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

COMMUNITIES FOR A BETTER ENVIRONMENT  
and CENTER FOR BIOLOGICAL DIVERSITY,

Petitioners,

v.

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

Respondents.

MARATHON PETROLEUM CORPORATION, an  
Ohio corporation; and TESORO REFINING &  
MARKETING COMPANY LLC, a California limited  
liability company, and DOES 21-40, inclusive,

Real Parties in Interest.

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

### **I. Introduction**

1. Despite its small size of 13.63 square miles, the City of Martinez (the City or Martinez) is home to communities that are some of the most overburdened by pollution in the state. These communities—recognized by CalEPA as “disadvantaged” because of their high exposure to air, water, and soil contamination—suffer from high asthma and low birth weights, as well as high amounts of other respiratory and other ailments linked to pollution. Now, residents are facing further exposure to industrial pollution proposed under the guise of an environmentally beneficial project.

2. Martinez residents were able to breathe a sigh of relief when the Marathon Refinery, which operated in the City for over 100 years, finally idled its operations in 2020. The Refinery had processed millions of barrels per year of crude oil and amassed dozens of permit violations for incidents that compromised air quality and exposed residents to pollutants known to cause long-term health problems.

3. That relief is threatened by the Marathon Refinery’s proposal to repurpose its shuttered facility into a refinery that would receive, process, and ship out plant- and animal-based fuels (known as biofuels), 24 hours a day, seven days a week.

4. Despite proponents’ claims that biofuels are environmentally friendly, they are anything but. Biofuels require converting crops and animal products into fuels, which can contribute to climate change by causing land clearing and deforestation, thereby eliminating natural carbon stores and shrinking species habitat.

5. Biofuel refineries increase demand for crops and drive up food prices, putting prices out of reach for the country and world’s most vulnerable people.

6. For those living near biofuel refineries, significant impacts can include air, water, and soil pollution, nuisance odors, processing upsets and safety hazards, and harmful fuel spills. And because most biofuels are expected to come from the Midwest, communities along the supply route to places like Martinez are likely to experience pollution exposure from transportation modes like diesel trucks and

1 railcars.

2       7.       Marathon’s proposed Martinez Refinery Renewable Fuels Project (the Martinez Project,  
3 or the Project) would process 735 million gallons per year, measured as 17.5 million barrels per year (at  
4 48,000 barrels per day, or bpd), of bio-based feedstocks into diesel fuel, propane, naphtha, and other  
5 byproducts. Biofuels produced by the Martinez Project would then be distributed by truck throughout  
6 Central and Northern California and via ships to destinations outside the Bay Area.

7       8.       On February 17, 2021, the Contra Costa County Department of Conservation and  
8 Development (DCD) announced that, under the California Environmental Quality Act (CEQA), the  
9 County would prepare an Environmental Impact Report (EIR) to assess the Martinez Project. An EIR  
10 aims to ensure that decisionmakers and the public have complete information about a proposed project’s  
11 foreseeable environmental impacts and ways to mitigate or avoid the significant effects before its  
12 approval.

13       9.       On May 3, 2022, the Board of Supervisors of County of Contra Costa voted unanimously  
14 to approve and certify the problematic and unlawful Martinez Project EIR over the objections of  
15 Petitioners as well as residents and other groups.

16       10.      The County treated CEQA as a mere exercise in paperwork by approving the Project  
17 without the disclosure, analysis, and mitigation required under CEQA. The EIR disregards,  
18 underestimates, and ignores key project components, inputs, and impacts, thereby obscuring the  
19 environmental and health harms and preventing the development of effective mitigation measures.

20       11.      Specifically, the EIR uses a highly misleading baseline. Even though the Marathon  
21 Refinery has been shuttered since April 2020 and its owners indicated their intent not to resume  
22 operations processing fossil fuels, the County inappropriately selected a baseline time period when the  
23 Refinery was actively processing crude oil. This irrational choice masks the environmental harms of the  
24 proposed Project.

25       12.      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.

13. The EIR uses an artificially narrow and misleading geographic range for its cumulative impacts analysis. This range shields from public view the combined impacts of this Project and the Phillips 66 biofuels refinery conversion in Rodeo, CA which is located only ten miles away and proceeding along the same timeline as the Martinez Project. It also obscures the upstream impacts from biofuel crop production.

14. The EIR fails to adopt adequate and enforceable mitigation measures for odors and dismisses feasible alternatives that would reduce environmental impacts, including an alternative that reduces throughput.

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

16. The County either dismissed or ignored comments from the community and groups highlighting these—and many other—concerns. As a result of these deficiencies, the EIR fails to fully inform the public and decisionmakers of the Project’s significant health, safety, and environmental impacts, and fails to analyze and mitigate these impacts as CEQA requires. Because the County violated CEQA’s requirements, the residents of Martinez would be subjected to yet another giant industrial facility without due consideration for and minimization of the environmental and public health harms associated with it. Petitioners seek a writ of mandate from this Court to require the County to rectify the multiple and serious deficiencies in the EIR and provide the public with full and honest assessment of this Project’s adverse impacts.

