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13 COMMUNITIES FOR A BETTER ENVIRONMENT
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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF CONTRA COSTA**

17 COMMUNITIES FOR A BETTTER
ENVIRONMENT and CENTER FOR
18 BIOLOGICAL DIVERSITY,

19 Petitioners,

20 v.

21 COUNTY OF CONTRA COSTA; BOARD OF
SUPERVISORS OF COUNTY OF CONTRA
22 COSTA; CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND
23 DEVELOPMENT; and DOES 1-20,

24 Respondents.

25 PHILLIPS 66, a Texas corporation and DOES
26 21-40, inclusive,

27 Real Party in Interest.
28

Case No.

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT
OF MANDATE**

[Code Civ. Proc., §§ 1085, 1094.5;
California Environmental Quality Act,
Pub. Resources Code, §§ 21000 et seq.]

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1 Petitioners Communities for a Better Environment and Center for Biological Diversity
2 (collectively, Petitioners) bring this action on their own behalf, on behalf of their members, on behalf of
3 the general public, and in the public interest and allege as follows:

4 **I. INTRODUCTION**

5 1. Despite its small size of just around 4 square miles, the City of Rodeo (the City or Rodeo)
6 is home to communities that are some of the most overburdened by pollution in the state. These
7 communities—recognized by CalEPA as “disadvantaged” because of their high exposure to air, water,
8 and soil contamination—suffer from high asthma and low birth weights, as well as high amounts of
9 other respiratory and other ailments linked to pollution. Now, residents are facing further exposure to
10 industrial pollution proposed under the guise of an environmentally beneficial project.

11 2. That exposure would come from the proposed Rodeo Renewed Project (the Rodeo
12 Project, or the Project) at the Phillips 66 Refinery, which aims to receive, process, and ship out plant-
13 and animal-based fuels (known as biofuels), 24 hours a day, seven days a week. Once fully operational,
14 the Rodeo Project would produce nearly 1 billion gallons per year of biofuel products, making it one of
15 the largest biofuel refineries in the world.

16 3. Proponents of the Project have claimed biofuels to be an environmentally friendly
17 alternative to the crude oil refining that occurs at the site now, but such claims do not stand up to
18 scrutiny. Converting land to grow crops, treating crops with pesticides and fertilizer, harvesting and
19 transporting crops to be processed and refined, and finally shipped and burned, is extremely energy-
20 intensive and will cause environmental harm at every step. Converting crops and animal products into
21 fuels can be more carbon intensive than crude oil refining, and can contribute to climate change by
22 causing land clearing and deforestation, thereby eliminating natural carbon stores. And because most
23 biofuels are expected to come from the Midwest, communities along the supply route to places like
24 Rodeo are likely to experience pollution exposure from transportation modes like diesel trucks and
25 railcars.

26 4. The pull of biofuel refineries on crop supplies has been shown to drive up food prices,
27 contributing to food insecurity and scarcity with the most pressure put on the country and world’s most
28 vulnerable people. Individual people and families will have to compete with multinational oil companies

1 to buy the same food staples.

2 5. Residents living near biofuel refineries will suffer from significant air, water, and soil
3 pollution, as well as nuisance odors and harmful fuel spills.

4 6. The Rodeo Project would produce over 1 billion gallons per year, measured as 24.4
5 million barrels per year (at 67,000 barrels per day, or bpd), of bio-based diesel fuel and other
6 transportation fuels. The Project could also receive, blend, and ship up to 40,000 bpd of gasoline and
7 gasoline blendstocks. Feedstocks would be transported primarily by tanker, barge, and railcar.

8 7. The enormity of the Project and the severity of environmental harms—local and regional,
9 direct and indirect—are exactly what the California Environmental Quality Act’s (CEQA) robust
10 environmental review provisions were designed to tackle. Under a CEQA-compliant review, a public
11 agency would fully disclose, analyze, and mitigate to the extent feasible all environmental impacts in the
12 Environmental Impact Report (EIR), thereby allowing the public and decision-makers to approve or
13 reject a project based on a full set of facts and likely consequences.

14 8. Instead, the County treated CEQA as a mere exercise in paperwork by approving the
15 Project without meeting the disclosure, analysis, and mitigation requirements of CEQA. The EIR
16 disregards, underestimates, obfuscates, and ignores key information about the Project’s components,
17 inputs, and effects, thereby obscuring the environmental and health impacts and preventing the
18 development of mitigation measures.

19 9. Specifically, the EIR uses as a baseline prior oil and gas refinery operations on the site in
20 2019, when the Phillips 66 Refinery was processing crude oil supplied largely by the Santa Maria
21 Refinery. This choice ignores the planned phaseout of the Santa Maria refinery and declining crude
22 production at the Phillips 66 site. Because the choice in baseline affects how the significance of
23 environmental impacts are measured, the County’s baseline choice masks the environmental harms of
24 creating and operating what would be one of the world’s largest biofuels refineries.

25 10. The EIR also fails to disclose critical information about the Project, such as the types of
26 feedstocks that may be used and in what amounts. Without disclosing where the feedstocks come from,
27 what they are, and how much will be processed, the so-called “analysis” of environmental harms related
28 to air emissions, climate change, species, and safety hazards is speculative guesswork.

1 11. The County also chose an artificially narrow and misleading geographic range for its
2 cumulative impacts analysis. This range shields from analysis and public view the combined impacts of
3 this Project and the Marathon biofuels refinery conversion in Martinez, CA, which is located only ten
4 miles away and proceeding along the same timeline as the Rodeo Project. It also obscures the upstream
5 impacts from biofuel crop production.

6 12. The EIR also fails to adopt adequate and enforceable mitigation measures for odors and
7 dismisses feasible alternatives that would reduce environmental impacts, including an alternative that
8 limits the volume of refining.

9 13. The EIR acknowledges that a marine or other waterway spill of biofuels would be
10 significant and unavoidable, but the spill response protocols (in place to address spill of petroleum
11 products) are not sufficient to account for the potential harms from a spill of biofuels. The EIR failed to
12 support the assumption that petroleum and non-petroleum feedstocks react similarly in marine
13 environments.

