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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
09/12/2022 at 05:37:20 PM
Clerk of the Superior Court
By Aida Cruz, Deputy Clerk

6 Attorneys for Petitioners,
7 CLIMATE ACTION CAMPAIGN and COASTAL ENVIRONMENTAL RIGHTS
8 FOUNDATION

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO – CENTRAL DIVISION

11
12 CLIMATE ACTION CAMPAIGN, a California)
13 non-profit public benefit corporation, COASTAL)
14 ENVIRONMENTAL RIGHTS FOUNDATION, a)
California non-profit public benefit corporation)

15 Petitioners,

16 v.

17 CITY OF SAN DIEGO, a California municipal)
18 corporation; and DOES 1 through 20, inclusive,)

19 Respondents,

20 _____)
21 DOES 21 through 40, inclusive,)

22 _____)
Real Parties in Interest.)

Case No.: 37-2022-00036430-CU-TT-CTL

**VERIFIED PETITION FOR WRIT OF
MANDATE**

[IMAGED FILE]

(CALIFORNIA ENVIRONMENTAL
QUALITY ACT: PUB. RES. CODE
§§21168, 21168.5)

1 Petitioners CLIMATE ACTION CAMPAIGN (“CAC”) and COASTAL ENVIRONMENTAL
2 RIGHTS FOUNDATION (“CERF”) (collectively “Petitioners”) hereby request relief as follows:

3 **INTRODUCTION**

4 1. The Intergovernmental Panel on Climate Change (IPCC) is the United Nations
5 body for assessing the science related to climate change. The IPCC’s 2022 Climate Change Sixth
6 Assessment Report (“IPCC Sixth Assessment Report”) finds:

7 Human-induced climate change, including more frequent and intense extreme events,
8 has caused widespread adverse impacts and related losses and damages to nature and
9 people, beyond natural climate variability. Some development and adaptation efforts have
10 reduced vulnerability. Across sectors and regions the most vulnerable people and systems
11 are observed to be disproportionately affected. The rise in weather and climate extremes
12 has led to some irreversible impacts as natural and human systems are pushed beyond
13 their ability to adapt. (IPCC Sixth Assessment Report, Summary for Policymakers, p. 9).

14 2. The IPCC also warns global warming of 1.5 degrees Celsius in the near-term
15 (2021-2040), would cause unavoidable increases in multiple climate hazards and present
16 multiple risks to ecosystems and humans. “Near-term actions that limit global warming to close
17 to 1.5°C would substantially reduce projected losses and damages related to climate change in
18 human systems and ecosystems, compared to higher warming levels, but cannot eliminate them
19 all.”(Id. at p. 13; City of San Diego 2022 Climate Action Plan, p. 10).

20 3. “Just as the evidence of its adverse impacts across the globe is irrefutable, climate
21 change is fundamentally altering California. It is no longer a distant threat that lies somewhere
22 beyond the horizon. It is right here, right now, with growing intensity that is already adversely
23 affecting our communities and our environment.” (California Air Resources Control Board
24 (“CARB”) 2022 Draft Scoping Plan, p. 1).

25 4. Likewise, the City of San Diego already suffers from the impacts of climate
26 change in the form of drought, air pollution, extreme heat, species stress, negative health effects,
27 wildfires, and floods. These disasters will only become more severe as global greenhouse gas
28 emissions continue to poison the atmosphere. (City of San Diego, Resolution Number 312891:

1 Declaring a Climate Emergency and the Need for Accelerated Action to Address the Climate
2 Crisis, dated March 25, 2020).

3 5. Local action by cities can support and amplify statewide and global efforts to
4 reduce greenhouse gas emissions (“GHGs”). (CARB 2022 Draft Scoping Plan, p. 217).
5 “Multiple legal tools are open to local jurisdictions to support this approach, including a climate
6 action plan (CAP), sustainability plan, or inclusion of a plan for reduction of GHG emissions and
7 climate actions within a jurisdiction’s general plan. Any of these can help align zoning,
8 permitting, and other local tools with climate action.” (Id. at p. 218).