## II. Parties

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

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

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

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

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

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

24           23.     Real Party in Interest MARATHON PETROLEUM CORPORATION, the Project  
25 applicant, is an Ohio corporation and parent company of Real Party in Interest Tesoro Refining &  
26 Marketing Company LLC.

27           24.     Real Party in Interest TESORO REFINING & MARKETING COMPANY LLC, an  
28 indirect, wholly owned subsidiary of Marathon Petroleum Corporation based in San Antonio, Texas, is

1 the registered owner and operator of the Marathon Refinery, which is located at 150 Solano Way in  
2 Martinez, California, 94553.

3 25. Petitioners do not know the true names and capacities, whether individual, corporate,  
4 associate, or otherwise, of respondents and real parties in interest Doe 1 through Doe 40, inclusive, and  
5 therefore sue said respondents and real parties in interest under fictitious names. Petitioners will amend  
6 this Petition to show their true names and capacities when the same have been ascertained. Each of the  
7 respondents is the agent and/or employee of Respondent County, and each performed acts on which this  
8 action is based within the course and scope of such Respondent's agency and/or employment. Each of  
9 the real parties in interest is the agent and/or employee of each other real party in interest; and each  
10 performed acts on which this action is based within the course and scope of such real party in interest's  
11 agency and/or employment.

### 12 **III. Jurisdiction And Venue**

13 26. This Court has jurisdiction to issue a writ of mandate to set aside the County's decision  
14 under Code of Civil Procedure section 1094.5, or, in the alternative, section 1085. Judicial review is  
15 governed under Public Resources Code section 21168.5, or, in the alternative, section 21168.

16 27. Venue is proper in this Court under Code of Civil Procedure section 395 because the  
17 County, its Board of Supervisors, the DCD, and the proposed Project are currently located, or will be  
18 located, in Contra Costa County. Venue is also proper in this Court under Code of Civil Procedure  
19 sections 393 and 394.

20 28. This action was timely filed within 30 days of the Contra Costa County Clerk posting on  
21 its website the Notice of Determination to approve the Project and certify the EIR, in accordance with  
22 Public Resources Code section 21167, subdivision (c) and California Code of Regulations, title 14,  
23 section 15112, subdivision (c)(1).<sup>1</sup>

24 29. Petitioners have provided written notice of their intent to file this petition to the County  
25 and Board of Supervisors and provide the notice and proof of service as Exhibit A as required by Public  
26 Resources Code section 21167.5.

27 <sup>1</sup> CEQA Guidelines are codified in title 14, section 15000 et seq. of the California Code of Regulations;  
28 all references to "CEQA Guidelines" refer to these sections in title 14.

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

31. Petitioners have performed any and all conditions precedent to filing this instant action and have exhausted any and all available administrative remedies to the extent required by law.

32. Petitioners do not have a plain, speedy, or adequate remedy at law because Petitioners and their members will be irreparably harmed by the ensuing environmental damage caused by implementation of the Martinez Project and the County's violations of CEQA.

#### IV. CEQA Legal Background

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

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

35. CEQA requires public agencies to avoid or reduce environmental damage whenever feasible by considering changes in projects through project alternatives or enforceable mitigation measures. *See* CEQA Guidelines, §§ 15002(a)(2)–(3), 15126.4(a)(1)–(2); *see also Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 564 (1990). To measure the environmental damages of a project and provide adequate mitigation, CEQA and its implementing guidelines require that an EIR



“include a description of the physical environmental conditions in the vicinity of the project” that generally reflect conditions “as they exist at the time the notice of preparation is published.” CEQA Guidelines, § 15125(a), (a)(1). This baseline is a key component in identifying and quantifying a project’s environmental effects and the starting point from which a lead agency measures whether an impact may be environmentally significant. *Id.* Without an adequate baseline description, “analysis of impacts, mitigation measures and project alternatives becomes impossible.” *Save our Peninsula Comm. v. Monterey Cnty. Bd. of Supervisors*, 87 Cal. App. 4th 99, 124 (2001) [quoting *County of Amador v. El Dorado Cnty. Water Agency*, 76 Cal. App. 4th 931, 953 (1999)].

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

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

## **V. Statement of Facts**

### **A. Community and Environmental Setting**

38. Contra Costa County has just over 1.1 million residents, making it the tenth most populous county in the state. The city of Martinez is 12.13 square miles and home to around 40,000 residents.<sup>2</sup>

39. Contra Costa County is within the San Francisco Bay Area Air Basin, which is not in compliance with state air pollution standards for 24-hour PM<sub>10</sub>, annual PM<sub>10</sub>, and annual PM<sub>2.5</sub>. Particulate matter, or PM, pollution is linked to serious health problems such as premature death in

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<sup>2</sup> *Quick Facts: Martinez, California*, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/martinezcitycalifornia,CA/PST045221> (last visited June 2, 2022).