14 14. The County either dismissed or ignored comments from the community and groups
15 highlighting these—and many other—concerns. As a result of these deficiencies, the EIR fails to fully
16 inform the public and decisionmakers of the Project’s significant health, safety, and environmental
17 impacts, and fails to analyze and mitigate these impacts as CEQA requires. Because the County violated
18 CEQA’s requirements, the residents of Rodeo would be subjected to yet another giant industrial facility
19 without due consideration for, and minimization of, the environmental and public health harms
20 associated with it.

21 15. Petitioners therefore seek a writ of mandate from this Court to require the County to
22 rectify the multiple and serious deficiencies in the EIR and provide the public with full and honest
23 assessment of this Project’s adverse impacts.

24 **II. PARTIES**

25 16. Petitioner COMMUNITIES FOR A BETTER ENVIRONMENT (CBE) is a membership-
26 based California non-profit environmental health and justice organization. CBE’s mission is to build
27 people’s power in California’s communities of color and low-income communities to achieve
28 environmental health and justice by preventing and reducing toxics and air and water pollution, and

1 building healthy and sustainable communities.

2 17. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (the Center) is a non-profit
3 organization with offices in California and throughout the United States. The Center is actively involved
4 in environmental protection issues throughout California and North America and has over 89,000
5 members, including over 800 throughout Contra Costa County. The Center’s mission includes reducing
6 greenhouse gas pollution to preserve a safe climate and protecting air quality and public health.

7 18. By this action, Petitioners seek to protect the health and welfare interests of its members
8 and the general public, and to enforce a public duty owed to them by the County of Contra Costa.
9 Petitioners’ members have an interest in their health and well-being, as well as conservation,
10 environmental, aesthetic, and economic interests in the Contra Costa County environment. Petitioners’
11 members who live, work, and recreate near the Phillips 66 Refinery and in Contra Costa County have a
12 right to, and a beneficial interest in, the County’s compliance with CEQA. These interests have been,
13 and continue to be, threatened by the County’s decision to certify the EIR in violation of CEQA, and
14 unless the relief requested in this case is granted, will continue to be adversely affected and irreparably
15 injured by the failure of the County to comply with the law.

16 19. Respondent COUNTY OF CONTRA COSTA, a subdivision of the State of California, is
17 the lead agency charged with principal responsibility for ensuring the Project’s compliance with CEQA
18 under Public Resources Code section 21067.

19 20. Respondent BOARD OF SUPERVISORS OF COUNTY OF CONTRA COSTA (the
20 Board of Supervisors) is the duly elected legislative body for the County. The Board of Supervisors
21 certified the final EIR and approved the Project on May 3, 2022.

22 21. Respondent CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND
23 DEVELOPMENT (DCD) is the County department responsible for preparing the EIR for the Project.

24 22. Real Party in Interest PHILLIPS 66, the Project applicant, is a Texas corporation and the
25 registered owner and operator of the Refinery, which is located at 1380 San Pablo Ave, Rodeo,
26 California, 94572.

27 23. Petitioners do not know the true names and capacities, whether individual, corporate,
28 associate, or otherwise, of respondents and real parties in interest Doe 1 through Doe 40, inclusive, and

1 therefore sue said respondents and real parties in interest under fictitious names. Petitioners will amend
2 this Petition to show their true names and capacities when the same have been ascertained. Each of the
3 respondents is the agent and/or employee of Respondent County, and each performed acts on which this
4 action is based within the course and scope of such Respondent’s agency and/or employment. Each of
5 the real parties in interest is the agent and/or employee of each other real party in interest; and each
6 performed acts on which this action is based within the course and scope of such real party in interest’s
7 agency and/or employment.

8 **III. JURISDICTION AND VENUE**

9 24. This Court has jurisdiction to issue a writ of mandate to set aside the County’s decision
10 under Code of Civil Procedure section 1094.5, or, in the alternative, section 1085. Judicial review is
11 governed under Public Resources Code section 21168.5, or, in the alternative, section 21168.

12 25. Venue is proper in this Court under Code of Civil Procedure section 395 because the
13 County, its Board of Supervisors, the DCD, and the proposed Project are currently located, or will be
14 located, in Contra Costa County.

15 26. Venue is also proper in this Court under Code of Civil Procedure sections 393 and 394.

16 27. This action was timely filed within 30 days of the Contra Costa County Clerk posting on
17 its website the Notice of Determination to approve the Project and certify the EIR, in accordance with
18 Public Resources Code section 21167, subdivision (c) and California Code of Regulations, title 14,
19 section 15112, subdivision (c)(1).¹

20 28. Petitioners have provided written notice of their intent to file this petition to the County
21 and the County Board of Supervisors and provide the notice and proof of service as Exhibit A as
22 required by Public Resources Code section 21167.5.

23 29. Petitioners have served the Attorney General with a copy of the Petition and Complaint
24 along with a notice of filing, in compliance with Public Resources Code section 21167.7 and Code of
25 Civil Procedure section 388, and provide the notice and proof of service as Exhibit B.

26 30. Petitioners have performed any and all conditions precedent to filing this instant action

27 _____
28 ¹ CEQA Guidelines are codified in title 14, section 15000 et seq. of the California Code of Regulations;
all references to “CEQA Guidelines” refer to these sections in title 14.

1 and have exhausted any and all available administrative remedies to the extent required by law.

2 31. Petitioners do not have a plain, speedy, or adequate remedy at law because Petitioners
3 and their members will be irreparably harmed by the ensuing environmental damage caused by
4 implementation of the Rodeo Project and the County’s violations of CEQA.

5 IV. CEQA LEGAL BACKGROUND

6 32. The California Environmental Quality Act is a comprehensive statute designed to provide
7 for long-term protection of the environment. Cal. Pub. Res. Code §§ 21000–21189. CEQA review
8 informs decisionmakers and the public about the potential significant environmental effects of a project.
9 CEQA Guidelines, § 15002(a)(1). Such disclosure ensures that “long term protection of the environment
10 . . . shall be the guiding criterion in public decisions.” Cal. Pub. Res. Code § 21001(d). The EIR is the
11 “heart” of this requirement. *See No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 84 (1974). The EIR
12 has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its
13 responsible officials to environmental changes before they have reached ecological points of no return.”
14 *County of Inyo v. Yorty*, 32 Cal. App. 3d 795, 810 (1973).

15 33. An EIR must identify and describe “[d]irect and indirect significant effects of the project
16 on the environment.” CEQA Guidelines, § 15126.2(a). An EIR must also identify and analyze
17 cumulative effects when the “incremental effects of an individual project are significant when viewed in
18 connection with the effects of past projects, the effects of other current projects, and the effects of
19 probable future projects.” CEQA Guidelines, § 15065(a)(3); *id.* § 15130(a).