9 6. To address its contribution to GHG emissions, Respondent City of San Diego
10 (“Respondent” or “City”) adopted a Climate Action Plan (“CAP”) and certified a programmatic
11 Environmental Impact Report (“EIR”) in 2015.

12 7. The following year, the City adopted a “checklist” to assess individual project
13 compliance with the CAP and allow for California Environmental Quality Act (“CEQA”)
14 streamlining.

15 8. Since that time, the City has made little progress toward achieving its GHG
16 reduction goals – 90 percent of the City’s 2015 CAP strategies were never implemented. The
17 City achieved less than half of its 2020 target to reduce residential and municipal energy use. It
18 likewise barely made a dent in its zero emission vehicle (“ZEV”) municipal fleet goal and fell far
19 short of its land use and transportation goals.¹ The City has also consistently failed to adopt
20 Community Plan Updates which help it achieve its mode share goals.²

21 9. Year after year, the City has delayed implementation of the majority of CAP
22 strategies and refused to provide a detailed funding analysis of implementation and/or 5-year
23 budget outlooks, resulting in minimal local GHG reduction outcomes.

24 10. Recognizing the urgency of the climate crisis, the City adopted even more
25 ambitious emission reduction targets in its 2022 CAP Update with a goal of net-zero GHG

26 _____
27 ¹ <https://www.sandiego.gov/2020cap>; see also, Performance Audit of City’s CAP, p. 16,
https://www.sandiego.gov/sites/default/files/21-009_cap.pdf

28 ² *Politics Report: The Climate Action Farce*, Voice of San Diego, Andrew Keatts and Scott
Lewis, Nov. 13, 2021

1 emissions by 2035 and an interim 2030 goal of an approximately 60 reduction in GHG emissions
2 from the baseline year (2019).

3 11. Upon adoption of the 2022 CAP, Mayor Todd Gloria aptly acknowledged the
4 scale of the climate crisis:

5 “The window to reverse the dangerous trends of climate change is rapidly closing, and
6 this moment demands aggressive action...Implementing this more ambitious plan won’t
7 be easy, but the financial cost and human consequences of inaction are almost
8 unimaginable. We must act now.”³

9 12. The 2022 CAP is truly an aspirational policy document. But to achieve its 2030
10 and 2035 emission targets, and to comply with CEQA, the City must do more than adopt lofty
11 goals. It must begin implementation and funding of the CAP now.

12 13. Unfortunately, the City’s 2022 CAP does not include the detail or mechanisms to
13 ensure its success. In order to achieve its purpose as Plan for the Reduction of Greenhouse Gas
14 Emissions pursuant to CEQA, more is required.

15 14. As a result, the City abused its discretion in adopting the 2022 CAP, supporting
16 Addendum to the EIR, revised CEQA Thresholds of Significance, and supporting ordinances.

17 15. Petitioners accordingly request that this Court issue a writ of mandate under Cal.
18 Code of Civil Procedure sections 1085 and 1094.5 directing Respondent to vacate and set aside
19 its approvals thereof.

20 JURISDICTION AND VENUE

21 16. This Court has jurisdiction over this action pursuant to sections 1085, 1094.5, and
22 187 of the California Code of Civil Procedure and sections 21168 and 21168.5 of the Public
23 Resources Code.

24 17. Venue for this action properly lies in the San Diego County Superior Court
25 because Respondent CITY OF SAN DIEGO and the Project are located in San Diego County.

26
27 ³ August 2, 2022 Media Release, San Diego’s Landmark 2022 Climate Action Plan Unanimously
28 Approved by City Council, available at https://www.sandiego.gov/sites/default/files/08-02-22_climate_action_plan_approved_by_city_council_news_release.pdf

PARTIES

1
2 18. Petitioner CAC is, and at all times herein mentioned has been, a non-profit public
3 benefit corporation, organized and existing under the laws of the State of California, with its
4 principal place of business in San Diego, California.

5 19. Petitioner CERF is, and at all times herein mentioned has been, a non-profit
6 public benefit corporation, organized and existing under the laws of the State of California, with
7 its principal place of business in Encinitas, California.

8 20. Petitioners meets all organizational standing requirements for prosecuting this
9 action.

