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FILED  
MAR -4 2015  
STEPHEN H. WASH, CLERK OF THE COURT  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF CONTRA COSTA  
By \_\_\_\_\_, Deputy Clerk

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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 COMMUNITIES FOR A BETTER  
16 ENVIRONMENT, A Non-Profit Corporation,

17 Petitioner and Plaintiff,

18 v.

19 CONTRA COSTA COUNTY;  
20 CONTRA COSTA COUNTY BOARD OF  
SUPERVISORS; and DOES 1 through 10,  
inclusive,

21 Respondents and Defendants.

22 PHILLIPS 66 COMPANY, a Delaware  
23 Corporation; and DOES 11 through 20, inclusive,

24 Real Parties in Interest and Defendants.

Case No.

N15-0301

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

[CEQA: Cal. Code of Civ. Proc. §§ 1094.5 &  
1085; Cal. Pub. Res. Code §§ 21167, 21168 &  
21168.5]

1 Petitioner and Plaintiff Communities for a Better Environment brings this action on its own  
2 behalf, on behalf of its members, on behalf of the general public, and in the public interest, and  
3 hereby alleges as follows:

#### 4 INTRODUCTION

5 1. This action challenges Contra Costa County's decision to approve the Phillips 66  
6 Propane Recovery Project. The Project would modify and augment existing equipment and  
7 infrastructure at the Phillips 66 Rodeo facility and allow Phillips 66 to recover additional butane and  
8 propane. In order to do so, however, the project requires a lower quality oil feedstock that it plans to  
9 import by rail to its Santa Maria facility, which is connected by a pipeline to the Rodeo facility.

10 2. For over two years, Petitioner and hundreds of members of the public have actively  
11 voiced their concerns against a project that will enable Phillips 66 to transport and refine tar sands, a  
12 low quality oil feedstock, up and down the West Coast. The Environmental Impact Report ("EIR")  
13 for this project obscures this fact. Refining a lower quality crude oil feedstock, such as tar sands, at  
14 the Phillips 66 Rodeo facility will: (1) increase air emissions of toxic air contaminants, hazardous  
15 air pollutants, particulate matter and greenhouse gases; (2) preclude replacement, and even expand  
16 the use of, an antiquated cooling system at the Phillips 66 Rodeo facility, which threatens the water  
17 quality and aquatic life of the San Francisco Bay; and (3) substantially increase the risk of dangerous  
18 chemical spills, fires or explosions at the refinery, such as the August 2012 fire at the Chevron  
19 Richmond Refinery that sent 15,000 nearby residents to hospitals.

20 3. Further, this Project also requires the transport of tar sands by rail, endangering  
21 communities up and down the rail lines with the risk of derailment and explosion of rail cars  
22 carrying a volatile and lower quality oil feedstock. Such derailments devastated the town of Lac  
23 Mégantic in Canada in 2013, killing 47 people and destroying more than 30 buildings, and more  
24 recently caused multiple explosions and a massive fire requiring evacuations in West Virginia. The  
25 EIR for this project either fails to identify or wholly underestimates these significant impacts.

26 4. Despite active community opposition voicing these concerns, Contra Costa County  
27 approved the EIR and issued the Conditional Use Permit for this project. The EIR does not  
28 adequately inform the public and decision makers about these significant environmental impacts of

1 Phillips 66's proposed restructuring of its Rodeo facility, which Phillips 66 calls the Propane  
2 Recovery Project ("Project"), thereby undermining the fundamental purposes of the California  
3 Environmental Quality Act ("CEQA").

4         5. By truncating the project description and failing to disclose the Project's switch to a  
5 lower quality oil feedstock to be refined at the Phillips 66 Rodeo facility, and the Phillips 66 San  
6 Francisco Refinery as a whole, the EIR's flawed analysis precludes any adequate evaluation of a  
7 variety of significant environmental effects of the Project. The Project's purported propane and  
8 butane recovery objective masks the primary and larger purpose of the Project, which is to import  
9 and refine tar sands and Bakken crudes. This evades environmental review of an overall larger  
10 project and is a quintessential example of piecemealing.

11         6. The evidence in the record proves that the Project's true purpose is to allow Phillips  
12 66 to transport to and refine a lower quality crude oil feedstock at its Rodeo facility and overall San  
13 Francisco Refinery. The EIR obscures this objective, and claims instead that the primary purpose of  
14 the Project is only to allow Phillips 66 to recover a greater amount of propane and butane at its  
15 Rodeo facility for subsequent sale to the public. Petitioner's expert comments, however, include  
16 publicly available data, not disclosed in the EIR, demonstrating that the Rodeo facility cannot  
17 currently recover enough propane or butane to achieve the Project's purported purpose. The expert  
18 comments in the record show that in order to recover a greater amount of propane and butane at its  
19 Rodeo facility, the Rodeo facility must first receive oil feedstock of a lower quality which requires  
20 additional Project components not disclosed in the EIR.

21         7. Phillips 66 has recently publicly stated its intent to put a lower quality oil feedstock,  
22 such as tar sands, at the "front" of its California refineries. The company has no choice but to seek  
23 out an alternative crude feedstock given dwindling local supplies currently relied upon.

24         8. The record includes a comment from another refinery expert, who had previously  
25 worked for a prior owner of the same refinery, whose independent analysis agrees that: without a  
26 switch to a lower quality oil feedstock, the Rodeo facility alone lacks the ability to recover sufficient  
27 propane or butane to meet the Project's stated objective; the true objective of the Project is to access  
28

1 a lower quality oil feedstock; and there are therefore undisclosed and necessary components of the  
2 Project evading adequate environmental review.

3 9. Each of the County's revisions to the EIR suffers from an unstable, ever-changing  
4 project description, and simply offers conclusory and evasive responses to Petitioner's and other  
5 comments relating to the true nature and extent of the Project; failing to provide concrete facts or  
6 even bases in the record that could support the EIR's assertion that the post-Project crude slate  
7 would remain similar to the pre-Project crude slate. The EIR provides only general assertions that  
8 the post-Project future crude slate refined at the Rodeo facility would be similar to that which is  
9 currently processed.

10 10. The County's failure to comply with CEQA is particularly troubling in light of the  
11 Project's location — in and near a working class community and immediately adjacent to a  
12 residential complex, where people of color already bear a disproportionate share of environmental  
13 harms, including greatly elevated risks of cancer, asthma, heart attacks, and other serious health  
14 problems caused by higher exposures to toxic air contaminants and other pollutants emitted from  
15 diesel rail and truck corridors, port facilities, and other industrial facilities in the area.

16 11. Moreover, approval of this Project presents broader implications of environmental  
17 injustice throughout the State: this Project is one piece of Phillips 66's overall strategy to obtain and  
18 refine a lower quality oil feedstock, which currently includes plans to transport that hazardous  
19 feedstock by rail throughout California. The EIR also obscures that fact. The County's failure to  
20 hold its evaluation and approval of this hazardous and polluting crude-by-rail Project to public  
21 scrutiny endangers surrounding residents and other communities up and down the rail lines.  
22 Although Petitioner and the public actively participated in the permitting process as provided by  
23 CEQA, they were betrayed by a process gone awry. With no other recourse, Petitioner files this  
24 action.

## 25 PARTIES

26 12. Petitioner and Plaintiff COMMUNITIES FOR A BETTER ENVIRONMENT  
27 ("CBE") is a California non-profit environmental health and justice organization with offices in  
28 Oakland and Huntington Park. CBE is primarily concerned with protecting and enhancing the

1 environment and public health by reducing air and water pollution and toxics, and equipping  
2 residents of California's urban areas who are impacted by industrial pollution with the tools to  
3 monitor and transform their immediate environment. CBE has worked to reduce the environmental  
4 and health risks in Contra Costa County for more than twenty years.

5 13. CBE has thousands of members in California, many of whom live, work, recreate,  
6 and breathe the air in Contra Costa County. CBE's members have an interest in their health and  
7 safety, as well as conservation, environmental, aesthetic, and economic interests in the Bay Area  
8 environment. CBE's members who live and work in the Bay Area have a right to, and a beneficial  
9 interest in, Contra Costa County's performance of its duties under CEQA. These interests have  
10 been, and continue to be, threatened by the County's decision to certify an EIR and issue a  
11 Conditional Use Permit to Phillips 66 in violation of CEQA.

12 14. By this action, CBE seeks to protect the health, welfare, and economic interests of its  
13 members and the general public and to enforce a legal duty owed to them by Contra Costa County.

14 15. Respondent and Defendant CONTRA COSTA COUNTY ("County") is a local  
15 governmental agency and political subdivision of the State of California charged with the authority  
16 to regulate and administer land use activities within its boundaries, subject at all times to the  
17 obligations and limitations of all applicable state, federal, and other laws, including CEQA. The  
18 County is the CEQA lead agency for the Project, and accordingly is the entity that conducted the  
19 environmental review of the Project, certified the Environmental Impact Report, and issued the  
20 Conditional Use Permit that are the subject of this litigation. Respondent, CONTRA COSTA  
21 COUNTY BOARD OF SUPERVISORS (also "County") is the governing body of the County and  
22 is ultimately responsible for reviewing and approving or denying the Project. The Board and its  
23 members are sued here in their official capacities.