20 34. CEQA requires public agencies to avoid or reduce environmental damage whenever
21 feasible by considering changes in projects through project alternatives or enforceable mitigation
22 measures. *See* CEQA Guidelines, §§ 15002(a)(2)–(3), 15126.4(a)(1)–(2); *see also Citizens of Goleta*
23 *Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 564 (1990). To measure the environmental damages of a
24 project and provide adequate mitigation, CEQA and its implementing guidelines require that an EIR
25 “include a description of the physical environmental conditions in the vicinity of the project” that
26 generally reflect conditions “as they exist at the time the notice of preparation is published.” CEQA
27 Guidelines, § 15125(a), (a)(1). This baseline is a key component in identifying and quantifying a
28 project’s environmental effects and the starting point from which a lead agency measures whether an

1 impact may be environmentally significant. *Id.* Without an adequate baseline description, “analysis of
2 impacts, mitigation measures and project alternatives becomes impossible.” *Save our Peninsula Comm.*
3 *v. Monterey Cnty. Bd. of Supervisors*, 87 Cal. App. 4th 99, 124 (2001) [quoting *County of Amador v. El*
4 *Dorado Cnty. Water Agency*, 76 Cal. App. 4th 931, 953 (1999)].

5 35. When the lead agency approves a project which will result in significant and unavoidable
6 effects, the agency must provide reasons, supported by substantial evidence, to support its approval.
7 CEQA Guidelines, § 15093(b).

8 36. After releasing a draft EIR for public comment, the lead agency must evaluate comments
9 received and offer a good faith, reasoned analysis in response. CEQA Guidelines, § 15088(a), (c). Major
10 environmental issues raised when the lead agency’s position differs with recommendations and
11 objections raised in the comments must be addressed in detail. *Id.* § 15088(c).

12 V. STATEMENT OF FACTS

13 A. Community and Environmental Setting

14 37. Contra Costa County has just over 1.1 million residents, making it the tenth most
15 populous county in the state. The town of Rodeo is 3.75 square miles and home to around 9,600
16 residents.²

17 38. Contra Costa County is within the San Francisco Bay Area Air Basin, which is in
18 nonattainment (i.e., noncompliance) for state air pollution standards for coarse particulate matter
19 (“PM₁₀”) and state and federal air pollution standards for fine particulate matter (“PM_{2.5}”) and ground-
20 level ozone (smog). These air pollutants are linked to serious health problems such as premature death in
21 people with heart or lung disease, aggravated asthma, and other respiratory ailments.³

22 39. Rodeo is considered an environmental justice community where residents are
23 disproportionately burdened by pollution and particularly vulnerable to health harms as a result. In 2022,
24
25

26 ² *Quick Facts: Rodeo CDP, California*, U.S. Census Bureau,
<https://www.census.gov/quickfacts/fact/table/rodeocdpcalifornia/SBO001212> (last visited June 2, 2022).

27 ³ *Health and Environmental Effects of Particulate Matter (PM)*, U.S. Env’t Prot. Agency,
28 <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm> (last visited
June 1, 2022).

1 CalEPA designated Rodeo as a disadvantaged community (top 25 percentile).⁴

2 40. According to CalEnviroScreen, residents in the census tract nearest the Phillips 66
3 Refinery experience a pollution burden and population vulnerability worse than 87 percent of the state,
4 with some indicators ranking as high as 97 percent, indicating that those communities are among the
5 most heavily impacted areas in California.⁵ These communities are heavily exposed to toxic air
6 contaminants, including diesel and particulate matter.⁶ Communities in this census tract experience an
7 increased risk of asthma and cardiovascular disease, and newborns in these areas have an increased risk
8 of having low birthweight.⁷ Based on CalEnviroScreen indicators, the County also identified Rodeo as a
9 disadvantaged community.⁸

10 **B. Biofuel Trends in the United States and California**

11 41. The United States is among the largest biofuel producers in the world and is expected to
12 significantly increase production capacity over the next few years.⁹ As of 2021, almost 20 biofuel
13 projects have been proposed or are already under construction across the United States.

14 42. In California alone, several petroleum refinery conversions are currently taking place to
15 process non-crude oil feedstocks. Less than 10 miles from the Rodeo Project, the Marathon Refinery in
16 Martinez aims to convert its shuttered crude refinery into a facility that processes over 17 million barrels
17 per year of biofuels (at 48,000 barrels per day, or bpd).¹⁰ In the Central Valley, Bakersfield Renewable

18 _____
19 ⁴ *SB 535 Disadvantaged Communities*, Cal. Off. of Env't Health Hazard Assessment,
<https://oehha.ca.gov/calenviroscreen/sb535> (last visited June 1, 2022) (see "List of Disadvantaged
Communities (2022) Spreadsheet" at bottom of website).

20 ⁵ Cal. Off. of Env't Health Hazard Assessment, CalEnviroScreen 4.0,
21 <https://experience.arcgis.com/experience/11d2f52282a54cee6184203/page/home/?org=OEH>
HA (last visited June 2, 2022) (search for "Census Tract: 6013358000").

22 ⁶ *Id.*

23 ⁷ *Id.*

24 ⁸ See Contra Costa County, *Envision Contra Costa 2040, Rodeo* (May 21, 2020),
https://envisioncontracosta2040.org/wp-content/uploads/2020/08/Rodeo_Draft_5-21-2020.pdf. SB 1000
requires governments to integrate environmental justice into General Plans.

25 ⁹ Sean Hill et al., *U.S. Renewable Diesel Capacity Could Increase Due to Announced and Developing*
26 *Projects*, U.S. Energy Info. Admin., (July 29, 2021), [https://www.eia.gov/todayinenergy](https://www.eia.gov/todayinenergy/detail.php?id=48916)
[/detail.php?id=48916](https://www.eia.gov/todayinenergy/detail.php?id=48916).

27 ¹⁰ *Marathon Petroleum to Convert Martinez Refinery to Renewable Fuels Facility*, Biofuels Central
28 (Mar. 9, 2021), [https://biofuelscentral.com/marathon-petroleum-convert-martinez-refinery-renewable-](https://biofuelscentral.com/marathon-petroleum-convert-martinez-refinery-renewable-fuels-facility/)
[fuels-facility/](https://biofuelscentral.com/marathon-petroleum-convert-martinez-refinery-renewable-fuels-facility/).