1 people with heart or lung disease, aggravated asthma, and other respiratory ailments.<sup>3</sup>

2 40. CalEnviroScreen is a mapping tool developed by California’s Office of Environmental  
3 Health Hazard Assessment that assesses communities at the census tract level to identify those most  
4 burdened by particular kinds of pollution from multiple sources and those most vulnerable to its effects,  
5 based on socioeconomic factors and underlying health status.<sup>4</sup> Based on these factors, census tracts are  
6 assigned a percentile score from 1 to 100.<sup>5</sup> The higher the census tract’s percentile score, the greater the  
7 pollution burdens and population vulnerabilities of residents in that tract as compared to other residents  
8 in the state.<sup>6</sup>

9 41. According to CalEnviroScreen, residents in the census tracts nearest the Marathon  
10 Refinery experience a pollution burden worse than 82-91 percent of census tracts in the state.<sup>7</sup>  
11 Communities in these nearby census tracts experience an increased risk of asthma and cardiovascular  
12 disease, and newborns in these areas have an increased risk of having low birthweight.<sup>8</sup> For these  
13 reasons, in 2022, CalEPA designated Martinez and the communities to the east of the refinery as  
14 disadvantaged under Senate Bill 535.<sup>9</sup>

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

16 42. The United States is among the largest biofuel producers in the world and is expected to  
17  
18

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

21 <sup>4</sup> *See About CalEnviroScreen*, Cal. Off. of Env’t Health Hazard Assessment,  
22 <https://oehha.ca.gov/calenviroscreen/about-calenviroscreen> (last visited June 2, 2022).

23 <sup>5</sup> *Id.*

24 <sup>6</sup> *Id.*

25 <sup>7</sup> Cal. Off. of Env’t Health Hazard Assessment, CalEnviroScreen 4.0,  
<https://experience.arcgis.com/experience/11d2f52282a54ceebcac7428e6184203/page/home/?org=OEHA>  
26 HA (last visited June 1, 2022) (search for census tracts 6013320001, 6013320004, and 6013315000 to  
view Pollution Burden Percentile).

27 <sup>8</sup> *Id.*

28 <sup>9</sup> *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).

significantly increase production capacity over the next few years.<sup>10</sup>

43. In California alone, there are several proposed projects to convert petroleum refineries to process biofuel feedstocks. Only ten miles away from the Martinez Project, a similar project approved by the County at the Phillips 66 Refinery in Rodeo would produce over 24.4 million barrels per year (at 67,000 bpd) of biofuels, which would make it the largest biofuel refinery in the world.<sup>11</sup> In the Central Valley, Bakersfield Renewable Fuels is converting the closed Alon Bakersfield Refinery into a 15,000 bpd biorefinery.<sup>12</sup> In Southern California, the Chevron Refinery in El Segundo plans to co-process up to 10,000 bpd of non-crude oil feedstock, and the AltAir Refinery in the City of Paramount is proposing to process 25,000 bpd of animal fat and vegetable oil feedstock.<sup>13</sup>

44. Biofuels are fuels generated from plant oil or animal fat feedstock, which are part of the food system. There are several categories of biofuel end products, including biodiesel and renewable diesel.<sup>14</sup> Biodiesel refers to petroleum diesel blended with animal fats, vegetable oils, and/or cooking greases.<sup>15</sup> Renewable diesel refers to biofuels that are not blended with petroleum.<sup>16</sup>

45. Refining biofuel feedstocks can be more carbon intense than crude oil refining. This is largely because many feedstocks have more oxygen than crude oil, which then requires more hydrogen

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<sup>10</sup> Sean Hill et al., *U.S. Renewable Diesel Capacity Could Increase Due to Announced and Developing Projects*, U.S. Energy Info. Admin., (July 29, 2021), <https://www.eia.gov/todayinenergy/detail.php?id=48916>.

<sup>11</sup> See Contra Costa Cnty. Dep't of Conservation and Dev., Cnty. Plan. Comm'n, *Staff Report: Phillips 66 Rodeo Renewed Project* (Mar. 30, 2022) at 7, <https://www.contracosta.ca.gov/DocumentCenter/View/74662/CDLP20-02040-cpc-web-version-rev>; see also Bloomberg, *Phillips 66 is Turning a California Oil Refinery Into a Biofuel Plant*, L.A. Times, Aug. 12, 2020, <https://www.latimes.com/business/story/2020-08-12/phillips-66-oil-refinery-biofuel-plant>.

<sup>12</sup> *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).

<sup>13</sup> Janet McGurty, *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-news/agriculture/091421-chevron-expands-renewable-fuels-output-with-more-lower-carbon-business-spending>; AltAir Renewable Fuels Conversion Project, Draft Supplemental EIR at ES-4.

<sup>14</sup> *Biofuels Explained*, U.S. Energy Info. Admin., <https://www.eia.gov/energyexplained/biofuels/> (last updated Mar. 29, 2022).

<sup>15</sup> *Biofuels Explained: Biodiesel, renewable diesel, and other biofuels*, U.S. Energy Info. Admin., <https://www.eia.gov/energyexplained/biofuels/biodiesel.php> (last updated Feb. 10, 2022).

<sup>16</sup> *Id.*

production to remove the oxygen. Feedstock choice can drive up the magnitude of carbon emissions. For example, processing soybean oil into fuel emits more carbon than processing animal fat.

