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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WARREN E&P, INC.; WARREN RESOURCES OF CALIFORNIA, INC.; and WARREN RESOURCES, INC.,

Petitioners and Plaintiffs,

v.

CITY OF LOS ANGELES; LOS ANGELES CITY COUNCIL; LOS ANGELES CITY PLANNING COMMISSION; KAREN BASS IN THE OFFICIAL CAPACITY AS THE MAYOR OF THE CITY OF LOS ANGELES; and DOES 1 through 20, inclusive,

Respondents and Defendants.

Case No. 23STCP00060

CEQA CASE

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

Code Civ. Proc. §§ 1085, 1094.5; Pub. Resources Code § 21167 et. seq. (CEQA) Government Code § 65860

Complaint filed:
Trial date: Not set
JURY TRIAL DEMANDED

Petitioners Warren E&P, Inc.; Warren Resources of California, Inc.; and Warren Resources, Inc. (collectively "Warren" or "Petitioner") hereby seek a writ of mandamus pursuant to Code of Civil Procedure section 1085, or alternatively, section 1094.5, directed to Respondents/Defendants City of Los Angeles ("City"), Los Angeles City Council ("City Council"), Los Angeles City Planning Commission ("CPC"), and Karen Bass in the Official

Capacity as the Mayor of the City of Los Angeles ("Mayor") (sometimes collectively referred to as the "City") and hereby bring the within Complaint for Declaratory Relief, Injunctive Relief and Damages (collectively the "Petition"). In support, Warren hereby alleges as follows:

INTRODUCTION

1. This Petition challenges the City of Los Angeles's decision to adopt Ordinance No. 187709 to amend Sections 12.03, 12.20, 12.23, 12.24, and 13.01 of the Los Angeles Municipal Code ("LAMC") to make oil wells a nonconforming use, to ban the drilling of new wells, and to prohibit the maintenance, drilling, re-drilling, or deepening of existing wells (the "Ordinance"), and its decision to adopt the related Mitigated Negative Declaration ("MND") and Mitigation Monitoring Program ("MMP"). While the City touts the Ordinance as the first step to phase out oil and gas extraction in the City and to move to cleaner energy, the City intentionally ignores the clean nature of Warren's all-electric oil and gas operations and the evidence of its low emissions. In fact, the City never even analyzed Warren's actual operations in concluding that the Ordinance should apply to it and in evaluating environmental impacts under the MND. The City has failed to ask the necessary questions and obtain the required evidence at every turn, has rushed every legally required process along the way, and as a result has based its approval and adoption of the Ordinance on a woefully deficient environmental document. The City's actions constitute not only a violation of the California Environmental Quality Act ("CEQA") and of the City's own General Plan, but also a violation of the State and Federal Constitutions in that the Ordinance effects a taking without just compensation and violates due process—all legal issues that the City also chose to ignore as part of its process. As discussed below, the City Attorney even warned the City in a public meeting prior to the City publishing the Ordinance that the City should obtain an expert amortization study before adopting an ordinance that will impact operators' rights, but the City brazenly chose to ignore the legal advice of its own lawyers.

2. At every step of the administrative process, Warren and others have cautioned the City that, among other concerns, the MND and MMP are legally deficient, that the Ordinance will effect a taking and subject the City to enormous liability, that the City is violating due process under the laws, and that Warren would pursue legal remedies if forced to do so. Nevertheless, the

City moved forward, never pausing to consider these consequences and apparently never seriously considering Warren's comments since the City Council did not even discuss Warren's concerns at its meetings. As set forth in detail below, only four months passed from the time the City initially released draft ordinance language to the adoption of the final Ordinance, and less than three months passed from the publishing of the MND to final adoption. That timeline alone reveals the haste with which the City acted and helps to explain the many legal deficiencies that were ignored along the way. In sum, the City's actions were unlawful, arbitrary, capricious, unreasonable and lacking in evidentiary support and, in fact, were contradicted by the evidence.

3. The Ordinance, which bans new drilling and prevents operations to continue the productive life of existing wells, will undoubtedly force Warren (and other operators) to shutter its doors. Warren's sole operations are within the Los Angeles basin and its only business is oil and gas extraction. Not only does this effect a taking for which no just compensation has been paid, but a shutdown of the industry will eliminate good-paying jobs, leaving many jobless with no plausible equivalent replacement. The shut-down of Warren's operations will also result in lost income to its royalty owners, many of whom rely on that income to survive.

4. On a larger scale, elimination of oil and gas extraction activities in the City does not eliminate or even reduce the demand for oil and gas in the City and elsewhere. If oil is not produced in Los Angeles, it will simply be imported from states and countries with far lesser environmental standards. What's more, the City ignores—and fails to analyze—the fact that increased importation to meet existing demands will lead to increased emissions from oil tankers at the Port of LA, or trucks used for oil transportation. Because the City did not consider the larger impacts of eliminating local oil and gas extraction, it never analyzed the environmental consequences of increased importation to compensate for the local ban on extraction.

5. Warren is proud of its contribution to Los Angeles's economy through employment, property and business taxes, and royalty income. It is equally proud of its contribution to the demand for energy, and its ability to contribute safely and cleanly. In the rush to make headlines, however, the City never bothered to consider the actual environmental footprint of Warren's operations. In fact, Warren's operations are 100% electric, and the

emissions stemming from its almost-10-acre facility are the equivalent of a physically-much smaller fast-food restaurant with a drive thru. Warren participates in annual emissions reporting to the South Coast Air Quality Management District (SCAQMD), which includes the mandatory reporting of air pollutants regulated by the Clean Air Act. Due to the low levels of facility emissions, Warren has never been required to obtain a federal Title V operating air permit and has never been required to prepare a health risk assessment. Simply put, the emissions are so low that these are not required under the law.

6. On the other hand—and as Warren has pointed out on numerous occasions—the environmental impact of plugging and abandoning the hundreds of wells left in the wake of an industry shutdown is potentially significant. Because the City has ignored the natural and reasonable consequences of the Ordinance, none of these impacts have been properly considered.

7. The City has not only ignored the natural and reasonable consequences of the Ordinance and the realities of local and global oil and gas operations, but it has taken this hugely-significant step without preparing an Environmental Impact Report (EIR), instead choosing to proceed under a rushed and legally inadequate Mitigated Negative Declaration, ENV-202204865-MND, where:

a. The City failed to analyze the whole of the project in that it states that future parts of the project—including determination of the amortization period, the definition of maintenance, abandonment and remediation requirements, and future use of oil field sites—will be drafted and considered at a future date. This impermissible piecemealing results in an environmental document that only analyzes a piece of the overall project to phase out oil and gas operations in the City.

b. The City failed to adequately describe the existing environmental baseline, including by failing to analyze existing air and health impacts of oil and gas operations, beyond general and conclusory statements that oil and gas operations present a health concern without evidence of the same as to Warren's and other's operations. As set forth above, Warren's operations are clean.

c. The City failed to adequately disclose and analyze all impacts of the Ordinance,

including greenhouse gas emissions (GHG), land use planning, noise and vibration, urban decay, and cumulative impacts (such as those stemming from increased imports and remediation of existing sites).

d. The City claims the Ordinance will have no impact on the availability of mineral resources, but the City's own July 25, 2019 Oil and Gas Health Report equates Los Angeles to Middle Eastern Countries in terms of available oil that will not be available once the industry is shut down.

e. The Ordinance also conflicts with the City's General Plan, which clearly contemplates the continued responsible extraction of oil and gas in the City.

8. The City's failure to prepare an EIR is particularly egregious in that it ignores well settled law that an agency must prepare an EIR when "there is a disagreement among expert opinion supported by the facts over the significance of an effect on the environment." In this instance, Warren engaged an expert on air emissions, Yorke Engineering, Inc. ("Yorke"), who pointed out multiple deficiencies in the MND related to air quality, health impacts related to air quality, and GHG. Yorke determined that significant air quality and health impacts related to air quality would result due to the fact that the City's air expert significantly understated the type of equipment necessary to conduct plugging and abandonment operations. The City also improperly described plugging and abandonment activities as short term. The City must prepare an EIR on this basis alone.

9. Consistent with the City's previously-rushed actions—and rather than starting over with the appropriate analysis and complete environmental review—the City pressed forward and adopted the MND at a City Council meeting on November 22, 2022.

10. As if these deficiencies aren't bad enough, the City implicitly acknowledged that its air impacts analysis was deficient (and that Yorke's analysis was credible) when it amended the MND and imposed a new mitigation measure on November 28—six days after adopting the MND by a vote of the City Council—and then adopted the MND a second time at another City Council meeting on December 2, 2022. The City's re-adoption of a revised MND without recirculation is yet another CEQA violation that illustrates the haste behind this Ordinance.

11. Because of these numerous and significant deficiencies and for the reasons set forth in more detail below, Warren seeks a writ of mandamus pursuant to Code of Civil Procedure section 1085, or alternatively, section 1094.5, directing Respondents to vacate the MND and Ordinance and forgo any and all steps in furtherance of the Ordinance, as well as declaratory and injunctive relief confirming Warren's rights and prohibiting Respondents from implementing and/or enforcing the Ordinance. Alternatively, Warren seeks relief for the unlawful taking of its real property rights.

PARTIES

12. Petitioner/Plaintiff Warren Resources of California, Inc. is incorporated in California; Petitioner/Plaintiff Warren E&P, Inc. is incorporated in New Mexico; and Petitioner/Plaintiff Warren Resources, Inc. is incorporated in Delaware. As defined previously, all Petitioners/Plaintiffs are collectively referred to herein as "Warren."

13. The City of Los Angeles is a charter city organized and existing under the laws of the State of California. The City of Los Angeles is the "lead agency" for purposes of Public Resources Code section 21067, with responsibility for conducting environmental review and approving the Ordinance.

14. The City Council is the duly elected legislative body for the City of Los Angeles responsible for compliance with CEQA, the CEQA Guidelines, State Planning and Zoning Law, the City of Los Angeles Municipal Code and the Charter and Administrative Code in adopting amendments to the Los Angeles Municipal Code.

15. The CPC is an appointed commission that reviews and recommends amendments to land use ordinances and the General Plan.

16. The Mayor is an elected official who approves or vetoes ordinances passed by the City Council and is named herein in official capacity only.

