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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

CENTER FOR BIOLOGICAL DIVERSITY
and INDIAN COVE NEIGHBORS,

Petitioners and Plaintiffs,

v.

CITY OF TWENTYNINE PALMS; CITY
COUNCIL OF THE CITY OF
TWENTYNINE PALMS; and DOES 1
through 20, inclusive,

Respondents and Defendants;

OFLAND DEVELOPMENT; LUKE
SEARCY; and DOES 21 through 40,
inclusive,

Real Parties in Interest.

Case No.

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

[Pub. Resources Code, § 21000, et seq. (CEQA);
Code Civ. Proc., secs. 1085, 1094.5;
Gov. Code, § 65300, et seq. (California Planning
and Zoning Law);
Gov. Code, § 66300, et seq. (Housing Crisis Act)]

INTRODUCTION

1. This action challenges the July 22, 2025, decision of Twentynine Palms, California (the “City”) and its City Council (together, “Respondents”) to approve the Ofland Hotel Twentynine Palms (“Project”) and adopt a Mitigated Negative Declaration (“MND”) for the Project (State Clearinghouse No. 2025050547). The Project includes a general plan amendment to create an Open Space Conservation designation, a rezoning from Single-Family Residential-Estate to Tourist Commercial and Open Space Conservation, a development code amendment, and a conditional use permit.

2. With the Project, Ofland Development (“Applicant”), proposes to build a luxury hotel and resort on 152 acres of high-quality Mojave Desert habitat for special-status species within just one-half mile of Joshua Tree National Park. It would include 100 “glamping” units for up to 400 guests, two lodges, and employee housing, as well as amenities such as an outdoor movie screen, splash pads, two pools and spas, a restaurant, retail spaces, offices, playgrounds, and an event space. The Project also includes a wastewater treatment plant that will process over 13,000 gallons of water a day, located in land proposed as “Open Space Conservation.”

3. Currently, the Project site consists of undeveloped creosote bush scrub that supports a throng of special-status species, with at least ten plant and seventeen wildlife species that are either federally listed, state listed, or species of concern potentially occurring on-site. These at-risk species include iconic wildlife, such as the American badger, loggerhead shrike, golden eagle, burrowing owl, and desert tortoise. Despite these rich biological resources, the City has yet to conduct protocol-level surveys for special-status wildlife on the Project site, let alone adequately mitigate the Project’s impacts with specific and enforceable mitigation.

4. The Project lies directly in the middle of the Joshua Tree-Twentynine Palms Connection, a critical wildlife corridor in an increasingly urbanized desert. Bobcats, mountain lions, American badgers, and dozens of other species rely on this corridor to move back and forth from Joshua Tree National Park to large tracts of undeveloped land north of Route 62 and the Twentynine Palms Marine Corps Ground Air Combat Center. Although the luxury resort would obstruct movement in this already narrow corridor, the MND contains only a cursory analysis of impacts to wildlife movement and fails to

mitigate these impacts.

5. When fully occupied, the Project will temporarily increase the surrounding community's population by 62%. Guests, employees, and vendors will create traffic congestion on and around the residential roads of Lear Avenue and Sullivan Road, the only access roads to the Project site. Specifically, the Project would generate nearly 900 daily passenger vehicle trips and even more vendor truck trips through surrounding residential areas each day. Nevertheless, the City failed to assess the Project's Vehicle Miles Traveled ("VMT"), let alone mitigate traffic and air quality impacts on nearby communities and wildlife.

6. Petitioners, along with several other organizations, governmental agencies, and individuals, demonstrated throughout the administrative process that the Project will have significant harmful environmental impacts due to its impacts on biological resources (including special-status species), aesthetics, greenhouse gas (“GHG”) emissions, air quality, water supply, noise levels, and water quality. Petitioners requested further mitigation and urged the City to prepare an Environmental Impact Report (“EIR”) to consider and adopt all feasible mitigation measures. The City refused, and in doing so overlooked substantial evidence suggesting that the Project will have significant environmental impacts to aesthetics, air, climate, water, biological resources and other resources in violation of the California Environmental Quality Act (“CEQA”).

7. Petitioners bring this lawsuit to ensure that the City fully discloses, analyzes, and mitigates the Project's environmental impacts and considers reasonable alternatives in compliance with CEQA, the California Planning and Zoning Law, and the Housing Crisis Act before moving forward with the Project.

THE PARTIES

8. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (“the Center”) is a non-profit conservation organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has members across the country and has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and the overall quality of life for people in San Bernardino County. Members of the Center will be directly and

adversely affected by the approval and construction of the Project. The Center submitted several extensive comment letters to the City regarding the Project's MND and commented at the City Council meeting during which the Project was approved.

9. Petitioner INDIAN COVE NEIGHBORS ("Neighbors") is a coalition of residents living in and near the Twentynine Palms neighborhood of Indian Cove. Neighbors advocate for the preservation of starry skies, diverse plant and wildlife, the rural quality of their neighborhood, and special consideration of the Joshua Tree National Park border when the City evaluates the development of open space in Indian Cove. Neighbors include residents with property that borders the Project site, which is so close to Joshua Tree National Park that several special-status species frequent their property. Neighbors' close proximity to the Project site also gives them unique access to site conditions as they exist today, including opportunities to observe special-status species on the Project site in their native Mojave desert habitat. Neighbors took the following photograph of a California desert tortoise near the Project site on August 18, 2025, for example:

10. Respondent CITY OF TWENTYNINE PALMS (the "City") is a political subdivision of the State of California responsible for regulating and controlling land use within the jurisdiction of the City, including implementing and complying with CEQA. The City is the "lead agency" for the Project for purposes of Public Resources Code, section 21067, with principal responsibility for conducting environmental review of the Project. The City has a duty to comply with CEQA and other state laws.

11. Respondent CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS (the "City Council") is the City's duly elected decision-making body. As the decision-making body, the City Council is responsible for adopting the necessary resolutions, ordinances, or approvals for the Project, and for ensuring that the City has conducted an adequate and proper review of the Project's environmental impacts under CEQA prior to doing so.

12. On information and belief, Applicant and Real Party in Interest OFLAND DEVELOPMENT is a business entity listed in the MND as the Project sponsor; the owner of the real property that is the subject of the approvals challenged in this action; a Project applicant for purposes of CEQA; and the recipient of the approvals challenged in this action.

