (5) documents the burrowing owl using artificial or natural burrows on an adjoining
16 mitigation site. The City did not respond to these points in the FEIR, and apparently did not
17 adopt this required mitigation, and did not even explain whether the mitigation would be possible
18 on the site.

19 92. The applicant failed to develop, and the City failed to insist upon, a Storm Water
20 Pollution Prevention Plan ("SWPPP") to deal with the likely presence of toxins including
21 organochlorine pesticides. The SWPPP was deferred into the future where there would be no
22 public scrutiny. This is not adequate mitigation under CEQA.

23 93. The FEIR conceded that the DEIR had failed to evaluate or mitigate for impacts
24 to species not covered by the MSHCP. Impacts to those species and mitigation for them should
25 have occurred in this document.

26 94. The DEIR and FEIR failed to mitigate adequately for the risks posed by the
27 adjacent gas compressor station and the planned compressed natural gas/LNG fueling station on
28 the site though it recognized that these facilities could provide risks of severe explosions and

1 fires. The RDEIR merely deferred the issue to future “risk assessments” with promised future
2 CEQA review, though there is no guarantee that this would happen.

3 95. The City failed to adequately mitigate for traffic. Its mitigation measure requiring
4 the payment of fees prior to issuance of a certificate of occupancy will *not* reduce traffic impacts
5 outside the City to a level of insignificance.

6 **FIFTH CAUSE OF ACTION**

7 **Inadequate Cumulative Impacts Analysis**

8 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

9 96. Petitioner reincorporates and realleges paragraphs 1 through 95 as if fully set
10 forth.

11 97. As discussed above the cumulative impacts analysis failed to comport with
12 CEQA’s requirements because the City used the “summary of projections” method without
13 having accurate summaries of projections.

14 98. Specifically, the City failed to account for cumulative warehouse projects the City
15 had in the planning or implementation phases that were not included in its 2006 General Plan.

16 99. Additionally the City failed to accurately assess cumulative impacts from
17 stormwater and flooding in the area by assuming that each project would reduce such impacts to
18 a level of insignificance so that cumulative impacts would be insignificant.

19 100. Next, the City failed to adequately assess impacts to agricultural resources,
20 assessing only impacts from *past* cumulative projects and not *past, present, and reasonably*
21 *foreseeable future* projects as the statute and Guidelines require. Pub. Resources Code §
22 21083(b); CEQA Guidelines §§ 15130, 15355.

23 101. Finally, the City did not properly assess cumulative impacts to air quality,
24 including from the additional warehouse projects in the area.

25 102. For all these reasons, the cumulative impacts analysis did not comport with
26 CEQA’s requirements.

27 **SIXTH CAUSE OF ACTION**

28 **Inadequate Alternatives Analysis and Failure to Adopt a Feasible Environmentally**

1 **Superior Alternative**

2 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

3 103. Petitioner reincorporates and realleges paragraphs 1 through 102 as if fully set
4 forth.

5 104. CEQA requires that an EIR consider a “reasonable range of alternatives,”
6 Guidelines § 15126.6(a), and that the document must include a discussion of alternatives even if
7 to some degree they would limit accomplishment of the project’s objectives, or would be more
8 costly. Guidelines § 15126.6(b).

9 105. Here the City failed to consider a “reasonable range” of alternatives, focusing so
10 tightly on the project as it was currently defined that no alternative site or sites could meet the
11 City’s objectives.

12 106. Additionally the City failed to identify alternatives that lessened the Project’s
13 impacts. The CEQA Guidelines mandate that “The range of potential alternatives to the
14 proposed project shall include those that could feasibly accomplish most of the basic objectives
15 of the project and could avoid or substantially lessen one or more of the significant effects.”
16 Guidelines § 15126.6(c).

17 107. Finally, the City failed to adopt the environmentally superior alternative,
18 Alternative 1, despite the mandate that the City is to adopt feasible alternatives or mitigation
19 measures that substantially lessen significant effects of the project. *See* Pub. Res. Code § 21002.
20 This finding was not based on substantial evidence.

21 108. For all of these reasons, the City’s alternatives analysis and adoption of the
22 Project instead of Alternative 1 did not comport with CEQA’s requirements.