24 16. Real Party in Interest and Defendant PHILLIPS 66 COMPANY ("Phillips 66") is an  
25 oil refiner, incorporated in Delaware and headquartered in Houston, Texas. Phillips 66 is the  
26 applicant and developer of the property upon which the Project is planned to be constructed and  
27 operated and is the recipient of the approvals that are the subject of this litigation. The Phillips 66  
28 Rodeo facility at issue is located at 1380 San Pablo Ave in Rodeo, California.

17. Petitioner does not know the true names or capacities of the persons or entities sued as DOES 1 through 20, inclusive, and therefore sues these real parties by their fictitious names. Petitioner will amend the Petition and Complaint to set forth the names and capacities of the DOE defendants along with any additional appropriate allegations when such information is ascertained.

## JURISDICTION AND VENUE

18. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure (“CCP”) §§ 1094.5 and 1085.

19. Venue is proper in this court pursuant to CCP §§ 393 and 394 because the Contra Costa County Department of Conservation and Development (the lead agency for the Project), Planning Commission (the County decision making body that first certified the EIR for the Project), and Board of Supervisors (the final decision making body in the County that certified the EIR for the Project) are located, and Phillips 66 operates the Phillips 66 Rodeo facility, in Contra Costa County.

20. This action was timely filed within 30 days of the County filing its Notice of Determination for its certification of the Project EIR on February 5, 2015.

21. Petitioner provided written notice of its intention to file this petition to the County and includes that notice and proof of service as Exhibit A pursuant to the requirements of Cal. Pub. Res. Code § 21167.5.

22. Petitioner served the Attorney General with a copy of this Petition along with a notice of its filing, in compliance with Cal. Pub. Res. Code § 21167.7, and includes the notice and proof of service as Exhibit B.

23. Petitioners do not have a plain, speedy, or adequate remedy at law given the County's violations of CEQA. Further, Petitioner and its members will be irreparably harmed by the ensuing environmental and socioeconomic damage caused by the County's illegal permitting and imminent construction and operation of the Project, without disclosure of the full extent of the project and its impacts.

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## STATEMENT OF FACTS

### The Impacted Community and Environmental Setting

24. The Phillips 66 Rodeo facility is located in Rodeo, California. The State's Office of Environmental Health and Hazards has identified Rodeo and its surrounding communities as bearing a concentrated and disproportionate burden of health hazards resulting from various pollution sources, including the Phillips 66 Rodeo facility. The facility is located in close proximity to a residential area, and the site of the Project is approximately 0.2 miles away from the Bayo Vista Child Development Center.

25. Asthma and other respiratory illness rates are already at dangerously high levels in these neighborhoods. Rodeo falls in the top 3% of the state's highest Toxic Release Inventory chemical burdens. Rodeo residents also suffer from severe asthma rates scoring in the 84<sup>th</sup> percentile of asthma rates throughout the state, and fall among the top 9% of statewide residents heavily impacted by mobile source pollution from freeway, truck, and rail traffic emissions.

26. Even now, without construction of this Project, the Phillips 66 Rodeo facility emits, among other things, high levels of particulate matter, nitrogen oxides, sulfur compounds, carbon monoxide, and reactive organic gases that combine with nitrogen oxides to create smog. The Phillips 66 Rodeo facility has also experienced numerous incidents, including the June 2012 process water tank release of hydrogen sulfide and natural gas vapors, and the October 2010 release of heavy black smoke and excess gases from the facility's flare due to an unplanned shutdown at the facility.

27. Contra Costa County and the nearby City of Benicia host all five major petroleum refineries in Northern California, which together comprise the second largest refining center in the Western United States.

28. Crude oil production in California has dwindled steadily for decades. Total California crude production has declined by 43% since its peak in 1986. Currently, California crude supplies only 40% of statewide refinery crude input. This has forced the refining industry to switch to a different source of oil feedstock and recently propose infrastructure projects in order to transport and obtain, an alternative crude oil feedstock supply. Each of these projects threatens to further increase the direct and cumulative impact of the refineries on their respective fence-line

1 communities. In Contra Costa County, those projects include: the WesPac crude terminal proposed  
2 for Pittsburg; the Valero crude-by-rail project proposed in Benicia; the Tesoro Avon Marine  
3 Terminal project proposed in Martinez; the Kinder Morgan crude-by-rail project in Richmond; and  
4 this Project.

#### 5 **The Phillips 66 San Francisco Refinery and its Shift to Tar Sands**

6 29. The Phillips 66 San Francisco Refinery consists of two facilities linked together by a  
7 200-mile Phillips 66 proprietary pipeline: the Rodeo facility, that is subject of this litigation, and the  
8 Santa Maria facility, located in Arroyo Grande in San Luis Obispo. The processing of crude oil  
9 feedstocks at the Rodeo and Santa Maria facilities is inextricably integrated as a single operation to  
10 support production that neither facility can achieve alone. The Santa Maria facility mainly processes  
11 heavy, high sulfur crude oil, and then sends off its semi-refined liquid products to the Rodeo facility  
12 for conversion into finished products. The Santa Maria facility does not make any finished gasoline,  
13 diesel or jet fuel, and lacks the processing capacity to do so. That capacity is at the Rodeo end,  
14 which receives the partially-refined oils from the Santa Maria facility, as well as crude, and then  
15 makes final products, which are then shipped from the Rodeo facility for sale.

16 30. Phillips 66 is required to report certain data regarding each of its refineries to industry  
17 and government monitors, such as the California Energy Commission. The company reports both  
18 the Santa Maria and Rodeo facilities as a single processing entity called the "San Francisco  
19 Refinery."

20 31. Crude oils are extremely complex, widely ranging mixtures of hydrocarbons and  
21 organic compounds. After crude oils are extracted from the earth, they are sent to refineries by  
22 pipeline, boat, rail, truck, or a combination of these methods. In order to make finished petroleum  
23 products, the crude oils must first be separated at refineries into fractions, which are broadly defined  
24 as groups of chemical compounds that have similar boiling points and can thus be separated from  
25 other compounds with different boiling points. Each fraction typically requires additional  
26 processing before it can be sold or blended into finished petroleum products like gasoline, diesel or  
27 jet fuel.



1           32. Refiners use many distinct, yet interconnected processes, to separate crude into  
2 multiple streams, convert the heavier streams into lighter products, remove contaminants, improve  
3 product quality, and make different products in varying amounts from crude of varying quantity.

4           33. Tar sands oils are those derived from natural bitumen or heavy oil deposits as defined  
5 by the United States Geological Survey. They are heavier, denser, and in general, a lower quality oil  
6 feedstock compared to what has traditionally been refined at California refineries. Phillips 66  
7 categorizes tar sands crude as an “advantaged” crude because it is cheaper, and thus cost advantaged.  
8 These and other lower quality oil feedstocks are cost advantaged because they are stranded with no  
9 pipeline access, requiring certain processes and infrastructure for transport, including rail. The  
10 bitumen in tar sands, however, is too viscous to be transported without a diluent. Typically, tar  
11 sands derived bitumen is blended with diluents to become “DilBits” (diluted bitumen) for transport  
12 by rail or pipeline. DilBits contain significant amounts of hazardous air pollutants, such as benzene,  
13 a potent carcinogen. Processing these tar sands DilBits at the San Francisco Refinery will emit these  
14 pollutants at both the Rodeo and Santa Maria facilities in greater amounts than from current baseline  
15 feedstock. In addition, refining this and other lower quality oil feedstocks greatly increases refinery  
16 energy intensity, air emissions, including greenhouse gases (“GHGs”) and fine particulate matter,  
17 toxic pollutant releases, flaring, and the risk of catastrophic failure in Rodeo and Santa Maria.  
18 Finally, a spill of tar sands DilBits poses a different and more severe spill hazard for water quality  
19 and aquatic life than conventional crude; such spills are effectively impossible to clean up.

20           34. Phillips 66 management has publicly stated to its investors the company’s desire to  
21 refine primarily “advantaged” crude at its California refineries. Phillips 66 Chairman and CEO,  
22 Greg Garland, described this strategy as follows:

23           Advantaged crude sells at a discount relative to crude oils tied to the global benchmark . . .  
24           [and] include[s] heavy crude from Canada.

25           [W]ith the California crude decline with the demand decline in California, and the high  
26           operating cost that we see in California . . . we’re working to put advantaged crudes to the  
27           front of those refineries[.] California is a challenging operating environment from a  
28           regulatory standpoint . . . so our opportunity is really around getting advantage crudes to the  
              front end of the California refineries, it’s rail, it’s ship, it’s working on optimization of the  
              cost structure.

1 This publicly stated strategy outlines the transport of crude oil feedstocks by rail to  
2 California, and those feedstocks include Canadian tar sands and Bakken. Bakken is another stranded  
3 oil feedstock, and extremely volatile, increasing the risk of explosion in the event of a rail car  
4 derailment, and with a chemical composition that when refined creates greater emissions of air  
5 pollutants, including toxic air contaminants and hazardous air pollutants, when compared to other  
6 more traditional locally sourced crude oil feedstocks. Phillips 66 affiliates also produce two of the  
7 tar sands blends of the quality post-Project refining would require at the San Francisco Refinery.

### 8 **Community Opposition to Approval of the Draft EIR**

9 35. On July 24, 2012, the Contra Costa County Department of Conservation and  
10 Development issued a Notice of Preparation and Scoping Session for an EIR for the Project.

11 36. As described in the EIR, the Project consists of several major components, including,  
12 among others: installation of a new hydrotreater; three 120-140 foot tall fractionator towers and two  
13 70 foot tall absorber towers; expansion of steam boiler capacity; six pressurized propane storage  
14 tanks totaling 15,000 barrels capacity; and two additional rail spurs and a two-sided loading rack to  
15 load eight rail cars per day.