13. On information and belief, Real Party in Interest LUKE SEARCY is a natural person who is a Project applicant for purposes of CEQA and is the recipient of the approvals challenged in this action.

14. Petitioners do not know the true names and capacities, whether individual, corporate, associate, or otherwise, of respondents DOES 1 through 20, inclusive, and therefore sues said respondents under fictitious names. Petitioners will amend this Petition to show their true names and capacities when the same have been ascertained. Each of the respondents is the agent and/or employee of respondents, and each performed acts on which this action is based within the course and scope of such respondent's agency and/or employment.

15. Petitioners do not know the true names and capacities, whether individual, corporate, associate, or otherwise, of real parties in interest DOES 21 through 40, inclusive, and therefore sues said real parties in interest under fictitious names. Petitioners will amend this Petition to show their true names and capacities when the same have been ascertained.

JURISDICTION AND VENUE

16. This Court has jurisdiction to issue a writ of mandate to set aside respondents' decision to approve the Project under California Code of Civil Procedure, section 1094.5 (or alternatively, section 1085) and Public Resources Code, section 21168.5 (or alternatively, section 21168), and section 21168.9.

17. Venue for this action properly lies in the San Bernardino Superior Court because respondents and the proposed Project site are located in the County. Many of the Project's significant environmental impacts that are the subject of this lawsuit would occur in the County, and the Project would affect the interests of County residents, including petitioners' members.

18. Petitioners have performed any and all conditions precedent to filing this instant action and have exhausted any and all administrative remedies to the extent the law requires, including, but not limited to, timely submitting extensive comments objecting to the Project approval and identifying in writing to respondents the deficiencies in respondents' environmental review. Specifically, the Center submitted comments on the MND to the Planning Commission on June 12, 2025, and June 24, 2025;

submitted comments to the City Council on July 21, 2025; and commented orally during the Twenty-nine Palms City Council meeting on July 22, 2025. The Indian Cove Neighbors corresponded with the City regarding a lack of public notice, submitted several written comments including those submitted on June 2, 2025, June 15, 2025, July 6, 2025, and July 21, 2025, and commented orally at the Planning Commission and City Council meetings. In each instance, petitioners requested compliance with CEQA and the completion of a full and adequate environmental review through the preparation of an EIR. All issues raised in this petition were raised in a timely manner by petitioners, other members of the public, or public agencies.

19. Respondents have taken final agency action with respect to approving the Project and adopting the MND. Respondents had a duty to comply with applicable state laws, including but not limited to CEQA, California Planning and Zoning Law, and the Housing Crisis Act prior to undertaking the discretionary approvals at issue in this lawsuit.

20. Petitioners have complied with the requirements of Public Resources Code, section 21167.5 by serving a written notice of petitioners' intention to commence this action on respondents on August 19, 2025. A copy of the written notice and proof of service is attached hereto as Exhibit A.

21. Petitioners have complied with the requirements of Public Resources Code, section 21167.6 by concurrently notifying respondents of petitioners' request to prepare the record of administrative proceedings relating to this action. A copy of Petitioners' Election to Prepare Administrative Record of Proceedings is attached hereto as Exhibit B.

22. Petitioners will comply with Public Resources Code, section 21167.7 and Code of Civil Procedure, section 388 by furnishing the Attorney General of the State of California with a copy of the Petition on August 20, 2025. Attached hereto as Exhibit C is the true and correct copy of the letter transmitting the Petition to the Attorney General.

23. This Petition is timely filed in accordance with Public Resources Code, section 21167 and 14 California Code of Regulations, section 15000 et seq. (the "CEQA Guidelines"), section 15112.

GENERAL ALLEGATIONS

The Proposed Project and Project Site

24. The Project is located on 152 acres of undeveloped land in the residential Indian Cove community in Twentynine Palms, California. Currently, the Project site remains largely undeveloped and contains suitable desert habitat and connectivity for a wide variety of species such as the desert tortoise, American badger, loggerhead shrike, and burrowing owl. Specifically, the Project site lies directly in an important wildlife corridor, connecting Joshua Tree National Park to large tracts of undeveloped land north of Route 62 and the Twentynine Palms Marine Corps Ground Air Combat Center.

25. The Project is a luxury resort development, far larger than any existing business in the community, involving 100 stand-alone, air-conditioned glamping units, two lodges, employee housing, various other buildings, an event space, and a wastewater treatment plant. The Project will induce nearly 900 vehicle trips per day and accommodate up to 400 guests during regular operation. The Project also involves an outdoor movie theater, ambient music from 6:00am to 10:00pm, pools, splash pads, spas, and on-site dining services.

26. The Project approvals include a general plan amendment and rezoning from Single-Family Residential-Estate to Tourist Commercial and Open Space Conservation, a development code amendment, and a conditional use permit.

27. The Project site is a half mile from the Joshua Tree National Park boundary, sharing its southern border with the City-established buffer between the City and the Park. The Project involves placing a luxury resort, two widened and improved roads, and a network of golf cart trails, in the center of one of three remaining north-to-south wildlife corridors connecting the National Park to undeveloped land north of Route 62. Iconic species, such as the bobcat, American badger, kangaroo rat, desert tortoise, and desert kit fox, utilize these corridors and will now be exposed to heightened threats, such as habitat fragmentation and vehicle strikes.

28. In addition to its importance for wildlife connectivity, the undeveloped Project site itself also hosts a diverse array of wildlife due to its undisturbed, native habitat. A limited, one-day survey in October 2023 for suitable habitat on the Project site indicated that at least ten special-status plant species may occur on the Project site and seventeen special-status wildlife species, including the desert tortoise,

1 burrowing owl, American badger, loggerhead shrike, Joshua tree poppy, Utah vine milkweed, Parish's
2 club-cholla, Little San Bernardino Mountains linanthus, and Hall's tetracoccus.