23 **SEVENTH CAUSE OF ACTION**

24 **Statement of Overriding Considerations Not Based on Substantial Evidence**

25 **[CEQA, Pub. Res. Code § 21000 *et seq.*]**

26 109. Petitioner reincorporates and realleges paragraphs 1 through 108 as if fully set
27 forth.

28 110. CEQA requires that an agency must adopt a “statement of overriding

1 considerations” for any significant effects which have not been mitigated to a level of
2 insignificance by mitigation measures or the adoption of alternatives. The agency must find
3 “that specific overriding economic, legal, social, technological, or other benefits of the project
4 outweigh the significant effects on the environment.” Pub. Res. Code § 21081(b).

5 111. The statement of overriding considerations must be based on substantial evidence
6 in the record. Pub. Res. Code § 21081.5; Guidelines § 15093(b).

7 112. The City adopted the statement of overriding considerations when feasible
8 mitigation measures and project alternatives existed, in violation of CEQA. Pub. Res. Code §
9 21081; Guidelines § 15092.

10 EIGHTH CAUSE OF ACTION

11 Violations of the State Planning and Zoning Law and Moreno Valley Municipal Code

12 [Gov. Code §§ 65300 *et seq.*]

13 113. Petitioner reincorporates and realleges paragraphs 1 through 112 as if fully set
14 forth.

15 114. Government Code sections 65300 *et seq.* requires that all development projects
16 must be consistent with the adopted General Plan of the City.

17 115. Moreno Valley Municipal Code section 9.01.080 likewise requires consistency
18 with the City’s General Plan.

19 116. Commenters contended that the proposed Project is inconsistent with the City’s
20 General Plan. Even the amendments to the General Plan do not make the Project consistent.

21 117. Moreover, those amendments make the General Plan internally inconsistent.

22 118. The City’s findings that the Project is consistent with the General Plan are
23 unsupported by substantial evidence.

24 119. By approving the Project when it is inconsistent with the General Plan and by
25 making findings of consistency which are unsupported by substantial evidence, the City
26 committed prejudicial abuses of discretion for which the Project approvals must be set aside.

27 WHEREFORE, Petitioner prays

28 1. For the Court’s peremptory writ of mandate requiring the City to set aside its

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decision certifying the EIR for the Project (Pub. Res. Code §§ 21168, 21168.5, 21168.9, Code of Civil Procedure §§ 1085, 1094.5),

2. For the Court's peremptory writ of mandate requiring the City to fully comply with the requirements of CEQA, the State Planning and Zoning Law, and the City's Municipal Code prior to any future approval of the Project (Pub. Res. Code §§ 21168, 21168.5, 21168.9, Gov. Code § 65300 *et seq.*, Code of Civil Procedure §§ 1085, 1094.5),
3. For a judgment enforcing the duty imposed upon the City by CEQA to adequately address potential individual and cumulative impacts to the environment in any subsequent action taken regarding the Project,
4. For a judgment enforcing the duty imposed upon the City by CEQA to adequately consider mitigation to reduce significant impacts in any subsequent action taken to approve the Project,
5. For a judgment enforcing the duty imposed upon the City by CEQA to adopt a feasible environmentally superior alternative to reduce significant impacts in any subsequent action taken to approve the Project,
6. For a judgment requiring the City to prepare, circulate and consider a new and legally adequate Environmental Impact Report and otherwise comply with CEQA in any subsequent action taken to approve this Project,
7. For costs of suit, including attorney's fees pursuant to Code of Civil Procedure § 1021.5 and other provisions of law.
8. For such other and further relief, including a stay or preliminary or permanent injunctive relief, in the event that the Real Party in Interest, or its agents or instrumentalities, intend to commence construction on the site.

Dated: September __, 2015

BLUM COLLINS, LLP
Craig M. Collins
Gary Ho

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By 
Craig Collins
Attorneys for Plaintiffs

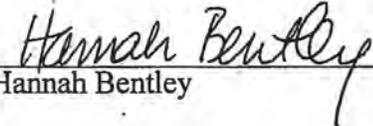
VERIFICATION

I am an attorney representing Petitioner SoCal Environmental Justice Alliance in this action, and I am authorized to make this verification on their behalf under California Code of Civil Procedure § 446.

I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof. I certify that I believe the contents thereof to be true.

I am making this verification in place of Petitioner on the grounds that the facts are within my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th day of September, 2015, at Los Angeles, California.


Hannah Bentley