1 Fuels is converting the closed Alon Bakersfield Refinery into a 15,000 bpd biorefinery.¹¹ And in
2 Southern California, there are two proposed refinery conversions. The AltAir Refinery in the City of
3 Paramount is proposing to process 25,000 bpd of animal fat and vegetable oil feedstock, and the
4 Chevron Refinery in El Segundo plans to co-process up to 10,000 bpd of non-crude oil feedstock.¹²

5 43. Biofuels are fuels generated from plant oil or animal fat feedstock, which are a part of the
6 food system. There are several categories of biofuel end products, including biodiesel and renewable
7 diesel.¹³ Biodiesel refers to petroleum diesel blended with animal fats, vegetable oils and/or cooking
8 greases.¹⁴ Renewable diesel refers to biofuels that are not blended with petroleum.¹⁵

9 44. Refining biofuel feedstocks can be more carbon intense than crude oil refining. This is
10 largely because many feedstocks have more oxygen than crude oil, which then requires more hydrogen
11 production to remove the oxygen. Feedstock choice can drive up the magnitude of carbon emissions. For
12 example, processing soybean oil into fuel emits more carbon than processing animal fat.

13 45. Biofuels require massive amounts of crops, which in turn require significant land
14 dedicated to agriculture, fertilizer, pesticides, and other energy intensive resources. There is broad
15 consensus in scientific literature that increased demand for food crop biofuel feedstocks drives climate
16 environmental harms and climate change.¹⁶

17 46. Biofuel refineries draw from the same feedstock pool; therefore, each refinery competes
18
19

20 ¹¹ *GCEH's Retooled Biorefinery is on Schedule to be Operational in Q1 2022*, Global Clean Energy
Holdings, <https://www.gceholdings.com/production> (last visited June 1, 2022).

21 ¹² AltAir Renewable Fuels Conversion Project, Draft Supplemental EIR at ES-4; Janet McGurty,
22 *Chevron Expands Renewable Fuels Output with More Lower Carbon Business Spending*, S&P Global
Platts (Sept. 14, 2021), [https://www.spglobal.com/commodityinsights/en/market-insights/latest-
23 news/agriculture/091421-chevron-expands-renewable-fuels-output-with-more-lower-carbon-business-
spending](https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/agriculture/091421-chevron-expands-renewable-fuels-output-with-more-lower-carbon-business-spending).

24 ¹³ *Biofuels Explained*, U.S. Energy Info. Admin., <https://www.eia.gov/energyexplained/biofuels/> (last
updated Mar. 29, 2022).

25 ¹⁴ *Biofuels Explained: Biodiesel, renewable diesel, and other biofuels*, U.S. Energy Info. Admin.,
<https://www.eia.gov/energyexplained/biofuels/biodiesel.php> (Feb. 10, 2022).

26 ¹⁵ *Id.*

27 ¹⁶ See Zhou, Y. et al., *Potential biomass-based diesel production in the United States by 2032*, Int'l
28 Council on Clean Transp. (Feb. 2020),
https://theicct.org/sites/default/files/publications/Potential_Biomass-Based_Diesel_US_02282020.pdf.

1 in the same markets for limited quantities of feedstock.¹⁷ According to some estimates, by 2024, there
2 will be a 13 billion pound feedstock deficit as more processing capacity comes online.¹⁸

3 47. Increased demand for purpose-grown biofuel crops raises food prices and generates food
4 insecurity in the United States and around the world.¹⁹ The pressure on the supply of crops like corn and
5 soy for biofuels translates into less of those crops available for food, translating into inflation and higher
6 prices. Lower-income people are disproportionately vulnerable to these forces because they spend a
7 large share of their incomes on food.²⁰

8 C. Phillips 66 Refinery Background

9 48. Phillips 66 operates a crude oil refinery (the Phillips 66 Refinery, or the Refinery) on a
10 495-acre parcel at 1380 San Pablo Ave in Rodeo. Built in 1896, the Refinery was the San Francisco Bay
11 Area's first major oil refinery and is the oldest refinery on the West Coast.²¹

12 49. The facility is permitted to process a maximum crude oil throughput of 117,000 bpd for
13 use in products, such as gasoline, diesel, jet fuel, fuel oil, liquefied petroleum gas, and other petroleum-
14 based products. The Refinery processed 105,000 bpd of crude oil and gas in 2019.

15 50. The facility already has capacity to produce 12,000 to 13,000 bpd of renewable fuels. It
16 developed this capacity in 2021 after converting diesel hydrotreater Unit 250 from petroleum distillate to
17 soybean oil processing.

18 51. The Refinery, situated along the San Pablo Bay, is bordered by the Bayo Vista residential
19 area of Rodeo to the southwest, and the residential enclave of Tormey to the east. The community of
20 Rodeo is to the south and west.

22 ¹⁷ See, e.g., Stephanie Kelly, *U.S. Renewable Fuels Market Could Face Feedstock Deficit*, Reuters, Apr.
23 9, 2021, <https://www.reuters.com/business/energy/us-renewable-fuels-market-could-face-feedstock-deficit-2021-04-09/>.

24 ¹⁸ *Id.*

25 ¹⁹ David Tenenbaum, *Food vs. Fuel: Diversion of Crops Could Cause More Hunger*, 116 *Env't Health*
26 *Perspect* A254 (2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2430252/>.

27 ²⁰ Int'l Food and Pol'y Rsch. Inst., *Biofuels and Food Security* (2008),
28 <https://www.ifpri.org/publication/biofuels-and-food-security>.

29 ²¹ Bernardo Fallas, Phillips 66 Corporate Communications, *Phillips 66 celebrates 125 years in Bay Area*
30 *with nod to past, commitment to future*, Phillips 66 (Feb. 26, 2021),
31 https://www.phillips66.com/newsroom/phillips_66_rodeo_refinery_celebrates_125-years.

1 **D. The Proposed Rodeo Renewed Project and Its Environmental Impacts**

2 52. On August 13, 2020, Phillips 66 applied for a land use permit for its Rodeo Renewed
3 Project.²² The Rodeo Project’s objective is to convert portions of the existing Phillips 66 crude oil
4 refinery into a facility that processes food system feedstocks into renewable diesel, other transportation
5 fuels, and fuel gas, while also producing some petroleum-based products.