10 21. CAC’s mission is to stop the climate crisis. CAC is unique in the San Diego and
11 southern California region in that it is solely focused on stopping the climate crisis through
12 policy action. CAC is a small organization with big goals and the ingenuity, creativity, and
13 courage to build change from the ground up, shift our culture, fight powerful institutions, and
14 stop the climate crisis. CAC believes change happens when communities come together to
15 pursue big ideas. The interests CAC seeks to protect in this action are therefore germane to its
16 fundamental purpose; and CAC has a geographical nexus with the affected environment of San
17 Diego.

18 22. CERF was founded by surfers in North San Diego County and is active
19 throughout California’s coastal communities. CERF was established to advocate for the
20 protection and enhancement of coastal natural resources and the quality of life for coastal
21 residents. The interests CERF seeks to protect in this action are therefore germane to its
22 fundamental purpose; and CERF has a geographical nexus with the affected environment of San
23 Diego.

24 23. CERF and CAC submitted written comments to the City objecting to and
25 commenting on the Project and related approvals.

26 24. CAC and CERF further meet all associational standing requirements for
27 prosecuting this action. Petitioners and their members are beneficially interested in the subject
28 matter of this petition and adversely affected by Respondent City’s unlawful conduct as more

1 fully alleged below. The injuries of CAC, CERF, and their members are actual, concrete injuries
2 which will be redressed by the relief sought herein. Petitioners bring this action on their own
3 behalf, and on behalf of their members who live in the City and San Diego County. The claims
4 asserted and the relief sought in this petition do not require that Petitioners' individual members
5 directly participate as parties to this lawsuit.

6 25. Petitioners brings this action not just on their own behalf and behalf of their
7 members, but also to enforce important public rights and to compel compliance with public
8 duties that arise under CEQA. Other beneficially interested persons would find it difficult or
9 impossible to seek vindication of the rights asserted. Petitioners have a continuing interest in, and
10 a well-established commitment to, the public rights asserted.

11 26. Respondent CITY OF SAN DIEGO, a California Municipal Corporation, is a
12 local governmental agency and political subdivision of the State of California charged with the
13 authority to regulate and administer land use activities within its boundaries, subject at all times
14 to the obligations and limitations of all applicable state, federal, and other laws, including CEQA
15 and the CEQA Guidelines. As the CEQA lead agency for the Project, the City approved the
16 CEQA environmental determination and associated approvals for the Project.

17 27. Petitioners are currently unaware of the true names and capacities of Respondents,
18 Does 1 through 20, inclusive, and therefore sue those parties by such fictitious names. Does 1
19 through 20, inclusive, are agents of the City, state, or federal government who are responsible in
20 some manner for the conduct described in this petition, or other persons or entities presently
21 unknown to Petitioners who claim some legal or equitable interest in the Project that is the
22 subject of this action. Petitioners will amend this petition to show the true names and capacities
23 of Does 1 through 20 when such names and capacities become known.

24 28. Petitioners are currently unaware of the true names and capacities of Real Parties
25 in Interest, Does 21 through 40, inclusive. Does 21 through 40, inclusive, are persons or entities
26 presently unknown to Petitioner who claim some legal or equitable interest in the Project that is
27 the subject of this action. Petitioners will amend this petition to show the true names and
28 capacities of Does 21 through 40 when such names and capacities become known.

1 **STATEMENT OF FACTS**

2 29. The City of San Diego is the eighth most populous city in the United States and
3 second most populous in California (after Los Angeles), with an estimated 2020 population of
4 1,386,932.

5 30. As a statewide leader on climate issues, in 2020 the City adopted a resolution
6 declaring a climate emergency that poses a threat to the well-being of San Diego, its inhabitants,
7 economy, and environment.

8 **City’s Approval of the 2022 CAP Update Package**

9 31. On August 2, 2022, the City adopted the 2022 Climate Action Plan and
10 Addendum to Final Program EIR No. 416603, SCH No. 2015021053 for the Climate Action
11 Plan Update and adopting the MMRP (“Addendum”), items 330a and 330b on the August 2,
12 2022 Agenda respectively.