17. Warren is unaware of the true names and/or capacities of Respondents and Defendants DOES 1 through 20, inclusive, and therefore sues said Respondents and Defendants by such fictitious names. Warren will amend this Petition to insert the true names and/or capacities of DOES 1 through 20, inclusive, when the same have been ascertained. Warren is

informed and believes, and thereon alleges, that each such fictitiously named Respondent and Defendant is, in some manner or for some reason, responsible for the damage caused to Warren and is subject to the relief being sought in this Petition.

JURISDICTION & VENUE

18. This Court has jurisdiction under, among other grounds, Code of Civil Procedure section 1085 and/or, alternatively, section 1094.5, as well as Public Resources Code sections 21168 and/or 21168.5 and Government Code section 65860.

19. Venue is proper in this Court under Code of Civil Procedure sections 393, 394, and 395 as the acts and omissions alleged herein took place within the County of Los Angeles, and the City of Los Angeles, City Council, CPC, and Mayor are Respondents and Defendants in this action. Further, pursuant to the Los Angeles Superior Court Local Rules, this CEQA action is filed in the Central District.

GENERAL FACTUAL ALLEGATIONS

A. Warren's Operations

20. Since 2005, Warren has operated within the City limits pursuant to a City authorization described as Z.A. Case No. 20725, in which the City authorized operations at a semi-controlled drilling and production site in connection with the recovery of hydrocarbons from the Wilmington Townlot Unit, with related equipment and buildings necessary for the establishment and operation of a central production facility, which facilities are located in Nonurbanized Oil Drilling District No. 5, as designated and approved by the City. Z.A Case No. 20725 was approved on February 25, 1972, and was originally issued to Warren's predecessor in interest, Humble Oil and Refining Co. Warren also operates in the City pursuant to Approvals of Plans issued by the City on July 20, 2006 (PA1) and October 2, 2008 (PA2) (collectively, the "Approvals"). Pursuant to the Approvals, Warren consolidated its operations into a central location in Los Angeles—the Wilmington Site (the "Site")—per an agreement with the City. As part of that agreement and at the City's request, Warren committed to plugging and abandoning wells outside the central facility Site over time, agreed to give up its right to redrill 560 wells located outside the Site and committed to converting all its operations from diesel fuel to electric,

which Warren has done at great expense. In return, the City issued the Approvals, and agreed that Warren could drill and operate 540 wells at the Site with up to 5 well cellars. The Ordinance attempts to convert the City's designation and approval of Nonurbanized Oil District No. 5 into a non-conforming use prohibiting oil and gas operations and attempts to revoke the rights granted to Warren under Z.A. Case No. 20725, as well as the Approvals.

21. Warren has invested over $400 million in drilling and facilities construction at the Site in reliance on Z.A. Case No. 20725, the Approvals, its agreement with the City and the City's designation and approval of Nonurbanized Oil District No. 5. Warren currently operates approximately 165 active wells and 79 idle wells, for a total of 244 of the approximately 641 current wells in the City of Los Angeles. It produces approximately 1,800 barrels of oil a day. Warren operates within the City exclusively on the consolidated Site, which is 9.22 acres in size, not including the 3.29-acre baseball park Warren owns and maintains for the community. Warren's producing wells are further concentrated in 3 well cellars with a surface footprint of approximately 1 acre within the Site. The Site, which is now fully electric, is a closed and self-contained system with a flawless environmental record.

22. The total reserve value to Warren and its royalty owners is currently estimated at $675 million. More than $2 million has been paid to date in royalty revenues to the City and Harbor Commission, and Warren pays over $4 million annually in taxes and fees. Warren's only operations within the City of Los Angeles are contained at the Site. Warren has no operations outside of the Los Angeles Basin, and no operations outside of California.

B. <u>The 2019 Oil and Gas Health Report and 2020 City Attorney Analysis</u>

23. On June 30, 2017, the City Council adopted a motion instructing the then City Petroleum Administrator, Uduak-Joe Ntuk (now the State's Oil & Gas Supervisor), in collaboration with the City Attorney and numerous other public agencies, to report on the health impacts of oil and gas sites in the City. Mr. Ntuk and the Office of Petroleum and Natural Gas Administration and Safety (OPNGAS) performed an extensive study and published an Oil and

Gas Health Report on July 25, 2019 (the "City's 2019 Oil & Gas Health Report").[1]

24. Notably, the City's 2019 Oil & Gas Health Report found the health impacts of oil and gas operations in the City were "limited and inconclusive." The report elaborated that: "[t]here is a lack empirical evidence correlating oil and gas operations within the City of Los Angeles to widespread negative health impacts. The lack of evidence of public health impacts from oil and natural gas operations has been demonstrated locally in multiple studies by the Los Angeles County Department of Public Health, the Los Angeles County Oil & Gas Strike Team, the South Coast Air Quality Management District and the comprehensive Kern County Environmental Impact Report and Health Risk Assessment." (Page 145 of the City's 2019 Oil & Gas Health Report.) Nonetheless, the City's 2019 Oil & Gas Health Report recommended that City Council instruct City Planning to outline the feasibility of implementing a setback from sensitive receptors, noting it should include proposed remedies and relief for potential due process and takings claims from existing operators and mineral rights owners.

25. On November 17, 2020, the Energy, Climate Change and Environmental Justice Committee held a special meeting at which the City Attorney spoke to two confidential reports prepared by the City Attorney's Office for City Council. Those reports apparently addressed the legal implications associated with the oil and gas recommendations outlined in the City's 2019 Oil and Gas Health Report. With respect to the feasibility of a setback ordinance, the City Attorney said:

> THERE IS A LEGAL PATH FORWARD FOR THE CITY TO ADOPT A CAREFULLY CRAFTED ZONING ORDINANCE ESTABLISHING A SETBACK FROM EXISTING OR NEW OIL AND GAS WELLS AND RELATED FACILITIES WITH A[N] AMORTIZATION PERIOD SUPPORTED BY EXPERT STUDY. A REQUEST FOR THE DRAFTING OF A[N] ORDINANCE **WILL REQUIRE THE CITY PLANNING DEPARTMENT TO RETAIN EXPERTS TO ASSIST IN THE PREPARATION OF AMORTIZATION STUDIES ALONG WITH EXPERTS TO ASSIST IN THE CRAFTING OF THE ACTUAL ORDINANCE**. AN ENVIRONMENTAL REVIEW UNDER CEQA WOULD ALSO HAVE TO BE PERFORMED IN CONNECTION WITH ANY ORDINANCE THAT IS PREPARED. ANY ZONING ORDINANCE ENACTED BY THE CITY WILL

[1] A copy of the City's 2019 Oil & Gas Health Report can be found at: https://clkrep.lacity.org/onlinedocs/2017/17-0447_rpt_BPW_07-29-2019.pdf.

LIKELY RESULT IN LITIGATION. **OUR OFFICE WILL [DEFEND] IN COURT A CAREFULLY CRAFTED SETBACK ORDINANCE BY A STRONG ADMINISTRATIVE RECORD WHICH INCLUDES EXPERT AMORTIZATION STUDIES AND PROPER ENVIRONMENTAL REVIEW.**[2]

26. Despite this word of caution from its own attorneys, the City has now hastily moved forward in less than a three months' time period with adopting the MND and enacting a complete ban on drilling within the City limits (as opposed to a setback ordinance), with no expert amortization study and with a truncated and unlawful environmental review and CEQA document.

C. The Draft Ordinance

27. At a meeting of the City Council on January 26, 2022, the Council adopted a recommendation to instruct City Planning and the City Attorney to prepare an ordinance to prohibit new oil and gas extraction and to make existing extraction operations a nonconforming use within the City of Los Angeles. The City Council further adopted the recommendation to have OPNGAS retain an expert to conduct an amortization study to determine the amortization period that would be appropriate for wells currently existing within the City limits. Former-Mayor Eric Garcetti approved the same on January 27, 2022.

28. Pursuant to that directive from City Council and Mayor Garcetti, the Los Angeles City Planning Department ("City Planning") on August 9, 2022, released the Ordinance (in draft form) to prohibit new oil and gas extraction in the City of Los Angeles, and to phase out existing extraction activities. To achieve its goal of eliminating oil extraction in the City, the Ordinance proposed amendments to Sections 12.03, 12.20, 12.23, 12.24, and 13.01 of the LAMC to make oil wells a nonconforming use, to ban the drilling of new wells, and to prohibit the maintenance, drilling, re-drilling, or deepening of existing wells. The Ordinance did not define what was meant by "maintenance," but City Planning Staff made it clear that efforts to prolong the life of existing wells through, for example, re-drilling and deepening operations would be prohibited.

29. Moreover, the Ordinance did not contain the amortization study requested by the

[2] Transcript of meeting available at https://lacity.granicus.com/TranscriptViewer.php?view_id=46&clip_id=20391.

City's own legal counsel; in fact, the City had not even retained an expert to conduct the study. Instead, the Ordinance provided that all wells shall be "removed, dismantled, demolished, and disposed of" within 20 years from the effective date of the Ordinance deeming them nonconforming (an "amortization period" already existing in the Los Angeles Municipal Code). In other words, rather than follow the advice of its own counsel, the City proceeded unlawfully without the amortization study and has indicated that an "amortization study" will be conducted and further amendments to the Ordinance will be forthcoming to shorten the existing amortization period to something less than 20 years. As of the date of this filing, no study has been completed. Warren is unaware how long it will be allowed to operate existing wells, but Warren estimates that the current provisions in the Ordinance that prohibit re-drilling, deepening and "maintenance" of existing wells will result in those wells ceasing production within approximately three years in any event.

30. Also in August 2022, City Planning announced that it would hold a Virtual Presentation and Public Hearing about the Ordinance on August 30, 2022. The notice provided that public comments would be accepted and that City Planning would thereafter prepare a recommendation report for the City Planning Commission's consideration.

D. CPC's Premature Recommendation to Adopt the Ordinance & MND

31. In September 2022, City Planning released an amended version of the Ordinance and released a Staff Recommendation Report to the CPC. Notice was provided to stakeholders by email on September 15, 2022 that the CPC would hold a meeting on September 22, 2022 to consider these items. Also on September 15, 2022, the City published the MND. Pursuant to the Agenda, public comments to the CPC were due 48-hours in advance of the meeting, on September 20, 2022, and were limited to ten pages, including exhibits. Stakeholders were therefore given less than five days to prepare and submit limited comments before the CPC would consider recommending approval and adoption of the MND and the Ordinance to the City Council.