6 53. If completed, the Rodeo Project would be one of the largest biofuels refineries in the
7 world. In total, the conversion Project would produce up to 107,000 bpd of fuels. Of this, up to 67,000
8 bpd (or over 24.4 million barrels per year, the equivalent to 1 billion gallons per year) would come from
9 renewable feedstocks.²³ The remaining 40,000 bpd would be gasoline and gasoline blendstocks, a
10 28,000 bpd increase over 2019.

11 54. The Project estimates eight categories of bio-based feedstocks could be utilized: used
12 cooking oil, fats/oils/greases (FOG), animal fat, inedible corn oil, canola oil, soybean oil, other
13 vegetable-based oils, and/or emerging and other next-generation feedstocks. The EIR states that this list
14 is illustrative, and other feedstocks could be added.

15 55. Feedstocks would arrive primarily by tanker, barge, and railcar, but possibly also by
16 truck. Under the Project, marine traffic would increase markedly. Tanker vessels, for example, would
17 increase over two-fold from 80 calls/year to 201; similarly, barges would increase from 90 calls/year to
18 161. If the Project has excess feedstock that is not processed onsite, it will be exported via marine
19 vessels. Increases in marine vessel traffic because of the Project will, in turn, increase the risk of
20 introduction of non-native invasive species, vessel strikes of marine mammals and sturgeon, and biofuel
21 spills, which can harm or kill aquatic plants and animals.

22 56. The EIR estimates that rail cars unloaded per day would also increase from 4.7 up to 16.
23 Truck trips would vary depending on local conditions and demand, but the EIR estimates the Project
24 will require 16,000 truck trips per year.

25 _____
26 ²² *Phillips 66 Rodeo Renewed Project Overview*, Contra Costa Conservation and Dev.,
27 <https://www.contracosta.ca.gov/7945/Phillips-66-Rodeo-Renewed-Project> (last visited June 2, 2022).

28 ²³ Because of the facility’s existing capacity to produce 12,000 bpd of renewable fuels, the DEIR frames
its analysis as only addressing the additional 55,000 bpd of renewable fuels planned for the Project.

1 57. Because the Project would discontinue processing crude oil, the Santa Maria Refinery—
2 which supplies much of the crude to the Refinery—would be demolished, as would other infrastructure
3 components at the Rodeo site. The Project would also entail construction of new structures, such as a
4 biofuel feed processing unit with an 80,000 bpd capacity.

5 58. The EIR estimates that demolition and construction at the Rodeo site would last
6 approximately 21. These activities would result in significant fugitive dust emissions, as well as exhaust
7 emissions of criteria pollutants including reactive organic gases and NO_x (a component of ground-level
8 ozone, commonly known as smog). The EIR’s estimate for NO_x emissions—at 260 pounds per day—
9 would be well above the Bay Area Air Quality Management District’s significance threshold of 54
10 pounds per day.

11 59. In addition to subjecting community members to increased pollution during demolition
12 and construction, once operational, the Project will result in significant environmental and health
13 impacts. The EIR estimates that when finished, the Project will release 129 tons per year (tpy) of volatile
14 organic compounds (VOCs), 505 tpy of NO_x, over 160 tpy of particulate matter (PM), and over 300 tpy
15 of SO₂, among other pollutants.

16 60. The Project will generate GHGs from activities such as construction, biofuel processing,
17 transportation of feedstocks and finished products, and employee vehicle trips. The EIR estimates that
18 construction would emit approximately 480 megatons (MT) per year of CO₂e. The EIR estimates that
19 annual GHG emissions from Project operations would reach over 2.1 million MT, though this estimate
20 does not include GHG emissions generated by upstream activities such as deforestation and land
21 conversion to grow biofuel crops.

22 61. Though not analyzed in the EIR, biofuel feedstocks demanded by the Project would lead
23 to land use conversion (meaning, grasslands and wetlands are destroyed to grow fuel crops),
24 deforestation, or both. These landscape changes not only result in direct GHG emissions, but the
25 reduction in natural carbon “sinks” like wetlands translates into less natural capacity to store
26 atmospheric GHG. Converting land to grow more biofuel crops and destroying forests also leads to
27 human health harms, habitat loss for plant and animal species, and detriment and injustice to Indigenous
28 populations.

1 62. Further, the amount of biofuels the Project would produce (particularly when combined
2 with other biofuel projects planned in California) would lead to an oversupply of renewable diesel that
3 could cause a net increase in GHG emissions because of the resulting need to export excess fuels, a
4 result known as “emission shifting.”

5 **E. Environmental Review and the Proposed Biofuels Project Approval Process**

6 63. The County of Contra Costa is the public agency with principal responsibility for
7 approving the Project under CEQA. On December 21, 2020, the DCD announced that the County would
8 prepare an EIR to assess the environmental impacts of the Rodeo Project.

9 64. On October 14, 2021, the DCD released a draft EIR for public review.²⁴ Comments
10 closed on December 17 of that year, with the DCD receiving 86 comment letters and over 1,600 form
11 letters both opposing and supporting the project.²⁵

12 65. The EIR identified significant and unavoidable effects from the project on air quality,
13 biological resources, hydrology/water quality, and hazards/hazardous materials.²⁶ Potentially significant
14 impacts that the EIR stated could be mitigated to a less-than-significant level would affect air quality,
15 biological resources, cultural and tribal cultural resources, geology and soils, and transportation and
16 traffic.²⁷

17 66. Petitioners submitted comments highlighting numerous flaws in the EIR, including with
18 respect to the Project description, environmental and cumulative impacts analysis, selected baseline,
19 consideration of alternatives, and adequacy of mitigation measures, among other deficiencies.

20 67. The DCD released the final EIR on March 15, 2022.²⁸ The final EIR provided responses
21

22 ²⁴ Contra Costa Cnty. Dep’t of Conservation and Dev., *Notice of Availability of a Draft Environmental*
23 *Impact Report for the Phillips 66 Rodeo Renewed Project (No. 2020120330)* (Oct. 14, 2021),
[https://www.contracosta.ca.gov/DocumentCenter/View/72873/Notice-of-Availability-for-LP20-2040-
Rodeo-Renewed-PDF](https://www.contracosta.ca.gov/DocumentCenter/View/72873/Notice-of-Availability-for-LP20-2040-Rodeo-Renewed-PDF).