46. Biofuels require massive amounts of crops, which in turn require significant land dedicated to agriculture, fertilizer, pesticides, and other energy intensive resources. There is broad consensus in scientific literature that increased demand for food crop biofuel feedstocks drives climate environmental harms and climate change.<sup>17</sup>

47. Biofuel refineries draw from the same feedstock pool; therefore, each refinery competes in the same markets for limited quantities of feedstock.<sup>18</sup> According to some estimates, by 2024, there will be a deficit of 13 billion pounds of as more processing capacity comes online.<sup>19</sup>

48. Increased demand for purpose-grown biofuel crops raises food prices and generates food insecurity in the United States and around the world.<sup>20</sup> The pressure on the supply of crops like corn and soy for biofuels translates into less of those crops available for food, translating into inflation and higher prices. Lower-income people are disproportionately vulnerable to these forces because they spend a large share of their incomes on food.<sup>21</sup>

### C. Marathon Refinery Background

49. The idled Marathon Refinery is located on a 2,000-acre parcel at 150 Solano Avenue, of which 1,300 acres are developed for oil and gas operations and the remaining acreage is undeveloped marshlands and grasslands.<sup>22</sup> The property's southern boundary adjoins the city of Concord, and the

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<sup>17</sup> See Zhou, Y. et al., *Potential biomass-based diesel production in the United States by 2032*, Int'l Council on Clean Transp. (Feb. 2020), [https://theicct.org/sites/default/files/publications/Potential\\_Biomass-Based\\_Diesel\\_US\\_02282020.pdf](https://theicct.org/sites/default/files/publications/Potential_Biomass-Based_Diesel_US_02282020.pdf).

<sup>18</sup> See, e.g., Stephanie Kelly, *U.S. Renewable Fuels Market Could Face Feedstock Deficit*, Reuters, Apr. 9, 2021, <https://www.reuters.com/business/energy/us-renewable-fuels-market-could-face-feedstock-deficit-2021-04-09/>.

<sup>19</sup> *Id.*

<sup>20</sup> David Tenenbaum, *Food vs. Fuel: Diversion of Crops Could Cause More Hunger*, 116 Env't Health Perspect A254 (2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2430252/>.

<sup>21</sup> Int'l Food and Pol'y Rsch. Inst., *Biofuels and Food Security* (2008), <https://www.ifpri.org/publication/biofuels-and-food-security>.

<sup>22</sup> See Contra Costa County, Martinez Refinery Renewable Fuels Draft EIR at 2-2, <https://www.contracosta.ca.gov/DocumentCenter/View/72957/Martinez-Refinery-Renewable-Fuels-DEIR-Vol-1-Complete-DEIR> (Martinez Project DEIR).

western boundary is 0.25 miles from the municipal limits of the city of Martinez. East of the property are marshlands, including the 761-acre Point Edith Wildlife Preserve, an area accessible to the public for wildlife viewing and hunting.

50. Refining activities first began at the Martinez site in 1913. Between 2015 and 2020, the Refinery processed an average of 121,000 bpd of crude oil and was the second-largest refinery in Northern California.

51. In April 2020, the Marathon Refinery suspended operations and has been idle ever since. Available evidence strongly indicates that the Marathon Petroleum Corporation closed the refinery to consolidate its refining assets in Southern California and Washington State.<sup>23</sup>

#### **D. The Proposed Refinery Conversion Project and Its Environmental Impacts**

52. On November 1, 2020, Marathon, and/or its subsidiary Tesoro, applied for a land use permit to convert the Marathon Refinery into a facility that processes food system feedstocks into biofuels.<sup>24</sup>

53. The proposed Project would overhaul the Refinery so it can refine biofuel feedstocks rather than crude oil. Some existing equipment would be altered or replaced, and additional new equipment, such as tanks, would be added. Upon completion, the Project would produce 48,000 bpd of biofuel-based end products.

54. The Project would continue to use pipelines to distribute petroleum products and rely on trucks, rail, and marine vessels to transport biofuel feedstocks and end products. As a result, the EIR estimates that rail trips will increase over the crude oil operations to approximately 22,191 railcars per year, or 63 per day, the majority of which are expected to come from the Midwest. The EIR estimates that the Project would utilize over 65,700 truck trips per year, or 180 trucks per day, to transport finished fuels to their distribution locations.

55. The majority of biofuel feedstocks are expected to arrive to the Project by marine vessels,

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<sup>23</sup> See, e.g., Marathon Petroleum Corp., *2019 Annual Report* 1 (2020), [https://www.annualreports.com/HostedData/AnnualReportArchive/m/NYSE\\_MPC\\_2019.pdf](https://www.annualreports.com/HostedData/AnnualReportArchive/m/NYSE_MPC_2019.pdf).

<sup>24</sup> *Martinez Refinery Renewable Fuels Project*, Contra Costa Conservation and Dev., <https://www.contracosta.ca.gov/7961/Martinez-Refinery-Renewable-Fuels-Projec> (last visited June 2, 2022).

1 resulting in a higher number of vessels using the Project's marine terminals than during crude oil  
2 refining. Marine traffic to the Avon Marine Oil Terminal (MOT) will increase nearly twofold to  
3 approximately 364 annual visits, and the facility's Amorco MOT will receive 40 vessel calls per year.  
4 Marine vessels would also be used to distribute finished products beyond the Bay Area. To  
5 accommodate the increased and different types of marine vessels, the Project would require  
6 modifications of the Amorco and Avon MOTs.