32. The CPC received written comments, including from Warren, urging it to not rush forward with the Ordinance because—among other legal issues—the amortization study had not

been completed and the 30-day CEQA comment period was still open. Warren also noted that the recommended findings included requirements that the CPC find that it had evaluated the MND, including "*all comments received regarding the MND*." (See e.g., Staff Recommendation Report, Proposed Finding 3 at F-3 (emphasis added).) The CPC, however, could not consider all such comments at its September 22, 2022 meeting since the deadline for submitting comments to the MND did not run until October 17, 2022.

33. Nonetheless, at its September 22, 2022 meeting, the CPC adopted the Staff Recommendation Report thereby recommending that City Council adopt the MND, the related MMP, findings, and the Ordinance. Rather than wait less than one month to evaluate the comments to the MND, the CPC modified the draft findings to note that it was based on the comments received "to date." The CPC ignored the fact that the comment period was still open despite requirements in the Los Angeles City Charter & Administrative Code ("LACAC") Section 556, which provides that "[i]n accordance with City Charter Section 558(b)(2), the proposed ordinance will be in conformance with public necessity, convenience, general welfare, and good zoning practice by advancing the basic core zoning to project citizens' health, safety, and welfare." Impacts to the public's general welfare including its health and safety, however, are evaluated through the CEQA review, which process had not been completed by the CPC's September 22, 2022 meeting, and the public surely was not given enough time or space to provide meaningful comments in five days and ten pages.

34. The CPC also ignored the fact that its recommendation directly affected the voting requirements of the City Council to enact the Ordinance. (LACAC § 558(b)(3).) Accordingly, the CPC's action was not merely "advisory" as stated by Planning Department Staff to the CPC, but rather affected the procedural requirements of the City Council in considering the Ordinance.

35. The CPC issued a Letter of Determination on September 26, 2022 (the "September 26, 2022 CPC Report"), confirming that it took certain actions at its September 22 meeting, including: adopting the Staff Recommendation Report as the CPC's own report on the subject; recommending that the City Council adopt the MND, consider the whole of the administrative record including all comments to the MND, and adopt the MND and MMP; and approving and

recommending that City Council adopt the Ordinance.

36. The September 26, 2022 CPC Report was the first action and document loaded to the LA City Clerk Connect Council File Management System, Council File 17-0447-S2 (the Council File Management System), which—on information and belief—is the City's online portal to house all actions and filings related to City Council matters. With respect to the present matter, the Council File Management System houses a record of the actions taken by the various City commissions and committees, and the documents associated with those actions, including all written public comments received, committee and commission reports, and scheduling of hearings.

37. Finding No. 3 of the Land Use Findings from F-1 was revised by the CPC from the actual finding adopted by the CPC to provide that the CPC had considered the MND and all comments "received to date," and that "[i]n consideration of the whole administrative record to date, including the [MND] and all comments received," the CPC recommends the City Council adopt the MND. (Changes in underline.) Accordingly, Finding No. 3, as amended after-the-fact, is contrary to the findings actually adopted by the CPC at the hearing. Moreover, either version is misleading in that they imply that the CPC reviewed "all comments" on the MND even though the comment period had just opened a week before and would not expire until October 17, 2022.

38. The Staff Recommendation Report also notes that City Planning's Office of Zoning Administration was preparing a Zoning Administrator's Interpretation on the types of activities that would constitute prohibited "maintenance" under the Ordinance. The Report additionally provided that at the time the Ordinance became effective, the Office of Zoning Administration would issue a memorandum discussing the process and procedures for obtaining review of the Zoning Administrator for activities that are necessary to respond to emergencies or threats to public health, safety, and the environment. As of the date of this filing, Petitioners are not aware of any Zoning Administrator Interpretation addressing maintenance activities, nor of any memorandum discussing emergency or imminent threat procedures.

39. The Staff Recommendation Report also noted that, "there are many other follow up actions that the City will undertake to ensure the safe phaseout of oil operations." (Staff

Recommendation Report at A-2 to A-3 (discussing some of the follow up actions).) Those actions include:

a. As noted above, the City has stated on multiple occasions that upon completion of the amortization study the law will likely be changed to shorten the amortization period.

b. With regard to remediation, this ordinance "represents the first step." (Staff Recommendation Report at P-6.)

c. As provided above, the City will clarify what is precluded as "maintenance activities." (Staff Recommendation Report at P-3.)

40. The CPC's actions on the Ordinance were premature and unlawful. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 388, 394 ("A fundamental purpose of [a CEQA document] is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If post approval environmental review were allowed, [CEQA] would likely become nothing more than post hoc rationalizations to support action already taken.").) The completion of the CEQA process, including the required comment period and the consideration of these comments, is necessary as to two fundamental purposes of CEQA: informed decision making *by the agency* and informed public participation. The case law is clear that the failure to satisfy these requirements is a prejudicial error. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946.) Further, rather than a mere "recommendation," the CPC's actions directly affected the procedures the City Council was required to follow in adopting the Ordinance.

41. The CPC referred consideration of the item to the Arts, Parks, Health, Education, and Neighborhoods Committee ("Arts and Parks Committee"); the Energy, Climate Change, Environmental Justice, and River Committee ("Energy Committee"); and the Planning and Land Use Management Committee ("PLUM Committee").

42. On September 30, 2022, the Energy Committee scheduled the item for its October 6 committee meeting. Warren and others again timely submitted comments in opposition. The

item was approved. This action by the Committee also took place prior to the conclusion of the CEQA comment period, meaning the Committee—like the CPC—could not and did not consider all public comment on the MND prior to approving the MND and the Ordinance.

43. On October 13, 2022, City Planning prepared a letter to the PLUM Committee and transmitted with that letter: (1) responses to comments regarding the IS/MND received as of October 11, 2022 (prior to the close of the October 17, 2022 comment period); and (2) an errata to the IS/MND ("Errata No. 1"). Despite the fact that the comment period was still open, not all comments had been received or responded to, and City Planning sent Errata No. 1 at the same time it sent the letter, the letter recommended that the PLUM Committee recommend adoption of the Ordinance, the MND, Errata No. 1, and related findings to the City Council.

44. The next day, on October 14, 2022, the PLUM Committee scheduled the item for its October 18 committee meeting. Warren and others again timely submitted comments in opposition. At the committee meeting, the PLUM Committee decided to continue the item to its November 1 meeting. The item was then approved at the November 1 meeting.

45. The Arts and Parks Committee waived consideration of the item on October 17, 2022.

E. <u>The MND and MMP Are Deficient</u>

46. On October 17, 2022, the MND comment period closed. Warren timely submitted its comment letter on the MND that day such that it was never considered by the CPC or the Energy Committee. Warren's comment letter on the proposed MND and MMP sets forth numerous deficiencies with the City's assumptions and ultimate environmental document, as set forth in greater detail below. Broadly, Warren's comments discuss:

a. The City's improper piecemealing of the project, including by failing to define prohibited "maintenance" activities, failing to address the environmental impacts of remediation, failing to perform an amortization study and define the amortization period prior to adoption, and failing to address future uses of oil field sites.

b. Multiple deficiencies with the individual impact assessments in the MND,

including impacts to mineral resources, air quality, GHG emissions, land use and planning conflicts, noise and vibration, failure to address cumulative and indirect impacts, lack of an accurate baseline, and failure to consider urban decay.

47. Warren's submission included expert evidence provided by Yorke dated October 17, 2022 (the "October Yorke Report"), in which Yorke, an expert on air emissions, pointed out multiple deficiencies in the MND related to, among other things, unsupported assumptions on equipment ratings and incorrect analysis of health impacts as to air quality and GHG.

48. Yorke is a firm of engineers that specialize in air quality and environmental permitting and compliance issues, including specifically with respect to oil and gas operations in Southern California. As a firm, Yorke has prepared over 50 environmental documents. The team that prepared the October Yorke Report was comprised of two Professional Engineers (PEs) and a Certified Permitting Professional (CPP) who specialize in oil and gas industry environmental compliance, and air dispersion and health risk assessment modeling.

49. The October Yorke Report concluded that based on its analysis, there was substantial evidence that the Ordinance would result in significant impacts under the applicable CEQA thresholds. The October Yorke Report was incorporated by reference into Warren's comments.

50. On October 27, 2022, City Planning provided responses to the remainder of the comments it had received through the close of the CEQA comment period on October 17, including Warren's October 17 Comment Letter. The City concluded that "None of the comments received during the entirety of the IS/MND circulation period offers any new evidence or any evidence that any fact, analysis, or determination in the Initial Study/Mitigated Negative Declaration (IS/MND) is incorrect. None of the comments make a fair argument, supported by substantial evidence, that the Ordinance may cause a significant impact on the environment." (Oil and Gas Drilling Ordinance Supplemental Responses to Comments, at 2.) City Planning's responses to Warren's comments do not specifically address Yorke's findings or analysis.

F. <u>City Council Adopts the MND</u>

51. After business hours on Friday, November 18, 2022, leading into the Thanksgiving

week, the City scheduled the MND to be considered by the City Council at its Tuesday, November 22, 2022 meeting, and posted such notice on the Council File Management System. This essentially gave the public one business day to prepare and submit comments prior to the City Council's consideration of the Ordinance, MND, and MMP. The Agenda Item description also contained the recommended action that the City Council adopt the MND.

52. The Agenda Item was passed by the City Council at the November 22, 2022 meeting including—on information and belief—the adoption of the MND and MMP. Nevertheless, the City later asserted that it had not adopted the MND.

53. More specifically and contrary to that later assertion, on November 23, 2022, the City posted the November 22 Motion on the Council File Management System, as well as an action note stating, "Council adopted item forthwith." The Motion states, "I HEREBY MOVE that Council ADOPT the recommendations contained in the Planning and Land Use Management [PLUM] Committee report dated November 1, 2022." The recommendations for City Council set forth in the November 1, 2022 PLUM Committee report include the following City Council "action":

a. Adopt the MND, with the imposition of the mitigation measures;
b. Adopt the MMP;
c. Adopt the September 26, 2022 findings of City Planning;
d. Request the City Attorney to prepare and present the Ordinance;
e. Instruct City Planning to incorporate the Ordinance once adopted into the LAMC;
f. Concur with the Energy Committee recommendations of October 6 to approve the Ordinance and environmental documents;
g. Instruct the Petroleum Administrator to quarterly report to City Council on the status of the amortization study and remediation efforts.