16 37. On June 10, 2013, the County released the Notice of Completion and Availability of  
17 the Draft EIR ("DEIR") for the Project. The DEIR noted the following Project objectives: (1) to  
18 recover, store, and ship for sale 8,000 barrels per day (b/d) of liquefied petroleum gas ("LPG"),  
19 including 4,200 b/d of propane and 3,800 b/d of additional butane; and (2) to reduce refinery wide  
20 sulfur dioxide emissions by 50%.

21 38. On September 4, 2013, Petitioner CBE submitted written comments on the DEIR. In  
22 addition to CBE's legal comments, Greg Karras, a refinery expert and CBE staff member, submitted  
23 technical comments ("Karras Report 1") explaining the dwindling supply of California refiners' long  
24 stable and dominant sources of crude oil, driving a historic refinery crude switch.

25 39. As explained in the Karras Report 1, the DEIR failed to disclose that the Rodeo  
26 facility would become more reliant on severe processing of a denser, lower quality oil feedstock in  
27 order to create enough byproduct gases to achieve Project LPG production objectives. Installation of  
28 the hydrotreater allows for recovery of LPG from coker gases. The same delayed coking process is

1 used to process the densest oil streams, such as the bitumen from tar sands. The Project components  
2 will drive Phillips 66 to refine higher density, or lower quality, crude oil feedstocks at its Rodeo  
3 facility and overall San Francisco Refinery. Accordingly, a necessary component of the Project  
4 consists of receiving and processing increased quantities of lower quality oil feedstock, which is  
5 entirely omitted from the EIR.

6 40. The Karras Report 1 details the likelihood of resultant, significant project impacts,  
7 which were excluded from analysis in the EIR, including, but not limited to: increased GHG,  
8 particulate matter and sulfur dioxide emissions from processing a lower quality oil feedstock;  
9 increased frequency and magnitude of refinery spills, fires and explosions from processing a lower  
10 quality oil feedstock; increased flaring from processing a lower quality oil feedstock; increased risk  
11 of catastrophic failure and hazards due to Project storage and transport and delivery of a lower  
12 quality oil feedstock and Project recovered LPG; and unaccounted GHG indirect emissions from the  
13 offsite combustion of Project recovered LPG.

14 41. The Karras Report 1 also details the Project's reliance on and expansion of the  
15 antiquated "once through cooling" ("OTC") system at the Rodeo facility. The burning of fuel  
16 needed to power Project operation will result in waste heat. The waste heat would be transferred to  
17 the San Francisco Bay by expanding the use of the OTC unit that sucks Bay water into the refinery  
18 for cooling processes and then discharges it back to the Bay as thermal waste. The Karras Report 1  
19 explains that the DEIR's analysis underestimated the potential increase in OTC water and heat flows  
20 by improperly utilizing an inflated baseline measurement for volume of water used by the Rodeo  
21 Refinery OTC system. In addition, the report further details that this increased reliance on the OTC  
22 system, which also forecloses the antiquated system's replacement advised by the California  
23 Regional Water Control Board, is consistent with increased firing rates to process denser, higher  
24 sulfur, lower quality oil feedstocks. The Karras Report 1 describes the reasonable potential for  
25 resulting significant project impacts which were excluded from analysis in the EIR, which include,  
26 and are not limited to: degradation of aquatic ecosystems via entrainment, impingement and thermal  
27 pollution; endangerment of federally listed threatened or endangered species; and loss of forage for  
28 other species.

1           42.     A local community group, the Rodeo Citizens Association (“RCA”), also commented  
2 on the DEIR. RCA also retained a refinery expert, Dr. Phyllis Fox, to comment on the proposed  
3 Project. Dr. Fox concluded that the DEIR lacks any support showing that the Rodeo facility by itself  
4 can produce enough LPG to meet the Project’s stated objectives. Dr. Fox found that the Rodeo  
5 facility will need to receive additional LPG rich feedstock from another facility in order to meet  
6 stated Project recovery goals. Dr. Fox further explains that another project, currently pending  
7 review, in which Phillips 66 proposes modifications to the Santa Maria facility to increase  
8 production of semi-refined feedstock to send to the Rodeo Facility, could meet the LPG rich  
9 feedstock needed in this Project. In particular, Dr. Fox noted that many cost-advantaged crude oil  
10 feedstocks are rich in fractions that would increase the yield of LPG at the Rodeo facility. Dr. Fox’s  
11 comment also highlighted three other projects: (1) the Phillips 66 Marine Terminal Expansion  
12 Project at Rodeo, Phase II permitted to allow an increase of crude oil imported by ship and pending  
13 Phase III, a proposed further increase in crude oil imported by ship; (2) the Phillips 66 Ferndale  
14 Refinery Crude Unloading Facility Project in Washington, which increases rail shipments of cheap  
15 Canadian tar sands crudes (this rail terminal would allow the company to import tar sands crude by  
16 rail and barge them down the Pacific coast to Rodeo); and (3) the Phillips 66 Santa Maria Rail Spur  
17 Extension Project, which allows the import of a full range of cost-advantaged crude oils, including  
18 tar sands crudes. These crudes, delivered by rail, would be processed at the Santa Maria Facility,  
19 and the semi-refined products would then be sent to Rodeo.

20           43.     On November 6, 2013, the County completed a Final EIR for the Project (“FEIR”)  
21 responding to the public’s comments, but which merely denies the Project switch to a lower quality  
22 oil feedstock as concluded by the Fox and Karras reports, and provides merely a conclusory claim  
23 that post-Project refinery crude oil feedstock would have no relationship to the Project.

24           44.     On November 19, 2013, the County Planning Commission held a hearing to decide  
25 whether to certify the FEIR. Despite significant and overwhelming testimony from several  
26 community members from around the Bay Area, including several residents of Rodeo, in opposition,  
27 the County Planning Commission voted to certify the Final EIR.

1           45.     On December 2, 2013, Petitioner CBE appealed the County Planning Commission's  
2 decision to certify the FEIR. The RCA also filed an appeal of the Project approval.

3           46.     On December 3, 2013, the Governor's Office of Planning and Research submitted a  
4 letter to the City of Pittsburg. The letter requested clarification regarding the proposed WesPac  
5 Pittsburg Energy Infrastructure Project, and specifically, whether the WesPac project would receive,  
6 store or transfer crude oil or partially refined crude oil from tar sands. The WesPac project is  
7 proposed to be located in Contra Costa County and transfer oils received by train and boat to nearby  
8 refineries via means including a pipeline connected to the Phillips 66 Rodeo facility.

9           47.     On January 7, 2013, in support of its appeal, CBE submitted supplemental evidence  
10 to the County Board of Supervisors. That evidence included publicly available data, not disclosed in  
11 the FEIR, from the Regional Water Quality Control Board providing an accurate calculation of, and  
12 contradicting the FEIR's suggested baseline for, the Project's usage of the Rodeo facility OTC  
13 system.

14           48.     On January 14, 2014, in support of its appeal, CBE again submitted supplemental  
15 evidence to the County Board of Supervisors. That evidence included publicly available data, not  
16 disclosed in the FEIR, from the Bay Area Air Quality Management District ("BAAQMD") regarding  
17 the Phillips 66 Rodeo facility fuel gas propane and butane content and fuel gas flow data. The FEIR  
18 had included only summary volumes for the Project design rate of LPG recovery, but not the actual  
19 data itself. The actual data, however, indicates that the FEIR inflated the baseline for LPG and  
20 corroborates the fact that the Rodeo facility, alone and with its current crude feedstock, cannot  
21 produce enough LPG to meet the Project's stated objective. Based on this data submitted by Phillips  
22 66 to BAAQMD, which was omitted from the EIR, the amount of LPG recoverable in the Project  
23 baseline would meet only half of the Project's goals: 54% of projected propane production and 49%  
24 of projected butane production. The outstanding amount is unaccounted for in the environmental  
25 review completed by the County for the instant Project, but is readily resolved by looking to the  
26 other related projects which would provide the missing quantities of recoverable LPG to Rodeo.

27           49.     On January 15, 2014, California Attorney General, Kamala D. Harris, also submitted  
28 a comment on the WesPac project. The Attorney General's comment stressed the need to evaluate

1 the potential for impacts to the communities where crude oil will be refined due to changes in  
2 delivered volume or in the composition of the crude. The comment letter identifies the Phillips 66  
3 Rodeo facility as a potential recipient of crude oil feedstock from the WesPac project.

4 50. On January 21, 2014, the County Board of Supervisors heard CBE and RCA's  
5 appeals. CBE, RCA and several community members again voiced their opposition to the Project as  
6 proposed in the FEIR and requested recirculation of the FEIR. CBE submitted additional evidence,  
7 based on additional technical analysis by Greg Karras, detailing two streams from which Phillips 66  
8 can recover propane and butane at the Rodeo facility to meet its Project objective. These two  
9 streams are named "U233" and "RFG-A" respectively. As proposed in the DEIR and FEIR, one of  
10 these streams, the RFG-A stream, was not included in the Project.

11 51. At the close of the hearing, the Board of Supervisors ordered its staff to revise certain  
12 portions of the FEIR's air quality analysis and provide clarification regarding any potential link  
13 between the Rodeo facility and the WesPac project.