7 56. Equipment that cannot be repurposed from the facility's crude oil operations will be  
8 decommissioned (demolished) and disposed of. Examples of equipment that will be demolished include  
9 a gas plant, boilers, and a chemical recovery plant.

10 57. In addition to equipment changes at the Project site, the Marathon Refinery conversion  
11 would require equipment modifications at off-site locations in the Bay Area and San Joaquin Valley  
12 used for feedstock storage. These changes include natural gas-fired heaters to maintain the temperature  
13 of feedstocks, piping components, storage tanks, and unloading/loading racks.

14 58. The Project would require a massive amount of food system crops as feedstock to refine  
15 into biofuels. The Project has not disclosed the volumes or sources of feedstock it expects to refine.  
16 Marathon acknowledges it could process corn oil, soybean oil, and tallow, a greasy, lard substance  
17 derived from animal rendering. Other biological fuel sources such as plant and animal by-products may  
18 also be used.

19 59. The Project does not disclose the expected geographic origins of its feedstocks, but  
20 existing biofuel refineries primarily obtain their feedstock from agricultural lands in the Midwest.

21 60. The Project will generate GHGs from construction, biofuel processing, transportation of  
22 feedstocks and finished products, and employee vehicle trips. Combined with other development in the  
23 region, GHG emissions from the Martinez Project would be cumulatively considerable. Further, the  
24 amount of biofuels the Project (particularly when combined with other biofuel projects planned in  
25 California) would lead to an oversupply of renewable diesel that could cause a net increase in GHG  
26 emissions because of the resulting need to export excess fuels, a result known as "emission shifting."

27 61. Though not analyzed in the EIR, food system feedstocks demanded by the Project would  
28 lead to land use conversion (meaning, grasslands and wetlands are destroyed to grow fuel crops),

1 deforestation, or both. These landscape changes not only result in direct GHG emissions, but the  
2 reduction in natural carbon “sinks” like wetlands translates into less natural capacity to store  
3 atmospheric GHG. Converting land to grow more biofuel crops and destroying forests also leads to  
4 human health harms, habitat loss for plant and animal species, and often irreparable injury to Indigenous  
5 populations.

6 62. Project operations would result in significant and unavoidable impacts on cumulative  
7 PM2.5 pollution. In addition to the continuing operational impacts, construction of new equipment and  
8 changes to existing equipment at both the Marathon Refinery site and MOTs required by the Project  
9 would generate emissions of PM2.5 and other criteria pollutants.

10 63. In addition to air quality harms, the Martinez Project will have significant and  
11 unavoidable impacts on water quality as a result of feedstock or refined products spills. In particular,  
12 the DEIR acknowledges that even with implementation of best practices and spill prevention plans, a  
13 large spill could still occur, resulting in devastating impacts to water quality and biological resources in  
14 San Francisco Bay and beyond.

15 64. The Proposed Project will also have potentially significant objectionable odors from  
16 project operations. Different types of feedstocks, such as rendered animal fats, could lead to different  
17 odor problems.

18 65. Increases in marine vessel traffic because of the Project will, in turn, increase the risk of  
19 introduction of non-native invasive species, vessel strikes of marine mammals, and biofuel spills, which  
20 can harm or kill aquatic plants and animals.

21 66. Project construction and operations could impact valuable remaining habitat for local  
22 endangered and other imperiled species, including the salt marsh harvest mouse, delta smelt, and  
23 California ridgeway rail.

#### 24 **E. Environmental Review and the Proposed Martinez Project Approval Process**

25 67. The County of Contra Costa, as the public agency with principal responsibility for  
26 approving the Project, is the lead agency for the Project under CEQA.

27 68. On February 17, 2021, the DCD published a notice of preparation and notice of scoping  
28

meeting for a draft EIR for the proposed project.<sup>25</sup>

69. On October 14, 2021, the DCD released a draft EIR for public review.<sup>26</sup> The public comment period on the draft EIR ran through December 17, 2021.<sup>27</sup>

70. Petitioners submitted comments highlighting numerous flaws in the draft EIR, including its project description, selected baseline, consideration of alternatives, cumulative impacts analysis, and adequacy of mitigation measures, among other deficiencies. In total, the County received 251 comment letters in response to the DEIR.<sup>28</sup>

71. In March 2022, just three months after public comment period closed, the DCD released the final EIR. The DCD at this time was also reviewing comments on another EIR for a biofuel refinery conversion, the Phillips 66 Rodeo Renewed Project, which generated 86 comment letters and over 1,600 form letters.<sup>29</sup>

72. Petitioners submitted comments on the final EIR.

73. The County's Planning Commission (the Commission) voted on March 23, 2022, to recommend that the Board of Supervisors approve the Martinez Project.<sup>30</sup>

74. On March 24, 2022, Petitioners and other organizations appealed to the County Board of Supervisors, asserting that the Commission's decision to certify the EIR violated the requirements of CEQA and was not supported by the evidence presented. The appealing groups requested that the Board of Supervisors grant the appeal, reject certification of the final EIR, and direct the DCD and Planning

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<sup>25</sup> Contra Costa Cnty. Dep't of Conservation and Dev., *Notice of Preparation: Martinez Refinery Renewable Fuels* (County File# CDLP20-02046) (Feb. 17, 2021),

[https://www.contracosta.ca.gov/DocumentCenter/View/69778/CDLP20-02046\\_NOP\\_02172020---signed](https://www.contracosta.ca.gov/DocumentCenter/View/69778/CDLP20-02046_NOP_02172020---signed).