54. A second entry on the Council File Management System states "Council action final." The linked document, titled "Official Action of the Los Angeles City Council," includes the Agenda Description: "MITIGATED NEGATIVE DECLARATION, ERRATA, MITIGATION MONITORING PROGRAM and RELATED CALIFORNIA

ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS, and ENERGY, CLIMATE CHANGE, ENVIRONMENTAL JUSTICE, AND RIVER (ECCEJR) and PLANNING AND LAND USE MANAGEMENT (PLUM) COMMITTEES' REPORTS relative to a proposed ordinance amending Los Angeles Municipal Code Sections 12.03, 12.20, 12.23, 12.24, and 13.01 to prohibit new oil and gas extraction and make existing extraction activities a nonconforming use in all zones." The Council Action references the Motion – "Adopted Forthwith."

55. On information and belief, the Motion to adopt the MND and MMP was therefore adopted at the November 22 City Council meeting.

G. <u>City Council Amends the MND and MMP, Adopts Again</u>

56. Thereafter, on November 28, 2022, the City posted to the Council File Management System: (1) a Report from City Attorney with Ordinance attached (dated November 23 but, on information and belief, posted November 28); and (2) a Report from City Planning with several attachments. Those attachments consist of an Impact Sciences Memorandum, a Second Errata to Initial Study and MND ("Second Errata"), a Revised MMP, and Topical Responses to Comments.

57. The Impact Sciences Memorandum attempted to rebut the October Yorke Report. Despite being dated November 23, 2022, the City did not post the document to the Council File Management System until November 28, 2022, along with the Second Errata, the Revised MMP, and the City Attorney Report (also dated November 23, 2022, and recommending certain findings).

58. The Revised MMP added a new mitigation measure requiring the use of off-road equipment with greater than 50 bhp to be Tier 4 in order to address the significant issue of air quality stemming from the inevitable well plugging and abandonment that will be required if the Ordinance is to take effect.

59. While the Impact Sciences Memorandum attacks Yorke's credibility and evidence, as discussed further below, the Second Errata and revised MMP make a significant change to the Project: the City adds a mitigation measure requiring use of Tier 4 abandonment equipment to address potential air impacts, including particulate matter exhaust emissions. Specifically, "All

off-road diesel-powered construction equipment equal to or greater than 50 horsepower shall meet the U.S. Environmental Protection Agency's (USEPA) Tier 4 Final emission standards during abandonment of wells. Operators shall maintain records of all offroad equipment to document that each piece of equipment used meets these emission standards." In one breath, then, the City attempts to discredit Yorke's findings of significant air, GHG, and noise impacts, while also apparently attempting to mitigate for those same impacts by imposing a wholly new mitigation measure.

60. The Second Errata not only adds the text and justification for the new measure, but also attaches and incorporates a 19-page Oil and Gas Well Abandonment Emissions with Tier 4, Model Output, analyzing the environmental impact of the new mitigation measure.

61. The following day on November 29, the City noticed a second City Council meeting for December 2, 2022, with adoption of the revised MND, amended MMP, and final Ordinance on the Agenda. With regard to the CEQA action, the Agenda recommended the adoption of an "exemption" although no such document was contained in the administrative record. This notice only provided a few days for the public to review the Revised MND and MMP, along with the Impact Sciences Memorandum attacking the October Yorke Report. The City also only provided the bare minimum notice of 72 hours that it was going to seek to undo its prior final action of November 22, 2022, and adopt the Revised MND and MMP.

62. Despite the City delaying the posting of various documents until November 28, Warren provided an additional comment letter dated December 1, which letter included a second report by Yorke dated December 1, 2022 ("December Yorke Report") in which Yorke rebutted the assertions made in the Impact Sciences Memorandum dated November 23, 2022.

63. It was not until December 1, 2022, at 8:00 p.m. that the City finally posted on the Council File Management System that the Ordinance was scheduled for the December 2 City Council meeting. Despite objections from Warren and others, the Council passed the proposed actions, including approval (again) of the MND, although this time of the Revised MND, and adoption of the Ordinance. On December 2, the Council File Management System again noted an activity entry stating, "Council adopted item forthwith."

64. The former Mayor approved the Ordinance on December 8, 2022, and the Council File Management System posted a last "Council action final" note on December 9, 2022. The Ordinance is scheduled to become effective on January 18, 2023.

EXHAUSTION, JURISDICTIONAL, & NOTICE REQUIREMENTS

65. Warren has participated at every stage of administrative review and has complied with all conditions imposed by law prior to filing this action.

66. Warren timely submitted a comment letter to the CPC in advance of its September 22, 2022 meeting. Warren timely submitted comments in advance of the October 6, 2022 City of Los Angeles Energy Committee meeting. Warren timely submitted comments on the proposed MND prior to the close of the CEQA comment period on October 17, 2022. That letter included and incorporated by reference the October Yorke Report. Warren also submitted the same comments to the PLUM Committee in advance of its October 18, 2022 scheduled meeting, at which meeting the Ordinance agenda item was continued to November 1, 2022. Warren timely submitted comments in advance of the November 22, 2022 City Council Meeting, and Warren timely submitted comments in advance of the December 2, 2022 City Council Meeting, which letter included and incorporated by reference the December Yorke Report, rebutting the Impact Sciences Memorandum.

67. With its comment letters, Warren also joined the written and oral comments of other industry organizations and companies that were submitted in opposition to the Ordinance and adoption of the MND in connection with all prior meetings (the August 30, 2022 Planning Staff Meeting; the September 22, 2022 CPC meeting; the October 6, 2022 Energy Committee meeting; the November 1, 2022 PLUM Committee Meeting; and the November 22 and December 2, 2022 City Council Meetings).

68. On December 12, 2022 a Notice of Determination (NOD) was posted to the State of California's CEQAnet Portal, the online environmental database of the State Clearinghouse (SCH), part of the State's Office of Planning & Research. According to its website, CEQAnet contains information from all CEQA documents submitted to the SCH for State review. Warren has timely filed this Petition, not later than 30 days from the date of posting of the NOD.

69. Warren has complied with the requirements of Public Resources Code section 21167.5, by providing advance notice to the City, City Council, CPC and Mayor that this action would be filed. Warren served a Notice of Intent to File CEQA Petition on the City, City Council, CPC and Mayor by mail and electronic mail on January 6, 2023. Proof of service of this notification, with a copy of the notification, is attached as **Exhibit A**.

70. Warren will comply with the requirements of Public Resources Code section 21167.7 by providing notice and a copy of this Petition to the California Attorney General within ten days of filing this action.

71. Warren does not have a plain, speedy, or adequate remedy at law. The maintenance of this action enforces important public policies of the State with respect to protecting the environment and public participation under CEQA. The maintenance and prosecution of this action will confer a substantial benefit upon the public by protecting the public from the environmental and other harms alleged herein. Warren thus is entitled to the recovery of attorneys' fees under California Civil Procedure Code section 1021.5.

FIRST CAUSE OF ACTION

(For Writ of Mandate – Public Resources Code § 21167, Violation of CEQA)

72. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

73. CEQA mandates that the long-term protection of the environment shall be the guiding criterion in public decisions. (Pub. Resources Code §§ 21000-21002). CEQA requires that public agencies analyze and disclose the environmental impacts of their actions to the public prior to their approval. (CEQA Guidelines [Cal. Code Regs., tit. 14, § 15000 et seq.], § 15002(a).)

74. CEQA's mandates are procedural and informational, as well as substantive. CEQA requires that public agencies avoid or significantly reduce environmental impacts whenever feasible by implementing project alternatives and mitigation measures. (Pub. Resources Code § 21002.)

75. A public agency abuses its discretion and fails to proceed in the manner required

by law when its actions or decisions do not substantially comply with the requirements of CEQA. (Pub. Resources Code §§ 21168, 21168.5.)

76. Where a proposed project may result in significant environmental effects, CEQA requires public agencies to prepare an environmental impact report ("EIR"), the purpose of which is "to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." (Pub. Resources Code § 21002.1(a).)

77. An EIR is required even if the project's ultimate effect on the environment is far from certain. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 382-383). If a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency *shall* prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1986, 1104; CEQA Guidelines, § 15064(f)(1).)

78. "In marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principal: If there is a disagreement among expert opinion supported by the facts over the significance of an effect on the environment, the Lead Agency *shall* treat the effect as significant and *shall* prepare an EIR." (CEQA Guidelines, § 15064(g) (emphasis added).)

79. Whether a CEQA document fails to include the information necessary for an adequate analysis of an environmental issue is a question of law, and when reviewed by the courts, the courts do not defer to an agency's determinations. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 935.)

80. The City has violated CEQA by failing to prepare an MND that meets all of CEQA's procedural and substantive mandates prior to the City Council's actions on November 22, 2022 and December 2, 2022 to adopt the MND and by failing to prepare an EIR. In doing so, the City actions were in violation of the law, arbitrary and capricious, an abuse of discretion and lacking in evidentiary support.

81. The City violated CEQA by ignoring expert opinion provided by Warren in the October Yorke Report and December Yorke Report (the "Yorke Reports") that the Ordinance would have significant impacts on the environment, particularly impacts related to air quality, health impacts related to air quality, and GHG emissions.

