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Superior Court of California
County of Los Angeles

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12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

14
15 COMMUNITIES FOR A BETTER
ENVIRONMENT, a California Nonprofit
16 Corporation,

17 Petitioner and Plaintiff,

18 vs.

19 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, a public
20 agency, and DOES 1 through 20 inclusive,

21 Respondents and Defendants;

22
23 TESORO REFINING AND MARKETING
COMPANY LLC, a Delaware Corporation,
24 and DOES 21 through 40, inclusive,

25 Real Party in Interest and Defendant.

Case No. **BS 169841**

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

[California Environmental Quality Act
(CEQA); California Code of Civil Procedure
§§1085, 1094.5; California Public Resources
Code §§ 21000 et seq., 21168, 21168.5]

26 Petitioner and Plaintiff, COMMUNITIES FOR A BETTER ENVIRONMENT ("CBE"

27 "Petitioner"), brings this action on its own behalf, on behalf of its members, on behalf of the general
28 public and in the public interest, and alleges as follows:

FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE

RECEIPT #: CCH465980073
DATE PAID: 06/14/17 02:40 PM
PAYMENT: \$435.00 310
RECEIVED:
CHECK: \$435.00
CASH: \$0.00
CHARGE: \$0.00
CARD: \$0.00

CIT/CASE: BS169841
LEG/DEB#:

INTRODUCTION

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1. Communities for a Better Environment (“CBE”) brings this action to protect residents in the Wilmington neighborhood of Los Angeles (“Wilmington”) and other impacted communities from the undisclosed and unmitigated public health and welfare impacts of a plan to create the largest oil refining center along our nation’s West Coast. Tesoro Refining and Marketing Company LLC (“Tesoro”) claims that its Los Angeles Refinery (“Refinery”) Integration and Compliance Project (“Project”) would merely consolidate Tesoro’s dual refining operations in Los Angeles and ensure compliance with environmental laws. In truth, the Project will significantly increase the amount of crude oil at the Refinery, and allow the company to refine dirtier (and cheaper) crude oil in what are already two of the most pollution-burdened communities in California—Wilmington and Carson.

2. The South Coast Air Quality Management District’s (“Air District”) Environmental Impact Report (“EIR”) for the Project masks these underlying Project purposes, resulting in a fundamentally defective Project Description that violates the California Environmental Quality Act (“CEQA”). On the question of crude quantity, the EIR fails to disclose the full increase in the amount of crude oil that will be delivered to Tesoro’s marine terminal, fails to disclose the large increase in crude oil that will be moved into and out of storage, and fails to provide a clear and accurate picture of the amount of crude oil that will be refined at the Project’s consolidated Refinery.

3. The EIR is equally evasive on the question of crude quality. The EIR fails to disclose that the Project enacts Tesoro’s West Coast business goal of switching to extreme and unconventional crude oils, including the highly volatile, fracked crude oil from the North Dakotan Bakken shale. The EIR’s evasive Project Description, in turn, infects the EIR’s entire impact analysis and mitigation plan. It is undeniable that larger volumes of crude oil mean more pollution exposure to local residents, including CBE’s members. And, the switch to low-quality crude only exacerbates public health impacts, not to mention accident risk, including the well-publicized risk of fire and vapor cloud explosions. By failing to disclose these elements of the Project’s true scope, the EIR fails to disclose the Project’s true impacts and further fails to mitigate those impacts, in violation of CEQA’s bedrock precepts.

1 4. Making matters worse, the EIR significantly underestimates the pollution impact of its own
 2 illegally narrow Project Description. For instance, with respect to air quality, the EIR
 3 underestimates, *inter alia*, toxic and smog-forming emissions resulting from the Project's
 4 modifications to the Refinery's flares, storage tanks, heaters, and from increased tanker ship traffic.
 5 The EIR further fails to disclose the Project's direct, indirect, and cumulative greenhouse gas
 6 emissions. The EIR's flawed analysis and illusive mitigation strategies further fail to protect air
 7 quality, even for those air impacts the EIR acknowledges as significant. For these reasons, and in
 8 line with more than three decades of environmental justice advocacy on behalf of communities in
 9 southern Los Angeles, CBE respectfully seeks this Court's review of CBE's substantive claims in
 10 this case. Those claims, which go to the heart of CEQA's disclosure function, warrant a writ of
 11 mandamus that invalidates the defective EIR, along with any associated Project approvals.
 12

13 **PARTIES**

14 5. Petitioner and Plaintiff COMMUNITIES FOR A BETTER ENVIRONMENT is a California
 15 non-profit environmental health and justice organization with offices in Oakland, Richmond,
 16 Huntington Park, and Wilmington. CBE has thousands of members in California. Many of CBE's
 17 members live, work, and go to school in Los Angeles County and in the areas surrounding
 18 Wilmington, including the City of Carson and the proposed Project site. CBE's organizational goals
 19 include protecting and enhancing the environment and public health by reducing air, water and soil
 20 pollution, and minimizing hazards in California's urban areas, including the area surrounding the
 21 Project.
 22

23 6. CBE has significant organizational experience in protecting and enhancing the environment
 24 and public health in and around refinery and drilling operations. CBE's members have an interest in
 25 their health and safety, as well as conservation, environmental, aesthetic, and economic interests in
 26 Los Angeles. CBE's members who live and work in Los Angeles have a right to, and a beneficial
 27 interest in, the South Coast Air Quality Management District's performance of its duties under
 28 CEQA, including its application of CEQA requirements to the Tesoro Project.

1 7. CBE members are concerned about the public health and safety risks posed by increased
2 crude transport, storage refining operations from the Project, specifically those which result from
3 new, distinctly sourced crudes which will be delivered, offloaded, stored and refined at the Los
4 Angeles refinery. CBE members who reside in the areas surrounding the Project will be directly
5 impacted by the Project's increased storage and processing of crude oil.

6 8. Respondent and Defendant SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
7 is a regional agency created by California Health & Safety Code section 40400 *et seq.* to regulate the
8 "critical air pollution problems" found in the South Coast Air Basin, including the Counties of Los
9 Angeles and Orange, as well as portions of San Bernardino and Riverside Counties. (Health &
10 Safety Code § 40402(b).

11 9. The Air District is the "lead agency" as the term is defined by CEQA, and is therefore,
12 responsible pursuant to CEQA for evaluating the environmental impacts of the Project. (Pub. Res.
13 Code §21067.)

14 10. The Air District issued the Notice of Determination, certified the Environmental Impact
15 Report, and will issue the permits to construct and operate that are the subject of this litigation.

16 11. The decision-making body of the Air District is the Governing Board, which is a thirteen-
17 member Board made up of elected officials and officials appointed by elected officials. (Health &
18 Safety Code §§ 40420 *et seq.*)

19 12. CBE currently does not know the true names of Does 1 through 20 inclusive, and therefore
20 name them by such fictitious names. CBE will seek leave from the Court to amend this petition to
21 reflect the true names and capacities of Does 1 through 20 inclusive once they have been
22 ascertained.