<sup>26</sup> Contra Costa Cnty. Dep't of Conservation and Dev., *Notice of Availability Of a Draft Environmental Impact Report* (County File# CDLP20-02046) (Oct. 14, 2021),

[https://www.contracosta.ca.gov/DocumentCenter/View/72876/NOA\\_LP20-2046-10142021-JL](https://www.contracosta.ca.gov/DocumentCenter/View/72876/NOA_LP20-2046-10142021-JL).

<sup>27</sup> *Id.*

<sup>28</sup> Contra Costa Cnty. Plan. Comm'n, *Staff Report: Martinez Refinery Renewable Fuels Project* at 3 (Mar. 23, 2022), [https://www.contracosta.ca.gov/DocumentCenter/View/74587/CDLP20-02046\\_SR\\_CPC\\_03232022-Final---Web-Version](https://www.contracosta.ca.gov/DocumentCenter/View/74587/CDLP20-02046_SR_CPC_03232022-Final---Web-Version).

<sup>29</sup> Contra Costa Cnty. Plan. Comm'n, *Staff Report: Phillips 66 Rodeo Renewed Project* at 4 (Mar. 30, 2022), <https://www.contracosta.ca.gov/DocumentCenter/View/74662/CDLP20-02040-cpc-web-version-rev>.

<sup>30</sup> See Contra Costa Cnty. Plan. Comm'n, *Meeting Minutes* (Mar. 23, 2022), [https://www.contracosta.ca.gov/AgendaCenter/ViewFile/Minutes/\\_03232022-4186](https://www.contracosta.ca.gov/AgendaCenter/ViewFile/Minutes/_03232022-4186).



Commission to develop a revised draft EIR for public comment.

75. On May 3, 2022, the County Board of Supervisors held a public hearing to consider the environmental review and approvals for the Project.<sup>31</sup> During the public hearing, community members and concerned Bay Area residents spoke in opposition to the Martinez Project, raising concerns about the increased pollution, climate impacts, lack of specific information on biofuel feedstocks, likelihood of nuisance odors, and more.

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

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

### **FIRST CAUSE OF ACTION**

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

78. Petitioners incorporate herein by reference the allegations contained in the foregoing paragraphs.

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

- a. The County failed to require that the EIR base its environmental review and analyses on an accurate, stable, complete, and finite description of the Project that fully discloses and fairly evaluates the Project's nature and objectives. The description of the Project failed to provide decisionmakers and the public with enough information to understand its environmental impacts, appropriate mitigation, and potential alternatives. For instance, the project description is inaccurate and incomplete in the following ways:

- i. The EIR fails to analyze impacts from the biofuel refining technology that the

<sup>31</sup> See Contra Costa Cnty. Bd. of Supervisors, *Special Meeting Agenda* (May 3, 2022), [http://64.166.146.245/agenda\\_publish.cfm?id=&mt=ALL&get\\_month=4&get\\_year=2022&dsp=ag&seq=2028](http://64.166.146.245/agenda_publish.cfm?id=&mt=ALL&get_month=4&get_year=2022&dsp=ag&seq=2028).

1 Project would use, even though this technology—known as the Hydrotreating  
2 Esters and Fatty Acids (HEFA)—has specific types of impacts, capabilities, and  
3 limitations that distinguish it from other biofuel technologies. It is only in the  
4 Responses to Comments that the final EIR even identifies the proposed HEFA  
5 technology by name, and this response still does not describe essential aspects of  
6 the technology deployment as the basis for the Project.

7 ii. The EIR’s description of the Project’s biofuel feedstocks—a core Project  
8 component—is both speculative and incomplete. The EIR merely lists potential  
9 types of feedstocks that the Project may process, then opens the door for the  
10 Project to use different feedstocks in the future based on whether technology  
11 changes. With respect to all of these potential feedstocks, the EIR fails to analyze  
12 availability, constraints, and reasonably foreseeable estimates of feedstocks or the  
13 proportions in which they may be processed by Project. The EIR fails to even  
14 evaluate a “reasonable worst case scenario” for feedstock consumption and  
15 impacts. Vague allusions to different feedstocks and potential changes over time  
16 do nothing to inform the public or decisionmakers about the type or magnitude of  
17 the Project’s potential environmental impacts, as different impacts—such as air  
18 pollution, climate impacts, species impacts, objectionable odor impacts, and  
19 more—flow from the choice of feedstock. The mere existence of uncertainty  
20 around feedstock use does not justify the EIR’s wholesale failure to address  
21 feedstock-specific impacts or any feedstock-varying scenarios. Further, the EIR’s  
22 failure to specify feedstocks with certainty makes the Project description vague  
23 and unstable and prevents meaningful assessment and mitigation of its likely  
24 impacts.