14 52. On, June 3, 2014, without granting the appeals of CBE and RCA, the County decided  
15 to recirculate the FEIR.

#### 16 **Community Opposition to Approval of the Recirculated EIR**

17 53. On October 17, 2014, the County released the recirculated draft EIR ("RDEIR") for  
18 the Project for public comment. Despite CBE's objections, the Board of Supervisors retained review  
19 of the RDEIR and did not return the matter to the County Planning Commission.

20 54. The RDEIR includes a revised estimate of currently recoverable LPG at the Rodeo  
21 facility and shows a small shortfall below the project design basis of 5,580 b/d of propane, and 4,996  
22 b/d additional butane (15,474 b/d LPG including the butane that is already recovered). The RDEIR  
23 then asserts a BAAQMD limit on LPG recovery of 14,500 b/d.

24 55. On December 5, 2014, CBE submitted timely written comments on the RDEIR,  
25 including a second technical comment from Greg Karras ("Karras Report 2"). Based on this  
26 technical analysis, CBE determined that the RDEIR proposed significant changes to the Project since  
27 its prior proposal. In particular, the second LPG recovery stream, the RFG-A stream, is now  
28 included among those from which LPG could be recovered at the Rodeo facility.

1           56.     The Karras Report 2 again comments that the RDEIR still failed to disclose changes  
2 in the type, quantity and quality of crude oil processed, and anticipated to be processed post-Project,  
3 at the Rodeo facility and the San Francisco Refinery. The comment stresses that crude from  
4 different sources can yield different amounts of propane and butane in refinery distillation processes,  
5 and in refinery cracking processes such as coking and hydrocracking. Crude is the feedstock for  
6 LPG production, and therefore there is a direct connection between refinery crude feeds, processing,  
7 and LPG production.

8           57.     The Karras Report 2 further highlights the Phillips 66 Santa Maria Refinery  
9 Throughput Increase Project, which would increase the Santa Maria facility processing rate,  
10 necessarily increasing the volume of semi-refined oil that will be transported to and processed at  
11 Rodeo to produce finished products for the overall San Francisco Refinery. The RDEIR obscures  
12 this fact.

13          58.     The RDEIR also establishes yet another baseline for LPG recovery at the Rodeo  
14 facility. As the Karras Report 2 explains, this new baseline is still over-estimated because it includes  
15 LPG streams that are not feasible to recover, omits industry-wide data revealing that its estimate  
16 appears improbably high, and ignores and fails to disclose available data indicating insufficient LPG  
17 recoverable in the baseline. In addition, the report details the RDEIR's use of 2013 data for the  
18 baseline of LPG that can be recovered from the Rodeo facility. The report explains that in 2013,  
19 Phillips 66 had already begun to boost crude feedstock volume, and at least in part, on new tar sands  
20 oil feedstock at the San Francisco Refinery.

21          59.     The RDEIR includes a new assertion that "vapor pressure limits" on storage tanks  
22 along the company's proprietary pipeline precluded Phillips 66 from adding any propane or butane  
23 to semi-refined product sent from the Santa Maria facility to the Rodeo facility. The Karras Report  
24 2, however, details that such tanks are controlled and therefore exempt from the claimed vapor  
25 limits, their measured vapor pressures are far below the claimed limits, or both. Further, the report  
26 highlights that this assertion ignores the LPG-rich feedstock sent to Rodeo not as LPG, but as gas  
27 oils and other semi-refined products that yield significant amounts of LPG during processing at the  
28 Rodeo facility.

1           60.     The Karras Report 2 also expanded on the prior identification of declining local crude  
2 feedstock supplies. In particular, the report notes the declining San Joaquin Valley Pipeline  
3 (“SJVP”) crude inputs to the Rodeo facility, a driving factor for Phillips 66’s prior expansion of the  
4 Rodeo facility wharf (Phase II) to receive increased volumes of crude deliveries to the Rodeo  
5 facility. Phase II of that wharf expansion, however, is insufficient to meet the Rodeo facility’s  
6 demands, especially for this Project’s LPG recovery objective. Deliveries of semi-refined product  
7 from the Santa Maria facility is the only other way that the Rodeo facility obtains its feedstock. The  
8 report includes abundant evidence, which the RDEIR excludes, demonstrating that declining local  
9 and regional crude production could greatly affect operation of the Santa Maria facility. It concludes  
10 that in the absence of a new crude source to replace dwindling current supplies from the Santa Maria  
11 facility and SJVP, the Project cannot be implemented as proposed.

12           61.     The RDEIR was also recirculated to specifically include a new Health Risk  
13 Assessment to evaluate Project air quality impacts on communities throughout the Bay Area. CBE  
14 commented that the assessment is based on an underestimate of Project impacts, forcing an  
15 assessment that is erroneously less severe than the true Project potential. Moreover, CBE outlined  
16 that in completing this assessment, BAAQMD used outdated and under-protective thresholds.

17           62.     Included with the RDEIR, BAAQMD also provided a comment claiming that, due to  
18 the need for speculation to estimate the amount of LPG that would ultimately be combusted and  
19 release GHGs, the RDEIR should evaluate that LPG amount as zero. As pointed out in the Karras  
20 Report 1, the DEIR estimate of current emissions from the LPG to be recovered and sold for offsite  
21 uses, including burning, is 759,244 tonnes/year - far exceeding the 10,000 tonnes/year threshold  
22 used by the DEIR. The Karras Report 2 concludes that the RDEIR’s estimate of offsite LPG  
23 emissions as zero lacks credibility, since the RDEIR claims those emissions are too speculative to  
24 estimate and any realistic estimate should quantify that at least 10% of this LPG would be ultimately  
25 burned and emit GHGs.

26           63.     The RDEIR also includes a change in the description of the expansion of the OTC  
27 system as cooling demands for the Project, in contrast to that previously proposed in the DEIR and  
28 FEIR as serving only the LPG recovery process. The Karras Report 2 notes that this revision further



1 highlights the point that this OTC expansion would be oversized for the Project heat sources  
2 disclosed in the EIR: the entire Project, not just the LPG recovery processes, would need such excess  
3 capacity to dispose of heat from processing the Project's changing oil feedstock.

4 64. The RDEIR also includes a significant project revision from the prior DEIR and  
5 FEIR: Naphtha streams, derived in part from processing product received from the Santa Maria  
6 facility, and which are currently fed to reformers at the Rodeo facility, are now proposed to be fed  
7 into the new Project hydrotreater, and from there to naphtha blending. The Karras Report 2 includes  
8 data showing that these Rodeo reformers are currently near maximum capacity. The additional  
9 semi-refined oils from the Santa Maria facility throughput increase would exceed that capacity.

10 65. Dr. Fox also submitted comments on the RDEIR. Dr. Fox stated that review of the  
11 Project is still incomplete without review of other project components (the Santa Maria Rail Spur  
12 Extension and Throughput Expansion Projects and the marine terminal or wharf expansions at  
13 Rodeo and Ferndale, Washington), given the decline in local crude supplies, and the industry shift  
14 towards a lower quality crude oil feedstock. Dr. Fox's comment also corroborates the conclusions in  
15 the Karras Report 2 regarding insufficient LPG recoverable in the Project baseline, and the EIR's  
16 incorrect and unsupported assertions regarding the vapor pressure permit limits. Dr. Fox found that  
17 the RDEIR's summary 2011 data, used to determine the baseline, does not reflect the actual data  
18 regarding recoverable LPG at the Rodeo facility, and still overstates the baseline for how much LPG  
19 the Rodeo facility can currently recover. Similarly, Dr. Fox also independently found that the  
20 RDEIR's 2013 LPG summary data represented anticipated post-Project conditions, rather than an  
21 adequate project baseline. Furthermore, data is missing from the record to determine the accuracy of  
22 this summary data. Dr. Fox's comment also identified increased emissions of NOx, ROG,  
23 particulate matter and GHGs as a result of the Project, including increased Project locomotive traffic.  
24 Finally, as further detailed below, Dr. Fox also highlights the RDEIR's failure to include an adequate  
25 discussion of other related, foreseeable, and nearby refinery and/or rail projects and how their  
26 impacts are cumulatively considerable with the impacts of this Project.

27 66. On January 22, 2015, the County released the Recirculated Final EIR ("RFEIR").  
28

1           67.     The RFEIR makes yet another shift in the project description regarding the baseline  
2 for LPG recovery and responds to CBE's identification of the inadequacy of 2013 data to represent  
3 recoverable LPG at the Rodeo facility. The RFEIR now instead emphasizes that 2011 data  
4 represents that baseline, and 2013 data was presented for informational purposes only. The RFEIR  
5 also states that the 2011 data was used as the basis for the design and permit limit of 14,500 b/d of  
6 LPG to be recovered at the Rodeo facility. The RFEIR uses 2011 data to represent both the baseline  
7 for current conditions at the Rodeo refinery, and *also* the design basis - the future conditions that are  
8 taken into account when designing the Project.

9           68.     On February 2, 2015, CBE submitted comments on the RFEIR, which included a  
10 third technical comment from Greg Karras ("Karras Report 3"). The Karras Report 3 explains that  
11 the 2011 data, as a design basis for today's proposed limit on LPG recovery, also includes  
12 anticipated post-project conditions. The report lists such possible future conditions: changes in  
13 operation, production, and environmental health and safety due to changes in facility oil feedstock.