82. Among other failings, the Yorke Reports noted that:

a. The MND drastically understated the type of equipment necessary to conduct plugging and abandonment operations. In particular, in modeling air emissions, the City drastically understated the brake horsepower (bhp) required by workover rigs. The MND's use of a 33 bhp (comparable to the bhp of a riding lawnmower) was approximately 16 times lower than the workover rig bhp cited in the Yorke Reports, which information is based on readily available commercial information and Warren's prior use of similar equipment in plugging approximately 40 wells in the area since 2020. The City failed to provide any substantive support for its use of a 33 bhp rating.

b. The City failed to include emissions related to a "mud pump engine." This equipment is necessary for plugging and abandonment activities, has a similar bhp rating to a workover rig, and has regularly been used by Warren and other operators for plugging and abandonment activities in the City.

c. The MND made a crucial error when it concluded that plugging and abandonment activities were isolated, short-term activities. While a single well abandonment typically lasts 10 to 14 workdays, the MND ignores the fact that pursuant to an existing City requirement, wells are heavily concentrated in small areas within the City, such as Warren's Site, which contains over 200 wells in an approximately 10-acre area. Rather than evaluating air impacts based on one discreet abandonment, the Yorke Reports concluded that impacts would result from multiple continuous abandonments. In support of this conclusion, the Yorke Reports pointed, in part, to the fact that in plugging and abandoning approximately 40 wells in the area since October 2020, Warren's use of the workover rig, mud

pump engine and other types of equipment has been nearly continuous.

d. Interpreting "maintenance" to not include activities that could sustain or enhance production will result in Warren having to cease production in just a few years, leading to a much more compressed plugging and abandonment schedule than contemplated in the MND.

e. Using the correct equipment in its analysis, emissions related to plugging and abandonment activities would exceed the applicable CEQA air quality thresholds of significance.

f. GHG emissions would likely be significantly higher than those described in the MND due to the same failure to properly describe the equipment necessary for plugging and abandonment activities.

g. Whereas the City provided a conclusory statement that the Ordinance would not result in any health impacts from air emissions related to plugging and abandonment operations, the Yorke Reports concluded that, when properly analyzed, it was clear that significant health risks would result.

83. The City implicitly acknowledged some of the problems with their air analysis by adding—approximately 72 hours prior to the December 2, 2022 City Council meeting to adopt the MND a second time—an additional mitigation measure relating to air impacts associated with plugging and abandonment operations. The City, however, failed to recirculate this last-minute, Revised MND with the new additional mitigation measure requiring off-road equipment with greater than 50 bhp to meet Tier 4 standards, thereby violating CEQA and depriving the public of an opportunity to meaningfully comment on the measure and its feasibility. In fact, there was no evidence that such equipment is even available for use, thereby further violating CEQA's standard that mitigation measures must be feasible. The City also did not provide support as to how this mitigation measure would address the significant effects noted by the Yorke Reports, nor did the City provide revised calculations using the correct equipment, equipment ratings for workover rigs and timing of abandonments as described in the Yorke Reports.

84. Accordingly, in refusing to prepare an EIR the City ignored well-established law

that where there is a disagreement among expert opinion supported by the facts over the significance of an effect on the environment, "the Lead Agency *shall* treat the effect as significant and *shall* prepare an EIR." (CEQA Guidelines, § 15064(g) (emphasis added).)

85. The City further violated CEQA by refusing to consider the "whole of the project" and instead engaged in illegal piecemealing and project segmentation, which occurs when a public agency divides a proposed project into smaller pieces and accordingly fails to consider the impacts of the whole undertaking. (*East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 293.) CEQA requires that public agencies analyze the "whole of the project," which includes all related actions, all implementation actions, and all reasonably foreseeable subsequent actions. (CEQA Guidelines, § 15378(a), (c)-(d).) "Agencies cannot allow environmental considerations to become submerged by chopping a large project into many little ones." (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222 (internal citations omitted).)

86. Questions of project scope and piecemealing are not subject to the substantial evidence standard, but instead are analyzed as a question of law by a reviewing court. (*Tuolumne Cnty. Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1223-24; *Black Property Owners Assoc. v. City of Berkeley* (1994) 22 Cal.App.4th 974, 984 ("Whether a particular activity constitutes a project in the first instance is a question of law.").)

87. Among other failings, the City has illegally piecemealed the environmental analysis by:

a. Admitting that, "There are many other follow up actions that the City will undertake to ensure the safe phase-out of oil operations citywide . . . ." (Staff Recommendation Report, A-2.)

b. Assuming a 20-year schedule for phasing out production from existing wells, but then acknowledging that the City is preparing an amortization study to determine whether production must terminate sooner than that: "OPNGAS has been tasked with preparing an amortization study to examine the length of time . . . [and to] determine whether oil drilling operations must be terminated sooner than the 20

years currently prescribed in the LAMC." (Staff Recommendation Report at A-2 to A-3.). "If the results of the amortization study find that individual wells can recoup their investments sooner, then the Code would be amended to reflect those timeframes." (Staff Recommendation Report, A-3.) A more compressed schedule will necessarily change the project's impacts, but those impacts were not analyzed by the City because it did not wait for the amortization study to be completed.

c. Admitting that while the Ordinance does not regulate remediation outside of one mitigation measure, it represents "the first step taken to advance an effort to safely phase out oil and gas extraction by prohibiting and making it a nonconforming use . . . [CPC] recognizes that a cleanup and abatement policy needs to be addressed." (Staff Recommendation Report at P-6.)

d. Similarly, acknowledging that "[w]hile the adoption of the Ordinance would accomplish a significant milestone in initiating the phase-out period, [CPC] will continue to consult with OPNGAS to conduct the necessary research on site cleanup and remediation policies, leaving open the possibility of future regulatory changes to the Zoning Code, if appropriate." (Staff Recommendation Report at P-6.)

e. Confirming that it has not yet defined what the Ordinance describes as allowed "maintenance." In particular, the Staff Recommendation Report at P-3 provides that the "definition of maintenance is being addressed separately from the Ordinance. . . Once final, this guidance . . . would further clarify the types of maintenance activities prohibited under the Ordinance, with limited exceptions to prevent or respond to threats of public health, safety, or the environment." The City thus acknowledges that it may define maintenance in such a way that oil and gas production would be further limited by precluding traditional activities needed to maintain production for a well.

f. Admitting that its "analysis does not examine impacts from remediation and/or future development [of the oil field sites]." (MND, pp. 31-32.)

88. Thus, the City admits that the Ordinance is the first step in the project and changes will be coming on plugging, abandonment and remediation, amortization, what activities fall within the term "maintenance," and the future use of the former oil sites. Accordingly, the City fails to meet the standard set out by the California Supreme Court, which requires that a CEQA document "must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (*Laurel Heights Improvement Association v. Regents of University of Cal.* (1988) 47 Cal.3d 376, 396.)

89. The MND's analysis of the loss of availability of mineral resources is legally inadequate. "Mineral resources" are an environmental factor pursuant to CEQA, and the "loss of availability of a known mineral resource that would be a value to the region and the residents of the state" or the "loss of availability of a locally important mineral resource recovery site" constitutes an adverse environmental impact. (CEQA Guidelines, Appendix G, § XII.) Public Resources Code § 21060.5 even expressly defines the "environment" to include "the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, *minerals*, flora, fauna, noise, or objects of historic or aesthetic significance." (Emphasis added.)

90. It is undisputed that the Ordinance, as written, would prohibit new production facilities within the City and would terminate all oil and gas production when existing wells within the City can no longer economically produce in their current state (given the inability to maintain them) with an outside date of 20 years or, alternately, a shorter period after a change to the 20-year period once the City completes its amortization study.

91. It is undisputed that the City contains enormous oil and gas resources, as described in the following:

a. The US Geological Service Fact Sheet 2012-3120 dated February 2013, which constitutes expert opinion, describes the Los Angeles Basin, which is partly encompassed by the City, as containing "one of the highest concentrations of crude

oil in the world. Sixty-eight oil fields have been named . . . including 10 accumulations that each contain more than 1 billion barrels of oil. One of these, the Wilmington-Belmont, is the fourth largest oil field in the United States." Accordingly, based on this expert evidence alone it is undeniable that the Proposed Ordinance will have a significant impact on the availability of mineral resources and an EIR is thus required.

b. The City's 2019 Oil and Gas Health Report states that "[e]ven after more than a century of prolific production, the US Geological Survey estimates 1.6 billion barrels of recoverable oil remain in place beneath the City, rivaling the reserves in the Middle Eastern countries, like Saudi Arabia, Iraq, and Kuwait." (Page 19 of the City's 2019 Oil and Gas Health Report.)

c. The MND acknowledges that "[t]he Los Angeles geological basin has one of the highest concentrations of crude oil per acre in the world." (MND at 20.)

d. The importance to the City of the availability of mineral resources is set out in the City's General Plan. In particular, the General Plan sets out a policy to: "conserve petroleum resources and *enable appropriate, environmentally sensitive extraction*." (Page II-64 of Conservation Element of City of Los Angeles General Plan (emphasis added).) The fact that the Ordinance would ban extraction rather than enable extraction clearly means that it is inconsistent with the General Plan and demonstrates that the City has already concluded that mineral resources are of value to the region and the residents of the State, as the same has been delineated in the General Plan and other land use plans.

92. Rather than acknowledge that the Ordinance would result in a significant impact, the MND attempts to avoid addressing CEQA's requirements by making up an alternative method of analysis. In particular, rather than analyzing whether the Ordinance will result in the loss of *availability* of a mineral resource, the MND instead focuses on how much the implementation of the Project would impact current *production* in the State. Again, the CEQA standard goes to the *availability* of the mineral resource.

93. The City has violated CEQA by failing to adequately describe the existing environmental setting and project baseline, against which the impacts of the Ordinance must be compared. (State CEQA Guidelines, §§ 15125, 15126.2(a)). The MND "*must* delineate environmental conditions prevailing absent the project, defining a 'baseline' against which predicted effects can be described and quantified" and failure to do so results in a fundamental inability to accurately analyze and disclose environmental impacts. (*Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal.4th 439, 447 (emphasis added).)

94. Among other failings, the EIR's description of the existing environmental setting and project baseline is flawed in that it fails to adequately describe the existing impacts of oil and gas operations in the City beyond making general conclusory statements that these operations are unhealthy. For example, there is no actual quantification of existing air emissions from current oil and gas operations in the City and the particular areas where these emissions are located, which is critical to the analysis given that the City's current operations are largely centralized. Accordingly, it is impossible to compare the environmental effects of the Ordinance against existing operations. This delta is central to an adequate CEQA analysis.

95. The MND acknowledges these failures. For example, the Air Quality Section provides that "there remains substantial uncertainty in the emissions factors and calculation methodologies." (MND at 42.) In part, the MND states that this difficulty is due to the need for a "rigorous bottom-up approach [which] requires expert knowledge to apply and relies on detailed data which may be difficult and costly." (*Id.*) The MND thus declines to make such an assessment (apparently because it is too costly), but nevertheless concludes it has made a good faith effort "for illustrative purposes." (*Id.*) The City thus implicitly acknowledges it has failed to meet the most basic standards of CEQA.