25 iii. While the EIR describes maximum Project throughput volumes of 48,000 bpd per  
26 day of feedstocks, this measure is only an estimate: nothing constrains the Project  
27 from significantly exceeding these throughput volumes. As many Project  
28 environmental impacts are a function of throughput volumes, the lack of a cap on

1 or stable and reliable description of maximum throughput volumes undermines a  
2 meaningful assessment of Project impacts.

3 b. The County failed to measure the impacts of the Project using an accurate or realistic  
4 baseline that reflects existing physical environmental conditions at the time the County  
5 published the notice of preparation on February 17, 2021.<sup>32</sup> The EIR uses the years 2015-  
6 2020 as its baseline, meaning that the baseline reflects the period when the Marathon  
7 Refinery was processing crude oil. The baseline at the time of the notice of preparation,  
8 however, was no crude processing (or any activity), as the Marathon Refinery ceased  
9 operations in April 2020. Since ending operations, Marathon has not publicly indicated  
10 any intent to continue crude oil refining at the site; to the contrary, the company made a  
11 clear and widely-reported declaration that it no longer intends to refine crude oil at the  
12 facility. The EIR lacks substantial evidence supporting its use of a baseline tied to crude  
13 oil refining, or how that baseline provides a realistic measurement of existing conditions  
14 against which to evaluate the Project's impacts. The EIR's baseline is misleading and  
15 prevented decisionmakers and the public from understanding the Project's likely  
16 environmental impacts of processing biofuels exclusively.

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

19 i. The EIR uses an overly narrow and arbitrary two-mile geographic radius around  
20 the Project site and associated marine terminals to identify projects and activities  
21 considered for the cumulative impacts analysis. The County provided no rationale  
22 or evidentiary support for use of this geographic limitation, or for selecting a  
23 cumulative impacts scope based on a geographic limitation at all.

24 ii. Instead of performing an actual cumulative impacts analysis of the nearby Phillips  
25 66 Rodeo refinery conversion project—a project located less than ten miles from

26 <sup>32</sup> Contra Costa Cnty. Dep't of Conservation and Dev., *Notice of Preparation: Martinez Refinery*  
27 *Renewable Fuels* (County File# CDLP20-02046) (Feb. 17, 2021),  
28 [https://www.contracosta.ca.gov/DocumentCenter/View/69778/CDLP20-02046\\_NOP\\_02172020---signed](https://www.contracosta.ca.gov/DocumentCenter/View/69778/CDLP20-02046_NOP_02172020---signed).

1 the Martinez site that could create the largest biofuels refinery in the world—the  
2 EIR makes only passing mention of this project. These passing references do not  
3 substitute for consideration of what the cumulative impacts of two nearby, large-  
4 scale biofuels refining projects could be on air quality, odors, noise, vessel traffic,  
5 biofuel demand, and other metrics.

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

9 d. The County failed to adequately disclose and evaluate the Martinez Project’s  
10 environmental impacts, and failed to respond to public comments concerning a variety of  
11 significant environmental effects of the Project, including the following:

12 i. The EIR fails to describe the range of feedstocks that could be processed and their  
13 differing environmental impacts. The EIR lists as potential feedstocks soybean  
14 oil, distillers corn oil, and rendered animal fats, but these categories are overbroad  
15 and the EIR does not provide market analyses on the availability of these  
16 feedstocks and estimates of which feedstocks the facility is likely to rely on. The  
17 EIR then opens the door to the Project potentially using a wider universe of  
18 feedstocks by stating that as technologies evolve, other biological fuel sources  
19 such as used cooking oils and plant and animal byproducts may be used. The EIR  
20 does not discuss what technological changes may precipitate these new feedstocks  
21 or how that could alter the original list of potential feedstocks. Nor does the EIR  
22 evaluate the environmental impacts specific to potential Project feedstocks, even  
23 while acknowledging that certain impacts—such as noxious odors—may vary by  
24 feedstock.

25 ii. The EIR fails to disclose and analyze the Project’s climate change impacts. By  
26 not estimating the potential feedstock types that could be used, the EIR ignores  
27 the broad consensus in scientific literature that certain feedstocks can induce land  
28 use conversion and/or deforestation—both of which have significant negative

1 environmental and climate change implications. Further, the EIR erroneously  
2 substituted reliance on upstream climate impacts found in California’s Low  
3 Carbon Fuel Standard program-level environmental assessment in lieu of a  
4 project-specific analysis. The EIR also ignores that the amount of biofuels  
5 demanded by the Martinez Project—particularly in concert with the other biofuels  
6 projects planned for the State—could lead to an oversupply of biofuels that will  
7 trigger the need to export more fuels, thus increasing greenhouse emissions.

8 iii. The EIR did not adequately disclose or analyze impacts to species, including from  
9 indirect impacts caused by land conversion and deforestation.