14           69.     The Karras Report 3 also includes data from the United States Energy Information  
15 Administration ("EIA"). This publicly available data, not in the RFEIR, shows that before and  
16 during the period in 2011 when, according to the RFEIR, Phillips 66 took measurements of the  
17 refinery used as the design basis/baseline, the refinery received a crude feedstock from Russia very  
18 similar in quality to that of Bakken. In terms of crude bulk properties, this Russian crude processed  
19 by the refinery could be called a "Bakken look-alike" crude. The type and volume of this Russian  
20 crude receipt was entirely unique at the Rodeo facility and San Francisco Refinery throughout the  
21 period from 2006 through November 2014. Similarly, the EIA data also shows that during 2011, the  
22 refinery received 153,000 barrels of Canadian crude with a density and sulfur content similar to  
23 those reported for the Canadian DilBits. The only other recent year that the refinery received DilBits  
24 for processing was in 2013. The RFEIR states that Phillips 66 took additional project related  
25 confirmation measurements in 2013.

26           70.     Dr. Fox also submitted comments on the RFEIR. Similar to the Karras Report 3, Dr.  
27 Fox independently identifies that, given the long term decline of the existing crude feedstock supply,  
28 it is imperative for Phillips 66 to seek out a new crude oil feedstock, and it would have been

1 irresponsible for the company to design the Project without first conducting tests on crudes that were  
2 being considered as those new feedstocks.

3 71. The Karras Report 3 also includes an “incomplete letter” issued in August 2013 by  
4 BAAQMD to Phillips 66 regarding Phase III of the marine terminal wharf expansion. BAAQMD  
5 determined that the application to replace additional declining, current, SJVP crude supplies to the  
6 refinery with waterborne crude oils from different sources was incomplete on account of the  
7 applicant’s withholding of pre- and post-Project crude oil gravity and contaminant information.

8 72. On February 3, 2015, the County Board of Supervisors again heard the appeals of  
9 CBE and RCA. At the hearing, BAAQMD admitted that some of the toxicity factors used in the  
10 RFEIR’s health risk assessment may underestimate toxic impacts, and County Hazardous Materials  
11 staff admitted that the County had not reviewed the inherently safer systems analysis that Phillips 66  
12 claims to have already completed for the Project, but which does not appear in the EIR.

13 73. At the eleventh hour of the CEQA process, just prior to the Board of Supervisors’  
14 vote on the adequacy of the RFEIR, Supervisor Federal Glover introduced a self-named “community  
15 benefits agreement,” a purported four million dollar package for Contra Costa County. Phillip 66’s  
16 offered community benefits agreement was conditioned on County approval of the Project. The  
17 proposed agreement was not publicly noticed on the County Board of Supervisors’ agenda, as  
18 required by law, and was first presented to the Board of Supervisors, and the public, at the hearing  
19 and was voted on at the same hearing. At that hearing, the County Board of Supervisors voted to  
20 certify the RFEIR and approve the Conditional Use Permit for the Project.

#### 21 **Exhaustion of Administrative Remedies**

22 74. As detailed above, Petitioner was an active participant in the CEQA review process of  
23 the Project.

24 75. Petitioner also appealed the Planning Commission’s decision to certify the EIR and  
25 issue the conditional use permit for the Project to the Board of Supervisors. In that appeal, Petitioner  
26 submitted extensive comments, as detailed above, and testified before the Board of Supervisors. All  
27 of the issues raised herein were raised by Petitioners or by other members of the public or interested  
28 public entities who submitted written or oral comments during the review process.

1           76.     Petitioner has exhausted administrative remedies.

2                                   **FIRST CAUSE OF ACTION**  
3                                   **(Violation of CEQA – Inaccurate Project Description;**  
4                                   **CCP § 1094.5, or in the alternative, CCP § 1085)**

5           80.     The primary goal of CEQA is to “[e]nsure that the long-term protection of the  
6 environment shall be the guiding criterion in public decisions.” Pub. Res. Code § 21001(d).

7           81.     To this end, CEQA requires that the EIR include an accurate project description, and  
8 that the nature and objective of a project be fully disclosed and fairly evaluated in the EIR.

9           82.     The EIR’s project description is inaccurate, obscure and misleading. Evidence in the  
10 record demonstrates that the Project will require, and enable, Phillips 66 to refine larger volumes of a  
11 lower quality oil feedstock at the Rodeo facility and San Francisco Refinery. The EIR provides  
12 merely conclusory and evasive responses to this evidence. The Project allows Phillips 66 to process  
13 oils derived from tar sands DilBits, among other lower quality oil feedstocks, as a larger portion of  
14 the blends of oils currently processed at the Rodeo facility and San Francisco Refinery. In addition,  
15 the Rodeo facility’s and San Francisco Refinery’s ability to process higher quality oils will be newly  
16 limited to processing a lower quality oil feedstock.

17           83.     As a result, emissions of air pollutants, including toxic air contaminants, hazardous  
18 air pollutants, and GHGs will increase significantly. The Project will cause significant undisclosed  
19 particulate matter and sulfur dioxide emissions, and increased flaring; catastrophic risk impacts will  
20 increase in frequency and magnitude, and oil spill impacts will increase in magnitude.

21           84.     The Project could also cause significant and undisclosed damage to water quality and  
22 aquatic life of the San Francisco Bay due to expansion, and foreclosure of replacement, of the OTC  
23 system at the Rodeo facility, and bitumen spills during feedstock transport.

24           85.     Additionally, the EIR fails to adequately disclose the full extent of this Project and  
25 the inextricable link between this Project and three other Phillips 66 projects: the Santa Maria  
26 Throughput Increase Project; the Santa Maria Rail Spur Project; and the Rodeo Marine Terminal  
27 Throughput Increase Project.

28           86.     The EIR’s current project description is also itself inaccurate and misleading. The

1 EIR lacks any evidence to prove that sulfur dioxide emissions will not increase, rather than decrease  
2 as the EIR claims as a project objective. The EIR does not include sufficient information or  
3 adequately respond to comments to verify whether the claimed emissions reduction goal is even  
4 possible or accurate with the proposed use of emission reduction credits.

5 87. The EIR fails to include an accurate project description that considers the Project's  
6 long-term environmental consequences, and the foreseeable effects of refining lower quality crude  
7 oils at the Phillips 66 Rodeo facility and overall San Francisco Refinery.

8 88. The County's action certifying the Project's EIR without an accurate project  
9 description constitutes a prejudicial abuse of discretion, fails to proceed in the manner required by  
10 law, and does not have the support of substantial evidence.

11 **SECOND CAUSE OF ACTION**  
12 **(Violation of CEQA – Improper Piecemealing;**  
**CCP § 1094.5, or in the alternative, CCP § 1085)**

13 89. Petitioners incorporate herein by reference the allegations contained in the foregoing  
14 paragraphs.

15 90. CEQA defines "project" as "the whole of an action, which has a potential for  
16 resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect  
17 physical change in the environment." Guidelines § 15378(a); Pub. Res. Code § 21065.

18 91. CEQA forbids segmenting a project into separate actions in order to avoid  
19 environmental review of the "whole of the action."

20 92. Furthermore, CEQA requires the lead agency to consider an entire project at the  
21 earliest possible stage, including all reasonably foreseeable phases of the project.

22 93. The Phillips 66 Rodeo facility cannot recover sufficient LPG without other Project  
23 components; the company cannot meet its stated Project objective without implementation of other  
24 recent or currently ongoing or proposed related Phillips 66 projects.

25 94. The County failed to analyze other projects inextricably intertwined with this Project,  
26 and therefore unlawfully piecemealed its analysis. The evidence in the record shows that Phillips 66  
27 is engaged in many activities that are inherent to the Project's stated overall purpose. The EIR did  
28 not include an adequate analysis of these other pieces of the Project. The County failed to evaluate

1 necessary segments of the Project including, but not limited<sup>1</sup> to, the following:

- 2 (i) The Phillips 66 Santa Maria Throughput Increase Project. The LPG recovery project  
3 provides needed capacity for the Santa Maria Throughput Increase project to be fully  
4 implemented and meet its project objective; and the Throughput Increase Project  
5 provides needed LPG rich feedstock for the LPG recovery project. The two projects  
6 depend upon one another;
- 7 (ii) The Phillips 66 Santa Maria Rail Spur Project, which enables the Santa Maria facility  
8 to receive tar sands DilBits and other lower quality oil feedstocks by rail. Santa  
9 Maria's semi-refined products are then sent to Rodeo as oil feedstock for processing,  
10 including LPG recovery. This project is currently pending before the San Luis  
11 Obispo County Planning Commission and is entirely dependent upon this Project, and  
12 vice versa); and
- 13 (iii) The Phillips 66 Marine Terminal Throughput Increase Project, including Phase II,  
14 approved in December 2012, and the currently pending Phase III. The marine  
15 terminal expansions allow the importation of Bakken and tar sands crudes by marine  
16 vessel to Rodeo. Bakken crudes contain high concentrations of propane and butane,  
17 which will contribute to Project targeted LPG recovery. The purposes of these  
18 marine terminal projects and this Project are dependent upon one another.

19 95. When considered as a whole, the Project will result in further significant adverse  
20 environmental impacts that were not considered in the EIR. The EIR does not adequately evaluate  
21 and submit for public review any of the impacts from these foreseeable and necessary project  
22 segments that depend upon one another to meet their respective project objectives. CEQA requires  
23 that the whole of these impacts be addressed in the EIR. Alternatively, the EIR failed to properly  
24 consider the cumulative impacts of these project segments.