96. The MND's most basic conclusion that oil and gas operations are unhealthy are contradicted at Page 145 of the 2019 Oil & Gas Health Report, in which it stated that:

> There is a lack of empirical evidence correlating oil and gas operations within the City of Los Angeles to widespread negative health impacts. The lack of evidence of public health impacts from oil and natural gas operations has been demonstrated locally in multiple studies by the Los Angeles County Department of Public Health, the Los Angeles County Oil & Gas Strike Team, the South

Coast Air Quality Management District and the comprehensive Kern County Environmental Impact Report and Health Risk Assessment. (Page 145 of City's 2019 Oil & Gas Health Report.)

97. The MND thus fails to provide any quantitative analysis of current air and GHG impacts and its qualitative assessments as to the current baseline are contradicted by other City documents.

98. The City has violated CEQA by failing to adequately analyze other direct and indirect impacts associated with the Ordinance as required by CEQA. (Pub. Resources Code § 21100(b); CEQA Guidelines, §§ 15126, 15126.2). Specifically, the City has failed to adequately analyze and disclose impacts, in addition to those discussed above, of the Ordinance, including: GHGs, land use planning, noise and vibration, and urban decay. Relatedly, the City has failed to adequately analyze and disclose cumulative impacts.

99. By way of example, just some of the ways in which the City's environmental impacts analysis was flawed, include:

a. Failing to account for the GHGs associated with a change in the use of the Site and by importing crude oil developed and produced elsewhere, and shipped, piped, or trucked to refineries that would otherwise process crude oil from the City;

b. Failing to account for the impacts associated with indirect impacts, including impacts that may result from redevelopment of the oil and gas production areas following cessation of oil and gas activities, and for failing to adequately analyze cumulative impacts, including analyzing, in conjunction with the Ordinance, the impacts with other past, current and reasonably foreseeable projects (including those unrelated to oil production)—the MND contains no discussion of any other projects—and failing to account for other laws impacting oil and gas operations and increasing well abandonment work as a result.

c. Failing to analyze and disclose impacts related to noise and vibrations for the reason that the MND fails to adequately analyze both the location and timing of well plugging and abandonment operations and because it provides an

unenforceable and ineffective mitigation measure.

d. Failing to analyze the potential impacts related to land use and planning, in particular the Ordinance's environmental impacts due to a conflict with the City's General Plan, policies or regulations previously adopted for the purpose of avoiding or mitigating an environmental effect.

e. Failing to analyze potential impacts relating to urban decay to surrounding areas that may occur as oil and gas activities are terminated within the City.

100. The mitigation measures included in the MMP are defective in that they are vague and unenforceable. CEQA requires that mitigation measures be fully enforceable, as well as consistent with applicable constitutional standards. (CEQA Guidelines, § 15126.4(a)(2), (4).)

101. The City has violated CEQA by failing to recirculate the MND, despite the last-minute addition of a mitigation measure and despite the addition of significant new information.

102. The City violated CEQA by adopting a revised MND after its initial adoption of the document on November 22, 2022. Having previously adopted the MND, the City was obligated to conduct any subsequent review under the standards set out in CEQA for subsequent and supplemental CEQA documents. (CEQA Guidelines, §§ 15162-15164).)

103. The City violated CEQA by failing to adequately respond to comments raised by Petitioners and others during the public comment and review period for the MND. The City's disinterest in receiving any comments critical of the MND is readily apparent by its repeated efforts to curtail any meaningful comment period, preferring instead to have the CPC and the Energy Committee consider the MND before the close of the comment period, posting notice as to the initial adoption of MND after business hours on the Friday going into Thanksgiving weekend, for adoption the following Tuesday, and providing notice of the second adoption of the MND and approval of the Ordinance (and posting additional comments by their expert, Impact Sciences), roughly 72 hours before the hearing.

104. The City has failed to proceed in the manner required by law, and thereby prejudicially abused its discretion by failing to comply with CEQA's mandates.

105. Warren has no plain, speedy, and adequate remedy other than the issuance of a

writ of mandate ordering the City to forgo any and all steps in furtherance of the Ordinance unless and until it complies with CEQA. (Pub. Resources Code § 21168.9.)

SECOND CAUSE OF ACTION

(For Writ of Mandate - Violations of State Planning and Zoning Law, Government Code § 65860)

106. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

107. Government Code § 65300 requires that each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city. Government Code § 65300.5 requires that the general plan and its elements comprise an integrated, internally consistent and compatible statement of policies. A zoning ordinance must be compatible with the objectives, policies, general land uses, and programs specified in the General Plan. (Gov. Code § 65860(a).) These requirements extend to the City under Government Code Section 65860(d) and *City of Los Angeles v. State of California* (1982) 138 Cal.App.3d 526.

108. LACAC § 556 further provides that the "City Planning Commission and City Council shall make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan." Despite these requirements and the findings by the CPC as adopted by the City Council in connection therewith, the Ordinance, in fact, is inconsistent with the City's General Plan and thus in violation of the law.

109. For example, Finding No. 1 of the Land Use Findings in connection with the Ordinance (F-1 as amended by the CPC at its September 22, 2022 Meeting and as later adopted by the City Council, hereinafter "Land Use Findings") left out critical elements in the General Plan in concluding that the Ordinance is in substantial conformance with the purposes, intent, and provisions of the General Plan. For example, in discussing the Conservation Element of the General Plan, Finding No. 1 sets out three policies relating to encouraging energy conservation, supporting the ban on offshore drilling and protecting neighborhoods from potential accidents and subsidence associated with drilling and production. However, Finding No.1 ignores the

"Objective" that these policies support in the General Plan even though the "Objective" is listed directly above these policies. In particular, the "Objective" is to: "conserve petroleum resources and enable appropriate, environmentally sensitive extraction . . . so as to protect the petroleum resources for the use of future generations and to reduce the city's dependency on imported petroleum and petroleum products." (Page II-64 of Conservation Element of the City of Los Angeles General Plan (emphasis added).) Accordingly, these policies may only be read in the context of allowing continued extraction yet the Ordinance bans extraction and is thereby clearly inconsistent with the General Plan.

110. Similarly, in evaluating the Health Wellness and Equity Element to the General Plan, Finding No. 1 indicates that the Ordinance is consistent with Policy 5.4 to protect communities' health from noxious activities (including oil and gas extraction). However, Finding No. 1 fails to include and address consistency with that portion of Policy 5.4 which "calls for the City to work with operators to ensure that they have the required permits in place, increase its regulatory role and encourage conditions of approval that mitigate land use inconsistencies and conflicts." (Page 91 of Plan for a Healthy Los Angeles, a Health & Wellness Element of the General Plan.) As a result, Policy 5.4 also assumes the continuance of oil and gas extraction activities within the City and therefore the Ordinance, which prohibits those activities, is inconsistent therewith.

111. Similarly, a brief review of the Land Use Element – Wilmington-Harbor City Community Plan likewise indicates that the Ordinance is inconsistent with the Wilmington-Harbor City Community Plan. For example, Policies 3-5.1 and 3.5.3 clearly contemplate the continuance of extraction activities. (Page III-17 to III-18 of Wilmington-Harbor City Community Plan.) Policy 3-5.4 provides for the consolidation of oil extraction operations to increase compatibility between oil activities and other land uses. (Page III-18 of Wilmington-Harbor City Community Plan.) Accordingly, nothing in these policies is consistent with a total ban on oil production like that adopted in the Ordinance. Finding No. 1 also does not even discuss "Objective 3-5," which these policies are drafted to support and which provides that the objective is "[t]o ensure the public health, safety and welfare while providing for reasonable

utilization of the area's oil and gas resources." (Page III-17 of Wilmington-Harbor City Community Plan (emphasis added).) Finding No. 1 also fails to note Policy 3-4.6, which encourages the consolidation of oil extraction activities rather than its elimination. (Page III-16 to III-17 of Wilmington-Harbor City Community Plan.)

112. Accordingly, not only is the Ordinance inconsistent with the General Plan and thus unlawful, but Finding No.1 of the CPC as adopted by the City Council omits critical information necessary for the City, CPC, City Council, Mayor and public to review the Ordinance and thus, it was unlawful for the City to adopt the Ordinance.

THIRD CAUSE OF ACTION

(For Writ of Mandate – Violations of LACAC §§ 556; 558)

113. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

114. LACAC § 556 provides that the "City Planning Commission and City Council shall make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan." Despite these requirements and the findings by the CPC as adopted by the City Council in connection therewith, the Ordinance, in fact, is inconsistent with the City's General Plan and thus in violation of LACAC.

115. The CPC, pursuant to LACAC Section 558, was required to report and make a recommendation to the City Council as to whether the Ordinance would be in conformity with public necessity, convenience and general welfare. Impacts to the public's general welfare including its health and safety, however, are evaluated through the CEQA review, which process had not been completed by the CPC's September 22, 2022 meeting. Accordingly, the CPC could not lawfully make this required determination.

116. The CPC also ignored the fact that its recommendation directly affected the voting requirements of the City Council to enact the Ordinance. (LACAC § 558(b)(3).) Accordingly, the CPC's action was not merely "advisory" as stated by Planning Department Staff to the CPC, but rather affected the procedural requirements of the City Council in considering the Ordinance. The City Council, accordingly, could not follow the procedures described in the LACAC for

adoption of the Ordinance.

117. For all of the above reasons, the City violated its own LACAC and in doing so, the City actions were in violation of the law, arbitrary and capricious, an abuse of discretion and lacking in evidentiary support.

FOURTH CAUSE OF ACTION

(For Declaratory and Injunctive Relief – Vested Rights)

118. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

119. Warren has performed substantial work and incurred substantial liabilities in good faith reliance upon its vested rights in Z.A. 20725, the Approvals and its agreement with the City. Warren's rights in these entitlements are vested and allow it to continue to develop and produce oil, gas and other hydrocarbon substances without having to obtain additional or new discretionary permits from the City relating thereto. Warren also has fully vested rights to complete the development and production of oil and gas resources within the boundaries of Z.A. 20725 and the Approvals consistent with its long-established plans and substantial investments in reliance thereon and in reliance on the historical actions of the City. As a result, Warren has fully vested rights to continue its operations.