3 29. Critically, the Project site provides suitable habitat for the potentially-present federally
4 threatened desert tortoise (*Gopherus agassizii*). This species was recently uplisted on June 12, 2025 to
5 endangered under the California Endangered Species Act largely due to habitat loss, predation, and
6 vehicle strikes. Residents have documented desert tortoises within quarter mile of the west boundary of
7 the Project site in September 2021 and August, 2022; within a half mile of the east boundary in May
8 2019, March 2022, June 2023, August 2024, and March, 2025; within 0.14 miles of the east boundary in
9 August 2025; and within three quarters of a mile from the southern boundary in August 2022, August
10 2023, September 2023, August 2024, and April 2025. Results in the California Natural Diversity
11 Database also show that 13 tortoises, including mating tortoises, were found 2.5 miles northwest of the
12 Project site in 2008.

13 30. The Project site is visible from Joshua Tree National Park, an International Dark Sky
14 Park. The lights from the Project's 100 units, vehicle traffic, movie screen, pools, and spas would be
15 visible from large swaths of the Park's Wilderness Area and impact night skies, diminishing residents'
16 and visitors' aesthetic experience of Joshua Tree National Park and its foothills.

17 31. The Project also falls in the Mojave Desert Air Quality Management District's
18 jurisdiction, which remains in severe nonattainment for federal ozone standards and nonattainment for
19 the Particulate Matter ("PM") 10 standard. It also falls in San Bernardino County, which the American
20 Lung Association ranks first among the nation's most ozone-polluted counties and seventh for PM
21 pollution. The Project's air pollution from construction and nearly daily 900 vehicle trips will intensify
22 health impacts already experienced by residences surrounding the Project site on two sides, with the
23 closest residences just 500 feet away.

24 32. The Project site also falls in one of California's most arid regions, which is experiencing
25 profound and increasing pressures on its water supply, sourced solely from groundwater. The Project's
26 tourist accommodation and amenities will add to this pressure, requiring water for hundreds of daily
27 guests, event attendees, pools, spas, food and beverage services, splash pads, irrigation, and laundry

1 services. Nevertheless, the exact amount the Project will require remains unknown because the MND
2 considered only hotel units and irrigation using 25-year-old data for average hotel rooms, not 4-person
3 glamping cabins. The MND also overlooked all other water-intensive amenities.

4 33. The Project site encompasses ephemeral washes and drainages and is prone to flash flood
5 events. Vehicle traffic to and from the Project will deposit nitrogen, along with other pollutants, onto the
6 Project site, which will enter the surrounding environment through runoff during storm events. The
7 MND even admits that “[r]unoff from stormwater can transport pollutants that collect on the ground
8 surface and affect water quality of receiving streams, rivers, and channels.” (MND, p. 57.) However, the
9 MND performs no analysis to quantify potential impacts and relies on a deferred Storm Water Pollution
10 Prevention Plan to mitigate undisclosed impacts on water quality.

11 34. The Project will also emit GHGs through its operation, wastewater treatment plant,
12 induced travel, and elimination of the carbon sequestration potential of more than forty acres of creosote
13 bush scrub. However, nowhere does the MND estimate these emissions, nor the anticipated loss of
14 sequestered carbon, let alone provide any mitigation.

15 35. The Project also includes a wastewater treatment plant that will process over 13,000
16 gallons of wastewater per day, which goes unmentioned in the MND’s water quality, GHG, noise, and
17 biological resource impacts assessments. Processing this wastewater will use substantial amounts of
18 energy, the generation of which will emit GHGs such as methane and nitrous oxide. The plant’s
19 operation will also create industrial noise that will deter wildlife and pose a nuisance to nearby residents,
20 and create sewage sludge effluent, harmful to human, wildlife, and ecosystem health.

21 36. The Project will also result in increased VMT from guests traveling long distances to stay
22 at the luxury resort, as well as from vendor deliveries, employee commutes, and event attendee trips.
23 Nevertheless, the MND omits a VMT analysis or estimate because the City used a “local serving”
24 screening threshold to presume the Project will have less than significant impacts from VMT. As a
25 result, the MND considered only VMT from vehicle travel between the time visitors check in and check
26 out and claimed Project will *reduce* overall VMT because it is closer to Indian Cove Campground with
27 access to some National Park trails.

1 **The Project Site Rezoning**

2 37. Project approvals include a general plan amendment and rezoning of the site from Single-
3 Family Residential-Estate to Tourist Commercial and Open Space Conservation. This amendment
4 eliminated the Project site's potential, as previously zoned, to allow 61 residential units, or 183 total
5 residential units including Accessory Dwelling Units.

6 38. The Project is located in an area experiencing a shortage of affordable housing. Over the
7 last decade, increased demand for short-term rentals for tourists near Joshua Tree National Park has
8 removed considerable housing stock for residents, exacerbated by a short-term rental surge during the
9 Covid-19 pandemic.

10 39. The MND claimed the City would offset the loss of 61 zoned housing units by rezoning
11 an area in the northern part of the City from Rural Living, which allows a maximum of one unit per five
12 acres, to Single-Family Residential, which allows a maximum of one unit per acre. The MND explained
13 that this rezoning was "necessary to assure that the city experiences no net loss in potential residential
14 units, as prescribed by SB 330 [the Housing Crisis Act]." (MND, p. 4.)

15 40. However, just two months later, the City's Response to Comments walked back that
16 commitment, claiming "the two projects are independent of each other, and neither relies on the other
17 for implementation." (Agenda Packet, p. 173.) However, the City admitted that "[s]hould that [northern
18 rezoning] project not be approved, the City will be responsible for identifying another site under SB
19 330" to make up for the City's net loss in residential capacity. (Agenda Packet, p. 174.)

20 **Project Review and Approval**

21 41. On May 14, 2025, the City issued a Notice of Availability of the MND and circulated the
22 MND for public comment, providing a 20-day comment deadline of June 2, 2025. This Notice stated
23 that, although significant impacts could occur as a result of the Project, the MND's mitigation measures
24 would reduce all impacts to a less than significant level.

25 42. On information and belief, on or around May 20, 2025, residents within 500 feet of the
26 Project site received a different notice that the Planning Commission would hold a public hearing on
27 June 17, 2025 (later rescheduled to June 25, 2025). This notice did not state the June 2, 2025, deadline

1 for submitting comments.

2 43. On information and belief, residents expressed concern to the Planning Commission over
3 the lack of notice regarding the June 2, 2025, deadline and confusion over the June 17, 2025, deadline in
4 the notice mailed to them. As a result, some residents' first round of comments are dated between June
5 2, 2025, and June 17, 2025.