25 96. By failing to consider all of the segments of the expansion project as a whole, or by  
26 failing to take into account the foreseeable cumulatively considerable impacts of those segments in  
27

28 <sup>1</sup> Petitioner cannot know all segments of the whole project absent a more full and adequate disclosure by the EIR.

1 conjunction with this Project, the County committed a prejudicial abuse of discretion, failed to  
2 proceed in the manner required by law, and did not have the support of substantial evidence.

3 **THIRD CAUSE OF ACTION**  
4 **(Violation of CEQA – Failure to Define the Proper Baseline;**  
5 **CCP § 1094.5, or in the alternative, CCP § 1085)**

6 97. Petitioners incorporate herein by reference the allegations contained in the foregoing  
7 paragraphs.

8 98. The baseline is the starting point from which to measure whether an impact may be  
9 environmentally significant. CEQA defines baseline as the “physical environmental conditions in  
10 the vicinity of the project, *as they exist at the time . . . environmental analysis is commenced.*”  
11 CEQA Guidelines § 15125(a) (emphasis added). The EIR erroneously inflated the baseline for LPG  
12 recovery at the Rodeo facility by incorporating future conditions into its baseline calculation. An  
13 explicit purpose of the Project is to enable the Refinery to recover more LPG. To determine the  
14 significance of this increase, the EIR had to determine the baseline for LPG. The EIR instead  
15 ultimately provided data from 2011 that represents *future* conditions, and specifically, design data  
16 for this Project. By turning the prominent baseline requirement of CEQA on its head, the proposed  
17 Project minimizes the new impacts resulting from this Project and fails to mitigate significant  
18 impacts.

19 99. The EIR fails to provide information relevant to calculating the baseline for crude  
20 quality at the Rodeo facility and overall San Francisco Refinery. The EIR fails to include this  
21 information, relevant to determine whether the mix of feedstocks the facility and Refinery is  
22 designed to process is of the same or lower quality than the mix the facility and Refinery is currently  
23 processing. The EIR omits such information, necessary to determine the change in crude feedstock  
24 quality that would be enabled by the Project and its resulting environmental effects, including  
25 information on the Project’s design capacity for lower quality oils. This information is essential for  
26 the public to make an independent and reasoned judgment regarding the conclusions stated in the  
27 EIR.

28 100. The EIR fails to provide any supporting data for its estimated baseline of LPG  
recovery at the Rodeo facility. Each draft of the EIR has consistently failed to include relevant

1 information necessary to make an accurate baseline determination. The EIR does not include, and  
2 fails to disclose, the actual data underlying these conclusions. CBE made several Public Records  
3 Act requests for that data. Nevertheless, the lead agency and project proponent have withheld this  
4 information that is necessary to make an independent and reasoned judgment regarding the  
5 conclusions stated in the EIR.

6 101. The EIR fails to provide any supporting data for its estimated baseline of OTC usage  
7 at the Rodeo facility. Each draft of the EIR has consistently failed to include relevant information  
8 necessary to make an accurate baseline determination. CBE submitted data from the Regional Water  
9 Quality Control Board contradicting the EIR's flawed baseline determination. The EIR does not  
10 disclose the data necessary to make an independent and reasoned judgment regarding the  
11 conclusions stated in the EIR.

12 102. The County's action certifying the Project's EIR without an accurate baseline  
13 description in the respects identified constitutes a prejudicial abuse of discretion, fails to proceed in  
14 the manner required by law, and does not have the support of substantial evidence.

15 **FOURTH CAUSE OF ACTION**  
16 **(Violation of CEQA – Failure to Provide Information Upon Which**  
17 **EIR Conclusions Are Based;**  
18 **CCP § 1094.5, or in the alternative, CCP § 1085)**

19 103. Petitioners incorporate herein by reference the allegations contained in the foregoing  
20 paragraphs.

21 104. CEQA is an environmental full disclosure statute. To achieve its broad informational  
22 purpose, all documents and data relied upon in reaching the conclusions stated in the EIR must be  
23 available for public review. Pub. Res. Code § 21092(b)(1). Without access to the data and  
24 methodologies relied upon to reach the conclusions stated in an EIR regarding the presence or  
25 absence of significant environmental impacts from the project in question, and the magnitude of  
26 those impacts, the public cannot reasonably assess or informedly comment upon the validity of those  
27 conclusions and, thus, the advisability of approving the project.

28 105. The County failed to provide information in the EIR about the processing of lower  
quality oils that would be enabled by the Project and its resulting environmental effects, including



1 information on the Project's design capacity for lower quality oils. This information is essential for  
2 the public to make an independent and reasoned judgment regarding the conclusions stated in the  
3 EIR.

4 106. The EIR fails to provide any supporting data for its estimated baseline of LPG  
5 recovery at the Rodeo facility. Each draft of the EIR has consistently only included summary tables  
6 of relevant information necessary to make an accurate baseline determination. The EIR does not  
7 include and fails to disclose the actual data underlying these conclusions. CBE made several Public  
8 Records Act requests for that data. Nevertheless, the lead agency and Project applicant have  
9 withheld this information necessary to make an independent and reasoned judgment regarding the  
10 conclusions stated in the EIR.

11 107. The EIR fails to provide any supporting data for its estimated baseline of OTC usage  
12 at the Rodeo facility. Each draft of the EIR has consistently failed to include relevant information  
13 necessary to make an accurate baseline determination. CBE submitted data from the Regional Water  
14 Quality Control Board contradicting the EIR's flawed baseline determination. The EIR does not  
15 disclose the data necessary to make an independent and reasoned judgment regarding the  
16 conclusions stated in the EIR.

17 108. The County's failure to provide information upon which the EIR's conclusions are  
18 based constitutes a prejudicial abuse of discretion, fails to proceed in the manner required by law,  
19 and does not have the support of substantial evidence.

20 **FIFTH CAUSE OF ACTION**  
21 **(Violation of CEQA –Failure to evaluate the Project's significant environmental effects;**  
22 **CCP § 1094.5, or in the alternative, CCP § 1085)**

23 109. Petitioners incorporate herein by reference the allegations contained in the foregoing  
24 paragraphs.

25 110. CEQA requires that an EIR describe the proposed project's significant environmental  
26 effects; each such effect must be revealed and fully analyzed in the EIR, giving due consideration to  
27 both short- and long-term effects. Pub. Res. Code §§ 21100(b) & 21002.1; CEQA Guidelines  
28 §15126.2(a). Significant effects on the environment refers to substantial, or potentially substantial,  
adverse changes in physical conditions. Pub. Res. Code §21060.5; *see also id.* at § 21100(d).

1           111. CEQA Guidelines further require that in discussing the environmental effects of a  
2 project, an EIR should contain “a sufficient degree of analysis to provide decision-makers with  
3 information which enables them to make a decision which intelligently takes account of  
4 environmental consequences.” CEQA Guidelines §15151.

5           112. By failing to disclose the Project’s switch to a lower quality oil feedstock to be  
6 refined at the Phillips 66 Rodeo facility and San Francisco Refinery, truncating the project  
7 description, or both, the EIR’s flawed analysis precludes any adequate evaluation of a variety of  
8 significant environmental effects of the Project. This error is compounded by the EIR’s failure to  
9 employ an accurate baseline as alleged above. These significant impacts include, but are not limited  
10 to, the following:

- 11           a. Air quality impacts from air emissions from the proposed activities;
- 12           b. Increased GHG, particulate matter, and sulfur dioxide emissions from processing  
13           a lower quality oil feedstock;
- 14           c. Increased frequency and magnitude of refinery spills, fires, and explosions due to  
15           processing a lower quality oil feedstock;
- 16           d. Increased flaring from processing a lower quality oil feedstock;
- 17           e. Increased mercury and selenium releases from processing a lower quality oil  
18           feedstock;
- 19           f. Increased direct GHG emissions including, but not limited to, refinery fugitive  
20           emissions, construction emissions, and GHGs that will be emitted from the  
21           Project;
- 22           g. Increased indirect GHG emissions from the additional offsite combustion and  
23           final use of at least 10% of Project recovered LPG;
- 24           h. Increased indirect GHG emissions from producing and refining low-quality,  
25           harder-to-process oils throughout the Phillips 66 San Francisco Refinery;
- 26           i. Increased impacts on aquatic life, including indirect impacts, such as those on  
27           other species, in the San Francisco Bay from expansion of OTC usage;
- 28

- 1 j. Increased impacts on water quality in the San Francisco Bay from expansion of  
2 OTC usage;
- 3 k. Increased risk of catastrophic failure and hazards due to Project storage and  
4 transport by rail of LPG;
- 5 l. Increased risk of catastrophic failure and hazards due to Project storage and  
6 transport and delivery of a lower quality oil feedstock;

7 In regards to the risks of catastrophic failures, the EIR defers analysis of and mitigation  
8 considerations for those impacts to a later undetermined date.

9 113. The County's certification of the EIR and issuance of a permit for the Project without  
10 fully analyzing significant environmental impacts constitutes a prejudicial abuse of discretion, fails  
11 to proceed in the manner required by law, and does not have the support of substantial evidence.

12 **SIXTH CAUSE OF ACTION**  
13 **(Violation of CEQA – Failure to Consider Cumulative Impacts;**  
14 **CCP § 1094.5, or in the alternative, CCP § 1085)**

14 114. Petitioners incorporate herein by reference the allegations contained in the foregoing  
15 paragraphs.