23 13. Real Party in Interest and Defendant Tesoro Refining and Marketing Company LLC
24 ("Tesoro"), is the Project proponent. Tesoro is a multi-billion-dollar corporation organized and
25 existing under the laws of the State of Delaware, and headquartered in San Antonio, Texas. Tesoro
26 conducts extensive refining and marketing business activity in California, including running its Los
27 Angeles Refinery. The Los Angeles Refinery, as contemplated by the Project, consists of two linked
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1 facilities located in Carson and Wilmington. The integration of both facilities is the subject of this
2 litigation.

3 14. CBE currently does not know the true names of Does 21 through 40 inclusive, and therefore
4 name them by such fictitious names. CBE will seek leave from the Court to amend this petition to
5 reflect the true names and capacities of Does 21 through 40, inclusive, once they have been
6 ascertained.

7 **JURISDICTION AND VENUE**

8 15. CBE submitted legal and technical comment letters on the Project to SCAQMD on June 10,
9 2015, prior to the close of SCAQMD's comment period for its Draft Environmental Impact Report.

10 16. CBE members have corresponded and met with Air District staff and members of the
11 Governing Board to express their concerns with the increased transport, storage and refining of
12 Western Canadian tar sands and North Dakota Bakken shale crudes in their neighborhoods. CBE
13 members have also appeared before the District's Governing Board during regular meetings to offer
14 public comment expressing the same concerns.

15 17. Any of these members of CBE would have standing to initiate this action for a writ of
16 mandamus under California Rules of Civil Procedure §§ 1085 and 1094.5. The interests CBE seeks
17 to further in this action, namely, the protection and improvement of air quality, are within the
18 purposes and goals of the organization. CBE brings this action on behalf of itself, its members,
19 specifically those residing in close proximity to the proposed Project area, and on behalf of the
20 general public.

21 18. By initiating this action, CBE seeks to protect the health, welfare, and economic interests of
22 its members and the general public and to enforce a public duty owed to them by the Air District.

23 19. Venue is proper in the County of Los Angeles under California Code of Civil Procedure
24 section 395. The action is filed in the Los Angeles Superior Court Central Division in accordance
25 with the Local Rules of the Los Angeles County Superior Court that require all CEQA actions to be
26 filed in this Division.
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20. Venue is also proper in the Court pursuant to California Code of Civil Procedure sections 393 and 394, which govern venue in actions against local agencies such as the Air District.

21. The Court has jurisdiction over this action pursuant to Public Resources Code section 21168 and Code of Civil Procedure section 1094.5 (or in the alternative, pursuant to Public Records Code section 21168.5 and California Code of Civil Procedure section 1085).

22. This Petition and Complaint is being filed within 30 days of the Air District's filing and posting of the Notice of Determination approving the Final Environmental Impact Report for the Project, in accordance with Public Resources Code section 21167 and CEQA Guidelines section 15112(c).

23. CBE has complied with Public Resources Code section 21167.7 by serving a copy of this Petition and Complaint on the Attorney General. (Attachment A).

24. CBE has complied with Public Resources Code section 21167.5 by prior service of a letter upon the South Coast Air Quality Management District indicating CBE's intent to file this action. (Attachment B.)

25. CBE is electing to prepare the administrative record in this case. (Attachment C.)

STATEMENT OF FACTS

The Community and Environmental Setting

26. CBE and its members, particularly those members who reside in and around refineries located in the South Coast Air Basin, have long expressed their concern with refinery operations, emissions, and potential hazards, including flares and accidents that result from refinery operations.

27. Currently, the City of Carson is home to two refinery facilities: the Tesoro refinery and the Phillips 66 Los Angeles Refinery Carson facility.

28. Wilmington, a part of the City of Los Angeles that is directly adjacent to the City of Carson, is home to three additional refineries, including: (1) the Tesoro Wilmington refinery, located at 2101 East Pacific Coast Highway; (2) the Valero Wilmington refinery, located at 2402 East Anaheim in Wilmington, California; and (3) the Phillips 66 Los Angeles refinery.

1 29. The Office of Environmental Health and Hazards Assessment ("OEHHA") has identified the
 2 City of Carson and its surrounding communities, including Wilmington, and West Long Beach, as
 3 bearing a highly concentrated burden of health hazards resulting from various pollution sources,
 4 including but not limited to: active and inactive waste cleanup sites; heavy industrial facilities such
 5 as refineries; hazardous waste and groundwater waste; and the presence of ozone and ozone
 6 precursors in the ambient environment.

7 30. This project will add pollution to some of the most pollution-burdened communities in
 8 California. Both Wilmington and Carson are either in an area designated by California as the top
 9 25% of most disadvantaged communities (for the Wilmington facility) or surrounded on all sides by
 10 areas designated in the top 25% of most disadvantaged communities. These communities are all also
 11 linguistically isolated, and largely impoverished. The combined impacts of these factors render
 12 Wilmington, Carson and their surrounding areas (including West Long Beach)) particularly
 13 vulnerable to suffering from an exacerbated level of environmental and health burdens.

14 31. Unsurprisingly, residents of the City of Carson, Wilmington, and West Long Beach
 15 experience a host of elevated health impacts including, *inter alia*, asthma and other respiratory
 16 disorders and low birth weight rates in infants.

17 32. In addition to impacts associated with the Project, there are a number of other proposed
 18 projects that will impact the same area, the same residential neighborhoods and the same
 19 communities.
 20

21 33. For decades, CBE, its members, and allied organizations have expressed concerns with the
 22 disproportionate environmental burden experienced by residents of these areas and other
 23 environmental justice communities throughout the state.

24 **The True Scope of the Project and its Undisclosed Significant Environmental Impacts**

25 34. The Environmental Impact Report's Project Description contains an unduly narrow set of
 26 objectives that are limited to the integration of the Carson and Wilmington Refinery operations
 27 through process modifications. The Project Description states that the Project will "improv[e]
 28 process efficiency," "[r]ecover[]and upgrad[e] distillate range material from FCCU feeds[.]"

1 “[c]omply[] with federal, state, and local rules and regulations[,]” and “[i]mprov[e] efficiency of
2 water-borne crude oil receipt and marine vessel unloading” by expanding barrel tank capacity.

3 35. Since 2013, CBE, its members and allies have expressed serious concerns with industry
4 trends to increase the transport, storage, and refining of more dangerous crudes from new North
5 American domestic and Canadian sources to California refineries, including the refineries listed
6 above, located in and around the Carson and Wilmington, and surrounding areas. CBE has voiced
7 many of these concerns in comments submitted to the Air District on the Project, as well as in
8 comments on other refinery project proposals throughout the state. CBE, its members, and allies are
9 particularly concerned that if the true environmental impacts of projects, such as the Project at issue
10 here, are not fully disclosed and mitigated, residents in surrounding neighborhoods will suffer harm.

11 36. CBE and others have submitted extensive comments on the Project’s potential to cause
12 significant environmental impacts, particularly in light of Tesoro’s plans to increase the amount of
13 dirtier and unconventional crude oils imported by both rail and ship to all of its California refinery
14 facilities. In particular, the EIR’s Project Description fails to disclose that the Project will enable the
15 Refinery to process cheaper North American Bakken and potentially Canadian Tar Sands Crude Oil,
16 and effectuate Tesoro’s business plan to switch its crude oil stock at its West Coast refineries. The
17 EIR’s stultified Project Description obscures this key, and far more dangerous, Project purpose.