13 32. That same day, the City also adopted the Urban Tree Canopy Fee and amendment
14 to the Land Development Manual, Appendix A, California Environmental Quality Act
15 Significance Thresholds to Amend the Greenhouse Gas Emissions Threshold (“CEQA
16 Thresholds of Significance”), Items 331a and 331b on the Agenda respectively.

17 33. On August 2, 2022, the City also introduced an Ordinance, O-2023-4, amending
18 the San Diego Municipal Code relating to Climate Action Plan Consistency Regulations
19 (“Consistency Regulations”), Item 331c on the Agenda. The new Consistency Regulations
20 replace the 2015 CAP Checklist.

21 34. On August 12, 2022, the City filed a Notice of Determination pursuant to CEQA
22 for its approval of the 2022 CAP and Addendum.

23 35. On September 2, 2022, Petitioners sent the City a Notice of Intent to Sue in
24 connection with the City’s approval of the 2022 CAP, Addendum, Consistency Regulations,
25 Urban Tree Canopy Fee, and amendment to the CEQA Thresholds of Significance for alleged
26 CEQA violations.

27 36. The second reading and approval of Ordinance O-2023-4 are currently scheduled
28 for the September 13, 2022 City Council hearing as Item 63.

1 37. The City has not yet filed a Notice of Determination for its approval of the
2 Ordinance. Petitioners will amend this petition after City approves Ordinance O-2023-4,
3 adopting the Consistency Regulations.

4 38. The 2022 CAP, Addendum, Urban Tree Canopy Fee, CEQA Thresholds of
5 Significance, and Consistency Regulations are collectively referred to as the 2022 CAP Update
6 Package (“Project”).

7 **CEQA Plans for the Reduction of Greenhouse Gas Emissions**

8 39. Pursuant to CEQA, an agency may prepare a plan for the reduction of greenhouse
9 gas emissions and use such a plan to analyze cumulative impacts of later projects. (CEQA
10 Guidelines⁴ Section 15183.5(b)). The City’s 2022 CAP is intended to serve as such a plan.

11 40. The 2022 CAP modeled City GHG emissions for 2019 and projected future GHG
12 emissions to 2030 and 2035. To meet emission targets in 2030 the City will have to reduce
13 emissions by 6,309,000 metric tons. The City’s 2035 target is net zero emissions.

14 41. The CAP identified six strategies to reduce its emissions: (1) Decarbonization of
15 the Built Environment; (2) Access to Clean & Renewable Energy; (3) Mobility & Land Use; (4)
16 Circular Economy & Clean Communities; (5) Resilient Infrastructure and Healthy Ecosystems;
17 and (6) Emerging Climate Actions.

18 42. “These strategies are comprised of associated targets, measures, actions
19 (quantified) and supporting actions (qualitative; not yet quantifiable) that the City can use to
20 avoid or mitigate (reduce) future GHG emissions.” (2022 CAP, p. 41).

21 43. Of these six strategies, the biggest emission reduction will come from Strategy 1,
22 Decarbonization of the Built Environment. In 2030, reductions from Strategy 1 are projected to
23 be 1,012,139 metric tons of carbon dioxide equivalent (“MTCO_{2e}”). Five years later, in 2035,
24 reductions from Strategy 1 double (to 2,056,488 MTCO_{2e}).

25 44. As a purported qualified greenhouse gas reduction plan, the CAP must meet the
26 requirements for all first-tier CEQA documents and impose effectively enforceable requirements
27

28 _____
⁴ 14 Cal. Code Regs §§15000 *et. seq.*

1 and measures with defined performance standards.

2 45. Because future discretionary projects will rely on the CAP, and any “group of
3 measures, including performance standards” to achieve the specified reductions and forgo further
4 CEQA GHG emissions analysis, the CAP’s reduction measures must be considered mitigation
5 measures for purposes of CEQA and must therefore comply with CEQA requirements.

6 46. CEQA Guidelines Section 15183.5(b)(2) requires an environmental document
7 that relies on the CAP for a cumulative impacts analysis to identify those requirements specified
8 in the plan that apply to the project, and, if those requirements are not otherwise binding and
9 enforceable, incorporate those requirements as mitigation measures applicable to the project.