6 44. On May 23, 2025, the California Department of Fish and Wildlife ("CDFW") commented
7 on the MND and identified itself as both a trustee and responsible agency due to its jurisdiction over the
8 special-status species potentially present on the Project site and its permitting authority over "take" of
9 these species. CDFW also found numerous deficiencies in the MND, asserting that the biological
10 resources assessment failed to (1) follow the U.S. Fish and Wildlife recommended tortoise surveying
11 protocols, (2) conduct a biological survey within nesting bird season, (3) require burrowing owl surveys
12 consistent with CDFW's protocols, (4) conduct an adequate survey to determine the presence of burrows
13 for American badgers and pallid San Diego pocket mouse, and (5) propose any pre-construction surveys
14 for special-status plants. CDFW recommended that the City revise the MND's mitigation measures and
15 require pre-construction special-status plant surveys to avoid the Project's "significant, or potentially
16 significant, direct and indirect impacts" on biological resources. (CDFW Comment, p. 2.)

17 45. On June 12, 2025, thirty days after the City's May 14, 2025, Notice of Availability, the
18 Center submitted comments explaining that a 30-day comment period is required when a state agency,
19 such as CDFW, is a responsible or a trustee agency. The Center also described the MND's inadequate
20 disclosure, assessment, and mitigation of impacts on biological resources, traffic, air quality, water
21 quality, and water supply and urged the City to prepare an EIR.

22 46. Throughout the comment period, Neighbors' comments noted the MND's deficiencies,
23 requested an EIR for the Project, and provided substantial evidence that a variety of Project impacts will
24 significantly impact the environment, including, but not limited to, the following:

- 25 a. **Aesthetic impacts:** Neighbors submitted a viewshed study and other evidence indicating
26 that the Project will significantly impact aesthetics from the highway, neighborhoods
27 surrounding the Project site, and Joshua Tree National Park;

- b. **Biological resources:** Neighbors submitted documentation of desert tortoises near the Project site as well as burrows and other substantial evidence that the Project will impact special-status species through vehicle strikes, habitat loss, and predation.
- c. **Wildlife connectivity:** Neighbors submitted evidence that the Project will impact a wildlife corridor through introducing significant light pollution into a dark residential area, creating noise pollution, increasing the potential for vehicle strikes, and fragmenting habitat;
- d. **Land use:** Neighbors noted the Project's inconsistencies with various aspects of the General Plan, including policies that new development be sensitive to neighborhood context and development scale and that development be compatible with the desert environment; and
- e. **Traffic:** Neighbors provided substantial evidence that the Project's reliance on Lear Avenue as one of two entrance points will create significant traffic congestion, harming both local residents and wildlife.
- f. **Project Description:** Neighbors commented that the Project description and analysis misrepresented the distance from the Project to Joshua Tree National Park's borders as three miles, rather than a half mile, and failed to accurately describe and analyze the number of residences on the east side of the parcel.

47. Neighbors requested further analysis and mitigation for all significant Project impacts in a full EIR and suggested feasible mitigation measures, such as changing the Project's main access point to directly off of Highway 62 instead of Lear Avenue to mitigate traffic impacts.

48. On June 24, 2025, the Center submitted comments, again requesting a full EIR, identifying the MND's deficiencies, and providing substantial evidence supporting a fair argument that the Project will significantly impact the environment in myriad ways. The comments explained, among other things, that the MND failed to comply with CEQA and state planning and zoning laws in the following respects:

- a. **Regarding the project description,** the Center noted, among other deficiencies, that the

MND's description left out critical information, such as the Project's maximum number of guests and number of employees, which impacted the MND's traffic, GHG, and air quality assessments;

- b. **Regarding the environmental baseline**, the MND failed to adequately describe existing conditions because the City failed to conduct 1) a desert tortoise survey according to U.S. Fish and Wildlife Service protocols, 2) a burrowing owl survey according to CDFW's 2012 Staff Report on Burrowing Owl Mitigation, and 3) a targeted survey for the occurrence of the American badger and migratory birds;
- c. **Regarding biological resources impacts**, the MND failed to adequately disclose, assess, or mitigate impacts on special-status species documented near the Project site and wildlife connectivity, overlooking impacts caused by noise pollution, widening and paving two new roads, light pollution, and a wastewater treatment plant;
- d. **Regarding aesthetic impacts**, the MND failed to adequately disclose, assess, or mitigate aesthetic impacts because it lacked a viewshed analysis, visual modeling, and assessment of light pollution to evaluate the Project's actual visibility from key public viewpoints, including Joshua Tree National Park, State Route 62 (a scenic highway), and surrounding ridgelines;
- e. **Regarding air quality**, the MND failed to adequately disclose, assess, or mitigate air quality impacts because it overlooked impacts from fugitive dust, failed to mention or assess emissions from employee commutes and vendor deliveries, did not assess impacts on sensitive receptors, and unlawfully deferred mitigation for fugitive dust impacts;
- f. **Regarding traffic impacts**, the MND failed to adequately disclose, assess, or mitigate traffic impacts because, among other deficiencies, it relied on unsupported assumptions that all employees will live nearby, failed to mention traffic impacts of vendor deliveries, and overlooked impacts of increased traffic on wildlife;
- g. **Regarding water quality**, the MND lacked any analysis to quantify potential impacts; did not provide information on potential levels of pollutants and contaminants, levels of

stormwater and urban water runoff, or locations of water quality impacts; and provided only improperly deferred mitigation;

- h. **Regarding water supply**, the MND failed to disclose, assess, or mitigate water supply impacts because it overlooked water demand for the Project’s myriad amenities such as pools, spas, dining and laundry services, and relied on 25-year-old water demand estimates for hotel rooms, not 4-person cabins;
- i. **Regarding GHG emissions**, the MND failed to disclose, assess, or mitigate GHG emissions because it failed to mention GHG emissions from the wastewater treatment plant, overlooked the Project’s impacts on carbon sequestration, and failed to take into account emissions from vendor deliveries and employee commutes;
- j. **Regarding general plan consistency**, the Project was inconsistent with several general plan policies, including policies to conduct focused surveys for burrowing owls on vacant parcels, consider potential impacts of new developments on surrounding properties, and encourage development compatible with the City’s small-town character.