18 37. The EIR also claims that the Project will have a “small impact on crude oil and feedstock
19 throughput . . . capability[,] increase[ing] approximately two percent or 6,000 barrels per day
20 (bbl/day) as a result of the proposed project.” Yet Tesoro’s statements to the U.S. Securities and
21 Exchange Commission indicate that Project could feed a much greater increase in Refinery
22 throughput—i.e. the volume of crude being processed by the Refinery complex at any given time.
23 The DEIR’s failure to disclosure the true scope of the Project’s potential to increase Refinery
24 operations infects the EIR’s entire impact analysis.

25 38. The Air District prepared and released a Notice of Preparation and Initial Study (“NOP/IS”)
26 to initially identify potentially significant, adverse environmental impacts associated with the
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1 Project. The Air District circulated the NOP/IS for public comment from September 10, 2014
2 through October 10, 2014.

3 39. After receiving public comments on its NOP/IS, the Air District moved to the next step in the
4 CEQA process—preparation of a Draft EIR. After completing the Draft EIR, the Air District
5 circulated it for public notice and comment from March 8, 2016 through June 10, 2016.
6

7 40. On June 10, 2016, prior to the close of the comment period, CBE submitted timely comments
8 explaining, *inter alia*, the following flaws in the Draft EIR’s analysis: (1) the Project Description
9 failed to disclose the true scope of the Project, including the large increase in Refinery crude
10 throughput and the increased reliance on cheaper and more dangerous unconventional crudes oils;
11 (2) the EIR relied on inaccurate, unsupported, and/or otherwise illegal baselines for purpose of
12 measuring the Project’s impact to human health and the environment; (3) the EIR’s impact analyses
13 failed to account for the additional pollution from increased flaring and increased heater firing rates,
14 and further failed to incorporate research findings from the Air District’s own comprehensive study
15 that measured emissions from the refineries in the South Coast Air Basin (“FluxSense study”) and
16 found the Refinery’s real air emissions to be more than six times higher for VOCs, and more than 43
17 times higher for benzene than that reported in the EIR; and (4) the Project Description improperly
18 piecemealed Tesoro’s modifications to its Vancouver Energy Terminal (“VET”). The Project, as a
19 whole, represents a larger company-wide plan to transport, store and refine unconventional North
20 Dakota Bakken and Canadian tar sands crude oils. In support of its comments, CBE included
21 Tesoro’s corporate disclosures and market data indicating that Tesoro intends to dramatically
22 increase shipments of such crudes specifically to its Los Angeles Refinery.

23 41. In addition to CBE’s legal comments, Julia May, a refinery expert on CBE’s staff, submitted
24 technical comments explaining that the EIR omitted analysis of Project components essential to
25 achieving the project’s objectives. Julia May’s comments described the EIR’s failure to disclose the
26 full nature of the volatile and lower quality crude processing that would be allowed by the Project,
27 among other defects. Other comments submitted on the Draft EIR echo CBE’s above-stated
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1 concerns. All comments submitted on the Draft EIR for the Project are incorporated herein, by
2 reference. Despite those various commenters' well-documented concerns about the Draft EIR's legal
3 deficiencies, the Air District issued and certified the Final EIR for the Project on May 12, 2017. The
4 Los Angeles County Clerk posted the Air District's Notice of Determination for the Project on May
5 15, 2017. As of the date of this petition and complaint, CBE is informed and believes that the Air
6 District has not approved any permit or any other entitlement for the project.

7 **CAUSE OF ACTION—VIOLATION OF CEQA**
8 **(CCP § 1094.5, or in the alternative, CCP §1085; Cal. Pub. Res. Code § 21168, or in the**
9 **alternative, CCP § 21168.5)**

10 **A. ILLEGAL NOTICE OF DETERMINATION**

11 42. CBE incorporates herein by reference the allegations contained in the foregoing paragraphs.

12 43. Under CEQA, a lead agency may not file a Notice of Determination before deciding to carry
13 out or approve a project.

14 44. Section 15094 of the CEQA Guidelines states: "(a) The lead agency shall file a Notice of
15 Determination within five working days *after* deciding to carry out or approve the project." (Cal.
16 Code Regs., tit. 14, § 15094(a), [emphasis added].)

17 45. As of the date of this petition and complaint, the Air District has not decided to carry out or
18 approve the Project.

19 46. The Air District's May 15, 2017 filing of a Notice of Determination with the Los Angeles
20 County Clerk constituted a prejudicial abuse of discretion, and/or a failure to proceed in the manner
21 required by law.

22 **B. FAILURE TO PROVIDE AN ACCURATE PROJECT DESCRIPTION**

23 47. CBE incorporates herein by reference the allegations contained in the foregoing paragraphs.

24 48. The primary goal of CEQA is to "[e]nsure that the long-term protection of the environment . .
25 . shall be the guiding criterion in public decisions." (Pub. Res. Code § 21001(d).)

26 49. To this end, CEQA requires that the EIR include an accurate project description, and that the
27 nature and objective of a project be fully disclosed and fairly evaluated in the EIR.
28

1 50. CEQA defines "project" as "the whole of an action, which has a potential for resulting in
 2 either a direct physical change in the environment, or a reasonably foreseeable indirect physical
 3 change in the environment." (CEQA Guidelines § 15378(a); *see also id.* at § 15003(h); Pub. Res.
 4 Code § 21065.) CEQA requires "project" to be defined broadly. (Pub. Res. Code § 21065; CEQA
 5 Guidelines § 15002(d); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997)
 6 52 Cal.App.4th 1165, 1188.)

7 51. In order to provide full disclosure and analysis of a project's potential significant impacts,
 8 CEQA requires the lead agency to determine, early on in the environmental review process, whether
 9 a project will have a significant effect on the environment. (CEQA Guidelines §§ 15063(c), (a)(1)
 10 (setting forth the requirements of an initial study).)

11 **Changes to Tesoro's Crude Blend**

12 52. Evidence in the record demonstrates that the Project involves components that have not been
 13 disclosed in the EIR's Project Description. Chief among these components is Tesoro's increased
 14 reliance on unconventional crude oil. The Project Description fails to disclose whether the Project
 15 allows Tesoro to increase its reliance on North Dakotan crude from the Bakken shale and/or
 16 Canadian tar sands crude at its Carson/Wilmington refining complex.