16 115. CEQA requires that the lead agency analyze the cumulative effects of a project. Pub.  
17 Res. Code § 21083(b)(2); CEQA Guidelines § 15064(h)(1).

18 116. A cumulative impact is an impact created as a result of a project when evaluated  
19 together with other past, present, and reasonably foreseeable future projects causing related impacts.  
20 CEQA Guidelines §§ 15355, 15064.

21 117. In performing a cumulative impacts analysis, the EIR must assess the significance of  
22 the incremental addition of a project to the combined individual effects of one or more separate  
23 projects. CEQA Guidelines § 15355.

24 118. The EIR did not adequately consider the cumulative effects of the processing of  
25 heavier and more contaminated crude oil, or other reasonably related impacts of the Project. These  
26 impacts could include, but are not limited to, cumulatively significant air and water quality impacts,  
27 impacts to biological resources and cumulatively considerable and significant hazards.

1           119. The EIR did not adequately consider the cumulatively considerable impact of the  
2 Phillips 66 Santa Maria Throughput Increase Project.

3           120. The EIR did not adequately consider the cumulatively considerable impact of the  
4 Phillips 66 Santa Maria Rail Spur Project.

5           121. The EIR did not adequately consider the cumulatively considerable impact of the  
6 Phillips 66 Marine Terminal Throughput Increase Project, including Phase II, and the currently  
7 pending Phase III.

8           122. The EIR did not adequately consider the cumulatively considerable impact of the  
9 Phillips 66 Ferndale Refinery Crude Unloading Facility in Washington which could facilitate  
10 bringing tar sands crude to the Rodeo Marine Terminal.

11           123. By failing to provide an adequate assessment of Project impacts, the EIR simply  
12 cannot provide any adequate assessment of the cumulative effect of those impacts. In particular, by  
13 failing to acknowledge offsite GHG emissions from burning Project-recovered LPG, the EIR fails to  
14 assess the cumulative impacts of the Project on climate change, which is imperative given the  
15 predominant scientific evidence showing that the climate could be approaching a tipping point,  
16 which if crossed will cause catastrophic effects.

17           124. The EIR failed to analyze cumulative impacts in connection with recent past, present,  
18 and foreseeable future local projects. The EIR does not include an adequate discussion of the  
19 pending WesPac project, and in particular, whether that project, if approved, could provide any  
20 source of a lower quality oil feedstock to the Rodeo facility. The EIR does not include any analysis  
21 of the new Kinder Morgan crude by rail terminal in Richmond. That terminal is adjacent to the Port  
22 of Richmond and aligned with rail routes the Project would be expected to use for LPG transport  
23 from the Phillips 66 Rodeo facility and crude transport to the Santa Maria facility. The EIR does not  
24 include any analysis of other currently proposed or operating crude by rail terminals, including, but  
25 not limited to, the Plains All American Crude Terminal, the Alon Crude Flexibility Project in  
26 Bakersfield, and the Bakersfield Crude Terminal.

27           125. The EIR employs an unprotective impact threshold and an outdated underestimate of  
28 air pollutant toxicity in order to establish its health risk assessment for cumulative air quality impacts

1 of the Project. In addition, the assessment relies upon misleading data plagued by inaccuracies due  
2 to the EIR's overall underestimation or lack of identification of impacts. Consequently, the EIR  
3 does not provide an accurate assessment of the cumulative air quality impacts of the Project.

4 126. The County's action certifying the EIR, without analyzing cumulative impacts of the  
5 Project constitutes a prejudicial abuse of discretion, fails to proceed in the manner required by law,  
6 and does not have the support of substantial evidence.

7 **SEVENTH CAUSE OF ACTION**  
8 **(Violation of CEQA – Failure to Include Proper Mitigation;**  
9 **CCP § 1094.5, or in the alternative, CCP § 1085)**

10 127. Petitioners incorporate herein by reference the allegations contained in the foregoing  
11 paragraphs.

12 128. Identification and discussion of proposed and alternative mitigation measures is a  
13 core requirement of CEQA. A basic purpose of CEQA is to “[p]revent significant, avoidable  
14 damage to the environment by requiring changes in projects through the use of alternatives or  
15 mitigation measures.” CEQA Guidelines, § 15002(a)(3). *See also, id.* at § 15021(a)(1). Government  
16 agencies “shall mitigate or avoid the significant effects on the environment.” Pub. Res. Code §  
17 21002.1(b). Formulation of mitigation measures cannot properly be deferred to a future time after  
18 the EIR is complete.

19 129. The County's adopted Mitigation Monitoring Reporting Program will not mitigate  
20 significant project impacts to less than significant as claimed, because the EIR does not account for  
21 all of the Project components and fails to disclose a switch to a lower quality oil feedstock. It  
22 therefore either wholly underestimates or fails to identify significant impacts of the Project,  
23 preventing any assessment of adequate mitigation of those impacts. The EIR further fails to  
24 consider, discuss or include feasible mitigation measures, such as the replacement of the OTC  
25 system.

26 130. The County has deferred analysis and formulation of mitigation measures to  
27 adequately respond to safety concerns due to the Project. In particular, the EIR fails to include any  
28 evaluation of safety concerns of refining or transporting a lower quality oil feedstock, or recovering

1 and storing LPG, as required by a Process Hazard Analysis or Inherently Safer Systems Evaluation  
2 pursuant to the County Industrial Safety Ordinance.

3 131. In addition, the County's adopted community benefits agreement hampers its ability  
4 to enforce and monitor the mitigation measures. The agreement conditions the County's  
5 performance of permit obligations related to the Project on the exchange of a significant amount of  
6 money. This undermines the County's ability to strictly enforce the required mitigation measures,  
7 because the County has an economic incentive to instead streamline approvals for activities, rather  
8 than strictly perform its duty to ensure that Phillips 66 complies with mitigation requirements.

9 132. The County's action certifying the EIR without proper mitigation constitutes a  
10 prejudicial abuse of discretion, fails to proceed in the manner required by law, and does not have the  
11 support of substantial evidence.

12 **EIGHTH CAUSE OF ACTION**  
13 **(Violation of CEQA – Failure to Consider a Reasonable Range of Alternatives;**  
14 **CCP § 1094.5, or in the alternative, CCP § 1085)**

14 133. Petitioners incorporate herein by reference the allegations contained in the foregoing  
15 paragraphs.

16 134. CEQA provides that public agencies should not approve projects as proposed if there  
17 are feasible alternatives or mitigation measures available to substantially lessen the significant  
18 environmental impacts of the Project. Pub. Res. Code § 21002.

19 135. CEQA requires that an EIR describe a range of reasonable alternatives to the project  
20 that would feasibly attain most of the basic objectives of the project, but would avoid or substantially  
21 lessen any of the significant effects of the project, and evaluate the comparative merits of the  
22 alternatives. Pub. Res. Code §§ 21100(b)(4), 21002; CEQA Guidelines § 15126.6(c).

23 136. The lead agency should discuss alternatives "even if these alternatives would impede  
24 to some degree the attainment of the project objectives, or would be more costly." CEQA Guideline  
25 § 15126.6(b).

26 137. CEQA specifically requires the lead agency to describe feasible mitigation measures  
27 proposed to reduce the wasteful, inefficient, and unnecessary consumption of energy. Pub. Res.  
28 Code § 21100(b)(3); CEQA Guidelines § 15126.4(a)(1).

1 138. When alternatives or mitigation measures are rejected as infeasible, the findings must  
2 reveal the agency's reasons for reaching that conclusion. CEQA Guidelines § 15126.6(c).

3 139. The EIR fails to consider a reasonable range of alternatives and adequately support its  
4 conclusion that proposed alternatives be rejected.

5 140. The inadequate Project description foreclosed a reasonable alternatives analysis.  
6 Specifically, the EIR fails to consider alternatives that would reduce or avoid the impacts of  
7 processing a lower quality oil feedstock. The EIR further failed to adequately consider other feasible  
8 alternatives identified in comments, such as the replacement of the OTC system and alternatives to  
9 storage of LPG, such as cooled storage, at the Rodeo facility.

10 141. The County abused its discretion by failing to consider a reasonable range of  
11 alternatives, to describe why it rejected reasonable alternatives, and to provide an accurate Project  
12 description to enable a reasonable range of alternatives.

13 142. The County's action certifying the Project's EIR, without conducting a proper  
14 alternatives analysis constitutes a prejudicial abuse of discretion, fails to proceed in the manner  
15 required by law, and does not have the support of substantial evidence.

16 **NINTH CAUSE OF ACTION**  
17 **(Violation of CEQA – Failure to Discuss Irreversible Environmental Effects;**  
18 **CCP § 1094.5, or in the alternative, CCP § 1085)**

19 143. Petitioners incorporate herein by reference the allegations contained in the foregoing  
20 paragraphs.

21 144. An EIR must contain detailed statements describing any irreversible environmental  
22 effects projects would have, if implemented. Pub. Res. Code § 21100(b)(2)(B).

23 145. As documented recently by the Intergovernmental Panel on Climate Change,  
24 increased GHG emissions could cause irreversible impacts, as could the more general impact of  
25 combusting oil based fuels, a non-renewable source.

26 146. Catastrophic spills, fires, and explosions also can cause irreversible harm. The local  
27 Rodeo fire department has stated that it will not be able to adequately respond to any such incident,  
28 whether from an incident in the storage or transport of LPG and/or a lower quality oil feedstock.