10 iv. The EIR fails to disclose or evaluate varying air emissions impacts that could  
11 result from using different types of feedstocks. Processing different types of  
12 biofuels can increase and alter processing emissions in different ways, with  
13 variable impacts on air pollution. Additionally, contaminants in feedstocks  
14 themselves can be released during processing, adding to the air emissions burden.  
15 By not estimating feedstock amounts and types, the EIR’s air emissions analysis  
16 is incomplete and uninformative.

17 v. The EIR fails to analyze the impacts of demolishing or decommissioning parts of  
18 the crude oil refinery that will no longer be needed and resulting contamination  
19 hazards. The Project site is heavily contaminated, which gives rise to issues  
20 concerning both how decommissioned portions of the site will be addressed, and  
21 how construction needed for converting the Refinery to biofuels may affect  
22 remediation and monitoring activities.

23 vi. The EIR fails to account for potentially increased operational upsets. Processing  
24 biofuels using HEFA technology can cause an increased number of process upsets  
25 that can lead to worker and public hazards. These upsets can also result in  
26 increased flaring, which itself is a cause of air pollution. The EIR did not disclose  
27 and properly mitigate the impacts from upsets and flares, and the EIR did not  
28 include a flare minimization plan.

- 1 e. The County failed to consider, discuss, or adopt adequate mitigation measures to  
2 minimize the Martinez Project’s significant and detrimental impacts, or otherwise  
3 improperly deferred mitigation necessary to minimize the Project’s impacts, including  
4 but not limited to the following:
- 5 i. The County improperly approved the Project even though the EIR unlawfully  
6 deferred addressing potential objectionable odors from the Project, which may be  
7 considerable and significant depending on the feedstocks used. Instead, the  
8 County proposed that odor mitigation measures could be developed at a later date  
9 depending on whether people complain. This is inadequate. Further, the County  
10 failed to show that it would be infeasible to develop and analyze the mitigation in  
11 their or to commit itself to cognizable performance standards or criteria for any  
12 eventual mitigation.
- 13 ii. The EIR notes that feedstock or refined products spills will have significant and  
14 unavoidable impacts on species, but the EIR offers no enforceable guarantee that  
15 a large spill of biofuels will even be responded to, let alone cleaned up  
16 effectively, and there is no analysis of what such a cleanup would entail or the  
17 damage such a spill could cause.
- 18 f. The County failed to adequately analyze a reasonable range of alternatives and rejected  
19 feasible alternatives that would substantially lessen the Martinez Project’s significant  
20 environmental effects.
- 21 i. The EIR created narrow objectives to ensure the Project would be approved as  
22 proposed and to dismiss from consideration other feasible alternatives with less  
23 significant environmental impacts, including a reduced throughput alternative that  
24 would permanently cap throughput at the interim maximum of 23,000 bpd.
- 25 ii. Further, rather than select as a “no project” alternative the option that the facility  
26 remain idle, the County chose as that alternative a fictitious scenario under which  
27 crude refining operations resume. This choice is not supported by the evidence  
28 that the refinery made clear that crude operations had been permanently ended.

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

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

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

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

## PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for judgment as set forth below:

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

1. Set aside and withdraw its certification of the EIR and approval of the statement of overriding considerations;
2. Set aside and withdraw all approvals for the Martinez Project, including the land use permit (County File No. CDLP20-02046); and
3. Refrain from granting any further approvals for the Project unless and until the County complies fully with the requirements of CEQA.

B. For entry of injunctive relief prohibiting the County and the Real Parties in Interest from constructing and operating the Project, and from taking any action to implement, fund, or construct any portion or aspect of the Project, unless and until the County complies fully with the requirements of CEQA by vacating the certified EIR, setting aside and withdrawing all approvals

1 issued in reliance on the EIR, and conducting a new environmental review process that complies  
2 with CEQA's requirements as set forth herein.

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

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

6 Respectfully Submitted,

7 DATED: June 7, 2022

SHUTE, MIHALY & WEINBERGER LLP

8  
9 By: 

ELLISON FOLK  
JOSEPH D. PETTA

10  
11 DATED: June 7, 2022

ENVIRONMENTAL LAW CLINIC

12  
13 By: 

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

14  
15  
16 Attorneys for Petitioners  
17 COMMUNITIES FOR A BETTER  
18 ENVIRONMENT and CENTER  
FOR BIOLOGICAL DIVERSITY

19 DATED: June 7, 2022

COMMUNITIES FOR BETTER ENVIRONMENT

20  
21 By: 

SHANA LAZEROW  
CONSTANCE CHO

22  
23 DATED: June 7, 2022

CENTER FOR BIOLOGICAL DIVERSITY

24  
25 By: 

VICTORIA BOGDAN TEJEDA  
HOLLIN KRETZMANN

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**VERIFICATION**

I, Peter Galvin, declare as follows:

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

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

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 Shelter Cove, California.

Peter Galvin

Print Name of Signatory

  
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: Martinez Refinery Renewable Fuels Project (County File Number  
CDLP20-02046)

Dear Chair Mitchoff and Members of the Board of Supervisors:

This letter is to notify you that Citizens for a Better Environment and the Center for Biological Diversity will file suit against the County of 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 Martinez Refinery Renewable Fuels 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 Martinez Refinery Renewable Fuels 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

1515047.1

## **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