10 47. To enable such analysis, the City updated its CEQA Thresholds of Significance
11 and created the CAP Consistency Regulations. The new CEQA Thresholds of Significance
12 create a presumption of consistency with the CAP where a project complies with the CAP
13 Consistency Regulations. However, these Consistency Regulations fail to ensure new
14 development will in fact comply with the CAP and make applicable CAP requirements
15 enforceable.

16 48. The 2022 CAP Consistency Regulations do not incorporate most of the CAP
17 measures or actions, including those implementing Strategy 1 – which results in the biggest
18 emission reductions.

19 49. Further, because many requirements for new development projects have not been
20 translated into implementation measures or actions, they are clearly not enforceable. Instead of
21 requiring projects to conduct such analysis on a project-by-project basis, the Consistency
22 Regulations simply omit these requirements altogether.

23 50. The City’s “Consistency Regulation Technical Support Document” confirms
24 some of the most ambitious aspects of the CAP, including building decarbonization, are absent
25 from the Consistency Regulations: “To avoid conflicts with these ongoing efforts, the CAP
26 Consistency Regulations do not include requirements for building decarbonization.” (CAP
27 Consistency Regulations Technical Support Documentation, p. 8).

28 51. To purportedly avoid conflict with ongoing efforts, the Consistency Regulations

1 simply exempt new development from those efforts altogether.

2 52. The CAP and Consistency Regulations therefore do not include measures and
3 performance standards that substantial evidence demonstrates, if implemented on a project-by-
4 project basis, would collectively achieve the specified emissions level. (CEQA Guidelines
5 Section 15183.5(b)(1)(D)).

6 53. In addition, the 2022 CAP goals, strategies, and measures themselves are not
7 supported by defined actions and performance measures. Many of the 2022 CAP measures
8 require future planning efforts with no deadline for compliance (such as the Master Mobility
9 Plan). A comprehensive Implementation Plan that will detail the milestones, responsible entities
10 and City Departments, associated costs with possible funding sources and planned timing for
11 implementation has not been prepared. (2022 CAP, p. 41). Therefore, evidence supporting the
12 feasibility of achieving the CAP goals is lacking.

13 54. The 2022 CAP Update also serves as mitigation for the General Plan. Because the
14 CAP's measures and actions are not supported by substantial evidence, the City cannot ensure
15 the General Plan's climate change impacts are in fact mitigated.

16 55. Petitioners have exhausted all administrative remedies by providing verbal and
17 written comments to City staff and elected officials prior to Project approval, requesting
18 compliance with CEQA, and the completion of full and adequate environmental review and
19 mitigation. On information and belief, all issues raised in this petition were raised in a timely
20 manner before Respondent by Petitioners, other members of the public or public agencies.

21 56. Petitioners have a beneficial right to, and a beneficial interest in, Respondent's
22 fulfillment of all its legal duties, as alleged herein.

23 57. Petitioners have no plain, speedy, or adequate remedy at law. Unless this Court
24 enjoins and sets aside its action, the City will approve projects with climate change impacts
25 without an adequate, science-based environmental analysis of those impacts, and without
26 adequate, science-based mitigation for those impacts. The climate-altering GHG emissions from
27 these and future such projects, emissions that will remain in the atmosphere and destabilize the
28 climate for decades or centuries, will have lasting and adverse effects on the climate, to the

1 detriment of all residents of San Diego County and the State of California.

2 58. This petition is timely filed in accordance with Public Resources Code section
3 21167 and CEQA Guidelines section 15112.

4 59. On September 2, 2022, Petitioners sent the City a Notice of Intent to Sue in
5 compliance with Public Resources Code Section 21167.5. A true and correct copy of this Notice
6 is attached hereto as Exhibit A.

7 60. Respondent has abused its discretion and failed to proceed in the manner required
8 by law in the following ways:

9 **FIRST CAUSE OF ACTION**

10 **Violation of CEQA**

11 **(Public Resources Code § 21000, *et seq.*)**

12 61. Petitioners incorporate by reference all preceding paragraphs.

13 62. CEQA requires the City to conduct adequate environmental review prior to
14 making any formal decision regarding projects. (CEQA Guidelines § 15004).