17 53. The specific chemicals and their concentrations in the Project's modified crude blend are
 18 required to evaluate impacts. This type of information is reported in a crude assay or "fingerprint" of
 19 the oil. Crude assays are available to Tesoro, and are routinely collected by oil companies to evaluate
 20 the desirability of specific crude oils. Yet, this information was excluded from the EIR, foreclosing
 21 meaningful public review of environmental impacts. In particular, the Project Description should
 22 have disclosed whether the Project would change any of the following characteristics of the
 23 Refinery's crude oil blend:

- 24 a. The concentration of *individual* toxic compounds, including benzene, toluene,
 25 ethyl benzene, and xylene (called BTEX compounds), which can be present in
 26 high concentrations in volatile Bakken crude oil;
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- b. The concentration of *individual* sulfur-based compounds such as mercaptans, sulfides and disulfides, which can accelerate corrosion of Refinery equipment, and increase the risk of accident and/or foul odors. Instead, the EIR incorrectly focused only on total sulfur;
- c. Vapor pressure, which determines the amount of fugitive, cancer-causing and explosive, volatile organic emissions that may escape from the Refinery's leaky components, such as valves, pumps, and flanges, and pumps;

54. Increased use of unconventional crudes will likely result in increased emissions of toxic air contaminants, including benzene, as well as increased emissions of highly malodorous (and toxic) compounds, such as mercaptans. The unduly narrow Project Description allowed the Air District to illegally evade disclosure and study of these, and other, potentially significant impacts.

55. Increased use of unconventional crude oils also poses significant, and undisclosed risks to public safety due to accelerated corrosion of Refinery units and explosion risks, among other concerns.

Undisclosed Crude Oil Throughput Increases at the Refinery

56. The Project Description further fails to disclose the true scale of the Project's increased throughput, or the increased volume of crude that the Refinery will be able to process at any given time. The Draft EIR claims that the Project will increase Refinery throughput by merely 6,000 barrels of crude oil per day beyond the Refinery's pre-Project throughput level of 363,000 barrels per day. Yet, Tesoro's December 2015 Form 10-K, which it submitted to the U.S. Securities and Exchange Commission, states that the Refinery's pre-Project throughput capacity was 380,000 barrels per day. The EIR's failure to provide a stable and accurate view of the Refinery's throughput capacity renders the Project Description defective, as a matter of law.

57. Moreover, the discrepancy shows that the Project's true increase to Refinery throughput and/or operations could be much higher than that disclosed by the EIR, thus infecting the EIR's entire impact analysis.

Unexplained Increase In the Amount Crude Oil Released From Storage

1 58. As further evidence of the Project's potential to increase Refinery throughput beyond that
 2 disclosed in the EIR, the Project involves a very large increase in volume of crude oil that will be
 3 released from storage. CBE's comments explained that the Project's new and modified crude storage
 4 allows a nearly 420,000 barrel-per-day (or, 153 million barrel-per-year) increase in the amount of
 5 crude oil moving into and out of storage (*i.e.* storage tank throughput). The *increased* volume of
 6 crude oil moving into and out of storage (nearly 420,000 barrels-per-day) will be greater than the
 7 volume of crude currently processed by the *entire* Refinery (363,000 barrels-per-day). Yet, in
 8 violation of CEQA, the EIR fails to disclose the fate or purpose of the very large increase in crude
 9 that will be released from the Project's storage tanks. Tesoro can either refine or sell the increased
 10 volume of crude oil released from storage, thus causing undisclosed environmental and human
 11 health impacts.

12 59. The Air District's failure to provide an accurate project description that fully discloses, *inter*
 13 *alia*, the change in the overall crude slate and throughput at the Los Angeles Refinery not only
 14 directly violates CEQA's requirement that a "project" include "the whole of an action" including
 15 "reasonably foreseeable indirect physical change in the environment," but also masks the potentially
 16 significant impacts of the Project. These defects constitute a prejudicial abuse of discretion, a failure
 17 to proceed in the manner required by law, and lack the support of substantial evidence.

18
 19 **C. ILLEGAL PIECEMEALING**

20 60. CBE incorporates herein by reference the allegations contained in the foregoing paragraphs.

21 61. In determining whether a project may have a significant effect on the environment, the lead
 22 agency must consider "all phases of project planning, implementation, and operation," including
 23 phases planned for future implementation. (CEQA Guidelines §§ 15063(a)(1); *Laurel Heights*
 24 *Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 396, as modified on
 25 denial of reh'g (Jan. 26, 1989).) Thus, even if a project requires multiple discretionary approvals, the
 26 environmental analysis must analyze the impacts of the entire project, not merely the approval at
 27 issue. (CEQA Guidelines § 15378(c).)

1 62. CEQA prohibits segmenting a project into separate actions in order to: avoid environmental
2 review of the "whole of the action" (Pub. Res. Code § 21065); defer environmental analysis; ignore
3 the foreseeable environmental impacts of the end result of a project; or, avoid considering potential
4 cumulative impacts. Thus, a lead agency may not limit environmental disclosure by ignoring the
5 development or other activity that will ultimately result from an initial approval.

6 63. There is substantial evidence in the record that the Air District failed to analyze other
7 projects related to the Project and therefore, improperly piecemealed its analysis of the Project's
8 potential, significant environmental impacts.

9 64. More specifically, the EIR failed to incorporate Tesoro's Savage Vancouver Energy
10 Terminal ("VET") expansion as part of the Project. As proposed, the VET piece of the Project
11 entails the creation of a terminal at the Port of Vancouver, Washington, which would "receive an
12 average of 360,000 barrels of crude oil per day by rail . . . then load the oil onto marine vessels for
13 transport."¹ This crude-by-rail to oil tanker VET project will increase importation of cost-advantaged
14 North American crudes to Tesoro's Los Angeles Refinery and other West Coast refineries. The Draft
15 Environmental Impact Statement for the VET notes that the VET is intended to serve the growing
16 demand of West Coast refineries for mid-continent crude oil amidst the declining availability of the
17 more expensive Californian and Alaskan oils that have historically been used by Tesoro's Los
18 Angeles Refinery.

19 65. The Project's dependence on, and interrelationship with, the Tesoro VET is admitted in
20 Tesoro's investor reports, which state that the Project's purpose is to allow Tesoro to remain
21 competitive by increasing processing of unconventional crude oils from the North American mid-
22 continent at its Los Angeles Refinery through use of the Tesoro Savage Terminal. The May
23 Technical Report also includes many other places where the Project relies on the Tesoro VET. The
24 impact of the increased greenhouse gas emissions from the VET piece of the Project's crude oil
25 lifecycle affects California's environment.
26

27 ¹ Tesoro Savage Draft Environmental Impact Report, Executive Summary (ES-2), available at:
28 http://www.efsec.wa.gov/Tesoro%20Savage/SEPA%20-%20DEIS/DEIS%20Chapters/DEIS%20Ch%200b%20Exec_Summary.pdf (Last visited on June 13, 2017.)

1 66. The EIR improperly omitted disclosure, study and mitigation of the Project's crude oil
 2 lifecycle, which includes the extraction, transport, export and/or refining of unconventional crude
 3 oils. Other undisclosed pieces of the project include: a) Expansion of the Pipeline at the Marine
 4 Terminal to the Storage Tanks; b) Tesoro Logistics Operations; c) Offsite Hydrogen Baseline Sales
 5 and Sales of Hydrogen; and, d) San Pedro's Butane Storage Tanks.