49. For each impact, the Center also supplied substantial evidence supporting a fair argument that the Project will result in significant biological resources, air quality, GHG, water quality, water supply, aesthetic, noise, and traffic impacts.

50. On June 9, 2025, CalTrans commented on the Project, recommending that the City conduct a VMT analysis. Among other things, Caltrans explained that “[h]igh-end glamping accommodations may generate new trips rather than substituting for existing travel demand” and urged the City to “evaluate the potential for induced travel and discretionary trips associated with the project.” (CalTrans Comment, p. 3.)

51. On June 25, 2025, the Planning Commission held a hearing to consider whether to recommend that the City Council adopt the MND and approve the Project. Neighbors and other members of the public raised issues regarding the significant impacts that would occur as a result of the Project and the need for the City to prepare an EIR. Nevertheless, the Planning Commission unanimously voted to recommend Project approval and adoption of the MND to the City Council.

52. On July 17, 2025, just four days before the City Council’s July 22, 2025, meeting, the City released an Agenda Packet with a 119-page Response to Comments section; Appendices A and B (Comment Letters); and Appendix C (a response to CDFW’s comment letter). In total, the agenda packet included over 1,400 pages of information for the public to analyze in four short days.

53. Appendix C revised the MND’s mitigation measures for biological resources by requiring future protocol-level surveys and preconstruction surveys for the desert tortoise, nesting birds, burrowing owls, American badger, and San Diego pocket mouse. However, the revised mitigation measures did not adopt all mitigation measures CDFW recommended in its comment letter to avoid “significant, or potentially significant direct and indirect impacts” to special-status species.

54. The City’s Response to Comments also walked back the MND’s stated commitment to upzone the parcel in the northern part of the City to offset the loss of residential capacity resulting from the Project’s rezoning and general plan amendment. The City, however, acknowledged its responsibility to identify another site to add residential capacity to the City and satisfy the Housing Crisis Act (SB 330).

55. On July 21, 2025, the Center submitted additional comments to the City Council, urging the City once more to prepare an EIR for the Project, identifying the MND’s deficiencies, and supplying substantial evidence that the Project will significantly impact the environment. Specifically, the Center noted the following:

- a. The MND requires a VMT analysis because the Project is not “local serving”: its stated purpose is to attract guests that prefer not to camp to a luxury resort near Joshua Tree National Park;
- b. Substantial evidence indicates that the Project’s increased VMT will significantly impact the environment through GHG emissions, vehicle strikes, degraded air quality, and runoff, requiring disclosure, assessment, and mitigation;
- c. The MND failed to adequately disclose, assess, and mitigate impacts of the wastewater treatment plant, which will significantly impact the environment through GHG emissions, noise, and potential water quality impacts;

- d. The Agenda Packet's revised mitigation measures for biological resources are unsupported and inadequate to reduce impacts to special-status species to less than significant;
- e. The MND failed to evaluate the Project's cumulative environmental impacts when added to impacts from short term rentals throughout the community; and
- f. The City must comply with SB 330 by rezoning another parcel in the City to avoid a net loss in the City's residential capacity.

56. Between June 25, 2025 and July 22, 2025, Neighbors also submitted numerous comments to the City Council, again urging the City to complete an EIR; noting the impact the Project will have on the neighborhood's character and residents' quality of life; expressing concern over impacts to special-status species' habitat and the wildlife corridor; and citing inconsistent general plan policy LU-1.3, which states: "The City shall adhere to the adopted Land Use Map by discouraging General Plan Amendments to the Land Use Map except as required by law." These comments also included video documentation of a burrowing owl approximately 1.5 miles from the Project site on July 1, 2025.

Respondents' Approval of the Project and Adoption of the MND

57. On July 22, 2025, the City Council held a public hearing to consider whether to approve the Project and adopt the MND. The Center, Neighbors, and members of the public raised objections relating to the significant impacts that would occur from the Project, the lack of mitigation measures, and the need for the City to prepare an EIR.

58. At the conclusion of the July 22, 2025, hearing, the City Council voted unanimously to adopt the MND and approve the Project, as well as to adopt findings in support of Project approval and approve the rezoning, general plan amendment, development code amendment, and conditional use permit.

59. On July 23, 2025, the City filed a Notice of Determination for the Project with the County Clerk, which stated that the City had approved the Project, prepared an MND, and adopted a mitigation reporting or monitoring plan.

60. As a result of respondents' actions in approving the Project and adopting the MND for

1 the Project, Petitioners and their members will suffer significant and irreparable harm. Petitioners have
2 no plain, speedy, or adequate remedy at law for this irreparable harm. Unless this Court grants the
3 requested writ of mandate to require respondents to set aside adoption of the MND and approval of the
4 Project, respondents' approval will remain in effect in violation of state law.

5 61. Respondents have prejudicially abused their discretion and failed to proceed in the
6 manner required by law in the following ways:

7 **FIRST CAUSE OF ACTION**

8 **Violation of CEQA — Failure to Prepare an Adequate Environmental Review Document**
9 **(Public Resources Code, § 21000, et seq., CEQA Guidelines, § 15000, et seq.)**

10 62. Petitioners hereby incorporate by reference all previous paragraphs set forth above.

11 63. CEQA was enacted by the legislature to ensure that long-term protection of the
12 environment is a guiding criterion in public decisions. With limited exceptions, CEQA requires the lead
13 agency for a project with the potential to cause significant environmental impacts to prepare an EIR.
14 Significant effect on the environment means a “substantial, or potentially substantial, adverse change in
15 the environment.” (Pub. Resources Code, § 21068.) An EIR is a detailed statement describing, among
16 other items, all of the proposed project's significant environmental effects, mitigation measures to
17 minimize these significant effects, and alternatives to the project. (*Id.* §§ 21061, 21100.)

18 64. CEQA requires a mandatory finding of significance where, among other effects, (1) the
19 project has the potential to reduce the number or restrict the range of an endangered, rare, or threatened
20 species; (2) the project has the potential to achieve short-term environmental goals to the disadvantage
21 of long-term environmental goals; (3) the project impacts may be cumulatively considerable; and/or (4)
22 the environmental effects of the project will cause substantial adverse effects on human beings, either
23 directly or indirectly. (CEQA Guidelines, § 15065(a).)