147. The County's action certifying the Project's EIR, without discussing the Project's irreversible effects constitutes a prejudicial abuse of discretion, fails to proceed in the manner required by law, and does not have the support of substantial evidence.

## PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for relief as set forth below:

A. For a writ of mandate or peremptory writ issued under the seal of this Court and directing Contra Costa County to:

- a. void the EIR for Phillips 66's Propane Recovery Project;
- b. set aside and withdraw its approvals of the conditional use permit for Phillips 66's Propane Recovery Project;
- c. refrain from granting any approvals for the Project unless and until the County complies fully with the requirements of CEQA; and
- d. recirculate a revised EIR for public review and comment.

B. For entry of preliminary and/or permanent injunctive relief prohibiting Contra Costa County and Phillips 66 from carrying out, implementing, continuing, or otherwise acting in furtherance of any of the changes and expansions to operations at the Phillips 66 Rodeo facility or San Francisco Refinery authorized by the conditional use permit for the Phillips 66 Propane Recovery Project, or relied upon in other permits based upon certification of the EIR for the Phillips 66 Propane Recovery Project, until a lawful approval has been obtained from the County after the requirements of CEQA have been fulfilled.

C. For a declaratory judgment stating that Contra Costa County violated CEQA by approving the EIR with an inaccurate and misleading project description and for issuing the CUP before fully complying with CEQA;

D. For a declaratory judgment stating that Contra Costa County's approval of the proposed expansion, including the certification of the EIR and the Notice of Determination, filed on February 5, 2015 under CEQA, are void *ab initio* or otherwise invalid and of no legal effect;



1 E. For a declaratory judgment that the EIR is inadequate and that Contra Costa County  
2 violated CEQA by approving and certifying the EIR.

3 F. For a declaratory judgment that Contra Costa County's failure to prepare, consider,  
4 and approve or certify an adequate environmental analysis under CEQA is arbitrary and  
5 capricious.

6 G. For Petitioners' fees and costs, including reasonable attorney's fees and expert  
7 witness costs, as authorized by CCP § 1021.5, and any other applicable provisions of law on  
8 its claims regarding the unlawful issuance of the conditional use permit and certification of  
9 the EIR for the Phillips 66 Propane Recovery Project.

10 H. For such other legal and equitable relief as this Court deems appropriate and just.

11  
12  
13 DATED: March 4, 2015

Respectfully submitted,


14 COMMUNITIES FOR A BETTER ENVIRONMENT

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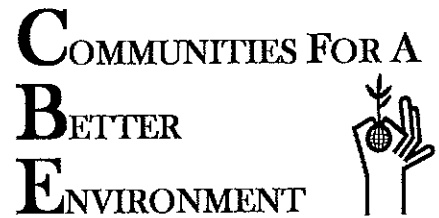
17 ROGER LIN  
18 GLADYS LIMÓN  
Attorneys for Petitioner  
COMMUNITIES FOR A BETTER ENVIRONMENT  
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I am the Northern California Program Director of Communities for a Better Environment, a non-profit corporation with offices in Oakland, California and elsewhere in the State. The facts alleged in the above Petition and Complaint for Writ of Mandate, Declaratory and Injunctive Relief are true to my personal knowledge and belief. I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 4th day of March at Oakland, California.

  
\_\_\_\_\_  
Nile Malloy, Program Director

## **EXHIBIT A**



March 3, 2015

VIA US MAIL

Theresa Speiker  
Chief Assistant County Administrator  
Clerk of the Board  
651 Pine Street,  
1st Floor, Room 106,  
Martinez, CA 94553

**Re: NOTICE OF INTENT TO FILE CEQA PETITION**

To the Clerk of the Board,

Please take notice that under California Public Resources Code sections 21167, 21168 and 21168.5, Communities for a Better Environment will file a verified petition for writ of mandate under the provisions of the California Environmental Quality Act, California Public Resources Code section 2100, et seq. ("CEQA") against Contra Costa County, the Contra Costa County Board of Supervisors, and Phillips 66 Company in Contra Costa County Superior Court.

The petition challenges Contra Costa County and the County Board of Supervisors' actions in approving the Environmental Impact Report and issuing a Conditional Use Permit for the Phillips 66 Rodeo Refinery Propane Recovery Project. In granting such approvals, Respondent violated CEQA and abused its discretion.

The petition seeks a writ of mandate to compel the County to comply with CEQA and a writ of mandate directing the County and Real Parties in Interest, Phillips 66 Company, to take no action in furtherance of the Phillips 66 Rodeo Refinery Propane Recovery Project until the County has complied with CEQA and revised and recirculated another environmental impact report ("EIR") for the project. The petition also seeks declaratory relief stating that the County failed to fulfill its obligation and duty to comply with all applicable statutes and regulations, including those designed to implement CEQA, and that, as a result, the EIR is invalid and unlawful.

Sincerely,

/s/

Greg Karras  
Roger Lin  
Nile Malloy  
Andrés Soto

## PROOF OF SERVICE

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action; my business address is 1904 Franklin Street, Suite 600, Oakland, California 94612.

On March 4, 2015, I served the document entitled:

### NOTICE OF INTENT TO FILE CEQA PETITION

By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m


By placing a true and correct copy(ies) thereof in a sealed envelope with postage affixed hereon fully prepaid, in the United States mail at Oakland, California, addressed as set forth below.

XX By personally delivering the document(s) listed above at the addresses set forth below.

Theresa Speiker  
Chief Assistant County Administrator  
Clerk of the Board  
651 Pine Street,  
1st Floor, Room 106,  
Martinez, CA 94553

I declare under penalty of perjury, pursuant to the laws of the State of California, that the above is true and correct.

Executed on March 4, 2015 at Oakland, California.

  
\_\_\_\_\_  
Roger Lin

## **EXHIBIT B**

1 ROGER LIN (SBN 248144)  
2 GLADYS LIMÓN (SBN 228773)  
3 COMMUNITIES FOR A BETTER ENVIRONMENT  
4 1904 Franklin Street, Suite 600  
5 Oakland, CA 94612  
6 T: (510) 302-0430  
7 F: (510) 302-0437  
8 roger@cbeval.org; glimon@cbeval.org

9 *Attorneys for Petitioner and Plaintiff* COMMUNITIES FOR A  
10 BETTER ENVIRONMENT.

11  
12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 COMMUNITIES FOR A BETTER  
16 ENVIRONMENT, A Non-Profit Corporation,

17 Petitioner and Plaintiff,

18 v.

19 CONTRA COSTA COUNTY;  
20 CONTRA COSTA COUNTY BOARD OF  
21 SUPERVISORS; and DOES 1 through 10,  
22 inclusive,

23 Respondents and Defendants.

24 PHILLIPS 66 COMPANY, a Delaware  
25 Corporation; and DOES 11 through 20, inclusive,

26 Real Parties in Interest and Defendants.

Case No.

NOTICE TO ATTORNEY GENERAL OF  
THE STATE OF CALIFORNIA OF  
VERIFIED CEQA PETITION FOR WRIT  
OF MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF

[CEQA: Cal. Code of Civ. Proc. §§ 1094.5 &  
1085; Cal. Pub. Res. Code §§ 21167, 21168 &  
21168.5]

1  
2 To the Attorney General of the State of California:


3 PLEASE TAKE NOTICE that Petitioner and Plaintiff COMMUNITIES FOR A BETTER  
4 ENVIRONMENT will file the attached verified petition for writ of mandate under the provisions of  
5 the California Environmental Quality Act, California Public Resources Code section 2100, et seq.  
6 ("CEQA") against Respondents and Defendants CONTRA COSTA COUNTY and the CONTRA  
7 COSTA COUNTY BOARD OF SUPERVISORS and Real Party in Interest PHILLIPS 66  
8 COMPANY in Contra Costa County Superior Court.

9 The petition challenges Respondent's actions in approving the Environmental Impact Report  
10 and issuing a Conditional Use Permit for the Phillips 66 Rodeo Refinery Propane Recovery Project.  
11 In granting such approvals, as detailed in the attached verified petition for writ of mandate,  
12 Respondent violated CEQA and abused its discretion. This notice is provided pursuant to California  
13 Public Resources Code section 21167.7 and California Code of Civil Procedure section 388.  
14  
15  
16  
17  
18

19 DATED: March 4, 2015

Respectfully submitted,

20 COMMUNITIES FOR A BETTER ENVIRONMENT

21   
22 ROGER LIN  
23 GLADYS LIMÓN  
24 Attorneys for Petitioner  
25 COMMUNITIES FOR A BETTER ENVIRONMENT  
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**PROOF OF SERVICE**

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action; my business address is 1904 Franklin Street, Suite 600, Oakland, California 94612.

On March 4, 2015, I served the document entitled:

**NOTICE TO ATTORNEY GENERAL OF THE STATE OF CALIFORNIA  
and  
VERIFIED CEQA PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF**

By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m

By placing a true and correct copy(ies) thereof in a sealed envelope with postage affixed hereon fully prepaid, in the United States mail at Oakland, California, addressed as set forth below.

XX By personally delivering the document(s) listed above at the addresses set forth below.

Office of the Attorney General  
1515 Clay Street  
Oakland, CA 94612

I declare under penalty of perjury, pursuant to the laws of the State of California, that the above is true and correct.

Executed on March 4, 2015 at Oakland, California.

  
\_\_\_\_\_  
Roger Lin