6 67. The Air District's failure to consider the foreseeable impacts that will result from the
 7 processing and refining of significantly larger volumes of distinct crude slate at Tesoro's Los
 8 Angeles Refinery violates CEQA's prohibition against piecemealing, or alternatively, fails to
 9 account for the Project's cumulative impacts. Because the EIR's piecemealed approach masks the
 10 Project's potential significant impacts, the defective EIR represents a prejudicial abuse of discretion,
 11 as well as a failure to proceed in a manner required by law. The Air District's piecemealed review
 12 further lacks the support of substantial evidence.

13
 14 **D. FAILURE TO DISCLOSE THE PROPER BASELINE**

15 68. CBE incorporates herein by reference the allegations contained in the foregoing paragraphs.

16 69. The significance of a project's environmental impact is measured from the baseline. CEQA
 17 defines baseline as the "physical environmental conditions in the vicinity of the project, as they exist
 18 . . . at the time environmental analysis is commenced." (CEQA Guidelines § 15125(a) [emphasis
 19 added].) The EIR fails to provide a stable or proper baseline for the volume or quality of pre-Project
 20 crude oil that has been flowing through the Refinery.

21 70. As for crude volume, the EIR illegally evades disclosure of the amount of crude oil that will
 22 be delivered to, and processed by, the Refinery once the Project is implemented. The EIR's failure to
 23 disclose basic baseline information on crude oil shipments, storage tank throughput and Refinery
 24 throughput evades disclosure of the Project's true scope and environmental impacts. The EIR
 25 initially fails to disclose any baseline and post-Project throughput and capacity information for the
 26 marine terminals that serve the Project, even though the Project significantly increases the unloading
 27 rate of crude oil at these terminals. The EIR then fails to provide a clear or accurate baseline
 28 description of crude oil storage tank throughput, despite the fact that the Project will double the

1 Refinery's storage capacity. Finally, the EIR fails to provide a proper baseline for Refinery
2 throughput, thus completing the cycle of obfuscation with respect to potential increases in the
3 amount of crude oil entering, and being processed by, the Refinery.

4 71. The EIR's evasive approach to crude quality baseline is equally deficient. The EIR failed to
5 provide specific crude quality baselines for both the Carson and Wilmington refineries. In particular,
6 the EIR failed to disclose the specific geographic origin and amounts of domestic and imported
7 crudes used by the Refinery during the EIR's baseline period. The EIR further failed to provide other
8 basic information about the Refinery's baseline crude oil characteristics, such as the density (or, API
9 gravity), metal content, percentages of specific sulfur-based compounds (such as mercaptans,
10 sulfides, and disulfides), vapor pressure, benzene content, total acid number, volatility or waxiness,
11 among other crude oil characteristics.

12 72. Without the above-mentioned crude quantity and quality baselines, the public is unable to
13 verify the accuracy of the EIR's impact analyses and ultimate conclusions, thus thwarting CEQA's
14 basic informational function. Moreover, as a result of these errors, the EIR minimizes the new
15 impacts of this Project and fails to mitigate significant impacts.

16 73. Next, the EIR's air emissions baseline is flawed because it improperly includes emissions
17 from the Wilmington Fluid Catalytic Cracking Unit ("FCCU"), and thereby artificially inflates the
18 air quality baseline. Because the FCCU shutdown was a condition of approval prior to, and
19 independent from, this Project, the EIR's air quality baseline should have reflected the
20 environmental conditions as they will exist without the FCCU in operation.

21 74. The EIR also improperly inflates the baseline(s) in its air quality analysis by including
22 exceedances of Refinery permit limits in the baseline description.

23 75. The EIR next inflates the baseline for assessing fluid catalytic cracking and flare emissions,
24 as well as emissions of sulfur dioxide, particulate matter, volatile organic compounds, and
25 greenhouse gases by failing to analyze the Refinery's actual process rates. Actual process rates
26 provide a transparent view of the Refinery current crude quantity and quality, thus forcing the
27 required disclosure of the Project' potential to increase those process rates and accompanying
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1 pollution. In other instances, the EIR improperly uses current maximum permit limits as the
2 baseline. The California Supreme Court has rejected the Air District's use of a Refinery's maximum
3 permitted capacity as the baseline for a CEQA impact analysis and held that the Air District must
4 use a Refinery's actual emissions as baseline.

5 76. The EIR further failed to provide transparent, data-based baselines for the Refinery's
6 pressure relief valves and flares. The failure to provide proper baselines for these elements of the
7 Refinery led to erroneous conclusions of no increase in emissions, despite the fact that the Project
8 significantly increases the amount of process gases that may be sent to the Refinery's flares at any
9 given time.

10 77. The EIR erroneously concludes that no environmental impact will result from increasing the
11 firing rates of key Refinery heaters, including the DCU HC-100 (Delayed Coker Unit Heater) and
12 the No. 51 Vacuum Unit Heater. This incorrect and illogical conclusion resulted from the Air
13 District's failure to provide transparent, data-based baselines for those two or any heaters. When
14 these heaters experience higher firing rates, it means that associated Refinery unit—the Delayed
15 Coker and Vacuum Unit—is processing a higher volume of crude oil or other intermediate product,
16 and is thus producing more pollution.

17 78. The EIR also failed to provide a proper baseline with regard to this Project's impact on
18 global warming. Instead of providing a transparent baseline for measuring the Project's greenhouse
19 gas emissions, it simply makes conclusions about the amount of greenhouse gases emitted.

20 79. Without proper baselines for the above-stated aspects of Refinery operations, the EIR lacks
21 support for its significance determinations. The Air District's failure to provide legal and/or accurate
22 baselines for purposes of measuring Project impacts constitutes a prejudicial abuse of discretion, a
23 failure to proceed in the manner required by law. The Air District's above-mentioned baseline
24 descriptions also lack the support of substantial evidence.
25

26
27 **E. FAILURE TO DISCLOSE THE PROJECT'S SIGNIFICANT AND POTENTIALLY
SIGNIFICANT ENVIRONMENTAL IMPACTS.**

28 80. CBE incorporates herein by reference the allegations contained in the foregoing paragraphs.

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81. The EIR estimates the Project will have operational volatile organic compound (“VOC”) emissions of 401.15 pounds per day (“lbs/day”) —more than 7 times greater than the Air District’s 55 lb/day significance threshold. Thus, the Project plainly results in significant VOC emissions. Yet, the EIR fails to disclose the Project’s significant VOC emissions, stating instead that the use of emission reduction credits will reduce the Project’s VOC emissions to less than significant. This analytical approach is incorrect because pollution credits constitute a *mitigation* measure that can be identified only *after* a finding of significant impact has been made; those credits are not part of the Project itself and thus cannot be used to escape a significance finding under CEQA. Due to this incorrect analytical approach, the Air District improperly evaded CEQA’s requisite significance finding for VOCs and improperly precluded consideration of alternative mitigation strategies that may be more effective than the use of pollution credits as mitigation. Moreover, a Project’s mitigation measures must be contained in an enforceable mitigation and monitoring plan. The proposed VOC pollution credits are not part of the Project’s enforceable mitigation and monitoring plan.