120. The Ordinance fails to account for the fact that the law treats mineral extraction nonconforming uses differently than it does routine businesses. "Unlike other uses of property which operate within an existing structure or boundary, [mineral extractions] anticipate extension . . . into areas of the property that were not being exploited at the time a zoning change caused the use to be nonconforming." (*Hansen Bros. Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 553.) The California Supreme Court recognized the diminishing asset doctrine as to vested mineral extraction rights, noting that "'such a business must operate, if at all, where the resources are found.' If it may not expand, it cannot continue." (*Id.* at 558, *citing McCaslin v. Monterey Park* (1958) 163 Cal.App.2d 339.) Thus, the California Supreme Court recognizes that these types of uses are entitled to expand their operations as long as there was an intent to do so at the time the use became nonconforming. Warren has long exhibited its intent to maintain and

extend its oil and gas operations so as to produce all of its mineral rights (fee and leasehold) consistent with its vested rights.

121. The Ordinance would have the effect of terminating Warren's vested rights in that Warren would immediately no longer be able to drill new wells or re-drill, deepen or "maintain" existing wells to prolong their productive life. Warren is further informed and believes, and thereon alleges, that the City intends to further restrict Warren's oil and gas operations by adopting a more restrictive amortization period and by preventing even routine maintenance of its operations needed to continue its operations. The prevention of routine maintenance is particularly egregious given that nonconforming uses are, by law, allowed to continue their business operations during the amortization period subject to certain limitations such as changing the manner of its operations. The City's stated plan to issue guidance interpreting "maintenance" so that it only applies to emergency situations would effectively negate the amortization period in that Warren would not be able to maintain its wells and production equipment as needed to operate. Without necessary maintenance, Warren estimates it will not be able to operate beyond a period of approximately three years.

122. Warren desires a judicial determination of its rights, and a declaration that Warren has vested rights to continue and to maintain the development and production of its oil and gas resources in the City from the property covered by Z.A. 20725 and the Approvals. A judicial declaration is necessary and appropriate at this time under the circumstances in order that Warren may ascertain its rights and duties with respect to its ongoing development and drilling operations. Absent declaratory and injunctive relief, Warren will suffer immediate, irreparable harm and significant disruption of its lawful activities and exercise of its property rights to the detriment of Warren, local tax authorities, employees in the oil and gas industry, vendors, mineral rights holders, and the public generally.

FIFTH CAUSE OF ACTION

(For Inverse Condemnation, U.S. Constitution, Fifth Amendment; California Constitution, Article 1, Section 19)

123. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

124. By purporting to eliminate Warren's right to continue and to complete the development and production of its oil and gas resources within the City—and by putting Warren out of business as a result—the Ordinance effects a temporary and permanent taking of Warren's property rights without just compensation or, alternatively, without a reasonable amortization schedule and process. The economic impact of the Ordinance will be severe, as it would virtually eliminate the future economic value of Warren's fee and leasehold mineral rights. Furthermore, the Ordinance interferes with Warren's reasonable investment-backed expectations to continue and to complete the development and production of its mineral rights within the City.

125. The City hopes to avoid a taking through the use of an amortization period, but it is improper to utilize an amortization period that will wipe out all uses of the mineral rights. That is because mineral rights lose all value when the right to extract minerals is terminated. Unlike other property rights that may convert to a different use, since there are no other uses for Warren's mineral rights other than extraction of oil and gas, just compensation must be paid. Further, an amortization period is intended to give the business the time to recoup their reasonable investment in the property. Yet in this situation, the Ordinance is structured such that the amortization is meaningless. No expansion through drilling, redrilling, deepening or "maintenance" is allowed despite the acknowledgement in *Hansen Bros. Enterprises, Inc., supra,* that such expansion must be allowed under the diminishing asset doctrine. Moreover, the City has expressed its intention to ban any "maintenance" not involving an emergency to the environment or public safety, which would, for example, prohibit Warren from repairing existing wells so that they can continue to produce and if it takes more than six months to receive approval from the City for a public health or safety emergency, the operations would be "deemed terminated" under the Ordinance. Accordingly, Warren estimates that under the Ordinance it will

not be able to operate beyond a period of approximately three years.

126. The Ordinance will force Warren to bear public burdens which, in all fairness and justice, should be borne by the public as a whole. In enacting the Ordinance, the City violates Article 1, Section 19 of the California Constitution, which prohibits the taking or damaging of private property for public use without just compensation. The City also violates the takings clause of the Fifth Amendment to the United States Constitution.

127. As a direct result of the City's actions as alleged herein, the Ordinance constitutes a temporary and permanent taking. To date, Warren has not received any compensation, let alone just compensation, from the City as a result of the above taking of and damage to Warren's property rights.

128. Warren has been and will be damaged from the taking of its property rights in the City, and will suffer damages in an amount to be determined at trial.

129. Warren also has incurred and will continue to incur attorneys', appraisal, and other fees and costs because of the City's conduct, in amounts that cannot yet be ascertained, but which are recoverable in this action under Code of Civil Procedure section 1036.

130. Warren also is entitled to damages from the City for the these constitutional violations under 42 U.S.C. Section 1983 and is entitled to attorneys' fees and expert fees from the City under 42 U.S.C. Section 1988.

SIXTH CAUSE OF ACTION

(For Declaratory and Injunctive Relief – Estoppel)

131. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

132. Pursuant to an agreement with the City in 2006 by way of the Approvals, Warren agreed to consolidate its operations at the Wilmington Site and to plug and abandon wells outside of that central Site over time. More specifically, even though it holds mineral rights in other residential areas of the City, Warren agreed to limit its operations to the Site and to no more than 5 well cellars, agreed to give up its right to redrill 560 wells located outside the Site, and agreed to plug and abandon wells outside the Site, all at the City's specific request. Warren additionally

agreed as part of the negotiations for the Approvals to convert its operations from diesel fuel to electric, which it has done at great expense. In return, the City issued the Approvals, and agreed that Warren could drill and operate 540 wells at the Site with up to 5 well cellars.

133. Warren was not required under the LAMC relating to the Approvals to give up the redrill rights to 560 wells and conduct the plugging and abandonment of 56 wells in the residential areas outside the Site, neither were these measures related to the mitigation of environmental impacts at the Site. Accordingly, the Approvals constitute a contractual obligation and give rise to a vested property right for that and other reasons, as discussed above. (*See M. J. Brock & Sons, Inc. v. City of Davis* (1983) 401 F.Supp. 354, 361; *Morrison Homes Corp. v. City of Pleasanton* (1976) 58 Cal.App.3d 724.)

134. In reliance on, among other things, the Approvals and the agreement with the City, Warren has invested over $400 million to develop its mineral estate through three well cellars at the consolidated Site and to convert its operations to 100 percent electric. Warren reasonably, justifiably, and foreseeably relied on its agreement with the City and the resulting Approvals when it invested significant resources in the future mineral development of the Site, with the understanding that it would be permitted to continue and complete that development.

135. Warren's investment of over $400 million was incurred not merely for its existing production at the Site but also for additional operations on existing wells within the three well cellars, so that production can be maintained over the projected life of the wells, and for the drilling of new wells in the same three cellars.

136. Based on all the facts alleged herein, the City is estopped from now enforcing the Ordinance against Warren to prohibit new wells from being drilled at the Site, and to prohibit the re-drilling, deepening and maintenance of existing wells at the Site. Warren is informed and believes, and thereon alleges, that the City denies that it is estopped from enforcing the Ordinance against Warren. Warren is informed and believes, and thereon alleges, that the City intends to enforce the Ordinance against Warren to prevent the drilling of new wells and the re-drilling, deepening and maintenance of existing wells, such that Warren's operations will be severely hindered to the point Warren will be prevented from further development and drilling operations.

137. Warren seeks a judicial determination of its rights, and a declaration that the City is estopped from enforcing the Ordinance against Warren and its continued development and operations at the central Wilmington Site. A judicial declaration is necessary and appropriate at this time under the circumstances in order that Warren may ascertain its rights and duties with respect to its ongoing development and drilling operations. Absent declaratory and injunctive relief, Warren will suffer immediate, irreparable harm, and significant disruption of its lawful activities and exercise of its property rights to the detriment of Warren, local tax authorities, employees in the oil and gas industry, vendors, mineral rights holders, and the public generally.

SEVENTH CAUSE OF ACTION

(For Writ of Mandate - Violation of Due Process: U.S. Constitution, Fifth and Fourteenth Amendments; California Constitution Art. I, § 7)

138. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

139. The Ordinance is unlawful, arbitrary and capricious, lacking in evidentiary support and constitutes an abuse of discretion, all in violation of the due process clauses of the California and U.S. Constitutions.

140. City laws and ordinances must be clear, precise, definite and certain in their terms so that their precise meaning can be ascertained. Statutes which either forbid or require the doing of an act in terms so vague that people of common intelligence must necessarily guess at their meaning and differ as to their application, violate due process of law. (*Zubarau v. City of Palmdale* (2011) 192 Cal.App.4th 289, 308.)

141. The Ordinance is impermissibly vague because it fails to provide adequate notice to those who must comply with their strictures of what conduct is prohibited and what is allowed. For example, the Ordinance fails to define what types of maintenance are allowed and what types are prohibited. Instead, City Planning has stated that this term will be defined at a later date through a Zoning Administrator's Interpretation, which will effectively constitute an unlawful underground regulation. Accordingly, the present meaning of "maintenance" is, by the City's own acknowledgement, vague and uncertain. The City claims that it will allow maintenance

under certain emergency circumstances, but if any oil and gas operator sought to seek an approval from the City to conduct maintenance based on health and safety purposes, the approval process could extend beyond six months, resulting in a "deemed terminated" finding for "discontinued" operations under the Ordinance, rendering the Ordinance illusory. Similarly, while the present Ordinance describes the amortization period as 20 years, the City acknowledges that the period is likely to be shortened following the amortization study, which to Warren's knowledge has not even been commenced. Thus, the amortization period is vague, uncertain, arbitrary and capricious.

142. Due to the vague and uncertain composition of the Ordinance and the City's acknowledgement that key terms will be revised or are subject to future interpretation, the City has failed to provide Warren and the public, with adequate notice of what conduct is prohibited.