24 ²⁵ Contra Costa Cnty. Dep’t of Conservation and Dev., Cnty. Plan. Comm’n, *Staff Report: Phillips 66*
25 *Rodeo Renewed Project* (Mar. 30, 2022) at 10,
<https://www.contracosta.ca.gov/DocumentCenter/View/74662/CDLP20-02040-cpc-web-version-rev>.

26 ²⁶ *Id.*

27 ²⁷ *Id.* at 11.

28 ²⁸ *Phillips 66 Rodeo Renewed Project Overview*, Contra Costa Conservation and Dev.,
<https://www.contracosta.ca.gov/7945/Phillips-66-Rodeo-Renewed-Project> (last visited June 2, 2022).

1 to comments but did not incorporate changes necessary to address the deficiencies of the EIR.

2 Petitioners submitted comments on the final EIR.

3 68. On March 30, 2022 the County Planning Commission (the Commission) approved the
4 land use permit, certified the EIR, and recommended that the County Board of Supervisors approve the
5 Rodeo Project.²⁹

6 69. On April 7, 2022, Petitioners and other organizations appealed to the County Board of
7 Supervisors, asserting that the Commission’s decision to certify the EIR violated the requirements of the
8 CEQA and was not supported by the evidence presented. The appealing groups requested that the Board
9 of Supervisors grant the appeal, reject certification of the final EIR, and direct the DCD and Planning
10 Commission to develop a revised draft EIR for public comment.

11 70. On May 3, 2022, the County Board of Supervisors held a public hearing to consider the
12 environmental review and approvals for the Project.³⁰ During the public hearing, community members
13 and concerned Bay Area residents spoke in opposition to the Rodeo Project, raising concerns about the
14 increased pollution, climate impacts, lack of specific information on biofuel feedstocks, likelihood of
15 nuisance odors, and more.

16 71. Despite the concerns raised about the sufficiency of the EIR as an informational
17 document and significant impacts that would be caused by the Project, the Board of Supervisors voted
18 unanimously to certify the EIR and approve the Project.³¹

19 72. On May 9, 2022, the Contra Costa County Clerk posted the Notice of Determination
20 providing notice of the County’s final decision triggering the 30-day statutory deadline under CEQA to
21 challenge the certification of the final EIR. CEQA Guidelines, § 15112(c)(1).

22
23
24 _____
25 ²⁹ See Contra Costa Cnty. Planning Comm’n, *Special Meeting* (Mar. 30, 2022),
<https://www.contracosta.ca.gov/AgendaCenter/ViewFile/Agenda/4201?html=true>.

26 ³⁰ See Contra Costa Cnty. Bd. of Supervisors, *Special Meeting Agenda* (May 3, 2022),
27 http://64.166.146.245/agenda_publish.cfm?id=&mt=ALL&get_month=4&get_year=2022&dsp=ag&seq=2028.

28 ³¹ *Phillips 66 Rodeo Renewed Project Overview*, Contra Costa Conservation and Dev.,
<https://www.contracosta.ca.gov/7945/Phillips-66-Rodeo-Renewed-Project> (last visited June 2, 2022).

1 **FIRST CAUSE OF ACTION**

2 **(Violations of CEQA – Public Resources Section 21000, et seq.)**

3 73. Petitioners incorporate herein by reference the allegations contained in the foregoing
4 paragraphs.

5 74. The County violated CEQA by certifying a legally deficient EIR and by approving the
6 Project without adequate environmental review. The County’s CEQA violations include the following:

- 7 a. The County failed to require that the EIR base its environmental review and analyses on
8 an accurate, stable, complete, and finite description of the Rodeo Project that fully
9 discloses and fairly evaluates the Project’s nature and objectives. The description of the
10 Project failed to provide decisionmakers and the public with enough information to
11 understand its environmental impacts, appropriate mitigation, and potential alternatives.

12 For instance, the project description is inaccurate and incomplete in the following ways:

- 13 i. The EIR fails to analyze impacts from the biofuel refining technology that the
14 Project would use, even though this technology—known as the Hydrotreating
15 Esters and Fatty Acids (HEFA)—has specific types of impacts, capabilities, and
16 limitations that distinguish it from other biofuel technologies. Further, the EIR
17 fails to describe aspects of the Project related to this HEFA technology, including
18 process chemistry for HEFA.
- 19 ii. The EIR’s description of the Project’s biofuel feedstocks—a core Project
20 component—is both speculative and incomplete. The EIR merely lists a wide
21 variety of potential types of biofuel feedstocks that the Project may process. The
22 EIR fails, however, to analyze feedstock availability, constraints, and reasonably
23 foreseeable estimates of which feedstocks may be used and in what amount or
24 proportion. The EIR fails to even evaluate a “reasonable worst case scenario” for
25 feedstock consumption and impacts. Vague allusions to different feedstocks and
26 potential changes over time do nothing to inform the public or decisionmakers
27 about the type or magnitude of the Project’s potential environmental impacts, as
28 different impacts—such as air pollution, climate impacts, species impacts,

1 objectionable odor impacts, and more—flow from the choice of feedstock. The
2 mere existence of uncertainty around feedstock use does not justify the EIR’s
3 wholesale failure to address feedstock-specific impacts or any feedstock-varying
4 scenarios. Further, the EIR’s failure to specify Project feedstocks with certainty
5 makes the Project description vague and unstable and prevents meaningful
6 assessment and mitigation of its likely impacts.

7 iii. While the EIR estimates throughput volumes of feedstocks received and
8 processed at the Refinery, nothing constrains the Project from significantly
9 exceeding described throughput volumes. As many Project environmental
10 impacts are a function of throughput volumes, the lack of a cap on or stable and
11 reliable description of maximum throughput volumes undermines a meaningful
12 assessment of Project impacts.

13 iv. The EIR fails to describe pieces of infrastructure that are functionally part of
14 converting the crude Refinery to the biofuels Project, including:

15 (1) Unit 250, which was converted after the EIR process began from
16 petroleum distillate to biofuel processing; and

17 (2) The approximately 2300-foot pipeline connecting Nustar Shore Terminals,
18 a liquid hydrocarbons transfer and storage facility, with the Project site.