15 63. CEQA requires that an agency prepare an EIR when it proposes to approve or
16 carry out a discretionary project that may have a significant impact on the environment, and to
17 mitigate or avoid those significant impacts whenever feasible to do so. (Pub. Res. Code §§
18 21002.1, 21061, 21080(a)).

19 64. A fundamental purpose of CEQA is to “[p]revent significant, avoidable damage to
20 the environment by requiring changes in projects through the use of alternatives or mitigation
21 measures.” (CEQA Guidelines § 15002(a)(3)). Consequently, an EIR must identify feasible
22 mitigation measures in order to substantially lessen or avoid otherwise significant environmental
23 effects. (Pub. Res. Code §§ 21002, 21081(a); CEQA Guidelines § 15126.4(a)).

24 65. The City did not adequately analyze or mitigate the significant impacts of the
25 2022 CAP Update Package.

26 66. The City failed to specify criteria or adequate standards to ensure the 2022 CAP’s
27 emission reductions will be achieved and the reduction “strategies” represent real, additional
28 reduction of GHGs, enforceable as project conditions at the time of discretionary approval.

1 Absent such standards and criteria, the use of the CAP for analysis and/or mitigation for
2 increases in GHG emissions from future projects violates CEQA’s requirement that mitigation
3 measures be additional to any other legal requirement or existing program and be fully
4 enforceable. (CEQA Guidelines, §§ 15126.4(a) and (c), 15183.5(b)(1)(D)).

5 67. Substantial evidence does not support the City’s findings that the 2022 CAP
6 strategies and measures will result in the specified reductions in the appropriate timeframe, if at
7 all.

8 68. The CAP’s lack of detail, defined performance standards, and enforceability
9 therefore results in the deferral of mitigation or complete lack thereof for the General Plan, the
10 CAP and future projects which tier from the CAP. (CEQA Guidelines Section 15126.4(a)(1)(B)).

11 69. CEQA Guideline Section 15064.4 requires an EIR to assess a project’s GHG
12 emissions based on a “good-faith effort, based to the extent possible on scientific and factual
13 data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a
14 project.” Further, “[t]he agency’s analysis should consider a timeframe that is appropriate for the
15 project.” (CEQA Guidelines §15064.4(b)). Despite these clear mandates, both the CAP and
16 Addendum fail to assess the CAP’s ability to meet its 2030 and 2035 reduction targets.

17 70. The City’s finding that the CAP’s GHG impact would be less than significant is
18 not supported by substantial evidence.

19 71. All projects which tier from the CAP and rely on the Consistency Regulations to
20 mitigate greenhouse gas emissions will likewise result in a significant impact to GHG emissions.

21 72. In light of the CAP and Addendum’s failure to assess and disclose the Project’s
22 significant GHG impacts, including those beyond 2035, the CAP cannot constitute a qualified
23 greenhouse gas reduction plan pursuant to CEQA Guidelines Section 15183.5(b).

24 73. The 2022 CAP fails to establish a level below which contribution to GHG
25 emissions would not be cumulatively considerable.

26 74. The 2022 CAP Update Package further fails to specify measures or a group of
27 measures, including performance standards, that substantial evidence demonstrates, if
28 implemented on a project-by-project basis, would collectively achieve the specified emissions

1 level.

2 75. As a result of the foregoing defects, Respondent City prejudicially abused its
3 discretion. Accordingly, Respondent City's CEQA determination and Project approvals must be
4 set aside.


5 **PRAYER FOR RELIEF**

6 WHEREFORE, Petitioners pray for relief as follows:

- 7 1. Alternative and peremptory writs of mandate, commanding Respondent:
- 8 A. To vacate and set aside approvals of the Project, Addendum, and all related
9 approvals;
- 10 B. To prepare and certify a legally adequate environmental document for the project
11 so that Respondent will have a complete disclosure document before it that
12 identifies for the decision-makers and public the potential significant impacts of
13 the Project, and that enables them to formulate alternatives and mitigation
14 measures to avoid those impacts;
- 15 2. For an order enjoining Respondent from taking any action to tier from or rely on the CAP
16 for future discretionary review of projects subject to CEQA unless and until Respondent
17 complies with applicable CEQA provisions and adopts a lawful plan for the reduction of
18 greenhouse gas emissions pursuant to CEQA Guidelines Section 15183.5;
- 19 3. Costs of suit;
- 20 4. Attorneys' fees as allowed by law, including under to the Code of Civil Procedure section
21 1021.5; and
- 22 5. Such other and further relief as the Court deems just and proper.