143. The Ordinance violates substantive due process in that the land use regulation does not bear a reasonable relationship to a legitimate government interest. For example, the Ordinance is politically-driven and lacking in evidentiary support. The City's purpose in adopting the Ordinance is purportedly because of what it describes as health concerns. In fact, there is no evidence in the record that warrants a decision to terminate existing oil operations in the City, which in Warren's case, release emissions equivalent to a fast-food restaurant with a drive thru. The City targets oil and gas production operations in the City due to political pressure, without specific studies as to specific current operations, like Warren's operations, and despite the fact that publicly available records indicate that Warren's production-related emissions are de minimis. Secondarily, the City points to its interest in reducing the use of oil to alleviate the effects of climate change. Yet, as discussed above, the Ordinance does nothing to reduce the *consumption* of oil products, nor will it reduce the *demand* for oil products.

144. The Ordinance also violates substantive due process requirements in that the City lacks the factual support necessary to warrant its actions. This is most exhibited by the deficiencies in the environmental review, particularly as to its use of an MND rather than an EIR, and its failure to conduct an amortization study.

145. In addition, the Ordinance fails to meet substantive due process requirements in

that the Ordinance is unlawful as an unconstitutional taking without just compensation and fails to take into account that mineral rights, unlike other property rights which may be changed to a different type of business, completely lose their value when the right to extract minerals is terminated and thus, they are not subject to amortization by the government without payment of just compensation. The Ordinance is thus unlawful, arbitrary and capricious, lacking in evidentiary support and constitutes an abuse of discretion for these additional reasons.

146. In its hasty rush to adopt the Ordinance and the MND without meaningful time for public comment, re-adopt the MND with significant substantive changes without recirculation for public comment and take actions without allowing the time period to lapse for public comments on the MND, there has been a violation of procedural due process.

147. Warren also is entitled to damages from the City for the these constitutional violations under 42 U.S.C. Section 1983 and is entitled to attorneys' fees and expert fees from the City under 42 U.S.C. Section 1988.

EIGHTH CAUSE OF ACTION

(For Writ of Mandate -Abuse of Discretion)

148. Warren incorporates by reference the allegations contained in the previous paragraphs above as though fully set forth herein.

149. For all of the foregoing reasons and those stated below, the City's adoption of the Ordinance must be vacated as it was unlawful, arbitrary, capricious, entirely lacking in evidentiary support, contrary to established public policy and an abuse of discretion. There is no legitimate public purpose, reasonable basis in fact, or substantial evidence to support the City's decision to adopt the Ordinance and terminate Warren's right to operate its lawful business in the City.

150. There is no evidence to support the claimed negative health effects from Warren's operations (or other current operations within the City) as the City did not conduct any specific studies of such operations. The evidence presented by Warren negates the alleged health effects claimed by the City to support adoption of the Ordinance and the MND.

151. The City's decision to adopt the Ordinance contravenes the State's policy of "*encourag[ing]* the wise development of oil and gas resources," and "to *permit*" the use of "*all*"

practices that will increase the recovery of oil and gas. (Pub. Resources Code § 3106 (emphasis added).) There is no legitimate public purpose, reasonable basis in fact, or substantial evidence to support the City's decision to adopt an Ordinance that contravenes the State's express policy.

152. The City also failed to consider less restrictive means to achieve the purported purposes of the Ordinance. Instead, the Ordinance imposes arbitrary and capricious restrictions on Warren's ability to operate its business which are wholly lacking in evidentiary support. The City fails to forecast the probable effect of the Ordinance, fails to identify the competing interests involved, and fails to justify why the Ordinance reflects a reasonable accommodation of competing interests. For example, the Ordinance excludes certain uses, but applies to all oil and gas operations across the City without distinguishing among different locations or operations, even though the City acknowledges that some locations are situated in heavy industrial areas and even though the undisputed evidence as to Warren's operations demonstrates that its operations do not give rise to the concerns expressed by the City.

153. Accordingly, the City has acted arbitrarily, capriciously, and abused its discretion by terminating oil and gas uses in the City without a legitimate public purpose, reasonable basis in fact, or substantial evidence. Warren have no plain, speedy, and adequate remedy at law to challenge the Ordinance other than the relief sought herein. Without the resolution of these challenges, Warren will be permanently, irreparably harmed by the implementation of the Ordinance.

PRAYER FOR RELIEF

WHEREFORE, Warren demands judgment against Defendants/Respondents as follows:

1. For a preliminary and permanent injunction prohibiting the City, the City Council, the CPC and the Mayor from implementing and/or enforcing the Ordinance;

2. For a declaratory judgment that Warren has vested rights to continue and to complete the development and production of its oil and gas resources in the City from the Site under ZA 20725 and the Approvals and that as a result, the Ordinance is not enforceable as to Warren's continued development and drilling operations thereunder;

3. For a declaratory judgment that the City is estopped from enforcing the Ordinance against Warren and that as a result, the Ordinance is not enforceable as to Warren's continued development and drilling operations under the Approvals and ZA 20725;

4. For damages for just compensation and interest thereon according to proof, for the temporary and permanent taking of Warren's property in violation of the Fifth Amendment to the United States Constitution, Article I, § 19 of the California Constitution and 42 U.S.C Section 1983;

5. For a writ of mandate directing the City to vacate the Ordinance and directing the City, the City Council, the CPC and the Mayor to forgo any and all steps in furtherance of the Ordinance until the City complies with CEQA.

6. For a writ of mandate directing the City to vacate the Ordinance and directing the City, the City Council, the CPC and the Mayor to forgo any and all steps in furtherance of the Ordinance because it is in violation of law, arbitrary and capricious, an abuse of discretion and lacking in evidentiary support.

7. For costs of suit, attorneys' fees, and appraisal and related fees as provided by law under Code of Civil Procedure sections 1021.5 and 1036 and 42 U.S.C. section 1988; and

8. For such other and further relief as the Court deems just and proper.

DATED: January 9, 2023

DAY CARTER & MURPHY LLP

By: _____
TRACY K. HUNCKLER
Attorneys for Petitioners,
WARREN E&P, INC.; WARREN RESOURCES OF CALIFORNIA, INC.; And WARREN RESOURCES, INC.

VERIFICATION

I, James A. Watt, declare as follows:

I am the President and Chief Executive Officer of Petitioners/Plaintiffs Warren E&P, Inc.; Warren Resources of California, Inc.; and Warren Resources, Inc. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and Damages. The facts stated therein are true to my knowledge, and as to those matters stated on information and belief, 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 and that this verification was executed this 9th day of January, 2023 at Dallas County, State of TEXAS.

James A. Watt

DAY CARTER & MURPHY LLP

EXHIBIT A

TRACY K. HUNCKLER (State Bar No. 178120)
THOMAS A. HENRY (State Bar No. 199707)
MEGAN A. SAMMUT (State Bar No. 287772)
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Attorneys for Petitioners, WARREN E&P, INC.; WARREN RESOURCES OF CALIFORNIA, INC.; and WARREN RESOURCES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WARREN E&P, INC.; WARREN RESOURCES OF CALIFORNIA, INC.; and WARREN RESOURCES, INC., Petitioners, v. CITY OF LOS ANGELES; LOS ANGELES CITY COUNCIL; LOS ANGELES CITY PLANNING COMMISSION; KAREN BASS IN THE OFFICIAL CAPACITY AS THE MAYOR OF THE CITY OF LOS ANGELES; and DOES 1 through 20, inclusive, Respondents.	Case No.: Not yet assigned. **PETITIONERS' NOTICE OF INTENT TO FILE CEQA PETITION** (Public Resources Code § 21167.5) Complaint filed: Trial date: Not set.

TO CITY OF LOS ANGELES, LOS ANGELES CITY COUNCIL, LOS ANGELES CITY PLANNING COMMISSION, KAREN BASS IN THE OFFICIAL CAPACITY AS THE MAYOR OF THE CITY OF LOS ANGELES, AND THEIR ATTORNEYS OF RECORD:

Pursuant to Public Resources Code section 21167.5, PLEASE TAKE NOTICE that Petitioners WARREN E&P, INC.; WARREN RESOURCES OF CALIFORNIA, INC.; and WARREN RESOURCES, INC. ("Petitioners") intend to file a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and Damages ("Verified Petition")

under the California Environmental Quality Act ("CEQA") and other federal and State laws, against you challenging the approval and adoption of Mitigated Negative Declaration ENV-202204865-MND and the related Mitigation Monitoring Program, and approval and adoption of an Ordinance No. 187709 to amend sections 12.03, 12.20, 12.23, 12.24, and 13.01 of the Los Angeles Municipal Code to make oil wells a nonconforming use, to ban the drilling of new wells, and to prohibit the maintenance, drilling, re-drilling, or deepening of existing wells. Among other things, the Verified Petition will challenge the City's failure to comply with the requirements of the CEQA and the State CEQA Guidelines, and will seek equitable relief to remedy the City's unlawful actions. Petitioners also intend to file non-CEQA claims in the action.

DATED: January 6, 2023

DAY CARTER & MURPHY LLP

By: _____
TRACY K. HUNCKLER
Attorneys for Petitioners,
WARREN E&P, INC.; WARREN RESOURCES OF CALIFORNIA, INC.; and WARREN RESOURCES, INC.;

DAY CARTER & MURPHY LLP

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Day Carter & Murphy LLP, 3620 American River Drive, Suite 205, Sacramento, California 95864. On January 6, 2023, I served the within document(s):

PETITIONERS' NOTICE OF INTENT TO FILE CEQA PETITION

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

☐ **By Hand:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **By Mail:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California, addressed as set forth below.

☐ **By Overnight Mail:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

☐ **By Personal Delivery:** by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **By Electronic Mail:** by transmitting via electronic mail the document(s) listed above to the email address(es) set forth below on this date before 5:00 p.m.

City of Los Angeles
Office of the City Clerk
200 N Spring St, Room 360
Los Angeles, CA 90012
Email: clerk.cps@lacity.org

Los Angeles City Council
Office of the City Clerk
200 N Spring St, Room 360
Los Angeles, CA 90012
Email: clerk.cps@lacity.org

Karen Bass, in her official capacity as the Mayor of the City of Los Angeles
c/o Hydee Feldstein Soto
Los Angeles City Attorney
200 North Main Street, #800
Los Angeles, CA 90012
Email: cityatty.help@lacity.org

Los Angeles City Planning Commission
Office of the City Clerk
200 N Spring St, Room 360
Los Angeles, CA 90012
Email: clerk.cps@lacity.org

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 6, 2023, at Auburn, California.

Cheri Bridges