19 This pipeline which will carry pretreated soybean oil feedstock to existing
20 tankage and the Unit 250 hydrotreater.

21 b. The County failed to measure the impacts of the Project using an accurate or realistic
22 baseline that reflects existing physical environmental conditions at the time the County
23 published the notice of preparation on December 21, 2020.³² Instead, the EIR uses the
24 year 2019 as its baseline, despite severe and increasing constraints on the Refinery’s
25 access to crude, and even though Phillips 66 announced plans in 2020 to close the
26

27 ³² Contra Costa Cnty. Dep’t of Conservation and Dev., *Notice of Preparation: Rodeo Renewed Project*
28 (Dec. 21, 2020), https://www.contracosta.ca.gov/DocumentCenter/View/69279/LP20-2040_NOP?bidId=.

1 facility's main source of crude feedstock, the Santa Maria refinery. The EIR's baseline is
2 misleading and prevented decisionmakers and the public from understanding the
3 Project's likely environmental impacts of processing mainly biofuels.

4 c. The County failed to adequately analyze cumulative impacts of the Project, including in
5 the following ways:

6 i. The EIR uses an overly narrow and arbitrary three-mile geographic radius around
7 the Project site to identify projects and activities considered for the cumulative
8 impacts analysis. The County provided no rationale or evidentiary support for use
9 of this geographic limitation, or for selecting a cumulative impacts scope based
10 on a geographic limitation at all.

11 ii. Instead of performing an actual cumulative impacts analysis of the nearby
12 Marathon refinery conversion in Martinez—a project located less than ten miles
13 from the Rodeo site—the EIR makes only passing mention of this project. These
14 passing references do not substitute for consideration of what the cumulative
15 impacts of two nearby, large-scale biofuels refining projects could be on air
16 quality, odors, noise, vessel traffic, biofuel demand, and other metrics.

17 iii. The EIR fails to analyze the environmental and climate impacts that will result
18 from competition for limited quantities of feedstock and increases in oil crop
19 production or foreign imports that are associated with current biofuel trends.

20 d. The County failed to adequately disclose and evaluate the Rodeo Project's environmental
21 impacts, and failed to respond to public comments concerning a variety of significant
22 environmental effects of the Project, including the following:

23 i. The EIR fails to adequately describe the range and volumes of feedstocks that
24 could be processed and their differing environmental impacts. The EIR lists as
25 potential feedstocks cooking oil; FOG; tallow; inedible corn oil; canola oil;
26 soybean oil; other vegetable-based oils; and emerging and other next-generation
27 feedstocks. But these categories are overbroad and the EIR does not provide
28 market analyses on the availability of these feedstocks and reasonably foreseeable

1 estimates of which feedstocks the facility is likely to rely on. Nor does the EIR
2 evaluate the environmental impacts specific to potential Project feedstocks.

- 3 ii. The EIR fails to disclose and analyze the Project’s climate change impacts. By
4 not estimating the potential feedstock types that could be used, the EIR ignores
5 the broad consensus in scientific literature that certain feedstocks can induce land
6 use conversion and/or deforestation—both of which have significant negative
7 environmental and climate change implications. Further, the EIR erroneously
8 substituted reliance on upstream climate impacts found in California’s Low
9 Carbon Fuel Standard program-level environmental assessment in lieu of a
10 project-specific analysis. The EIR also ignores that the amount of biofuels
11 demanded by the Rodeo Project—which, on its own, would be one of the largest
12 biofuels refineries in the world--when taken in concert with the other biofuels
13 projects planned for the state could lead to an oversupply of biofuels that will
14 trigger the need to export more fuels, thus increasing greenhouse gas emissions.
- 15 iii. The EIR did not adequately disclose or analyze impacts to species, including from
16 indirect impacts caused by land conversion and deforestation.
- 17 iv. The EIR fails to disclose or evaluate varying air emissions impacts that could
18 result from using different types of feedstocks. Processing different types of
19 biofuels can increase and alter processing emissions and cause air pollution
20 increases. Additionally, contaminants in feedstocks themselves can be released
21 during processing, adding to the air emissions burden. By not estimating
22 feedstock amounts and types, the EIR’s air emissions analysis is incomplete and
23 uninformative.
- 24 v. The EIR fails to analyze the impacts of demolishing or decommissioning parts of
25 the crude oil refinery that will no longer be needed and resulting contamination
26 hazards. The Project site is heavily contaminated, which gives rise to issues
27 concerning both how decommissioned portions of the site will be addressed, and
28 how construction needed for converting the Refinery to biofuels may affect

1 remediation and monitoring activities.

2 vi. The EIR fails to fully address the increased risk of operational upsets associated
3 with the Project. Processing biofuels using HEFA technology can cause an
4 increased number of process upsets that can lead to worker and public hazards.
5 These upsets can also result in increased flaring, which itself is a cause of air
6 pollution. The EIR did not disclose and properly mitigate the impacts from upsets
7 and flares, and the EIR did not include a flare minimization plan.

8 e. The County failed to consider, discuss, or adopt adequate mitigation measures to
9 minimize the Rodeo Project's significant and detrimental impacts, or otherwise
10 improperly deferred mitigation necessary to minimize the Project's impacts, including
11 but not limited to the following:

12 i. The County improperly approved the Project even though the EIR unlawfully
13 deferred addressing potential odors from the Project, which may be considerable
14 and significant depending on the feedstocks used. Instead, the County proposed to
15 develop an odor management plan after Project approval rather than setting forth
16 and analyzing the proposed mitigation in the EIR itself, as CEQA requires.
17 Further, the County failed to show that it would be infeasible to develop and
18 analyze the mitigation in the EIR or to commit itself to cognizable performance
19 standards or criteria for the eventual mitigation.

20 ii. The EIR notes that feedstock or refined products spills will have significant and
21 unavoidable impacts on species, but the EIR offers no enforceable guarantee that
22 a large spill of biofuels will even be responded to, let alone cleaned up
23 effectively, and there is no analysis of what such a cleanup would entail or the
24 damage such a spill could cause.

25 f. The County failed to adequately analyze a reasonable range of alternatives and rejected
26 feasible alternatives that would substantially lessen the Rodeo Project's significant
27 environmental effects.

28 i. The EIR created narrow objectives to ensure the Project would be approved as

1 proposed and to dismiss from consideration other feasible alternatives with less
2 significant environmental impacts, including a reduced throughput alternative.