82. Similarly, the EIR improperly relies on early installation of pollution control equipment, selective catalytic reduction (“SCR”) technology, to improperly evade disclosure of the Project’s true nitrogen oxides (“NOx”) emissions. The EIR improperly relied on entirely unenforceable, “early,” compliance projects under the Air District’s RECLAIM program to claim emission reductions for NOx. Yet, Tesoro could later sell the credits it generates from early compliance, or even use the credits to offset other emissions increases, which would provide no pollution benefit to the region. In short, Tesoro must surrender its NOx pollution credits to claim those credits as mitigation under CEQA.

83. Further, the EIR misleads decision-makers and the public in assuming that the shutdown from the Wilmington Fluid Catalytic Cracking Unit (“FCCU”) shutdown will achieve emissions reductions. In fact, Tesoro plans to keep 491.63 of NOx pollution credits to increase NOx emissions in the future. The above analytical deficiencies and misuse of pollution credits improperly evade disclosure of the Project’s true emissions of VOC and NOx pollution, thus violating CEQA.

1 84. The EIR's approach to estimating emissions from specific Refinery units, such as heaters was
2 fundamentally flawed due to, *inter alia*: 1) failure to use the same averaging period for baseline
3 emissions and post-Project emissions; 2) failure to properly consider startup and shutdown
4 emissions; and 3) failure to disclose the modified units' post-Project maximum daily emissions after
5 and by relying instead on average daily emissions to measure post-Project emissions increases.

6 85. The EIR also underestimated the Project's potential to increase flaring, and the resulting
7 emissions from increased flaring. The EIR fails to disclose that the Project's new pressure relief
8 valves will increase the amount of process gases that can vent to the flares at any given time and
9 increase flaring events. Pressure relief devices and flares are designed to emit large volumes of gases
10 in short time frames, creating the potential for large increases in concentrations of pollutants into
11 surrounding communities with each flaring event. The EIR fails to disclose the potential emissions
12 increases that will result from the Project's introduction of more than 30 new Pressure Relief
13 Devices.

14 86. The EIR fails to disclose the environmental and public health impacts of the Project's true
15 increase in crude oil volume being delivered to the Refinery's marine terminals, and flowing through
16 the Refinery's crude oil storage tanks and the Refinery itself (throughput).

17 87. The EIR also fails to disclose the Project's significant climate change impacts, claiming
18 instead that the Project will result in reductions of GHG emissions. As a threshold matter, the EIR
19 fails to identify the Project's greenhouse gas emissions as direct and indirect impacts, and instead
20 relegates its analysis of this issue to a purely cumulative impact analysis. This analytical approach is
21 incorrect and unsupported by fact or law.

22 88. As for direct operational emissions, the EIR significantly underestimated GHG emissions
23 from the Project's modifications to key fired sources, including Refinery heaters, furnaces and
24 boilers.
25

26 89. Moreover, and contrary to the Air District's own mandate, the EIR fails to analyze the
27 Project's lifecycle GHG emissions. In adopting an interim 10,000 metric ton per year interim
28 significance threshold for GHGs, the Air District's Governing Board mandated that in "determining

1 whether or not GHG emissions from affected projects are significant, project emissions will include
2 direct, indirect, and, to the extent information is available, life cycle emissions during construction
3 and operation.” By failing to analyze direct, indirect, and lifecycle GHG emissions, the EIR
4 inadequately and inaccurately analyzes the GHG impacts from the Project.
5

6 90. The EIR’s claim that the Project would have beneficial GHG impacts is wholly
7 unsubstantiated and unsupported by evidence. Even if the Project were implemented exactly as
8 described, Tesoro anticipates trading GHG allowances for the emissions reductions, resulting in no
9 cumulative benefit at all. The EIR incorrectly describes the Project as having climate change
10 benefits, thus undermining the document’s informational purpose.

11 91. The Air District further failed to disclose the significant hazard risks that will result from the
12 Project’s switch to unconventional crude oils. Substantial evidence in the record shows that lower
13 quality crude oil carries a greater risk of corrosion of refinery components. Refining lower quality
14 crudes, in some instances, can lead to dangerous levels of hydrogen sulfide gas, which is acutely
15 hazardous and corrosive. Because of this, refineries that process unconventional crude oils often
16 must use scavenging agents, but these also lead to accelerated corrosion of Refinery equipment.

17 92. Bakken crude oil can cause transfer problems in marine vessels and refinery storage tanks
18 due to its potentially high paraffinic content. To address this waxiness, multiple chemical dispersants
19 would be needed for smooth transfer and realization of full throughput. The potential for use of
20 chemical dispersants should have been identified in the EIR to assess the impacts and hazards of
21 their use. Waxy crude content can also cause unwanted “coking” inside refinery vessels, thereby
22 fouling equipment and increasing risks of upsets.

23 93. Bakken crude is also extremely volatile due to its large concentration of natural gas liquids,
24 which include methane, propane, butane, ethane, and pentane. These compounds are susceptible to
25 volatilize, burn, or explode when they come into contact with sparks in an accident, and can easily
26 form fireballs and vapor cloud explosions, known as boiling liquid expanding vapor explosions
27 (“BLEVES”). Substantial evidence in the record thus shows that the Project’s switch to Bakken
28 crude significantly increases the risk of these types of explosions. These explosions can be fatal, as

1 was the case at Lac-Megantic, Quebec, in 2013, when a freight train transporting Bakken crude
2 derailed, killing nearly 50 people. Additional accidents associated with the transport of Bakken
3 crude have occurred in Oregon, North Dakota, Alabama, and other locations. Because of the
4 immense flammability risk, the U.S. Department of Transportation Pipeline and Hazardous Material
5 Safety Administration requires additional testing and characterization for Bakken crudes, as well as
6 additional handling procedures. Yet, these critical mitigation measures were omitted from the EIR's
7 analysis due to the document's failure to identify the Project's significant hazard risks. The accident
8 risk of Bakken crude is so high that railcar accidents have persisted, even after safety measures have
9 been put in place.

10
11 94. The EIR conducted a fire hazard analysis to determine whether accidents involving the
12 modified storage tanks would result in significant impacts, but this analysis was inadequate. The EIR
13 selected a heat flux significance threshold of 5 kilowatt-hour per cubic-meter-per-hour ("kw/m²"), at
14 which point one would experience a serious injury from thermal radiation. Yet, the EIR failed to
15 analyze other significant impacts of a fire, including explosions (BLEVES) and inhalation of smoke
16 and toxics. Additionally, the EIR did not evaluate fire hazards for onsite receptors, even though
17 refinery workers would be the most exposed to risk. According to substantial evidence in the record,
18 any person located between the accident site and the reported impact distance would experience a
19 significant impact. At a heat flux of 5 kW/m², a 10% injury would be experienced, which is
20 significant. The EIR's failure to analyze the hazard from fire to refinery workers (onsite receptors)
21 fell far short of CEQA's informational disclosure requirements.

22 95. The EIR further underestimates the risk of fire at the Project's crude oil storage tanks.
23 Substantial evidence in the administrative record shows that fire hazards from the new crude oil
24 tanks would be significant. In an accident, the amount of crude oil involved would increase, because
25 of the Project's increased storage capacities and throughput. If an accident were to occur while the
26 tanks were being filled, more than just the capacity of one tank could be spilled. The EIR, in its
27 worst-case scenario analysis, however, only considers the maximum capacity of each tank, and thus,
28 fails to evaluate the fire risks of the Project's *total* increase in crude oil storage, particularly due to

1 the tanks' close proximity to one another, and the risk of earthquake in the region, which could cause
2 multiple failures and fires, and limit access to emergency response.