23 Dated: September 12, 2022

COAST LAW GROUP, LLP

24
25 
26 _____
27 Livia Borak Beaudin
28 Attorneys for Petitioners,
CLIMATE ACTION CAMPAIGN and
COASTAL ENVIRONMENTAL RIGHTS
FOUNDATION

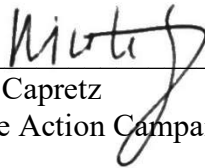
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VERIFICATION

I, Nicole Capretz, declare:

I am the Executive Director of Petitioner Climate Action Campaign and am authorized to make this verification on its behalf. I have read the foregoing Petition and know the contents thereof. The facts alleged therein are true of my own personal knowledge, except as to those 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 September 12, 2022 in San Diego, California.



Nicole Capretz
Climate Action Campaign

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VERIFICATION

I, Sara Ochoa, declare:

I am the Programs Director of Petitioner Coastal Environmental Rights Foundation and am authorized to make this verification on its behalf. I have read the foregoing Petition and know the contents thereof. The facts alleged therein are true of my own personal knowledge, except as to those 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 September 12, 2022 in Chula Vista, California.



Sara Ochoa
Coastal Environmental Rights Foundation

Exhibit “A”



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September 2, 2022

Corinne Neuffer
Chief Deputy City Attorney
Office of the City Attorney
City of San Diego
1200 Third Ave., Suite 1620
San Diego, CA 92101

Via Electronic Mail and Mail
cityclerk@sandiego.gov
CNeuffer@sandiego.gov

Re: Notice of Intent to Sue
Climate Action Plan Update Package

Dear Ms. Neuffer:

This letter is to notify you that Climate Action Campaign and Coastal Environmental Rights Foundation intend to file suit against the City of San Diego for failure to comply with 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 connection with the City’s August 2, 2022 decision to approve the 2022 Climate Action Plan (“CAP”) and Addendum to the Final Program Environmental Impact Report No. 416603, SCH No. 2015021053, as well as the Climate Action Plan Update Package, including the CAP Consistency Regulations, Urban Tree Canopy Fee, and amendment to the Land Development Manual Greenhouse Gas Emissions CEQA Significance Determination Thresholds. This notice is given pursuant to Public Resources Code section 21167.5.

Petitioners will also seek an award of attorneys’ fees under Code of Civil Procedure section 1021.5. This letter is to provide notice of the same pursuant to *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 577. Petitioners recognize the public interest would be best served if the City were to voluntarily comply with its statutory duties in order to avoid the unnecessary expenses of litigation. If the City is interested in resolving this matter please contact me immediately.

Sincerely,

COAST LAW GROUP LLP

A handwritten signature in blue ink, appearing to read 'L. B. Beaudin', is written over the typed name.

Livia Borak Beaudin
Attorneys for CERF and CAC

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7 Attorneys for Petitioners,
8 CLIMATE ACTION CAMPAIGN and COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO – CENTRAL DIVISION

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15 Petitioners,

16 v.

17 THE CITY OF SAN DIEGO, a California
18 municipal corporation; and DOES 1 through 20,
19 inclusive,

20 Respondents,

21 _____
22 DOES 21 through 40, inclusive,

23 Real Parties in Interest

Case No.:

PROOF OF SERVICE

1 I hereby certify that on this 2nd day of September, 2022 I caused copies of the following documents:

2 **- NOTICE OF INTENT TO SUE**

3 to be sent to the following persons via Mail and Electronic Mail:

4 Corinne Neuffer
5 Chief Deputy City Attorney
6 Office of the City Attorney
7 City of San Diego
8 1200 Third Ave., Suite 1620
9 San Diego, California 92101
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11 Elizabeth Maland, City Clerk
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