24 65. The lead agency typically prepares a preliminary report called an “Initial Study” to
25 identify a project's potential environmental effects and provide the lead agency with adequate
26 information regarding a project to determine the appropriate environmental review document. (See
27 CEQA Guidelines, § 15365.)

66. If the agency determines that the proposed project will not have a significant effect on the environment, it must adopt a “Negative Declaration.” (Pub. Resources Code, § 21080(c).) A Negative Declaration describes the reasons why the proposed project will not have a significant effect on the environment and why an EIR is not required. (CEQA Guidelines, § 15371.) A Negative Declaration must contain, among other items, a description of the proposed project and a proposed finding that the project will not have a significant effect on the environment. (*Id.* at § 15071.)

67. A Negative Declaration must also be prepared if the Initial Study indicates that a proposed project may have significant environmental effects but (1) revisions in the project are made by or agreed to by the applicant before the Initial Study and Negative Declaration are released for public review that would avoid or mitigate these effects to a point where clearly no significant effects on the environment would occur; and (2) there is no substantial evidence, in light of the whole record before the lead agency that the project as revised may have a significant effect on the environment. (Pub. Resources Code, § 21080(c)(2).) A Negative Declaration that incorporates mitigation measures to avoid an identified potentially significant environmental effect is known as a “Mitigated Negative Declaration.” (CEQA Guidelines, § 15369.5.)

68. Whenever substantial evidence in the record supports a “fair argument” that significant effects on the environment may occur, an EIR must be prepared. (*Committee for Re-Evaluation of T-Line Loop v. San Francisco Municipal Transportation Agency* (2016) 6 Cal.App.5th 1237, 1246.) The “fair argument standard” creates a “low threshold” for requiring an EIR, “reflecting a legislative preference for resolving doubts in favor of environmental review.” (*Id.* [quoting *Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 200].)

69. Respondents committed a prejudicial abuse of discretion and failed to proceed in a manner required by law by failing to prepare an EIR, failing to adequately assess and mitigate the Project’s impacts, and adopting inadequate findings.

I. Failure to Prepare an Environmental Impact Report.

70. An EIR must be prepared if substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment.

71. Here, substantial evidence in the record supports a fair argument that the Project may have a significant effect on biological resources, wildlife connectivity, noise and light pollution, aesthetics, air quality, traffic, water quality, water supply, and GHG emissions. As a result, an EIR is necessary to evaluate the Project's impacts.

72. In addition, CEQA requires the City to issue a mandatory finding of significance because the Project (1) has the potential to reduce the number and/or restrict the range of listed species, (2) results in a cumulatively considerable environmental effect, (3) undermines long-term climate and air quality goals, and (4) directly or indirectly causes substantial adverse effects on human beings. Accordingly, CEQA demands a mandatory finding of significance and the preparation of an EIR.

73. The City's failure to prepare an EIR is not supported by substantial evidence and/or represents a failure to proceed in the manner required by law.

II. Inadequate Analysis and Mitigation of the Project's Environmental Impacts.

74. CEQA requires that a MND provide sufficient analysis to support a finding that the Project would not have a significant effect on the environment.

75. However, the City committed a prejudicial abuse of discretion and failed to proceed in a manner required by law because the Project relies on an MND that fails to meet CEQA's requirements for the disclosure, analysis, and mitigation of significant environmental impacts from the Project, including, *inter alia*, direct and cumulative impacts relating to GHG emissions, air quality, traffic, biological resources, water quality, water supply, and aesthetics.

76. **Biological Resources.** The MND fails to adequately disclose, analyze, and mitigate the Project's impacts on the 17 special-status wildlife species and 10 special-status plant species potentially present on the Project site, along with wildlife connectivity.

77. **Noise.** The MND fails to adequately disclose, analyze, and mitigate the Project's direct, indirect, and cumulative noise-related impacts, in particular those from vehicle traffic, the wastewater treatment plant, hundreds of guests each day, events, and ambient music.

78. **Light.** The MND fails to adequately disclose, analyze, and mitigate the Project's light-related impacts from vehicle traffic, the Project's more than 100 buildings, outdoor movie screen, pools,

1 and spas;

2 79. **Aesthetics.** The MND fails to adequately disclose, analyze, and mitigate the Project's
3 aesthetic impacts, especially with regards to light pollution visible from Joshua Tree National Park and
4 State Route 62.

5 80. **Air Quality.** The MND fails to adequately disclose, analyze, and mitigate the air quality
6 impacts of the Project, failing to complete a VMT analysis and overlooking emissions from employee
7 commutes, vendor deliveries, and fugitive dust.

8 81. **Traffic.** The MND fails to adequately disclose, analyze, and mitigate the Project's
9 impacts on traffic from placing the Project's two entrances on Lear Avenue and Sullivan Road.

10 82. **Water Quality.** The MND fails to adequately assess, disclose, and mitigate impacts on
11 water quality, instead deferring mitigation for the Project's impacts to water quality and omitting
12 assessment of potential impacts from the wastewater treatment plant.

13 83. **Water Supply.** The MND fails to adequately assess, disclose, and mitigate impacts to
14 water supply by relying on outdated information and failing to include entire categories of water demand
15 in its analysis.

16 84. **Greenhouse Gas Emissions.** The MND fails to adequately disclose or analyze GHG
17 emissions from, among other things, habitat destruction and soil disturbance, induced VMT, and
18 operation of the wastewater treatment plant, and lacks any mitigation.

19 85. **Cumulative Impacts.** The MND fails to adequately disclose, analyze, or mitigate the
20 Project's cumulative impacts, including, among others, impacts from the short-term rental industry and
21 other development projects on biological resources, wildlife connectivity, VMT, traffic congestion, and
22 air pollution, among others.

23 86. The City's inadequate analysis and mitigation of the Project's environmental impacts is
24 not supported by substantial evidence and/or represents a failure to proceed in the manner required
25 by law.