3 96. Assuming the two 300,000 barrel tanks were involved in a pool fire, the blast zone would
4 encompass Alameda Street, outside the Wilmington Operations boundary, and reach a public
5 highway. Additionally, because of the close proximity of the tanks, a pool fire from one or both of
6 these tanks could spread to other tanks. This, however, would not necessarily be the worst-case
7 scenario; if the tanks were filled with Bakken crude oil, it is possible that a flash fire, rather than a
8 pool fire could occur, which would cause far more significant impacts.

9 97. Additionally, the worst-case scenario calculations for the tanks assumed that all of the tanks
10 would be filled with the same petroleum product. This, however, is misguided, since the tanks could
11 be filled with different products. The hazard calculations then are inaccurate, as the distance to the
12 chosen heat flux threshold depends on many factors, including the qualities of the specific crudes
13 involved. Lastly, the fire hazard analysis for the tanks is based on a wind speed of 20 miles per hour
14 ("mi/hour"), however, in Long Beach, wind speeds can be much higher. This could enable vapor
15 clouds to travel long distances where they could then ignite.

16 98. The EIR further failed to consider the fire risks associated with pipeline accidents, ship
17 accidents, and loading and unloading of liquefied petroleum gas ("LPG"), and further failed to
18 properly consider the smoke and inhalation risks to human beings in the event of an accident.

19 99. Substantial evidence in the administrative record also shows that the EIR failed to properly
20 account for marine vessel emissions, including crude oil tanker ship emissions, which could increase
21 as a result of the Project.

22 100. The EIR further failed to disclose the Project's health risk (cancer, acute, and chronic)
23 information by pollutant. This significantly hindered the public's ability to review the reasonableness
24 of the health risk assessment.

25 101. Importantly, according to the Air District's own FluxSense study, which the Air District
26 released before finalizing the EIR, the Refinery's VOC emissions, which include vapor emissions
27 released from storage tanks and leaky Refinery components, and include carcinogens such as
28

1 benzene, are severely undercounted, by a factor of 6.4. Substantial evidence in the record, including
 2 the newly released FluxSense study, shows that even under the EIR's incorrect assumption that the
 3 Project will increase throughput by merely 6,000 barrels per day, the Project's VOC emissions are
 4 significant. More specifically, the corrected VOC emissions from that underestimated 6,000 barrel-
 5 per-day increase, alone, amount to more than 312 pounds per day, which is nearly six times higher
 6 than the Air District's significance threshold for VOCs. The EIR thus fails to disclose the significant
 7 air quality and public health risk associated with the Project.

8 102. The Air District's FluxSense Study similarly shows that the EIR's storage tank VOC
 9 emissions are severely undercounted, by a factor of about 6.5. Substantial evidence in the
 10 administrative record shows that VOC emission estimate from the Refinery's storage tanks is 1,422
 11 pounds per day, rather than the 49.09 pound per day estimate provided in the EIR. The corrected
 12 VOC emissions estimate is 25 times higher than the Air District's 55 lb/day significance threshold
 13 for VOCs. In violation of CEQA, the EIR failed to disclose the Project's significant VOC emissions.
 14

15 103. VOCs include carcinogens, such as benzene. The FluxSense study revealed that Tesoro has
 16 historically underestimated the Carson facility's benzene emissions by a factor of 43. Substantial
 17 evidence in the record shows that the corrected benzene emissions from the Project will result in
 18 significant cancer risks, reaching as high as 55 in one million, in contrast to the 3.7 in one million
 19 cancer risk reported by the EIR. The Air District's significance threshold for cancer risk is 10 in one
 20 million.

21 104. The Air District's certification of the EIR for the Project without fully analyzing the Project's
 22 significant environmental and public health impacts constitutes a prejudicial abuse of discretion,
 23 fails to proceed in the manner required by law, and does not have the support of substantial
 24 evidence.

25 **F. FAILURE TO CONSIDER AND DISCLOSE SIGNIFICANT CUMULATIVE**
 26 **ENVIRONMENTAL IMPACTS.**

27 105. CBE incorporates herein by reference the allegations contained in the foregoing
 28 paragraphs.

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

3 107. A cumulative impact is an impact created as a result of the project when evaluated
4 together with other "past, present, and reasonably foreseeable" future projects causing related
5 impacts. (CEQA Guidelines §§ 15355, 15064.)

6 108. In performing a cumulative impacts analysis, the EIR must assess the significance of
7 the incremental addition of a project to the combined individual effects of one or more
8 separate projects. (CEQA Guidelines § 15355.)

9 109. Where a project's socioeconomic impacts may affect the physical environment, an
10 agency should consider those impacts. (CEQA Guidelines § 15131.) "Where a physical change
11 is caused by economic or social effects of a project," an agency should consider that change
12 just as it considers "any other physical change resulting from the project." (CEQA Guidelines
13 § 15064(e).)

14 110. The EIR falsely concludes that there is a not a significant cumulative impact related to
15 the operation of the Project, in addition to other nearby projects. In so concluding, the DEIR
16 relies on false assumptions. For instance, the DEIR incorrectly assumed that the Southern
17 California International Gateway ("SCIG") Project will result in major emissions reductions in
18 the project area. The SCIG project is a near-dock intermodal railyard proposed to be built in
19 Los Angeles adjacent to west Long Beach. The Air District successfully challenged that SCIG
20 project in Los Angeles Superior Court by arguing, among other things, that the EIR for that
21 project could not assume that operation of the SCIG's railyard would necessarily reduce
22 operations and pollution at another already existing railyard. The Air District further prevailed
23 in its challenge to that EIR's emissions reductions estimates for the SCIG project. Having
24 prevailed in its challenge to that project's emission reduction estimates, the Air District cannot
25 rely on those same emissions reductions here. Although the FEIR conceded the error, and
26 removed the erroneous SCIG-related pollution reduction from its analysis, the FEIR
27 surprisingly failed to change its ultimate conclusion of no significant cumulative
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1 environmental impact. The EIR relied on the false assumption that unless there are significant
2 *direct* project impacts, there cannot be *cumulative* operational impacts from a Project. That
3 analytical leap is not supported by law or the facts in the record.

4
5 111. In fact, substantial evidence in the record shows that after removing the improper
6 claims of emission reductions from SCIG, the cumulative air quality impacts for the Project,
7 combined with SCIG, are significant for VOCs, carbon monoxide ("CO"), NOx, sulfur oxides
8 ("SOx"), particulate matter with a diameter of less than ten microns ("PM10"), and particulate
9 matter with a diameter of less than 2.5 microns ("PM2.5"). More specifically, without the
10 unsubstantiated SCIG reductions, the cumulative impact of these pollutants amounts to: 646.97
11 lbs/day of VOCs, 825.15 lbs/day of CO, 832.01 lbs/day of NOx, 3.63 lbs/day of SOx, 340.46
12 of PM10, and 51.37 lbs/day of PM2.5. The resulting, undisclosed emissions increases for
13 VOCs, CO, NOx, PM10 exceeds the Air District's CEQA significance threshold for each of
14 these four air pollutants.