3 ii. Further, the EIR selected as a “no project” alternative a fictitious scenario wherein
4 the crude Refinery, and Santa Maria site, would continue historic operations. This
5 choice is not supported by the evidence that historic operations are no longer
6 likely or viable.

7 75. The County violated CEQA by failing to adequately respond to comments on the EIR,
8 including, but not limited to, ignoring or dismissing in a cursory fashion suggestions of feasible
9 mitigation measures and alternatives.

10 76. The County violated CEQA by adopting findings and a statement of overriding
11 considerations that are not supported by substantial evidence in the record. The findings do not provide
12 the reasoning, or analytic route from facts to conclusions, as required by law.

13 77. If the County and Real Party in Interest are not enjoined from moving forward with
14 permitting, constructing and operating the Rodeo Project without adequate environmental analysis and
15 mitigation, and without complying with CEQA’s environmental review and evidentiary requirements,
16 Petitioners will suffer irreparable harm from which there is no plain, speedy, or adequate remedy at law
17 unless this Court grants the requested writ of mandate.

18 78. By certifying the final EIR and by approving the Rodeo Project, the County committed a
19 prejudicial abuse of discretion, failed to proceed in the manner required by law, and acted without
20 substantial evidentiary support.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioners pray for judgment as set forth below:

23 A. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant to Code of
24 Civil Procedure section 1094.5, or in the alternative section 1085, directing the County to:

- 25 1. Set aside and withdraw its certification of the final EIR and adoption of the statement of
26 overriding considerations;
- 27 2. Set aside and withdraw all approvals for the Rodeo Project, including the land use permit
28 (County File No. LP20-2040); and

1 3. Refrain from granting any further approvals for the Project unless and until the County
2 complies fully with the requirements of CEQA.

3 B. For entry of injunctive relief prohibiting the County and the Real Party in Interest from
4 constructing and operating the Project, and from taking any action to implement, fund, or
5 construct any portion or aspect of the Project, until the County complies fully with the
6 requirements of CEQA by vacating the certified final EIR, setting aside and withdrawing all
7 approvals issued in reliance on the final EIR, and conducting a new environmental review
8 process that complies with CEQA's requirements as set forth herein.

9 C. For Petitioners' fees and costs, including reasonable attorneys' fees and costs, as authorized by
10 Code of Civil Procedure section 1021.5 and any other applicable provisions of law.

11 D. For such other legal and equitable relief as this Court deems appropriate and just.

12 Respectfully Submitted,

13 DATED: June 7, 2022

SHUTE, MIHALY & WEINBERGER LLP

14 By: 
15 _____

ELLISON FOLK
JOSEPH D. PETTA

17 DATED: June 7, 2022

ENVIRONMENTAL LAW CLINIC

18
19 By: 
20 _____

DEBORAH A. SIVAS
STEPHANIE L. SAFDI
MATTHEW J. SANDERS

21
22 Attorneys for Petitioners
COMMUNITIES FOR A BETTER
23 ENVIRONMENT and CENTER
FOR BIOLOGICAL DIVERSITY

24
25 DATED: June 7, 2022

COMMUNITIES FOR BETTER ENVIRONMENT

26 By: 
27 _____

SHANA LAZEROW
CONSTANCE CHO

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DATED: June 7, 2022

CENTER FOR BIOLOGICAL DIVERSITY

By 

VICTORIA BOGDAN TEJEDA
HOLLIN KRETZMANN

1516291.1

1 VERIFICATION

2
3 I, Peter Galvin, declare as follows:

4 I am the Director of Programs at the Center for Biological Diversity, one of the
5 Petitioners in this action, and am authorized to execute this verification on Petitioners' behalf. I
6 have read the foregoing Petition for Writ of Mandate and know its contents.

7 The facts alleged in the above Petition, not otherwise supported by exhibits or other
8 documents, are true of my own knowledge, except as to matters stated on information and belief,
9 and as to those matters I believe them to be true.

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

12 Executed on June 7, 2022, at Shelter Cove, California.

13
14 Peter Galvin
15 _____
16 Print Name of Signatory

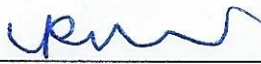
17 
18 _____
19 Signature

Exhibit A

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

JOSEPH D. PETTA
Attorney
Petta@smwlaw.com

June 3, 2022

Via E-mail and U.S. Mail

Chair Mitchoff and Members of the Contra
Costa County Board of Supervisors
1025 Escobar Street
Martinez, CA 94553
Monica.Nino@cao.cccounty.us

Re: Phillips 66 Rodeo Renewed Project (County File Number CDLP20-02040)

Dear Chair Mitchoff and Members of the Board of Supervisors:

This letter is to notify you that Communities for a Better Environment and the Center for Biological Diversity will file suit against the County of Contra Costa (“County”) for failure to observe the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 et seq., and the CEQA Guidelines, California Code of Regulations section 15000 et seq., in the administrative process that culminated in the County’s decision to approve the Rodeo Renewed Project on May 3, 2022. This notice is given pursuant to Public Resources Code section 21167.5.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Joseph “Seph” Petta

PROOF OF SERVICE

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

On June 3, 2022, I served true copies of the following document(s) described as:

NOTICE OF INTENT TO SUE LETTER

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

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

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

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

Executed on June 3, 2022, at San Francisco, California.



David H. Weibel

SERVICE LIST

Chair Mitchoff and Members of the Contra
Costa County Board of Supervisors
1025 Escobar Street
Martinez, CA 94553
Monica.Nino@cao.cccounty.us

Exhibit B

SHUTE MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

JOSEPH D. PETTA
Attorney
Petta@smwlaw.com

June 7, 2022

Via U.S. Mail

Attorney General Rob Bonta
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

Re: Communities for a Better Environment, et al. v. County of Contra Costa

Dear Attorney General Bonta:

Enclosed please find a copy of the Verified Petition for Writ of Mandate ("Petition") in the above-captioned action, challenging Contra Costa County's decision to approve the Rodeo Renewed Project on May 3, 2022. The Petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt in the enclosed prepaid, self-addressed envelope. Thank you.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Joseph "Seph" Petta

Enclosures

1515045.1

PROOF OF SERVICE

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

On June 7, 2022, I served true copies of the following document(s) described as:

NOTICE OF FILING CEQA LITIGATION

on the parties in this action as follows:

Attorney General Rob Bonta
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

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

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

Executed on June 7, 2022, at San Francisco, California.



Tuloa Sanchez