26 **III. Inadequate Project Description and Environmental Setting**

27 87. Under CEQA, a MND must include a complete description of the proposed project and
28

1 environmental setting. Here, however, the MND omits necessary components of the Project and affected
2 environment. The environmental setting, for example, is deficient for numerous reasons, including, but
3 not limited to, its omission of protocol-level surveys for several special-status species, recently
4 documented by residents in the area. Moreover, the MND also fails to adequately disclose critical
5 project features, such as the maximum number of guests and employees on the Project site each day.

6 **IV. Adoption of Inadequate Findings**

7 88. The City also violated CEQA by adopting inadequate findings. In many instances the
8 Project's findings do not provide the reasons or analytic route from facts to conclusions, as required by
9 law. For example, the City's findings fail to explain how the Project would not have a significant effect
10 on the environment, nor how the MND's mitigation measures would avoid or lessen significant effects
11 on the environment.

12 89. For all of the above reasons, the City prejudicially abused its discretion and failed to
13 comply with the law.

14 **SECOND CAUSE OF ACTION**

15 **Violation of CEQA — Failure to Provide Adequate Comment Period**

16 **(Public Resources Code, § 21000, et seq., CEQA Guidelines, § 15000, et seq.)**

17 90. Petitioners hereby incorporate by reference all previous paragraphs set forth above.

18 91. "Public participation is an essential part of the CEQA process." (CEQA Guidelines, §
19 15201.) As such, CEQA requires lead agencies to follow strict and detailed procedures to make MNDs
20 available for public review and comment. (Pub. Resources Code, § 21092; CEQA Guidelines, §§ 15072
21 et. seq.)

22 92. CEQA also provides that "[i]f the . . . mitigated negative declaration is for a proposed
23 project where a state agency is the lead agency, a responsible agency, or a trustee agency . . . the review
24 period shall be at least 30 days[.]" (Pub. Resources Code, § 21091(b).)

25 93. A trustee agency is one that has jurisdiction over natural resources affected by a project
26 (Pub. Resources Code, § 21070), while a responsible agency "has responsibility for carrying out or
27 approving a project." (*Id.* § 21069.) Here, CDFW is both a trustee and responsible agency because it

has jurisdiction over biological resources on the Project site and permitting authority over “takes” of special-status species that may occur onsite.

94. The City failed to adhere to CEQA’s comment procedures by opening the public comment period for only 20 days from May 14, 2025, to June 2, 2025, instead of the mandatory 30-day review period. (Pub. Resources Code, § 21091(b).)

95. For these reasons, the City prejudicially abused its discretion and failed to comply with the law.

THIRD CAUSE OF ACTION

Violation of State Planning and Zoning Law

(Government Code, § 65300, et seq.)

96. Petitioners hereby incorporate by reference all previous paragraphs set forth above.

97. The California State Planning and Zoning Law requires the legislative body of each city to adopt a general plan for the physical development of the city. The City’s General Plan is a fundamental land use planning document and serves as the “constitution” for future development within the City. Land use decisions, including the approvals associated with the Project, must be consistent with the General Plan.

98. The Project is inconsistent with mandatory City General Plan goals and policies, including, but not limited to: Policy HS-2.7 to provide adequate sites for the development of new housing through appropriate land use and zoning designations to accommodate the City’s share of regional housing needs; Policy LU-4.1 to consider and address the potential impacts of new development on surrounding properties; Goal LU-3 to encourage development that is compatible with existing uses and the City’s desert environment; Goal LU-2 to protect existing neighborhoods and the area’s natural surroundings by encouraging development that is compatible with the City’s small-town character; Policy LU-2.3 to require that new development be sensitive to neighborhood context and development scale; and Policy LU-1.5, which states that general plan amendments shall only be approved if the proposed amendment will not adversely impact the existing community and the amendment will help achieve the vision and goals established by the General Plan.

1 7. For such other and future relief as the Court deems just and proper.

2
3 DATED: August 20, 2025

CENTER FOR BIOLOGICAL DIVERSITY

4
5 By: 

6
7 Meredith Stevenson
Evan Levy

8 Attorneys for Petitioner CENTER FOR
9 BIOLOGICAL DIVERSITY

10 

11 Jessica L. Blome
12 Susann Bradford

13 Attorneys for Petitioner INDIAN COVE
14 NEIGHBORS

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VERIFICATION

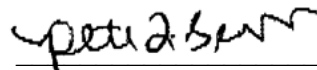
STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents.

I am the Director of Programs for the Center for Biological Diversity, which is a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge except as to those matters that are stated on information and belief, and as to those matters I believe them to be true.

Executed on August 20, 2025, at Shelter Cove, California.

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



Peter Galvin, Director of Programs
Center for Biological Diversity

Exhibit A



Via FedEx

August 19, 2025

Cindy Villescas, City Clerk
City Council of the City of Twentynine Palms
6136 Adobe Rd.
Twentynine Palms, CA 92277

Re: Notice of Commencement of Legal Action Pursuant to the California Environmental Quality Act

Dear Ms. Villescas and Councilmembers,

The Center for Biological Diversity and Indian Cove Neighbors (“Petitioners”) intend to commence an action for writ of mandate to vacate and set aside the decision of the City of Twentynine Palms and the City Council of the City of Twentynine Palms (“Respondents”) approving the Ofland Hotel (the “Project”) and adopting a Mitigated Negative Declaration for the Project. Petitioners submit this notice pursuant to Public Resources Code section 21167.5.

The action will commence on August 20, 2025 and will be largely based upon Respondents’ failure to comply with the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*) in adopting the Mitigated Negative Declaration and approving the Project.

Sincerely,

Meredith Stevenson
Staff Attorney
Center for Biological Diversity
2100 Franklin Street, Suite #375
Oakland, CA 94612
Tel: (510) 844-7100
mstevenson@biologicaldiversity.org

cc: cvillescas@29palms.org; PMunoz@rutan.com



Via FedEx

August 19, 2025

Cindy Villescas, City Clerk
City of Twentynine Palms
6136 Adobe Rd.
Twentynine Palms, CA 92277

Re: Notice of Commencement of Legal Action Pursuant to the California Environmental Quality Act

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The action will commence on August 20, 2025 and will be largely based upon Respondents’ failure to comply with the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*) in adopting the Mitigated Negative Declaration and approving the Project.