15 112. The Air District's action certifying the EIR, without properly analyzing and disclosing the
16 Project's significant cumulative impacts constitutes a prejudicial abuse of discretion and failure to
17 proceed in the manner required by law. That action further lacks the support of substantial evidence.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, CBE prays for judgment as set forth below:

20 A. For a writ of mandate or peremptory writ that is issued under the seal of this Court
21 and that directs the Air District to:

- 22 1. void the EIR for the Project;
- 23 2. set aside and withdraw any and all approvals of the Project;
- 24 3. refrain from granting any approvals for the Project unless and until the Air District
25 complies fully with the requirements of CEQA; and
- 26 4. recirculate a revised EIR for public review and comment.

27 B. For entry of preliminary and/or permanent injunctive relief prohibiting the Air
28 District and Tesoro from carrying out, implementing, or otherwise acting in furtherance of any of

1 any aspect of the Project until after the requirements of CEQA have been fulfilled.

2 C. For a declaratory judgment stating that the Air District violated CEQA by approving
3 the EIR with an inaccurate and misleading project description and for certifying the EIR without first
4 complying with CEQA;

5 D. For a declaratory judgment stating that the Air District's EIR and the NOD filed on
6 May 15, 2017 are void *ab initio*, or otherwise invalid and of no legal effect;

7 E. For a declaratory judgment that the EIR is inadequate and that the Air District
8 violated CEQA by approving and certifying the EIR;

9 F. For a declaratory judgment that the Air District's failure to prepare, consider, and
10 approve or certify an adequate environmental analysis under CEQA is arbitrary and capricious;

11 G. For Petitioner's fees and costs, including reasonable attorneys' fees and expert
12 witness costs, as authorized by CCP § 1021.5, and any other applicable provisions of law on its
13 claims regarding the Air District's unlawful certification of the EIR; and

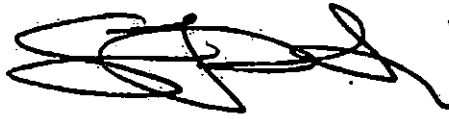
14 H. For such other legal and equitable relief as this Court deems appropriate and just.

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DATED: June 14, 2017

Respectfully submitted,



Suma Peesapati (State Bar No. 203701)
COMMUNITIES FOR A BETTER ENVIRONMENT
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VERIFICATION

I, the undersigned, declare that I am the Southern California Program Director for Communities for Better Environment (CBE), the petitioner in this matter. I have read the above Petition for Writ of Mandate and Complaint and know the contents. I am informed and believe that the matters in this petition and complaint are true and on that ground allege that the matters stated in the petition and complaint are true.

I declare under penalty of perjury of the laws of California that the foregoing is true and correct. Executed this Thirteenth day of June, 2017, in Huntington Park, Los Angeles County, California.



Darryl Molina Sarmiento

06/14/2017



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Douglas P. Carstens

Email Address:

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Direct Dial:

310-798-2400 Ext. 1

June 14, 2017

By U.S. Mail

California Attorney General
300 South Spring Street, Ste. 1700
Los Angeles, CA 90013

Re: Challenge to South Coast Air Quality Management District's approval of permits for the Tesoro Refinery Project in the City of Carson.

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge South Coast Air Quality Management District's approval of permits for the Tesoro Refinery Project in the City of Carson.

This Petition is being provided pursuant to the notice provisions of the Public Resources Code. Please contact me if you have any questions.

Sincerely,

Douglas P. Carstens

Enclosure

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PROOF OF SERVICE

I am employed by Chatten-Brown & Carstens LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254 . On June 14, 2017, I served the within documents:

**LETTER TO THE CALIFORNIA ATTORNEY GENERAL REGARDING
PETITION FOR WRIT OF MANDATE**

VIA UNITED STATES MAIL. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 14, 2017, at Hermosa Beach, California 90254.



Cynthia Kellman

SERVICE LIST

California Attorney General
300 South Spring Street, Ste. 1700
Los Angeles, CA 90013

06/14/2017

20141109

EXHIBIT B

Page 2 of 2

PROOF OF SERVICE

I am employed by Chatten-Brown & Carstens LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254 . On June 13, 2017, I served the within documents:

LETTER OF INTENT TO MICHAEL B. O'KELLY, AGENT FOR SERVICE OF PROCESS, SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

VIA UNITED STATES MAIL. *I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.*

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 13, 2017, at Hermosa Beach, California 90254.



Cynthia Kellman

SERVICE LIST

Michael B. O'Kelly,
Agent for Service of Process
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

2017 JUN 13 10 58 AM

200706075

EXHIBIT C

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7 Gladys Limón (SBN 228773)
8 COMMUNITIES FOR A BETTER ENVIRONMENT
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9 Huntington Park, CA 90255
Tel: (323) 826-9771

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

12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

15
16 COMMUNITIES FOR A BETTER
17 ENVIRONMENT, a California Nonprofit
Corporation,

18 Petitioner and Plaintiff,

19 vs.

20
21 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, a public
22 agency, AND DOES 1 through 20
inclusive,

23 Respondents and Defendants;

24 TESORO, a Delaware Corporation,

25 Real Party in Interest and
26 Defendant.

CASE NO:

27
28 **NOTICE OF ELECTION TO
PREPARE ADMINISTRATIVE
RECORD**

[California Environmental Quality Act
(CEQA): California Code of Civil
Procedure §§1085, 1094.5; California
Public Resources Code §§ 21000 *et seq.*,
21168, 21168.5]


1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD;

2 PLEASE TAKE NOTICE:

3 Pursuant to Public Resources Code section 21167.6, Petitioner Communities for
4 Better Environment hereby elects to prepare the administrative record in this matter.

5
6 Dated: June 14, 2017

7 Respectfully Submitted,
8 CHATTEN-BROWN & CARSTENS LLP

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10 By: 
11 Douglas P. Carstens
12 Attorneys for Petitioner
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SHORT TITLE: Communities for a Better Environment v. SCAQMD	CASE NUMBER BS169841
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL One HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|---|---|
| <ul style="list-style-type: none"> 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. 2. May be filed in central (other county, or no bodily injury/property damage). 3. Location where cause of action arose. 4. Location where bodily injury, death or damage occurred. 5. Location where performance required or defendant resides. | <ul style="list-style-type: none"> 6. Location of property or permanently garaged vehicle. 7. Location where petitioner resides. 8. Location wherein defendant/respondent functions wholly. 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office |
|---|---|

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 3.	
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.	

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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.	
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2., 5.
		<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 5.
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
		<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.	
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.	
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.	
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.	
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
		<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

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Judicial Review

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
Writ of Mandate (02)	<input checked="" type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., **Step 3** on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.	ADDRESS: 2350 East 223rd Street	
CITY: Carson	STATE: CA	ZIP CODE: 90810

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: June 14, 2017


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.