Sincerely,

Meredith Stevenson
Staff Attorney
Center for Biological Diversity
2100 Franklin Street, Suite #375
Oakland, CA 94612
Tel: (510) 844-7100
mstevenson@biologicaldiversity.org

cc: cvillescas@29palms.org; PMunoz@rutan.com

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I am employed in Oakland, California. I am over the age of 18 and not a party to the foregoing action. My business address is Center for Biological Diversity, 2100 Franklin Street, Suite 375, Oakland, California 94612. My email address is trettinghouse@biologicaldiversity.org.

Notice of Commencement of Legal Action Pursuant to CEQA

[X] BY FEDERAL EXPRESS: By placing a true and correct copy thereof in sealed envelope(s). Such envelope(s) were addressed as shown below. Such envelope(s) were deposited for collection and mailing following ordinary business practices with which I am readily familiar.

Cindy Villescas, City Clerk	Cindy Villescas, City Clerk
City of Twentynine Palms	City Council of the City of Twentynine Palms
6136 Adobe Rd.	6136 Adobe Rd.
Twentynine Palms, CA 92277	Twentynine Palms, CA 92277
For: <i>City of Twentynine Palms</i>	For: <i>City Council of the City of Twentynine Palms</i>

Executed on August 19, 2025 at Alameda, California.


Theresa Rettinghouse

Exhibit B

1 Meredith Stevenson (SBN 328712)
2 Evan Levy (SBN 359556)
3 CENTER FOR BIOLOGICAL DIVERSITY
4 2100 Franklin St., Suite 375
5 Oakland, California 94612
6 Telephone: (510) 844-7100
7 Facsimile: (510) 844-7150
8 mstevenson@biologicaldiversity.org
9 elevy@biologicaldiversity.org

10 *Attorneys for Petitioner and Plaintiff Center for Biological Diversity*

11 Jessica L. Blome (Cal. Bar No. 314898)
12 Susann M. Bradford (Cal Bar No. 341338)
13 GREENFIRE LAW, PC
14 2478 Adeline Street, Suite A
15 Berkeley, CA 94703
16 Ph/Fax: (510) 900-9502
17 Email: jblome@greenfirelaw.com
18 sbradford@greenfirelaw.com

19 *Attorneys for Petitioner and Plaintiff Indian Cove Neighbors*

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **COUNTY OF SAN BERNARDINO**

22 CENTER FOR BIOLOGICAL DIVERSITY
23 and INDIAN COVE NEIGHBORS,

24 Petitioners and Plaintiffs,

25 v.

26 CITY OF TWENTYNINE PALMS; CITY
27 COUNCIL OF THE CITY OF
28 TWENTYNINE PALMS; and DOES 1
through 20, inclusive,

Respondents and Defendants;

OFLAND DEVELOPMENT; LUKE
SEARCY; and DOES 21 through 40,
inclusive,

Real Parties in Interest.

Case No.

**PETITIONERS' NOTICE OF ELECTION
TO PREPARE THE ADMINISTRATIVE
RECORD**

[Pub. Resources Code, § 21167.6]

**TO RESPONDENTS CITY OF TWENTYNINE PALMS AND CITY COUNCIL OF THE CITY
OF TWENTYNINE PALMS:**

In the above-captioned action, petitioners Center for Biological Diversity and Indian Cove Neighbors (“Petitioners”) petition this Court for a Writ of Mandate, directed to the City of Twentynine Palms and the City Council of the City of Twentynine Palms (“Respondents”). Petitioners challenge respondents’ July 22, 2025, approval of the Ofland Hotel (“Project”) and adoption of the Initial Study/Mitigated Negative Declaration (“MND”) for the Project (State Clearinghouse # 2025050547). Petitioners seek a determination that respondents’ approvals were inconsistent with, among other things, the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code, section 21000 *et seq.*, and the CEQA Guidelines, Title 14, California Code of Regulations, section 15000 *et seq.*

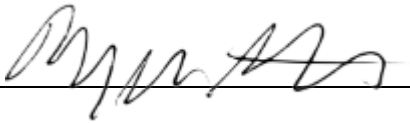
Pursuant to Public Resources Code, section 21167.6(b)(2), petitioners hereby elect to prepare the record of proceedings for this action. The record will be organized chronologically, paginated consecutively, and indexed so that each document may be clearly identified as to its contents and source, in form and format consistent with California Rules of Court, Rule 3.2205.

Petitioners will include in the record of proceedings all documents, including transcripts, minutes of meetings, notices, correspondences, reports, studies, proposed decisions, final drafts, and any other documents or records relating to respondents’ approval of the Project and adoption of the MND.

1 DATED: August 20, 2025

CENTER FOR BIOLOGICAL DIVERSITY

2
3 By:



4 Meredith Stevenson
5 Evan Levy

6 Attorneys for Petitioner CENTER FOR
7 BIOLOGICAL DIVERSITY

8 

9 Jessica L. Blome

10 Attorney for Petitioner INDIAN COVE
11 NEIGHBORS

Exhibit C



Via Email

August 20, 2025

Rob Bonta, Attorney General
Office of the Attorney General
Attn: Environmental/CEQA Filing
1300 I Street
Sacramento, CA 95814-2919
CEQA@doj.ca.gov

Re: Notice of Commencement of Legal Action Alleging Environmental Harm

Dear Attorney General Bonta:

The attached Petition for Writ of Mandate in *Center for Biodiversity et al. v. City of Twentynine Palms et al.* (San Bernardino County Superior Court), is submitted to your office pursuant to Code of Civil Procedure section 388 and Public Resources Code 21167.7.

Petitioners in this case challenge the City of Twentynine Palms and City Council of the City of Twentynine Palms' approval of the Ofland Hotel ("Project"), and adoption of an Initial Study/Mitigated Negative Declaration for the Project. Petitioners allege environmental harms that could affect the public generally and the natural resources of the state. Petitioners are specifically concerned that the Project will have significant negative environmental impacts on, among other things, air quality, greenhouse gas emissions, traffic and transportation, and biological resources.

Please acknowledge receipt. Thank you for your attention to this matter.

Sincerely,

Meredith Stevenson
Staff Attorney
Center for Biological Diversity
mstevenson@biologicaldiversity.org

Attachment: Verified Petition for Writ of Mandate